



## Maine Municipal Employees Health Trust

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To: Health Trust Participating Employers  
From: Anne Wright, Assistant Director, MMEHT  
Date: June 14, 2013  
Re: The Affordable Care Act and Health Care Reform –  
90 Day Waiting Period Requirement

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The federal Affordable Care Act may have been passed in 2010, but many of its provisions will begin to affect employers in late 2013 and throughout 2014. One of these provisions limits the waiting period that employers may impose before new employees are covered under employer-sponsored health insurance. This provision takes effect January 1, 2014, for all employers offering a Health Trust health insurance plan.

A waiting period is defined as the period of time that must pass before coverage for an eligible employee (and his/her eligible dependents, if applicable) may become effective. Generally speaking, the waiting period begins on the employee's first day of employment. In some cases, however, the waiting period may begin later – for example, if a part-time employee who is not eligible for coverage moves to full-time benefits-eligible status, the waiting period would begin on the first day that the employee becomes eligible for coverage.

Under current Health Trust guidelines, an individual participating employer may choose any waiting period. Coverage will begin on the first day of the new calendar month that coincides with or next follows the end of that waiting period. So, for example, say that Employer A has elected a six-month waiting period for its health insurance coverage. John starts work on January 15. This would mean that the waiting period for John (six months) would extend from January 15 through July 15. As long as John completes and submits his enrollment form in a timely manner, his health insurance coverage will begin on August 1 – the first day of the calendar month following John's completion of Employer A's six-month waiting period.

The Affordable Care Act included a provision that prohibits waiting periods that are longer than 90 days, for all group health plans. This restriction becomes effective the first day of the new plan year that begins on or after January 1, 2014. The Health Trust plan year begins on January 1, so this provision will be effective for all employer groups participating in a Health Trust health plan as of January 1, 2014.

On March 18, 2013, the U.S. Departments of Health and Human Services, Labor and the Treasury (the Departments) published a clarification of the "90 day waiting period" provision. This clarification makes it clear that "90 days" means 90 calendar days, and not one day longer. So, for example, if an employer wishes to have a 90 day waiting period, coverage must begin on

the 91<sup>st</sup> day of eligible employment – not the first day of the new calendar month following the end of the 90 day waiting period. The Departments also clarified that employers will not be able to impose a “3 month” waiting period on new employees, even if coverage begins immediately upon the completion of the 3 month period, since some months have more than 30 days and thus an employee could be required to wait longer than 90 calendar days before coverage becomes effective.

Most insurers (including the Health Trust) make coverage effective on the first day of the calendar month following the end of the waiting period. This is generally a systems restriction, and is tied to the difficulty of calculating individual premiums for each day of the calendar month (such calculations would also make it extraordinarily difficult for employers to determine health insurance premiums for each new employee’s first month).

As a result of the change in the law, then, **effective January 1, 2014, the maximum waiting period that the Health Trust will allow for health insurance coverage will be 60 days, with coverage beginning on the first day of the calendar month that begins after the end of the waiting period.** Employers may choose to have different waiting periods for different benefits if they wish; for example, an employer may have a 60 day waiting period for health insurance and a 90 day waiting period for Income Protection Plan coverage.

In addition, it is important to note that if an employer currently has a waiting period in excess of 90 calendar days, and a new employee is in the middle of completing his waiting period on January 1, 2014, that employee’s coverage must begin by no later than the 91<sup>st</sup> day of his eligible employment. So, for example, if the employer’s current waiting period is set at 90 days (with coverage beginning on the first day of the calendar month following the end of the 90 days), and John began his eligible employment with the employer on October 15, 2013, one might think that John’s health insurance coverage would begin on February 1, 2014 (the first day of the calendar month following the end of John’s 90 day waiting period), since John was already in the process of completing his waiting period on January 1, 2014. However, this is not the case.

Since the new plan year begins on January 1, 2014, and since no Health Trust employer will be allowed to have a waiting period for health insurance coverage that exceed 90 calendar days as of January 1, 2014, John cannot be required to wait until February 1, 2014 (108 days after his employment began) for his health insurance coverage to begin. John’s health insurance coverage will begin on January 1, 2014.

The Health Trust will be contacting all employer groups that currently have a waiting period for their health insurance plan that is in excess of 60 days. These groups will be required to decrease their waiting periods for health insurance coverage to no more than 60 days, on or before January 1, 2014.

*Please note that the Maine Municipal Association and the Maine Municipal Employees Health Trust are sharing this information to assist you with your compliance planning. We recommend that you contact your legal counsel with specific questions relating to this law.*