

The 2009 Employee HIRD Form

The [2009 version of the Employee HIRD form](#) has just appeared on the website of the Division of Health Care, Finance, and Policy. Employers should immediately discontinue use of the 2008 version. The Portuguese and Spanish versions are [at this link](#).

Fortunately, except for the date, the form and instructions are the same as for 2008.

As a refresher:

1. Massachusetts employers must get employees to complete a HIRD Form after they decline coverage under (i) an employer's group health insurance plan, or (ii) a Section 125 plan which permits employees to purchase health insurance on a pre-tax basis.
2. The signature deadline is 30 days after the end of open enrollment periods for such plans, or 30 days after a decline which did not occur during open enrollment.
3. Employers must keep the HIRD forms for three years and be ready to produce them if audited. Employees are supposed to keep copies so that they can be produced if their Massachusetts tax form is audited.
4. Failure to get a HIRD signed when an employee declines Section 125 plan coverage can be evidence that the employer is not administering a Section 125 plan according to Massachusetts law. And that means possible assessment of free care pool expenses if uninsured employees don't pay hospital bills.
5. Collecting Employee HIRD Forms is not a one-time process. At a minimum, the Forms must be collected annually from decliners after open enrollments. Also, new employees who turn down coverage, and employees who drop coverage mid-year, must complete forms. A HIRD is not required if an employee terminates employment and declines COBRA.
6. The HIRD Form requirement only applies to employers which pay for at least 22,000 hours (the equivalent of 11 full-time employees) in the current 12 month period from October 1- September 30. For this purpose, don't count more than 2,000 hours for any employee.
7. On the subject of whether an employer pays for 22,000 hours, related employers generally do not have to be aggregated. The employing entity is determined according to whether it has (or is supposed to have) a Division of Unemployment (DUA) number. Employers are not determined on a controlled group basis as they are for IRS qualified plans. Nor is "association in common purpose" taken into account, unlike the rule for determining whether employers with different DUA numbers must be aggregated to determine if they are required to sponsor Section 125 plans. As mentioned above, the measuring period for the Employee HIRD requirement is the current 12 months from October 1 through September 30. That's different from the measuring period for the Section 125 plan mandate. An employer must sponsor a Section 125 plan in a calendar year if it paid for more than 22,000 hours in a preceding 12 month measurement period from October 1 - September 30. Some fun.

More details on the Employee HIRD Form requirement are in the [Division's Regulation](#). Details on the Employer Section 125 requirement are in the [Connector's Regulation](#).