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MASSACHUSETTS EMPLOYERS NEED TO GEAR UP FOR HEALTH PLAN REPORTING

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Employers offering health benefits to employees who reside in Massachusetts may soon need to prepare for minimum creditable coverage (MCC) reporting, due by the end of January 2020. Massachusetts requires residents to maintain MCC, and employers that provide qualifying health coverage to state residents must report certain data to the state and distribute employee notices. Employers offering health insurance to Massachusetts residents will want to confirm that the insurer will handle MCC reporting. Employers sponsoring self-insured plans for Massachusetts residents will want to verify that their third-party administrators (TPAs) will file the reports and may soon be asked to complete MCC [attestation forms](#).

INDIVIDUAL MANDATE

Massachusetts residents who fail to maintain coverage that complies with the [MCC rules](#) face a tax penalty. The state's mandate has been in place since 2007 and served as a model for the Affordable Care Act (ACA). However, the coverage requirements and affordability standards differ from the ACA.

The Massachusetts law also differs from the individual health coverage mandates enacted or implemented in five other jurisdictions — California; Washington, DC; New Jersey; Rhode Island; and Vermont. Unlike the minimum essential coverage (MEC) reported under most of these laws, MCC requires a more in-depth review of benefits and coordination with insurers and TPAs.

Core Services

To meet MCC standards, a plan must cover four “core services” without any financial or utilization limits. The four categories, which haven't changed since the law's inception, are: physician services, inpatient acute care, day surgery, and diagnostic procedures and tests.

Broad range of medical benefits. Within the core services, MCC plans must cover a specified “broad range of medical benefits,” which may differ somewhat from what the ACA requires. To qualify, a plan must do all of the following:

- Offer a broad range of benefits, including:
 - Ambulatory patient services, including outpatient, day surgery and related anesthesia
 - Diagnostic imaging and screening procedures, including X-rays
 - Emergency services
 - Hospitalization, including — at a minimum — inpatient services typically provided at an acute care hospital for benefits covered under the member's subscriber certificate or plan description
 - Maternity and newborn care, including prenatal care, post-natal care, and delivery and inpatient maternity services
 - Medical/surgical care, including preventive and primary care
 - Mental health and substance abuse services
 - Prescription drugs
 - Radiation therapy and chemotherapy
- Place no overall dollar limit on prescription drugs
- Extend all covered services to all covered individuals, including maternity coverage for dependent children
- Provide first-dollar preventive care coverage that meets [Massachusetts Health Quality Partners Preventive Care Guidelines](#)

If a plan fails to meet any of these conditions, it cannot qualify as MCC, no matter how rich other benefits may be.

Financial Limits

The Massachusetts law's financial limits may differ from what's required under the ACA.

Deductible. A plan generally can't impose a combined (prescription drug and medical) annual deductible for in-network benefits that exceeds \$2,000 for individuals or \$4,000 for family coverage. The prescription drug deductible can't exceed \$250 for individuals or \$500 per family. If an employer funds an HRA, the funded amounts may offset deductible amounts that exceed the \$2,000/\$4,000 threshold.

Out-of-pocket maximum. The state has the same annually adjusted out-of-pocket limits that apply under the ACA. For 2019, the out-of-pocket maximum is \$7,900 for individual coverage and \$15,800 for family coverage. For 2020, these limits will increase to \$8,150 for individual coverage and \$16,300 for family coverage. These amounts must include deductibles, coinsurance and copayments for in-network services.

Special health savings account (HSA) rule. An HSA-qualified high-deductible health plan (HDHP) doesn't have to meet the financial limits, as long as employers facilitate employees' access to HSAs. However, the standards on core services discussed [above](#) do apply.

Affordability

Massachusetts [rules](#) determine affordability on a sliding scale and relative to the cost of available MCC. Similar to the federal ACA before Congress zeroed out the individual-mandate penalty, unaffordable MCC may exempt an individual from the Massachusetts mandate. While failure to offer affordable, self-only coverage to full-time employees could trigger an assessment on employers under the ACA, they don't experience any direct consequences under Massachusetts law.

EMPLOYER MCC REPORTING

By Jan. 31 after the close of a coverage year, employers that provide MCC (or their TPAs) must distribute [Form MA 1099-HC](#) to covered employees who reside in Massachusetts and report this information to the state Department of Revenue (DOR). While the MCC reporting law applies to employers, most rely on their TPAs to determine MCC status, distribute the forms and file the DOR report. Insurers subject to regulation in Massachusetts typically complete the reporting requirements. However, insurers that aren't subject to the state's laws have no such obligation, and reporting may be more complex for employers that self-insure or have multiple TPAs for a single plan.

Attestation

TPAs providing MA 1099-HC services commonly require employers with self-insured plans to attest that their plans meet MCC standards. Any self-insured employer — or one with multiple vendors, such as carved-out prescription drug or mental health benefits — has to base its attestation on the combined features of the medical plan and the carved-out benefits. TPAs typically ask employers for this attestation long before reports are due.

Determining MCC Status

Insurers subject to Massachusetts regulation [must determine and disclose](#) MCC status. Plan sponsors, with the help of their TPAs, can review plan provisions and self-certify that the plan qualifies as MCC if it meets all of the state's requirements. No special form or filing is required for plan sponsors that self-certify.

Certification Application

A plan that fails to meet MCC standards due to a financial deviation may submit an [MCC Certification Application](#) to the [Health Connector](#). Applications for the 2019 plan year must be submitted by Nov. 1, 2019. Applications for other years won't be accepted for review. Plans previously certified in 2015 through 2018 that have no new or increased deviation don't need to reapply.

The application may include an actuarial attestation showing equal or greater value than a [Health Connector bronze plan](#). While not required (unless requested), the attestation may expedite the application process. Actuarial equivalence doesn't guarantee MCC certification approval. The Health Connector won't approve a plan that fails to meet the core services discussed [above](#).

PENALTIES

Employers may face a \$50 per individual penalty for reporting failures and unspecified fines for state tax-filing noncompliance. However, employers don't have to provide MCC, and no direct penalty applies to an employer for not offering MCC. Massachusetts requires *residents* to maintain coverage that complies with MCC rules. Residents face a potential [tax penalty](#) if they don't have coverage or if the employer-sponsored coverage in which they are enrolled doesn't qualify as MCC. The tax penalty is tied to the cost of premiums for the state's bronze-level plan.

EMPLOYER CONSIDERATIONS

Employers that sponsor health plans covering employees residing in Massachusetts may want to take the following steps:

- Contact the plan insurer or TPA to find out if it will send the 1099-HC and report to the DOR.
- Determine if the plan covering state residents satisfies MCC requirements.
- Complete any requested attestation by the due date the vendor requests.
- Complete an MCC application for any plan not previously certified that includes a deviation.
- Plan for any changes needed to offer 2020 MCC.

RELATED RESOURCES

Non-Mercer Resources

- [MCC Rules](#) (956 MA Code Regs. 5)
- [Affordability Rules](#) (956 MA Code Regs. 6)
- [Massachusetts Health Connector](#)
- [Preventive Care Guidelines](#) (MA Health Quality Partners)
- [MCC Certification Application for Plan Years Beginning on or After 1/1/2019](#) (MA Connector, Nov. 7, 2018)
- [2018 Form MA 1099-HC](#) (MA DOR, Oct. 29, 2018)
- [Health Connector Health and Dental Plans for 2019](#) (MA Health Connector, Oct. 15, 2018)

- [Plan Sponsor MCC Guidance and Attestation Form](#) (MA Connector, Dec. 7, 2011)
- [Bulletin 2010-07](#) (MA Insurance Department, June 29, 2010)

Mercer Law & Policy Resources

- [DC Details Employer Reporting for Individual Health Coverage Mandate](#) (Aug. 20, 2019)
- [California Individual Health Coverage Mandate Includes Employer Reporting](#) (July 16, 2019)
- [New Jersey Posts Update on Health-Coverage Reports Due in 2020](#) (April 16, 2019)

Other Mercer Resources

- [Healthcare Consulting](#)
- [Grab Some Ibuprofen: State Mandates May Create Reporting Headaches](#) (June 20, 2018)

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