



# 2018 Benefits Compliance Checklist for Employers

## Affordable Care Act (“ACA”) Items:

*Note: ACA items are included with the assumption that the law will remain in place for 2018. Congressional or administrative action could impact requirements and deadlines, and it is important for employers to monitor developments.*

- **Employer mandate (“Play-or-Pay”):** Assess status as Applicable Large Employer & comply with applicable rules, including the 30-hour eligibility rule & plan affordability (9.56% rule)
  - ALE determination: 50 or more FT + FTE during 2017 (12-mo. average), including related entities
  - Be prepared to reply to IRS Letter 226J sent to employers identified as owing penalty for 2015 to present
  - Address any HHS Marketplace Notices for individuals receiving subsidies
- **IRS reporting (Forms 1094/1095):** Required for 2017 calendar year for ALEs as well as small employers (under 50) that sponsored self-funded or level-funded plans in 2017 (*full summary available*)
- **Plan design:** Confirm compliance with maximum out-of-pocket limits for major medical plans (\$7,350 individual; \$14,700 family)
  - If retaining grandfathered plan status, document & distribute notice
  - Distribute Summary of Benefits and Coverage (“SBC”) for applicable group health plans
- **W-2 reporting:** Assess reporting requirement for group health coverage if 250+ W-2s issued in 2016
- **Fees:** For self-funded plans (major medical & HRAs), PCOR fees are due 7/31/18 for plan years ending in 2017. *Note:* The reinsurance fee has expired & does not apply for 2017 or 2018.

## General Compliance Items (Non-ACA):

### **ERISA & COBRA**

- **Summary Plan Descriptions (“SPDs”):** Should be current & compliant for all health & welfare plans
- **Form 5500s:** Annual report for health & welfare plans due 7 months after end of plan year
- **COBRA** should be administered for all group health benefits, including 8 types of required notices
- Confirm compliance for non-insurance programs, including telemedicine benefit

### **IRS Tax Benefit Plans**

- **SPDs:** For Section 125 plans & HRAs, confirm that SPD is on file; assess whether updated is required
- **Health FSAs:** If 125 plan includes Health FSA, confirm \$2,650 maximum for 2018 plans
- **HSA eligibility:** Confirm compliance with maximum OOP limits for 2018 (\$6,650/\$13,300) as well as contribution maximums & methods
- **Qualifying Small Employer HRAs:** Confirm compliance with strict IRS rules in Notice 2017-67

### **HIPAA**

- Assess need for HIPAA privacy & security policies, & confirm Business Associate Agreements in place with vendors that have PHI access (physical or electronic, including cloud)
- **Wellness plans:** Confirm compliance with HIPAA non-discrimination rules & EEOC guidance

### **Leaves of Absence & Annual Notices**

- Assess compliance with FMLA & confirm formal leave of absence policy to address all types of leave & key issues, including termination of eligibility for inactive employees
- Ensure that applicable annual notices are distributed to eligible employees

*This is a summary of primary compliance items for employers in 2018. For assistance, contact our team.*