

2013 End of Year Compliance Checklist

This checklist provides an overview of new compliance items that should be addressed before 2014. The checklist also includes important ongoing year end requirements.

To Use This Checklist: Complete each item if compliance with that item has been documented. If the item is not applicable, check "N/A." If you cannot check the box next to an item and the item is applicable, a procedure for compliance with such item should be developed as soon as possible.

Employer Shared Responsibility. An employer who wants to use a measurement period to determine whether new variable hour employees or seasonal employees are "full-time employees" must establish its measurement periods. Measurement periods for employers wanting to use a calendar year for the stability period should have begun in fall 2013. Yes No N/A

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Item	Action Required	When Due	Compliance Status
Group Health Plans			
Business Associate Agreements ("BAA")	Execute updated BAAs with all business associates. <i>Why?</i> Due to new regulations that codify HITECH legislation in the HIPAA privacy and security rules.	September 23, 2013 If, however, plan has BAA executed prior to January 25, 2013 that was compliant with most recent (2005) regulations, updated BAA is due September 22, 2014.	Yes No N/A

<p>HIPAA Privacy Notice</p>	<p>Provide updated privacy notice. <i>Why?</i> The contents of the privacy notice have been materially changed due to the new HITECH regulations. When the privacy notice contents materially change, the notice must be redistributed.</p>	<p>September 23, 2013 This new disclosure will “reset” the 3 year distribution timeframe. If updated on website, also provide with open enrollment materials. If not published on website, distribute to participants within 60 days of effective date of updated policy.</p>	<p>Yes No N/A</p>
<p>HIPAA Privacy Policies or Manuals</p>	<p>Update privacy policy/manual. <i>Why?</i> If plan has a HIPAA privacy policy or manual, it should be updated for the new HITECH guidance.</p>	<p>In conjunction with updates to the BAAs and Privacy Notice.</p>	<p>Yes No N/A</p>

<p>Summary of Benefits and Coverage (“SBC”)</p>	<p>SBCs describing coverage effective on and after January 1, 2014 must be updated to comply with the revised DOL template. SBC must also be updated to reflect any benefit changes.</p>	<p>Plans with open enrollment periods: Updated SBC must be provided with open enrollment materials. Plans with evergreen coverage: Updated SBC must be provided 30 days in advance of each plan year. Only the SBC describing the benefit package in which the participant is enrolled must be provided.</p>	<p>Yes No N/A</p>
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<p>Notice of Exchange Availability</p>	<p>Employers subject to the Fair Labor Standards Act ("FLSA") must send notice of exchange availability. Employers subject to FLSA:</p> <ul style="list-style-type: none"> • Federal, state, and local government; • Hospitals and institutes for the care of sick, aged, mentally ill or developmentally disabled who live on the premises; • Schools and institutions of higher education; • Company with annual volume of \$500,000 or more in sales or receipts; • Employees engage in interstate commerce (e.g., use the telephone, fax, email, or mail to another state; unload goods from another state; fly or drive to another state). 	<p>Current Employees: no later than October 1, 2013. New Employees: beginning on and after October 1, 2013, no later than 14 days after date of hire.</p>	<p>Yes No N/A</p>
<p>COBRA Notice</p>	<p>Update COBRA election notice. DOL has issued a new model COBRA notice.</p>	<p>On or after October 1, 2013</p>	<p>Yes No N/A</p>

Essential Health Benefits	Amend plan and SPD to remove any annual dollar limits on essential health benefits.	Plan years beginning on and after January 1, 2014	Yes No N/A
	Plans with existing waivers of the restricted annual dollar limits must submit a final "annual update" to HHS.	December 31, 2013	Yes No N/A
Preexisting Condition Exclusions	Amend plan and SPD to remove any preexisting condition exclusions.	Plan years beginning on and after January 1, 2014	Yes No N/A
Dependent Coverage	<i>Grandfathered plans only:</i> Amend plan to remove restriction on coverage for adult children (to age 26) with other employer sponsored coverage available.	Plan years beginning on and after January 1, 2014	Yes No N/A
	<i>Optional:</i> Consider whether to do a dependent audit to ensure coverage is offered only to eligible dependents.	N/A	Yes No N/A

90 Day Waiting Periods	Review plan document, SPD and collective bargaining agreements, if any, for eligibility conditions and waiting periods. Amend plan (and/or work with bargaining parties to revise collective bargaining agreement) as necessary to include compliant eligibility conditions and waiting periods not to exceed 90 days.	Plan years beginning on and after January 1, 2014	Yes No N/A
Clinical Trials	<i>Non-grandfathered plans only:</i> Amend plan to provide coverage for certain clinical trials.	Plan years beginning on and after January 1, 2014	Yes No N/A
Provider Discrimination	<i>Non-grandfathered plans only:</i> Review plan and procedures for discrimination against providers. Amend plan and/or procedures as necessary.	Plan years beginning on and after January 1, 2014	Yes No N/A
Out-of-Pocket Maximum	<i>Non-grandfathered plans only:</i> Review plan's in-network, out-of-pocket maximum to ensure compliance with 2014 limit (\$6,350/person, \$12,700/family).	Plan years beginning on and after January 1, 2014	Yes No N/A

Wellness Program	<p>Review health-contingent wellness programs for compliant activity based and/or outcome based programs under new regulations.</p> <p><i>Why?</i> New wellness regulations create additional requirements for who must be given an opportunity to qualify and how the alternative standards must be formulated.</p> <p>Consider whether to increase wellness incentives to statutory maximums (30% or 50% for tobacco cessation programs). Amend plan as necessary.</p>	Plan years beginning on and after January 1, 2014	Yes No N/A
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DOMA	<p><i>If health plan covers same-sex spouses:</i></p> <ol style="list-style-type: none"> 1. Stop imputing income for same sex-spouse coverage for federal tax purposes; 2. Review and revise plan forms and procedures (e.g., COBRA and special enrollment procedures and forms) to ensure they treat same-sex spouses as spouses; 3. Consider whether to extend coverage to (or continue coverage for) domestic partners and civil unions. 	Beginning on and after September 16, 2013	Yes No N/A
	<p><i>If health plan does not cover same-sex spouses:</i> Consider amending plans that use DOMA definition of spouse, are affected by that definition, or specifically exclude same-sex spouses. Also consider whether to cover domestic partners and civil unions.</p>	N/A	Yes No N/A

<p>Health Reimbursement Arrangements("HRA")</p>	<p>Review any HRA to determine whether it satisfies new rules for integration. If the HRA is not integrated, take steps to integrate (including establishing an opt-out procedure), terminate, or convert to a standalone, retiree-only HRA. For instance, "mini-med" and stand-alone HRAs cannot be maintained after 2013. <i>Why?</i> New guidance provides that HRAs that are not integrated with a group health plan will fail to comply with the ACA rules prohibiting annual dollar limits and, for nongrandfathered plans, requiring coverage of preventive care services without cost sharing.</p>	<p>Plan years beginning on and after January 1, 2014. For fiscal year plans, plan sponsors may want to consider implementing the opt-out early, as former employees' premium tax credit eligibility will be impacted beginning January 1, 2014.</p>	<p>Yes No N/A</p>
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<p>Flexible Spending Arrangements (FSA")</p>	<p>Review any FSA to determine whether it is an excepted benefit. If the FSA is not excepted, and the FSA is non-grandfathered, take steps to convert to an excepted benefit FSA or terminate. <i>Why?</i> New guidance clarifies that FSAs that do not qualify as excepted benefits will fail to comply with the ACA rule requiring non-grandfathered plans to provide coverage of preventive care services without cost sharing.</p>	<p>Plan years beginning on and after January 1, 2014.</p>	<p>Yes No N/A</p>
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	<p>Consider whether to amend FSA to allow carry over of up to \$500 of unused FSA amounts. If choose to allow carry over, amend FSA to eliminate grace period, if applicable. <i>Why?</i> New guidance permits plan sponsors of FSA to either provide a grace period or allow participants to carry over up to \$500 in unused FSA amounts to the following plan year.</p>	<p>On or before the last day of the plan year from which amounts may be carried over. Special Rule for 2013 Plan Year: Plan sponsors that wish to implement the carry over for the 2013 plan year must amend the FSA before the end of the 2014 plan year. However, the amendment to eliminate the grace period must be made before the end of the 2013 plan year.</p>	<p>Yes No N/A</p>
<p>Defined Contribution Plan</p>			

<p>Participant Fee Disclosure</p>	<p>Send updated participant fee disclosure.</p>	<p>No later than 18 months following the date the 2012 disclosure was issued. If the 2013 disclosure was issued prior to July 22, 2013, the plan may postpone the 2014 disclosure for up to 18 months following the date the 2013 disclosures were issued.</p>	<p>Yes No N/A</p>
<p>Qualified Default Investment Alternative ("QDIA") Notice</p>	<p>Plans that invest participant contributions in a QDIA because the participant failed to make an investment election must provide an annual notice to all participants.</p>	<p>At least 30 days, but not more than 90 days, before the beginning of the plan year (between October 2 and December 1, 2013 for calendar year plans).</p>	<p>Yes No N/A</p>

Automatic Enrollment Notice	Plan with an Eligible Automatic Contribution Arrangement ("EACA") or a Qualified Automatic Contribution Arrangement ("QACA") must provide an annual notice to all participants on whose behalf contributions may be automatically contributed to the plan. Sample notices are available.	At least 30 days, but not more than 90 days, before the beginning of the plan year (between October 2 and December 1, 2013). Can be combined with the QDIA notice.	Yes No N/A
Safe Harbor Notice	Plan must provide participants an annual safe harbor notice that describes the safe harbor contribution and other material plan features.	At least 30 days but not more than 90 days before the beginning of the plan year (between October 2, and December 1, 2013). Can be combined with the QDIA notice.	Yes No N/A
Defined Benefit Plan			
436 Amendment	Amend plan for limits on benefit payments and pension accruals for underfunded plans. IRS has issued model amendments which ensure anti-cutback relief.	Generally, the last day of the first plan year that begins on or after January 1, 2013 (i.e., December 31, 2013 for calendar year plans).	Yes No N/A

All Retirement Plans			
DOMA	<p>Treat all same-sex spouses (i.e., those lawfully married under any domestic or foreign jurisdiction, regardless of where they live) as “spouses” for plan purposes.</p> <p>Review and update plan forms and procedures (e.g., distribution forms, Code section 415(b) limits, QDROs, loans, hardships, rollovers, QJSA/QPSA benefits) to ensure they treat all same-sex spouses as spouses.</p>	Beginning on and after September 16, 2013	Yes No N/A

	Consider amending plans that use DOMA definition of spouse, are affected by that definition or specifically exclude same-sex spouses.	The later of: (a) the due date (including extensions) for the employer's tax return for the plan year that contains September 16, 2013 or the last day of the plan year that contains September 16, 2013. Regulatory guidance is anticipated describing when and how to amend retirement plans.	Yes No N/A
Discretionary Amendments	All discretionary amendments to qualified plans must be adopted no later than the end of the plan year in which they are effective.	December 31, 2013 for amendments effective in 2013.	Yes No N/A

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