



## Maine Municipal Employees Health Trust

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To: Health Trust Participating Employers  
From: Anne Wright, Assistant Director, MMEHT  
Date: July 19, 2013  
Re: The Affordable Care Act and Health Care Reform –  
W-2 Reporting of Health Insurance Costs

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The Affordable Care Act requires employers to report the cost of coverage under an employer-sponsored group health plan. This requirement was originally slated to become effective with the 2011 tax year (that is, for W-2s issued in January 2012 for the previous year). However, recognizing that many employers would not be able to update their payroll systems in time to begin such reporting, the IRS delayed its implementation, and made this requirement optional for the 2011 tax year.

Starting with the 2012 W-2 forms (that is, forms issued in 2013 for tax year 2012), employers with 250 or more W-2 employees were required to report this information on employees' W-2s. *(Please note: A recent article in the Maine Townsman stated that such reporting was not required until the 2013 tax year. This was a typo. It should have read that the reporting was required for the **2012** tax year, on the W-2 forms issued in **2013**. We apologize for the error.)*

Employers with fewer than 250 W-2 employees, on the other hand, have been granted a reprieve of sorts by the IRS. On its website, the IRS notes that while “all employers that provide ‘applicable employer-sponsored coverage’ under a group health plan are subject to the reporting requirement”, they go on to say that such reporting requirement does not apply for the 2012 tax year to “employers filing fewer than 250 Forms W-2”.

In addition, while those smaller employers may choose to include the cost of health care coverage on their W-2 forms, it will not become mandatory for employers filing fewer than 250 W-2s until the IRS provides further guidance. Such guidance must provide at least six (6) months of advance notice of any change to the current policy. Since we are now almost all of the way through July, it is doubtful that the policy will change for the 2013 tax year, at least for those employers providing their W-2 forms in January. In other words, it is doubtful that employers filing fewer than 250 W-2s for tax year 2013 will be required to include the cost of employer-sponsored coverage on those W-2s (although it remains optional for those employers that wish to do so).

There are a few employers that are exempt from this requirement altogether, including state and local government entities that maintain plans primarily for members of the military and their families; federally recognized Indian tribal governments; and (until further guidance is issued) any tribally chartered corporation wholly owned by a federally recognized Indian tribal government.

For those employers that are required to, or choose to, include this information on their W-2s, what information must be included, and does this mean that the benefits are taxable to the employee?

According to the IRS website, “there is nothing about the reporting requirement that causes or will cause excludable employer-provided health coverage to become taxable.” Rather, the information is being reported as a way to provide employees with “useful and comparable consumer information on the cost of their health care coverage.” The information is to be reported in box 12 of the W-2, with Code DD to identify the amount.

The amount reported must include the total cost of the health care (health insurance) coverage provided to the employee; that is, both the portion paid by the employer and the portion paid by the employee, regardless of whether the employee portion is paid on a pre-tax or post-tax basis. It must reflect the total cost for the particular level of coverage in which the employee is enrolled. So, for example, if the employee is enrolled in family coverage (coverage for the employee plus spouse plus child or children), the amount reported would be the total cost for coverage for the entire family. If the employee covers his or her Domestic Partner, any amount of the premium cost that is included in the employee’s gross income must also be included.

The employer is not required to report the cost of coverage for standalone dental or vision plans. Such plans are defined as those offered on a separate basis from the medical plan, where employees have the right to decline the dental or vision coverage, even if they are enrolled in the medical plan.

If the employer contributes to a Health Reimbursement Arrangement (HRA) to cover a portion of the employee’s medical out-of-pocket expenses, this may be included in the reported amount, but that is optional. The value of a health Flexible Spending Account (FSA) will only be included if the amount of the health FSA exceeds the employee’s qualified cafeteria plan salary reductions for all qualified benefits. We recommend that you contact your HRA or Section 125 plan administrator for guidance in this area.

If an employee terminates employment during the year, he or she has the right to request a copy of his/her W-2. If the employee makes this request in writing, the employer is required to provide the W-2 within 30 days of receiving such request. However, under the current IRS rules, the employer will not be required to report any amount of health benefits on this interim W-2 (although they may do so if they wish).

For more information and a detailed Q&A about the W-2 reporting requirement, please visit the IRS’s website, at [www.irs.gov](http://www.irs.gov). Click on the link for Affordable Care Act Provisions (under “Hot Topics”), then Employers, then Large Employers. You can find more information under the section labeled Reporting.

*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.*