



END OF YEAR CHECKLIST FOR HEALTH PLAN SPONSORS

<p>Non-Discrimination Rules</p>	<ol style="list-style-type: none"> Section 1557 of the ACA: Self-funded health plans sponsored by entities that receive federal funds from HHS will be subject to new non-discrimination rules under § 1557 as of the first plan year after 1-1-17. However that portion of the rules addressing gender identity discrimination has been stayed pending further review by the Health and Human Services (HHS). Federal Contractors: Office of Federal Contract Compliance Programs (OFCCP) regulations issued in June 2016 apply similar non-discrimination principles to employers holding federal contracts valued in excess of \$10,000 in any 12-month period. The OFCCP rule prohibits the categorical exclusion of health care coverage related to gender dysphoria or gender transition as of 8-15-16. Monitor Application of Title VII to Health Plan Transgender Coverage: While Section 1557 applies only to employers receiving federal financial assistance from HHS, Title VII applies to all employers with 15+ employees. The EEOC has ruled that discrimination based on sexual orientation is a form of sex discrimination, providing a potential legal argument that excluding transgender coverage violates Title VII. Watch for further developments in this area.
<p>Evaluate Compliance with Employer Shared Responsibility Rules, if applicable</p>	<p>Applicable Large Employers (“ALE” – Employers with 50+ FT or FTE employees) are currently subject to the Employer Shared Responsibility Rules (Pay or Play). 2018 is the fourth year of application. ALEs that fail to offer affordable, minimum value coverage to full-time employees face a potential penalty.</p>
<p>ACA Information Reporting Requirements</p>	<p>ALEs and self-funded employers of any size must complete their third year of ACA information reporting (Forms 1094-C and 1095-C; or, for small self-funded employers, Forms 1094-B and 1095-B). Reporting for the 2017 calendar year must be provided to employees by January 31, 2018, and filed with the IRS by February 28, 2018 (paper filing) or April 2, 2018 (electronic filing).</p>
<p>Summary of Benefits & Coverage (SBC) Distribution</p>	<p>Under the ACA, health plans must provide employees with an SBC, which summarizes the coverage available under the employer’s plan. An updated SBC template and revised instructions were recently released and must be used during the open enrollment period beginning on or after April 1st 2017. Note that a plan sponsor must provide 60 day notice of material plan changes not reflected in the current SBC.</p>
<p>Report & Pay PCORI</p>	<p>Self-funded plans must continue to report and pay PCORI Fees by way of IRS Form 720. The fee must be reported and paid by July 31st of the year following the end of the applicable plan year.</p>
<p>Complete IRS Form W-2 reporting of the Cost of Employer Group Health Coverage</p>	<p>Employers that file 250+ Forms W-2 must continue to report the cost of employer group health coverage on the Form W-2.</p>
<p>Monitor Cadillac Tax Situation</p>	<p>The ACA’s Cadillac Tax is currently scheduled to go into effect in 2020. Further changes are possible.</p>

Prepare for Potential HIPAA Phase 2 Audits	The Dept. of Health and Human Services has increased its auditing activity, and Phase 2 of its Audit Program is focused on reviewing the policies and procedures adopted and followed by covered entities and their business associates. If you sponsor a self-funded plan or have a fully-insured plan that receives Protected Health Information (PHI), review your HIPAA compliance.
Ensure Appropriate HIPAA Business Associate Agreements are in Place	Plan sponsors should ensure that the plan has a Business Associate Agreement with all plan business associates (including cloud service provider if appropriate).
Update & Redistribute the Summary Plan Description (SPD), if needed	SPDs must be updated and redistributed every five years if plan changes have been made during the five year period, or at least once every ten years for all plans. Interim plan changes should be communicated to participants through a Summary of Material Modification (SMM).
File 5500 & Distribute Summary Annual Report (SAR)	Plans with 100+ participants must file a Form 5500 with the IRS and provide participants with the SAR, which summarizes information reported on the Form 5500. The Form 5500 is due within seven months following the close of the plan year, and the SAR is due within nine months after the plan year ends.
Implement Cost of Living Increases if Desired	<p>Several plan dollar limits will change for 2018:</p> <p>ACA Annual OOP Max: From \$7,150 / \$14,300 to \$7,350 / \$14,700</p> <p>Annual HDHP OOP Max: From \$6,550 / \$13,100 to \$6,650 / \$13,300</p> <p>Annual HDHP Min. Deductible: From \$1,300 / \$2,600 to \$1,350 / \$2,700</p> <p>FSA Election Maximum: From \$2,600 to \$2,650</p>
Review Mental Health Parity Compliance	Mental health parity rules require that plans ensure their financial requirements (co-pays, deductibles, and coinsurance) and quantitative and non-quantitative treatment limitations for mental health/substance use disorder benefits are no more restrictive than those applied to medical and surgical services. Audit activities for mental health parity compliance are on the rise and plan sponsors will want to identify and correct any non-compliance.

NOTE: Congress continues to discuss modification of ACA and other compliance requirements. Stay tuned for further updates.