



ACA: Employer Compliance Checklist

Use this checklist to determine what actions are required under the Affordable Care Act (ACA).

The Affordable Care Act (ACA) imposes many requirements on employers. Whether a large or small employer, and whether or not health coverage is offered to benefit eligible employees, some ACA requirements apply. This checklist highlights ACA provisions that require employer action in 2023 and 2024. For more information, see the List of Acronyms and Definitions on page 4.

Actions Required

Notices

- [Employer notice about health insurance Exchanges \(Marketplaces\)](#)**: Provide to all employees within 14 days of hire.
- [Grandfathered plan notice \(grandfathered plans only\)](#)**: Include with materials describing the plan's benefits, e.g., enrollment materials, Summary Plan Description (SPD).
- [Patient protection notice \(non-grandfathered plans only\)](#)**: Provide at enrollment and include in SPD.
- [Summary of Benefits and Coverage \(SBC\)](#)**: Provide at enrollment and upon request.
- [Summary Plan Description \(SPD\)](#)**: Provide to plan participants within 90 days after they become covered by the plan.

Group Health Plan Design

- [Cost-sharing limits \(non-grandfathered plans only\)](#)**: Limit the plan's annual out-of-pocket maximum for essential health benefits to no more than \$9,100 per person and \$18,200 per family (2023 plan year) or \$9,450 per person and \$18,900 per family (2024 plan year).
- [Health flexible spending account limit](#)**: Limit the amount of annual elective contributions to no more than \$3,050 (2023 plan year) or \$3,200 (2024 plan year).
- [Health savings account limit](#)**: Limit the amount of annual elective contributions to no more than \$3,850 for self-only HDHP coverage, \$7,750 for family HDHP coverage, and catch-up of \$1,000 if 55 or older (2023 plan year) or \$4,150 for self-only HDHP coverage, \$8,300 for family HDHP coverage, and catch-up of \$1,000 if 55 or older (2024 plan year).

Reporting

- [Patient-Centered Outcomes Research Institute \(PCORI\)](#)**: For self-funded group health plans, count the average number of participants for the plan year and pay the corresponding annual fee. For plan years ending in 2023, the fee will be due July 31, 2024.
- [W-2 reporting of employee health coverage cost](#)**: Report the total cost of each employee's health coverage on Form W-2 (box 12). Employers that filed fewer than 250 Forms W-2 for the prior calendar year are exempt for the current year. (Reporting is also required for a qualified small employer health reimbursement arrangement (QSEHRA) and, in that case, there is no fewer-than-250 exemption.)
- [Employer reporting \(IRC § 6056\) \(ALEs only\)](#)**: Prepare and distribute Form 1095-C to each person who was a full-time employee for any month in the calendar year (by March 1 for distribution to employees) to report whether health coverage was offered. File copies of Form 1095-C and transmittal Form 1094-C with the IRS. Forms for each calendar year are due early in the following year. Filing with the IRS is due on February 28 for paper filers and April 1 for electronic filing (or the following business day if it falls on a weekend). New rules require most employers to file electronically beginning with tax year 2023.
- [Health coverage reporting \(IRC § 6055\) \(self-funded plan sponsors\)](#)**: Prepare and distribute Form 1095-B to persons covered by the plan for any month in the calendar year, and file copies along with Form 1094-B with the IRS. If the plan sponsor is also an ALE, use [Forms 1095-C and 1094-C](#) instead of [Forms 1095-B and 1094-B](#) (Form 1095-B may be used for non-active employees, e.g., COBRA participants).





Employer Shared Responsibility

The employer shared responsibility (ESR) provision—often called the “employer mandate” or “[play or pay](#)”—requires ALEs to offer affordable MEC at minimum value to full-time employees or risk a penalty. The IRS may assess an ESR penalty if at least one full-time employee receives a government subsidy to buy an individual policy through an Exchange due to the ALE’s failure to offer coverage.

To avoid the risk of penalties, determine whether each employee meets the ESR definition of a full-time employee and, if so, offer coverage on a timely basis. IRS regulations provide guidance for determining full-time status by tracking each employee’s [hours of service](#) based on specific measurement methods. Examples for reducing ESR provision penalties include:

- Benefits are offered to at least 95% of eligible employees and dependents.
- The lowest cost benefit plan offered includes MEC.
- The lowest cost benefit plan offered includes minimum value.
- The employee-only premium contribution is calculated as affordable.
- The offer of coverage was made within the first 90 days for newly hired, full-time employees.
- Non-full-time employees’ hours of service are monitored using the monthly lookback or measurement period method.

Recordkeeping

Employers should adhere to record retention requirements and maintain detailed documentation of all materials, data, and records used in meeting their requirements under the ACA and as prescribed by the IRS. Examples include:

- Copies of required notices and description of distribution processes.
- Data used in determining enrollment counts for PCORI fees (self-funded plans).
- Data used in preparing statements and IRS forms (1094s, 1095s, W-2s, as applicable) and description of distribution and filing processes. If filing electronically, maintain records of testing protocols.
- If an ALE, keep records of employee hours of service and measurement methods for administration of the ESR. Document, by employee, whether the full-time employee definition was met and, if so, document the employer’s health coverage offer to the employee. Maintain proof of the plan’s status as MEC, minimum value coverage, and affordable coverage, as applicable.
- Copies of Form 5500 filing with accompanying schedules.
- Copies of PCORI Form 720 filing.
- Copies of Forms 1094 and 1095, including proof of filing (e.g., submission and acceptance confirmations).

List of Acronyms

ACA: Affordable Care Act

ALE: applicable large employer

COBRA: Consolidated Omnibus Budget Reconciliation Act

ESR: employer shared responsibility

FTE: full-time equivalent

HDHP: high deductible health plan

IRC: Internal Revenue Code

MEC: minimum essential coverage

PCORI: Patient-Centered Outcomes Research Institute

QSEHRA: qualified small employer health reimbursement arrangement

SBC: Summary of Benefits and Coverage

SPD: Summary Plan Description

Definitions

The following definitions may help as you go through this checklist:

Affordable: Employee's cost to enroll in the minimum value plan for self-only coverage does not exceed 9.12% (2023) or 8.39% (2024) of their income.

Applicable large employer (ALE): Employer, including all related employers in the same controlled group, that employed an average of 50 or more full-time and [full-time equivalent \(FTE\) employees](#) in the prior calendar year.

Full-time employee: Employee that averages at least 30 hours of service per week (or 130 per month) as determined by the monthly lookback or measurement methods allowed under ACA.

Grandfathered plan: Group health plan that was in existence on March 23, 2010, and since then has not eliminated benefits, decreased the employer's share of coverage cost by more than 5%, or increased the employee's deductibles, copays, or coinsurance over certain levels.

Group health plan: Group medical plan (insured or self-funded plan) that provides minimum essential coverage (MEC). Dental- or vision-only plans, most health flexible spending accounts, employee assistance plans, and fixed indemnity plans are not MEC.

Minimum value: Group health plan's share of total allowed costs is at least 60% of such costs and plan includes substantial coverage for physician and inpatient hospital services.