

Proposed Regulation June 30, 2006

CMR: DIVISION OF HEALTH CARE FINANCE AND POLICY

114.5 CMR 18.00 HEALTH INSURANCE RESPONSIBILITY DISCLOSURE

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18.01 General Provisions

(1) Scope and Purpose. 114.5 CMR 18.00 governs the filing requirements for the Health Insurance Responsibility Disclosure Form. Each Massachusetts employer is required to file information about the health insurance status of its employees, including whether each employee was offered employer-sponsored insurance whether the employer offered to arrange for the purchase of health insurance and whether the employee accepted or declined such insurance or accepted or declined such arrangement. Each employee that is not offered or declines his or her employer's offer of health insurance or the offer to arrange for the purchase of health insurance is required to submit an Employee HIRD form. Data from the Forms will be used to administer and enforce the Individual Insurance Mandate under M.G.L. c. 111M, the Employer Fair Share Contribution under M.G.L. c. 149, § 188 and the Employer Surcharge for State-Funded Health Costs under M.G.L. c. 118G, § 18B.

(2) Authority: 114.5 CMR 18.00 is adopted pursuant to M.G.L. c. 118G, §6C.

(3) Effective Date. 114.5 CMR 18.00 is effective on October 1, 2006.

18.02 Definitions

Meaning of Terms: As used in 114.5 CMR 18.00, unless the context otherwise requires, terms have the following meanings:

Connector. The Commonwealth Health Insurance Connector established under M.G.L. c. 176Q.

Division. The Division of Health Care Finance and Policy established under M.G.L. c. 118G or its designated agent.

Employee. An individual employed by an Employer subject to M.G.L. c. 151A.

Employer. An Employing Unit subject to M.G.L. c. 151A, and the commonwealth, its instrumentalities, political subdivisions, an instrumentality of a political subdivision, including municipal hospitals, municipal electric companies., municipal water companies, regional school districts and any other instrumentalities as are financially independent and are created by statute.

Employing Unit. Any individual or type of organization including any partnership, firm, association, trust, trustee, estate, joint stock company, insurance company, corporation, whether domestic or foreign, or his or its legal representative, or the assignee, receiver, trustee in bankruptcy, trustee or successor of any of the foregoing or the legal representative of a deceased person who or which has or had one or more individuals performing services for him or it within the Commonwealth of Massachusetts.

State-Funded Health Costs. The cost of health care paid on behalf of employees and their dependents for which an Employer may be liable under 114.5 CMR 17.00.

18.03 Employer Requirements

(1) Employer HIRD Form. Each Massachusetts Employer shall report to the Division the following information in a HIRD Form specified by the Division:

(a) Employer Information

1. Employer Legal Name
2. Employer DBA Name
3. FEIN
4. Division of Unemployment Assistance Account Number
5. Number of Employees
6. Whether Employer offers access to an Employer-Sponsored Health Plan
7. Whether the Employer offers to arrange for the purchase of health insurance for its employees, including maintaining a cafeteria plan under M.G.L. c. 151 F, § 2 in accordance with the rules of the Connector
8. Whether Employer's Plan is a self-insured plan

(b) Employee Information. For purposes of filing the HIRD Form, an Employee is any full time, part time, seasonal and temporary employees. An independent contractor is not an Employee.

1. Name of Employee
2. Employee Social Security Number
3. Whether Employee was offered access to employer-sponsored insurance
4. Whether Employee accepted or declined
5. If Employee accepted, whether Individual or Family plan
6. If the Employee declined, whether the employee has access to alternative coverage
7. Whether the Employer offered to arrange for the purchase of health insurance
8. Whether the Employee accepted or declined such arrangement

(2) Required Filings

(a) Initial HIRD Form. All Employers must submit all general employer information and employee information about all employees employed as of April 15, 2007. The Initial HIRD Form is due on May 15, 2007.

(b) Quarterly HIRD Form. Employers with fifty or more Employees must submit information quarterly concerning changes to its general employer information, new employees, employees that no longer employed by the Employer, whether the new employee was offered access to insurance, and if the employee accepted insurance, and whether the employee accepted an individual or family plan. The Quarterly HIRD Form is due 45 days after the end of each quarter. We should specify since we are not on regular quarters if we begin with May.

(c) Annual HIRD Update. All Employers must submit information annually concerning changes to its general employer information, new employees, employees no longer employed by the Employer, whether the new employee was offered access to insurance, if the employee accepted insurance; whether the

employee accepted an individual or family plan. The Annual HIRD Update is due on May 15 of each year.

(d) New Employers. New Employers must register with the Division upon registration with the Division of Unemployment Assistance.

(e) All Employer filings shall be made under the pains and penalties of perjury. An Employer must designate a responsible individual authorized to verify and certify the accuracy of the employer information submitted.

(f) Filing Requirements. The Employer must report Employer HIRD information in a manner specified by the Division. The Division will specify reporting requirements from time to time by administrative bulletin.

(3) Data Verification.

(a) Each Employer must submit any additional documentation requested by the Division to verify the accuracy of the data submitted.

(b) Audit. The Division may, upon notice to the Employer, inspect and copy any records necessary to verify the accuracy of the information submitted.

(c) Data Matches. The Division will initiate data matches, as permitted by law, with the Division of Unemployment Assistance and the Department of Revenue to verify the accuracy of the data

18.04 Employee Requirements

(1) Each Employee that is not offered or declines employer-sponsored insurance or the employer's offer to arrange for the purchase of health insurance will be required to sign an Employee HIRD Form.

(a) Employee Information.

1. Name
2. Social Security Number
3. Name of Employer
4. Whether employee has alternative insurance coverage

(b) Employee Acknowledgements, Each employee must

1. Sign an acknowledgement that the employee is aware of the individual mandate under M.G.L. c. 111M and the penalties for failure to comply with the individual mandate.
2. If the employer did not offer health insurance or offer to arrange for the purchase of health insurance, the employee must sign an authorization for the Division to share information about State-Funded Health Costs for which his or her Employer may be liable under 114.5 CMR 17.00: Employer Surcharge for State Funded Health Costs. The information to be shared is the name of the individual receiving services, the total cost of services provided, the date(s) of services, and the name of the provider.

(2) Employers are required to distribute, collect and submit the Employee HIRD Form. The Division will notify Employers and Employees about the procedures for submitting the Employee HIRD Forms by administrative bulletin.

18.05 Other Provisions

(1) Severability. The provisions of 114.5 CMR 18.00 are severable. If any provision or the application of any provision is held to be invalid or unconstitutional, and such

invalidity shall not be construed to affect the validity or constitutionality of any remaining provisions of 114.5 CMR 18.00 or the application of such provisions.

(2) Administrative Bulletins. The Division may issue administrative bulletins to clarify policies, update administrative requirements and specify information and documentation necessary to implement 114.5 CMR 18.00.

REGULATORY AUTHORITY

114.5 CMR 18.00 M.G.L. c. 118G.