

GENERAL SERVICES AGENCY

OFFICE OF LABOR STANDARDS ENFORCEMENT

DONNA LEVITT, MANAGER



ANALYSIS OF THE HEALTH CARE SECURITY ORDINANCE 2010 ANNUAL REPORTING FORMS

UPDATED: 06.27.2011

EXECUTIVE SUMMARY

The Health Care Security Ordinance (HCSO or “Ordinance”), enacted in July 2006, established a health access program (now called “Healthy San Francisco”) and mandated that employers subject to the Ordinance – for-profit employers with 20 or more employees and nonprofit employers with 50 or more employees – “make required health care expenditures to or on behalf of their covered employees each quarter” beginning in 2008. Covered employees are those who have been employed for at least 90 calendar days, regularly worked 8 or more hours per week in San Francisco, and do not meet any of the limited exemption criteria.

As required by the Ordinance, the Office of Labor Standards Enforcement (OLSE) collects compliance data (“Annual Reporting Forms”) from covered employers on an annual basis. Employers were required to submit their 2010 Annual Reporting Forms by April 30, 2011. This report summarizes some of the findings from the 2010 data, and provides comparisons to prior years where illustrative.

Some of the key findings are as follows:

- Both medium-size and large employers continue to predominantly satisfy the HCSO’s health care expenditure requirement by providing health insurance to their covered employees. In 2010, 90% of all health care dollars were spent on health insurance, 3% of health care dollars were spent on the “City Option” (Healthy San Francisco), and 7% of health care dollars were allocated to reimbursement plans.
- Over the past three years, more employers are electing to “primarily” satisfy the health care expenditure requirement by providing employees with reimbursement plans (9% in 2008, 13% in 2010) at the expense of providing health insurance (84% in 2008, 80% in 2010). Utilization of the “City Option” (Healthy San Francisco) as the primary method of satisfying the health care expenditure requirement has remained stable (7% in 2008, 2009, and 2010).
- The *average* reimbursement rate of money allocated to reimbursement plans in 2010 was low: only 20% of the \$62 million allocated to such plans in 2010 was actually reimbursed to employees. The remaining \$50 million went unutilized. The *median* reimbursement rate for the 29% of employers (860 in total) that allocated money to a reimbursement plan in 2010 was even lower, just 12%.
- The low utilization rate of reimbursement dollars in 2010 is consistent with prior years. For example, in each of the past three years, over 50% of such plans (53% in 2008, 52% in 2009, and 57% in 2010) had a reimbursement rate of between 0 and 10%. In other words, more than half of the employers who elected to meet their health care expenditure requirement (entirely or in part) by providing reimbursement plans retained over 90% of the money allocated to the reimbursement plans. The increase in the percentage of employers utilizing reimbursement plans coupled with continued low reimbursement rates raises public policy concerns.

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I. INTRODUCTION

The San Francisco Health Care Security Ordinance (HCSO or “Ordinance”) was passed unanimously by the Board of Supervisors in July of 2006. The HCSO is comprised of two main components:

- 1) a health access program – now called “Healthy San Francisco” (HSF) – created by the Department of Public Health, and
- 2) an Employer Spending Requirement (ESR), which mandates that employers subject to the HCSO “make required health care expenditures to or on behalf of their covered employees each quarter.”¹

The City’s Office of Labor Standards Enforcement (OLSE) is charged with enforcing the ESR (or “health care expenditure requirement”). As required by the Ordinance, the OLSE promulgated “Regulations Implementing the Employer Spending Requirement of the San Francisco Health Care Security Ordinance.”²

Employers are required to maintain accurate records of their health care expenditures and to provide information to the OLSE on an annual basis regarding their compliance with the health care expenditure requirement. To facilitate compliance with this reporting requirement, the OLSE established procedures for covered employers to submit an Annual Reporting Form (ARF) to the OLSE by April 30th every year (regarding the employer’s compliance with the ESR in the previous calendar year). The OLSE prepared the forgoing analysis based on the aggregate ARF data submitted to the OLSE for 2010.

A. *The HCSO Employer Spending Requirement*

Commencing in January 2008, the HCSO requires covered employers to make health care expenditures for their covered employees. The HCSO defines “health care expenditure” as “any amount paid by a covered employer to its covered employees or to a third party on behalf of its covered employees for the purpose of providing health care services for covered employees or reimbursing the cost of such services for its covered employees.”

The HCSO provides a non-exhaustive list of valid health care expenditures, including: a) contributions “to a health savings account” or to any other account having substantially the same purpose or effect; b) reimbursement to covered employees for expenses incurred in the purchase of health care services; c) payments to a third party for the purpose of providing health care services; d) costs incurred in the direct delivery of health care services to covered employees; and e) payments to the City to be used on behalf of covered employees.

¹ The HCSO is codified in Chapter 14 of the San Francisco Administrative Code, and is available at <http://library.municode.com/HTML/14131/level1/CH14SAFRHECASEOR.html>.

² The Regulations are available at <http://sfgsa.org/Modules/ShowDocument.aspx?documentid=1246>.

B. The Annual Reporting Form

The 2010 ARF is similar to the versions used in prior years. It is a one-page form, comprised of sections that track the employer health care expenditure requirement.

The top of the ARF required employers to provide their San Francisco Business Certificate Number and employer contact information. It also provided employers an opportunity to indicate if they were a nonprofit organization or submitting the ARF on behalf of several entities in the same control group of corporations

Section A required employers to report the number of persons, including those employed outside of San Francisco, who worked for the business in each quarter of 2010.

Section B required employers to report the number of persons who were entitled to health care expenditures under the HCSO in each quarter of 2010. Persons entitled to health care expenditures under the HCSO (“covered employees”) were those who had been employed for at least 90 calendar days, regularly worked 8 or more hours per week in San Francisco, and did not meet any of the following special exemptions:

1. Employees who signed an HCSO Employee Voluntary Waiver form verifying that they received coverage through another employer or spouse/registered domestic partner and voluntarily waived the right to have their employer make health care expenditures on their benefit;
2. Managers, supervisors, and confidential employees who earned more than \$80,397 annually;
3. Employees who were covered by Medicare or TRICARE/CHAMPUS;
4. Employees who were employed by a non-profit corporation for up to one year as trainees in a bona fide training program consistent with Federal law, or
5. Employees who received health care benefits pursuant to the San Francisco Health Care Accountability Ordinance.

Sections C through E required employers to provide aggregate data regarding their health care expenditures for health insurance, the “City Option” (Healthy San Francisco), and reimbursement plans.

Health Insurance. Section C required employers to indicate 1) the total number of employees for whom the employer paid health insurance premiums and 2) the total dollar amount of those health insurance premiums, per quarter. This included expenditures to health insurance carriers to provide group coverage (medical, vision, and/or dental), contributions to a Taft-Hartley plan pursuant to a collective bargaining agreement or union contract, and expenditures for self-insured or self-funded health insurance plans. Self-insured employers pay for health care expenses as incurred, rather than paying a fixed premium to an insurance carrier; employers must comply with various federal laws governing self-insured or self-funded plans.

The “City Option” (Healthy San Francisco). Section D required employers to specify 1) the total number of employees for whom the employer paid into “the City Option” and 2) the total dollar amount of those payments, per quarter. For employees who were eligible to enroll in Healthy San Francisco, the employer contributions permitted the employees to enroll in HSF with a discounted enrollment fee. For employees who were not eligible for HSF, the employer contributions funded Medical Reimbursement Accounts, which employees could access to reimburse out-of-pocket medical expenses.

Reimbursement Plans. Section E required employers to indicate 1) the total number of employees for whom the employer had a reimbursement plan, 2) the total dollar amount *allocated* to the plan, and 3) the total dollar amount *reimbursed* under the plan, per quarter. Reimbursement plans may be self-administered or administered by a third-party, and they are often referred to as Health Reimbursement Arrangements or Accounts, Flexible Spending Accounts, Health Savings Accounts, etc.³ The “Dollar Amount Allocated” is the total amount of money that was *made available* to the employee under the plan. The “Dollar Amount Reimbursed” is the amount of money that was *actually reimbursed* to the employee or a third-party health provider under the plan.⁴

Section F required employers to indicate 1) the total number of employees for whom the employer did not make any expenditures, per quarter.

The bottom of the form required employers to provide the name, title, and contact information of the individual who submitted the form. Finally, the employer was required to 1) certify that that the information on the ARF was submitted by the registered owner of the business or a duly authorized representative of the business and 2) declare, under penalty of perjury, that the information submitted was true, correct, and complete (to the best of the knowledge and belief of the individual who submitted the form).

II. DATA COLLECTION

This report analyzes data collected from the ARFs for 2010 and, where appropriate, shows comparative data from the 2008 and 2009 ARFs.⁵

All “covered employers” were required to submit an ARF for 2010. A covered employer is a for-profit business for which 20 or more persons perform work or a nonprofit organization for which 50 or more persons perform work, that engages in business within the city of San Francisco, and is required to obtain a valid business registration certificate (pursuant to Article 12 of the Business and Tax Regulations Code).

In conjunction with the San Francisco Office of the Treasurer and Tax Collector, the OLSE identified approximately 5,600 businesses that may have been subject to the HCSO in 2010. In late March 2011, the OLSE sent a Notice, via U.S. Mail, to these businesses explaining the requirement to submit a 2010 ARF by April 30, 2011. This Notice directed businesses to the OLSE website where they could access and submit the ARF electronically.⁶

As of May 18, 2011, the OLSE had received 3,131 ARFs. After removing duplicate submissions and those ARFs submitted by employers who were not subject to the HCSO, the following 2010 statistics are based on the valid, unique ARFs submitted by 2,960 covered employers.⁷

³ These accounts are subject to a variety of IRS rules. For more information, see IRS Publication 969, available at <http://www.irs.gov/pub/irs-pdf/p969.pdf>.

⁴ Employers administering Health Savings Accounts (HSAs) – which, by law, are the property of the employee in perpetuity – were instructed to report all HSA “allocations” as “reimbursed” (because the money could never revert to the employer, thus would always be reimbursed to the employee eventually).

⁵ A more comprehensive analysis of the 2008 and 2009 ARF data, “Analysis of the HCSO 2008 & 2009 Annual Reporting Forms,” is available from the OLSE.

⁶ In prior years, employers mailed hard-copy ARFs to the OLSE. The OLSE moved to an electronic, online ARF for 2010 in order to simplify the process for employers, reduce costs for the OLSE, and reduce the incidence of errors (due to validation rules built into the electronic ARF).

⁷ For the 2008 and 2009 reporting years, the OLSE received a higher number of total ARFs, but the statistics and analysis in those years were based on approximately 3,000 ARFs due to the high rates of invalid submissions.

In any given year, there is no precise way to determine the exact number of businesses that are covered by the HCSO and thus required to submit an ARF. Thus, it is difficult to determine whether the data used in this report is an accurate representation of *all* the businesses subject to the law (e.g. employers that submitted ARFs may have been more likely to have complied with the HCSO than employers who did not submit an ARF). Moreover, all the data collected was self-reported, and some employers may have misunderstood the questions on the ARF or otherwise failed to provide accurate data regarding their compliance with the HCSO. Finally, the 2010 ARF collected slightly different information than in prior years, which made certain year-to-year comparisons difficult or unreliable. As appropriate, details and disclaimers about such comparisons are explained in the context of specific findings below.

III. FINDINGS

1. Population Summary

The Ordinance defines “employer” as an employing unit as defined in Section 135 of the California Unemployment Insurance Code or any person defined in Section 18 of the California Labor Code, including all members of a “controlled group of corporations” as defined in Section 1563(a) of the United States Internal Revenue Code.

A large business is an employer for which an average of 100 or more persons per week perform work for compensation during a quarter. A medium-size business is an employer for which an average of 20 to 99 persons per week perform work for compensation during a quarter; this category includes only those nonprofit organizations for which an average of 50 to 99 persons per week perform work for compensation during a quarter. Large and medium-size businesses are subject to different health care expenditure rates.

Tables 1 and 2 provide the number and percentage of employers, by type of employer and size of employer, respectively.⁸

Table 1: Number and Percentage of Employers, by Type of Employer (2010)

| | TYPE OF EMPLOYER | | | |
|--------------------------------|------------------|------------------------|-------------------------------|------------------------------|
| | All Employers | Nonprofit Organization | Control Group of Corporations | For-Profit, No Control Group |
| Number of Employers | 2,960 | 141 | 298 | 2,521 |
| Percentage of Employers | 100% | 5% | 10% | 85% |

Table 2: Number and Percentage of Employers, by Size of Employer (2010)

| | SIZE OF EMPLOYER* | | | | | |
|--------------------------------|-------------------|-------|-------|---------|----------|-------|
| | All | 20-49 | 50-99 | 100-499 | 500-1999 | 2000+ |
| Number of Employers | 2,960 | 922 | 568 | 647 | 327 | 496 |
| Percentage of Employers | 100% | 31% | 19% | 22% | 11% | 17% |
| Percentage of Employers | 100% | 50% | | | 50% | |

*Based on highest of four quarters reported by employer.

Table 3 provides a historical comparison. The percentage of medium-size employers has declined slightly each year; the percentage of large employers has correspondingly increased.

⁸ Percentages in these and subsequent tables may not add up to 100% due to rounding.

Table 3: Percentage of Employers, by Size of Employer (2008 to 2010 Comparison)

| | SIZE OF EMPLOYER* | | | | | |
|-------------|-------------------|-------|----------|---------|------|---------|
| | 20-49 | 50-99 | “Medium” | 100-499 | 500+ | “Large” |
| 2008 | 35% | 20% | 55% | 23% | 22% | 45% |
| 2009 | 33% | 18% | 51% | 23% | 26% | 49% |
| 2010 | 31% | 19% | 50% | 22% | 28% | 50% |

*Based on highest of four quarters reported by employer.

Table 4 provides the number and percentage of covered employees for whom employers were required to make health care expenditures. The vast majority of covered employees (82%) were employed by large employers.

Table 4: Number and Percentage of Covered Employees, By Size of Employer (2010)

| | SIZE OF EMPLOYER* | | | | | |
|--|-------------------|--------|--------|---------|------------|---------|
| | All | 20-49 | 50-99 | 100-499 | 500 – 1999 | 2000+ |
| Number of Covered Employees** | 204,660 | 17,288 | 19,211 | 39,056 | 26,721 | 102,383 |
| Percentage of Covered Employees | 100% | 8% | 9% | 19% | 13% | 50% |
| Percentage of Covered Employees | 100% | 18% | | | | 82% |

*Based on highest of four quarters reported by employer.

**Based on average number of covered employees, per quarter.

Table 5 provides a historical comparison. The proportion of covered employees employed by medium-size businesses has declined each year, thus the proportion of employees employed by large businesses has increased.

Table 5: Percentage of Covered Employees, by Size of Employer (2008 to 2010 Comparison)

| | SIZE OF EMPLOYER* | | | | | |
|--------------|-------------------|-------|----------|---------|------|---------|
| | 20-49 | 50-99 | “Medium” | 100-499 | 500+ | “Large” |
| 2008* | 14% | 13% | 27% | 26% | 47% | 73% |
| 2009* | 12% | 12% | 24% | 23% | 53% | 76% |
| 2010* | 8% | 9% | 18% | 19% | 63% | 82% |

*Some employees may have been double-counted if they were Covered Employees for multiple employers.

2. Health Care Expenditures

Sections C through E required employers to provide aggregate data regarding their health care expenditures for health insurance, the “City Option,” and reimbursement plans. For additional details, refer to Section B (“The Annual Reporting Form”) in the Introduction to this report.

Table 6 provides the total dollar amount of health care expenditures for the three principal categories of expenditures, by employer size. Table 7 provides the same data as percentages of total spending. Employers of all sizes spent the vast majority of their health care expenditures (88% or more) on health insurance.

Table 6: Dollar Amount of Health Care Expenditures, By Size of Employer (2010)

| | SIZE OF EMPLOYER* | | | | | |
|--------------------------|--------------------|-------------------|--------------------|--------------------|--------------------|--------------------|
| | All | 20-49 | 50-99 | 100-499 | 500 – 1999 | 2000+ |
| Health Insurance (\$) | 828,676,839 | \$80,258,079 | 90,806,161 | 222,784,528 | 158,986,585 | 275,841,486 |
| “City Option” (\$) | 29,352,224 | 1,527,263 | 2,313,888 | 3,500,410 | 3,258,601 | 18,752,062 |
| Reimbursement Plans (\$) | 62,467,022 | 8,425,603 | 9,833,241 | 17,834,248 | 8,462,838 | 17,911,092 |
| TOTALS (\$) | 920,496,085 | 90,210,945 | 102,953,290 | 244,119,186 | 170,708,024 | 312,504,640 |

*Based on highest of four quarters reported by employer.

Table 7: Percentage of Health Care Expenditures, By Size of Employer (2010)

| | SIZE OF EMPLOYER* | | | | | |
|---------------------|-------------------|-------|-------|---------|------------|-------|
| | All | 20-49 | 50-99 | 100-499 | 500 – 1999 | 2000+ |
| Health Insurance | 90% | 89% | 88% | 91% | 93% | 88% |
| “City Option” | 3% | 2% | 2% | 1% | 2% | 6% |
| Reimbursement Plans | 7% | 9% | 10% | 7% | 5% | 6% |

*Based on highest of four quarters reported by employer.

Table 8 provides a historical comparison of the “primary” type of expenditure selected by employers to meet the health care expenditure requirement. Each year, a slightly higher percentage of medium-size and large employers elected reimbursement plans (at the expense of health insurance) as their primary type of expenditure. The percentage of employers that elected the “City Option” as their primary type of expenditure remained stable.

Table 8: Primary Expenditure Type, By Size of Employer (2008 to 2010 Comparison)*

| | ALL EMPLOYERS | | | “MEDIUM-SIZE” EMPLOYERS** | | | “LARGE” EMPLOYERS** | | |
|-------------|------------------|---------------|--------------------|---------------------------|---------------|--------------------|---------------------|---------------|--------------------|
| | Health Insurance | “City Option” | Reimburs. Plans*** | Health Insurance | “City Option” | Reimburs. Plans*** | Health Insurance | “City Option” | Reimburs. Plans*** |
| 2008 | 84% | 7% | 9% | 84% | 5% | 11% | 85% | 9% | 7% |
| 2009 | 81% | 7% | 12% | 81% | 5% | 14% | 82% | 9% | 9% |
| 2010 | 80% | 7% | 13% | 79% | 5% | 16% | 80% | 10% | 10% |

*The methodology for determining “primary expenditure” changed slightly for 2010. For 2008 and 2009, employers reported only the “primary expenditure” for each employee – other expenditures were unreported – thus the “primary expenditure” for each employer was determined by the expenditure category with the highest number of employees. For 2010, employers reported *all* their health care expenditures, including secondary expenditures for a single employee. Because employees were thus double-counted across expenditure types for 2010, “primary expenditure” was determined by the largest expenditure in total dollars.

**Based on highest of four quarters reported by employer.

***For 2008 and 2009, employers reported expenditures separately for third-party administered and self-administered reimbursement programs. For 2010, these expenditures were combined into a single category. Therefore, the 2008 and 2009 categories were combined in order to make this historical comparison.

The San Francisco Office of the Treasurer and Tax Collector did not collect industry data from businesses in 2009 and 2010, thus expenditures *by industry* are not available for these years. For reference, Table 9 provides the industry data from 2008. The “Accommodations & Food Services” industry elected reimbursement plans as their primary expenditure at a substantially higher rate than any other industry in 2008.

Table 9: Primary Expenditure Type and Number of Employers, By Industry (2008)

| NAICS Industry Code | Number Of Employers | PRIMARY EXPENDITURE TYPE | | |
|--|---------------------|--------------------------|-----------------------|---------------------|
| | | Health Insurance | Healthy San Francisco | Reimbursement Plans |
| Accommodations & Food Services | 152 | 39% | 14% | 47% |
| Admin, Support, Waste & Remediation | 97 | 68% | 21% | 11% |
| Retail Trade | 145 | 76% | 8% | 16% |
| Manufacturing | 83 | 92% | N/A | 8% |
| Wholesale Trade | 73 | 96% | 4% | N/A |
| Information | 115 | 94% | 4% | 2% |
| Finance & Insurance | 92 | 98% | 1% | 1% |
| Professional, Scientific, & Technical Services | 390 | 93% | 3% | 4% |
| Real Estate& Rental/Leasing | 68 | 93% | 2% | 6% |
| Construction | 198 | 95% | 2% | 3% |
| Other | 115 | 82% | 7% | 12% |
| Industry Code N/A | 986 | 82% | 9% | 9% |

3. Reimbursement Plans

Section E of the 2010 ARF required employers to provide the aggregate dollar amount *allocated* to various types of reimbursement plans and the aggregate dollar amount *actually reimbursed*. For additional details, refer to Section B (“The Annual Reporting Form”) in the Introduction to this report.

Table 10 provides data on the number and percentage of employers providing reimbursement plans. 29% of all employers (860) allocated money to a reimbursement plan. Medium-size employers (32%) were more likely to utilize such plans than large employers (26%). 55% of all reimbursement plans were offered by medium-size employers.

Table 10: Number and Percentage of Employers with Reimbursement Plans, By Size of Employer (2010)

| | SIZE OF EMPLOYER* | | | | | |
|---|-------------------|-------|-------|---------|------------|-------|
| | All | 20-49 | 50-99 | 100-499 | 500 – 1999 | 2000+ |
| Number of Employers (all) | 2,960 | 922 | 568 | 647 | 327 | 496 |
| Number of Employers (w/Reimbursement Plans) | 860 | 286 | 191 | 184 | 76 | 123 |
| Employers w/Reimbursement Plans (as % of all employers in size range) | 29% | 31% | 34% | 28% | 23% | 25% |
| Employers w/Reimbursement Plans (as % of all employers in size range) | 29% | 32% | | 26% | | |
| Employees w/Reimbursement Plans (as % of all Reimbursement Plans) | 100% | 33% | 22% | 21% | 9% | 14% |
| Employees w/Reimbursement Plans (as % of all Reimbursement Plans) | 100% | 55% | | 45% | | |

*Based on highest of four quarters reported by employer.

Table 11 provides data on the dollars allocated to reimbursement plans and the usage rates. The *average* “reimbursement rates” (i.e. the percentage of allocated dollars that were actually reimbursed) for medium-size and large employers were 19% and 20%, respectively. The *median* reimbursement rates for medium-size and large employers were even lower: 10% and 15%, respectively.

Table 11: Usage Rates of Reimbursement Plans, By Size of Employer (2010)

| | SIZE OF EMPLOYER* | | | | | |
|---------------------------------------|-------------------|-----------|-----------|------------|------------|------------|
| | All | 20-49 | 50-99 | 100-499 | 500 – 1999 | 2000+ |
| Number of Employers | 860 | 286 | 191 | 184 | 76 | 123 |
| Amount Allocated (\$) | 62,467,022 | 8,425,603 | 9,833,241 | 17,834,248 | 8,462,838 | 17,911,092 |
| Total Amount Reimbursed (\$) | 12,383,154 | 1,954,428 | 1,502,506 | 3,500,745 | 1,650,592 | 3,774,883 |
| Avg. Reimbursement Rate | 20% | 23% | 15% | 20% | 20% | 21% |
| Avg. / Med. Reimbursement Rate | 20% / 12% | 19% / 10% | | 20% / 15% | | |

*Based on highest of four quarters reported by employer.

Table 12 provides data on “Stand-Alone” reimbursement plans. Reimbursement plans have traditionally been provided to employees in conjunction with health insurance, however, the IRS tax rules permit employers to offer Stand-Alone reimbursement plans (i.e. reimbursement plans not provided in conjunction with health insurance). There is interest in the usage of “Stand-Alone” reimbursement plans as they relate to federal health reform.⁹ The 2010 ARF did not explicitly collect data on Stand-Alone HRAs, but the nature of the reporting provides a vehicle for affirmatively identifying at least some of the Stand-Alone HRAs.

344 of the 860 employers that reported expenditures on reimbursement plans met one of the following two criteria: 1) the employer made no expenditures on health insurance for any employees or 2) the employer made some expenditures on health insurance, but indicated that there was no overlap between those employees provided health insurance and those employees provided a reimbursement plan. By virtue of satisfying one of these two criteria, the reimbursement plans offered to these employees are presumed to be Stand-Alone reimbursement plans. The *average* reimbursement rate for Stand-Alone reimbursement plans was 15% and the *median* reimbursement rate was 7%.

Table 12: Usage Rates of “Stand-Alone” Reimbursement Plans (2010)

| | All Reimbursement Plans | All Stand-Alone Reimbursement Plans |
|--|----------------------------|-------------------------------------|
| | Number of Employers | 860 |
| % of Reimbursement Plan Employers | 100% | 40% |
| % of All Covered Employers | 29% | 12% |
| Amount Allocated (\$) | 62,467,022 | 27,356,968 |
| Amount Reimbursed (\$) | 12,383,154 | 3,976,603 |
| Avg. / Med. Reimbursement Rate | 20% / 12% | 15% / 7% |
| Amount Unreimbursed (\$) | 50,083,868 | 23,380,365 |
| Avg. / Med. Percentage Unreimbursed | 80% / 88% | 85% / 93% |

⁹ The implications of federal health reform are beyond the scope of this report, but there are clear indications that Stand-Alone reimbursement plans are inconsistent with the recently enacted federal health reform. (See, e.g., section 2711 of the Public Health Services Act, as amended by the Patient Protection and Affordable Care Act, regarding the newly effective prohibition on health plans with annual and lifetime caps.)

Table 13 provides data on the reimbursement plans with unreimbursed allocations. 155 of the 860 reimbursement plans reimbursed all of the money allocated to such plans.

The remaining 705 reimbursement plans had over \$50 million allocated to reimbursement plans that went unreimbursed in 2010. The *average* amount of unreimbursed allocations was \$71,513 per employer (\$38,256 per medium-sized employer and \$112,454 per large employer). The *median* amount of unreimbursed allocations was \$33,439 (\$24,050 per medium-sized employer and \$42,304 per large employer).

Table 13: Reimbursement Plans with unreimbursed allocations, By Size of Employer (2010)

| | SIZE OF EMPLOYER* | | | | | |
|--|-------------------|-----------|-----------|------------|------------|------------|
| | All | 20-49 | 50-99 | 100-499 | 500 – 1999 | 2000+ |
| Number of Employers (with Unreimbursed Allocations) | 705 | 229 | 160 | 153 | 65 | 98 |
| Total Amount Unreimbursed (\$) | 50,417,004 | 6,538,152 | 8,343,532 | 14,376,733 | 6,812,246 | 14,346,341 |
| Avg. Percentage Unreimbursed | 81% | 78% | 85% | 81% | 80% | 80% |
| Avg. / Med. Percentage Unreimbursed | 81% / 88% | 82% / 90% | | 80% / 85% | | |
| Avg. \$ Unreimbursed (Per Employer) | 71,513 | 28,551 | 52,147 | 93,966 | 104,804 | 146,391 |
| Avg. \$ Unreimbursed (Per Employer) | 71,513 | 38,256 | | 112,454 | | |
| Med. \$ Unreimbursed (Per Employer) | 33,439 | 24,050 | 41,215 | 42,304 | | |

*Based on highest of four quarters reported by employer.

Table 14 shows the number and percentage of the 860 reimbursement plans that fell within various ranges of reimbursement rates. 47% of these employers (404) reimbursed less than 10% of the money allocated to these plans. 18% of employers (155) reimbursed 100% of the allocations; a substantial number of these reimbursement plans were likely Health Savings Accounts (HSAs). Unlike HRAs, funds allocated to HSAs are portable and retained by employees in perpetuity (thus employers administering HSAs were instructed to report all HSA allocations as “reimbursed” by the employee).

Table 14: Number and Percentage of Reimbursement Plans, By Reimbursement Rates (2010)

| | REIMBURSEMENT RATES | | | | | | |
|--------------------------------|---------------------|---------|----------|----------|----------|----------|------|
| | 0% | 1 – 10% | 11 – 25% | 26 – 50% | 51 – 75% | 76 - 99% | 100% |
| Number of Employers | 184 | 220 | 137 | 83 | 40 | 41 | 155 |
| Percentage of Employers | 21% | 26% | 16% | 10% | 5% | 5% | 18% |

Table 15 provides a historical comparison of the percentage of reimbursement plans that fell within various ranges of reimbursement rates.

Table 15: Percentage of Reimbursement Plans, By Reimbursement Rates (2008 to 2010 Comparison)

| | REIMBURSEMENT RATES | | | | | |
|-------------|---------------------|---------|----------|----------|----------|-----------|
| | 0% | 1 – 10% | 11 – 25% | 26 – 50% | 51 – 75% | 76 – 100% |
| 2008 | 27% | 26% | 11% | 8% | 4% | 24% |
| 2009 | 22% | 30% | 13% | 12% | 5% | 18% |
| 2010 | 21% | 26% | 16% | 10% | 5% | 23% |

IV. CONCLUSION

The 2010 Annual Reporting Forms provided insight into the health care expenditure choices of San Francisco employers. The overwhelming majority of the total health care expenditures went to health insurance and the overwhelming majority of employers reported their primary expenditure was for health insurance. Large employers were more likely to utilize the Healthy San Francisco program.

A comparison of the 2008, 2009, and 2010 Annual Reporting Forms shows relatively consistent patterns from the three years, which provides more certainty as to the reliability of the data. The vast majority of all health care dollars continue to be spent on health insurance, and the vast majority of employers continue to choose health insurance as their primary method for meeting the health care expenditure requirement.

In terms of trends, the use of reimbursement plans as the primary method of meeting the health care expenditure requirement increased for both medium-size and large employers, while the use of health insurance showed a corresponding decline. Further, data from all three years show low reimbursement rates on the expenditures allocated to reimbursement plans. The increase in employers utilizing reimbursement plans as their primary method of complying with the health care expenditure requirement, coupled with low reimbursement rates, raises public policy concerns.