

2020 Health Care Reform To-Do List

Small Fully Insured Plans

Note: This list is for use by employers with **fewer than 50 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 Period Limit. 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>
<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>

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BENEFITS REQUIREMENTS (CONT'D)			
Completed	To Be Completed	Employer Action Items	Deadlines/Tips
Non-Grandfathered Plans Only			
<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>	As new services are approved, plans will be required to cover them with no cost-sharing for plan years beginning one year later.
<input type="checkbox"/>	<input type="checkbox"/>	<p>Coverage of Essential Health Benefits. Confirm the plan covers "essential health benefits," a comprehensive package of items and services.</p>	Certain small 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.
<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. For 2021, the limits increase to \$8,550 for self-only coverage and \$17,100 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 small 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>Distribute Notice of Coverage Options. Provide a written notice with information about the Health Insurance Marketplace to each new employee.</p>	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.

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NOTICES (CONT'D)			
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.
<input type="checkbox"/>	<input type="checkbox"/>	<p>Distribute Notices of Modification (If Applicable). Ensure that enrollees are provided with written notice of any material modification affecting the content of the SBC (and that occurs other than in connection with coverage renewal or reissuance).</p>	<p>At least 60 days prior to the effective date of the change.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>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.</p>	<p>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.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>Distribute Qualified Small Employer HRA Notice (If Applicable). Employers that do not offer a group health plan and that wish to fund a QSEHRA must provide eligible employees with information regarding their permitted benefit under the QSEHRA, along with information regarding Health Insurance Marketplace and individual mandate requirements.</p>	<p>Notice must generally be provided to eligible employees no later than 90 days before the beginning of the year in which the QSEHRA is funded.</p>

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FINANCIAL PROVISIONS			
Completed	To Be Completed	Employer Action Items	Deadlines/Tips
<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 .
<input type="checkbox"/>	<input type="checkbox"/>	Small Business Health Care Tax Credit. Determine if your company qualifies for the small business health care tax credit .	The credit is generally only available if coverage is obtained through a SHOP Exchange (Marketplace).
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.	Small 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. Small employers that do not offer a traditional group health plan may be eligible to offer a QSEHRA .
<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).

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Plans With Tax-Favored Arrangements (Cafeteria Plans, FSAs, HRAs) ALSO MUST (CONT'D)			
Completed	To Be Completed	Employer Action Items	Deadlines/Tips
<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"/>	FSA Carryovers. Determine whether you will allow employees to carry over up to \$550 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. Note: IRS Notice 2020-29 allows employers to permit employees to apply unused amounts remaining in a health FSA at the end of a plan year ending in 2020 (or a grace period ending in 2020) to pay or reimburse expenses incurred through Dec. 31, 2020.
<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"/>	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 an employer-sponsored cafeteria plan.	This requirement does not apply to group coverage offered through the SHOP Marketplace .
<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 during the 2020 plan year as a result of the COVID-19 pandemic, ensure appropriate plan amendments are adopted.	The amendment must be adopted by Dec. 31, 2021 , and all employees that are eligible to participate in the plan must be informed of the change. The amendment may be retroactive to Jan. 1, 2020 , provided the plan operates in accordance with IRS Notice 2020-29 . Any amendment must apply only to mid-year elections during calendar year 2020.

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