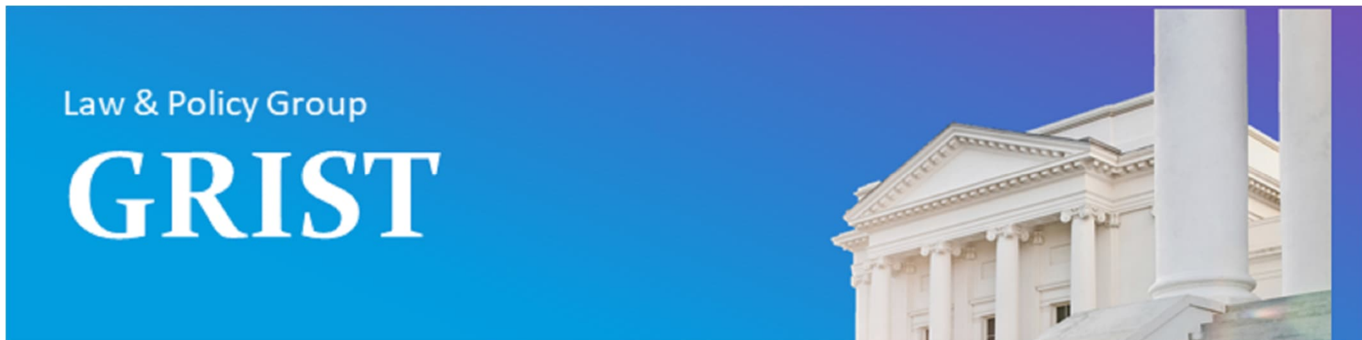

Massachusetts sets 2023 individual-mandate coverage dollar limits

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The Massachusetts Health Connector has announced 2023 dollar limits on deductibles and other cost sharing for minimum creditable coverage (MCC), as required by regulations (956 Mass. Code Regs. 5). The Massachusetts individual mandate, in place since 2007, requires state residents to maintain MCC or face a potential state tax penalty. Providing MCC is not an employer mandate, but many employees use employment-based health coverage to satisfy the individual mandate. In addition, health plan reporting requirements compel plan sponsors (or their vendors) to determine whether their coverage meets MCC standards. Deductibles and out-of-pocket maximums (OOPMs) are adjusted annually. Regulations also clarify MCC criteria for health arrangements provided by religious organizations.

MCC reporting

By Jan. 31 after the close of a coverage year, health plans providing MCC must distribute Form MA 1099-HC to covered individuals who reside in Massachusetts and report this information to the state Department of Revenue (DOR). While the law applies to plan sponsors and state-regulated insurers, most self-funded employers rely on third-party administrators (TPAs) to determine MCC status, distribute forms and file the DOR report. Insurers subject to the regulation must comply with the reporting requirements. MCC reporting becomes an employer obligation if an insurer is not subject to the state's laws and will not agree to file the reports. Reporting may be more complex for employers with multiple TPAs for a single plan.

Determining MCC status

Insurers subject to Massachusetts regulation must determine and disclose MCC status. Plan sponsors whose insurers or TPAs will not do this may review plan provisions and self-certify that the plan qualifies as MCC if it meets all the requirements outlined below in the *MCC standards* section. Employers that

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self-certify need not complete or submit any special form or filing. They only need to distribute Forms MA 1099-HC and report to the DOR.

Certification application

A plan failing to meet core or alternative MCC standards may submit an MCC Certification Application to the Health Connector. Applications for the 2022 plan year are due by Nov. 1, 2022. Applications for prior years are no longer accepted. Any application must identify a deviation from MCC standards. If a plan received certification for 2019 or later and has not expanded any deviation from MCC standards, resubmission is not necessary and not welcomed.

The application may include an actuarial attestation (Section E) showing coverage has equal or greater value than a Health Connector bronze-level plan. While not required (unless requested), the attestation may expedite the application process. Actuarial equivalence does not guarantee MCC certification approval. Even if coverage is actuarially equivalent, the Health Connector will not approve a plan failing to provide the core services discussed below in the *MCC standards* section.

Attestation

TPAs providing MA 1099-HC reporting services commonly require self-funded plan sponsors to attest that their plans meet MCC standards. Any self-funded employer — including one with different vendors for medical and carved-out prescription drug or mental health benefits — must base its attestation on the combined features of the plan. TPAs typically ask employers for this attestation in late summer or early autumn — well before reports are due in January.

MCC standards

To qualify as MCC, a plan must cover four core services: physician services, inpatient acute care, day surgery, and diagnostic procedures and tests. Within these services, the plan must cover a broad range of services, 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
- 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

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- Prescription drugs
- Radiation therapy and chemotherapy

MCC may consist of one or more plans meeting the standards. Coverage for all individuals must include all core services and the broad range of benefits. For example, a plan cannot limit coverage for maternity services to an employee or spouse but exclude those services for covered dependent children. Indemnity-type plans will not qualify.

A plan cannot impose a dollar limit or utilization cap on core services or any single illness or condition, or an overall maximum on prescription drugs. Utilization limits may apply if based on “reasonable medical management techniques” rather than dollar amounts.

Cost sharing

A plan’s OOPM applies to deductibles, copayments, coinsurance and similar charges for core health benefits. Annual preventive services required by federal law (42 USC § 300gg-13) must be covered without a deductible, even if a plan is grandfathered under the Affordable Care Act (ACA).

Deductible

MCC rules index the annual deductible to an annual OOPM adjustment, rounded down to the next $50, under the ACA (42 USC § 18022). The US Department of Health and Human Services (HHS) annually announces the ACA adjustment well in advance of the upcoming year.

For 2022 plan years, Bulletin 06-21 sets the maximum MCC deductibles at $2,750 for individual coverage and $5,500 for family coverage. A plan can have a separate prescription drug deductible if individual/ family amounts do not exceed $340/$680 in 2022. The overall maximum deductible still applies.

Bulletin 02-22 sets cost sharing for 2023 plan years as follows:

MCC deductibles	2023	2022
Individual tier deductible	$2,850	$2,750
Individual tier separate prescription deductible	350	340
Family tier deductible	5,700	5,500
Family tier separate prescription deductible	700	680

OOPM

MCC rules set the OOPM to match federal ACA limits. For 2022, the HHS Notice of Payment and Parameters for 2022 established those amounts at $8,700/$17,400. For 2023, HHS guidance sets those

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amounts at $9,100/$18,200; Massachusetts has amended its 2023 OOPM accordingly, as shown in the next table.

MCC OOPM limits	2023	2022
Individual tier OOPM	$9,100	$8,700
Family tier OOPM	18,200	17,400

Alternative MCC plans

Other types of plans may qualify as MCC without meeting all the monetary standards set out above. As in prior years, certain high-deductible health plans (HDHPs) can qualify. Religious organizations providing care for their members are considered MCC under certain conditions. Other state and federal health plans can also be considered MCC.

HDHPs

The Health Connector will allow a plan sponsor or insurer to self-certify an HDHP if it meets one of the following standards:

- The HDHP complies with federal health saving account (HSA) requirements under 26 USC § 223, meets all MCC standards that do not conflict with HSA contributions and facilitates access to an HSA.
- The plan sponsor maintains a health reimbursement arrangement (HRA) in combination with a federally compliant HDHP.

Religious organizations

A health arrangement provided by an established religious organization composed of individuals with sincerely held beliefs may be MCC. Beyond any financial statement or disclosure required by law, the organization cannot represent that it has sufficient financing to meet members' anticipated financial or medical needs or has had a successful history of meeting them. The organization also cannot use common insurance terms, such as "health plan," "coverage," "copay," "copayment," "deductible," "premium," and "open enrollment" or refer to itself as "licensed." Additional requirements apply to use of funds, disclosures and reporting to the Health Connector.

Other MCC-qualified coverage

Individual policies sold on or off the Health Connector and certain publicly funded state and federal health plans also qualify as MCC, including:

- Catastrophic health plan meeting ACA requirements

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- Medicare Part A or Part B
- Public health plan offered under the Public Health Service Act
- Children's Health Insurance Program (CHIP) and Medicaid coverage (except limited programs)
- Qualifying student health insurance program under the laws of any state
- Indian Health Service or tribal organization medical care
- State health benefits risk pool
- Federal Employees Health Benefits Program coverage
- Health benefit plan offered via the Peace Corps
- Young adult health benefit plans
- US Veterans Health Administration benefits
- Health plan offered to AmeriCorps National Service Network members

Penalties

Employers may face a $50 penalty per individual for reporting failures and unspecified fines for state tax-filing noncompliance. However, employers do not have to provide MCC, and no direct penalty applies to an employer for not offering MCC. Massachusetts requires *residents* to maintain coverage satisfying MCC rules.

Resident penalties for failure to maintain MCC vary and apply only to adults whom the Health Connector deems able to afford health insurance under the state's affordability rules. The Health Connector annually establishes affordability standards based on a resident's income relative to the federal poverty level (FPL) and premiums charged under Massachusetts subsidized ConnectorCare program or by the Health Connector. Anyone deemed unable to afford health insurance will not face a penalty. No penalty will exceed 50% of the minimum monthly premium an individual would have paid for insurance through the Health Connector. Individuals may appeal a penalty to claim a hardship prevented them from purchasing health insurance.

The following chart outlines 2022 tax year penalties for uninsured Massachusetts residents:

2022 individual penalty				
Individual income	**150.1%–200% FPL**	**200.1%–250% FPL**	**250.1%–300% FPL**	**Above 300% FPL**
Penalty	$23/month 276/year	$45/month 540/year	$67/month 804/year	$159/month 1,908/year

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Employer considerations

Employers with health plans covering employees residing in Massachusetts should take these steps:

- Determine if the plan covering state residents satisfies MCC requirements.
- Contact the insurer or TPA to find out if it will send Form MA 1099-HC and report to the DOR.
- Complete any requested attestation by a vendor's requested due date.
- Complete an MCC application for any plan deviating from MCC standards, if not previously certified.
- Plan for any changes needed to offer MCC in 2023.

Related resources

Non-Mercer resources

- Administrative Information Bulletin 02-22, Guidance on MCC regulations for calendar-year 2023 (Massachusetts Health Connector, May 16, 2022)
- Technical Information Release 22-3, Individual mandate penalties for tax year 2022 (Massachusetts DOR, Feb. 2, 2022)
- 2021 Form MA 1099-HC, Individual mandate healthcare coverage (Massachusetts DOR, Jan. 19, 2022)
- Administrative Information Bulletin 06-21, Guidance on MCC regulations for calendar-year 2022 (Massachusetts Health Connector, July 30, 2021)
- MCC Certification Application (Massachusetts Health Connector, July 6, 2021)
- Massachusetts Health Connector
- 956 Mass. Code Regs. 5, Minimum creditable coverage rules
- 956 Mass. Code Regs. 6, Affordability rules
- 956 Mass. Code Regs. 12.00, Eligibility, enrollment and hearing process for Health Connector programs
- 26 USC § 223(c)(2)(A)(ii), High-deductible health plan exclusion
- 42 USC § 300gg-13, Coverage of preventive health services
- 42 USC § 18022(d)(1), Levels of coverage in exchange plans

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Mercer Law & Policy resources

- 2023 HSA, HDHP and excepted-benefit HRA figures set (May 3, 2022)
- States update group health plan sponsor reporting obligations (Jan. 21, 2022)

Other Mercer resources

- Healthcare consulting

Note: Mercer is not engaged in the practice of law, accounting or medicine. Any commentary in this article does not constitute and is not a substitute for legal, tax or medical advice. Readers of this article should consult a legal, tax or medical expert for advice on those matters.

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