

June 24, 2024

Intersure Member Monthly Compliance Update

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Agenda

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- Big News! Compliance Solutions
- PCORI Fee Refresher
- HIPAA Privacy for Reproductive Healthcare
- Employer Mandate & Reporting

Compliance Solutions



Benefit Comply
Employee Benefit Compliance Support





Benefit Comply

Employee Benefit Compliance Support



Compliance Helpline



Weekly Broker Webinars



**Compliance Alerts,
Guides & Content**



**Monthly Employer Client
Webinars**



Resource Library



Compliance Training



Benefit Comply

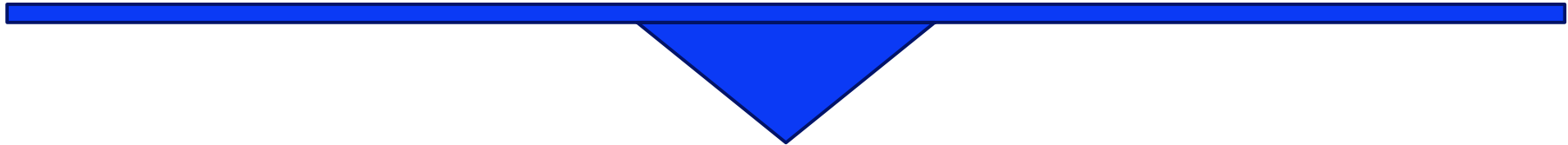
Employee Benefit Compliance Support

- Comprehensive Compliance Assessments
- HIPAA Compliance Services
- Online Self-Paced Compliance Training
- HR Support Subscriptions
- Employer Reporting Reviews
- Employer Mandate IRS Penalty Response Assistance

Compliance Solutions



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ACA Employer Reporting

Nondiscrimination Testing

Form 5500

Plan Docs/SPD Service

RxDC Reporting

Mental Health Parity



Compliance Solutions



Benefit Comply
Employee Benefit Compliance Support

MZQ CONSULTING LLC
benefits compliance

CXC Solutions

hdr HealthCare
REPORTING



PCORI Fee Refresher

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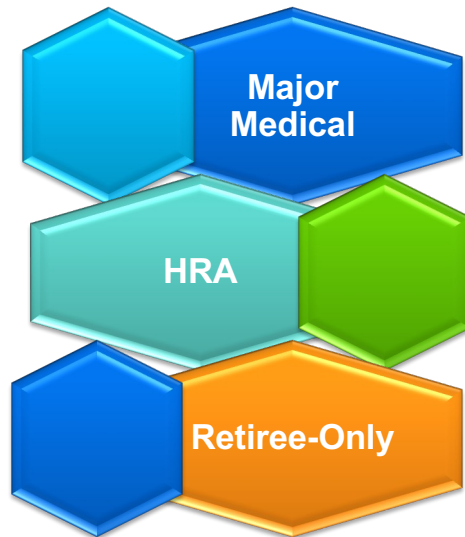
Inter sure

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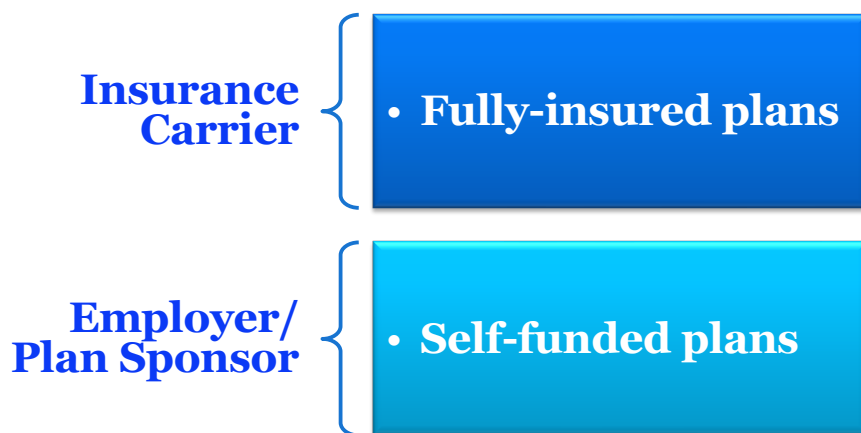
- PCORI Fee
 - Requires group health plans to pay \$1-3 per covered life
 - Effective for group health plan years ending in 2012 – 2029
 - Helps fund the institute <https://www.pcori.org/>

- Plans Subject to Fee
 - Group health plans, but not excepted benefits

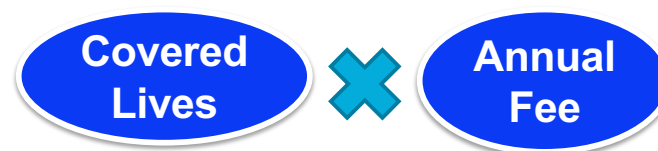


- IRS Chart
 - <https://www.irs.gov/newsroom/application-of-the-patient-centered-outcomes-research-trust-fund-fee-to-common-types-of-health-coverage-or-arrangements>

- Reporting & Fee Responsibility



- Fee Calculation



- Covered Lives
 - Primary subscribers, spouses and dependents
 - Counting methods: actual count method, snapshot method, Form 5500 method
- 2023 Fee – Adjusted Annually
 - \$3.00 for plan years ending Jan – Sept
 - \$3.22 for plan years ending Oct – Dec
- Fee Due Jul 31, 2024

- Special Counting Rules
 - Multiple Self-Funded Plans
 - Same plan sponsor and same plan year = a single plan
 - HRAs and FSAs (only if not excepted benefits)
 - Count only participants/employees (not required to count dependents or beneficiaries)

HRA integrated with Self-Funded Medical

- No fee for the HRA if HRA and medical have the same plan sponsor and plan year

Stand-Alone HRA

- Employer must pay the PCORI fee for the HRA
- Count only primary subscribers, not dependents

HRA integrated with Fully-Insured Medical

- Employer must pay the PCORI fee for the HRA
- Count only primary subscribers, not dependents

- Due Date
 - July 31 in the year after the end of the plan year
 - Fees must be reported and paid by July 31, 2024 for plan years ending during 2023
 - **Remember to report and pay for short plan years**

- Reporting Method
 - Form 720 - <https://www.irs.gov/pub/irs-pdf/f720.pdf>
 - Must file for 2nd quarter ending June 30th
 - Use Lines 133(c) and (d) to report for self-funded group health plans

- Form 720 - <https://www.irs.gov/pub/irs-pdf/f720.pdf>

Form 720
(Rev. June 2024)
Department of the Treasury
Internal Revenue Service

Quarterly Federal Excise Tax Return

See the Instructions for Form 720.
Go to www.irs.gov/Form720 for instructions and the latest information.

OMB No. 1545-0023

Check here if:

Final return

Address change

Name: _____ Quarter ending: **June 30, 2024**

Number, street, and room or suite no. (If you have a P.O. box, see the instructions.) _____
Employer identification number _____

City or town, state or province, country, and ZIP or foreign postal code _____

FOR IRS USE ONLY

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Part II						
IRS No.	Patient-Centered Outcomes Research Fee (see instructions)	(a) Avg. number of lives covered (see inst.)	(b) Rate for avg. covered life	(c) Fee (see instructions)	Tax	IRS No.
	Specified health insurance policies				}	133
	(a) With a policy year ending before October 1, 2023		\$3.00			
	(b) With a policy year ending on or after October 1, 2023, and before October 1, 2024		\$3.22			
133	Applicable self-insured health plans					
	(c) With a plan year ending before October 1, 2023		\$3.00			
	(d) With a plan year ending on or after October 1, 2023, and before October 1, 2024		\$3.22			



PCORI

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- Penalty for Failure to Report & Pay
 - No Specific Penalty for PCORI Fee Non-Compliance
 - For Excise Taxes for late reporting or failing to report, see Code §6651
 - % of PCORI fee due, so minimal exposure

HIPAA Privacy for Reproductive Healthcare

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HIPAA 101

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- HIPAA applies to Protected Health Information (PHI):
 - Individually identifiable health information that has “touched” the health plan
- Permissible Uses and Disclosures of PHI by a health plan:
 - Treatment, Payment, and Health Care Operations
 - Written Authorization from Subject Individual
 - “Public Policy” Disclosures:
 - Judicial and administrative proceedings
 - Law enforcement purposes
 - Coroners or medical examiners
 - Health care oversight
 - And more...

2024 Privacy Rule

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- New Category of Prohibited Disclosure/Use of PHI
 - Applies to PHI potentially related to reproductive health care
 - Compliance date: December 22, 2024
 - Principally will impact medical providers
- Updates to Notice of Privacy Practices (NPP)
 - Changes related to both PHI related to reproductive health care and confidentiality of substance use disorder patient records
 - Compliance date: February 16, 2026
 - New Model NPP will likely be released

Attestation Requirement

Receive a request for PHI potentially related to reproductive health care

The request is for one of the following purposes:

- Judicial or administrative proceedings
- Law enforcement purposes
- Disclosures to coroners or medical examiners
- Healthcare oversight

Valid attestation is required for this use/disclosure to be permitted

- Clear statement that:
 - Use/disclosure is not for a prohibited purpose
 - Person may be subject to criminal penalties for violation of HIPAA
- Model Attestation form is coming!

What do employers need to do?

- Set calendar reminder for updated NPP in February 2026
- Update written HIPAA policies and procedures and training for compliance by December 22, 2024

HIPAA SHIELD | *Compliance Software*

The employer drives their own process with the help of our proprietary HIPAA compliance software, which provides all the resources necessary to achieve full compliance with the HIPAA Privacy and Security Rules.

HIPAA SHIELD PLUS | *Compliance Software Plus Unlimited Consultant Access*

The employer uses our proprietary HIPAA Compliance software to fulfill their HIPAA compliance requirements on a self-service basis, but also has unlimited phone and email access to our HIPAA consultants, who will answer questions and assist in completing the process.

Employer Mandate & Reporting

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§4980H (Employer Mandate) Requirements

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§4980H(a) - ALEs must offer minimum essential coverage to 95% (or all but 5, if greater) of full-time employees and dependent children

- Penalty if any full-time employee enrolls in subsidized Marketplace coverage
- \$\$ X all full-time employees minus 30

§4980H(b) - ALEs must offer coverage that provides minimum value AND is affordable to all full-time employees

- Penalty for any full-time employee enrolled in subsidized Marketplace coverage
- \$\$ for each full-time employee who enrolls in subsidized Marketplace coverage

Applicable Large Employers (ALEs)

- 50 or more full-time equivalents (FTEs) **in previous calendar year**

ALE Status			
Step 1 <ul style="list-style-type: none">Calculate the number of employees with 120 or more hours of service for each calendar month	Step 2 <ul style="list-style-type: none">For each calendar month, aggregate hours of service for all other employees (those with <120 hours) and divide the total by 120	Step 3 <ul style="list-style-type: none">Add the numbers from Steps 1 and 2 for each calendar month and round to the nearest hundredth	Step 4 <ul style="list-style-type: none">Add up the totals for each calendar month from Step 3 and divide the number by 12

- Tips for Determining ALE Status
 - ✓ Count all employees (including seasonal and union employees)
 - ✓ For each month, count all hours of service for any employee employed for at least one day during the month (hours paid or payable with U.S.-source income)
 - ✓ Aggregate FTEs for entities in the same controlled group or affiliated service group

Full-Time Employee Status

- Definition of Full-Time
 - 30 or more hours of service per week (130 or more per month)
 - “Hours of service” generally include all hours paid or payable with U.S.-source income
 - Break in service rules treat those returning within <13 weeks as continuing employees (26 weeks for educational organizations)

- Choosing a Measurement Method
 - Employers have the option to determine full-time status 2 ways:
 - Monthly Measurement Method – employees with 130 or more hours of service for the month are full-time
 - Look-Back Measurement Method – employees who average full-time over a 3–12 month measurement period are full-time for a stability period of equal length

§4980H (Employer Mandate) Requirements

- **Minimum Essential Coverage (MEC)**
 - Most employer-sponsored group health plans considered MEC
- **Minimum Value**
 - Minimum value = actuarial value of 60% or better (higher standard than MEC)
 - SBC must specify whether plan provides minimum value
- **Affordability**
 - Coverage is “affordable” if employee contribution for single minimum value coverage doesn’t exceed ____% of employee’s household income (or an affordability safe harbor)

2022	2023	2024
9.61%	9.12%	8.39%

Affordability Safe Harbors

FPL

Monthly cost cannot exceed % of FPL

- 2024 Calendar year plan = \$101.93 or less per month ($8.39\% \times \$14,580 / 12$)
- 2024 Non-calendar year plan = \$105.29 ($8.39\% \times \$15,060 / 12$)

Rate of Pay

Monthly cost cannot exceed % of hourly rate x 130 or monthly salary

- Hourly Employees – Must use hourly rate as of the beginning of the coverage period, unless it is reduced
- Salaried Employees – If the monthly salary is reduced, this safe harbor is not available

Form W-2

Annual cost does not exceed % of Box 1 wages

- Employee's contribution must remain a consistent amount or percentage of Form W-2 wages during the year or this safe harbor is not available

§4980H (Employer Mandate) Penalties

	2023	2024	2025
§4980H(a)	\$2,880 (\$240/mo.)	\$2,970 (\$247.50/mo.)	\$2,900 (\$241.66/mo.)
§4980H(b)	\$4,320 (\$360/mo.)	\$4,460 (\$371.67/mo.)	\$4,350 (\$362.50/mo.)

- Penalties apply monthly (1/12 of the annual penalty for each month the employer fails to satisfy §4980H requirements)
- Employer will never be subject to both (a) and (b) penalties
 - If the (a) penalty applies, that is the maximum penalty
- Penalties based on self-reporting via Forms 1094-C and 1095-C

1094/1095 ACA Reporting - IRS Enforcement

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Letter 5699 – Failure to File – Currently Sending Letters for 2022

- IRS is reaching out to employers who appear to be ALEs (based on Form W-2s filed) and who did not report
- Employers must respond indicating non-ALE status, that reporting was already submitted, or that it will be submitted by XX date

Letter 226J – §4980H Proposed Penalties

- IRS proposes assessments based on self-reporting of §4980H compliance (1094/1095s) and subsidized Marketplace enrollment
- Opportunity to appeal and reduce penalties if coverage was offered as required

Intersure Employer Compliance Webinars

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Employer Compliance Webinar Series

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- Monthly webinars cover important compliance issues for employers
- Webinars scheduled 3 months at a time – Dates and descriptions provided in advance
- You can invite an unlimited number of clients and prospects

HSAs

June 25 | 3:00pm EST

As more and more employers offer at least one HDHP option, employers play a role in educating their employees about HSAs. The goal of the webinar will be to provide employers with some tricks and tips to help employees navigate HSA-eligibility, HSA contribution limits, and HSA reimbursements.

Common Employee Benefit Compliance Questions

July 30 | 3:00pm EST

This webinar will address some of the most common benefit compliance questions that employers of all sizes struggle with. In addition, we will ask the audience to participate during the webinar, providing an opportunity to test your compliance knowledge and have a little fun with some everyday compliance topics that tend to trip up the best of us.

Questions?

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