

MEMORANDUM

TO: CLIENTS AND COLLEAGUES
FROM: CHIMENTO & WEBB, P.C.
DATE: JANUARY 31, 2018
RE: MASSACHUSETTS EMPLOYER MEDICAL ASSISTANCE CONTRIBUTION SUPPLEMENT

Beginning this year, some employers will have to make new supplemental payments along with their quarterly unemployment insurance taxes.

Since 2014, many Massachusetts employers have been required to pay additional liability as part of their quarterly unemployment insurance taxes. This additional assessment, known as the Employer Medical Assistance Contribution (“EMAC”), has been increased by the state legislature, effective January 1, 2018. Now a supplemental assessment, known as the EMAC Supplement, has also been imposed on certain Massachusetts employers beginning in 2018.

The state has recently issued [regulations](#) detailing how the changes in the [new law](#) will be enacted.

I. Background on the Employer Medical Assistant Contribution (“EMAC”)

EMAC was created in 2014 as part of the ongoing effort to expand access to health insurance for Massachusetts residents. That effort has resulted in significant growth in the numbers of people covered by MassHealth and publicly-subsidized ConnectorCare plans, and significant increases in MassHealth spending. EMAC was intended to reduce the Commonwealth’s share of the rapidly rising costs associated with increasing MassHealth enrollment.

EMAC applies to Massachusetts employers with six (6) or more employees and it applies regardless of whether the employer offers health coverage to its employees.

EMAC liability is paid quarterly as part of the employer’s unemployment insurance taxes, and is calculated by multiplying the first \$15,000 of each employee’s annual wages by an assigned rate. In 2017, the rate was 0.34%, resulting in a maximum EMAC liability per employee of \$51. Per [legislation passed in August 2017](#), the rate for 2018 and 2019 is 0.51%, meaning the maximum quarterly EMAC liability per employee is \$76.50, rounded up to \$77.00.

II. What is the New “EMAC Supplement”?

Signed into law in August, 2017, [An Act Further Regulating Employer Contributions to Health Care](#) provides for a temporary supplement to the EMAC liability for eligible employers – as of now, the law is set to expire after 2019. The EMAC Supplement, like the original EMAC payment, applies to any Massachusetts employer with at least six (6) employees. But it requires

that employers pay an additional liability for each employee who obtains health insurance from MassHealth (other than employees who have MassHealth because of a disability, for whom MassHealth is a secondary payer to employer insurance, or who only receive premium assistance payments) or who receives subsidized coverage through the Massachusetts ConnectorCare program. An employer must pay this additional amount even if it offers coverage that would be deemed “affordable” under the Affordable Care Act. Moreover, even employers exempt from ACA or Massachusetts ConnectorCare regulations may be liable for EMAC Supplement payments.

The additional liability is assessed on a quarterly basis for each employee receiving qualifying coverage for a continuous period of at least 56 days (8 weeks) during that quarter. The amount of the liability imposed by the EMAC Supplement is calculated by multiplying the first \$15,000 of any such employee’s annual wages by 5%, resulting in a maximum quarterly EMAC Supplement liability per qualifying employee of \$750.00.

The EMAC Supplement is in effect as of January 1, 2018. Employers will see the charge on their first quarter statement along with their Unemployment Insurance liability. The charges will continue through December 31, 2019.

III. How much is the New Payment?

For each affected employee, an employer will be liable for 5% of up to the first \$15,000 in the employee’s annual wages. There is a cap of \$750 in EMAC Supplement liability for each such employee.

For liable employers, payment of the EMAC Supplement is required quarterly, and is due on or before the last day of the first month succeeding the quarter in which wages were paid and reported. Any required EMAC Supplement payments owed will be added to employers’ quarterly statement showing unemployment insurance liability.

For 2018, the first EMAC Supplement is due from employers on or before April 30, 2018.

IV. What Penalties do Employers Face for Failure to Pay?

Employers failing to pay their liability due under either EMAC or the EMAC Supplement are subject to the same penalties and interest that apply to non-payment of Unemployment Insurance contributions. Additionally, the regulations list several actions that could subject employers to penalties, including “possible fines and imprisonment.” These include:

- Willfully attempting to evade or defeat any contribution, interest or penalty payment;
- Knowingly making a false statement or misrepresentation to avoid or reduce financial liabilities;

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- Knowingly failing or refusing to pay a contribution, interest charge or penalty; or
- Attempting to coerce an employee to misrepresent his or her circumstances to avoid paying required contributions.

V. Can Employers Appeal any Liability Imposed?

Once an employer has received notice of the EMAC Supplement liability from the Department of Unemployment Assistance (“DUA”), it has 10 days to file a request for a hearing. If the employer remains aggrieved following the hearing with the DUA, it may appeal the decision to the appropriate division of the superior court.

VI. Conclusion

Many Massachusetts employers have already been making EMAC payments for several years now. Administratively, the issuing of EMAC fees, including the EMAC Supplement, will continue as before. However, the amount due is subject to increase, and employers should expect this trend to continue.

[FAQs](#)

[Statute](#)

[Regulations](#)

[EMAC Info](#)