



A NEW EMPLOYEE HIRD FORM FOR 2008

BY: GEORGE L. CHIMENTO

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THE NEW EMPLOYEE HIRD FORM

There's a new HIRD in town for Massachusetts employers. With little fanfare, the [2008 version of the required Employee HIRD form](#) has just appeared on the website of the Division of Health Care, Finance, and Policy. Employers should immediately discontinue use of the 2007 version.

As a refresher:

1. Massachusetts employers must get employees to complete a HIRD Form after they decline coverage under (i) an employer's group health insurance plan, or (ii) a Section 125 plan which permits employees to purchase health insurance on a pre-tax basis.
2. The signature deadline is 30 days after the end of open enrollment periods for such plans, or 30 days after a decline which did not occur during open enrollment.
3. Employers must keep the HIRD forms for three years and be ready to produce them if audited. Employees are supposed to keep copies so that they can be produced if their Massachusetts tax form is audited.
4. Failure to get a HIRD signed when an employee declines Section 125 plan coverage can be evidence that the employer is not administering a Section 125 plan according to Massachusetts law. And that means possible assessment of free care pool expenses if uninsured employees don't pay hospital bills.
5. Collecting Employee HIRD Forms is not a one-time process. At a minimum, the Forms must be collected annually from decliners after open enrollments. Also, new employees who turn down coverage, and employees who drop coverage mid-year, must complete forms.
6. The HIRD Form requirement only applies to employers which pay for at least 22,000 hours (the equivalent of 11 full-time employees) in the current 12 month period from October 1-September 30. For this purpose, don't count more than 2,000 hours for any employee.

7. On the subject of whether an employer pays for 22,000 hours, related employers generally do not have to be aggregated. The employing entity is determined according to whether it has (or is supposed to have) a Division of Unemployment (DUA) number. Employers are not determined on a controlled group basis as they are for IRS qualified plans. Nor is "association in common purpose" taken into account, unlike the rule for determining whether employers with different DUA numbers must be aggregated to determine if they are required to sponsor Section 125 plans. As mentioned above, the measuring period for the Employee HIRD requirement is the current 12 months from October 1 through September 30. That's different from the measuring period for the Section 125 plan mandate. An employer must sponsor a Section 125 plan in a calendar year if it paid for more than 22,000 hours in a preceding 12 month measurement period from October 1 - September 30. Some fun.

More details on the Employee HIRD Form requirement are in the [Division's Regulation](#). Details on the Employer Section 125 requirement are in the [Connector's Regulation](#).

A FEW OBSERVATIONS

The new Employee HIRD Form will be much easier to use. This is the result of the Division listening to comments from employer representatives that the first (2007) version of the Form was too confusing. Hopefully, [my testimony](#) at the public hearing last fall helped a bit in this effort.

1. HERE'S WHAT I LIKE ABOUT THE NEW FORM.

- A. The Employer is allowed to pre-populate the form with answers to three straightforward questions: (i) did it offer health insurance to the employee, (ii) did it offer a section 125 plan to the employee, and (iii) what is the dollar amount of the least expensive health insurance (monthly employee's share) offered to the employee?
- B. The Employee then must answer three questions (i) did you accept employee health insurance, (ii) did you agree to use the employer's section 125 plan to purchase health insurance, and (iii) do you have other coverage?

2. HERE'S WHAT I DON'T LIKE.

- A. The employee HIRD Form is an unnecessary and distracting requirement of the Massachusetts Health Care law. I wish the legislature would reconsider the need for it. Employers have enough to do with administering group health plans and Section 125 plans and should not have to take on this additional chore.
- B. The philosophy, I suppose, was to impress on employees the need to take personal responsibility for insurance. However, have you ever heard an employee remark, "Holy cow. I forgot about getting health insurance, and am I glad that I got this HIRD Form to remind me about it."
- C. People aren't that stupid. Most people who decline insurance (and who are required to fill out these Forms) have health coverage elsewhere. So why threaten serious financial penalties to employers who might forget to get the

things signed each year? It is a great mistake for the cause of health care reform to impose record-keeping and administrative requirements on employers unless absolutely necessary. The cooperation and good spirit of employers are critical for the system to work.

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One Boston Place, Boston, Massachusetts 02108 | phone 617.367.2500 | fax 617.523.6215 | info@davismalm.com.
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