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Employee Benefits Compliance Guide

This guide breaks down employee benefits compliance and how benefit plans are designed, administered, and maintained.



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Understanding and staying on top of employee benefits compliance is important for anyone managing benefit plans.

Whether you're a small business owner, an HR professional, or a new benefits manager, grasping all the different compliance requirements can feel overwhelming. Adhering to compliance requirements protects employees and safeguards the business from potential legal pitfalls and financial penalties.

Overview

Employee benefits compliance involves understanding the federal and state laws that regulate benefit plans, which are designed to ensure benefit plans are managed fairly, transparently, and in the best interest of employees and participants. Compliance affects your health insurance, retirement, and other employee benefit plans.

Benefits compliance is a legal requirement and a foundational element of trust and reliability in the employer-employee relationship. Compliant practices demonstrate commitment to employees' welfare, which contributes to a positive workplace culture and helps attract and retain top talent. Additionally, compliance mitigates the risk of costly penalties and legal challenges that can arise from noncompliance.

Key Federal Laws

Several federal laws affect how benefit plans are designed, administered, and maintained. Understanding these laws is the first step in ensuring compliance:

- **The Employee Retirement Income Security Act (ERISA)** sets minimum standards for most voluntarily established pension and health plans in private industry to protect individuals in these plans. It requires plans to provide participants with plan information, including important details about plan features and funding, and provides fiduciary responsibilities for those who manage and control plan assets.
- **The Consolidated Omnibus Budget Reconciliation Act (COBRA)** allows employees and their families to continue their group health benefits for limited periods under certain circumstances, such as voluntary or involuntary job loss, reduction in hours worked, transition between jobs, death, divorce, and other life events.
- **The Affordable Care Act (ACA)** imposes standards on employer-provided health insurance, including mandates and reporting requirements. It aims to increase the quality and affordability of health insurance, lower the uninsured rate by expanding public and private insurance coverage, and reduce the costs of healthcare for individuals.

- **The Health Insurance Portability and Accountability Act (HIPAA)** protects health insurance coverage for workers (and their dependents) when they change or lose their jobs. It also establishes privacy standards to protect patients' medical records and other health information provided to health plans, doctors, hospitals, and other healthcare providers.
- **Recent Consolidated Appropriations Acts** have introduced significant changes affecting retirement plans and transparency in healthcare pricing. These include provisions to enhance retirement savings, such as allowing part-time workers to participate in 401(k) plans and increasing the age for required minimum distributions. Transparency provisions require health plans to disclose pricing and cost-sharing information, aiming to make healthcare costs more predictable for consumers.

Compliance is an ongoing process that requires continuous attention and adaptation to legislative changes. This guide aims to provide the foundational knowledge needed to navigate the complex landscape of employee benefits compliance confidently.

Federal Oversight

The federal Department of Labor (DOL) and the IRS play pivotal roles in enforcing employee benefits compliance. The DOL oversees ERISA compliance, ensuring that employee benefit plans are administered in accordance with the law. The IRS administers tax laws relating to these plans and enforces compliance with the ACA and other tax-related provisions.





Counting Employees for Compliance Obligations

Benefit plan sponsors must accurately count employees to determine compliance obligations under key healthcare laws, such as the ACA and COBRA.

The ACA has a specific definition for full-time employee, which directly affects compliance obligations. Under the ACA, a full-time employee is defined as an individual who works an average of at least 30 hours per week, or 130 hours per month.

The ACA imposes different obligations on employers based on their size:

- **Full-time equivalent (FTE) employees:** To determine applicable large employer (ALE) status, subject to the ACA employer mandate, an employer must calculate the number of FTE employees. This includes full-time employees (as defined above) plus the combined number of hours worked by part time employees, divided by 120.
- **ALE determination:** An employer is considered an ALE if it employed an average of at least 50 full-time employees, including FTE employees, on business days during the preceding calendar year.

An employer with 50 or more full-time and FTE employees is subject to the ACA.

Federal COBRA applies to group health plans offered by employers with 20 or more W-2 employees on more than 50% of the employer's typical business days, or pay periods, in the previous calendar year. Each part-time employee counts as a fraction of an employee, with the fraction equal to the number of hours that the part-time employee worked divided by the hours an employee must work to be considered full time. For example, if the employer requires a full-time employee to work 40 hours per week, a part time employee working 20 hours per week would be counted as one-half.

Employers that are not subject to federal COBRA may have compliance obligations under state continuation laws (mini-COBRA).

Seasonal workers can complicate the calculation of FTEs for both ACA and COBRA compliance. Here's how they impact the employee count:

- **ACA:** A seasonal worker who works less than 120 days during the year may not be eligible for benefits. However, their hours of service must still be counted towards determining ALE status.
- **COBRA:** Seasonal workers count toward the 20-employee threshold for COBRA eligibility if they provided services during more than 50% of the business days in the previous year.

Understanding how to accurately count employees is a foundational aspect of ensuring compliance with ACA and COBRA requirements.

Plan Documents and Notices

ERISA requires that every employee benefit plan be established and maintained pursuant to a written instrument known as the **plan document**, which is the cornerstone of a compliant benefits program.

The plan document must include the plan's name, funding mechanisms, eligibility requirements, benefits provided, plan management procedures, and procedures for amending the plan and allocating responsibilities under the plan.

Employees and beneficiaries covered under the plan must automatically be provided a simplified version of the plan document called a **Summary Plan Description (SPD)**. This simplified version of the plan document is meant to be written in a manner that is understandable to employees while providing the required plan information. SPDs must clearly outline the plan's benefits, claims and appeals process, eligibility requirements, and circumstances that may result in loss or denial of benefits. ERISA requires SPDs to be distributed to participants within 120 days after the plan is established and within 90 days to new participants.

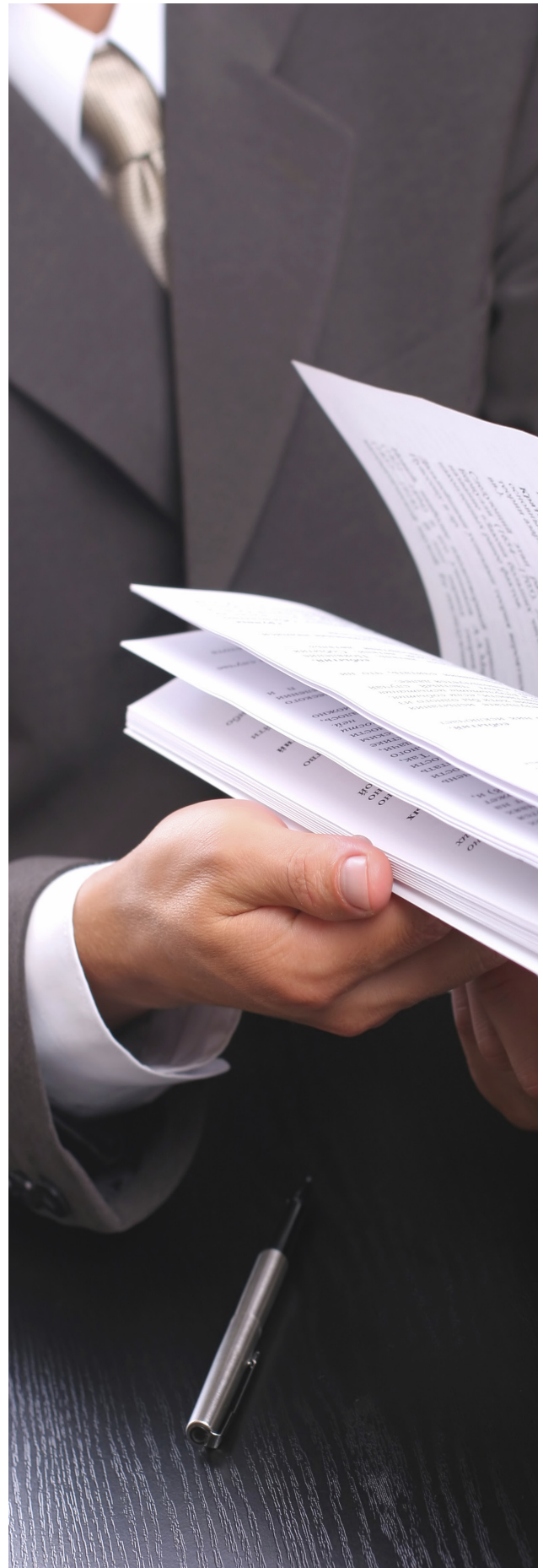
A **cafeteria plan** document is required under I.R.C. § 125 if an employee is allowed to contribute toward the cost of qualified benefits on a pre-tax basis. Establishing a cafeteria plan provides tax advantages for both the employer and employee.

Other required benefits notices must be distributed to employees based on the number of employees. For example, an employer with fewer than 20 employees is not subject to federal COBRA; therefore, federal COBRA notices are not a compliance obligation. Notices include the employer Exchange notice, Children's Health Insurance Program (CHIP) notice, Medicare Part D notice, and others.

Best Practices for Plan Documents and Notices

Maintaining compliance involves not only creating compliant documents but also regularly updating them in response to changes in laws, regulations, or plan terms. Employers must communicate these updates to plan participants to remain compliant. Best practices include the following:

- Plan documents and SPDs should be reviewed annually and updated as necessary to reflect changes in legal requirements or plan operations.
- Updates should be communicated through multiple channels to ensure participants are aware of changes. This may include emails, printed materials, meetings, or secure online portals.
- Ensure documents and notices are distributed according to all distribution rules.





Recordkeeping and Reporting

Effective recordkeeping and reporting are important components of employee benefits compliance. The records plan sponsors must maintain and the reporting requirements under ERISA, COBRA, and the ACA require due diligence. Adhering to these requirements ensures compliance and facilitates the efficient management of employee benefits programs.

Essential Records to Maintain for Compliance

As a best practice, the following records should be maintained for at least six years under ERISA record retention rules:

- **Plan documents and SPDs:** Maintain copies of current and historical plan documents and SPDs, including all amendments and modifications.
- **Enrollment, eligibility, and coverage records:** Keep detailed records of plan participant enrollment, eligibility determinations, and types of coverage provided. This include dates of enrollment, any changes in coverage, and termination of coverage.
- **Financial records:** Carefully record and preserve financial documents related to the plan, such as funding contributions, benefit payments, and administrative expenses.
- **Claims and appeals records:** Maintain documentation of all claims filed under the plan, including appeals and their outcomes. This ensures transparency and fairness in the claims process and supports compliance with ERISA's fiduciary requirements.
- **Notices and communications:** Keep copies of all notices and communications sent to participants, including COBRA notices, ACA-related disclosures, and any other communications regarding plan changes or updates.

ERISA and ACA Reporting Requirements

ERISA reporting requires health and welfare benefit plans with 100 or more participants, and most retirement plans of any size, to file an annual **Form 5500** with the DOL. This form provides information about the plan's operation and compliance with government standards. Some smaller plans have filing requirements if the plan's assets are held in a trust.

ACA reporting requires ALEs to file **Forms 1094-C** and **1095-C** with the IRS to provide information about compliance with the employer shared responsibility provisions and the coverage offered to employees. Plan sponsors of self-insured plans for non-ALEs must file Forms 1094-B and 1095-B to report on individuals covered under the plan.

Best Practices for Recordkeeping

Effective recordkeeping and reporting are not just regulatory requirements but also best practices that enhance the transparency, efficiency, and trustworthiness of the employee benefits program. Employers should:

- Develop comprehensive recordkeeping by implementing an organized system for maintaining all necessary records.
- Regularly review and audit records to ensure completeness, accuracy, and compliance with retention requirements.
- Understand retention requirements by familiarizing yourself with the specific retention periods for different types of records. For example, ERISA requires the retention of records relevant to benefit claims for at least six years after the filing of Form 5500 to which they relate.
- Protect sensitive participant information in compliance with HIPAA privacy rules and other applicable data protection regulations.

Conducting Compliance Audits

Conducting regular compliance audits ensures that an employee benefits program adheres to all applicable laws and regulations. The proactive approach of self-audits for compliance identifies key areas to review and outlines steps for correcting compliance issues. Proactively auditing the benefits program identifies potential problems before they become serious issues and protects both the organization and employees.

The Significance of Self-Audits for Compliance

Self-audits allow employers to assess their compliance with employee benefits laws and can help uncover inadvertent errors or oversights in plan administration, recordkeeping, or reporting. Conducting them regularly demonstrates a commitment to compliance and can significantly reduce the risk of penalties or litigation resulting from noncompliance.

Review the following areas for effective compliance audits:

- **Plan documents and SPDs:** Ensure that all plan documents are up to date, accurately reflect the operation of the plan, and have been distributed appropriately. Confirm that SPDs are written in a clear and understandable manner and include all required information.
- **Enrollment and eligibility:** Verify that enrollment processes follow the plan document and that eligibility criteria are being applied consistently and fairly.
- **Benefits administration:** Review benefits administration processes to ensure they align with the plan's terms. This includes examining claims processing procedures, appeals, and benefit determinations.
- **COBRA compliance:** Ensure that COBRA notices are being sent in a timely manner and that COBRA elections and premiums are being handled correctly.
- **ACA compliance:** For ALEs, review compliance with the employer-shared responsibility provisions, including offering affordable minimum essential coverage to eligible employees. Also, verify accuracy in reporting to the IRS.
- **ERISA compliance:** Confirm that fiduciary responsibilities are being met, including the prudent management of plan assets and adherence to ERISA reporting and disclosure requirements.
- **Recordkeeping and reporting:** Ensure that all required records are being kept for the appropriate amount of time and that all mandatory reports are being filed accurately and on time.

To correct compliance issues found during a self-audit:

- **Identify the root cause:** Once a compliance issue is identified, investigate to determine the underlying cause. This could involve reviewing processes, policies, or training materials.
- **Develop a corrective action plan:** Create a plan to correct the issue, which may include revising procedures, retraining staff, or making other necessary changes to ensure compliance.
- **Implement changes:** Carry out the corrective action plan, making sure that all relevant staff members are informed of the changes and understand their roles in maintaining compliance.
- **Monitor and follow up:** After implementing changes, monitor the situation to ensure that the corrective measures are effective. Conduct follow-up audits as necessary to confirm ongoing compliance.
- **Document everything:** Keep detailed records of the audit findings, the corrective action taken, and the results of follow-up audits. This documentation can be invaluable in demonstrating compliance efforts to regulatory agencies or in defense of legal challenges.

Conducting compliance audits is a proactive step that can significantly mitigate the risks associated with noncompliance. Regularly reviewing your employee benefits program and correcting any issues ensures the organization complies with the complex web of regulations governing employee benefits.



Keeping Up with Changes in Employee Benefits Law

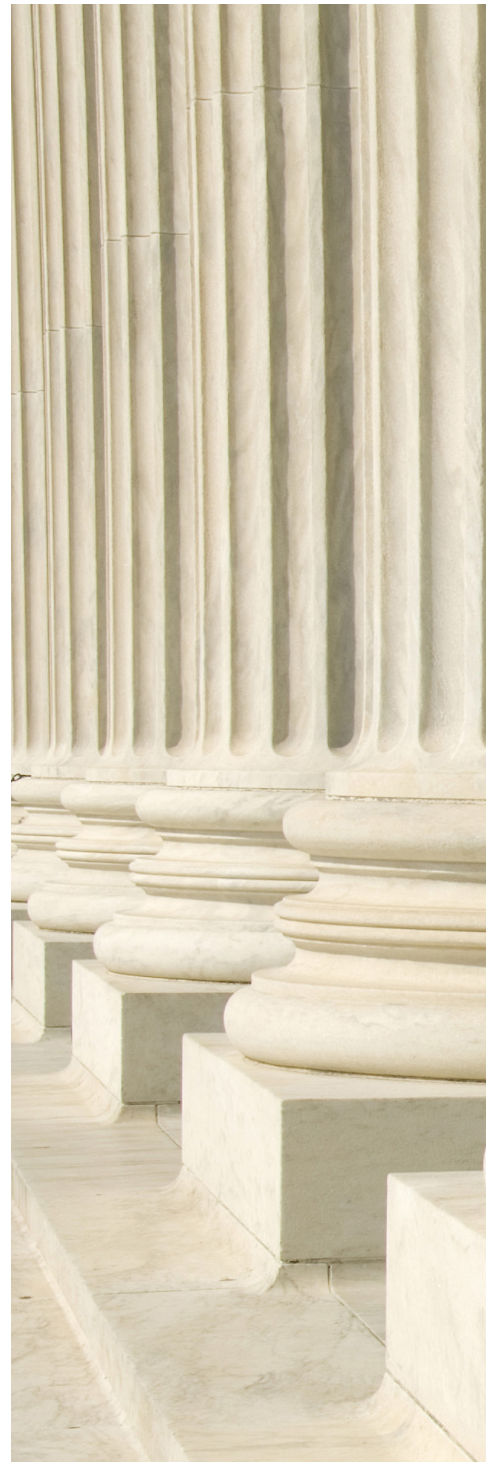
The landscape of employee benefits law is continually evolving, with new regulations and legislative amendments emerging that can significantly impact compliance obligations. It is critical to implement strategies for staying informed about these changes to maintain compliance.

The following are a few best practices to help employers stay informed:

- **Subscribe to updates:** Sign up for newsletters and alerts from reputable sources, such as government agencies (e.g., DOL, IRS), legal firms specializing in employee benefits, and professional associations.
- **Attend seminars and workshops:** Participate in educational events that focus on employee benefits compliance. These can provide invaluable insight into complex regulatory changes and best practices for compliance.
- **Leverage professional networks:** Engage with professional networks or online forums dedicated to HR and employee benefits. These communities can provide support, answer questions, and share updates on legal changes.
- **Consult with experts:** Regularly consult with legal counsel and compliance consultants who specialize in employee benefits. They can provide tailored advice and help interpret how new laws affect specific situations.

Navigating employee benefits compliance is a dynamic and ongoing process that demands attention, diligence, and a proactive approach. This guide has explored the foundational aspects of employee benefits compliance, from understanding key regulations and counting employees to maintaining accurate records and conducting audits.

The landscape of employee benefits law will continue to evolve, and with it, so will compliance obligations for benefit plan sponsors. By implementing the strategies outlined in this guide, employers can establish a compliance program that not only meets current legal requirements but is also adaptable to future changes.



List of Acronyms

ACA: Affordable Care Act

ALE: applicable large employer

COBRA: Consolidated Omnibus Budget Reconciliation Act

DOL: Department of Labor

ERISA: Employee Retirement Income Security Act

FTE: full-time equivalent

HIPAA: Health Insurance Portability and Accountability Act

I.R.C.: Internal Revenue Code

IRS: Internal Revenue Service

SPD: Summary Plan Description



Contact Us With Questions We Are Here To Help.

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