

430 CMR: DEPARTMENT OF UNEMPLOYMENT ASSISTANCE

430 CMR 10.00: EMPLOYER MEDICAL ASSISTANCE CONTRIBUTION

Section

- 10.01: Purpose
- 10.02: Scope and Applicability
- 10.03: General Definitions
- 10.04: Subjectivity
- 10.05: Employer Liability for Employer Medical Assistance Contributions under M.G.L. c. 149, § 189
- 10.06: Non-profit Organizations and Governmental Employers
- 10.07: Appeals
- 10.08: Contributions Due under M.G.L. c. 149, § 189
- 10.09: Reporting and Payment Requirements
- 10.10: Commingling of Contributions under M.G.L. c. 149
- 10.11: Collections and Penalties
- 10.12: Confidentiality

10.01: Purpose

430 CMR 10.00 interprets the standards for determining when an employer is liable for payment of employer medical assistance contributions under M.G. L. c. 149, § 189; to establish payment procedures under 430 CMR 10.00; and to otherwise define how the Department of Unemployment Assistance will administer M.G.L. c. 149, § 189 regarding payment of employer medical assistance contributions beginning January 1, 2014. Employer medical assistance contributions support the provision of subsidized health care services funded by the Commonwealth Care Trust Fund, the Catastrophic Illness in Children Fund, and the Health Safety Net Trust Fund.

10.02: Scope and Applicability

430 CMR 10.00 applies to any employing unit subject to M.G.L. c. 151A. Except as otherwise provided under M.G.L. c. 149, § 189, and 430 CMR 10.00, the general provisions of M.G.L. c. 151A apply to the interpretation and administration of M.G.L. c. 149, § 189.

10.03: General Definitions

Catastrophic Illness in Children Relief Fund. The fund, established under M.G.L. c. 29, § 2ZZ, into which \$1 for each employee whose wages determine each employer's total employer medical assistance contribution shall be deposited annually.

Commonwealth Care Trust Fund. The fund, established under M.G.L. c. 29, § 2000, into which employer medical assistance contributions paid by employers under M.G.L. c. 149, § 189 shall be deposited in accordance with the provisions of M.G.L. § 149, § 189(b).

Department. The Department of Unemployment Assistance.

Director. The Director of the Department of Unemployment Assistance and the Director's designee.

Employee. For purposes of determining liability for employer medical assistance contributions under M.G.L. c. 149, § 189(a) and for determining wages under 430 CMR 10.00. Employee has the same meaning as is provided in M.G.L. c. 151A, § 1(h).

Employment. Has the same meaning as is provided in M.G. L. c. 151A, § 1(k). The classes of employment exempt from coverage for purposes of paying employer medical assistance contributions are the same as set forth in M.G. L. c. 151A.

Service performed by an individual on behalf of an employing unit is presumed subject to M.G.L. c. 149, § 189, unless and until it is shown otherwise under the standards of M.G.L. c. 151A, § 2G.

430 CMR: DEPARTMENT OF UNEMPLOYMENT ASSISTANCE

10.02: continued

Employer Medical Assistance Contribution Wage Base. Has the same meaning as Unemployment Insurance Taxable Wage Base as defined in M.G.L. c. 151A, § 14(a)(4).

Health Safety Net Trust Fund. The fund into which the Commonwealth Care Trust Fund shall deposit annually not less than \$30,000,000.

Wages.

(a) Inclusions. Include all forms of remuneration for services performed by Employees subject to M.G.L. c. 151A, including salaries, commissions and bonuses, reasonable cash value of board, rent, housing and lodging, in-kind payments, and other non-cash payments for employment covered by M.G.L. c. 151A.

(b) Exclusions. Any payments made to or on behalf of employees that are excluded as wages under M.G. L. c. 151A, § 1(s), are also excluded as wages for purposes of calculating unemployment health insurance contributions.

(c) Accrual. The employer's contributions accrue at the time wages are actually or constructively paid, in accordance with 430 CMR 5.03(2).

10.04: Subjectivity

Any employer subject to the provisions of M.G.L. c. 151A is also subject to M.G. L. c. 149, § 189, governing employer medical assistance contributions. All subject employers are required to meet the reporting requirements provided in 430 CMR 10.00, regardless of whether employer medical assistance contributions are due.

10.05: Employer Liability for Employer Medical Assistance Contributions under M.G.L. c. 149, § 189

(1) Conditions under Which the Employer Becomes Liable for Employer Medical Assistance Contributions.

(a) Any employer who employs six or more employees in any quarter during 2014 or in any quarter during any subsequent calendar year is liable for employer medical assistance contributions for each such quarter.

(b) The number of employees in a calendar quarter is calculated by dividing the sum of the three monthly employment levels for the quarter by three. An employing unit's employment level for each month of the quarter is the number of employees who worked or received pay for any part of the pay period that includes the 12th of the month as reportable to the Department.

(2) Commencement and Duration of Liability During the Calendar Year. Liability for contributions on wages paid begins on the first day of the first quarter of the calendar year in which the six-employee average is reached. The employer is liable for employer medical assistance contributions for each subsequent quarter in which an average of six employees or more are employed.

10.06: Non-profit Organizations and Governmental Employers

All non-profit organizations and governmental employers subject to the provisions of M.G.L. c. 151A are liable for quarterly reporting and payment of employer medical assistance contributions under M.G.L. c. 149, § 189, and 430 CMR 10.00 regardless of whether they choose the contributory method or the reimbursement method to finance the payment of unemployment insurance benefits to their workers.

10.07: Appeals

(1) Whenever the Director issues a determination that an employing unit is liable for employer medical assistance contributions, the employing unit may request, within ten days after notice of the determination is sent, a hearing on such determination. The conduct of such hearing shall be in accordance with the procedures prescribed by M.G.L. c. 151A, § 39(b). The Director will issue a written decision affirming, modifying, or revoking the Department's initial determination.

10.07: continued

(2) An application for review of such decision may be made to the Board of Review within 30 days after notice of the decision is given. The Board's consideration of such an application shall be governed by M.G.L. c. 151A, § 41G.

(3) An appeal of the decision of the board of review must be filed within 30 days of the mailing date of such decision to the applicable district court in accordance with the provisions of M.G.L. c. 151A, § 42.

10.08: Contributions Due under M.G.L. c. 149, § 189

(1) Employer Medical Assistance Wage Base. Except as otherwise provided for in 430 CMR 10.00, employer medical assistance contributions are payable on the employer medical assistance wage base, provided that remuneration paid to any employee during any quarter in which the employer has fewer than six employees is not subject to the contributions required by M.G.L. c. 149, § 189. Such remuneration is not wages for purposes of the employer medical assistance wage base.

(2) Liability of Newly Subject Employers.

(a) Exemption for Newly Subject Employers. To ease the burden on newly formed businesses and organizations, any employer "newly subject" as defined in M.G. L. c. 151A, § 14(i)(2) and(3), is exempt from payment of employer medical assistance contributions until it has been an employer for not less than 12 consecutive months.

(b) Reduced Liability under M.G.L. c. 149, § 189, for the Two Successive Calendar Years. Employers otherwise liable for employer medical assistance contributions under M.G.L. c. 149, § 189, whose "newly subject" status expires on the preceding December 31st shall make employer medical assistance contributions as follows in the two subsequent calendar years:

First Calendar Year: 12% of the employer medical assistance wage base.

Second Calendar Year: 24% of the employer medical assistance wage base.

(3) Employer Medical Assistance Contributions Rates for Companies Involved in Ownership Changes. 430 CMR 10.08(4) provides instruction in determining the contribution rates applicable under M.G. L. c. 149, § 189, for companies involved in a change of ownership during the calendar year. In developing 430 CMR 10.08(4), the Department was guided by the existing law governing rate-setting for unemployment insurance contributions.

(a) Acquisition. The following rate-setting and payment procedures apply under M.G.L. c. 149, § 189, whenever an employer acquires another employer during the calendar year, or acquires substantially all assets of said employer:

If otherwise liable for contributions under M.G.L. c. 149, § 189, the acquiring employer retains its employer medical assistance contributions rate for the remainder of the calendar year in which the acquisition takes place. The acquiring employer is allowed "credit" for employer medical assistance contributions paid by the acquired employer on employee wages prior to the acquisition. Beginning the January 1st following the acquisition, the higher of the two rate schedules that would have been applicable to the acquiring or acquired employer shall become the effective rate.

Following the acquisition, if some portion of the acquired employer still exists as a separate entity, that employer, if otherwise liable for contributions under M.G.L. c. 149, § 189, continues with the same rate that applied prior to the acquisition. Said employer would receive credit for payments made prior to the acquisition for any employees who remain with that employer.

(b) Partial Successorship. If an employer acquires part of the business, organization, or trade of another employer, the employer medical assistance contribution rates of the two employers will remain unchanged as a result of the ownership change. The acquiring company will not be credited with payments remitted on wages paid by the former employer during the calendar year.

430 CMR: DEPARTMENT OF UNEMPLOYMENT ASSISTANCE

10.08: continued

(c) Consolidation. If two or more employers merge to form a new corporation, the new entity is not a “newly subject” employer within the meaning of M.G.L. c. 149, § 189(d). For the year in which the consolidation takes place, the higher of the employers' rate schedules prior to consolidation will be applied to wages paid by the new entity. Contributions on wages paid by the transferring employers during the calendar year in which the consolidation takes place will be credited to the new entity.

(d) Whole Successorship. If an employing unit not subject to M.G.L. c. 151A acquires an employer, the resulting entity is not considered “newly subject” within the meaning of M.G.L. c. 149, § 189(d). The rate schedule of the acquired firm applies to wages paid by the newly formed organization. Contributions on wages paid by the acquired employer during the calendar year in which the ownership change takes place will be credited to the new entity.

10.09: Reporting and Payment Requirements

(1) Every employer subject to M.G.L. c. 151A will file a report, in the manner and form prescribed by the Director, for the first quarter of each calendar year so that the Department can determine the employer's liability for employer medical assistance contributions.

(2) For employers liable under M.G.L. c. 149, § 189, filing of employer medical assistance contributions reports and payment of those contributions are required quarterly, and are due and payable on or before the last day of the first month succeeding the quarter in which wages were paid.

Reports must be filed by the following dates to avoid late filing penalties:

<u>File By:</u>	<u>For Wages Paid:</u>
January 31 st	October 1 st through December 31 st
April 30 th	January 1 st through March 31 st
July 31 st	April 1 st through June 30 th
October 31 st	July 1 st through September 30 th

(3) Once an employer becomes liable for payment of employer medical assistance contributions under M.G.L. c. 149, § 189, the employing unit's liability for filing quarterly reports continues for the remainder of the calendar year regardless of whether any wages are paid during the applicable quarterly period.

(4) Except as allowed for in 430 CMR 10.08(4), wages paid to an individual by another employer will not be included in calculating wages for that individual.

(5) The Department shall make every effort to furnish employers not filing electronically with the forms quarterly for filing employer medical assistance contributions reports, including the applicable contribution rates. But failure to receive such forms does not absolve the employer of its reporting or payment requirements under M.G.L. c. 149, § 189. Employer requests for forms should be directed to the following location in time to file reports and make payments on or before the applicable due date:

Department of Unemployment Assistance
Employer Medical Assistance Contributions
19 Staniford Street Boston, Massachusetts 02114

The employer may use a facsimile of the contributions report form for employer medical assistance contributions only where use of such a form has been approved by the Director in advance of its use. Requests for approval should be sent to the address cited in 430 CMR 10.09(5).

10.09: continued

(6) Any payments associated with an employer's employer medical assistance contributions may not be combined with unemployment insurance contributions, benefit payments, or other payments made in connection with the employer's unemployment insurance liability under M.G.L. c. 151A.

10.10: Commingling of Contributions under M.G.L. c. 149

(1) The Director shall not transfer monies between the Commonwealth Care Trust Fund and the Unemployment Compensation Fund nor commingle monies from these funds. Similarly, the Director shall not transfer monies between the Catastrophic Illness in Children Relief Fund and the Unemployment Compensation Fund nor commingle monies from these funds.

(2) Employer medical assistance contributions, credits, interest, and penalties associated with an employer's liability under M.G.L. c. 149, § 189 shall be credited or charged to the Commonwealth Care Trust Fund only and shall not be credited or charged to that employer's unemployment insurance account or the solvency account established by M.G.L. c. 151A, § 14.

Likewise, employer payments, credits, contributions, interest, and penalties associated with unemployment insurance contributions shall be credited or charged to the employer's unemployment insurance account or solvency account, whichever is applicable.

10.11: Collections and Penalties

(1) Collections.

(a) Assessment of Interest. If an employer fails to pay any portion of contributions due under M.G.L. c. 149, § 189, the overdue amount shall carry an interest charge which shall be calculated using the same rate and in the same manner as interest charges for overdue unemployment insurance contributions under M.G.L. c. 151A, § 15(a).

(b) Collections Against Delinquent Accounts. Collection of overdue contributions, interest charges, and penalties under M.G.L. c. 149 § 189, shall be conducted under the same terms and conditions as those provided for the collection of delinquent unemployment insurance contributions under M.G.L. c. 151A, §§ 15 through 19, including use of such remedies as dunning, property liens, and levies upon employer accounts maintained in any bank or depository in the Commonwealth.

(2) Refunds. If an employer pays contributions in excess of the amount due under M.G.L. c. 149, § 189, the employer shall be eligible for a refund from the Commonwealth Care Trust Fund or a credit of the excess amount against any liability for employer medical assistance contributions. Any excess amount shall not carry interest. Applications for refunds must be filed within three years of the date of payment of contributions, interest, penalty, or fine, as provided for under M.G.L. c. 151A, § 18.

(3) Penalties.

(a) Failure to Comply. Any employer who owes contributions for a given quarter and who fails to file any report required for the proper administration of M.G.L. c. 149, § 189, has failed to comply with M.G.L. c. 149, § 189.

Any employer who fails to comply with said filing requirements under M.G.L. c. 149, § 189, shall be liable for a penalty as set forth in M.G.L. c. 151A, § 14P(e).

In addition, any employer who fails to comply with the provisions of M.G.L. c. 149, § 189, shall be liable for full restitution for any amounts owed to the Commonwealth Care Trust Fund, including contributions and interest charges.

(b) Application of M.G.L. c. 151A, § 47. Penalties for evasion, misrepresentation, refusal to comply, or coercion whoever:

1. attempts to evade or defeat any contribution, interest, or penalty payment;
2. knowingly makes any false statement or misrepresentation to avoid or reduce any financial liabilities under M.G.L. c. 149, § 189; or
3. wilfully fails or refuses to pay any such contribution, interest charge, or penalty under § 189;

430 CMR: DEPARTMENT OF UNEMPLOYMENT ASSISTANCE

10.13: continued

4. attempts to coerce any worker to misrepresent his or her circumstances so that the employer may evade payment of contributions on that employee's wages, shall be subject to the penalties provided under M.G.L. c. 151A, § 47, including fines and imprisonment.

10.12: Confidentiality

Information provided by employers pursuant to M.G.L. c. 149, § 189, is subject M.G.L. c. 151A, § 46.

REGULATORY AUTHORITY

430 CMR 10.00: M.G.L. c. 151A, § 14G; c. 23, § 9J.

(PAGES 67 AND 68 ARE RESERVED FOR FUTURE USE.)