

**The Section 125 Requirement and Massachusetts Employers:
Experiences, Reactions, and Initial Results**

Appendix

- 1. Commonwealth Choice Voluntary Plan Employers' Survey: Raw Responses**
- 2. Analysis of AIM, NEEBC, and RAM Surveys**
- 3. Case Study Employer Profiles**

ATTACHMENT 1

Commonwealth Choice Voluntary Plan Employers' Survey Responses 728 Responses

(All responses rounded to nearest whole number)

Respondent Type

1. Which best describes your organization?

Employer	97%
Broker	2%
Consultant	1%
Attorney	1%

2. What is your industry type?

Construction	3%
Manufacturing	7%
Utilities	1%
Wholesale Trade	2%
Retail Trade	11%
Transportation and Warehousing	3%
Information	1%
Finance and Insurance	9%
Real Estate	2%
Educational Services	7%
Health Care and Social Services	17%
Arts, Entertainment and Recreation	4%
Accommodation and Food Services	6%
Other Services	14%
Public Administration	4%
Other	11%
Various Industries	1%

3. How many total (full-time and part-time) employees do you employ?

Less than 25	23%
25 to 50	14%
50 to 100	12%
100 to 500	28%
More than 500	23%

4. How many part-time employees (e.g. work fewer than 35 hours weekly) do you employ?

Less than 25	52%
25 to 50	16%
50 to 100	11%
100 to 500	13%
More than 500	8%

Establishing Your Section 125 Plan

5. How did your company establish its Section 125 Plan for non-benefits eligible employees? Please check all that apply.

We did it ourselves	19%
We did it ourselves using Connector templates and handbook	24%
We used our broker or consultant	55%
We used our attorney	14%
We have not established a Section 125 plan for these employees	5%

6. Did your company use the Health Connector's website for information and guidance on establishing a Section 125 Plan?

Yes	61%
No	39%

7. Overall, how was your experience setting up the Section 125 Plan?

Easy	33%
Somewhat easy	40%
Somewhat difficult	16%
Difficult	7%
We did not establish a Section 125 Plan for these employees	5%

Offering the Health Connector's Voluntary Plan

8. How did your company first learn about the Health Connector's Commonwealth Choice Voluntary Plan? Please check all that apply.

TV, newspaper, radio, or other media	19%
Trade association	12%
Broker or consultant	51%
Mailing from Connector	18%
Connector website	12%
Connector seminar/presentation	10%

9. Why has your company chosen to offer the Commonwealth Choice Voluntary Plan? Please check all that apply.

Broad choice of plans available to employees	32%
Low cost / good value	24%
Brand name recognition of insurance plans offered	13%
Employee input/preferences	5%
Administrative simplicity	36%
Other	27%

10. How did you set-up your Commonwealth Choice Voluntary Plan employer account?

Online	78%
By paper/mail/fax	16%
By phone	6%

11. Overall, how was your experience setting up your employer account?

Easy	28%
Somewhat easy	43%
Somewhat difficult	21%
Difficult	9%

12. How did you submit your initial census of employees eligible for the Voluntary Plan? (some respondents checked more than one answer)

Online through Connector website	61%
Electronically through the Connector's secure FTP process	14%
By paper/mail/fax	18%
By phone	2%
We did not submit a census	9%

13. Overall, how was your experience submitting your initial census of eligible employees?

Easy	23%
Somewhat easy	39%
Difficult	16%
Somewhat difficult	13%
We did not submit a census	8%

14. Have you submitted updates to your initial census of eligible employees?

Yes	28%
No	63%
We did not submit a census	9%

15. Overall, how was your experience submitting updates to your initial census of eligible employees?

Easy	11%
Somewhat easy	17%
Somewhat difficult	9%
Difficult	6%
We have not submitted census updates	58%

Communications with Employees

16. How did your company inform eligible employees of their ability to enroll in the Commonwealth Choice Voluntary Plan? Please check all that apply.

We sent them information in a letter and/or e-mail	73%
We held a meeting(s) to explain the new options	20%
We have not formally informed employees of their new choices	5%
We used communication materials available on Connector's website	20%
Other	10%

17. If your company has informed employees of their Section 125 and Commonwealth Choice Voluntary Plan options, what features did you highlight to encourage enrollment? Please check all that apply.

Savings for the employee through pre-tax premium payments	52%
Ease of enrollment	17%
New requirement for MA residents to have health insurance or pay penalty	70%
We did not highlight any specific features	19%
Other	4%

18. If made available by the Health Connector, which of the following communication materials and support services would you find useful? Please check all that apply.

Template employee announcement letter/e-mail	72%
Commonwealth Choice Voluntary Plan brochures	73%
Commonwealth Choice Voluntary Plan posters	33%
"Train-the-trainer" materials	37%
Assistance with on-site employee meetings	17%
Other	5%

Eligibility and Enrollment

19. Of your eligible employees who did not enroll, what do you think are the primary reasons? Please select up to three.

Cost	30%
Coverage elsewhere	77%
Lack of understanding about the new law	21%
Lack of understanding about options available to them	16%
Don't plan to comply with new law	10%
Other	13%

Voluntary Plan Administration and Customer Service

20. Do you find the Health Connector website (please check all that apply):

Easy to navigate	49%
Difficult to navigate	17%
Helpful at answering most of my questions	34%
Not helpful for answering most of my questions	16%
N/A – Don't use website	9%

21. Have you used the Voluntary Plan Employer Guide available on the Health Connector website?

Yes	64%
No	36%

22. Have you ever phoned the Health Connector for help with your account or anything else related to the Commonwealth Choice Voluntary Plan?

Yes	65%
No	35%

23. Have you used any of the Voluntary Plan employee communication materials available on the Health Connector website?

Yes	46%
No	54%

24. How was your experience on the phone with Commonwealth Choice representatives? (some respondents checked more than one answer)

Helpful	43%
Not helpful	11%
Consistent information	8%
Inconsistent information	15%
N/A – Haven’t spoken with representatives on the phone	23%

25. Which Health Connector resources/activities have been most helpful to you? Please check all that apply.

Website	79%
Employer handbooks and other printed material on Health Care Reform	31%
Voluntary Plan Employer Guide	28%
Voluntary Plan employee communication materials	12%
Forums/presentations by Connector staff	9%
Other	12%

26. Overall, how has your experience been with billing and premium payment for the Commonwealth Choice Voluntary Plan?

We’ve had major problems	5%
We’ve had minor problems	10%
No problems to report	19%
We have not received a bill or made a payment	67%

27. After your company set up your employer account and submitted a census, how would you describe your day-to-day experience with the administration of the Commonwealth Choice Voluntary Plan?

Positive	45%
Somewhat positive	35%
Somewhat negative	13%
Negative	8%

ATTACHMENT 2

AIM, RAM, and NEEBC Survey Results Summary

Associated Industries of Massachusetts (AIM) Survey: 234 Respondents

Half of AIM survey respondents were employers in the manufacturing industry. The majority were located in central, south, and western parts of the state and had between 11 and 300 employees.

Ninety-nine percent were aware of the new Section 125 requirement. The majority of respondents obtained information about the requirement's details from AIM, brokers, and the Health Connector. Ninety-five percent believed that their companies are in compliance with the requirement. Although the vast majority already had a Section 125 plan, 29% created a new and separate Section 125 plan and 40% amended their existing one to comply with the new Section 125 requirement.

Almost half (48%) used a broker to develop or amend their plan. Others used a plan administrator or insurance carrier to help them develop it (16%) or used the templates from the Connector website (10%). The majority of respondents (72%) indicated that they spent less than 10 hours creating or changing their Section 125 plan as a result of the new requirement. A plurality of respondents allow eligible employees to purchase Section 125 coverage through the Connector, as opposed to having employees purchase coverage directly from a carrier.

"Administrative simplicity" and "brand name recognition of insurance companies" were cited as the most important reasons for offering particular plans. Sixty-six percent of companies say that they informed their employees about their ability to purchase health insurance through Section 125 plans. Of those, the majority did so via letters or e-mail (71%), followed by meetings (33%), and by providing materials from the Connector (19%). To encourage take-up, the new state mandate was stressed in communications to employees (53%), followed by potential cost savings to employee (31%).

Retailers Association of Massachusetts Survey: 58 Respondents

The majority of respondents (54%) were small employers with less than 25 part-time and full-time employees. Most used information from RAM or other trade associations (40%), brokers (26%), or the Connector (22%) to learn about the Section 125 requirement. While 85% of respondents felt that their company was in compliance with the requirement, another 13% were "not sure." Prior to the requirement, 62% had a Section 125 plan in place. Almost two-thirds changed an

existing Section 125 plan to comply, whereas 38% created a separate plan. When it came to developing the plan, half used a broker or consultant. The majority of respondents (60%) are only offering a Section 125 plan to employees who work at least 64 hours per month. The majority of respondents indicated that their company spent less than 20 hours complying with the Section 125 requirement.

A majority of respondents (63%) are offering the same health insurance options offered to those eligible for ESI to those now eligible for a Section 125 plan. The vast majority (82%) are offering insurance from a direct insurance carrier via a Section 125 plan. Brand-name recognition and benefit design were cited as the top reasons for selecting particular health insurance options for Section 125 eligible employees.

When it came to communicating with employees, respondents varied in terms of how they chose to conduct outreach. Sending e-mail and letters was most common, followed by holding meetings with eligible employees. Twenty-eight percent of respondents used materials made available by the Connector in outreach efforts. Reminding eligible employees about the new state mandate was the most common way that respondents tried to encourage take-up (79%). Of all respondents, only one company had any employees (two) purchase insurance coverage via a Section 125 plan. Most respondents indicated that the three primary reasons their eligible employees may not have enrolled is: they have coverage through another family member (65%), cost is too high (60%), or they are eligible for a government subsidized plan (45%). It is notable that 25% of respondents also indicated that they believe their eligible employees understand the new law but would rather pay the tax penalty than purchase health insurance, although this may change with the increase in penalties in coming years.

New England Employee Benefits Council (NEEBC) Survey: 80 Respondents

Although the survey was sent to a mix of employers, brokers, and HR consultants, the majority of respondents (83%) were employers, and the same majority (83%) were companies that employ over 500 individuals, including part-time and full-time employees. Employers spanned a wide range of industries, but the most common included manufacturing (17%), information (17%), and finance and insurance (17%). Companies educated themselves about the Section 125 requirement using a range of resources, the most common being brokers, consultants, or payroll services (57%).

A vast majority of employers (92%) already had a Section 125 plan in place prior to the new requirement. To comply with the requirement, though, 64% created an entirely new Section 125 plan, and 59% used an attorney in the development of the plan. In terms of determining eligibility for the Section 125 plan, most (75%) companies are choosing to only offer the plan to employees who work at least 64 hours per month on a regular basis. Most employers estimated that their initial

compliance strategy and the work associated with it took their company between 20 and 40 hours (55%).

Most employers (56%) are offering a different set of insurance options to their non-benefits-eligible employees through a Section 125 plan than to their benefits-eligible employees. An equal split occurred between employers offering plans through the Health Connector and plans sold directly by insurers. The most common reason for choosing the insurance options being offered was “administrative simplicity” (63%).

Communications with employees were mostly conducted through letters and e-mails (70%), and take-up was encouraged by highlighting the new state mandate (71%). Take up among employees in this group was negligible (ranging between zero and “very few”).

All respondents indicated that the Health Connector website has been the most helpful of the Connector’s resources for employers, and 92% describe the Health Connector’s overall resources as either “helpful” or “somewhat helpful.”

ATTACHMENT 3

Employer Profiles

CASE STUDY A

Small multi-media company based on the north shore of Massachusetts that employs five full-time employees and no part-timers who work on a regular basis.

Benefits Profile

This employer does not offer employer-sponsored insurance, and the Section 125 plan was initiated as a result of the new requirement (although employer is not required to offer his employees a Section 125 plan because the company has fewer than 11 FTEs) and is now their method for offering an insurance purchasing mechanism to their employees. Currently, two of the five eligible employees are participating, including the owner of the company. The remaining three FTEs have insurance coverage through other means. Given their small size, there is no human resources department at the company, and they do not use HR brokers or consultants. The owner manages HR matters on his own.

General Experience with Section 125 Requirement

The company had a generally positive experience with the Section 125 requirement, and the owner saw it as a unique opportunity to do something to help his employees gain access to health insurance. He made a point to say that if it wasn't for the ease of offering Commonwealth Choice plans, it would have been very difficult for a company of his size to take any action to make insurance available to his employees. He praised the Section 125 plan and the Commonwealth Choice plans as helping to ensure "minimum barriers to entry" for his employees and having "made providing this benefit feasible."

Administration of Section 125 Plans

The owner describes himself as being "pretty well" informed regarding health reform and the Section 125 plan from early on in 2007. He followed media stories about health reform, heard Governor Patrick give a speech on the subject, and educated himself about his responsibilities via the Health Connector's mailings and website. Originally, he planned to create and submit a Section 125 plan but not take any additional action. However, he found out that one of his employees had lost her insurance coverage, so he decided to take it more seriously and set up an account with the Health Connector. He also looked into how he could contribute to his employees' Commonwealth Choice plans, but when he called the Health Connector in the fall of 2007 to inquire about how to set up an account with shared contributions, he was told that such a mechanism did not yet exist.

Going directly to a carrier was not even considered. It would have been far too much work for a company without an HR department, the owner said. He also noted that he was aware of his employees' "diverse" health care needs and did not think that one carrier could provide the range of options in the same way that the Health Connector's could.

Since creating and submitting a plan by using the Health Connector templates online, this company has had a positive and smooth experience. Invoices, billing, payroll deductions, and communication with the Health Connector have "all worked well." The owner communicated the new insurance purchasing options to his employees via face-to-face conversations, which were easy because of the company's small size.

Remaining Challenges

The company owner indicated that there were two primary challenges in the initial education and implementation phases. The first was the language and terminology in the Health Connector materials and on its website. The jargon and technical language was somewhat difficult to understand and he felt that the materials "made certain assumptions" about what the reader might already know about insurance policies and benefit design and administration. Secondly, he was confused for some time during 2007 about what the Health Connector's role was in health reform and in the context of the Section 125 requirement. He said it took some "hunting around" to figure out that one of its roles is to act as a distribution channel for health insurance. He reiterated that this requirement enabled him to provide a new benefit to his employees that he wouldn't have otherwise taken the time or energy to seek out, and he was very pleased with the results.

CASE STUDY B

This Boston-based museum employs approximately 150 individuals, about half of whom are full-time and half are part-time. Most of the museum's part-time staff is comprised of security guards and individuals who work at the museum's gift shop. The museum's work force is relatively stable with low turnover.

Benefits Profile

Employees who work 30 or more hours per week are eligible for benefits. New benefits-eligible hires are able to commence benefits coverage the month following their date of hire. Part-time employees who work 64 or more hours per month (but fewer than 30 hours per week) are offered a Section 125 plan to purchase Commonwealth Choice plans through the Health Connector. One employee enrolled in coverage, but then terminated shortly thereafter because he was promoted to a full-time position and became benefits-eligible. At the time of our interview, there were no part-time employees participating in the museum's Section 125 plan.

General Experience with Section 125 Requirement

The HR director started in this position in May 2007, at which time she began learning about the Section 125 requirement from her predecessor. She then educated herself about the details regarding compliance with the new requirements through an array of resources: 1) an industry-based human resources consortium which facilitated communications about the requirement; 2) the museum's employment attorney who sent out e-mail updates and held an info session; 3) a web seminar; 4) the museum's HR consultant; and 5) the Health Connector website.

Given that she was newly hired, with plenty of other responsibilities, it's hardly surprising that the HR director found the initial implementation process confusing and time-consuming. However, now that the museum's Section 125 plan is set-up, they have an employer account with the Health Connector, and a system in place for deducting premiums from its employees' paychecks; she is no longer feeling as many demands on her time. She noted that compliance responsibilities (i.e., setting up a Section 125 plan) took up a fair amount of her time and energy through the summer and fall, but that ongoing responsibilities are quite modest.

Administration of Section 125 Plan

Although the museum had a Section 125 plan in place for their benefits-eligible employees, it opted to create a new one for their non-contributory employees. A benefits broker that administers their flexible spending accounts created the new Section 125 plan document, which was largely based on the template document provided by the Health Connector and available on the Connector's website. The Section 125 plan document then went through a series of iterations, with some changes being made by the museum's HR department and by their attorney before being finalized.

To inform eligible employees about Section 125 plans, the HR director developed a memo with information about the new insurance mandate and instructions for enrolling in Commonwealth Choice plans. The memo included the name of the eligible employee and was given to the employee's supervisor. For new hires, this memo and packet of information is provided during their orientation session. She noted that it is difficult to hold meetings and communicate face-to-face with eligible part-timers due to their varying and staggered shift-times. E-mail communication is also difficult since so many of their part-timers are security guards who are not working at computers. She also pointed out that it is difficult to translate the technical language and concepts related to Section 125 plans and health insurance into information that is understandable for a lay-person.

She suggested that it would have been helpful to have direct communication between the Health Connector and the employees (e.g., mailing to their homes explaining the benefits of a Section 125 plan or a brochure that described -- in easily understandable, "jargon free" language -- the benefits and value of a pre-tax deduction for health insurance).

Remaining Challenges

Despite the fact that the museum did not have any part-time employees participating in its Section 125 plan, the HR director harbored some anxiety about various aspects of her responsibilities and offered a few suggestions for making administration and compliance easier. How often she needs to update the museum's census information (i.e., the roster of employees eligible to purchase health insurance using the museum's Section 125 plan) was somewhat unclear and she worried that she would forget to make any needed changes. After she uploaded her census sheet and submitted it to the Connector, she would have appreciated receiving a confirmation e-mail or some communication from the Health Connector indicating that the information had been received and instructions for any ongoing responsibilities.

In general, she said it would be helpful to receive regular communication from the Health Connector. Otherwise, she worries that she will forget to check the website, and that when she does, she will not be able to tell which information has been updated or changed. She also noted that the lag between submitting payments and the effective date of coverage may be an impediment to employees signing-up for coverage (e.g., employees sign up in November, with deductions taken in December, for coverage that's not effective until January), especially when compared with the process used for their benefits-eligible employees (coverage begins the month that deductions are taken).

A check-list of the steps that employers need to go through on the road to Section 125 compliance would have been helpful. Included in this check-list could also be a list of on-going responsibilities for employers so that HR managers are able to stay on top of their continuing responsibilities.

CASE STUDY C

This Boston-based television station employs roughly 350 people, including 130 part-time employees that are not eligible for health insurance benefits. Its employee profile is considered typical for the television industry with its high number of part-time and contract employees whose hours come up just short of qualifying them for the benefits package provided to full-time employees. The station experiences relatively high employee turnover among its part-timers.

Benefits Profile

This employer offers a comprehensive benefits package to its full-time employees, 90% of whom take up the employer-sponsored insurance. All employees receiving any benefits (including part-timers eligible for Section 125 plans) must wait two months from their date of hire for benefits to be effective. Part-time and contract employees are offered the option of purchasing Commonwealth Choice plans via the station's Section 125 Plan. At the time of our interview, six of the 130 eligible employees were purchasing insurance using

the station's Section 125 plan. The HR manager suspects that the remaining eligible employees (approximately 125) have access to health insurance through other means, but she had not formally researched their circumstances.

General Experience with Section 125 Requirement

The HR manager described the initial phases of the Section 125 requirement as “confusing” and “stressful,” primarily as a result of the difficulty she faced in finding consistent information about compliance. Through the fall of 2007, she worried about not adhering to the protocols correctly. Attending a forum for employers on Health Reform and the Section 125 requirement in December 2007 helped clear up some of her confusion about the process, particularly regarding her responsibilities when it came to the submission of Health Insurance Responsibility Disclosure (HIRD) forms.¹ Since then, administration of the Section 125 plan has been running relatively smoothly.

Administration of Section 125 Plan

The HR manager indicated that she used the Health Connector's template Section 125 plan document, which was downloaded from the Connector's website, and she worked with the station's attorneys and benefits consultant to establish their own Section 125 plan. Once the plan document was established, the HR manager drafted a letter communicating to part-timers the ability to purchase Commonwealth Choice plans via the company's Section 125 plan. Included in the letter was a synopsis of the new benefit, instructions for how to enroll and select a plan on the Health Connector's website, an outline of the employee's responsibilities (e.g., covering the cost of the premium), and a reminder that all Massachusetts residents are required to purchase health insurance. This document was shared with employees via e-mail, and is also included in the “new hire” packet given to new employees.

This employer did not hold meetings with the part-timers to explain the new options. While viewing this new requirement as an additional human resources responsibility, the HR manager also indicated that the Section 125 plan offerings did not rank as a high priority to her, given that her main focus remains on serving the needs of the station's full-time (benefits-eligible) employees.

The HR manager estimated that the workload required to get the station in compliance with the Section 125 requirement took her between 20 to 30 hours in total, not including the minor on-going responsibilities associated with oversight of the Section 125 Plan.

¹ The employer HIRD form captures health insurance information on employers and employees, and is administered by the Commonwealth's Division of Health Care Finance and Policy and the Department of Unemployment Assistance.

Remaining Challenges

Premiums often come due before the station's payroll is made. This misalignment creates some anxiety for HR given that the manager does not know what kind of hours the employee has worked during the particular pay period due to the fluctuating nature of their part-time employees' work schedule. In the event that an employee has not worked enough hours to cover the full cost of the premium, there is concern that the employee may lose coverage. Although this particular scenario has not yet happened, she is anxious about how her office will need to respond to such an occurrence.

The HR manager also expressed additional concern about the potential for details or requirements related to their account with the Health Connector or with the health plans changing without her being informed, given that she doesn't have time to continuously check the Health Connector website. She indicated that it would be helpful to her, and perhaps others, to have a newsletter or some type of regular information sharing take place to apprise employers of changes or updates regarding the Health Connector's Section 125 offerings.

CASE STUDY D

This state authority employs approximately 1,250 individuals, the vast majority of whom are benefits-eligible. They currently have 15 non-benefits eligible employees that are eligible for Section 125 participation. Individuals hired to do work in their laboratories are often hired on contract, but many eventually go on to be hired as full-time benefits-eligible employees. Other part-time workers perform administrative support work or are what they call "on-call" employees – people who come in temporarily when they need additional help.

Benefits Profile

Employees who work at least 18-and-three-quarters hours per week are eligible for benefits. Because most of their part-time employees are benefits-eligible, the only workers that are eligible for the Section 125 plan are the agency's contract and "on-call" workers. Currently, two of the 15 employees eligible to participate in the Section 125 plan have selected a plan and are receiving coverage with premiums paid through a payroll deduction. The remaining eligible employees are thought to have coverage through family members or may not be able to afford the monthly premium.

General Experience with Section 125 Requirement

The HR director described the process of complying with the Section 125 requirement as "really easy" and "low maintenance." She indicated that the early phases of implementation were not particularly burdensome, and that her responsibilities regarding the Section 125 requirement are minimal now that the plan is set up and the process has become fairly self-automated.

Administration of Section 125 Plans

The HR department was first informed of the Section 125 requirement during the spring of 2007 through an HR consulting company that they use for components of their benefit administration and also through a mailing from the Health Connector. Once the HR director was aware of the requirement, her primary source of information was the Health Connector website. Even though they had a Section 125 plan established for their benefits-eligible employees, she used the template Section 125 plan from the website to create a new plan document for non-contributory employees. Very minor changes were made by the HR department, and the plan document was then reviewed by the agency's lawyers. She noted that the template was "great" and they did not need to make many changes.

Over the summer, the HR department sent an "information package" to their eligible employees to alert them about Section 125 plans and how to purchase their own insurance using pre-tax dollars. Included in the package was a letter from the HR department along with information from the Health Connector about participating, where to get more information, and how to sign-up. A similar package is now given to new hires that are eligible for Section 125 participation. Besides educating new hires, the HR director noted that her only other responsibilities with regard to Section 125 administration are to keep her employee census updated and to make sure the payroll deductions are working properly.

The agency chose to offer Commonwealth Choice plans because it was the most administratively simple option and allowed for wide choice of health benefit plans and carriers. She noted that she would never have had the time to directly contract with so many different carriers.

Remaining Challenges

The HR director expressed concern about the lag between the collection of payment via payroll deductions and when coverage takes effect. She suggested that it would be helpful to have a direct electronic deposit mechanism by which employers could submit employees' premium payments (as opposed to mailing a check). This would cut out some of the administrative tasks for HR departments and expedite the activation of coverage.

Additionally, the HR director suggested discontinuing the need for a password to get into the Commonwealth Choice website to allow for easier "shopping around" for employees considering enrollment.² She also expressed concern about how employees who do not have access to the internet might search for information about coverage options.³

² The Connector no longer requires the use of a password to shop for insurance.

³ By dialing 1-877-MA-ENROLL, individuals that do not have access to the internet can speak with a customer service representative, request plan information, and sign up for coverage.

CASE STUDY E

This Massachusetts-based retail firm has over 50 stores in Massachusetts and in the bordering states. They have roughly 4,300 part-time employees who are potentially eligible for Section 125 plan participation. Typical part-time employees work 20-25 hours per week, and perform a range of jobs, including unloading trucks, stocking shelves, and working cash registers. Many part-time employees are non-English speaking. The company hires, on average, 450-500 people (including part-time and full-time employees) each month.

Benefits Profile

The company does not use a consultant for its benefits design or administration, however, the company joined the Associated Industries of Massachusetts (AIM) two years ago, and AIM served as the primary source of information about health reform and Section 125 plans. The HR director values the information-sharing among AIM employers, and health reform information sessions led by AIM and Health Connector staff were especially helpful.

General Experience with Section 125 Requirement

The HR director recalls deciding early on that she wanted to commit to making this option “truly available” to employees not just “in word,” but in reality. The early phases of the Section 125 requirement were labor-intensive for her. When more and more of her time became devoted to the company’s Section 125 training, outreach, and overall compliance strategy, she needed help managing the rest of her responsibilities and hired a new staff person to help her. Looking back at the whole implementation process, however, she says “it wasn’t that bad,” especially considering that operations are now running smoothly.

Implementation Process

In the beginning, the HR director’s most difficult task was getting the company’s senior management to understand that the Section 125 requirement was “real,” “wasn’t going away,” and that the company would be penalized for not complying. Once she got them on board, she saw her two most important tasks as: 1) identifying potentially eligible employees and 2) readying the payroll mechanisms to be functional and electronically automated. The same payroll deduction mechanism used to take money out of full-time employees’ paychecks for health insurance premiums was used for the pre-tax deductions for part-timers, and this has proved largely successful. The company’s electronic interface with the Connector’s third-party administrator (SBSB) had some kinks at first but now works well.

The HR director took the lead in developing the company’s training and outreach strategy. She worked with two trainers to provide information on the new Section 125 requirement to the company’s executives and supervisors at the central office. She and the two trainers then went to each of the stores in MA and in neighboring states to train the managers and the assistant managers at each

location. This first phase of training and outreach commenced in early August 2007 and was completed by early September 2007.

Managers were given packages -- including pre-populated Section 125 forms and HIRD forms for eligible part-timers in their respective stores -- and master lists of eligible employees with whom they needed to meet and educate about the ability to purchase health insurance using pre-tax dollars. Trainers instructed managers to initiate one-on-one conversations with eligible employees. Some variation emerged in how each manager chose to carry out this responsibility -- some managers attached notes to paychecks to request meetings with individual employees and others used their store supervisors to spread the word to individual employees. Managers who were not actively seeking out contact with eligible employees were contacted by the HR director so she could encourage them and remind them of their responsibilities. The use of clear, easily-digestible examples in the meetings with eligible employees was strongly encouraged. For example, managers would illustrate the possible savings via a Section 125 plan ("if your premium is \$3,000, you will pay \$2,000 if you purchase it pre-tax"). Employees were also given a personalized version of the Connector's template "letter to employees."

As the outreach and training phase progressed, the HR director collected questions asked of her by individual managers and assistant managers and used them as a teaching tool. She would compile the questions, along with the answers, and send an e-mail message back to all managers with the entire list of questions and answers.

By September 15, 2007, HR had collected about 70% of the HIRD and Section 125 forms. And as of March 2008 they had about 90% completed and collected, but are continuing efforts to collect still-outstanding forms. The store conducts its own internal audit of HIRD form completion so they can target and encourage managers with low levels of completion. Newly hired employees, both full time and part time, are now required to complete the HIRD form and, if applicable, the Section 125 participation form at the time of hire.

Administration of Section 125 Plan

The company uses a 60-day waiting period for new employees to become eligible for Section 125 plans. This policy is practical due to the relatively high number of part-timers who quit within the first few weeks of employment. However, employees are able to sign up for coverage during their waiting period and can purchase Commonwealth Choice coverage post-tax until the pre-tax mechanism is initiated after 60 days.

The establishment of the company's Section 125 plan document was a simple process due to their reliance on template materials made available by the Health Connector. HR personalized the template from the Connector website with details on how employees could sign-up for coverage. Upon completion, the

document was reviewed by their attorney. Very slight modifications were made to the Connector's template Section 125 plan document.

The HR director chose to offer the Commonwealth Choice plans to their Section 125-eligible employees. She briefly considered the idea of offering other plans or using the carrier with whom they contract for full-time employees' benefits, but opted to go through the Health Connector because of the ease of administration and because the Connector offered a wide choice of carriers and plans.

Take-Up

While over 400 employees expressed interest in purchasing coverage via a Section 125 plan, only 28 completed the enrollment process and were paying their monthly premiums via the Section 125 plan. Of the company's remaining eligible employees, HR estimated that one-third have commercial insurance elsewhere (i.e., through a spouse), one-third are enrolled in a public health insurance programs, such as MassHealth or Commonwealth Care, and one-third either have coverage through their parents or are uninsured.

Remaining Challenges

The HR director indicated that she would like to receive enrollment reports twice a month (instead of the current once per month schedule), which would allow the company to begin taking pre-tax deductions earlier in the payroll schedule. Additionally, she was unclear on how frequently the company needs to have new HIRD forms filled out and if new forms must be submitted when the employee has not opted for any change during open enrollment.

CASE STUDY F

This large national retail chain has approximately 30 stores in Massachusetts, which employ approximately 5,000 to 6,000 individuals, about half of whom are part-timers. Retail stores of its size can usually expect to see staff turn over three times per year.

Benefits Profile

Employees who work more than 32 hours per week are considered "full time" and are eligible for employer-sponsored health insurance. Employees working between 20 and 32 hours per week are "part time" employees. Those working less than 20 hours per week are called "limited" employees. Varying categories of employer-sponsored health insurance plans are offered to employees working above 25 hours per week. Section 125 plans are open to all employees who work between 15 and 32 hours per week.

General Experience with Section 125 Requirement

HR representatives described several aspects of their Section 125 experience as frustrating and burdensome. This was due, in part, to the fact that deadlines seemed to shift and to the main HR office being located outside Massachusetts, which hindered staff's ability to hear about the Section 125 requirement first-hand.

Administration of Section 125 Plans

An internal government affairs team tracks national and state legislation and policy changes for the company, and alerts HR when changes will take place that are expected to affect benefits administration responsibilities. The evolution of health reform in Massachusetts, including the Section 125 requirement, was followed and analyzed by this team. Massachusetts-based retail associations to which this company belongs, and a Washington, DC law firm also contributed to this company's education and compliance work.

Seemingly inconsistent information from the Health Connector frustrated the HR department. This made it difficult to manage, especially given the internal complexity and size of this company – they indicated that as many as 25 different departments within the company were affected by the Section 125 requirement.

The company trained Massachusetts-based human resource representatives, who manage approximately 10 stores each. These representatives then helped train the human resource managers in each Massachusetts store. Meetings were held to discuss health reform with employees, but it was difficult to reach all part-timers because of varying work schedules (e.g., nights, weekends, etc.). Aside from the in-store outreach and employee education strategies, the company's national headquarters remained very much in charge of the company's compliance strategy.

Eligible employees were issued letters alerting them of their ability to purchase their own insurance via a Section 125 plan. Enclosed with the letter was additional information about health reform in Massachusetts and a flyer from the Health Connector. Enrollment and HIRD form collection was handled by store HR managers.

Technical aspects of Section 125 compliance such as payroll deductions were not particularly challenging, as the store already takes deductions for other programs. The company found the Health Connector's Employer Handbook to be helpful, and the Health Connector's website was well-designed and the content was useful.

Remaining Challenges

The HR executives still face a few technical challenges, including how to manage refunds, payroll shortages for covering premium costs, and dealing with "qualifying events" for canceling and enrolling in coverage. They have had

trouble finding information about whether or not the company needs to have an additional open enrollment period in October (in addition to their March-April open enrollment period). It would have been helpful for this company to have a check list of changes, issues, and responsibilities that they need to address on an ongoing basis. It would also be helpful to them to have materials with a list of questions and/or scenarios with guidance for what to do in various Section 125 related situations, especially those that come up during the course of a plan year.

They received most of the information and updates regarding regulatory or administrative changes from business associations in the state, rather than from the Health Connector. HR executives suggested that more regular communications from the Connector would be helpful. They also expressed that when trying to resolve questions, they would frequently be referred to different individuals or departments and suggested it might be helpful for the Connector to dedicate an account representative for large employers.

Regarding the low take-up among eligible employees (approximately 1 percent of eligible part-timers had made use of the Section 125 plan), the HR executives speculated that the monthly cost of insurance is still too high for most of their workers. They also suggested that the pre-paid aspects of the Section 125 coverage is confusing and off-putting to employees, especially those who may not expect to stay at the company for very long.

The company also suggested that it would be helpful to offer the website in other languages, especially Portuguese, spoken by many of the store's employees. The company was also interested in finding out if and how they could help contribute to coverage purchased by employees through Section 125 plans.