

# DAVIS MALM & DAGOSTINE P.C.

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## ≡ Employment Law Client Alert ≡

OCTOBER 2007

### APPROACHING MASSACHUSETTS HEALTH CARE REFORM ACT DEADLINES

As many of you know, the Massachusetts Health Care Reform Act contains several employer obligations, including the implementation of a Section 125 Cafeteria Plan by July 1, 2007, and the payment of the Employer Fair Share Contribution, which will be no greater than \$295 per employee, unless the employer meets one of two tests that measure whether the employer is making a fair and reasonable health care premium contribution.

What you might not know is that in addition to these two key requirements, employers must also meet the following deadlines:

1. Annual Fair Share Contribution Report: Employers must file an Annual Fair Share Contribution Report ("FSC Report") with the Massachusetts Division of Unemployment Assistance ("DUA") by November 15, 2007. This report contains questions designed to determine to what extent, if at all, an employer will owe money under the Employer Fair Share Contribution. Any employer that was in business on or before September 30 of each year and has total payroll hours of at least 22,000 paid hours will be required to file a FSC Report. Employers must file the FSC Report on-line at <<https://fsc.detma.org>>. The DUA will not accept paper filing. This website officially opened on October 1, 2007.
2. Annual Fair Share Contribution Payments: If the employer is required to make a Fair Share Contribution payment, the employer must remit the required payment through an electronic funds transfer as prescribed by the DUA. Employers will have the option to pay the full amount by November 15, or to choose a semi-annual or quarterly payment schedule that will consist of the following due dates:

**Single Payment – November 15th**

**Semi-Annual Payments – November 15th and May 15th**

**Quarterly Payments – November 15th, February 15th, May 15th and August 15th**

3. Section 125 Cafeteria Plan Filing: Employers must file with the Commonwealth Health Insurance Connector Authority (“Commonwealth Connector”) copies of their Section 125 Cafeteria Plan within seven business days of the Commonwealth Connector’s request for such copy. For more information regarding the filing practicalities, the Commonwealth Connector’s website is <<http://www.mahealthconnector.org>>.
4. Employer Health Insurance Responsibility Disclosure Report: The Massachusetts Division of Health Care Finance & Policy (“DHCFP”) requires that all employers with eleven full-time equivalent employees file on an annual basis the Employer Health Insurance Responsibility Disclosure Report (“Employer HIRD Report”). Fortunately, the DUA will share the information it obtains on the employer FSC Report with the DHCFP. Therefore, all employers with eleven or more full-time equivalent employees who file their FSC Reports with the DUA will automatically satisfy their requirement to file the HIRD Report with the DHCFP.
5. Employee Health Insurance Responsibility Disclosure Form: Any employee who is offered but decides not to participate in either the employer’s Section 125 Cafeteria Plan or in the employer’s group health insurance, must fill out and sign an Employee Health Insurance Responsibility Disclosure Form (“Employee HIRD Form”). The employer must obtain a signed Employee HIRD Form by the earlier of 30 days after the close of the applicable open enrollment period for the employer’s health insurance, and/or its Section 125 Cafeteria Plan, or September 30 of the reporting year. Employers do not have to file this form, but are required to retain this form on file for three years and must give a copy of the form to the employee.

This new law, its employer obligations, and the upcoming filing deadlines are complicated. If you have any questions about this alert or any other employment issue, please contact us at the information listed below. ♦

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