



## MASSACHUSETTS HIRD FORMS ARE NOW IN SPANISH AND PORTUGUESE, AND NEW INFORMAL DIVISION GUIDANCE ON THE EMERGENCY REGULATIONS

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### 1. THE HIRD FORMS ARE NOW IN SPANISH AND PORTUGUESE

Hola and bom día. Here are HIRD Forms just issued by the Division of Healthcare, Finance and Administration (the "Division") in [Spanish](#) and in [Portuguese](#), joining their [English](#) counterpart.

### 2. ANSWERS TO HIRD FORM QUESTIONS

In my [earlier article](#), I had questions about the Division's "emergency regulations," and promised to be back to you when I received answers. I'd like to thank a dedicated person at the Division for her assistance. As I told her, I was not thrilled with all the answers, but that's not her fault and I appreciate her efforts. I am also pleased that the Division at least is listening and responding to public questions. As a lawyer who deals a lot with State government, it's a good sign whenever government listens.

Please consider these to be non-binding staff views, and not official views of the Division.

**Q. Is it necessary to get HIRD Forms signed by persons who left employment prior to July 1, 2007?**

**A. No.**

**My comment:** That was the hoped for response.

**Q. Do refusals of coverage before July 1, 2007 have to be documented?**

**A. YES**, provided the employee is still active after June 30, 2007. The Division expects you to get HIRD Forms from current employees who rejected coverage, or who dropped coverage, at any time since October 1, 2006. The only exception is if they signed a written waiver of coverage in an enrollment period that ended before July 1, 2007, and if you keep the waiver for three years.

**My comment:** This is onerous. The regulations and the HIRD Form were not available until June 20, 2007. Why chase signatures for waivers that occurred as far back as October 1, 2006? Consider that all of these people who rejected between October 1, 2006 and June 30, 2007 have open enrollments coming up shortly. If the Division does not change its view, a person who rejected open enrollment in December, 2006, (1) has to sign a HIRD Form for that decision

before September 30, 2007, and (2) has to sign another HIRD Form when he or she rejects coverage again in December, 2007.

**Q. Is COBRA rejection a HIRD event?**

**A. NO.**

**My comment:** That's correct, and that's consistent with my view that HIRD Forms should only be required from active employees. Also, if non-subsidized COBRA was offered to an active employee due to a decline in hours, no HIRD Form is required. However, if the COBRA was offered to an active employee pursuant to a Section 125 plan, and the employee declines, that is a HIRD event.

**Q. What's the period to count hours for the 22,000 hour requirement?**

**A.** The Division approaches this differently than the Connector under its Section 125 regulations. The Connector looks back to a previous 12 month period from October 1 through September 30. If the employer paid for 22,000 hours, it must offer a Section 125 plan in the following calendar year. For the July 1, 2007 effective date of the Connector regulations, April 1, 2006 - March 31, 2007 was a special look-back period.

The Division, however, requires an employer to collect HIRD Forms for a 12 month period (October 1 - September 30) if it pays for 22,000 hours during that same period. For example, liability to collect forms for HIRD events during the period from October 1, 2006 - September 30, 2007 depends on whether the employer paid for 22,000 hours during the same period.

**My comment:** The current Division rule is not practical. Employers may not know until late during a 12 month period whether they are covered or not. The Connector approach -- looking back to a completed 12 month period -- is easier to administer. Whatever the rule, the healthcare regulators should get together on this one so that their rules do not conflict.

### 3. CONCLUSION

I will keep you posted as I learn more. I also will acquaint you in another article about the latest iteration in the Connector's approach to the Section 125 requirement. If you want a preview, download the [three tab Excel spreadsheet](#) at its website and ask yourself, "What's a 'Qualifying End Date'?" Hint: It's defined in the Field Definitions Tab. Then ask yourself, "Who in your organization has the time for this? And couldn't the money be better spent buying health insurance for your people?"

Most employers support the delivery of affordable insurance to their employees. I support that goal, but intend to keep asking all these branches of government - the Connector, the Division, the DUA, the DOR, and the Division of Insurance - to ease back a bit on the way they are administering the peripheral requirements of the new law. Let's not lose sight of the real goal, which is to provide affordable insurance. The rest of the country is looking to Massachusetts to do it the right way.

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