

## Massachusetts Employers Must Complete New HIRD Form by November 30

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Employers with six or more employees in Massachusetts are required to submit an annual Health Insurance Responsibility Disclosure (HIRD) form by November 30. The HIRD form will be used by MassHealth (the Massachusetts Medicaid and Children's Health Insurance Program (CHIP)) to identify individuals who may be eligible for the MassHealth Premium Assistance Program, which helps lower-income individuals pay for coverage under their employer's group medical plan.

An employer is required to complete a HIRD form if the employer has or had six or more employees in Massachusetts in any month during the prior 12-month reporting period. An individual is considered to be an employee for this purpose if the employer included the individual in Department of Unemployment Assistance (DUA) quarterly wage reports at any time during the past 12 months. A separate form is required for each employer tax number (FEIN); consolidated reporting on a controlled group basis is not permitted.

Prior to 2014, Massachusetts employers were required to submit a different version of the HIRD form in connection with Massachusetts' employer mandate. The requirement to file the prior HIRD form was repealed because of the enactment of the Affordable Care Act. Unlike the older version of the form, this new HIRD form collects only employer-level information about the company's group health plan and does not require any personal information individual Massachusetts employees. Employers are asked if the benefits provided under the employer group health plan satisfy the Minimum Creditable Coverage requirements outlined by the State. If the employer's plan meets Minimum Creditable Coverage requirements, the employer must then respond to questions about basic plan information, including eligibility criteria, the employee share of the premium contribution, and the in-network deductible and out-of-pocket maximum. The Massachusetts Department of Revenue has stated that no new fines or penalties will be imposed based on information reported in the HIRD form.

An employer files the HIRD form online through the MassTaxConnect web portal by logging into its withholding account. Employers can complete the form between November 1 and November 30 each year. An employer's payroll company may submit the HIRD form on the employer's behalf, but the employer remains responsible for the filing obligation. There is an argument that this HIRD form requirement is preempted by the Employee Retirement Income Security Act of 1974. However, we recommend that clients timely submit the annual HIRD form to avoid potential penalties.

More information about the HIRD form is available in FAQs issued by the Massachusetts Department of Revenue.

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