

FYI[®] In-Depth

For Your Information[®]

2020 planning for health and welfare benefit plan operations

As the new year begins, it's time to ensure you are addressing the health and welfare compliance issues for 2020. We have resources that can help you stay on top of deadlines. The [calendar](#) below presents a schedule of activities that address important upcoming deadlines and our [Reporting and Disclosure Guide](#) will help you identify and address other activities that are event based and participant specific. Below we highlight some issues you'll want to consider in the coming year.

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Compliance with federal requirements

Employers need to plan for compliance with all applicable federal requirements.

Affordable Care Act compliance

The Tax Cuts and Jobs Act enacted at the end of 2017 nullified the Affordable Care Act (ACA) individual mandate penalty beginning on January 1, 2019. However, it did not impact the existing ACA employer shared responsibility assessments or reporting requirements. (See our [December 5, 2019 FYI Alert](#).) The repeal of the Cadillac tax does eliminate the need for employers to address that tax in planning. (See our [December 20, 2019 FYI](#).)

In the meantime, it is important to continue to comply with all rules currently in place. Below we highlight a few.

Employer reporting and shared responsibility enforcement

Since 2015, employers with at least 50 full-time employees have been required to offer minimum essential coverage that is "affordable" and meets minimum value standards to those employees and

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their dependents, or potentially pay certain non-deductible assessments. To enforce these requirements and to help administer the subsidies provided to eligible low-income individuals who purchase coverage in the ACA marketplace, the IRS has imposed specific reporting requirements on employers. The IRS issued draft forms and instructions for 2020 reporting and extended the deadline for furnishing 2020 Forms 1095-C to individuals from January 31, 2020 to March 2, 2020. The deadline for filing the forms with the IRS electronically has not been extended and is March 31, 2020. (See our [December 5, 2019 FYI Alert](#).) With these deadlines in mind, employers should be prepared to comply with the reporting requirements by gathering information and coordinating necessary service provider support.

The IRS is also sending assessment notices in connection with an employer's failure to offer minimum essential coverage to at least 95% of its full-time employees and their dependents — the so-called (a) penalty — or for offering coverage to full-time employees that is “unaffordable” or fails to provide minimum value — the so-called (b) penalty. Employers should ensure processes are in place to review and make shared responsibility assessment payments as necessary.

PCORI fee

With the 10-year extension of the Patient-Centered Outcomes Research Institute (PCORI) fee that was included in recent budget legislation, plan sponsors of self-insured group health plans will have to pay the PCORI fee in 2020 for the 2019 year. (See our [December 20, 2019 FYI](#).) The fee, which helps to fund patient-centered outcomes research, now applies to plan years ending before October 1, 2029, and is based on the average number of lives covered under the plan. Plan sponsors must pay the PCORI fee by July 31 of the calendar year immediately following the last day of that plan year. Guidance is needed from the IRS to confirm the payment amount for the 2019 year.

ACA out-of-pocket maximums

The 2020 annual ACA out-of-pocket (OOP) maximums on essential health benefits for non-grandfathered group health plans are \$8,150 for self-only coverage and \$16,300 for coverage other than self-only. Plan sponsors can still allocate a plan's OOP limit among different coverage categories so long as the combined amounts don't exceed the annual OOP limit. (See our [June 12, 2019 FYI](#).)

2020 benefit limits

The IRS has issued the 2020 limits for qualified transportation fringe benefits, adoption assistance programs, health flexible spending arrangements, and long-term care premiums. (See our [November 7, 2019 FYI Alert](#).) The 2020 HSA annual contribution limits and the OOP amounts for self-only and family high-deductible health plan coverage all increased over the 2019 limits. (See our [May 30, 2019 FYI](#).) Plan sponsors should review and consider whether to update their plan documents to reflect these limits.

Compliance with state and local requirements

Employers also need to plan for compliance with state and local requirements.

Individual mandate reporting

Motivated by concern that with the elimination of the federal penalty for failing to maintain health coverage, healthier individuals would drop health insurance coverage and the remaining “sicker pool” of insureds in the marketplace would cause health insurance premiums to rise, several states (California, New Jersey, Rhode Island, Vermont) and the District of Columbia have enacted laws requiring their residents have health insurance coverage. (See our [April 10, 2019](#) and [August 6, 2019](#) issues of *FYI*.) In doing so, they join Massachusetts, which has had an individual mandate since 2006. Most of these laws require employers to submit reports indicating whether an employee residing within the law’s jurisdiction is enrolled in the employer’s group health plan and has the requisite coverage to satisfy the individual mandate.

Only Massachusetts, New Jersey and the District of Columbia require employer reporting on 2019 coverage. The Massachusetts 1099-HC must be provided to employees by January 31, 2020, while a copy of the ACA Form 1095-C must be submitted by June 30, 2020 (District of Columbia) or by March 31, 2020 (New Jersey). Employers with employees residing in these jurisdictions need to confirm that these deadlines will be met. In addition, those employers with employees residing in other states with individual mandates should monitor developments in those states to prepare for reporting 2020 health coverage.

San Francisco minimum expenditure

Since 2006, the San Francisco Health Care Security Ordinance (HCSO) has required covered employers to make minimum healthcare expenditures on behalf of employees who work in the City or County of San Francisco. “Covered employers” are those with 20 or more employees in the U.S. and with at least one employee working in San Francisco. Employers can pay for medical, dental, vision or other healthcare coverage (such as employer health savings account or health reimbursement account contributions) and/or make a payment to the city of San Francisco. Beginning in 2018, new rules were enacted for determining whether a self-insured health plan satisfies the minimum health expenditure requirements. (See our [February 21, 2019](#) *FYI*.)

Covered employers that sponsor self-insured health plans should confirm that they satisfy the minimum expenditure requirement under the new rules and take corrective action if necessary. Any additional payments needed for self-insured plans for 2019 must be made by February 29, 2020. In addition, employers should ensure that they submit an Annual Reporting Form for 2019 to the San Francisco Office of Labor Standards Enforcement by April 30, 2020. This is a web-based form that must be submitted online and is generally available on the HCSO website by April 1 each year. Covered employers who fail to make a timely submission will be in violation of the HCSO and subject to penalties.

In closing

Meeting compliance goals for 2020 is an important step for assuring smooth operations during the year. In addition to the significant items noted above, plan sponsors may want to perform an annual

“checkup” (i.e., an audit/review of operational practices and fiduciary responsibilities) to address plan compliance and design considerations. Plan sponsors may conduct their own review or contract with an independent party. Regardless of who performs the review, identifying problems and initiating corrections in advance of any official governmental audit is certainly the preferred course of action.

Calendar of health and welfare benefit plan compliance tasks¹

Action item	Due date
January	
Reporting of value of health coverage on Form W-2	January 31, 2020*
Provide Massachusetts 1099-HC to employees	January 31, 2020*
February	
File ACA information reporting returns with IRS (for paper filing)	February 28, 2020*
Make any required self-insured plan payments to San Francisco for 2019	February 29, 2020*
Disclosure of creditable/non-creditable status of prescription drug coverage to CMS	February 29, 2020
March	
DOL Form M-1 (for MEWAs)	March 1, 2020*
Provide ACA information reporting returns to individuals	March 2, 2020
Last day for flexible spending accounts with 2½ month grace periods	March 15, 2020
File ACA information reporting returns with IRS (for electronic filing)	March 31, 2020*
File ACA information reporting returns with state of New Jersey	March 31, 2020*
April	
File San Francisco Annual Reporting Form for 2019	April 30, 2020*
May	
File Form 990 or Form 8868 if requesting extension	May 15, 2020

¹ Assumes calendar plan and sponsor tax year. Does not account for weekends, extended due dates other than for Forms 5500 and 990, short plan years, or new plans. The “weekend rule,” which extends due dates falling on weekends to the following Monday, generally applies to filing deadlines and certain other acts under tax rules.

Action item	Due date
June	
File ACA information reporting returns with District of Columbia	June 30, 2020*
July	
Summary of Material Modifications for prior year amendments	July 28, 2020
Form 720 filing and payment of PCORI fee	July 31, 2020*
Form 5500 or file Form 5558 to request an extension	July 31, 2020
August	
Form 990 (if on extension) or Form 8868 if requesting additional extension	August 15, 2020
September	
Summary Annual Report (if no extension)	September 30, 2020
October	
Provide notice of creditable/non-creditable prescription drug coverage to participants	October 14, 2020*
Form 5500 filed if on extension	October 15, 2020
November	
Form 990 (if additional 3-month extension)	November 15, 2020
December	
Summary Annual Report (if on extension)	December 15, 2020
Deadline for correcting DCAP discrimination test failures	December 31, 2020

* Date does not vary regardless of plan year.

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