HR COMPLIANCE OVERVIEW

2023 Employee Benefits Year-End Checklist

December 2023

AssuredPartners

2023 Employee Benefits Year-End Checklist

As organizations close out their 2023 employee benefits plan year and look ahead into 2024, it is important to remember the compliance and reporting requirements that come at the end of each year.

Closing Out 2023

Organizations need to have the following tasks completed by the end of 2023:

- Submission of the Gag Clause Attestation
- Remind employees about the organization's guidelines on HAS and FSA remaining balances
- Send Annual Notice Reminders
- Conduct Non-discrimination Testing
- Amend plan documents specific to each plan year

Looking Ahead to 2024

Many employers are well into their 2024 preparations. For larger organizations, this often includes reviewing additional requirements that are specific to their organization's size. Additional Items that large employers need to keep in mind as they plan for 2024 include:

- Reviewing the affordability of their plans for full-time employees
- Updating employee benefit limits
- Filing preparation for ACA return
- Updating appropriate employee communications

Year-end Checklist (2023)

Complete (or N/A)	Requirement
☐	**Submit Gag Clause Attestation by Dec. 31, 2023** Health plans and health insurance issuers must annually submit an attestation of compliance with the federal prohibition on gag clauses. The first gag clause attestation is due by Dec. 31, 2023. If the issuer for a fully insured health plan provides the attestation, an employer does not also need to provide an attestation for the plan. Self-insured employers can enter into written agreements with their TPAs to provide the attestation, but the legal responsibility remains with the health plan.
☐	**Confirm annual notices have been provided, including CHIP and WHCRA notices** Many health plan notices are required to be provided at certain times during the year; for example, Medicare Part D creditable coverage notices must be provided by Oct. 14 each year. However, certain annual notices can be provided at any time during the year, such as the annual CHIP notice or Women's Health and Cancer Rights Act (WHCRA) notice for health plans.
☐	**Amend plan documents for changes made in 2023** In general, employers that make discretionary changes to the design of their employee benefit plans for plan years beginning in 2023 should update their official plan documents, if necessary, to include the changes by the end of the year.
☐	**Remind employees about what happens to unused funds in their Health FSAs, HRAs, or Dependent Care FSAs at the end of the year** Encourage employees to use any unspent balances remaining in these accounts, especially if unused funds are forfeited at the end of 2023. Also, remind employees about the deadlines for submitting claims for the year, including any runout period, as well as any grace periods for using unspent funds or permissible carryovers. If a Health FSA or HRA allows unused funds to be carried over to the following year, remind employees about any caps on carryover amounts.
☐	**Complete non-discrimination testing** Complete annual non-discrimination testing for employee benefit plans that are subject to these testing requirements, including Section 125 cafeteria plans, self-insured health plans, Health FSAs, Dependent Care FSAs, HRAs, group term life insurance and retirement plans.
☐	**Ensure your health plan coverage will meet the ACA's affordability requirement for 2024 (*ALEs only*).** Under the ACA's employer mandate rules, ALEs must offer affordable, minimum value (MV) health coverage to their full-time employees to avoid penalties. Health plan coverage is considered affordable if the employee's required contribution does not exceed 9.5% of the employee's household income for the year (as adjusted each year). For plan years beginning in 2024, the adjusted affordability percentage is 8.39%.

<table>
<tr><th>Complete (or N/A)</th><th colspan="3">Requirement</th></tr>
<tr><td></td><td colspan="3">The affordability test applies only to the portion of the annual premiums for self-only coverage and does not include any additional cost for family coverage. Also, if an employer offers multiple health coverage options, the affordability test applies to the lowest-cost option that provides MV.</td></tr>
<tr><td rowspan="12">☐</td><td colspan="3">Update employee benefit limits for 2024
Update benefit election and payroll systems for the 2024 plan limits and communicate the new limits to employees. Benefit limits that change for 2024 include the following:</td></tr>
<tr><td rowspan="3">HSA contribution limits</td><td>Self-only HDHP coverage</td><td>$4,150 (up from $3,850)</td></tr>
<tr><td>Family HDHP coverage</td><td>$8,300 (up from $7,750)</td></tr>
<tr><td colspan="2">Catch-up contribution limit ($1,000) remains the same</td></tr>
<tr><td rowspan="2">Health FSA limits</td><td>Employee contribution limit</td><td>$3,200 (up from $3,050)</td></tr>
<tr><td>Carryover limit</td><td>$640 (up from $610)</td></tr>
<tr><td rowspan="2">HDHP minimum deductible</td><td>Self-only HDHP coverage</td><td>$1,600 (up from $1,500)</td></tr>
<tr><td>Family HDHP coverage</td><td>$3,200 (up from $3,000)</td></tr>
<tr><td rowspan="2">HDHP out-of-pocket maximum</td><td>Self-only HDHP coverage</td><td>$8,050 (up from $7,500)</td></tr>
<tr><td>Family HDHP coverage</td><td>$16,100 (up from $15,000)</td></tr>
<tr><td>401(k), 403(b) and 457(b) employee contribution limit</td><td colspan="2">$23,000 (up from $22,500)
Catch-up contribution limit ($7,500) remains the same</td></tr>
<tr><td rowspan="2">Qualified transportation fringe benefits (monthly limits)</td><td>Transit pass and vanpooling</td><td>$315 (up from $300)</td></tr>
<tr><td>Parking</td><td>$315 (up from $300)</td></tr>
<tr><td>☐</td><td colspan="3">Prepare to file ACA returns electronically in 2024
Beginning in 2024, virtually all employers who are subject to ACA reporting must file their returns electronically. Paper filing is only available to the smallest employers (i.e., those who file fewer than 10 information returns with the IRS for the year). A hardship waiver may be requested from the electronic filing requirement by submitting Form 8508 to the IRS.</td></tr>
</table>

Complete (or N/A)	Requirement
	The normal deadline for electronic ACA reporting is March 31 each year. However, since March 31, 2024, is a Sunday, electronic returns must be filed by the next business day, which is April 1, 2024. ACA returns are filed electronically through the IRS' ACA Information Returns (AIR) Program. Due to this program's complexity, employers typically work with third-party vendors or payroll providers to complete their electronic filings.
☐	Revise employee communications, including SPDs, for 2024 benefit changes Communicate any benefit plan changes for the plan year beginning in 2024 to employees through an updated SPD or a summary of material modifications (SMM).
☐	Reach out to your health plan's issuer or TPA to confirm that the comparative analysis of NQTLs will be updated, if necessary, for 2024. The Mental Health Parity and Addiction Equity Act (MHPAEA) requires parity between a group health plan's medical/surgical benefit and its mental health or substance use disorder (MH/SUD) benefits. Any non-quantitative treatment limitations (NQTLs) placed on MH/SUD benefits must comply with MHPAEA's parity requirements. For example, NQTLs include prior authorization, step therapy protocols, network adequacy and medical necessity criteria. MHPAEA requires health plans and issuers to conduct comparative analyses of the NQTLs used for medical/surgical benefits compared to MH/SUD benefits. Plans and issuers must make their comparative analyses available upon request to specific federal agencies or applicable state authorities. Because MHPAEA compliance is a top enforcement priority for the U.S. Department of Labor, employers should ensure their health plans have an up-to-date comparative analysis.
☐	Confirm that the health plan's price comparison tool will cover all covered items, services, and drugs for 2024. For plan years beginning in 2023, health plans and issuers were required to make an internet-based price comparison tool available for 500 shoppable items, services and drugs. For plan years beginning in 2024, this price comparison tool must be expanded to cover all covered items, services, and drugs. Most employers rely on their issuers or TPAs to develop and maintain the price comparison tool. To ensure compliance, employers should make sure this responsibility is included in a written agreement with their issuer or TPA. In addition, self-insured employers should monitor their TPA's compliance with this requirement. Unlike fully insured plans, the legal responsibility for this tool stays with a self-insured plan even if its TPA agrees to provide the price comparison tool on its behalf.