

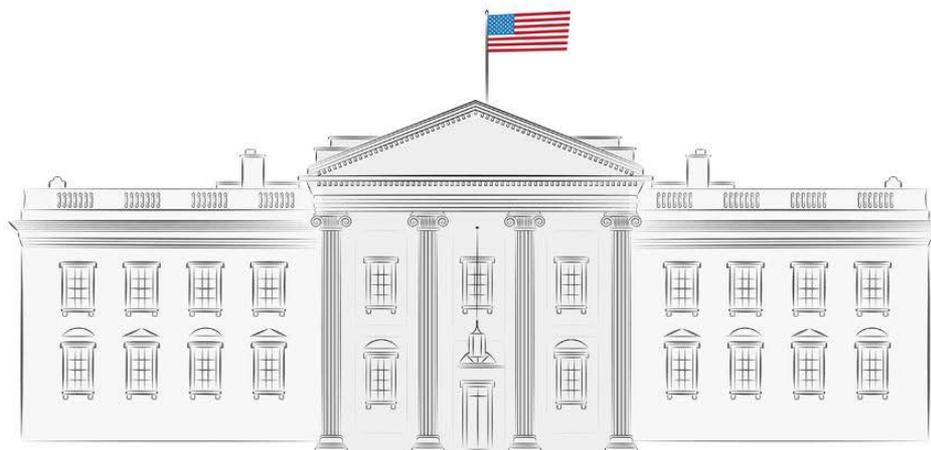
HEALTH CARE COMPLIANCE TESTING

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**We have a new administration moving
to Washington next January**

**Can we expect any changes to the
health care laws?**



Types of Benefits

- Health Savings Account (HSAs)
- Health Reimbursement Arrangements (HRAs)
- Self-Insured Plans
- Flexible Spending Accounts (FSAs)

Health Savings Accounts

- Special account to save for future qualified medical and retiree health expenses on a tax-free basis.
- Must be an “eligible individual” who is covered by high deductible health plan (HDHP)

High Deductible Health Plans

- A traditional health plan with high deductibles and reduced premiums
- Combine with HRA or HSA
- High Deductible Health Plans – 2017 minimum deductible of at least \$1,300 (single) and \$3,400 (family).
- High Deductible Health Plans – 2017 maximum out-of-pocket of \$6,550 (single) and \$13,100 (family).

HSA Contribution Limits

- Maximum 2017 HSA Contribution level is \$3,400 (single coverage) and \$6,750 (family coverage).
- Catch up contributions for those 55 and older is \$1,000.

HSA Uses

- Qualified medical expenses under IRC 213(d)
- Health insurance may not be purchased from the HSA, except for:
 - Cobra Coverage
 - Qualified long-term care insurance
 - Health insurance while receiving unemployment compensation
 - Upon attaining SSRA, any health insurance other than a Medicare supplemental policy

Health Reimbursement Arrangements

- Medical Reimbursement Plan
- Employer established account for medical and dental expenses
- Paid solely by the employer
- Payment of benefits for medical care is exempt from tax
- May reimburse for co-pays, deductibles, office visits, vision and dental expenses
- Must participate in employer group health plan

Health Reimbursement Arrangements

- Formal plan required
- Must distribute a summary plan description
- ERISA welfare benefit plan
- Requirements
 - Must cover at least 70% of the employees
 - 3 years of service or more
 - May exclude part-time, seasonal and union employees
 - Plan may not discriminate in favor of HCEs

Cafeteria Plans and FSAs

- Participants may choose between receiving cash or certain qualified non-taxable benefits
- Permitted benefits:
 - Group term life on the employee
 - Accident and health plans
 - Flexible spending accounts
 - AD&D
 - Dependent care assistance
 - Adoption assistance
 - Contributions to a health savings account
 - Long and short-term disability

Cafeteria Plans and FSAs

- FSA is an account within a cafeteria plan
- The account is funded by either pre-tax employee contributions (\$2,600 for 2017) or employer contributions
- Employees may be reimbursed for qualified medical expenses from the account on a tax-free basis
- Use it or lose it
- COBRA and FSAs

IRS Testing Requirement -HSAs-

- Employer may make “comparable” contributions to all
- Contributions must be same percentage or same amount within each group
- 35% excise tax on employer
- Direct employee contributions to HSA
- Indirect employee contributions to HSA via FSA

IRS Testing Requirement -Section 125 Cafeteria Plan-

- No discrimination in favor of HCI
- Contributions: uniform chance to elect
- Benefits: Proportionate election of benefits
- Key Employee Test: 25% test
- Pop Safe Harbor

Regular PPO – Deductibles
\$500/Single; \$1,000 Family/Couples;
\$15/\$30 Drugs; 80%/20% Copay

	MONTHLY	ANNUAL
Single	490	5,880
2 Person	1,103	13,236
Family	1,324	15,888

**Similar PPO – HDHP – Deductibles:
 \$1,300/Single; \$3,400 Families/Couples; 100%
 Insurer Payments After Deductibles Are Met**

	MONTHLY	ANNUAL	HDPH PREMIUM SAVINGS
Single	450	5,400	480
2 Person	1,013	12,156	1,080
Family	1,199	14,388	1,500

EXAMPLE

	# of Ees	Annual Cost Traditional	Annual Cost HDHP	Difference
Single	15	88,200	81,000	7,200
2 Person	12	158,832	145,872	12,960
Family	12	190,656	172,656	18,000
TOTAL COST		437,688	399,528	38,160

Potential Employee Exposure (Payment of Max Deductible)

	HDHP	Traditional
Single	19,500	7,500
2 Person	40,800	12,000
Family	40,800	12,000
TOTAL COST	101,100	31,500

Using an HSA/HRA/FSA to Cover the Potential Exposure

Assume a combined state/federal tax rate of 28%

	HDHP	Traditional	Difference
Total Cost	101,100	31,500	69,600
Tax Benefit HSA/HRA/FSA	-28,308	-8,820	-19,488
Net Cost	72,792	22,680	50,112
Premium Savings	-38,160		-38,160
Totals	34,632	22,680	11,952

IRS Form 8928 Health Care Excise Tax Return Applies to Failures Under:

- IRC 4980B – COBRA
- IRC 4980D – Group health plan requirements
- IRC 4980G – Comparable health savings account contributions

IRS Form 8928 Health Care Excise Tax Return IRC 4980B - COBRA

General Rules:

- \$100.00 per day penalty per qualified beneficiary (\$200.00 maximum for family)
- If the same qualified event affects a number of unrelated qualified beneficiaries. Maximum daily tax is \$200.00

IRS Form 8928 Health Care Excise Tax Return IRC 4980B - COBRA

- Failure due to reasonable cause and not willful neglect
- “Reasonable Cause” generally requires the exercise of ordinary business care and prudence, but still failed to comply

IRS Form 8928 Health Care Excise Tax Return

- Reasonable Cause and corrected before audit notice:
 - No excise tax due
 - Must file Form 8928 if not corrected within 30 days
- Reasonable Cause and not corrected before audit notice:
 - \$2,500.00 per number of beneficiaries, OR
 - \$200.00 per day per number of beneficiaries
- Reasonable Cause – Maximum penalty cannot exceed the lesser of \$500,000 or 10% of amount paid for group health plan coverage in prior year

IRS Form 8928 Health Care Excise Tax Return IRC 4980B – COBRA

- “Willful Neglect” is generally a conscious, intentional failure or reckless indifference
- Willful Neglect - \$500,000 cap will not apply
- NOTE: Failure to correct a reasonable cause error can cause the violation to be due to willful neglect

IRS Form 8928 Health Care Excise Tax Return IRC 4980G – Comparable HSA Contributions

- 35% excise tax
- Can discriminate against HCE's
- All NHCE's with same coverage
- Correct by April 15th of following year
- Contribute through 125 Plan to avoid excise tax

IRS Form 8928 Health Care Excise Tax Return

When to File:

- COBRA or group health plan violations – due date of employers' tax return
- For HSA contributions – April 15th of the year following
- File Form 7004 for a 6 month extension