



IN THIS ISSUE

- San Francisco Increases Annual Health Care Security Ordinance Expenditure Rate for 2019
- Question of the Month: May a Health Plan Rescind a Participant's Coverage Based on a Plan Error?

SAN FRANCISCO INCREASES ANNUAL HEALTH CARE SECURITY ORDINANCE EXPENDITURE RATE FOR 2019

Recently, San Francisco updated its Health Care Security Ordinance (HCSO) health care expenditure rates for 2019. As background, Covered Employers (defined as for-profit employers with 20 or more total employees and nonprofit employers with 50 or more total employees) in San Francisco are required to make a quarterly health care expenditure on behalf of a Covered Employee (defined as any employee who has been employed with an employer for more than ninety (90) days, and who regularly works eight (8) or more hours in the city of San Francisco). Employers must keep an accurate accounting of their health care expenditures, and also file the 2018 Annual Reporting Form (ARF) no later than **April 30, 2019**.

The 2018 and 2019 HCSO-required health care expenditure rates are as follows:

Employer Size	Number of Employees	2018 Expenditure Rate	2019 Expenditure Rate
Large	All employers w/100+ employees	\$2.83 per hour payable	\$2.93 per hour payable
Medium	Businesses w/20-99 employees Nonprofits w/50-99 employees	\$1.89 per hour payable	\$1.95 per hour payable
Small	Businesses w/0-19 employees Nonprofits w/0-49 employees	Exempt	Exempt

Notice Update: In 2018, Covered Employers must post a San Francisco Official Notice at every workplace or job site where there is an HCSO-eligible individual. The Official Notice for 2019 has not yet been released by the city of San Francisco.

Action Required

Covered Employers should ensure that they are providing the appropriate Health Care Security Ordinance health care expenditure on behalf of their Covered Employees who work within San Francisco. The expenditure rates in 2019 for a full-time Covered Employee working for a large for-profit Covered Employer is \$503.96 per month (172 hours X \$2.93), and \$335.40 (172 hours X \$1.95) for a full-time Covered Employee working for a medium sized for-profit Covered Employer.

For the complete details, go to the Health Care Security Ordinance website: <https://sfgov.org/olse/health-care-security-ordinance-hcso>

QUESTION OF THE MONTH

May a Health Plan Rescind a Participant's Coverage Based on a Plan Error?

QUESTION: Our company sponsors a group health plan that covers employees who work at least 30 hours per week. After reassigning one of our covered full-time employees to a part-time position, we mistakenly continued to provide coverage for two months—collecting premiums and paying claims for that period. After a routine audit, we discovered the error. May we rescind the employee's health coverage effective as of the date that his status changed from full-time to part-time?

ANSWER: No, the plan may not rescind coverage in this instance. Health care reform prohibits rescissions—defined as the cancellation or discontinuation of coverage with retroactive effect—except in cases of fraud or intentional misrepresentation of a material fact as prohibited by the terms of the plan. Even when there is fraud or misrepresentation, plans must give at least 30 days' advance written notice of a rescission.

In the situation that you describe, there was no fraud or intentional misrepresentation of a material fact, so the rescission of coverage as of the date the employee's status changed to part-time would not be permissible. Your plan may cancel the employee's coverage prospectively, subject to other applicable federal and state laws.

Source: EBIA

CONTACTS



Christopher K. Bao, Esq.

Manager, Employee Benefits Compliance
& Regulatory Affairs, MMA West
Chris.Bao@MarshMMA.com
+1 415 230 7224



Brittany D. Botterill, Esq.

Manager, Employee Benefits Compliance
& Regulatory Affairs, MMA West
Brittany.Botterill@MarshMMA.com
+1 858 587 7511



Leah N. Nguyen, Esq.

Manager, Employee Benefits Compliance
& Regulatory Affairs, MMA West
Leah.Nguyen@MarshMMA.com
+1 949 540 6924