



Small Employer  
**Compliance Checklist**

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# Compliance Checklist

Small Employers - 2019

Keeping track of compliance obligations under ERISA, COBRA, HIPAA, and the Affordable Care Act is no simple task. At Marshall & Sterling, we strive to keep clients informed with valuable and timely information on issues that impact your business and benefit plans. The following checklist provides an overview of compliance items small employers should be aware of in 2018 and beyond.



## Group Health Plan Design:

- Cost-sharing limits:** A plan's annual out-of-pocket maximum for essential health benefits must be no more than \$7,900 per person and \$15,800 per family (2019 plan year).
- Health FSA Limit:** The amount of annual elective contributions limited to no more than \$2,700 (2019 plan year).
- Health HSA Contribution Limit:** Self-only: \$3,500 and Family: \$7,000, with \$1,000 catch up allowed for those 55 & over (2019 plan year).
- Waiting period:** No more than 90 days.
- Individual Policy Reimbursement Prohibition:** Employer reimbursement arrangements for individual policies violate the ACA and will trigger \$100/day/employee excise taxes under Internal Revenue Code §4980D.

## Group Health Plan Taxes & Fees:

- Patient Centered Outcomes Research Institute (PCORI):** Imposed upon group health plans to help fund studies on health outcomes and clinical effectiveness. For self-funded group health plans (including non-excepted HRAs) count the average number of participants for the plan year ending in 2018 and pay the corresponding annual fee by July 31, 2019. The fee is filed and paid once per year using IRS Form 720.
- Cadillac Tax:** Excise tax on "high cost" employer sponsored health plans scheduled to take effect in 2022. The tax is 40% of the cost of health coverage that exceeds predetermined threshold amounts.
  - Cost of coverage includes the total contributions paid by both the employer and employees.
  - For planning purposes, the thresholds for high-cost plans are currently **\$10,200** for individual coverage, and **\$27,500** for family coverage (these figures will be updated before the tax takes effect in 2022 and will be indexed for inflation in future years).

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## Notice & Disclosure Requirements:

- Summary of Benefits and Coverage (SBC):** Provide at enrollment and upon request. Typically provided by insurance carrier, but employer is responsible for distribution.
- Exchange (Marketplace) Notice:** Federal notice explaining the availability of the Health Insurance Exchanges (Marketplaces). Under the FLSA, employers must provide to all employees within 14 days of hire.
- Grandfathered Plan Notice (grandfathered plans only):** Include with materials describing the plan's benefits, such as enrollment materials, summary plan description (SPD).
- Notice of Patient Protections (non-grandfathered plans only):** Provide at enrollment and include in summary plan description (SPD).
- ERISA Required Disclosures:** Summary Plan Description (SPD); Summary of Material Modification (SMM); COBRA/HIPAA/CHIPRA/WHCRA/GINA Notices; Other employer specific items, e.g. Wellness Program disclosure.

## Recordkeeping:

Employers should maintain detailed documentation of all materials, data and records used in meeting their compliance requirements. Examples of essential recordkeeping elements include:

- A written plan that describes the benefit structure and guides day-to-day operations.
- A system to track contribution and benefit payments, maintain participant and beneficiary information, and to accurately prepare any necessary reporting documents.
- Documents to provide plan information to employees participating in the plan and to the government, including copies of required notices and a description of the distribution processes.

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