



# San Francisco Health Care Security Ordinance

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Office of Labor Standards Enforcement  
City & County of San Francisco

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# **Statutory Authority**

## **Health Care Security Ordinance (HCSO)**

- Passed by the Board of Supervisors on July 18, 2006
- Amended on April 2, 2007
- Codified at Chapter 14 of the San Francisco Administrative Code



# Legislative Findings

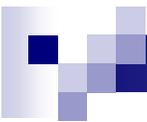
- Approximately 82,000 adult SF residents are uninsured
- More than half of this population is employed
- Uninsured non-residents who work in SF utilize emergency health care services in SF



# Legislative Intent

To ensure that all individuals who live or work in San Francisco have access to affordable health care by:

- Mandating the DPH to create a comprehensive health care reform program that is affordable for uninsured individuals living or working in San Francisco
- Requiring businesses to make reasonable health care expenditures on behalf of their covered employees



# What are the responsibilities of each city agency?

- The DPH is responsible for creating the Health Access Program (HAP)/*Healthy San Francisco* and setting up Medical Reimbursement Accounts (MRAs) for those who do not qualify for HSF.
- The OLSE is responsible for ensuring that employers understand and fulfill the “Employer Spending Requirement” under the HCSO.



# When does the Employer Spending Requirement of the HCSO take effect?

- The “Employer Spending Requirement” of the HCSO takes effect for all employers with 50 or more employees on January 1, 2008.
- The effective date for for-profit employers with 20 or more employees is April 1, 2008.
- NOTE: Nonprofit employers with fewer than 50 employees and Small employers with fewer than 20 employees are exempt from this law.



# What is the Employer Spending Requirement?

- quarterly “health care expenditures”
- meeting a minimum “expenditure rate”
- made by “covered employers”
- to their “covered employees” or for the benefit of their “covered employees”
- for “health care services”



# Who is a covered employer?

A business is covered by the HCSO if it

- engages in business within the City and is required to obtain a valid San Francisco business registration certificate, and
- employs 20 or more employees per week.

Exempt Employers:

- Nonprofits with fewer than 50 employees, and
- Small Businesses (with fewer than 20 employees)



## **What if the employer is not located, or the worker does not live, in San Francisco?**

Regardless of where the employer is located, *all* persons performing work for the employer are counted (to determine whether the employer is covered), whether or not the persons live or work in San Francisco.

However, only employees who work within the geographic boundaries of SF may be covered employees.

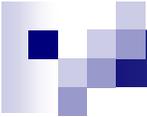


# Who is a covered employee?

Any person who

- has been employed for at least 90 calendar days, and
- performs at least 10 hours of work per week within San Francisco,
- including those who work on a part-time or temporary basis

NOTE: The hours requirement will drop to 8 hours/week in 2009.



# Which employees are exempt from coverage?

- Employees who sign a Voluntary Waiver Form verifying that they are receiving health care from another employer, either as an employee or through their spouse or domestic partner's policy, and that s/he *voluntarily* waives the right to have her current employer make a HCE for her benefit.
- Managers, supervisors, or confidential employees earning more than \$76,851 annually in 2008;
- Employees who are covered by Medicare or TRICARE/CHAMPUS;
- Employees who are employed by a non-profit corporation for up to one year as trainees in a bona fide training program consistent with Federal law;
- Employees who receive health care benefits pursuant to Section 12Q.2.9 of the San Francisco Administrative Code (Health Care Accountability Ordinance)



# What qualifies as a “Health Care Expenditure” (HCE)?

An amount

- paid by a covered employer
- to its covered employees, or to a third party on behalf of its covered employees
- for the purpose of providing health care services for covered employees, or reimbursing the cost of such services for its covered employees.

Health care services means medical, dental, or vision care, services, or goods that may qualify as tax deductible medical care expenses under Section 213 of the Internal Revenue Code, or medical care, services, or goods *having substantially the same purpose or effect* as such deductible expenses.



## How is the HCE calculated?

The HCE for each covered employee is calculated by multiplying the total number of “hours paid” to that employee by the applicable HCE rate.

- “Hours paid” means both the hours for which a person is paid wages for work performed within San Francisco and the hours for which a person is entitled to be paid wages, including but not limited to paid vacation hours, paid time off, and paid sick leave hours, but not exceeding 172 hours in a single month.
- Calculations must be made and expended at least quarterly.

# Applicable Expenditure Rates

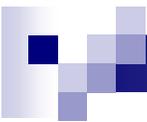
Employer Health Care Expenditure Rate Schedule				
Business Size		January 1 2008	April 1 2008	January 1 2009
Large {	100+ Employees	\$1.76/hour		\$1.85/hour
Medium {	50-99 Employees	\$1.17/hour		\$1.23/hour
	20-49 Employees *	Not Applicable	\$1.17/hour	
Small {	1-19 Employees	Not Applicable		

\* Non-profits with less than 50 employees are exempt from the spending requirement.



# Why does the calculation have to be made for *each* employee?

- Payments to or on behalf of one covered employee that exceed the required health expenditure for that employee will not be considered in determining whether an employer has met its total required health care expenditures for *all* employees.
- Subject to certain exceptions:
  - Uniform health coverage plans
  - Self-insured/Self-funded plans



## Examples of HCEs that meet the requirements of the HCSO

- Payments of premiums for health insurance coverage for the covered employee;
- Payments to the City for enrollment of the covered employee in the HAP/*Healthy San Francisco*;
- Contributions on behalf of the covered employee to a health spending account, such as a health reimbursement arrangement, a flexible spending account, or a health savings account; and
- Cash reimbursements to the covered employee for expenses incurred in the purchase of health care services, such as doctor's and pharmacy bills.

NOTE: Payments made directly or indirectly for workers' compensation or Medicare benefits do not qualify as health care expenditures.



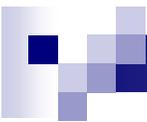
# Frequently Asked Questions

- **What if the health insurance premiums that I currently pay for my employees does not reach the amount required by this Ordinance?**
- Employers must make the FULL expenditure required by law.
- If the monthly premium paid by the employer does not meet the required expenditure amount, it must choose how it will expend the remaining amount, for example, by complementing the plan with a reimbursement account funded by the remainder.



## **More FAQs**

- **What if the premiums I pay are greater than the amount required by law?**
- If you are spending at or above the amount of the HCE, you have no further expenditure obligations under the HCSO.



# Additional Employer Responsibilities

- **Notice to Employee of Payment to the City**
- **Recordkeeping:** Employers must retain records for a period of four years, and shall allow OLSE access to such records, which must include:
  - Covered employees' address, telephone number, and date of first day of work;
  - Itemized pay statements consistent with the requirements of Labor Code Sec. 226;
  - Records of health care expenditures made, including calculations of health care expenditures required under the law for each covered employee and proof documenting that such expenditures were made each quarter of each year; and, if applicable;
  - Signed Voluntary Waiver Forms for every employee for whom a covered employer is claiming an exemption from the HCE requirement
- **Annual Reporting Requirement**
- **Cooperation with OLSE Investigations & Audits,** including providing access to workers and other witnesses, as well as employer records including, but not limited to, employee time sheets, payroll records, employee paychecks, and other documents described in Regulation 7.1



# Anti-retaliation Provision

- It is unlawful for an employer to discipline, discharge, demote, suspend, or take any other adverse action against an employee for exercising his/her rights under this law.



# Administrative Enforcement

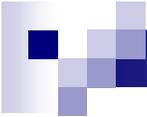
The OLSE has the authority to conduct investigations, monitoring and audits; to order corrective action for violations of the HCISO; and to seek penalties if those violations are not corrected.

Any person may file a complaint, and the OLSE may initiate an investigation on its own authority.



# Resources

- ❑ Office of Labor Standards Enforcement
  - [www.sfgov.org/olse/hcso](http://www.sfgov.org/olse/hcso)
  - (415) 554-7892
  - [HCSO@sfgov.org](mailto:HCSO@sfgov.org)
  
- ❑ Department of Public Health/San Francisco Health Plan
  - [www.HealthySanFrancisco.org](http://www.HealthySanFrancisco.org)
  - (415) 615-4500
  - [info@sfhp.org](mailto:info@sfhp.org)
  
- ❑ Mayor's Office of Economic & Workforce Development
  - [www.sfgov.org/moed](http://www.sfgov.org/moed)
  - (415) 554-6969
  
- ❑ Small Business Commission
  - [www.sfgov.org/sbc](http://www.sfgov.org/sbc)
  - (415) 554-6134
  
- ❑ Treasurer/Tax Collector
  - [www.sfgov.org/treasurer](http://www.sfgov.org/treasurer)
  - Taxpayer Assistance (415) 554-4400



# SF Office of Labor Standards Enforcement

City Hall, Room 430  
1 Dr Carlton B Goodlett Place  
San Francisco, CA 94102

## **Health Care Accountability Ordinance**

[HCAO@sfgov.org](mailto:HCAO@sfgov.org)

**(415) 554-6292**

## **Health Care Security Ordinance**

[HCSO@sfgov.org](mailto:HCSO@sfgov.org)

**(415) 554-7892**

## **Minimum Compensation Ordinance**

[MCO@sfgov.org](mailto:MCO@sfgov.org)

**(415) 554-6292**

## **Minimum Wage Ordinance**

[MWO@sfgov.org](mailto:MWO@sfgov.org)

**(415) 554-6292**

## **Paid Sick Leave Ordinance**

[PSL@sfgov.org](mailto:PSL@sfgov.org)

**(415) 554-6271**

## **Prevailing Wage Unit**

**(415) 554-6235**

## **Sweatfree Ordinance**

**(415) 554-6235**