COMPLIANCE OVERVIEW

2021 Health Plan Compliance Deadlines

Employers must comply with numerous reporting and disclosure requirements throughout the year in connection with their group health plans. This Compliance Overview explains **key 2021 compliance deadlines** for employer-sponsored group health plans. It also outlines **group health plan notices** that employers must provide each year.

Some of the compliance deadlines summarized below are tied to a group health plan's plan year. For these requirements, the chart below shows the deadline that applies to calendar year plans. For non-calendar year plans, these deadlines will need to be adjusted to reflect each plan's specific plan year.

Determining the Plan Year

The "plan year" is the calendar, policy or fiscal year on which the records of the plan are kept. Many employers operate their group health plans on a calendar year basis, from Jan. 1 through Dec. 31 of each year. Other employers operate their plans on a non-calendar year basis, which may be consistent with the company's taxable year or with an insured plan's policy year.

2021 Compliance Deadlines

COVID-19-Related Deadline Extensions

On April 28, 2020, the DOL issued Disaster Relief Notice 2020-01 to extend the time to furnish benefit statements and other notices and disclosures required under ERISA, so that plan sponsors have additional time to meet their obligations during the COVID-19 outbreak. Under this guidance, an employee benefit plan will not be in violation of ERISA for a failure to timely furnish a notice, disclosure or document that must be furnished between March 1, 2020, and 60 days after the announced end of the COVID-19 National Emergency, if they act in good faith. This means the plan must furnish the documents as soon as administratively practicable under the circumstances.

Key notices and disclosures required under ERISA include the summary plan description (SPD), summary of material modifications (SMM), summary of benefits and coverage (SBC), Notice of Patient Protections, Notice of Grandfathered Status, wellness program disclosure under HIPAA, CHIP Notice and Women's Health and Cancer Rights Act Notice.

COMPLIANCE OVERVIEW

January			
Deadline	**Requirement**	**Applicability**	**Description**
Jan. 31	**Reporting health plan costs on Form W-2**	Employers that filed **250 or more** IRS Forms W-2 for the prior calendar year	Employers that filed 250 or more IRS Forms W-2 for the prior calendar year must include the aggregate cost of employer-sponsored health plan coverage on employees' Forms W-2. This reporting is optional for employers that had to file fewer than 250 Forms W-2 for the prior calendar year. Employers must file Forms W-2 with the Social Security Administration and furnish Forms W-2 to employees by Jan. 31 of each year, unless an extension applies.
March			
Deadline	**Requirement**	**Applicability**	**Description**
March 1	**Section 6056 reporting (paper filing deadline)**	Employers that are ALEs and sponsor fully insured health plans	Internal Revenue Code (Code) Section 6056 requires applicable large employers (ALEs) with fully insured health plans to report information about the health plan coverage to the IRS each year, using IRS Forms 1094-C and 1095-C. The deadline for filing paper versions of the forms with the IRS is March 1, 2021 (since Feb. 28, 2021, is a Sunday); the deadline for electronic filing is March 31, 2021.
	Section 6055 reporting (paper filing deadline)	Employers that are not ALEs and sponsor self-insured health plans	Code Section 6055 requires employers with self-insured health plans to report information about the coverage to the IRS each year. Employers that are not ALEs use IRS Forms 1094-B and 1095-B to meet these reporting obligations. The deadline for filing paper versions of the forms with the IRS is March 1, 2021 (since Feb. 28, 2021, is a Sunday); the deadline for electronic filing is March 31, 2021.
	Section 6055/6056 reporting (paper filing deadline)	Employers that are ALEs and sponsor self-insured health plans	Code Sections 6055 and 6056 require ALEs that sponsor self-insured health plans to report information about the coverage to the IRS each year, using IRS Forms 1094-C and 1095-C. The deadline for filing paper versions of the forms is March 1, 2021 (since Feb. 28, 2021, is a Sunday); the deadline for electronic filing is March 31, 2021.
	Medicare Part D disclosure to CMS	Group health plans that provide prescription drug coverage to individuals who are	Group health plan sponsors that provide prescription drug coverage to Medicare Part D-eligible individuals must disclose to the Centers for Medicare & Medicaid Services (CMS) whether prescription drug coverage is creditable or non-creditable. In general, a plan's prescription drug

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		eligible for Medicare Part D	coverage is creditable if its actuarial value equals or exceeds the actuarial value of the Medicare Part D prescription drug coverage. Plan sponsors must make the disclosure annually and at other select times, using CMS' online disclosure form. Plan sponsors must submit the annual disclosure to CMS within **60 days** after the beginning of the plan year. For calendar year plans, the deadline is March 1, 2021.
March 2	**Section 6056 individual statements**	Employers that are ALEs and sponsor fully insured health plans	Code Section 6056 requires ALEs with fully insured health plans to provide information about health plan coverage to their full-time employees each year, using IRS Form 1095-C. In general, these statements must be provided to employees on or before Jan. 31. However, the IRS extended the deadline for furnishing 2020 employee statements, from Jan. 31, 2021, to March 2, 2021.
	Section 6055 individual statements	Employers that are not ALEs and sponsor self-insured health plans	Code Section 6055 requires employers with self-insured health plans to provide information about the coverage to enrolled employees each year. Employers that are not ALEs use IRS Form 1095-B to provide this health coverage information, generally on or before Jan. 31. However, the IRS extended the deadline for furnishing 2020 employee statements, from Jan. 31, 2021, to March 2, 2021. *Penalty Relief:* The IRS will not impose a penalty on employers that fail to provide a Form 1095-B to employees if the employer prominently posts a notice on its website stating that responsible individuals may receive a copy of their 2020 Form 1095-B upon request (accompanied by an email address and a physical address to which a request may be sent, as well as a telephone number that responsible individuals can use to contact the employer with any questions) and the employer furnishes a 2020 Form 1095-B to any employee within 30 days of his or her request. This penalty relief does not apply to the requirement to file returns with the IRS.
	Sections 6055/6056 individual statements	Employers that are ALEs and sponsor self-insured health plans	Code Sections 6055 and 6056 require ALEs that sponsor self-insured health plans to report information about the coverage to covered employees each year, using IRS Form 1095-C. In general, these statements must be provided on or before Jan. 31. However, the IRS extended the deadline for

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			furnishing 2020 employee statements, from Jan. 31, 2021, to March 2, 2021. *Penalty Relief:* The penalty relief described above applies to the requirement to furnish Form 1095-C to any non-full-time employees enrolled in an ALE's self-insured plan (subject to the requirements of the penalty relief described above).
March 31	**Section 6056 reporting (electronic filing deadline)**	Employers that are ALEs and sponsor fully insured health plans	Code Section 6056 requires ALEs with fully insured health plans to report information about health plan coverage to the IRS, using IRS Forms 1094-C and 1095-C. The deadline for electronic filing is March 31, 2021.
	Section 6055 reporting (electronic filing deadline)	Employers that are not ALEs and sponsor self-insured health plans	Code Section 6055 requires employers with self-insured health plans to report information about the coverage to the IRS each year. Employers that are not ALEs use IRS Forms 1094-B and 1095-B to meet these reporting obligations. The deadline for electronic filing is March 31, 2021.
	Sections 6055/6056 reporting (electronic filing deadline)	Employers that are ALEs and sponsor self-insured health plans	Code Sections 6055 and 6056 require ALEs that sponsor self-insured health plans to report information about the coverage to the IRS each year, using IRS Forms 1094-C and 1095-C. The deadline for electronic filing is March 31, 2021.

August

Deadline	Requirement	Applicability	Description
Aug. 2	**PCORI fee**	Employers with self-insured health plans	Employers with self-insured health plans must pay an annual fee to fund the Patient-Centered Outcomes Research Institute (PCORI). Self-insured health plans that are subject to PCORI fees include self-funded medical plans, as well as HRAs offered in conjunction with fully insured group medical plans. HRAs offered with self-insured group medical plans are not subject to separate PCORI fees if the HRA and the medical plan have the same plan sponsor and plan year. Employers use IRS Form 720 to report and pay PCORI fees, which are due by July 31 of the year that follows the last day of the plan year. However, PCORI fees for plan years that ended in 2020 are due Aug. 2, 2021, since July 31, 2021, is a Saturday. **Under the ACA, the PCORI fees applied for plan years ending on or after Oct. 1, 2012, and before Oct. 1, 2019. However, the 2019 spending resolution reinstated PCORI fees for the*

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			2020-2029 fiscal years. As a result, self-insured health plans must continue to pay these fees through 2029.
Aug. 2 **calendar year plans*	**Form 5500 (regular deadline)**	Employers with ERISA-covered group health plans that do not qualify for the small plan exemption	Employers with ERISA-covered welfare benefit plans are required to file an annual Form 5500, unless a reporting exemption applies. The Form 5500 must be filed by the last day of the seventh month following the end of the plan year, unless an extension applies. For calendar year plans, this deadline is generally July 31. However, for 2021, this deadline is Aug. 2, 2021, since July 31, 2021, is a Saturday. An employer may request a one-time extension of 2 ½ months by filing IRS Form 5558 by the normal due date of the Form 5500. If the Form 5558 is filed on or before the normal due date of the Form 5500 or 5500-SF, the extension is automatically granted. Small health plans (fewer than 100 participants) that are fully insured, unfunded or a combination of insured/unfunded, are generally exempt from the Form 5500 filing requirement.

September

Deadline	Requirement	Applicability	Description
Sept. 30	**Medical loss ratio (MLR) rebates**	Employers with fully insured health plans that receive MLR rebates	Issuers must spend a minimum percentage of their premium dollars, or medical loss ratio (MLR), on medical care and health care quality improvement. Issuers that do not meet the applicable MLR must pay rebates to consumers. Sponsors of insured health plans may receive rebates if their issuers did not meet their MLR. Rebates must be provided to plan sponsors by Sept. 30, following the end of the MLR reporting year. Employers that receive rebates should consider their legal options for using the rebate. Any rebate amount that qualifies as a plan asset under ERISA must be used for the exclusive benefit of the plan's participants and beneficiaries. Also, as a general rule, plan sponsors should use the rebate within three months of receiving it to avoid ERISA's trust requirements. Plan sponsors that receive a rebate prior to Sept. 30 may need to adjust their deadline to use the rebate.

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Sept. 30 **calendar year plans*	**Summary annual report (regular deadline)**	Group health plans that are subject to the Form 5500 filing requirement (and have not extended the Form 5500 deadline)	Employers that are required to file a Form 5500 must provide participants with a summary of the information in the Form 5500, called a summary annual report (SAR). The plan administrator generally must provide the SAR within nine months of the close of the plan year. For calendar year plans, this deadline is Sept. 30, 2021. If an extension of time to file the Form 5500 is obtained, the plan administrator must furnish the SAR within two months after the close of the extension period. Plans that are exempt from the annual 5500 filing requirement are not required to provide a SAR. Large, completely unfunded health plans are also generally exempt from the SAR requirement.

October

Deadline	Requirement	Applicability	Description
Oct. 14	**Medicare Part D notices**	Group health plans that provide prescription drug coverage to individuals eligible for Medicare Part D	Employers with group health plans that provide prescription drug coverage must notify Medicare Part D-eligible individuals by Oct. 14 of each year about whether the drug coverage is at least as good as Medicare Part D coverage (in other words, whether their prescription drug coverage is "creditable" or "non-creditable"). If a health plan's open enrollment period begins on or before Oct. 14, the Medicare Part D notice may be included in the plan's open enrollment materials. Model disclosure notices are available on CMS' website.
Oct. 15 **calendar year plans*	**Form 5500 (extended deadline)**	Employers with ERISA-covered group health plans that do not qualify for the small plan exemption (and have timely requested an extension to the filing deadline)	Employers with ERISA-covered welfare benefit plans are required to file an annual Form 5500, unless a reporting exemption applies. The Form 5500 must be filed by the last day of the seventh month following the end of the plan year, unless an extension applies. An employer may request a one-time extension of 2 ½ months by filing IRS Form 5558 by the normal due date of the Form 5500. If the Form 5558 is filed on or before the normal due date of the Form 5500 or 5500-SF, the extension is automatically granted. For calendar year plans, this extended deadline is Oct. 15, 2021.

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December			
Deadline	**Requirement**	**Applicability**	**Description**
Dec. 15 **calendar year plans*	**SAR (extended deadline)**	Group health plans that are subject to the Form 5500 filing requirement (if Form 5500 deadline was extended)	Employers that are required to file a Form 5500 must provide participants with a summary of the information in the Form 5500, called a SAR. The plan administrator generally must provide the SAR within nine months of the close of the plan year. If an extension of time to file the Form 5500 is obtained, the plan administrator must furnish the SAR within two months after the close of the extension period. For calendar year plans, this extended deadline is Dec. 15, 2021. Plans that are exempt from the annual 5500 filing requirement are not required to provide a SAR. Large, completely unfunded health plans are also generally exempt from the SAR requirement.

Annual Notices

Notice	Applicability	Description
Summary of benefits and coverage (SBC)	Group health plans and health insurance issuers	Group health plans and health insurance issuers are required to provide an SBC to applicants and enrollees each year at open enrollment or renewal time. Federal agencies have provided an updated template (and related materials) for the SBC, which health plans and issuers are required to use for plan years beginning on or after Jan. 1, 2021. The issuer for fully insured plans usually prepares the SBC. If the issuer prepares the SBC, an employer is not also required to prepare an SBC for the health plan, although the employer may need to distribute the SBC prepared by the issuer.
Women's Health and Cancer Rights Act (WHCRA) notice	Group health plans that provide medical and surgical benefits for mastectomies	Group health plans must provide a notice about the WHCRA's coverage requirements at the time of enrollment and on an annual basis after enrollment. The annual WHCRA notice can be provided at any time during the year. Employers often include the annual notice with their open enrollment materials. Employers that redistribute their summary plan descriptions (SPDs) each year can satisfy the annual notice requirement by including the WHCRA notice in their SPDs. Model language is available in the DOL's compliance assistance guide.

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Children's Health Insurance Program (CHIP) notice	Group health plans that cover residents in a state that provides a premium assistance subsidy under a Medicaid plan or CHIP	If an employer's group health plan covers residents in a state that provides a premium subsidy under a Medicaid plan or CHIP, the employer must send an annual notice about the available assistance to all employees residing in that state. The DOL has a model notice that employers may use. The annual CHIP notice can be provided at any time during the year. Employers often provide the CHIP notice with their open enrollment materials.
SPD	Group health plans subject to ERISA	An SPD must be provided to new health plan participants within 90 days of the start of their plan coverage. Employers may include the SPD in their open enrollment materials to make sure employees who newly enroll receive the SPD on a timely basis. Also, an employer should include the SPD with its enrollment materials if it includes notices required to be provided at the time of enrollment, such as the WHCRA notice. In addition, an updated SPD must be provided to participants at least every five years, if material modifications have been made during that period. If no material modifications have been made, an updated SPD must be provided at least every 10 years.
SMM	Group health plans subject to ERISA	Under ERISA, a summary of material modifications (SMM) must be provided when there is a material change in the terms of the plan or any change in the information required to be in the SPD. As a general rule, the plan sponsor must provide the SMM within 210 days after the close of the plan year in which the change was adopted. A shorter deadline may apply in some circumstances, depending on the nature of the modification or change. If the change is a material reduction in group health plan benefits or services, the deadline for providing the SMM is 60 days after the change is adopted. Employers should communicate plan changes to participants as soon as possible to help avoid benefit disputes. When plan changes will take effect at the beginning of the upcoming plan year, employers may decide to include the SMMs in their open enrollment materials.
COBRA General Notice	Group health plans subject to COBRA	Group health plans must provide a written General Notice of COBRA Rights to covered employees within 90 days after their health plan coverage begins. Employers may include the General Notice in their open enrollment materials to ensure that employees who newly enroll during open enrollment receive the notice on a timely basis. The DOL has a COBRA Model General Notice that can be used by group health plans to meet their notice obligations.

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Grandfathered plan notice	Health plans that have grandfathered status under the Affordable Care Act (ACA)	To maintain a plan's grandfathered status, the plan sponsor or issuer must include a statement of the plan's grandfathered status in plan materials provided to participants describing the plan's benefits (such as the SPD, insurance certificate and open enrollment materials). The DOL has provided a model notice for grandfathered plans.
Notice of patient protections	Non-grandfathered group health plans that require designation of a participating primary care provider	If a non-grandfathered plan requires participants to designate a participating primary care provider, the plan or issuer must provide a notice of patient protections whenever the SPD or similar description of benefits is provided to a participant. This notice is often included in the SPD or insurance certificate provided by the issuer (or otherwise provided with enrollment materials). The DOL has provided a model notice of patient protections for plans and issuers to use.
HIPAA privacy notice	Self-insured group health plans	The HIPAA Privacy Rule requires self-insured health plans to maintain and provide their own privacy notices. Special rules, however, apply for fully insured plans. Under these rules, the health insurance issuer, and not the health plan itself, is primarily responsible for the privacy notice. Self-insured health plans are required to send the privacy notice at certain times, including to new enrollees at the time of enrollment. Thus, the privacy notice should be provided with the plan's open enrollment materials. Also, at least once every three years, health plans must either redistribute the privacy notice or notify participants that the privacy notice is available and explain how to obtain a copy. The Department of Health and Human Services provides model privacy notices for health plans to choose from.
HIPAA special enrollment notice	All group health plans	At or prior to the time of enrollment, a group health plan must provide each eligible employee with a notice of his or her special enrollment rights under HIPAA. This notice should be included with the plan's enrollment materials. It is often included in the health plan's SPD or insurance booklet.
Wellness notice—HIPAA	Group health plans with health-contingent wellness programs	Employers with health-contingent wellness programs must provide a notice that informs employees that there is an alternative way to qualify for the program's reward. This notice must be included in all plan materials that describe the terms of the wellness program. If wellness program materials are being distributed at open enrollment (or renewal time), the notice should be included with those materials. Sample language is available in the DOL's compliance assistance guide.

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Wellness notice—ADA	Wellness programs that collect health information or include medical exams	To comply with the Americans with Disabilities Act (ADA), wellness plans that collect health information or involve medical exams must provide a notice to employees that explains how the information will be used, collected and kept confidential. Employees must receive this notice before providing any health information and with enough time to decide whether to participate in the program. Employers implementing a wellness program for the upcoming plan year should include this notice in their open enrollment materials. The Equal Employment Opportunity Commission (EEOC) has provided a sample notice for employers to use.

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