

# Management Alert



## Massachusetts Temporarily Imposes Employer Assessments for the Commonwealth's Medicaid Program

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**Seyfarth Synopsis:** On August 1, Massachusetts Governor Charlie Baker signed into law a measure intended to help the state pay for the costs of the Commonwealth's Medicaid program, referred to as MassHealth, which covers nearly 2 million low income, minor and disabled Massachusetts residents. The law is effective immediately and will impact Massachusetts employers with 6 or more employees.

Entitled, "An Act Further Regulating Employer Contributions to Health Care," the new law is part of an initiative designed to respond to a growing trend of employees shifting from commercial insurance to publicly sponsored coverage because of premium increases. The Act is expected to raise \$200 million in employers' fees to fund MassHealth in two ways.

- First, the law will increase the existing Employer Medical Assistance Contribution ("EMAC") from an annual maximum fee of \$51 per employee to \$71 per employee. EMAC funds are used to subsidize health care to low-income Massachusetts residents.
- Second, the law will penalize employers with a fine of up to a maximum of \$750 for each non-disabled worker who receives health insurance coverage through MassHealth or subsidized coverage instead of through their employer-sponsored health insurance plan. Prior to the passage of the Act, employers were not directly fined if their workers received coverage through MassHealth or the Massachusetts Health Connector instead of through their employer-sponsored plan.

The Act's assessments are scaled back from an earlier proposal that would have taxed employers \$2,000 per full-timer who enrolled in MassHealth while eligible for employer-sponsored coverage. Reminiscent of the Fair Share Contribution days that preceded passage of the Affordable Care Act, the Act states that the Department of Unemployment Assistance, "in consultation" with the Commonwealth Health Insurance Connector Authority, will prepare regulations regarding implementation of the \$750 fine. The regulations are expected to specify the number of days that a worker must receive MassHealth or subsidized care in order to trigger the fine. The regulations also are expected to provide guidance on the manner in which employers must pay the \$750 fine. It is reported that the regulations will be drafted and finalized in 2017.

Despite speculation that the assessments' sunset may never arrive, the Act provides that they will expire on December 31, 2019. The Act also reduces scheduled unemployment increases during the same period to offset these increased employer costs. The Governor reports that by signing the controversial assessments into law, he returned the legislature's focus to reforming the economic sustainability of MassHealth. A second part of the initiative, not yet signed into law, sought to push approximately 140,000 low income workers currently on MassHealth onto commercial coverage.

## What Employers Can Do Now

As employers sharpen their pencils for budgeting purposes, they must account for the impact that this temporary assessment will have on operating costs. Employers may wish to review current EMAC and unemployment insurance liabilities to best evaluate the additional impact these tiered assessments represent. Employers also should review health insurance offerings and employee communications pertaining to those offerings to ensure that that employees are informed of any applicable employer-sponsored benefits.

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