



Chapter 224 Regulations Transfer

(VOTE)

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**Board of Directors Meeting
February 28, 2013**



Legislative Changes from Chapter 224

- Chapter 224 of the Acts of 2012 (Chapter 224) transferred responsibility to the Health Connector over certain programs and policies that formerly were under the purview of the Division of Health Care Finance and Policy (DHCFP, now the Center for Health Information and Analysis, or CHIA)
 - Student Health Insurance Program (SHIP)
 - Health Insurance Responsibility Disclosure (HIRD)
 - Employer Surcharge for State Funded Health Costs (Free Rider Surcharge); and
 - Employer Fair Share Contribution
- The provisions in Chapter 224 transferring authority from DHCFP to the Health Connector went into effect in November 2012
- Today we are seeking the Board's approval to effectuate the technical transfer of these regulations to the Health Connector's "section" of the Code of Massachusetts Regulations (CMR)



Background on Programs Involved

- Student Health Insurance Program; MGL 15A, § 18
 - Requires every full and part-time student (defined as one participating in at least 75% of the full-time curriculum) enrolled in an institution of higher learning in MA to participate in a student health insurance program (SHIP) or have comparable coverage
 - Regulations contain standards for insurance and eligibility
 - Current regulation: 114.6 CMR 3.00
 - Proposed regulation: 956 CMR 8.00
- Employer Surcharge for State Funded Health Costs (Free Rider Surcharge); MGL 118G, § 18B (now MGL 176Q, § 18)
 - Employers with 11+ FTEs in MA are required to provide a Section 125 plan that allows employees to pay health insurance premiums using pre-tax wages; employers without Section 125 plans whose workers access medical care through the Health Safety Net may be assessed a penalty between 20%-100% of the cost of the medical services that exceed \$50,000
 - Current regulation: 114.5 CMR 17.00
 - Proposed regulation: 956 CMR 9.00



Background on Programs Involved (cont'd)

- Health Insurance Responsibility Disclosure (HIRD); MGL 118G, § 6 (now 176Q, § 17)
 - Massachusetts employers with 11+ FTEs are (a) required to file Employer HIRD forms reporting on the employer's health insurance offerings and Section 125 plans and (b) to collect and retain Employee HIRD forms from employees that decline to enroll in the employer-sponsored plan offerings or the employer's Section 125 plan
 - Current regulation: 114.5 CMR 18.00
 - Proposed regulation: 956 CMR 10.00
- Fair Share Contribution; MGL 149, § 188
 - Provides an annual assessment of up to \$295 per FTE for an employer with 11+ FTEs that does not make a "fair and reasonable contribution" to its employees' health insurance
 - Current regulation: 114.5 CMR 16.00
 - Proposed regulation: 956 CMR 11.00



Proposed Draft Regulations

- In order to effectuate the Legislature's intended transfer, the Health Connector must repeal the current DHCFP regulations and promulgate regulations under our new statutory authority
- **No substantive changes at this time, only technical changes to transfer the authority**
- The technical changes include:
 - Renumbering of internal cross-references and regulatory/statutory references because the regulations are being moved to the Health Connector's "section" of the code under authority generally now within the Health Connector's statute
 - Substitution of the Health Connector's name in place of DHCFP throughout



Proposed Board Motion

- We ask that the Board issue a draft repeal, subject to public comment, of the following existing regulations:
 - 114.5 CMR 16.00 (Fair Share Contribution)
 - 114.5 CMR 17.00 (Free Rider Surcharge)
 - 114.5 CMR 18.00 (HIRD)
 - 114.6 CMR 3.00 (SHIP)
- Simultaneously, we ask that the Board promulgate the following draft regulations for public comment and hearing:
 - 956 CMR 8.00 (SHIP)
 - 956 CMR 9.00 (Free Rider Surcharge)
 - 956 CMR 10.00 (HIRD)
 - 956 CMR 11.00 (Fair Share Contribution)



Regulations Transfer Timeline

February

- ★ Thursday, Feb. 28th
 - BOD votes on Draft Regulations

March

- Wednesday, March 6th
 - Send notice and regulations to Local Government Advisory Committee
 - File small business impact statement and notice of public hearing, along with Draft regulations for publication with the Secretary of State's Regulations Division
 - Publish notice in local newspaper

April

- Tuesday, April 9th
 - Hold public hearing

Notice and Comment period (starts with first notice and ends after hearing on April 19th)

May

- ★ Thursday, May 9th
 - BOD votes on Final Regulations (with any changes as a result of comments)
- Friday, May 10th
 - Filing deadline for publication in Mass Register
- ★ Friday, May 24th
 - Final Regulations effective and published in Mass Register