



## **CLIENT BULLETIN:**

- **NEW FILING DEADLINE FOR SECTION 125 PLAN DOCUMENTS**
- **CLARIFICATION OF CERTAIN EXCLUDABLE CLASSES OF EMPLOYEES**

**July 2, 2007**

### ***CONNECTOR ISSUES ATTACHED ADMINISTRATIVE BULLETIN 02-07***

Please be advised that the Connector today issued an Administrative Bulletin specifying certain filing requirements and deadlines for Section 125 plan documents and providing guidance as to certain classes of employees that are excludable from an employer's Section 125 plan. A copy of this Administrative Bulletin 02-07 is attached and is also available from the Employer's section of the Connector's website, [www.MAhealthconnector.org](http://www.MAhealthconnector.org).

Briefly, we advised in our last Client Bulletin of June 22, 2007 that the Connector had placed the filing of Section 125 documents on hold until further notice. This Administrative Bulletin is such further notice. The Administrative Bulletin specifies October 1, 2007 as the deadline for filing those Section 125 plan documents with the Connector that otherwise would have been due to the Connector by July 1, 2007. The Connector further advises in the Administrative Bulletin that plan documents should NOT be filed with the Connector prior to September 1, 2007, unless requested of an employer by the Connector.

As noted in the June 22 Client Bulletin from our office, this extension in the filing deadline does NOT mean that employers are relieved from the requirement of establishing and offering a Section 125 plan meeting Federal and Connector requirements until that time. Employers who delay in establishing and offering such a plan run the risk of possible future imposition of a Free Rider Surcharge, as noted in our June 22 Client Bulletin and in our May 21 Client Advisory. If you did not receive either of these documents or if you require further copies of the same, please contact our office by e-mail or telephone.

In addition to establishing these filing requirements and deadlines for Section 125 plan documents, the Connector's Administrative Bulletin provides some much-needed guidance as to certain classes of employees that may be excluded from an employer's Section 125 plan. For example, the Administrative Bulletin seeks to aid employers in making the determination as to whether certain employees work fewer than 64 hours per month and are, therefore, excludable from the Section 125 plan. A procedure for making the required "reasonable, good faith effort" to identify such employees is set forth in the Administrative Bulletin. Further, the Administrative Bulletin clarifies that employers should not include tips in determining whether wait staff are excludable as earning less than \$400 monthly, on average, in payroll wages. The Bulletin contains other clarifications as well.

As always, please do not hesitate to contact us if you require any assistance in responding to this evolving matter.