

Year End Reminders for 2023



The majority of group health plans renew on January 1. With open enrollment (OE) behind us and a new plan year in our sights, it's time to wrap up any loose ends. In the spirit of the season, we've compiled a to-do list that we encourage you to check twice to confirm all required tasks are tied up nicely with a bow. This is not intended to be an exhaustive list but hopefully helps you in this busy time.

OPEN ENROLLMENT REMINDERS

Provide COBRA participants with plan information as you would any other OE participant, noting that they might have extra time to submit claims or appeals due to outbreak period extensions. They have the same annual open enrollment opportunities to change their medical, dental, and vision plan choices and dependent elections as active employees do.

Distribute federally mandated health plan notices to employees:

- + Summary of Benefits and Coverage (SBC)- distribute prior to eligible employees making plan decisions
 - IMA tip: employers can upload the SBCs to the online enrollment portal where an employee can access as they enroll/waive/change coverage during OE
- + Children's Health Insurance Program (CHIP), Women's Health and Cancer Rights Act (WHCRA), and other notices – distribute once a year

Audit invoices monthly to ensure accuracy of elections and premiums in the new plan year

- IMA tip: it's especially important to audit monthly invoices the first few months after your plan renewal effective date

ACA

Ensure affordability of your lowest-cost medical plan for single coverage providing minimum value for all full-time employees in order to avoid potential ACA penalties

- + Note the affordability percentage [decreased](#) from 9.12% in 2023 to 8.39% for 2024

Prepare to provide accurate ACA reporting in January

- + [2023 reporting](#) due in early 2024 does not have a good faith standard, so submitting inaccurate or incomplete reporting could result in penalties for failure to file correctly
- + Applicable large employers (ALEs) must complete the 1094-C/1095-C forms
- + Self-funded non-ALEs must complete the 1094-B/1095-B forms
- + Paper filings are [no longer permitted](#) for virtually all employers. Those who paper filed in the past need to determine how they will e-file.

SECTION 125/FSAS

Your health and dependent care FSAs may need to be updated for:

- + Enhanced carryover or grace period benefits all expired with the plan year ending in 2022, so 2023 documents should have normal carryover or grace period benefits as applicable
- + Over-the-counter (OTC) [hearing aids](#) can be an eligible expense as of October 19, 2022
- + Adopt the [2024](#) increased limits if they are not automatically increased by reference to statutory indexing

Year End Reminders for 2023 (continued)

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- + If you haven't already, you may want to update your **cafeteria plan document** to [allow](#) a qualifying life event for family members that intend to enroll in the public health insurance Exchange Marketplace through an annual open enrollment period or special enrollment period

Help your flexible spending account (FSA) administrator with resolving unsubstantiated claims

- + If your employees are not responding to requests for receipts to substantiate an FSA debit card transaction, then the FSA administrator may need your help reaching out to those employees to request valid receipts
- + If an employee won't submit proper substantiation, then they owe your plan a debt, which is the employer's [responsibility](#) to collect

Run annual non-discrimination testing as of the last day of the plan year

- + This includes cafeteria plan testing, self-funded plan testing (including health FSAs and HRAs), and dependent care FSA testing

HSA's

- Verify all **annual figures** are compliant with [2024 indexing](#)
 - o Particularly important to verify [HSA](#) embedded deductibles are at least \$3,200
- Check for Low- or no-cost telehealth benefits which you may have provided to high deductible health plan (HDHP) participants allowed through plan years ending in 2024; after that date, these need to [return](#) to charging the fair market value for those who have not yet met the federal minimum deductible requirement
- Reminder:** HSA-qualified HDHPs can only have low- or no-cost COVID-19 testing and treatments through the [plan year ending in 2024](#)

Plan Design Changes

- + Your health plan may need to be updated with any **dates you provided specialized coverage**, such as waiving cost-sharing for telehealth visits as well as coverage details for COVID-19 testing, vaccines, and treatments
 - HSA-qualified HDHPs can only have low- or no-cost COVID-19 testing and treatments through the [plan year ending in 2024](#)
 - Some **required changes** may also include removing blanket exclusions for gender-affirming care, any necessary updates to stay compliant with the [MHPAEA](#) (self-funded non-federal governmental plans can [no longer opt out](#) of MHPAEA), the various No Surprises Act and transparency [measures](#), etc.
- + **Preventive care updates** required in 2024 of all non-grandfathered plans
- + Double-check non-grandfathered **contraceptive coverage** meets [requirements](#)

ERISA Plan Document & Summary Plan Descriptions

- + Amend plan documents to align with any plan design changes described in the above section.
- + **Amend plan documents with any COVID-19 relief measures** you have allowed but have not yet formally adopted into your written plan (or measures you adopted but need to sunset in your written plan)
 - Your wrap plan/SPD may need to be updated for:
 - Any relaxed eligibility terms you offered (or sunset) due to layoffs/furloughs
 - Waived waiting periods for rehires after 13 weeks (or the sunset of such waivers)

Year End Reminders for 2023 *(continued)*

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- Measurement periods that may have given “credit” for furloughs (or sunseting such credit)
- Low- or no-cost telehealth benefits which you may have provided to high deductible health plan (HDHP) participants allowed through plan years ending in 2024 and then need to [return](#) to charging the fair market value for those who have not yet met the federal minimum deductible requirement
- The expiration of [outbreak period](#) extensions (noting there may still be time to submit claims or appeals through summer 2024)

Federal Transparency Efforts

- + **CAA/Transparency** requirements for **Self-funded** medical plans
 - **Ensure written agreements between the employer and plan administrator address responsibility and liability/hold harmless language** with respect to medical ID cards, provider directories, continuity of care, the No Surprises Act, machine readable file [postings](#), [RxDC reporting](#), cost estimators with real-time cost-sharing, gag clause prohibition compliance attestation ([GCPCA](#)), and more
 - Online real-time cost-sharing tools expand to cover all shoppable services in 2024 (*up from 500 services in 2023*)
 - **GCPCA** for the period 12/27/20 through the end of 2023 is due by **December 31, 2023**
 - **RxDC** reporting for calendar year 2023 will be due by **June 1, 2024**
- + CAA/Transparency requirements for **fully insured** medical plans
 - **Be diligent with updates from your carrier to understand how they will help your group health plan comply with the requirements.**

State Updates

- + **Comply with state law requirements** applicable to you...recent examples include:
 - CA state disability insurance [changes](#)
 - CA [OTC Contraceptive](#) Coverage
 - San Francisco Health Care Security Ordinance [updated rates](#) for 2024
 - OR [SB 1529](#)
 - TX [HB 711](#) and [SB 14](#)
 - WA [LTC tax](#) which began 7/1/23

Year End Reminders for 2023 (continued)

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Other Items

- + Ensure compliance of your [wellness plan](#) and vaccine [incentives](#)
- + You may wish to update your **tuition reimbursement plan** to allow [student loan](#) payments as an eligible expense through the end of 2025
- + Ensure indemnity plan premiums are [withheld post-tax](#) from employee paychecks (if premiums are paid pre-tax, then all benefits paid out are taxable income)
- + **Properly claim government credits** you qualify for and wish to claim, such as:
 - Employee retention credits ([ERC](#)) which are currently suspended in 2023 but should open back up in 2024
 - Paid FMLA tax [credits](#)
- + **Update QMCSO/NMSN procedures** to reflect the [updated NMSN](#) forms



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