



Compliance Services Alert

Oct. 1, 2020

Upcoming key compliance deadlines and reminders for fourth quarter 2020

Finally, we've nearly reached the last quarter of this unique, tumultuous year. As leaves begin to fall and the holidays draw near, a number of welfare plan reporting and disclosure deadlines also loom for calendar year and non-calendar year plan sponsors between now and the much-anticipated turn of the calendar to 2021.

Below, you'll find various filings and disclosures due during the last three calendar months of 2020 that may or may not be applicable based on your plan year. You'll also see near the end of the grid below a description of pandemic-related allowances and requirements – those are simply reminders of information we've previously provided to you. Of course, if you have questions about the applicability of certain requirements to your plan, please contact your Lockton account service team.

Here are potential action items for the fourth calendar quarter (through December 31, 2020). **Note:** Where a deadline falls on a weekend, often the report or disclosure is considered timely if provided by the next business day:

DATE	ACTIONS	NOTES
Oct. 2	Submit Medicare Part D subsidy application <u>to CMS</u>, to obtain Part D subsidy for 2021 plan year For calendar year retiree drug plans	Applies to ERISA and non-ERISA plans seeking federal subsidies for providing retiree drug coverage. Generally, the application deadline is 90 days prior to the beginning of the plan year. CMS has set the deadline this year as Oct. 2, 2020, for calendar year retiree drug plans seeking subsidies for 2021. An extension of approximately 30 days can be requested from CMS prior to the application deadline.
Oct. 3	Distribute notice of Qualifying Small Employer Health	Applies to small employers (not subject to the ACA employer mandate) who sponsor a QSEHRA, in lieu of any other group medical coverage, that reimburses

	<p>Reimbursement Arrangement (QSEHRA)</p> <p>For employers offering <i>calendar year</i> QSEHRAs</p>	<p>employees for individual market medical insurance premiums.</p> <p>The notice must be provided to each "eligible employee" regardless of enrollment status and must include the employee's maximum HRA benefit for the year, among other information. The notice is due at least 90 days before the beginning of the new plan year. The deadline at left is for employees who are eligible for the upcoming calendar year; for those who gain eligibility at a later date, the notice should be provided no later than the date the employee gains eligible to participate in the QSEHRA.</p> <p>A model notice is available from your Lockton account service team.</p>
Oct. 3	<p>Distribute notice of Individual Coverage Health Reimbursement Arrangement (ICHRA)</p> <p>For employers offering <i>calendar year</i> ICHRAs</p>	<p>Applies to employers of any size who offer an ICHRA, in lieu of any other traditional group medical coverage, that reimburses employees for individual market medical insurance premiums or Medicare premiums.</p> <p>The notice must be provided to each "eligible employee" regardless of enrollment status. It must include information about the benefits provided by the ICHRA and the effect of the ICHRA coverage on the ability to qualify for federal subsidies in an individual market. The notice is due, generally speaking, at least 90 days before the beginning of the new plan year. The deadline at left is for employees who are eligible for the upcoming calendar year; for those who gain eligibility at a later date, the notice should be provided no later than the date the employee gains eligible to participate in the ICHRA.</p> <p>A model notice is available from your Lockton account service team.</p>
Oct. 14	<p>Distribute notices of creditable and/or non-creditable coverage</p>	<p>Provide to employees, retirees and dependents enrolled in Medicare and also enrolled (or seeking enrollment in) the employer's group plan.</p> <p>Most employers supply these notices at open enrollment, and such notices are deemed given for the next 12 months unless there's a material change in the creditable or non-creditable nature of the coverage. Thus, if distributed in enrollment packets during the prior 12 months (and there's no material change in the Rx coverage), the mid-October deadline may be ignored.</p>

		<p>These notices may be combined with other notices but must be "conspicuous." There must be a text box atop the packet noting in 14-point font that the packet includes a Medicare Part D notice.</p> <p>The notice may be mailed or hand-delivered; electronic distribution is possible, but special consent rules apply.</p>
Oct. 15	File Form 5500 for prior calendar year plan year, if filing under an extension from a July 31 deadline, for calendar year plans	<p>Applies to ERISA plans.</p> <p>Form 5500 extensions are available by filing a Form 5558 with the DOL on or before the filings initial due date. Calendar year plans with a July 31, 2020 deadline for 2019 Forms 5500 and that obtained a 2-1/2 month extension via Form 5558 should file by Oct. 15.</p>
Oct. 30	Make San Francisco HCSO contributions for prior calendar quarter	<p>For employers subject to the San Francisco Healthcare Security Ordinance.</p> <p>Quarterly contributions, if due for the quarter ending Sept. 30, are due by Oct. 30. Self-funded employers have the option of utilizing an annual true-up method in lieu of quarterly filings. The true-up method filing deadline is due in February of each year.</p>
Nov. 15 – Dec. 15	File Massachusetts Health Insurance Reporting Disclosure (HIRD) form	<p>Applies to any employer that reported six or more employees in any Massachusetts unemployment wage report during the past 12 months. The employer must file the HIRD form through the Massachusetts Department of Revenue web portal, MassTaxConnect.</p> <p>The disclosure is made during the filing period of Nov. 15 – Dec. 15, annually.</p>
Dec. 15	Distribute summary annual reports (SARs), if Form 5500 for a calendar year plan was filed under an extension.	<p>A summary of the plan's financial performance for the previous plan year, as reflected in the plan's Form 5500 for that plan year, must be distributed after that form is filed, unless an exception applies. The SAR should go to participating employees, former employees, COBRA beneficiaries, and Qualified Medical Child Support Order (QMCSO) recipients. It should be provided within two months after the Form 5500 filing deadline. Where a calendar year plan extended its Form 5500 filing to Oct. 15, the SAR is due Dec. 15.</p>

		<p>The SAR requirement does not apply to self-funded plans that pay benefits exclusively from the employer's general assets, even if those assets include employee contributions, as long as the contributions are made through a Section 125 cafeteria plan.</p> <p>SAR language is rather standard, and the disclosures may be made according to DOL's requirements for electronic disclosure, if desired.</p>
Dec. 31	<p>Self-insured state and local government health plans submit optional opt-out election <u>to CMS</u></p> <p><i>For calendar year plans, describing election to opt out of certain requirements</i></p>	<p>Sponsors of self-insured plans maintained by non-federal government entities may opt out of the Mental Health Parity Act, Newborns and Mothers Health Protection Act, Women's Health and Cancer Rights Act, and Michelle's Law.</p> <p>The plan must provide notice of the opt out to participants at the time of enrollment, and on an annual basis, prior to the beginning of each plan year.</p> <p>The opt-out election is made online and includes specific requirements. The CMS website and your Lockton account team have model notice language.</p>
Dec. 31	<p>Distribute annual Women's Health and Cancer Rights Act notice</p> <p><i>For calendar year plans</i></p>	<p>Applies to ERISA and non-ERISA plans. Self-insured state and local governmental plans may opt out.</p> <p>Notice must be provided to participants (employees and retirees), COBRA and other beneficiaries receiving benefits and alternate recipients under QMCSOs. This notice is typically distributed at initial enrollment and then annually, prior to each plan year.</p> <p>Including this notice in the annual enrollment packet is appropriate and typical, as long as the notice is "prominent". Electronic disclosure is permitted, in accordance with DOL requirements.</p>
Dec. 31	<p>Distribute notice of premium assistance under Medicaid or the Children's Health Insurance Program (CHIP)</p> <p><i>For calendar year plans</i></p>	<p>Applies to ERISA and non-ERISA plans.</p> <p>The notice must be provided to each employee, regardless of eligibility or enrollment status, and is best provided as a separate document, even if offered with enrollment materials. It should be provided by the last day of the plan year preceding the year to which the notice relates.</p> <p>A model notice is available through your Lockton account service team and is updated periodically by federal authorities.</p>

Various	Provide ERISA-related notices and disclosures	Federal authorities, as part of their pandemic-related guidance, have granted plan administrators leeway, where that leeway is necessary, to provide ERISA-related notices and disclosures (e.g., COBRA election packets) to plan participants and beneficiaries later than would otherwise be required, as long as the administrator provides the notices and disclosures as soon as practicable. Administrators are also granted wider latitude to provide these notices and disclosures via email or a continuously available website. See our alert for more information.
Various	Adjust various COBRA, HIPAA special enrollment and plan claim submission and appeal due dates	While not literally a reporting and disclosure issue, federal guidance requires plan administrators to suspend the running of various deadlines affecting plan participants and beneficiaries for the period from March 1, 2020, to the date that is 60 days after the president rescinds the national emergency declaration related to the coronavirus pandemic. That rescission has not yet occurred, so this "outbreak period" is still a moving target. Affected deadlines include those for initial COBRA elections, COBRA premium payments, HIPAA special enrollment applications, and deadlines related to claim and appeal submissions. See our alert for more information.

*Ethan McWilliams, Senior Compliance Analyst
Compliance Services*

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Lockton Benefits | 444 West 47th Street | Suite 900 | Kansas City | MO | 64112
