

GENERAL SERVICES AGENCY

OFFICE OF LABOR STANDARDS ENFORCEMENT

DONNA LEVITT, MANAGER



## 2011 NOTICE

### Health Care Security Ordinance

Effective January 9, 2008, the Health Care Security Ordinance (HCSO) requires Covered Employers to make health care expenditures for their Covered Employees and mandates the Department of Public Health (DPH) to create the City Option (often referred to as *Healthy San Francisco*). The Employer Spending Requirement requires Covered Employers to spend a minimum amount of money (set by law) on Health Care Expenditures for their Covered Employees.

**Covered Employers:** An employer is covered by the HCSO if it:

- is a for-profit business with 20 or more persons performing work, or a nonprofit business with 50 or more persons performing work, per week during a quarter, and
- employs workers who perform work within the geographic boundaries of the City and County of San Francisco and is required to obtain a valid San Francisco business registration certificate pursuant to Article 12 of the Business and Tax Regulations Code.

An employer need not be physically located in the City to be a Covered Employer. In addition, for the purpose of determining employer size, all persons performing work for compensation during a given week must be counted, regardless of whether the persons work in San Francisco.

**Covered Employees:** With some exceptions, an employee is covered by the HCSO if s/he works for a Covered Employer and:

- is entitled to be paid the minimum wage;
- has been employed by his or her employer for at least 90 calendar days; and
- performs at least 8 hours of work per week within the geographic boundaries of San Francisco.

To learn more about Exemptions and Waivers, review Regulation 3.2(A).

**Health Care Expenditures (HCE):** An HCE is any amount paid by a covered employer for the purpose of providing health care services or reimbursing the cost of such services for its covered employees. Examples include, but are not limited to: (a) payments to a third party to provide health care coverage or services; (b) payments to the City for the City Option (which includes Healthy San Francisco and/or the Medical Reimbursement

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Accounts); (c) payments from self-insured/self-funded plans; and (d) direct reimbursement or payment for health care services. Expenditures must be made each quarter, no later than 30 days after the end of the quarter.

**Applicable Expenditure Rate:** An employer with 100 or more persons performing work per week (including both persons working in and outside of SF) is required to make an HCE of \$2.06 per hour for each hour paid to each of its covered employees during that quarter. For employers with 20-99 persons performing work, the rate is \$1.37 per hour. (These rates are adjusted annually.)

**Calculation of HCE:** Required HCEs are calculated by multiplying the total number of “hours paid” to each covered employee by the applicable expenditure rate. “Hours paid” include both work hours (for which a person is paid wages or entitled to be paid wages for work performed within the City) and any paid time off, including vacation and sick leave. Subject to the limited exceptions outlined in Frequently Asked Questions (FAQs) numbers 39-40, calculations and expenditures must be made for each Covered Employee.

**Additional Employer Responsibilities:**

- Covered Employers must submit an Annual Reporting Form (ARF) by April 30, 2011, which provides data on HCEs made in the previous year. Instructions on how to file the ARF will be mailed to covered employers and will be available on the HCSO website in March 2011.
- Notice to Employee: An employer who chooses to make payment to the City for the City Option must provide its covered employees with the Notice to Employee/Employee City Option Deposit Confirmation, which may be downloaded from the website below.
- Recordkeeping: Employers shall maintain complete and accurate records of HCE calculations, hours paid to employees, and HCEs made. Employers shall allow the Office of Labor Standards Enforcement reasonable access to such records.
- Employee Voluntary Waiver Form: A Covered Employer that seeks to claim an exemption for an employee who qualifies for the waiver must maintain in its records a completed Voluntary Waiver Form signed by that employee.

All of the documents referenced in this Notice – including the full text of the Ordinance, the Regulations, and the Frequently Asked Questions (FAQs) – are available at

[www.sfgov.org/olse/hcso](http://www.sfgov.org/olse/hcso).

*This notice is intended to provide general information and does not establish policy or offer legal advice regarding the Health Care Security Ordinance, Chapter 14 of the San Francisco Administrative Code. If you have any questions about your obligations under the ordinance, please visit [www.sfgov.org/olse/hcso](http://www.sfgov.org/olse/hcso), call (415) 554-7892, or email [HCSO@sfgov.org](mailto:HCSO@sfgov.org).*

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