



June 12, 2018

Honorable Jeffrey Sanchez, Chair  
House Committee on Ways and Means  
State House – Room 243  
Boston, MA 02133

Dear Chairman Sanchez:

The undersigned Massachusetts employer organizations, representing thousands of businesses from every corner of the Commonwealth, strongly request that further legislative action be taken to help alleviate the overwhelming cost burden of the Employer Medical Assistance Contribution (EMAC) assessment on job creators.

In 2017, Massachusetts businesses were saddled with a new health assessment intended to fund the ballooning MassHealth budget. The impact of that legislation is now just being realized by unsuspecting businesses owners. Employers are discovering they are responsible for an assessment on a portion of their workforce that utilize state subsidized health coverage. In many cases, it was only when the employer received their assessment notification that they were made aware of any workers receiving subsidized coverage. The assessments, ranging from small sums to tens of thousands of dollars in fines, served as a shocking surprise for many job creators in your respective districts.

During the Senate FY19 budget debate, two unanimously passed amendments were adopted recognizing the negative impact of the new EMAC tax. Amendment #351 prevents an employer from being assessed on both the state MassHealth assessment and the federal employer shared responsibility payment in the same taxable year. Amendment #589 allows for non-profits, high turnover firms, and small businesses to seek a hardship waiver. As Senator Julian Cyr noted while introducing the amendment, *“A request for an unexpected EMAC payment with little time to pay makes life even more difficult for small business owners. EMAC has become burdensome.”*

What makes the situation increasingly urgent is the need for substantive MassHealth reforms to prevent additional health spending. While the business community understands the state has a health care cost problem, almost all states that chose to expand Medicaid have similar issue, alarm bells should be sounding at spending over 40% of the state budget on health care while subsidizing health care for nearly 30% of the state's residents. The proportionally imbalanced cost of health care in the state budget prohibits spending for education, social services, the environment, public safety, public works, and every other line item. Small businesses are justifiably concerned that omitting any sort of MassHealth reform effort will no-doubt lead to Massachusetts' employers serving as a continued revenue source. In order to address the underlying MassHealth cost drivers and the hefty EMAC fines assessed on businesses, a comprehensive solution is needed that provides both relief to employers and reins-in state spending.

Various business groups have surveyed their membership and found many of the assessments are being generated on employees who rejected an employer's offer of insurance because state offerings are more attractive. Employers cannot compete with the generosity of the state plans nor the overall cost, with the result being a perpetually increasing MassHealth budget. Employers cannot mandate employees accept employer sponsored health coverage but end up being punished for the wise consumer decision of the employees.

While we applaud the Senate for recognizing the burden imposed on Massachusetts businesses by the EMAC assessment, we feel that additional legislative action is necessary to mitigate the economic damage done to local job creators.

**Quarterly EMAC Assessment Cap:** Tier 2 of the EMAC assessment should be no more than \$187.50 per quarter. This will benefit the many seasonal businesses forced to pay the \$750 fine for simply hiring summer or seasonal help. If left at a whopping \$750, an employer may rightfully reconsider hiring summer/season workers who may trigger the Tier 2 assessment. To encourage seasonal and summer job creation, a quarterly Tier 2 cap of \$187.50 should be implemented to prevent the full assessment fine of \$750 on seasonal jobs.

**90-Day Waiting Period:** Under current law, an employer is subject to the assessment for employees receiving MassHealth or subsidized Connector Care coverage for a period of at least fifty-six days. Small businesses provide the vast majority of jobs in the Commonwealth and their hiring practices vary on a business-to-business basis. A standard practice in most businesses is a waiting period prior to qualifying for employer sponsored health coverage. This time period often determines whether the new hire is an appropriate fit for the position. Under this law, new employees still in the probationary work period trigger Tier 2 of the employer assessment. Some industries, restaurants in particular, have exceptionally high turnover in the first 30-60 days of work and may end up paying two assessments on the same position. Fifty-six days is far too short a time period, resulting in hefty fines for some high turnover businesses. We encourage the legislature to expand this period of time from fifty-six days to a more realistic 90-day time period.

**Early Sunset of the EMAC Tax:** Due to the EMAC tax proving a major burden for businesses, stifling both job creation and economic growth, we ask that this assessment end before the final quarter of 2019 as written in the current law. The EMAC tax must either sunset after Quarter 2 of 2019 or when a revenue threshold of \$400 million is met. When first introduced, the EMAC proposal was intended to generate \$200 million per year for 2018 and 2019 to fund the growing

MassHealth budget gap. An early sunset triggered by either a revenue threshold being met or the end of Q2 would be a welcome gesture for the small business community.

We thank you for your work on this issue and ask that you consider the aforementioned suggestions while in conference. As emphasized in the Senate FY19 budget debate, in regards to Amendment #589, the EMAC tax is serving as a major impediment for Main Street businesses across the state. While there is a serious need to address the burdensome EMAC tax in the immediate, reining-in MassHealth spending to prevent future revenue needs from Massachusetts employers is also necessary. As you receive feedback from employer constituents in your district on the significant impact of the EMAC tax, we hope that you will accept our suggestions.

Please feel free to contact us with any questions, comments or concerns.

Sincerely,



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