

ACA COMPLIANCE BULLETIN

MASSACHUSETTS IMPLEMENTS EMPLOYER PENALTIES FOR EMPLOYEES RECEIVING MEDICAID

OVERVIEW

On Aug. 1, 2017, Massachusetts enacted a [new law](#) intended to help fund MassHealth, the state's Medicaid program. The new law temporarily:

- ✓ **Increases the existing Employer Medical Assistance Contribution (EMAC) amount;** and
- ✓ **Imposes an employer penalty** for each employee who has subsidized health coverage through MassHealth or the state Exchange instead of the employer's plan.

This new law, which took effect immediately, applies to Massachusetts employers with six or more employees. **These new provisions apply only through the 2019 calendar year.**

ACTION STEPS

Employers should prepare to pay the new assessment under the law, in addition to existing EMAC amounts. Employers also should review their current health plan and related employee communications to ensure that eligible employees are informed and able to enroll in employer-sponsored coverage.

HIGHLIGHTS

- Massachusetts law will impose a penalty on employers whose employees enroll in subsidized health coverage instead of the employer's plan.
- The new provisions took effect immediately upon enactment.
- Regulations implementing the new law are expected to be issued soon.

IMPORTANT DATES

August 1, 2017

Massachusetts implemented new employer fines for employees with government-subsidized coverage.

December 31, 2019

The employer fines are scheduled to sunset beginning in 2020.

Provided By:

Touchstone Consulting Group

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Background

Beginning in 2014, Massachusetts enacted an Employer Medical Assistance Contribution (EMAC) to help fund subsidized health coverage for low-income residents. Employers with six or more employees are subject to the EMAC requirements.

Affected employers must pay contributions on the first \$15,000 of each employee's wages paid during the calendar year. Contribution amounts are determined by multiplying these wages by an assigned contribution rate.

In light of increasing MassHealth enrollment over the past few years, Massachusetts Governor Charlie Baker expressed concern that some employers were encouraging employees to waive employer-sponsored coverage in favor of enrolling in MassHealth coverage. The new law, entitled "An Act Further Regulating Employer Contributions to Health Care" (the Act) is intended to discourage this practice, as well as to help fund the MassHealth program.

Overview of the Act

To accomplish these goals, the Act **temporarily increases the EMAC contribution rate through the 2019 calendar year**, as follows:

- ✓ In general, from 0.34 percent of an employee's wages to **0.51 percent of an employee's wages**; and
- ✓ For employers that are newly subject to the EMAC requirements, from 0.12 percent of an employee's wages to **0.18 percent of an employee's wages**.

The increased contribution rate applies through Dec. 31, 2019. Beginning with the 2020 calendar year, the EMAC contribution rates will return to their previous percentages (0.34 percent and 0.12 percent, respectively).

In addition, effective Jan. 1, 2018, the Act imposes a **temporary employer penalty of up to 5 percent of the employee's wages** for each nondisabled employee who receives subsidized health coverage through MassHealth or the Massachusetts Exchange (called Massachusetts Health Connector), instead of enrolling in employer-sponsored coverage.

This employer penalty is also effective only through the 2019 calendar year, and is scheduled to automatically sunset beginning in 2020. By implementing this employer penalty, Massachusetts became the first state to penalize employers whose employees choose to enroll in government-subsidized health coverage. The Act directs state agencies to issue regulations implementing these new provisions, which are expected to be issued shortly.

The new law is intended to prevent employers from encouraging their employees to enroll in MassHealth coverage instead of employer-sponsored plans, as well as to help fund the MassHealth program.