

2016 Health Care Reform Preview

A new year means new and continuing responsibilities under the Affordable Care Act (ACA) for employers sponsoring group health plans. Key steps for businesses to prepare for 2016 include:

1. Evaluating Grandfathered Status of Group Health Plan

Remember that changes to a grandfathered plan that reduce benefits or increase costs to employees may result in a loss of [grandfathered status](#), requiring the plan to come into compliance with additional ACA requirements that previously did not apply because the plan was exempt. Grandfathered plans must provide notice to enrollees and keep appropriate records to maintain grandfathered status.

2. Reviewing Plan Documents for Required Changes to Plan Benefits

Plan design and benefits offered should reflect a number of [recent changes](#), including:

- A 90-day limitation on waiting periods (reasonable and bona fide employment-based orientation periods not to exceed one month);
- The elimination of [employer payment plans](#) (arrangements under which an employer reimburses an employee for some or all of the premium expenses incurred for an individual health insurance policy, or uses its funds to directly pay the premium for an individual policy), including those sponsored by small employers; and
- For non-grandfathered plans, [limitations](#) on annual out-of-pocket costs for essential health benefits (unless notified otherwise by the insurance carrier).



3. Analyzing Tax-Favored Arrangements

For employers that sponsor these types of arrangements, ensure that:

- Health reimbursement arrangements (other than retiree-only HRAs and HRAs consisting solely of excepted benefits) are ["integrated"](#) with other group health plan coverage.
- Health flexible spending arrangements (FSAs) qualify as [excepted benefits](#), are offered through a cafeteria plan, and employee salary reduction contributions are limited to **\$2,550** for the year.
- Cafeteria plans do not provide a qualified health plan offered through the Individual Health Insurance Marketplace as a benefit.

4. Providing Required Notices to Employees and Dependents

All new employees should receive a [notice](#) about the Health Insurance Marketplace within 14 days of their start dates. Employers sponsoring group health plans also need to provide a [Summary of Benefits and Coverage](#) (SBC) to participants and beneficiaries (or contract with the carrier or third party administrator to do so) at various times during the enrollment process and upon request.

5. Complying With "Pay or Play" Responsibilities

Employers that are [subject to "pay or play"](#) for 2016 (generally those with 50 or more full-time employees, including full-time equivalents, on average during 2015) should decide whether to offer group health plan coverage to full-time employees and their dependents, and determine if a penalty will apply. An employer may be liable for a penalty if it does not offer [affordable health insurance that provides minimum value](#) to its full-time employees (and their dependents), and any full-time employee receives a premium tax credit for purchasing individual coverage on the Health Insurance Marketplace.

6. Satisfying New Information Reporting Requirements (IRS Forms 1094 and 1095)

The ACA requires self-insuring employers (regardless of size) and [other parties that provide minimum](#)

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[essential health coverage](#) to report information on this coverage to the IRS and to covered individuals. [Large employers](#) (generally those with 50 or more full-time employees) are also required to report information to the IRS and to their employees about their compliance with the "pay or play" provisions and the health care coverage they have offered. The first information returns must be filed with the IRS no later than **February 29, 2016** (or March 31, 2016, if filed electronically), and the first individual/employee statements must be furnished on or before **January 31, 2016**.

Additional items that may be of continued significance for certain employers and group health plans in 2016 include distribution of Medical Loss Ratio (MLR) rebates, withholding of Additional Medicare Tax, reporting of health coverage on Forms W-2 (for employers required to file at least 250 Forms W-2), and payment of Transitional Reinsurance Program and Patient-Centered Outcomes Research Institute (PCORI) fees.

Review our [2016 Health Care Reform Checklist](#) for more details regarding ACA requirements for employers in the upcoming year.

State Minimum Wage Rates Set to Increase

The minimum wage will rise in a number of states next year. Unless otherwise noted, the following minimum wage rates (per hour) are scheduled to become effective on January 1, 2016:



- **Alaska:** \$9.75
- **Arkansas:** \$8.00
- **California:** \$10.00
- **Colorado:** \$8.31 (\$5.29 for tipped employees)--proposed
- **Connecticut:** \$9.60
- **District of Columbia:** \$11.50, beginning July 1, 2016
- **Hawaii:** \$8.50
- **Maryland:** \$8.75, beginning July 1, 2016
- **Massachusetts:** \$10.00 (\$3.35 for tipped employees)
- **Michigan:** \$8.50 (\$3.23 for tipped employees)
- **Minnesota:** \$9.50, beginning August 1, 2016 (\$7.75 for employers with annual gross volume of sales less than \$500,000)
- **Nebraska:** \$9.00
- **New York:** \$9.00, beginning December 31, 2015 (\$7.50 for tipped workers in the hospitality industry; \$9.75 for fast food employees outside of NYC; \$10.50 for fast food employees within NYC)
- **Rhode Island:** \$9.60 (\$3.39 for tipped employees)
- **South Dakota:** \$8.55 (\$4.28 for tipped employees)
- **Vermont:** \$9.60 (\$4.80 for certain service or tipped employees)
- **West Virginia:** \$8.75, after January 1, 2016

Be sure to comply with any city or other local wage requirements (which may be **higher** than the state or federal minimum wage) that may apply to your business. For more information on state minimum wage laws, including poster requirements, please visit our [State Laws](#) section, click on your state, and select "Minimum Wage" in the left-hand navigation menu.

Do's and Don'ts of Employee Performance Reviews

For many employers, wrapping up the year includes holding annual employee performance reviews. While reviews may take place at any time of the year (for example, on the anniversary of an employee's start date), you may want to end the year by resolving any lingering issues that may have gone unaddressed over the past 12 months.



Keep the following do's and don'ts in mind to help make the most of your performance reviews:

- **DO have a system in place for measuring performance.** This could be as simple as tracking the number of clients contacted or the number of sales per month. Make sure your employees clearly understand the performance standards against which they will be judged.

- **DON'T delay discussing performance issues with an employee.** When it comes time for the formal review, there really shouldn't be any surprises if there has been ongoing communication and feedback between the supervisor and employee.
- **DO be direct, factual, and detail-oriented.** Provide a clear, concise explanation of the issues you wish to address with the employee and provide specific examples.
 - Discuss a plan of action for helping the employee improve performance and encourage him or her to contribute ideas on how to reach performance goals.
- **DON'T make negative comments that attack an employee's attitude rather than performance.** Be sure to review the employee's overall performance based upon specific, job-related criteria and provide concrete examples of performance problems.
- **DO document all points covered in the performance review.** Performance records can help you keep track of an employee's progress and may also provide important documentation in the event a disciplinary action, termination, or other adverse personnel decision becomes necessary.
 - It's important to be honest with your review--if you provide a very positive review of an employee without detailing the problems, your documentation may not support a future decision to discipline or terminate.

Remember to treat all of your employees equitably when it comes to performance reviews, and avoid any statements or actions that can be construed as discriminatory. If you have any questions regarding discrimination matters, contact an employment law attorney who knows your state laws. Our section on [Performance Reviews](#) provides additional information and resources, including preparation steps, tips on how to conduct a performance review meeting, and sample forms.

Prevent the Spread of Germs at Work

Interaction between people in close contact increases the risk for respiratory illnesses like the flu to spread. In the workplace, employees who are sick may not be as productive when it comes to getting work done, and symptoms such as coughing, sneezing, and fever can spread germs to healthy employees.



[Everyday preventive actions](#) that can help prevent the spread of germs in the workplace include:

1. **Cover Your Mouth and Nose.** Cover your mouth and nose with a tissue when coughing or sneezing. Flu viruses are thought to spread mainly from person to person through coughing, sneezing, or talking to someone with the flu.
2. **Avoid Touching Your Eyes, Nose, or Mouth.** Flu viruses also may spread when people touch something with flu virus on it and then touch their mouth, eyes, or nose. Routinely clean frequently touched objects and surfaces, including doorknobs, keyboards, and phones, to help remove germs.
3. **Clean Your Hands.** Washing your hands often will help protect you from germs. Make sure your workplace has an adequate supply of tissues, soap, paper towels, alcohol-based hand rubs, and disposable wipes.
4. **Stay Home When Sick.** Employees should be encouraged to stay home from work when they are sick to help prevent others from getting ill. If there is only one employee who performs a particular task, consider training others so that coverage is available should that employee need to leave work early or stay home due to illness.

Keep in mind that many states and cities may require employers to provide a certain amount of sick leave, either with or without pay, to their employees. Be sure that your sick leave policy complies with applicable law, and include the policy in your employee handbook if you distribute one.

For more information and resources to help fight the flu in your workplace, check out the Centers for Disease Control and Prevention's website on [Seasonal Flu Information for Businesses & Employers](#).

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