



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
DEPARTMENT OF UNEMPLOYMENT ASSISTANCE

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

ROSALIN ACOSTA
SECRETARY

RICHARD A. JEFFERS
DIRECTOR

**FAQ's - Updates in Employer Health Care Contributions and Experience Rate
Schedule Adjustments for 2018 – 2019**

1. Q: What is the reason for the Employer Medical Assistance Contribution Supplement?

A: In recent years, Massachusetts has seen an increase in health care coverage from employer-sponsored insurance to publicly-subsidized coverage, increasing the cost to taxpayers. The shift from commercial coverage to public coverage has contributed to significant growth in MassHealth spending. The Administration has proposed a comprehensive package of reforms to attain a sustainable MassHealth program that are currently under review by the legislature. The time limited increase in the Employer Medical Assistance Contribution and additional supplement will help to offset the costs for employees on subsidized coverage while longer-term reforms are established and implemented.

2. Q: What is the Employer Medical Assistance Contribution Supplement?

A: The Employer Medical Assistance Contribution Supplement is a temporary contribution that applies to employers with more than five employees in Massachusetts who are non-disabled and either obtain health insurance from MassHealth (excluding employees with MassHealth coverage as a secondary payer¹) or receive subsidized coverage through the Massachusetts ConnectorCare program.

3. Q: Which employers are responsible for the Employer Medical Assistance Contribution Supplement?

A: The Employer Medical Assistance Contribution Supplement applies to employers with more than five employees in Massachusetts whose non-disabled employees either obtain health insurance from MassHealth (excluding employees with MassHealth coverage as a secondary payer) or receive subsidized coverage through the Massachusetts ConnectorCare program.

4. Q: How is the Employer Medical Assistance Contribution Supplement Calculated?

¹ Employees may have MassHealth coverage as a secondary payer because they are enrolled in other primary coverage such as employer-sponsored insurance (including but not limited to those enrolled in premium assistance) or Medicare.

A: The amount an employer pays is based on the wages it pays to those of its employees who receive health insurance coverage through MassHealth (excluding employees with MassHealth coverage as a secondary payer) or the Connector. For each such employee, an employer pays 5% of the employee's annual wages, subject to an annual wage cap of \$15,000, for a maximum annual liability of \$750 per affected employee.

5. Q: How much is the Employer Medical Assistance Contribution Supplement per employee?

A: An employer can be liable for a maximum of \$750 per affected employee per year. The 5% contribution applies to a wage base of up to \$15,000.

6. Q: Do employers pay differently for part-time employees who are on MassHealth (excluding the premium assistance program) or who receives subsidized coverage through the Massachusetts ConnectorCare?

A: Because the calculation is based on wages (up to \$15,000), not hours worked, an employer with more than five employees is responsible for each employee on MassHealth (excluding employees with MassHealth coverage as a secondary payer) or receiving subsidized coverage through the Massachusetts ConnectorCare, regardless of whether the employee is part- or full-time.

7. Q: How can employers determine if DUA's calculation of their Supplement matches their records?

A: Information will be available online for each employer after the Employer Medical Assistance Contribution Supplement has been calculated.

8. Q: How will an employer pay the Supplement?

A: Any required Employer Medical Assistance Contribution Supplement payments owed will be added to the statement showing the employer's Unemployment Insurance liability.

9. Q: Can employers withhold EMAC Supplement contributions from employees who receive health insurance coverage through MassHealth or the Connector?

A: The statute states that the "employer...shall pay" the contribution. The statute also incorporates the payment provisions of the unemployment statute, G.L. c.151A, which also state that the "employer shall pay" the unemployment insurance contributions. The EMAC Supplement is an ordinary business expense of the employer and deducting it from an employee's paychecks may be a violation of the Massachusetts Wage Act, which imposes treble damages and attorney's fees on an offending employer. Additionally, federal wage laws may be violated if the deduction reduces the employee's hourly pay to a rate below minimum wage.

The EMAC Supplement regulations prohibit an employer from retaliating against any employee whose health care coverage information the employer has obtained because of its liability under G.L. c. 149, section 189A.

10. Q: When will the Employer Medical Assistance Contribution Supplement begin and how long will the program be in effect?

A: The Supplement will be in effect beginning January 1, 2018, and will remain in effect through December 31, 2019. Employers will see the charge on their first quarter statements in April 2018.

11. Q: When will the Employer Medical Assistance Contribution Supplement begin?

A: The Supplement will be in effect beginning January 1, 2018, through the end of calendar year 2019. Employers will see the change on their first quarter statements in April 2018.

12. Q: When will draft regulations be available and how can I submit comments?

A: DUA expects to have draft regulations available for review in early November. Before implementing regulations, DUA will conduct listening sessions in locations around the state.

13. Q: How is my current Employer Medical Assistance Contribution impacted by the change in law?

A: The current Employer Medical Assistance Contribution rate is 0.34% up to the annual wage cap of \$15,000, with a potential maximum cost of \$51 per employee per year. For the wages paid in the years 2018 and 2019, the EMAC contribution will temporarily increase to 0.51% up to the annual wage cap of \$15,000, which increases the potential maximum cost per employee to \$77 per employee per year.

14. Q: How is my unemployment insurance experience rate impacted by the change in law?

A: To offset costs of the updated contribution, modifications were made to the unemployment insurance schedule, effectively reducing scheduled increases to employer contributions for 2018 and 2019. The previously scheduled automatic jump from schedule “C” to schedule “F” will be replaced with the following:

- The experience rates for calendar year 2018 will be a one level increase to schedule “D”, and,
- The experience rate for calendar year 2019 will be another one level increase to schedule “E.”

15. Q: How long must an employee be receiving health insurance through MassHealth (excluding employees with MassHealth coverage as a secondary payer) or the Connector for an employer to be responsible for the EMAC supplement contribution?

A: An employer is subject to the EMAC Supplement for a quarter if one or more of its employees received health insurance coverage either through the MassHealth agency or through ConnectorCare for a continuous period of at least fifty-six days (8 weeks).

16. Q: Is there a minimum amount of wages earned per quarter, per employee, for an employer to be responsible for the EMAC supplement contribution.

A: Employees must make a minimum of \$500 per quarter for an employer to be responsible for contributing to the EMAC supplement.

17. Q: What are employers allowed to do with the employee information obtained DUA?

A: An employer is authorized to obtain employee information for the limited purposes of reviewing and appealing their EMAC liability; therefore, an employer may only use the information to:

- Confirm that every individual on the list is in fact their employee; and
- Confirm whether that employee is enrolled in the employer's sponsored insurance (ESI).

Employers cannot communicate with any employee about their eligibility or enrollment status on a subsidized health insurance program, or use such information to confront, disparage or retaliate against any employee.

18. Q: What should an employer do if they believe MassHealth / ConnectorCare incorrectly determined an employee's eligibility for subsidized healthcare?

A: If an employer believes an employee was ineligible for subsidized coverage (e.g. because an employee is enrolled in the employer's sponsored insurance, is not a MA resident, or has wages which are inconsistent with income eligibility), an employer should fill out the **EMAC Employee Information Form** and send the form with any additional documents via secure email to the following email address:
EMACemployee@State.MA.US

An employer must fill out the form for each individual employee and must submit the form to MassHealth no later than 60 days after EMAC Supplement payments are due (for Q1, employers must submit forms by June 30th). If the information provided results in a determination that an employee was enrolled in qualifying employer sponsored insurance or was not eligible for subsidized benefits a credit will be issued to the employer in the following quarter.

19. Q: If an employee waives an employer's offer of insurance and is enrolled in MassHealth or ConnectorCare, is this employee included in the employer's EMAC Supplement contribution?

A: Yes, an employer's offer of insurance does not preclude an employer from EMAC supplement contribution.

For all other questions, please email EMACQuestions@MassMail.State.MA.US.