

2020 Health Care Reform To-Do List

Large Fully Insured Plans

Note: This list is for use by employers with **50 or more employees**.

BENEFITS REQUIREMENTS			
Completed	To Be Completed	Employer Action Items	Deadlines/Tips
<input type="checkbox"/>	<input type="checkbox"/>	<p>Employer Payment Plans Prohibited. Ensure that an employer payment plan is not in place (an arrangement under which an employer reimburses an employee for some or all of the premium expenses incurred for an individual health insurance policy, or uses its funds to directly pay the premium for an individual policy).</p>	<p>Employers can generally increase an employee's compensation without violating the law, so long as the payment of additional compensation is not conditioned on the purchase of health coverage and the employer does not otherwise endorse a particular policy, form, or issuer. In addition, some arrangements can reimburse individual health insurance policy premiums (e.g., Medicare premium reimbursement arrangements, and Individual Coverage HRAs for plan years beginning in 2020), if certain conditions are satisfied.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>90-Day Waiting Periods. Ensure that any waiting period—the time that must pass before coverage can become effective for an employee or dependent who is otherwise eligible to enroll in the plan—does not exceed 90 days. (Other conditions for eligibility that are not based solely on the lapse of a time period are generally permissible.)</p>	<p>If the plan requires completion of an employment-based orientation period as a condition for eligibility, ensure the orientation period does not exceed one month and the maximum 90-day waiting period begins on the first day after the orientation period.</p> <p>Employers subject to "pay or play" may not be able to impose the full one-month orientation period and the full 90-day waiting period without potentially becoming subject to a penalty.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>Annual Dollar Limits Prohibited. Confirm that no annual dollar limits apply to coverage of "essential health benefits."</p>	<p>If the plan limits the number of visits to health providers or days of treatment, verify that the visit or day limit does not amount to a dollar limit.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>No Preexisting Condition Exclusions. Verify that no preexisting condition exclusions are imposed on any individual, regardless of age.</p>	<p>Effective as of 2014 (the provision became effective in 2010 for children under 19 years of age).</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>Form W-2 Reporting of Employer-Provided Health Coverage. Continue to report the cost of health coverage provided to each employee annually on Form W-2, unless transition relief applies.</p>	<p>This requirement does not apply to employers required to file fewer than 250 Forms W-2 for the preceding calendar year.</p> <p>Forms W-2 must be furnished to employees by January 31 of each year.</p>

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BENEFITS REQUIREMENTS (CONT'D)			
Completed	To Be Completed	Employer Action Items	Deadlines/Tips
<i>Non-Grandfathered Plans Only</i>			
<input type="checkbox"/>	<input type="checkbox"/>	<p>Coverage of Preventive Services. Continue to monitor guidelines for preventive services, which are regularly updated to reflect new scientific and medical advances.</p>	<p>As new services are approved, plans will be required to cover them with no cost-sharing for plan years beginning one year later.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>Limits on Cost-Sharing. Ensure that annual out-of-pocket costs for coverage of all "essential health benefits" provided in-network do not exceed \$8,150 for self-only coverage or \$16,300 for family coverage.</p>	<p>The self-only maximum annual limitation on cost-sharing applies to each individual, regardless of whether the individual is enrolled in self-only coverage or family coverage under a group health plan.</p> <p>Certain businesses may be allowed to renew existing group coverage that does not comply with this requirement, through policy years beginning on or before October 1, 2021, so long as the coverage comes into compliance by January 1, 2022. Not all states and insurers will permit coverage to renew. Businesses that are eligible to continue existing coverage will receive a notice from their insurance companies for each policy year.</p>
NOTICES			
Completed	To Be Completed	Employer Action Items	Deadlines/Tips
<input type="checkbox"/>	<input type="checkbox"/>	<p>Determine Summary of Benefits and Coverage (SBC) Distribution Requirements. Confirm contractual arrangements with the carrier to prepare and provide the SBC. If the carrier does not assume responsibility, the employer should provide this notice (without charge) to employees and beneficiaries.</p>	<p>Must be provided at specified times during the enrollment process and upon a participant or beneficiary's request, generally as follows:</p> <ul style="list-style-type: none"> • Prior to initial enrollment in the plan; • Upon renewal of plan coverage; • Within 90 days of special enrollment; and • Within 7 business days following receipt of a request.

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NOTICES (CONT'D)			
Completed	To Be Completed	Employer Action Items	Deadlines/Tips
<input type="checkbox"/>	<input type="checkbox"/>	Distribute Notices of Modification (If Applicable). Ensure that enrollees are provided with written notice of any material modification that would affect the content of the SBC (and that occurs other than in connection with coverage renewal or reissuance).	At least 60 days prior to the effective date of the change.
<input type="checkbox"/>	<input type="checkbox"/>	Distribute Notice of Coverage Options. Provide a written notice with information about the Health Insurance Marketplace to each new employee.	Must be provided to each new employee at the time of hiring, within 14 days of the employee's start date. A model notice is available to help employers comply with this requirement.
<input type="checkbox"/>	<input type="checkbox"/>	Post Section 1557 Nondiscrimination Notice & Taglines (If Applicable). Entities administering any health program or activity that receives federal financial assistance (such as hospitals that accept Medicare or doctors who accept Medicaid) must inform individuals of their civil rights under Section 1557 of the Affordable Care Act, which prohibits discrimination on the basis of race, color, national origin, sex, age, or disability.	Notices of nondiscrimination and taglines that alert individuals with limited English proficiency to the availability of language assistance services are generally required to be posted in: (1) significant publications and communications targeted to beneficiaries, enrollees, applicants, and members of the public; (2) conspicuous physical locations where a covered entity interacts with the public; and (3) a conspicuous location on the covered entity's website, accessible from the homepage. The content requirements are modified for small-sized significant communications (such as postcards).
<input type="checkbox"/>	<input type="checkbox"/>	Distribute Individual Coverage HRA Notice (If Applicable). Employers that wish to provide an Individual Coverage HRA, as an alternative to traditional group health coverage, must provide eligible employees with information regarding the HRA's terms and its interaction with the premium tax credit.	Individual Coverage HRAs may be offered beginning in 2020. Notice must generally be provided to eligible employees that are not offered traditional group health coverage no later than 90 days before the beginning of the Individual Coverage HRA plan year.
"PAY OR PLAY" & INFORMATION REPORTING REQUIREMENTS			
Completed	To Be Completed	Employer Action Items	Deadlines/Tips
<input type="checkbox"/>	<input type="checkbox"/>	Determine "Applicable Large Employer" Status. In general, employers with 50 or more full-time employees, including full-time equivalents (FTEs), are subject to "pay or play" . ALEs will calculate the average number of full-time employees and FTEs across the months in the current year to determine their status for the upcoming calendar year.	Seasonal Worker Exception: An employer that exceeds 50 full-time employees, including FTEs, for 120 days or less (or 4 calendar months) during 2019 is not subject to the requirements for 2020 if the employees in excess of 50 during that period were seasonal workers.

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"PAY OR PLAY" & INFORMATION REPORTING REQUIREMENTS (CONT'D)			
Completed	To Be Completed	Employer Action Items	Deadlines/Tips
<input type="checkbox"/>	<input type="checkbox"/>	<p>Determine Whether to Appeal Prior Year's Marketplace Decision, If Applicable. The Health Insurance Marketplace sends letters to notify certain ALEs that one or more of their employees was determined eligible for advance premium tax credits and cost-sharing reductions and had enrolled in a Marketplace plan.</p>	<p>Because these events may trigger pay or play penalties, employers must file an appeal within 90 days of the date of the Marketplace notice. This appeal will not determine if the ALE has to pay a penalty; only the IRS can determine which ALEs are subject to penalties.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>Review and Respond to IRS Letter 226J, If Applicable. The IRS issues this letter if it determines that, for at least one month in the year, one or more of the ALE's full-time employees was enrolled in a qualified health plan for which a premium tax credit was allowed (and the ALE did not qualify for an affordability safe harbor or other relief for the employee).</p>	<p>ALEs must complete the response form (Form 14764) indicating their agreement or disagreement, and follow the appropriate instructions.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>Pay Assessed Penalties for Prior Years, If Applicable. The IRS will assess penalties for prior years and issue a notice and demand for payment via Notice CP220J.</p>	<p>The notice will instruct the ALE on the amount due, and payment options.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>Forecast Potential Penalties Based on Offer(s) of Coverage. ALEs may be liable for a "pay or play" penalty in 2020 if they do not offer affordable coverage that provides minimum value to at least 95% of full-time employees (and their dependents). An ALE that offers coverage to at least 95% of full-time employees may nevertheless owe a penalty if any full-time employee receives a premium tax credit.</p>	<p>In determining if a penalty applies, ALEs should be aware of limited non-penalty periods provided for in final regulations, during which an ALE generally will not be subject to a penalty.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>Compile Required Information to Report "Pay or Play" Compliance. As part of the information reporting requirements, ALEs must, for each month of the calendar year, identify full-time employees and determine whether such employees and their dependents (if any) were offered minimum essential coverage that meets the ACA's minimum value requirements and is affordable.</p>	<p>A fully insured ALE must report information for all 12 months of the calendar year for any of its employees who were full-time for one or more months of the calendar year.</p> <p>Review Forms 1094-C and 1095-C, along with their instructions, to view all required reporting information.</p>

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"PAY OR PLAY" & INFORMATION REPORTING REQUIREMENTS (CONT'D)

<i>Completed</i>	<i>To Be Completed</i>	<i>Employer Action Items</i>	<i>Deadlines/Tips</i>
<input type="checkbox"/>	<input type="checkbox"/>	Select Reporting Method & Determine Whether a Third Party Will Fulfill Reporting Responsibilities. Determine whether the ALE will use the general method of reporting or the simplified alternative method , and whether a third party will file returns and furnish employee statements.	Using a third party to fulfill reporting responsibilities does not transfer an ALE's potential "pay or play" liability, nor does it transfer the potential liability for the failure to report and furnish statements.
<input type="checkbox"/>	<input type="checkbox"/>	Ensure Electronic Furnishing Requirements Are Satisfied (If Applicable). If planning to furnish statements electronically for the first time in 2020 (or if prior consents only applied to statements furnished in 2019), ensure that affirmative consent is obtained from employees prior to furnishing, and that certain notice, hardware, and software requirements are met.	Employee statements must be furnished to all full-time employees by March 2, 2020.
<input type="checkbox"/>	<input type="checkbox"/>	File Returns & Furnish Employee Statements. Transmittal forms and employee statements must generally be filed with the IRS no later than February 28 (or March 31, if filed electronically). Employee statements must be furnished to all full-time employees by March 2.	ALEs that are required to file 250 or more Forms 1095-C during the calendar year must file the returns electronically.

FINANCIAL PROVISIONS

<i>Completed</i>	<i>To Be Completed</i>	<i>Employer Action Items</i>	<i>Deadlines/Tips</i>
<input type="checkbox"/>	<input type="checkbox"/>	Additional Medicare Tax. Withhold Additional Medicare Tax (0.9%) on wages or compensation paid to an employee in excess of \$200,000 in a calendar year.	The tax went into effect in 2013 and applies to certain wages, compensation, and self-employment income received in taxable years beginning after December 31, 2012.
<input type="checkbox"/>	<input type="checkbox"/>	Medical Loss Ratio Rebates. Distribute any medical loss ratio rebates received from insurance companies to eligible plan enrollees as appropriate.	Rebates are due to employer-policyholders by September 30th.

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Plans With Tax-Favored Arrangements (Cafeteria Plans, FSAs, HRAs) ALSO MUST			
Completed	To Be Completed	Employer Action Items	Deadlines/Tips
<input type="checkbox"/>	<input type="checkbox"/>	Analyze HRAs. Depending on the type of HRA offered (two new options are available for plan years beginning in 2020), confirm that the HRA satisfies applicable plan design requirements.	Employers with traditional group health plans may offer an HRA that is " integrated " with the group health plan, or two new types of HRAs for plan years beginning in 2020. Among other plan design requirements, the new Individual Coverage HRA cannot be offered to any employee that is offered the traditional group health plan, while the Excepted Benefit HRA can be offered in addition to traditional group health coverage.
<input type="checkbox"/>	<input type="checkbox"/>	Analyze FSAs. Confirm that a health FSA qualifies as excepted benefits to comply with the preventive services requirements.	Health FSAs are considered to provide only excepted benefits if the employer also makes available group health plan coverage that is not limited to excepted benefits and the health FSA is structured so that the maximum benefit payable to any participant cannot exceed two times the participant's salary reduction election for the health FSA for the year (or, if greater, cannot exceed \$500 plus the amount of the participant's salary reduction election).
<input type="checkbox"/>	<input type="checkbox"/>	FSA Carryovers. Determine if you will permit employees to carry over up to \$500 of unused health FSA amounts to use in the following plan year, and adopt appropriate plan amendments.	A plan incorporating the carryover provision may not also provide for a grace period in the plan year to which unused amounts may be carried over.
<input type="checkbox"/>	<input type="checkbox"/>	FSA Contribution Limits. Ensure plan documents reflect that employee salary reduction contributions to health FSAs are limited to a certain amount. For 2020, the limit is \$2,750.	The limit may be expressed as a maximum dollar amount, a maximum percentage of compensation, or by another method of determining the maximum salary reduction contribution.
<input type="checkbox"/>	<input type="checkbox"/>	FSAs Through Cafeteria Plans. Confirm that a health FSA is offered through a cafeteria plan.	Generally effective as of September 13, 2013.
<input type="checkbox"/>	<input type="checkbox"/>	Cafeteria Plan Mid-Year Election Changes. If employees are allowed to make additional mid-year changes in salary reduction elections in the event of an employee's enrollment in Health Insurance Marketplace coverage and/or a reduction in an employee's hours of service, ensure appropriate plan amendments have been adopted.	The amendment must be adopted by the last day of the plan year in which the elections are allowed, and may be effective retroactively to the first day of that plan year, provided the cafeteria plan operates in accordance with agency guidance and the employer informs participants of the amendment.
<input type="checkbox"/>	<input type="checkbox"/>	Prohibited Cafeteria Plan Benefits. Confirm that section 125 plan documents comply with the prohibition on providing a qualified health plan offered through the Individual Health Insurance Marketplace as a benefit under the employer's cafeteria plan.	This requirement does not apply to group coverage offered through the SHOP Marketplace .

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