

Employee Benefits & Workers' Comp News



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MOC Insurance Services
Maroevich, O'Shea & Coghlan Insurance

Divisions of MOC Insurance Services
Farallon Associates Insurance Brokers
San Francisco Insurance Center

44 Montgomery Street, 17th Floor, San Francisco, CA 94104
Toll Free (800) 951-0600 | Main (415) 957-0600 | License # 0589960



Compliance

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Affordable Care Act Compliance Issues to Watch in 2018

Regardless of whether the Republican-controlled House and Senate repeals, replaces or alters the Affordable Care Act (ACA), there are a number of rules and regulations employers must comply with in 2018 and 2019 if they offer group health benefits to employees. To make sure you're not caught unaware, review and implement this checklist of obligations and deadlines:

FORM 1095-C

Submit to the IRS by Feb. 28 (paper) or April 2 (electronically)

Hopefully you have already completed and provided copies of Form 1095-C to each of your employees, which was due on Jan. 31. Employees need the form so they can fill out Line 61 of their individual tax returns to demonstrate that they and family members had the required minimum essential health care coverage. The IRS issued Notice 2018-06 on Dec. 22, 2017, which extended by 30 days the 2018 due date for distributing 2017 health coverage information



This Just In...

The National Council on Compensation Insurance Inc. reports that the combined ratio for workers' compensation insurance, which was 94% in 2016, will likely be the same or possibly lower for 2017. The workers' comp market has posted combined ratios of less than 100% only three other times since 1990, according to NCCI.

The combined ratio is the sum of insurance company losses plus underwriting expenses divided by earned premiums:

$$\text{Combined Ratio} = \frac{\text{Losses} + \text{Underwriting Expenses}}{\text{Earned Premiums}}$$

Improvements in safety due to

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forms 1095-C or 1095-B to employees, regarding the health care coverage offered to them.

The new deadline for supplying these forms to employees is March 2, 2018. This 30-day extension is automatic. Employers and providers don't have to request it. [See: <https://tinyurl.com/y7nd23ad>]

As the employer, you also must file either a paper copy of Form 1095-C with the Internal Revenue Service (IRS) or submit an electronic form. You must report whether the group health benefit plan you offered met the ACA's Minimum Essential Coverage (MEC) requirements. Plus, you should include the employee's ID number and Social Security numbers of the employee and dependents (but not the employee's spouse).

FORM 1094-C

Submit to the IRS by Feb. 28 (paper) or April 2 (electronically)

The Employer Shared Responsibility mandate requires Applicable Large Employers – those who have 50 or more full-time equivalent employees — to provide health benefit coverage that is affordable and meets minimum value standards. Employers who do not do this may owe a penalty for noncompliance.

The definition of minimum value remains the same as 2017 and describes a plan that pays at least 60 percent of the costs and includes substantial coverage of physician and inpatient hospital services. The affordability requirement, however, has changed. An employer cannot charge a full-time employee more than 9.56 percent of household income,

down slightly from 9.69 percent in 2017.

Not only must you meet these standards, but you also must document the plans you offer and keep track of employees who waived coverage. Submitting Form 1094-C demonstrates that you met the requirements. Small employers (less than 50 FTEs) do not need to fill out these forms.

Cadillac Tax

Due in 2020

The Cadillac tax is a 40 percent excise tax on high-cost health care benefit plans. Proponents of the tax thought it would stop employers from offering plans that were “too rich,” which would prevent employees from having “skin in the game” and truly understanding the cost of health care. Unfortunately, many of the ACA fees and requirements have made many plans that were once considered “average” qualify for the Cadillac Tax.

Although the tax does not go into effect until 2020, employers should review their health benefit plans as soon as possible to ensure their plans do not qualify for the tax.

Employee Notice of Exchange

Due when new employees are hired

Even if you offer group health benefits, you must provide all new employees with a written notice about the ACA health insurance exchanges. A Department of Labor document is available that you can use and customize. The notice informs employees about the Marketplace Exchanges and lets them know that they may be eligible for a

workplace automation and jobsite training contributed to the drop in combined ratio. NCCI also cited state reforms and resulting cost decreases, such as recent California legislation that addressed workers' comp fraud and pharmacy fraud.

This means workers' comp rates should be flat or slightly lower in 2018. At the same time, the economy is doing well and payrolls are often higher, so net premiums may be higher than last year for many employers. Also, even though overall rates may be lower, premiums for certain employers may be higher because of poor experience, as reflected in the firm's experience modification factor.

For a fresh perspective on your workers' comp situation in this market, please give us a call.

premium tax credit or a cost-sharing reduction if the company's plan does not meet certain requirements.

Cost-sharing

New limits for 2018

All health plans, except grandfathered health plans, have an annual limit on the maximum amount an employee must pay out of pocket. Review your plan's out-of-pocket maximum to ensure it complies with the ACA's limits for the 2018 plan year, which is \$7,350 for self-only coverage and \$14,700 for family coverage.

If you have a Health Savings Account-compatible high deductible health plan (HDHP), the 2018 out-of-pocket maximum limit for

HDHPs is \$6,650 for self-only coverage and \$13,300 for family coverage.

The limits may change again for 2019. The IRS usually announces whether the limit will be adjusted for the next year at the end of the year.

Summary of Benefits and Coverage

New 2018 template

Due 90 days from enrollment

A Summary of Benefits and Coverage (SBC) is a short, easy-to-understand overview of what type of coverage you're providing your employees. It also includes a glossary of health coverage and medical terms. You must make sure that every employee who is receiving health benefits from your company gets a copy of the SBC within 90 days of enrolling in the plan. If an individual requests a copy, you must provide it within seven business days.

Make sure you use the SBC template for the 2018 plan year. Your insurer will provide the SBC to you, unless you are self-funding your group health benefits. In that case, you will need to get the SBC from your plan administrator.

Preventive Services

New Definition for 2018/2019

It's important employers and employees are aware of what kinds of preventive services all compliant health plans must offer. Beginning this year, preventive services include screening for depression in adults; low-dose aspirin for certain at-risk adults aged 50 to 59; syphilis screening for asymptomatic non-pregnant adults; and other benefits.

For more information or a review of your employee health plan, please contact us. ■

Workers' Compensation and the Teleworker

As telecommuting increases your obligation to compensate employees for work-related injuries does not decrease.

An increasing number of employees are teleworkers these days.

- ✱ 50 percent of the US workforce holds a job that is compatible with at least partial telework and approximately 20-25 percent of the workforce teleworks at some frequency
- ✱ 80 percent to 90 percent of the US workforce says they would like to telework at least part time. Two to three days a week seems to be the sweet spot that allows for a balance of concentrative work (at home) and collaborative work (at the office). <http://globalworkplace-analytics.com/telecommuting-statistics>.

The research organization also says that companies around the globe are revamping their operations based on the fact that employees are now mobile. Studies repeatedly show they are not at their desk 50-60 percent of the time.

In another survey, an overwhelming majority (86 percent) of teleworkers reported being more productive, with lower stress levels and a better balance between work and home life. Employers that allow telecommuting enjoy increased employee loyalty and lower costs.



Why You Still Need Workers' Comp

Despite the benefits, telecommuting does have some drawbacks. Although the risk of injury in a home office may be far lower than in factories, mines and mills, teleworkers are as likely as other office workers to suffer from back injuries and repetitive strain problems. They also face other office hazards, such as trip-and-fall accidents, along with risk of injury from fire if they lack an adequate electrical system, or if they don't have a smoke detector or fire extinguisher nearby.

Your obligation to compensate employees for work-related injuries and illnesses applies

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no matter where they work. Those who permanently work abroad might have coverage under other laws. In Texas, employers don't need to carry workers' comp insurance, but state law limits the liability of an employer who carries it or who self-insures. Nonsubscribers lose several key legal defenses and can face high damage awards if an injured employee can prove in court that the employer was negligent in any way.

Employers cannot simply declare someone an independent contractor to get out of paying workers' comp or employment taxes. The Internal Revenue Service and state tax authorities have very strict rules for what constitutes an independent contractor. For details, see <https://www.irs.gov/pub/irs-pdf/p1779.pdf>

Identifying the Risk

Requiring inspections of teleworkers' home offices seems intrusive, and may actually increase an employer's liability if an injury later occurs. However, you can require employees to self-certify the safety of their workspaces. The U.S. Office of Personnel Management offers a sample self-certification safety checklist for home-based teleworkers, to be completed by the teleworker, at <http://www.opm.gov/wrkfam/telecomm/selfcert.htm>.

Many teleworkers also face a risk of repetitive stress injuries (RSIs) due to heavy computer use. Although you have no legal obligation to provide ergonomic training or equipment, it's a good idea. RSIs can be painful and disabling, causing lost time and productivity. Providing properly fitted equipment and training can protect your valued employees at relatively low cost.

Work-Related or Not?

In a review of the literature conducted for the Virginia Department of Transportation, researcher Ken Winter concluded, "The most common legal liability [associated with telecommuting] seems to stem from workers' compensation concerns and the fact that it is often unclear precisely when teleworkers are working, when are they preparing to work, and when they have temporarily stopped working." When a teleworker has an injury at home, how do you determine whether it was work-related or not?

Requiring set hours may be a solution. Injuries that occur in this time period are assumed to be work-related, others are not. However, flexibility is one of the chief benefits of telecommuting. If you don't want to set up rigid schedules for teleworkers, you can separate a teleworker's work time from personal time by using some kind of log-in system. Teleworkers can call in to the office when beginning and ending their day, log in to the company's network, use a logging device on their own computer or manually record their working hours.

It's also important that employees who work from home have a designated work space and a defined scope of activities. Details like these will help confine potential workers comp injuries to certain functions, places and times.

If a work injury does occur at home, make sure teleworkers know what to do and stress the importance of prompt reporting.

We can help you minimize the risks posed by telecommuting employees. For more information, please contact us. ■

The Benefits of Offering Supplemental Life Insurance

Supplemental insurance allows employees to customize their coverage to meet their individual needs.

Most employees now get their life insurance through a group plan provided by their employer. According to LIMRA, a research group funded by the life insurance industry, 108 million Americans have an employer-sponsored basic life insurance plan, while 102 million have a plan they purchased themselves. LIMRA began tracking life insurance sales in 1960 and this is the first time group coverage has been more popular than individual coverage.

Employers usually pay all of the cost of a basic life insurance policy. The free policy for the employee pays death benefits to the employee's beneficiaries. Small firms often offer a flat dollar amount from \$25,000 to \$50,000. Large firms are more likely to offer policies that pay one to three times a

policy holder's salary as a death benefit.

Coverage is guaranteed and no medical exam is required for these group plans. The employer pays the same premiums for every employee because the group rate is not dependent on someone's age or health. An employer can offer this coverage to all employees or impose certain conditions, such as requiring minimum time of service before getting the benefit.

Not every death is covered, though. Some plans do not pay benefits for suicide, civil riots or deaths that occur during military service.

And while a basic life insurance plan does provide coverage, it might not be enough coverage for those who have a spouse or children.

Employer-Provided Supplemental Insurance

If you already offer basic life insurance to your employees, you can add supplemental insurance options at no cost to you. Supplemental insurance allows employees to customize their coverage depending on their needs or financial situation. Your employees pay the premiums, and you provide low-cost access to a variety of plans and benefits.

Unfortunately, many employees don't take advantage of these types of benefits. LIMRA reports that 14 percent of full-time employees are not aware that they have access to supplemental plans. To increase employee awareness of the benefits of life insurance, you can educate your employees.



Ask the carrier to help you host on-site enrollment sessions, hold a webinar about the product or conduct web-based training, followed by online enrollment.

Life insurance experts recommend workers get enough supplemental coverage to pay off their debts. They'll need more if they have children who are planning to attend college or if their spouse depends on their income. An easy and practical rule of thumb is 10 times the employee's salary.

Although an employee cannot take their basic life insurance policy to another job if they leave your employment, they may be able to take their supplementary coverage with them. The carrier, though, may impose a fee.

Employees can purchase supplemental insurance as either term or permanent.

A term life insurance policy is less expensive than a permanent life insurance plan. Term insurance only pays a death benefit for 10, 20 or 30 years — depending on the terms of the policy. This can be a great fit for employees who are concerned about making sure their beneficiaries have funds available to pay off the big ticket items.

A permanent life insurance policy lasts for as long as the policy holder pays the premiums. These policies have the added benefit of being a way to save money. Over time the policy increases in cash value, and the policy owner can then borrow from it or withdraw the cash value. ■

Simple Steps to Reduce Telecommuting- Related Risks

Both employers and employees have responsibilities to prevent workplace injuries.



Employers' Responsibilities:

- 1 Provide clear job descriptions, goals and reporting procedures for your telecommuting employees.
- 2 Ensure your workers' compensation coverage applies to telecommuters. For example, if you have out-of-state teleworkers, make sure you have "other states" coverage.
- 3 Verify that the organization's general liability policy applies to the acts of telecommuters.
- 4 Provide workers with the right equipment and support.
- 5 Offer training and guidelines for efficient teleworking.
- 6 Ensure your employees know what to do in the event of a work-related injury and how to report a claim. Stress the importance of early reporting.
- 7 If your workers' compensation insurer has a network of preferred providers, make sure your telecommuting employees have a list of nearby providers and their contact information.

Employees' Responsibilities:

- 1 Provide work space with ergonomically correct chair, desk and computer equipment.
- 2 Complete a safety checklist certifying the space is free from hazards. This checklist is not legally binding, but details management expectations and, if signed, assumes employee compliance.
- 3 Verify that having a home work space will not violate the terms of their homeowners insurance policy, community CC&Rs or local ordinances.
- 4 Immediately report any work-related accident to the supervisor with all medical documentation related to the accident. If the employer's workers' compensation claims manager or insurer deems an inspection necessary, the employee agrees to cooperate with the inspector. ■

