



CLIENT BULLETIN:

- **EMPLOYEE HIRD FORM AVAILABLE**
- **FILING OF SECTION 125 DOCUMENTS ON HOLD**

June 22, 2007

EMPLOYEE HIRD FORM

This is to advise you that the Employee HIRD Form is now available and that you should begin utilizing this Form **immediately**. A copy of the form is attached to the cover e-mail. The Employee HIRD Form (and information about the Employer HIRD Form) also may be accessed through the Employer tab on the Connector's website, www.MAhealthconnector.org. As was noted in the Client Advisory on Massachusetts Health Care Reform that we issued on May 22, 2007:

There will be two HIRD forms, the Employee HIRD Form and the Employer HIRD Form. The Employee HIRD Form will be required to be signed by employees of Massachusetts employers with more than 10 employees if the employee declines to enroll in the employer-sponsored health plan or the employer's Section 125 Plan. The employer will then collect the form and retain it for 3 years.

In addition to being required by State regulation, having employees who decline either your employer-sponsored health coverage or your Section 125 plan complete one of these forms is good protection for you against possible future imposition of the Free Rider Surcharge. In this regard, if a declining employee should refuse to complete the form, it is suggested that this refusal be witnessed and documented by at least two employer representatives and that the HIRD form be completed with the notation that the employee refused to sign it and the names of the employer representatives attesting to this refusal. This should then be retained for at least three years, just as other Employee HIRD Forms must be retained.

FILING OF SECTION 125 DOCUMENTS ON HOLD

If you go to the Employer portion of the Connector website noted above, you will also see that the Connector is now asking that employers hold on to their Section 125 plan documents

“until further notice.” The Connector is reporting that the process for filing these documents with the Connector is “still under development.”

This does not mean, though, that you should delay adopting and offering a Section 125 plan compliant with Massachusetts law and regulations. Until such a plan is in place and offered to all employees who are not lawfully excludable, employers run the risk of possible future imposition of the Free Rider Surcharge. You will recall from our previous Client Advisory that:

An employer may be subject to the Free Rider Surcharge if the employer:

- has more than 10 employees;
- employees or their dependents received “state-funded health services”;
- these “state-funded health services” are at least \$50,000 in one hospital fiscal year, **AND**;
- these employees were not offered a Section 125 plan meeting the Connector’s requirements.

The amount of the Free Rider Surcharge will vary based on the number of employees, the total state-funded costs and other factors. Since employers offering a compliant Section 125 Plan will not be subject to this Surcharge, this should not be an issue for most employers. However, further details on this Surcharge may be found in the *Employer Handbook*. (The *Employer Handbook* is also available through the Connector’s website.)

The Free Rider Surcharge could be very costly. Once again, offering a compliant Section 125 plan and utilizing the Employee HIRD Form to document all instances of employees declining this offer or the offer of employer-sponsored health coverage are good insurance against this risk.