

Massachusetts Healthcare Reform and the Section 125 Cafeteria Plan Requirements

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Employers typically use Section 125 Plans on a voluntary basis, to assist employees in co-paying medical insurance premiums on a pre-tax basis. Under the recent Massachusetts Healthcare Reform, employers in the Commonwealth with 11 or more employees must now establish a Section 125 Plan for their employees to pay medical insurance premiums on a pre-tax basis. If they do not otherwise qualify for their employer's medical insurance, uninsured employees who are residents of Massachusetts may buy medical insurance through the Commonwealth Health Insurance Connector (Connector) on a pre-tax basis using their employer's Section 125 Plan.

To determine whether an employer has 11 or more employees, the employer need not count any employee who has been employed for less than one month. All employees, whether or not Massachusetts residents, are counted in determining the number of an employer's full-time equivalent employees.

The only employees that may be excluded from participating in a Section 125 Plan are those who work, on average, fewer than 64 hours per month (16 hours per week). As a practical matter, this requirement forces most employers in the Commonwealth to cover all their employees under a Section 125 Plan even if the employees do not otherwise qualify for employer-sponsored medical insurance.

Massachusetts employers are also required to file their Section 125 Plans with the Connector. Under guidelines issued on June 29, 2007, the Connector postponed employers' filing deadline of Section 125 Plans to October 1, 2007. While the Connector will not accept the filing of Section 125 Plans prior to September 1, 2007, an employer must provide a copy of its Section 125 Plan to the Connector, if the Connector so requests, between July 1, 2007 and October 1, 2007.

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