



# Health Care Reform Regulations Impacting Employers

July, 2007

# Health Care Reform Regulations Impacting Employers



	All employers with fewer than 11 full-time equivalent employees	Fully insured employers with 11 or more full-time equivalent employees located in Massachusetts	ASC employers
Fair Share Contribution	Not applicable	✓	✓
Free Rider Surcharge	Not applicable	✓	✓
Health Insurance Responsibility Disclosure (HIRD)	Not applicable	✓	✓
Health Insurance 1099	✓	✓	✓
Minimal Creditable Coverage	✓	✓	✓
Non-Discrimination/Equal Contribution	✓	✓	Not applicable
Dependents to Age 26	✓	✓	Not applicable

**Key:** ✓ Applicable    Not applicable

# Fair Share Contribution and Free Rider Surcharge



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	How do accounts comply?	When does it go into effect?	What is the penalty if accounts do not comply?	What are the filing requirements for accounts?
<b>Fair Share Contribution</b> <ul style="list-style-type: none"> <li>Fully insured employers with 11 or more full-time equivalent employees</li> <li>ASC employers</li> </ul>	<ul style="list-style-type: none"> <li>Achieve 25% participation by full-time employees in the employer's group health plan <b>OR</b></li> <li>Offer to contribute at least 33% of the premium cost of its health plan to all full-time employees</li> </ul>	<ul style="list-style-type: none"> <li>Liability for the Fair Share Contribution is based on data from October 1, 2006 to September 30, 2007</li> <li>Requirement goes into effect on July 1, 2007</li> </ul>	<ul style="list-style-type: none"> <li>An annual per employee contribution of \$295</li> </ul>	<ul style="list-style-type: none"> <li>To demonstrate compliance with the Free Rider Surcharge and the Fair Share Contribution, employers must file a HIRD form annually with the Division of Health Care Finance and Policy (DHCFP) and collect employee HIRD forms. Employee HIRD forms must be maintained for three years</li> </ul>
<b>Free Rider Surcharge</b> <ul style="list-style-type: none"> <li>Fully insured employers with 11 or more full-time equivalent employees</li> <li>ASC employers</li> </ul>	<ul style="list-style-type: none"> <li>Establish a Section 125 Plan that meets the regulations of the Connector by October 1, 2007</li> </ul>	<ul style="list-style-type: none"> <li>Liability for the Free Rider Surcharge is based on data from April 1 of each year through March 31 of the following year</li> <li>The Requirement goes into effect on July 1, 2007</li> <li>Note: Section 125 regulations were finalized on June 5, 2007</li> </ul>	<ul style="list-style-type: none"> <li>The surcharge will range from 10% to 100% of the state's uncompensated cost of services provided to the employees and their dependents—with the first \$50,000 per employee exempted</li> </ul>	<ul style="list-style-type: none"> <li>To demonstrate compliance with the Free Rider Surcharge and the Fair Share Contribution, employers must file a HIRD form annually with the DHCFP and collect employee HIRD forms. Employee HIRD forms must be maintained for three years</li> </ul>

# HIRD and Health Insurance 1099 (MA 1099-HC)



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	How do accounts comply?	When does it go into effect?	What is the penalty if accounts do not comply?	What are the filing requirements for accounts?
<b>HIRD</b> <ul style="list-style-type: none"> <li>• Fully insured employers with 11 or more full-time equivalent employees</li> <li>• ASC employers</li> </ul>	<ul style="list-style-type: none"> <li>• To avoid the Free Rider Surcharge and demonstrate compliance with the Fair Share Contribution, employers must file a HIRD form annually with the DHCFP and collect employee HIRD forms. Employee HIRD forms must be maintained for three years</li> </ul>	<ul style="list-style-type: none"> <li>• The date by which the employer HIRD form needs to be completed and filed is November 15, 2007</li> <li>• <a href="#">Employee HIRD form</a> and more information on the <a href="#">employer HIRD form</a> are available at <a href="http://www.mass.gov">www.mass.gov</a></li> <li>• Legislation goes into effect on July 1, 2007</li> </ul>	<ul style="list-style-type: none"> <li>• Not yet finalized</li> </ul>	<ul style="list-style-type: none"> <li>• To avoid the Free Rider Surcharge and demonstrate compliance with the Fair Share Contribution, employers must file a HIRD form annually with the DHCFP and collect employee HIRD forms. Employee HIRD forms must be maintained for three years</li> </ul>
<b>Health Insurance 1099</b> <ul style="list-style-type: none"> <li>• All employers with fewer than 11 full-time equivalent employees</li> <li>• Fully insured employers with 11 or more full-time equivalent employees</li> <li>• ASC employers</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Fully insured:</b> No action is required on behalf of Blue Cross Blue Shield of Massachusetts fully insured accounts. Carriers are required to generate HC-1099 for all fully insured members</li> <li>• <b>Self insured:</b> Department of Revenue (DOR) has not yet finalized the process for self-insured accounts. Blue Cross Blue Shield of Massachusetts will issue 1099-HC statements to self-insured subscribers enrolled as of December 31, 2007</li> </ul>	<ul style="list-style-type: none"> <li>• Filing is due January 31, 2008</li> </ul>	<ul style="list-style-type: none"> <li>• There will be financial penalties (yet to be determined by DOR) levied on health plans and potentially self-insured employers that do not meet filing requirements</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Fully insured:</b> No action is required on behalf of Blue Cross Blue Shield of Massachusetts fully insured accounts. Carriers are required to generate HC-1099 for all fully insured members</li> <li>• <b>Self insured:</b> DOR has not yet finalized the process for self-insured accounts. Blue Cross Blue Shield of Massachusetts will issue 1099-HC statements to self-insured subscribers enrolled as of December 31, 2007</li> </ul>

# Minimum Creditable Coverage and Non-Discrimination/Equal Contribution



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	How do accounts comply?	When does it go into effect?	What is the penalty if accounts do not comply?	What are the filing requirements for accounts?
<b>Minimum Creditable Coverage</b> <ul style="list-style-type: none"> <li>• All employers with fewer than 11 full-time equivalent employees</li> <li>• Fully insured employers with 11 or more full-time equivalent employees</li> <li>• ASC employers</li> </ul>	<ul style="list-style-type: none"> <li>• From July 1, 2007 to December 31, 2008, coverage under any health plan benefit will be treated as minimum creditable coverage for purposes of complying with the individual mandate</li> <li>• Regulations were finalized on June 5, 2007</li> </ul>		<ul style="list-style-type: none"> <li>• None. This is an individual mandate</li> <li>• Penalties may apply to individuals</li> </ul>	<ul style="list-style-type: none"> <li>• Currently none</li> </ul>
<b>Non-Discrimination/Equal Contribution</b> <ul style="list-style-type: none"> <li>• All employers with fewer than 11 full-time equivalent employees</li> <li>• Fully insured employers with 11 or more full-time equivalent employees</li> </ul>	<ul style="list-style-type: none"> <li>• An employer may not contribute more toward the premium of a highly paid, full-time employee than they contribute toward a lower-paid full-time employee in Massachusetts. Exceptions for longevity and health and wellness incentives</li> </ul>	<ul style="list-style-type: none"> <li>• Applies to contracts for which sale or renewal is closed on or after July 1, 2007</li> </ul>	<ul style="list-style-type: none"> <li>• None. This is an insurer mandate</li> <li>• Insurers are prohibited from contracting with an account that fails to meet the non-discrimination requirement</li> </ul>	<ul style="list-style-type: none"> <li>• Premium agreement will now contain language about equal contribution and will be included in the renewal package which will be sent to an account with the confirmation letter</li> </ul>

# Expanded Dependent Coverage/Dependents to Age 26



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	How do accounts comply?	When does it go into effect?	What is the penalty if accounts do not comply?	What are the filing requirements for accounts?
<b>Expanded Dependent Coverage/Dependents to Age 26</b> <ul style="list-style-type: none"> <li>• <i>All employers with fewer than 11 full-time equivalent employees</i></li> <li>• <i>Fully insured employers with 11 or more full-time equivalent employees</i></li> </ul>	<ul style="list-style-type: none"> <li>• Requires that carriers with insured health benefit plans that provide for dependent coverage extend such coverage to age 26, or for two years after the dependent is no longer claimed on the subscriber's or spouse's federal tax return, whichever comes first</li> </ul>	<ul style="list-style-type: none"> <li>• Went into effect January 1, 2007</li> </ul>	<ul style="list-style-type: none"> <li>• None. This is an insurer mandate</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>

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## FAQs Regarding Free Rider Surcharge and Fair Share Contribution



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- Q:** How does an account determine if it has 11 or more full-time equivalent employees? **A:** An employer has 11 or more full-time equivalent employees during the applicable determination period if the sum of total payroll hours for all employees during the applicable determination period divided by 2,000 is greater than 11.
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- Q:** How does an account determine the sum of total payroll hours? **A:** Payroll hours include all hours for which an employer paid wages including regular, vacation, sick, paid Federal Medical Leave of Absence, short-term disability, long-term disability, overtime, and holiday payroll hours. Employees include full-time, part-time, temporary, and seasonal.
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- Q:** What is the determination period to assess the number of full-time equivalent employees? **A:** The determination period for the initial determination of coverage is from April 1, 2006 through March 31, 2007. If the employer does not have 11 or more employees over this period, then the period for determining coverage runs from April 1 of each year to March 31 of the following year.
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- Q:** How are seasonal and temporary employees defined? **A:** A seasonal employee is an employee whose employment does not exceed 16 weeks. A temporary employee is an employee (either full-time or part-time) whose employment is explicitly temporary in nature and who does not work for more than 12 consecutive weeks during the period from October 1 through September 30.
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- Q:** How is a full-time employee defined? **A:** A full-time employee is an employee who works 35 hours or more per week.
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