San Francisco HCSO

SUMMARY

STEP 1

Determine if you are a covered employer.

STEP 2

Determine the number of covered employees.

STEP 3

Calculate the required health care expenditure.

STEP 4

Making expenditures and next steps.

What is the San Francisco Health Care Security Ordinance (HCSO)?

The HCSO requires **Covered Employers** to meet the **Employer Spending Requirement (ESR)** by calculating and making **Required Health Care Expenditures** on a **quarterly basis** on behalf of all **Covered Employees**. Covered employers must also **maintain records** in a manner to establish compliance with the ESR, post an **HCSO notice** in all workplaces where Covered Employees work, and submit an HCSO **annual reporting** form to the OLSE by April 30th of each year.

Step
1

Determine if you are a covered employer.

An employer is subject to the requirements of the HCSO if the following are true, regardless of the location of the employer:

- Employs one or more workers within the City and County of San Francisco
- Required to obtain San Francisco business registration certificate from Office of the Treasurer and Tax Collector it appears the most employers, even with only one remote employee, should **register with the city or county of San Francisco**
- Classified as large or medium size business

BUSINESS CLASSIFICATIONS

	SIZE OF BUSINESS
Large	Average of 100 or more persons per week perform work for compensation during a quarter
Medium	**For-Profit:** average of 20 to 99 persons per week perform work for compensation during a quarter **Nonprofit:** average of 50 to 99 persons per week perform work for compensation during a quarter
Small (Not Covered)	**For-Profit:** average of 19 or fewer persons per week perform work for compensation during a quarter **Nonprofit:** average of 49 or fewer persons per week perform work for compensation during a quarter

Counting employees

Include all persons performing work for compensation during a quarter:

- Regardless of their status e.g., seasonal, permanent/temporary, full-/part-time, contracted/commissioned, documented/undocumented;
- Even if they work outside of San Francisco;
- Even if they are not considered a Covered Employee;
- Include Owners performing work for compensation.

Fluctuating number of employees during a quarter

If a business's number of employees fluctuates during a quarter, employer size is determined according to the average number of persons per week performing work for compensation during the applicable quarter.

Average # of persons: add number of employees for each of 13 weeks in the quarter. Then, divide by 13.

Step
2

Determine the number of covered employees.

A covered employee is one who:

- Is entitled to payment of minimum wage under the **Minimum Wage Ordinance**;
- Has been employed > 90 calendar days (regardless of immigration/documentation status);
- Regularly works at least 8 hours per week within the geographic boundaries of San Francisco;

And one who is not:

- Eligible to receive benefits under Medicare of TRICARE/ CHAMPUS;
- Receiving health care benefits pursuant to the **Health Care Accountability Ordinance (HCAO);**
- Employed by a nonprofit as a trainee for up to one year in a bona fide training program;
- A managerial, supervisorial, or confidential employee earning more than the annual maximum;
- Receiving Health Care Services through another Employer (as an employee, or a dependent, child, spouse or domestic partner of someone else) for which they have completed a revocable waiver of the HCSO verifying as much.

Step
3

Calculate the required health care expenditure.

Variable Hours: Calculating Hours Worked in San Francisco

Add the number of hours the employee worked (not payable hours) over the entire quarter or whatever portion of the quarter the employee works for the Covered Employer, then divide by the number of weeks worked.

Example: Employee works for one month in the quarter and is then terminated.

- Week 1: 9 hours
- Week 2: 7 hours
- Week 3: 13 hours
- Week 4: 6 hours

Total: 35 hours

Average = 35/4 = 8.75 hours

The employer must make the required expenditures for the Covered Employee for the calendar month that they worked because they worked more than eight hours a week on average.

Minimum Health Care Expenditure

The minimum expenditures must be calculated separately for each employee unless the employer **provides uniform coverage** or has a **self-funded plan** that provides uniform coverage **to some or all its employees**. If so, the employer can calculate an **average hourly expenditure rate** per employee for all full-time employees covered under that plan (and others, but an employer may wish to calculate per part-time employee as the average calculation may be too high).

Minimum Health Care Expenditure per Covered Employee = total number of hours payable to that employee times the applicable health care expenditure rate.

HOURS PAYABLE

Work Hours for which a person is paid wages or entitled to be paid wages for work within the city of San Francisco (including paid vacation, paid sick leave, paid time off, and overtime) up to 172 hours a month and without regard to the date on which wages are actually paid.

<table>
<tr><th></th><th colspan="3">CALCULATION INSTRUCTIONS</th></tr>
<tr><td>Salaried Employees</td><td colspan="3">Calculate hours payable according to a 40-hour workweek for a full-time worker.</td></tr>
<tr><td>New Hires</td><td colspan="3">Begin counting hours payable on the first day of the month in the first full month following 90 days of employment. In other words, the employer will begin counting hours payable on the 91st calendar day that the EE has been employed if that day is also the first day of the calendar month; if not, begin counting hours payable on the first day of the month following the 91st day of employment.
• Date of hire: 1/01/2021
• 90 days after: 4/01/2021 begin counting on 4/1.
• Date of hire: 1/02/2021
• 90 days after: 4/02/2021 begin counting on 5/1.</td></tr>
<tr><td>Employees performing some work outside San Francisco</td><td colspan="3">Calculate hours payable that were not actually worked on a pro rata basis, i.e., add the following amount to the number of payable hours worked in San Francisco: payable hours not worked* x (hours in SF/total hours) *e.g., paid vacation, paid sick leave, paid time off, overtime

Example: In a quarter, Covered Employee works 20 hours per week in San Francisco and 20 hours per week in New York for the Covered Employer and has accrued 40 hours of PTO. When Covered Employee uses any paid time off, one-half (20/40) of them count as payable hours.</td></tr>
<tr><td rowspan="5">Applicable Expenditure Rate per hour payable</td><td>YEAR</td><td>MEDIUM</td><td>LARGE</td></tr>
<tr><td>2025</td><td>$2.56</td><td>$3.85</td></tr>
<tr><td>2024</td><td>$2.34</td><td>$3.51</td></tr>
<tr><td>2023</td><td>$2.27</td><td>$3.40</td></tr>
<tr><td>2022</td><td>$2.20</td><td>$3.30</td></tr>
</table>

UNIFORM COVERAGE OPTION

If the Covered Employer provides uniform health care coverage (coverage in the same plan such as an HMO or PPO) to some or all covered employees, the following formula can be used determine compliance with the spending requirement (with respect to employees receive the coverage). Instead of a per-Covered Employee calculation, the employer can use an average and has the option to include employees even if they are not Covered Employees.

[Total Monthly Employer Premium Contribution Paid for All Employees on the Uniform Plan x Total # of Employees Participating in the Uniform Plan] ÷ 172 hours > Applicable Expenditure Rate

	CALCULATION INSTRUCTIONS	
Determining Total Monthly Premiums	Monthly premium amounts contributed by the employer for dependent coverage may be counted toward the minimum health care expenditure and can be considered when determining the total monthly premium paid. This amount can be easily calculated according to premium price tiers.	
	PREMIUM PRICE TIERS	**TOTAL PREMIUM PAID =**
	1. EE only premium: $350/month	$ 350 x (# of Tier 1 EEs) +
	2. EE & Child: $650/month	$ 650 x (# of Tier 2 EEs) +
	3. EE & Spouse: $800/month	$ 800 x (# of tier 3 EEs) +
	4. EE & Family: $1,000/month	$1,000 x (# of Tier 4 EEs
Multiple Uniform Plans	If the employer offers multiple uniform plan designs, the above expenditure must be calculated for each one. For example, ER offering PPO, HMO 1, and HMO 2, cannot perform a single calculation for the HMO plans, rather: (Monthly Premiums PPO x Total # EEs PPO) ÷ 172 > Applicable Expenditure Rate (Monthly Premium HMO 1 x Total # EEs HMO 1) ÷ 172 > Applicable Expenditure Rate (Monthly Premium HMO 2 x Total # EEs HMO 2) ÷ 172 > Applicable Expenditure Rate	

A Covered Employer may comply with the HCSO by providing a self-funded or self-insured uniform health plan to some or all Covered Employees if satisfies one of the following:

	1. THIRD PARTY ADMINISTRATOR	2. PAYS CLAIMS AS INCURRED
Self-Funded Uniform Plans	• Employer pays premiums and/or fees to a third party to administer the plan; • No portion of those premiums or fees are returned to the employer; and • Premiums and fees paid for a calendar quarter meet or exceed the Required Health Care Expenditure for each Covered Employee for that quarter.	• Employer pays claims as incurred, and • Preceding year's average hourly expenditures meet or exceeds that year's expenditure rate. • NB: can be calculated and paid annually. Because the HCSO requires expenditures for a maximum of 172 hours a month, the number to use is 2,064 hours payable for a year for full-time employees. **Expenditure Calculation:** (Total Spend on Self-Funded Plan A x Total # EEs in Plan A) ÷ 2046 > Applicable Expenditure Rate

Step

4

Making expenditures and next steps.

Expenditures must be made each quarter within 30 days of the end of the preceding quarter, except in the case of a self-funded plan with uniform coverage that pays claims as they are incurred. Employers may also make expenditures prospectively (before the end of a quarter) in order to obtain health care or coverage for Covered Employees during that quarter.

- 1st Quarter: January 1 – March 31
- 2nd Quarter: April 1 – June 30
- 3rd Quarter: July 1 – September 30
- 4th Quarter: October 1 – December 31

For full-time, benefit eligible employees, most employers can easily reach the minimum on a monthly basis because most medical, dental, and vision premiums (when combined) would exceed the required amount (employer must factor out employee contribution amounts). For non-benefit eligible employees, the expenditure is made quarterly. Only Irrevocable Expenditures count.

QUALIFYING HEALTH CARE EXPENDITURES

- Expenditures made by self-insured and/or self-funded insurance programs
- Payments on behalf of a Covered Employee to the City Option (simplest method)
- Irrevocable contributions to medical reimbursement accounts (such as an HSA)
- Expenditures made to a union trust fund (only the part contributed for health care)
- Payments to a third party to provide **health care services** for the Covered Employee (such as payments for health/dental/vision insurance or to a health care provider)
- Costs incurred by the employer in direct delivery of **health care services** for the employee
- Payments to reimburse employees' costs incurred in purchasing **health care services**
- Any of the above made on behalf of a Covered Employee's spouse domestic partners, children, or other dependents

"Health Care Services": medical care, goods, or services that may qualify as tax deductible medical care expenses under Internal Revenue Code § 213 (or that have substantially the same purpose or effect as deductible expenses under that section).

- medical, vision and dental coverage
- nonprescription drugs, e.g. antacids, pain relievers, allergy and cold medicines
- doctor's fees
- necessary hospital services not paid for by insurance
- dental treatments
- fees paid to dentists for x-rays, fillings, braces, extractions, dentures, etc.
- eyeglasses and contact lenses needed for medical reasons
- fees for eye examinations and eye surgery to treat defective vision

Expenditures that **do not qualify:**

- Contributions to an FSA
- Deductions from EEs earned wages for deposit in an HSA or FSA
- Any portion of the health and welfare benefit payment for life insurance, death benefits, or disability payments
- Payments made directly or indirectly for workers' compensation or Medicare benefits
- Increasing hourly wages, or otherwise giving employees extra money in their paychecks

Correcting Shortfalls: Generally, an employer must find another way to spend the difference on behalf of the Covered Employees within 30 days of the end of the quarter. For self-funded/insured plans, the employer has until the last day of February of the following calendar year for corrections. Some examples of how employers can correct shortfalls include:

- Reducing employees' share of premiums for the existing plan;
- Choosing a more generous plan with higher premiums;
- Complementing the existing plan with a health spending or medical reimbursement account;
- Making payments to SF City Option;
- Making other expenditures that qualifying Health Care Expenditures.

ADDITIONAL REQUIREMENTS

<table>
<tr><td rowspan="4">Record Keeping</td><td>Itemized pay statements (see Cal. Labor Code § 226) which require the following:
• gross wages earned
• total hours worked by the employee (unless salaried)
• number of piece-rate units earned and any applicable rate if employee paid on piece-rate basis
• all deductions, aggregated
• net wages earned
• inclusive dates of the period for which the employee is paid
• name of the employee and his or her SSN (or last four digits) or an employee identification number other than an SSN may be shown on the itemized statement
• name and address of the legal entity that is the employer, and
• all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee</td></tr>
<tr><td>Employee’s address, telephone number, date of first day of work.</td></tr>
<tr><td>Records of Health Care Expenditures: calculations of expenditures required by law for each Covered Employee & proof documenting that required expenditures were made each quarter of each year (unless the employer meets the self-funded plan exception)
• NB: Covered Employers are required to keep records to determine whether work performed by their employees was performed within or outside San Francisco; when an employer fails to do so, it will be presumed that all work was performed within San Francisco, absent clear and convincing evidence otherwise.</td></tr>
<tr><td>Documentation supporting the exemption of an employee from coverage, such as a signed Employee Voluntary Waiver Form for those whom the employers is claiming an exemption from the Employer Spending Requirement.</td></tr>
<tr><td>Notice</td><td>Every Covered Employer must post the Official OLSE HCSO Notice in a conspicuous place at any workplace or job site where any Covered Employee works. Employers can also call or email the OLSE to request a hard copies sent by U.S. mail.</td></tr>
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About Alera Group

Alera Group is an independent financial services firm with $1.4 billion in gross revenue, offering comprehensive property and casualty insurance, employee benefits, wealth services and retirement plan solutions to clients nationwide. Working collaboratively across specialties and across the country, Alera Group's team of more than 4,400 colleagues offer unique solutions, personalized services and proactive insights to help ensure each client's business and personal success. For more information, visit **aleragroup.com** and follow us on **LinkedIn**.

*STATISTICS ACCURATE AS OF SEPTEMBER 30, 2024.

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