

# COVID-19 Cost Containment Checklist

April 1, 2020

## Introduction

As employers continue to struggle with how to respond to the COVID-19 crisis, many are exploring cost containment strategies, including employee terminations, layoffs and/or furloughs as well as mid-year changes to funding for account based plans, increasing employee cost-sharing, and other plan design changes. This checklist focuses on compliance issues in connection with these cost containment strategies.

### Reducing employer contributions to medical plan premiums mid-year:

- 30 days advanced notice recommended (SMM format recommended)
- Communicate with insurance carriers for insured plans
- Allow participants to elect a less expensive plan or drop coverage under cafeteria plan rules
- Assess ACA pay or play plan affordability if change affects lowest cost MV plan (60% AV)

### Changing medical plan deductibles or out-of-pocket limits mid-year:

- Issue new SBC 60 days in advance of change
- Communicate with stop loss carrier for self-funded plans
- Insured plans will require a new contract
- Issue SMM under ERISA in advance of change
- Amend underlying medical plan document if it describes deductibles or limits
- Allow participants to elect a richer plan or drop coverage under cafeteria plan rules
- Assess ACA pay or play plan actuarial value if change affects lowest cost MV plan (60% AV)

### Reducing employer contribution to employee HSAs mid-year:

- 30 days advanced notice recommended
- Amend cafeteria plan document if it describes employer funding

- Continue to allow employees to adjust their own HSA contributions under cafeteria plan rules
- Confirm funding reduction is uniform (do not continue to fund the HSAs of highly paid employees)

**Reducing HRA funding or terminating an HRA mid-year:**

- Issue new SBC 60 days in advance of change
- Issue SMM under ERISA in advance of change
- Amend any underlying HRA plan document if it describes employer funding (or to terminate plan)
- Assess ACA pay or play plan actuarial value if change affects lowest cost MV plan (60% AV)

**Eliminating a wellness plan reduced premium incentive mid-year:**

- 30 days advanced notice recommended (SMM format recommended)
- Issue SMM under ERISA in advance of change if wellness plan provides medical care (e.g., biometrics or flu-shots)
- Amend any underlying wellness plan document if it describes incentive (or to terminate plan)
- Allow participants to elect a less expensive plan or drop coverage under cafeteria plan rules
- For tobacco cessation wellness incentives only, assess ACA pay or play plan affordability if change affects lowest cost MV plan (60% AV)

**Eliminating a wellness plan HSA funding incentive mid-year:**

- 30 days advanced notice recommended
- Amend cafeteria plan document *if* it describes employer wellness incentive funding
- Amend any underlying wellness plan document *if* it describes employer wellness incentive funding (or to terminate plan)
- Continue to allow employees to adjust their own HSA contributions under cafeteria plan rules
- Issue SMM under ERISA in advance of change if wellness plan provides *medical care* (e.g., biometrics or flu-shots)

**Eliminating a wellness plan HRA funding incentive mid-year:**

- Issue new SBC 60 days in advance of change
- Issue SMM under ERISA in advance of change *if* wellness plan provides *medical care* (e.g., biometrics or flu-shots)

- Amend any underlying wellness plan and/or HRA plan document *if* it describes employer funding (or to terminate plan)
- Assess ACA pay or play plan actuarial value if change affects lowest cost MV plan (60% AV)

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