

WHAT YOU NEED TO KNOW



## Federal Requirements for Fully Insured and Self-Funded Plans

A plan sponsor’s requirements under federal law will vary depending on factors such as group health plan design, size, grandfathered status, and whether the plan is fully insured or self-funded.

The lists below highlight the main federal requirements that apply when a plan is fully insured and when a plan is self-funded.

### Plan Documents

Fully Insured Plans	Self-Funded Plans
<ul style="list-style-type: none"> <li>• Cafeteria plan document if contributions are run through a cafeteria plan</li> <li>• Summary of Material Modification, if the plan is subject to ERISA</li> <li>• Summary Annual Report, if the plan is subject to ERISA and required to file a Form 5500</li> <li>• Summary of Benefits and Coverage, if the plan is subject to ERISA</li> <li>• Plan document and Summary Plan Description (SPD) (or combination plan document/ SPD or wrap plan document), if the plan is subject to ERISA</li> </ul>	<ul style="list-style-type: none"> <li>• Cafeteria plan document if contributions are run through a cafeteria plan</li> <li>• Summary of Material Modification, if the plan is subject to ERISA</li> <li>• Summary Annual Report, if the plan is subject to ERISA and required to file a Form 5500</li> <li>• Summary of Benefits and Coverage, if the plan is subject to ERISA</li> <li>• Plan document and Summary Plan Description (SPD) (or combination plan document/ SPD or wrap plan document), if the plan is subject to ERISA</li> </ul>

### Affordable Care Act

Fully Insured Plans	Self-Funded Plans
<ul style="list-style-type: none"> <li>• Employer shared responsibility provisions if employer has 50 or more full-time or full-time equivalent employees (50 FTEs)</li> <li>• Elimination of pre-existing condition limitations</li> </ul>	<ul style="list-style-type: none"> <li>• Employer shared responsibility provisions if employer has 50 or more full-time or full-time equivalent employees (50 FTEs)</li> <li>• Elimination of pre-existing condition limitations</li> </ul>

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## Affordable Care Act (continued)

Fully Insured Plans	Self-Funded Plans
<ul style="list-style-type: none"> <li>• Dependent child coverage to age 26</li> <li>• Lifetime and annual dollar limit prohibitions on essential health benefits</li> <li>• No rescissions of coverage except for fraud or intentional misrepresentation of material fact</li> <li>• Eligibility waiting period limits</li> <li>• Summary of Benefits and Coverage, unless the plan is a certain excepted benefit or retiree-only plan</li> <li>• Notice regarding the exchanges</li> <li>• W-2 reporting of health care coverage costs (this only applies if the employer provided 250 or more W-2s for the prior calendar year)</li> <li>• Wellness program rules</li> <li>• Employer reporting to the IRS on coverage</li> <li>• Excise (“Cadillac”) tax on high cost plans (taking effect in 2022)</li> <li>• Automatic enrollment (applies only to employers with more than 200 full-time employees; requirement has been delayed indefinitely)</li> </ul>	<ul style="list-style-type: none"> <li>• Dependent child coverage to age 26</li> <li>• Lifetime and annual dollar limit prohibitions on essential health benefits</li> <li>• No rescissions of coverage except for fraud or intentional misrepresentation of material fact</li> <li>• Eligibility waiting period limits</li> <li>• Summary of Benefits and Coverage, unless the plan is a certain excepted benefit or retiree-only plan</li> <li>• PCORI Fee: The fee applies from 2012 to 2019, based on plan/policy years ending on or after October 1, 2012, and before October 1, 2019. Plan sponsor pays the fee.</li> <li>• Notice regarding the exchanges</li> <li>• W-2 reporting of health care coverage costs (this only applies if the employer provided 250 or more W-2s for the prior calendar year)</li> <li>• Wellness program rules</li> <li>• Employer reporting to the IRS on coverage</li> <li>• Excise (“Cadillac”) tax on high cost plans (taking effect in 2022)</li> <li>• Automatic enrollment (applies only to employers with more than 200 full-time employees; requirement has been delayed indefinitely)</li> </ul>
<p>The following do not apply to grandfathered plans:</p> <ul style="list-style-type: none"> <li>• Coverage of preventive care without employee cost-sharing, including contraception for women</li> <li>• Limitations on out-of-pocket maximums</li> <li>• Essential health benefits (these apply to insured small group plans)</li> <li>• Modified community rating (applies to insured small group plans)</li> <li>• Guaranteed issue and renewal (applies to insured plans)</li> <li>• Nondiscrimination rules for fully insured group health plans (requirement has been delayed indefinitely)</li> <li>• Expanded claims and appeal requirements</li> </ul>	<p>The following do not apply to grandfathered plans:</p> <ul style="list-style-type: none"> <li>• Coverage of preventive care without employee cost-sharing, including contraception for women</li> <li>• Limitations on out-of-pocket maximums</li> <li>• Expanded claims and appeal requirements</li> <li>• Additional patient protections (right to choose a primary care provider designation, OB/GYN access without a referral, and coverage for out-of-network emergency department services)</li> <li>• Coverage of routine costs associated with clinical trials</li> <li>• Reporting to the Department of Health and Human Services (HHS) on quality of care (requirement has been delayed indefinitely)</li> </ul>

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## Affordable Care Act (continued)

Fully Insured Plans	Self-Funded Plans
<ul style="list-style-type: none"> <li>• Additional patient protections (right to choose a primary care provider designation, OB/GYN access without a referral, and coverage for out-of-network emergency department services)</li> <li>• Coverage of routine costs associated with clinical trials</li> <li>• Reporting to the Department of Health and Human Services (HHS) on quality of care (requirement has been delayed indefinitely)</li> <li>• Prohibition of discrimination based on health-status related factors</li> <li>• Transparency in coverage reporting and cost-sharing disclosure requirements (transparency in coverage reporting requirement for group health plans has been delayed indefinitely)</li> <li>• Nondiscrimination in health care providers requirement</li> </ul>	<ul style="list-style-type: none"> <li>• Prohibition of discrimination based on health-status related factors</li> <li>• Transparency in coverage reporting and cost-sharing disclosure requirements (transparency in coverage reporting requirement for group health plans has been delayed indefinitely)</li> <li>• Nondiscrimination in health care providers requirement</li> </ul>

## Plan Notices

Fully Insured Plans	Self-Funded Plans
<ul style="list-style-type: none"> <li>• Medicare Part D creditable coverage notice</li> <li>• Women’s Health and Cancer Rights Act notice</li> <li>• Newborns’ and Mothers’ Health Protection Act notice</li> <li>• Premium Assistance under Medicaid and CHIP notice</li> <li>• Wellness Program Notice of Reasonable Alternatives</li> <li>• Wellness Program Disclosure, if the plan is subject to ERISA</li> <li>• Wellness Program voluntary notice if the plan is subject to the ADA</li> <li>• Notice Regarding Wellness Program</li> <li>• Grandfathered Plan Notice</li> <li>• Patient Protection Notice, applicable to all non-grandfathered group health plans</li> <li>• HIPAA Notice of Privacy Practices</li> <li>• HIPAA Notice of Special Enrollment Rights</li> <li>• COBRA notices, if the plan is subject to COBRA</li> </ul>	<ul style="list-style-type: none"> <li>• Medicare Part D creditable coverage notice</li> <li>• Women’s Health and Cancer Rights Act notice</li> <li>• Newborns’ and Mothers’ Health Protection Act notice (or opt out notice)</li> <li>• Premium Assistance under Medicaid and CHIP notice</li> <li>• Wellness Program Notice of Reasonable Alternatives</li> <li>• Wellness Program Disclosure, if the plan is subject to ERISA</li> <li>• Wellness Program voluntary notice if the plan is subject to the ADA</li> <li>• Notice Regarding Wellness Program</li> <li>• Grandfathered Plan Notice</li> <li>• Patient Protection Notice, applicable to all non-grandfathered group health plans</li> <li>• HIPAA Notice of Privacy Practices</li> <li>• Notice to Enrollees regarding Opt-Out</li> <li>• HIPAA Notice of Special Enrollment Rights</li> </ul>

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## Plan Notices (continued)

Fully Insured Plans	Self-Funded Plans
<ul style="list-style-type: none"><li>• National Medical Support Notice, if the plan is subject to ERISA</li><li>• Michelle's Law Enrollment Notice, if the plan is subject to ERISA</li><li>• Mental Health Parity and Addiction Equity Act (MHPAEA) notices, if the plan is subject to ERISA</li><li>• Employer Notice to Employees of Coverage Options, if the plan is subject to ERISA</li><li>• Summary of Benefits and Coverage Notice, if the plan is subject to ERISA</li><li>• Internal Claims and Appeals and External Review Notices, applicable to all non-grandfathered group health plans</li><li>• External Review Process Disclosure, applicable to all non-grandfathered health plans, only if no state process applies and is binding</li><li>• Employer Notice to Employees of Coverage Options available through the Exchange, applicable to all employers subject to the Fair Labor Standards Act</li><li>• Advance notice to each participant who will be affected by a rescission of coverage</li><li>• DOL claims procedure notices</li><li>• Notice of rebate for failure to meet medical loss ratio (MLR) standards</li></ul>	<ul style="list-style-type: none"><li>• COBRA notices, if the plan is subject to COBRA</li><li>• National Medical Support Notice, if the plan is subject to ERISA</li><li>• Michelle's Law Enrollment Notice, if the plan is subject to ERISA</li><li>• Mental Health Parity and Addition Equity Act (MHPAEA) notices, if the plan is subject to ERISA</li><li>• Employer Notice to Employees of Coverage Options, if the plan is subject to ERISA</li><li>• Summary of Benefits and Coverage Notice, if the plan is subject to ERISA</li><li>• Internal Claims and Appeals and External Review Notices, applicable to all non-grandfathered group health plans</li><li>• External Review Process Disclosure, applicable to all non-grandfathered health plans, only if no state process applies and is binding</li><li>• Employer Notice to Employees of Coverage Options available through the Exchange, applicable to all employers subject to the Fair Labor Standards Act</li><li>• Advance notice to each participant who will be affected by a rescission of coverage</li><li>• DOL claims procedure notices</li></ul>

## Government Filings

Fully Insured Plans	Self-Funded Plans
<ul style="list-style-type: none"><li>• Form 5500, if subject to ERISA, unless an exemption applies</li><li>• Employer reporting to the IRS on coverage (insurer will file Form 1094-B with the IRS if there are fewer than 50 FTEs; if there are 50 or more FTEs, insurer will file Form 1094-B (with copies of all Forms 1095-B) with the IRS; employer will file Form 1094-C (with copies of all Forms 1095-C) with the IRS)</li></ul>	<ul style="list-style-type: none"><li>• Form 5500, if subject to ERISA, unless an exemption applies</li><li>• Employer reporting to the IRS on coverage (plan sponsor (generally the employer) will file Form 1094-B (with copies of all Forms 1095-B) with the IRS if there are fewer than 50 FTEs; if there are 50 or more FTEs, plan sponsor (generally the employer) will file Form 1094-C (with copies of all Forms 1095-C) with the IRS)</li></ul>

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## Government Filings (continued)

Fully Insured Plans	Self-Funded Plans
<ul style="list-style-type: none"><li>W-2 reporting of health care coverage costs (if the employer provided 250 or more W-2s for the prior calendar year)</li></ul>	<ul style="list-style-type: none"><li>W-2 reporting of health care coverage costs (if the employer provided 250 or more W-2s for the prior calendar year)</li><li>Form 720 to report and pay the PCORI fee which applies from 2012 to 2019, based on plan/policy years ending on or after October 1, 2012, and before October 1, 2019.</li></ul>

## Other

Fully Insured Plans	Self-Funded Plans
<ul style="list-style-type: none"><li>Section 125 nondiscrimination testing if contributions are run through a cafeteria plan</li><li>Wellness program rules</li><li>HIPAA privacy policy and security policy</li><li>Business Associate Agreements</li></ul>	<ul style="list-style-type: none"><li>Section 125 nondiscrimination testing if contributions are run through a cafeteria plan</li><li>Section 105(h) nondiscrimination testing</li><li>Wellness program rules</li><li>HIPAA privacy policy and security policy</li><li>Business Associate Agreements</li></ul>

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