



A Law Firm in the People Business

Full-Time Equivalent Employees

An employer is subject to the MHCRA if it employs 11 or more full-time equivalent employees during the applicable determination period (October 1 to September 30 of each year). To calculate its total number of full-time equivalent employees, an employer would:

- Determine the number of employees who were employed at a Massachusetts location for at least one full calendar month from October 1 to September 30.
- Add together the number of payroll hours (up to 2,000 per employee) worked by each of these Massachusetts employees during the applicable determination period.

If the total number of payroll hours is at least 22,000, then the employer is subject to the MHCRA.

Contact Information

For further information or assistance with the MHCRA requirements, please contact Nicole Bogard at 404-888-8830 or Kelly Scott at 404-888-8838.

MASSACHUSETTS HEALTH CARE REFORM ACT EMPLOYEE HEALTH INSURANCE RESPONSIBILITY AND DISCLOSURE FORM UPDATE

The Massachusetts Health Care Reform Act (the "MHCRA") imposes certain requirements on both Massachusetts-based employers and out-of-state employers with 11 or more "full-time equivalent" employees working in Massachusetts. Under the MHCRA, an employer is required to make a fair and reasonable contribution toward the cost of health coverage for its full-time Massachusetts employees or pay to Massachusetts an annual "fair share contribution" assessment of up to \$295 per employee. Additionally, in order to avoid a "free rider surcharge" tax, employers are required to offer Massachusetts employees the ability to pay for health insurance on a pretax basis through a cafeteria plan that complies with the MHCRA and Section 125 of the Internal Revenue Code.

Employers demonstrate compliance with the MHCRA by collecting and retaining an Employee Health Insurance Responsibility and Disclosure ("HIRD") Form from the appropriate employees and filing an Employer HIRD Report with the Division of Unemployment Assistance.

New Employee HIRD Form. Earlier this year, the Massachusetts Division of Health Care, Finance and Policy (the "Division") published the 2008 version of the Employee HIRD Form. Massachusetts law requires that employers immediately begin using the 2008 version of the form or a customized form based on this version.

Employee HIRD Form Requirements. Employers are required to collect an Employee HIRD Form from every Massachusetts employee who:

- declines to enroll in employer-sponsored health insurance;
- stops participating in employer-sponsored health insurance; or
- declines to use the employer's cafeteria plan to pay for health insurance.

The Employee HIRD Form must be signed, completed and returned to the employer by each of these employees:

- within 30 days from the date the employee becomes eligible for medical benefits or terminates participation in the employer-sponsored plan; and
- within 30 days after the close of the open enrollment period each subsequent year.

A signed copy of the form must be provided to the employee and retained by the employer for three years.

2008 Employee HIRD Form. Employers are required to provide employees with the Division's most current version of the form. However, an employer is permitted to modify the Division's form, provided all of the information and questions on the employer's form are presented in the same order as the Division's form. For an employer who is currently using a modified version of the 2007 form to comply, it must either use the 2008 form or revise its 2007 form to ensure all of the required information is included, as several changes were made to the 2008 version of the form.

Employer Must Complete a Portion. The 2008 version of the Employee HIRD Form is much easier to use, but both employers and employees are now required to complete it. Employers are asked to indicate:

- whether the employee was offered employer-sponsored health insurance;
- whether a cafeteria plan was offered to the employee; and
- the dollar amount of the employee's monthly premium cost for the least expensive individual health plan offered by the employer.

The employer should complete its portion of the form before providing it to the employee. The 2008 version of the Employee HIRD Form can be found at:

http://www.mass.gov/Eeohhs2/docs/dhcfp/g/hcr/employee_hird_08.pdf

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