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Massachusetts Employers Should Prepare for Penalties and Other Changes to Law Regarding Health Care Contributions

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In August 2017, Governor Charlie Baker signed into law, “An Act Further Regulating Employer Contributions to Health Care,” which became effective on January 1, 2018, and will remain on the books through the end of the 2019 calendar year. The Act, which changes the existing employer medical assistance contribution, was designed to close the \$300 million budget deficit faced by the state’s Medicaid and Children’s Health Insurance Program (CHIP). The Massachusetts Division of Unemployment Assurances (DUA) recently released its draft Emergency Medical Assistance Contribution (EMAC) supplemental regulations, which provide additional details regarding the law.

Most significantly, the new law imposes a penalty on employers of up to \$750 for each employee who is either enrolled in MassHealth or who receives subsidized coverage through the MassHealth Connector (“the Connector”), so long as the employee is not disabled. Additionally, the new law also increases an employer’s EMAC contributions (i.e. the equivalent of unemployment health insurance contributions) from 0.34% to 0.51% of the employee’s wages. The Massachusetts Department of Unemployment Assistance will be enforcing these new requirements, and thus assessing penalties, by using wage information provided by employers and enrollment information provided by MassHealth and the Connector.

The new law will apply to any employer with 6 or more employees (including full-time, part-time, temporary and probationary employees) residing in Massachusetts in any calendar quarter. For purposes of calculating the six employee threshold, the headcount is based upon dividing the sum of the employer’s headcount for each month in the quarter and dividing that total by three.

Although the law became effective on January 1, 2018, employers will not see a charge until their first quarter statements in April 2018. Many of the changes in the law, including a modification to the unemployment insurance schedule, are technical and complex. Accordingly, we encourage employers to consult with counsel to determine whether they meet any of the exceptions to the law, and if not, to assess the impact of the new law and regulations.

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