



Maine Municipal Employees Health Trust

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To: Health Trust Participating Employers
From: Anne Wright, Assistant Director, MMEHT
Date: August 16, 2013
Re: The Affordable Care Act and Health Care Reform –
Notice of Health Insurance Marketplace

Please note: Copies of these Health Care Reform updates may be found on the Health Trust website, at www.mmeht.org. Click on the link for Health Care Reform. Updates are at the bottom of the page; simply click on the link for the update you wish to read.

Under the terms of the Affordable Care Act, employers will be responsible for providing employees with certain prescribed notices regarding their health insurance coverage. One of these notices, the **Summary of Benefits and Coverage**, was described in last week's update. The other, the **Notice of Health Insurance Marketplace** (formerly referred to as Health Care Exchanges), will be outlined here.

The Notice of Health Insurance Marketplace must be provided by employers to **all employees**, regardless of their eligibility for benefits. For current employees, the Notice must be provided on or before October 1, 2013. For employees hired after October 1, 2013, the Notice must be provided within 14 days after the employee's hire date. At this point, employers do not have to distribute the Notice on an annual basis; if this changes, we will let you know.

The purpose of this Notice is to let employees (especially those who may not be eligible for employer-sponsored health insurance coverage) know about the availability of coverage through the Health Insurance Marketplace. The Marketplace is an online vehicle for purchasing health insurance coverage. Individuals may purchase coverage through the Marketplace starting on October 1, 2013, with coverage beginning on or after January 1, 2014. Two carriers (Anthem and Maine Community Health Options) will be offering coverage through the Maine Marketplace, which will be overseen by the federal government.

There are two versions of the Notice. One is specifically for employers that do not offer health insurance coverage to employees. The other is for employers that do offer health insurance coverage to (some or all) employees. Model Notices are available on the Department of Labor's website, at www.dol.gov/ebsa/healthreform. Look under Affordable Care Act Regulations and Guidance, Notice to Employees of Coverage Options.

The Notice of Health Insurance Marketplace may be combined with other employer communications, as long as they are distributed to **all employees**. The Notice may be delivered via first-class mail, in person at the workplace, or electronically if certain safe harbor requirements (as described in last week's update regarding the SBCs) are met.

Both versions of the Notice (the one used by employers that do not offer health insurance coverage, as well as the one used by employers that do offer such coverage) require the employer to provide the

following information: employer name, address, and phone number; employer identification number (EIN); and the contact information for someone at the employer's office who can answer questions from the Marketplace regarding the employer's coverage. In addition, both versions of the Notice include language notifying the employee that if he purchases coverage through the Marketplace rather than enrolling in employer-sponsored coverage, he may lose any employer contribution to the cost of health insurance coverage; and that any payment he makes for coverage through the Marketplace will be on an after-tax basis.

The Notice for employers that offer coverage requires the employer to provide information regarding who is eligible for coverage under the employer-sponsored plan; whether the coverage meets minimum standards; and whether the coverage is intended to be affordable. In addition, employees who are interested in applying for a premium subsidy through the Marketplace may ask their employers to provide further information regarding the availability and affordability of their employer-sponsored health insurance coverage.

On page 2 of the Notice for employers offering coverage, you will find the following sentence, which requires some clarification:

[] If checked, this coverage meets the minimum value standard, and the cost of this coverage to you is intended to be affordable, based on employee wages.

Since current law only requires the Notice to be distributed once (on or before October 1, 2013 for current employees), many questions have arisen regarding this sentence. For example, the employee's contribution may be "affordable" (as defined by the ACA) in 2013, but may not be "affordable" in 2014. Or, the employer may change plans, and offer a plan that does not meet the minimum value standard in the future, even though the current plan does meet the standard. Since the Notice may be used by individuals seeking coverage (and a possible premium subsidy) in the Marketplace in 2014, or possibly even later, we are waiting for clarification on how – and even whether – employers should respond to this sentence. For the moment, we shall provide definitions of these two important terms.

The term "**minimum value**", as defined by the ACA, refers to the actuarial value of the employer-sponsored benefits plan, which must exceed 60%. This means that the plan's share of the total allowed costs of benefits provided under the plan is at least 60% of costs. This is determined by evaluating the plan's deductible, coinsurance, copays, and out-of-pocket maximum. Please note: If you offer any of the Health Trust health insurance plans, your plan meets (and in fact, exceeds) the required 60% minimum value.

The term "**affordable**", as defined by the ACA, means that an employee's premium contribution for self-only health insurance coverage does not exceed 9.5% of the employee's household income. This may be difficult for an individual employer to determine, since employers do not generally have access to information regarding employees' household income. The IRS has designated three "safe harbors" for determining whether or not coverage is affordable. These "safe harbors" will be discussed in detail in next week's Health Care Reform update, along with clarification on how to respond to the sentence on page 2 of the Notice.

Tune in next week for more exciting health care reform updates!

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.