

830 CMR 62E.00: WAGE REPORTING SYSTEM

Section

62E.2.1: Reporting of New Hires

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(1) Statement of Purpose. The purpose of 830 CMR 62E.2.1 is to implement M.G.L. c. 62E, § 2, under which employers and payors of income must report to the Commissioner certain information relative to employees, independent contractors and retired employees. 830 CMR 62E.2.1 also explains the requirement contained in M.G.L. c. 62E, § 2 that insurance companies making periodic payments under an annuity contract or policy, making payments under a long-term disability income policy or making payment of dividends under a life insurance policy must report to Commissioner certain information relative to the recipients of such payments.

(a) Effective Date. As of March 1, 1993, employers and payors of income must, as required by 830 CMR 62E.2.1 report to the Commissioner certain information relative to employees and independent contractors whose effective dates of employment occur on or after that date and relative to employees and independent contractors who are reinstated after a lapse in pay of 30 calendar days or more on or after March 1, 1993

(b) Outline of Topics. 830 CMR 62E.2.1 is organized as follows:

1. Statement of Purpose; Effective Date; Outline of Topics.
2. Definitions.
3. General Rule on Reporting.
4. Exemption from Reporting.
5. Obligation of Employee or Independent Contractor.
6. Obligation of Employer or Payor of Income.
7. Obligation of Insurance Companies.
8. Obligation of Recipient
9. Means of Reporting.
10. Multistate Employers.
11. Failure to Comply.
12. Obligation of Commissioner.
13. Unauthorized Disclosure of Information.

(2) Definitions. For the purpose of 830 CMR 62E.2.1, the following terms have the following meanings, unless the text requires otherwise:

Code. The Internal Revenue Code of the United States, in effect at the time wages are required to be reported under M.G.L. c. 62E.

Commissioner. The Commissioner of Revenue or the Commissioner's duly authorized representative.

Department. The Department of Revenue.

Effective Date of Employment and Effective Date of Reinstatement. Date of commencement of employment or reinstatement of employment after a lapse in pay of 30 calendar days or more, but no later than the first day for which the employee or independent contractor is eligible for compensation or, in the case of an independent contractor re-hired under a new contract, the date of commencement of employment under the new contract.

Employee. Employee as defined in Code § 3401(c), who resides or is employed in the Commonwealth of Massachusetts.

Employer. Employer as defined in Code § 3401(d), including any governmental entity and any labor organization (as defined in 42 U.S.C. 653a (a)(2)(B)(ii)).

Independent Contractor. An individual or entity with whom a payor of income enters into an agreement for the performance of services and who earns \$600 or more annually from the payor of income.

62E.2.1: continued

Insurance Company. All corporations, associations, partnerships or individuals engaged as principals in the business of insurance including reciprocal exchanges as defined in M.G.L. c. 175, § 1.

IV-D Agency. The single state agency designated pursuant to Title IV, Part D of the Social Security Act to provide services to children and families to establish paternity and to establish, modify and enforce child support obligations under the provisions of M.G.L. c. 119A. In Massachusetts, the Child Support Enforcement Division of the Department of Revenue is the IV-D agency.

Long-term Disability Income Policy. An insurance policy under which the beneficiary is eligible to receive disability benefits for a period greater than six months.

Payor of Income. An individual or entity who enters into an agreement to pay income to an independent contractor for the performance of services, however, an individual or entity who is not regularly engaged in a business or trade who enters into a consumer transaction with an independent contractor shall not be considered a payor of income.

Recipient. An individual 13 years of age or older who is a claimant, beneficiary or other recipient of periodic payments, benefits or dividends under an annuity contract or policy, a long-term disability income policy or a life insurance policy that is issued in the Commonwealth or an individual 13 years of age or older living in the Commonwealth who is a claimant beneficiary or other recipient of periodic payments, benefits or dividends under an annuity contract or policy, a long-term disability income policy or a life insurance policy that was issued by a company licensed in the Commonwealth,

Retired Employee. An employee who is no longer employed by an employer due to retirement but who receives a regular retirement allowance from the employer.

(3) General Rule on Reporting. On or before the effective date of employment or the effective date of reinstatement, an employee or independent contractor must provide the employee's or independent contractor's name, address and Social Security number to the employer or payor of income. Within 14 days of the employee's or independent contractor's effective date of employment or effective date of reinstatement or a retired employee's date of retirement, an employer or payor of income must report to the Commissioner certain information relative to the employee, independent contractor or retired employee. An employer must report to the Commissioner certain information relative to an employee who files a workers' compensation claim pursuant to M.G.L. c. 152: *Workers' Compensation* within 14 days of the date the employee files the claim. Prior to receiving the first periodic payment under an annuity contract or policy or the first payment under a long-term disability income policy or the first payment of dividends under a life insurance policy, the recipient must provide the recipient's name, address and Social Security number to the insurance company. Within 14 days of making the first periodic payment under an annuity contract or policy or making the first payment under a long-term disability income policy or making the first payment of dividends under a life insurance policy, an insurance company must report to the Commissioner certain information relative to the recipient.

(4) Exemption from Reporting. Notwithstanding the provisions of M.G.L. c. 62E and 830 CMR 62E.2.1, no such notice shall be given of an employee of a federal or state agency performing intelligence or counterintelligence functions if the head of such agency has determined that notice to the Commissioner could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission; provided that any agency head who has made such a determination shall notify the Commissioner that pursuant to such determination some employees have not been reported.

(5) Obligation of Employee or Independent Contractor. On or before the effective date of employment or effective date of reinstatement, an employee or independent contractor must provide to the employer or payor of income the employee's or independent contractor's name, address and Social Security number

62E.2.1: continued

(6) Obligation of Employer of Payor of Income.

(a) Reports for Employees or Independent Contractors. Within 14 days of an employee's or independent contractor's effective date of employment or effective date of reinstatement, the employer or payor of income shall submit to the Commissioner, in a form prescribed by the Commissioner, a report containing the employee's or independent contractor's name, address, Social Security number and effective date of employment or effective date of reinstatement and the name, address and federal employer identification number for the employer or payor of income.

(b) Reports for Retired Employees. Within 14 days of the date of retirement of a retired employee who thereafter receives a regular retirement allowance, the employer shall submit to the Commissioner, in a form prescribed by the Commissioner, a report containing the retired employee's name, address and Social Security number and the name and address of the entity paying the retirement allowance.

(c) Workers' Compensation Claims. If an employee files a workers' compensation claim pursuant to M.G.L. c. 152: *Workers' Compensation*, within 14 days of the date on which the employee files the claim, the employer shall submit to the Commissioner, in a form prescribed by the Commissioner, a report containing the employee's name, address and Social Security number and the name and address of the entity which provides the workers' compensation insurance coverage.

(7) Obligation of Insurance Companies. Upon making the first periodic payment under an annuity contract or policy the first payment under a long-term disability income policy or the first payment of dividends under a life insurance policy, an insurance company making such payment shall submit to the Commissioner, in a form prescribed by the Commissioner, a report containing the name, address and Social Security number of the recipient of such payment.

(8) Obligation of Recipient. Prior to receiving the first periodic payment under an annuity contract or policy or the first payment under a long-term disability income policy or the first payment of dividends under a life insurance policy, the recipient must provide to the insurance company making the payment the recipient's name, address and Social Security number.

(9) Means of Reporting.

(a) Employers and Payors of Income with 25 or More Employees or Independent Contractors. An employer or payor of income who employs 25 or more employees or independent contractors in the aggregate shall report the information required by 830 CMR 62E.2.1 using a form and means of electronic transmittal prescribed by the Commissioner. If the employer or payor of income is unable to use a form and means of electronic transmittal prescribed by the Commissioner, it shall cooperate with the Commissioner to identify another form and means of transmittal.

(b) Employers and Payors of Income with Fewer than 25 Employees or Independent Contractors. An employer or payor of income who employs fewer than 25 employees or independent contractors in the aggregate may report the information required by 830 CMR 62E.2.1 using the form and means of electronic transmittal described in 830 CMR 62E.2.1(9)(a). Alternatively, if an employer or payor of income who employs fewer than 25 employees or independent contractors in the aggregate is unable to use the form and means of electronic transmittal described in 830 CMR 62E.2.1(9)(a), it shall cooperate with the Commissioner to identify another form and means of transmittal.

(c) Insurance Companies. An insurance company shall report the information required by 830 CMR 62E.2.1 using a form and means of electronic transmittal prescribed by the Commissioner. If the insurance company is unable to use a form and means of electronic transmittal prescribed by the Commissioner, it shall cooperate with the Commissioner to identify another form and means of transmittal.

(d) Timeframe for Reporting by Alternate Reporting Method. The use of any alternate method for reporting the information required by 830 CMR 62E.2.1 other than the form and means of electronic transmittal prescribed by the Commissioner shall not affect the obligation of the employer, payor of income or insurance company to submit the report within the timeframe otherwise established in 830 CMR 62E.2.1.

62E.2.1: continued

(e) Use of Payroll Processing Services. An employer or payor of income may use a payroll processing service to report to the Commissioner on behalf of the employer or payor of income the information required by 830 CMR 62E.2.1. The payroll processing service must report the employee's or independent contractor's name, address, Social Security number and effective date of employment or effective date of reinstatement and the name, address and federal employer identification number of the employer or payor of income within 14 days of the employee's or independent contractor's effective date of employment or effective date of reinstatement. A payroll processing service that reports 25 or more employees or independent contractors in the aggregate shall report the information required by 830 CMR 62E.2.1 using the form and means of electronic transmittal described in 830 CMR 62E.2.1(9)(a). A payroll processing service that reports fewer than 25 employees or independent contractors in the aggregate shall report the information required by 830 CMR 62E.2.1 using the form and means of transmittal described in 830 CMR 62E.2.1(9)(b).

(10) Multistate Employers. Employers who have employees employed in the Commonwealth and one or more other states may designate a single state as the state to which the employer shall send all reports of new employees pursuant to 42 U.S.C. § 653a (b)(1)(B), in effect for the applicable period. Multistate employers who elect to report to the Commonwealth shall comply with the requirements of 42 U.S.C. § 653a (b)(1)(B), in effect for the applicable period, and the requirements of 830 CMR 62E.2.1. These multistate employers shall report using a form and means of transmittal prescribed the Commissioner.

(11) Failure to Comply. Any employer or payor of income or insurance company required by 830 CMR 62E.2.1 to submit a report to the Commissioner who fails, without reasonable cause, to comply with the reporting requirement or who fails to accurately report the required information, is liable for a penalty under M.G.L. c. 62E, § 9 as follows:

(a) Failure by an Employer, Payor of Income or Insurance Company to Report Accurate Information. Up to \$25 for each employee, independent contractor, or other recipient of periodic income for whom the employer, payor of income or insurance company fails to comply with the reporting requirement or about whom required information is not accurately reported; or

(b) Conspiracy not to Provide Required Report or to Provide False or Incomplete Report. \$500 for each employee, independent contractor, or other recipient of periodic income, if the failure to comply with the reporting requirement is the result of a conspiracy between the employer or payor of income or insurance company and the employee, independent contractor or other recipient of periodic income not to provide the required report or to provide a false or incomplete report.

(12) Obligation of Commissioner. The Commissioner must use information collected pursuant to 830 CMR 62E.2.1 in connection with the Commissioner's responsibilities under M.G.L. c. 62E, to prevent fraud in financial assistance, benefits or loan programs administered by agencies including, but not limited to, the Department of Employment and Training, the Department of Industrial Accidents, the Department of Transitional Assistance, the Department of Veteran's Services and the Massachusetts Higher Education Assistance Corporation; to assist the IV-D agency in locating absent parents, and establishing paternity and establishing, enforcing and modifying child support orders under M.G.L. c. 119A; and to further any other purpose permitted under M.G.L. c. 62E or M.G.L. c. 119A.

(13) Unauthorized Disclosure of Information. Unauthorized disclosure of information collected by the Commissioner under 830 CMR 62E.2.1 by any employee or agent of the Commonwealth is a violation of M.G.L. c. 62E, § 8, and is punishable by a fine of \$100 per offense. The unauthorized release of information about any individual is a separate offense from information released about any other individual. Any unauthorized release of information by an employee or agent of the Commonwealth is also cause for administrative discipline of such employee or agent.

REGULATORY AUTHORITY

830 CMR 62E.2.1: M.G.L. c. 14, § 6(1); c. 62C, § 3 and c. 62E, § 2.