



September 20, 2018

Secretary Rosalin Acosta
Exec. Office of Labor &
Workforce Development
1 Ashburton Place, Room 2112
Boston, MA 02108

Secretary Michael Heffernan
Exec. Office of Administration &
Finance
24 Beacon St. Room 373
Boston, MA 02133

Secretary Jay Ash
Housing and Economic
Development
1 Ashburton Place, Room 2101
Boston, MA 02108

Dear Secretaries Acosta, Heffernan and Ash,

I am writing to you today to provide comment on the proposed **Employer Medical Assistance Contribution (EMAC) Supplement 430 CMR 21.11 Hardship Waiver** regulations in accordance with G.L. c. 149, c. 189, Sec. 14A. The Home Care Alliance of MA strongly supported development of this waiver, as we believe that the EMAC supplement disproportionately impacts our industry. We appreciate the opportunity to comment, and the work that your departments have done in developing these regulations.

11.02 Scope and Applicability:

1. We urge the department to consider modifying the employer class (d) to: *“employers that serve the public interest by providing human services, long term care services, or receive a significant share of revenues from governmental programs.”*

As currently drafted, the regulation could be interpreted to encompass only employers who serve the public interest by receiving revenue from governmental program. While many home care companies participate in government-sponsored programs that serve the Commonwealth, there are many home care companies that do not and instead offer affordable private duty home care services to people who may not qualify for government programs. These private home care providers do serve the “public interest” by providing affordable access to in-home care which in many cases prevents or delays the consumer qualifying for government-sponsored institutional services.

The EMAC tax for this part of the industry increases costs for consumers which could lead to their reliance on government sponsored programs.

2. We urge the department to clearly define ‘significant share of revenues from governmental programs.’

Home care providers vary greatly in how much, if any, government programs they serve as a provider for. Some agencies may purely provide Medicare/Medicaid services, while others may provide 10% of their businesses to recipients of governmental benefits. It seems that a clearly defined share of revenue is critical to the department’s determination of waivers and employers have a right to know this number is objective and not subjective considering the unprecedented amount of proprietary information the department requires in its application.

11.07 Determination of Hardship Waivers:

We urge the department to consider adding language that allows the director to consider previous quarters' EMAC tax liabilities when determining a waiver. While we understand that each waiver will be granted per quarter, previous quarters should be considered when making that determination. Since the supplement is charged on the first \$15,000 in wages, the first and second quarter EMAC bills will probably be significantly higher than the third and fourth quarter bills.

11.10 Finality of Decision:

We urge the department to grant the right to employers an appeal process. Considering the amount of information, the department will require in applying for a waiver, employers have a right to appeal the directors decision considering his/her broad subjective authority in determining who is granted a waiver.

Proprietary Information:

We urge the department to offer clarification on who will be holding the proprietary financial information submitted by employers seeking a waiver. The department should also clarify in regulation whether this information will be subject to the Massachusetts Public Records law.

Again, we thank you for the opportunity to provide comment on this proposed regulation. We stand prepared to serve as a resource to the department if necessary.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Kelleher", with a long horizontal flourish extending to the right.

Pat Kelleher
Executive Director
Home Care Alliance of Massachusetts

Cc:

Governor Charlie D. Baker, Lt. Governor Karen Polito, Richard Jeffers – DUA