

COMPLIANCE CHECKLIST 2020



To prepare for the next phase of the Affordable Care Act's mandates and other ongoing requirements, make sure you have a compliance strategy in place. This checklist is designed to assist you with compliance planning in 2020.

Affordable Care Act

Confirm your group health insurance plans are in compliance with the following:

Pay or Play

First, count the number of employees your organization employed last year to determine if your organization is an applicable large employer (ALE). If your organization employed 50 or more full-time and full-time equivalent workers, it would be subject to Pay or Play in 2020. Then take the following steps:

- Determine whether health insurance coverage is offered to at least 95% of your full-time employees (working, on average, at least 30 or more hours per week) and their dependent children.
- Review whether the plan provides minimum value by using one of the three available methods—minimum value calculator; safe harbor checklists; or actuarial certification— and/or confirm the information provided from the fully insured carrier on the Summary of Benefits and Coverage.
- If your organization's MV Plan or MVP Arrangement does not provide coverage for in-patient hospitalization services and physician services, it will not meet the ACA's minimum value requirement, even if it satisfied the minimum value calculator's requirements.
- Assess the affordability of your lowest-cost single tier health coverage under one of the IRS's affordability safe harbors (form W-2, rate of pay, or federal poverty line). In 2020, the affordability threshold is 9.78%.
- If your organization is offering an ICHRA in 2020, the amount you contribute to each ICHRA (when compared to the cost of the monthly premium for the self-only tier of the lowest-cost silver plan on the applicable Exchange), makes the ICHRA affordable to the employee under these same affordability rules. See our eAlerts on the new ICHRAS [HERE](#) and [HERE](#).

Other ACA Compliance Requirements

Out-of-Pocket Maximums

Make sure the plan's out-of-pocket maximums are limited to \$8,150 for single coverage and \$16,300 for other than self-only coverage, and that accumulators under separate benefit plans (such as medical and prescription drug plans) are combined toward these maximums.

Waiting periods

Ensure waiting periods for coverage have been reduced to 90 days or less, unless an exception applies.

W-2 Reporting

Continue to report the aggregate cost of coverage on employees' Form W-2 (employers that file 250 or more W-2s).

Summary of Benefits and Coverage (SBC)

Continue to provide plan participants with an SBC during open enrollment and to new hires thereafter. While not necessary for 2020, note that for plan years beginning in 2021, the SBC must be provided in the new, updated format, available on the U.S. Department of Labor's website [HERE](#).

Exchange Notice

Ensure that the Exchange Notice continues to be provided within 14 days of the date of hire. This notice explains the conditions for which an employee is eligible for a subsidy under the Exchanges.

Medical Loss Ratio Rebates

Distribute within 90 days of receipt of any medical loss ratio rebates from the insurance carriers (applies only to fully insured plans).

Wellness Programs (compliance with ACA, HIPAA, ADA and GINA)

Confirm that your wellness programs with medical examinations or disability-related

inquiries comply with final regulations issued under the ADA and GINA in 2016 and that health-contingent wellness programs comply under HIPAA, as amended by the ACA. Note that a special privacy notice is required under the final ADA regulations for plan years beginning on or after January 1, 2017 (see our eAlert on the privacy notice available [HERE](#)). While the "incentive"-related provisions of the ADA and GINA regulations were invalidated, the remaining rules in those regulations remain in effect. We expect new rules and guidance on the subject of wellness incentives to be issued by the EEOC in early 2020.

Patient Centered Outcomes Research Fee (PCOR)

Review health coverage provided to determine if it is subject to PCOR; payment is due July 31, 2020. Note that a Budget law signed in December 2019 extends the PCOR fee through 2029. See our eAlert on this development [HERE](#).

Information Reporting:

First, count the number of employees your organization employed last year to determine if you are an ALE with 50 or more full-time and full-time equivalent workers. If you are an ALE in 2020, take the following steps:

- Determine which IRS information reporting requirements apply to your health plans.
- Analyze the information you will need for reporting and coordinate internal and external resources to help track required data in 2020.

For 2019 information reporting submitted in 2020, note that:

- The deadline for furnishing the 2019 Forms 1095-C and 1095-B to employees/enrollees, was extended to March 2, 2020.



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- The deadline for filing the forms with the IRS is March 31, 2020, if not filing electronically.

State Information Reporting:

If your organization's health plans have participants residing in or working in New Jersey, Washington D.C., or Massachusetts, then make sure that you are prepared to comply with the different state information reporting obligations in those states. See our eAlert on this topic, available [HERE](#).

ERISA and Ongoing Compliance Responsibilities in 2020

Ensure compliance with, and that amendments have been finalized for, the following:

Disability Claims Procedures

In late 2016, the DOL released new final regulations under ERISA on disability claims procedures that are applicable to all claims for disability benefits filed on or after January 1, 2018. In 2020, sponsors should confirm with insurance carriers that documents and processes have been updated. Additional

information can be found in our eAlert on this topic [HERE](#).

Form 5500s

Ensure that Form 5500s have been filed by the end of the 7th month following the end of the plan year, and that the Summary Annual Report is provided to participants within 2 months after the Form 5500 filing. Also, ensure that all other reporting and disclosure requirements have been complied with, including the time limits for disclosure of SPDs and SMMs.

Annual Notices

Ensure that all required annual notices have been provided to participants including the Children's Health Insurance Program Notice, Women's Health and Cancer Rights Act Notice, HIPAA Special Enrollment, Newborn's & Mother's Health Protection Act, Women's Health and Cancer Rights Act, USSERA, QMCSO, Mental Health Parity, and Medicare Part D.

Creditable Coverage Status

Report annually to the Centers for Medicare

and Medicaid Services (CMS) the creditable coverage status of prescription drug plans via online form by no later than 60 days from the beginning of a plan year.

NOTE: The Corporate Synergies 2020 Compliance Checklist is designed to help plan sponsors of health and welfare plans identify significant compliance requirements in 2020. It is not designed to identify all compliance obligations.

Information contained in this Compliance Checklist is subject to change due to the ongoing release of additional or clarifying legislation or regulatory guidance by the U.S. Department of Labor, Internal Revenue Service, or other applicable regulatory agencies throughout the year.

Corporate Synergies is not a law firm, and accordingly, the contents of this Compliance Checklist do not constitute legal advice. The information provides only general guidance and not all rules and requirements are reflected.

Synergies360SM

Corporate Synergies takes a full view of the insurance landscape, studies it from every angle, pursues innovation where none exists, and transforms this deeper understanding into actionable strategies to protect our clients and their participants. We call our approach Synergies360.



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