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SUMMARY OF NEW AND INCREASED EMAC ASSESSMENTS BEGINNING JANUARY 1, 2018 AND ENDING DECEMBER 31, 2019

-- AWAITING PROPOSED REGULATIONS --

Fiscal 2018 budget-related legislation temporarily increased an existing employer fee known as the Employer Medical Assistance Contribution (EMAC) and also creates a new, temporary 5% assessment on employers to help offset a projected future \$600 million shortfall in the MassHealth program.

The new and increased assessments are effective January 1, 2018, remain in effect for 2018 and 2019 and then automatically sunset on December 31, 2019. The two-year EMAC assessment is expected to raise \$200 million in revenue in 2018 and another \$200 million in 2019. This assessment is to be offset by a decrease in future employer state unemployment insurance rates over the same two years, which is expected to save employers \$335 million over the two-year period.

TWO-YEAR, TWO-TIERED EMAC EMPLOYER ASSESSMENT

The EMAC assessment applies to employers with 6 or more employees (FT and PT) in a calendar quarter and contains the following two tiers:

- **Tier One:** An increase in the current EMAC contribution rate employers are already paying, which applies to the first \$15,000 in wages paid to each employee; resulting in a maximum annual per employee contribution of \$77 in 2018 and 2019 instead of the \$51 annual contribution currently paid by employers.
 - The EMAC contribution rate will increase to .51 of one percent for the two years, up from the current .34 of one percent for fully subject employers.
 - Other EMAC rates for employers newly subject to the EMAC rules are similarly increased.
- **Tier Two.** A new, separate, targeted assessment requires employers to pay 5% of wages on the first \$15,000 in wages paid (capped at \$750 per affected employee) for each non-disabled employee of the employer who is either

covered by MassHealth (not including the Premium Assistance Program) or who receives subsidized Health Connector coverage (i.e., ConnectorCare).

WHAT NOW? WAIT FOR REGULATIONS

We are waiting for proposed regulatory guidance from relevant MA agencies.

These recent changes to EMAC provide a basic framework for the temporary employer assessments, but regulatory guidance is needed before the EMAC changes become effective on January 1, 2018.

The MA Division of Unemployment Assistance (DUA), “in consultation with the division of medical assistance and the commonwealth health insurance connector authority” is tasked with issuing regulations implementing the new employer assessment. Such regulations are required to include provisions “specifying the number of days that an individual shall be required to receive such subsidized health care coverage to cause the assessment.” DUA will almost surely promulgate specific rules for the payment of the assessment, which will be quarterly.

Regulations will be necessary to implement the new 5% employer assessment so that employers can assess its impact on their businesses; hopefully in advance of the January 1, 2018 effective date. For example, will the new 5% assessment apply to part-time employees with MassHealth coverage even if they are not eligible for the employer group health plan, or just to full-time employees? DUA regulations should provide guidance in this regard.

It is likely that the 5% assessment will impact employers in some industries more than other industries; particularly those with transient workforces and/or low wage workers.

BACKGROUND ON EMAC

The EMAC is a MA payroll tax paid by employers. The purpose of the EMAC is to help finance the cost of subsidized care for low-income residents. The EMAC is relatively new; having been enacted effective January 1, 2014 as part of the legislation repealing the MA Fair Share Contribution and the Medical Security Program (MSP) (the latter provided qualifying individuals receiving unemployment insurance benefits with health care coverage if no other coverage was available). EMAC applies to employers who have an average of 6 or more employees in a quarter and is phased in over five years for employers newly subject to the EMAC rules.

BACKGROUND ON MASSHEALTH

MassHealth is Massachusetts' combined Medicaid and CHIP program.

Medicaid was established in 1965 and was originally intended as a safety net for poor women, children and the disabled. However, in 2010 the ACA expanded Medicaid eligibility to childless, non-elderly adults with income at or below 133% of the federal poverty level. Medicaid now insures more than 72 million people nationwide – which is one in every five Americans. Medicaid is now the third largest program in the federal budget and the fastest growing.

In Massachusetts, MassHealth provides health coverage to 1.9 million low-income residents, which is about one in four Massachusetts residents. MassHealth is the state's largest expense -- approximately 40% of the entire state budget -- and costs about \$15.6 billion annually. According to Massachusetts officials, at least 300,000 people working full time in Massachusetts are enrolled in MassHealth at a cost of more than \$1 billion to the MassHealth program.

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Please contact me if you have any questions. This bulletin will be updated once proposed regulations are released.

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