



## Health Care Reform **Bulletin**

# Massachusetts Finalizes Repeal of Employer Coverage Rules

Provided by Touchstone Consulting Group

### Quick Facts

- A Massachusetts law from 2006 imposed coverage requirements on employers.
- The law was repealed to avoid duplication with the Affordable Care Act (ACA).
- On June 12, 2014, a state agency formally repealed the regulations that implemented the health coverage requirements for employers.

Beginning in 2013, various aspects of the Massachusetts Health Care Reform Act were repealed to avoid duplication with the Affordable Care Act (ACA).

In April 2006, the Massachusetts Health Care Reform Act (Act) was signed into law to provide nearly universal health care coverage for the residents of Massachusetts. One part of the Act required employers to provide health coverage to their employees or pay a penalty.

Beginning in 2013, various aspects of the Act were repealed to avoid duplication with the employer shared responsibility rules in the Affordable Care Act (ACA).

On June 12, 2014, the board of directors of the Massachusetts Health Connector unanimously voted to repeal the regulations related to the Act's health coverage requirements for employers. This action by the board signifies the end of the rules that required employers to provide health coverage to their employees or pay a penalty.

### Fair Share Contribution

The Act required certain Massachusetts employers to make a "fair and reasonable" contribution toward their employees' health coverage or pay a penalty of up to \$295 per full-time equivalent employee.

On July 12, 2013, Governor Deval Patrick (D) signed into law a bill that eliminated the state's

"fair share contribution" requirement for employers, effective June 30, 2013. This change was enacted to avoid duplication between the state's employer coverage requirements and the ACA's employer penalty rules.

The repeal of the fair share contribution requirement left the regulations regarding this coverage mandate meaningless. However, the board decided to repeal the regulations to avoid any confusion about their legal effect.

The law repealing the fair share contribution requirement also enacted a separate Employer Medical Assistance Contribution that became effective Jan. 1, 2014, and applies to employers with more than five employees in a calendar year, regardless of whether or not the employer provides health insurance.

### Section 125 Plans

The Act required employers with 11 or more full-time equivalent employees to offer a Section 125 plan. A Section 125 plan allows employees to pay for their health coverage with pre-tax dollars.

Under the Act, individuals who were ineligible for employer-sponsored group health plan



coverage must have been offered access to individual market coverage using pre-tax contributions under the employer's Section 125 plan. Employers that violated the state's Section 125 plan requirement were subject to a "free rider" surcharge if their employees (or their employees' dependents) obtained state-funded medical care.

The Section 125 plan requirement was not eliminated by the legislation that repealed the state's fair share contribution. However, because the Section 125 plan requirement is inconsistent with the ACA's reforms, Governor Patrick's administration pursued its repeal.

The Section 125 plan requirement and the free rider surcharge were repealed on March 17, 2014. The regulations implementing those provisions were also repealed to avoid confusion.

A transition policy for the Section 125 plan requirement was previously provided in [Health Connector Administrative Bulletin 03-13](#). Under this policy:

- Employers that permit non-benefits eligible employees to use Section 125 plans to purchase individual plans on a pre-tax basis may leave those plans in place until the expiration of the plan year that started in 2013.
- For plan years starting in 2014, employers may no longer offer Section 125 plans that permit their non-benefits eligible employees to purchase their own non-group health insurance policies using pre-tax income. Section 125 plans can continue to be offered to employees for other purposes, such as the purchase of group health insurance or other benefits.

