



Health Care Security Ordinance: Self-funded Health Plan Calculations

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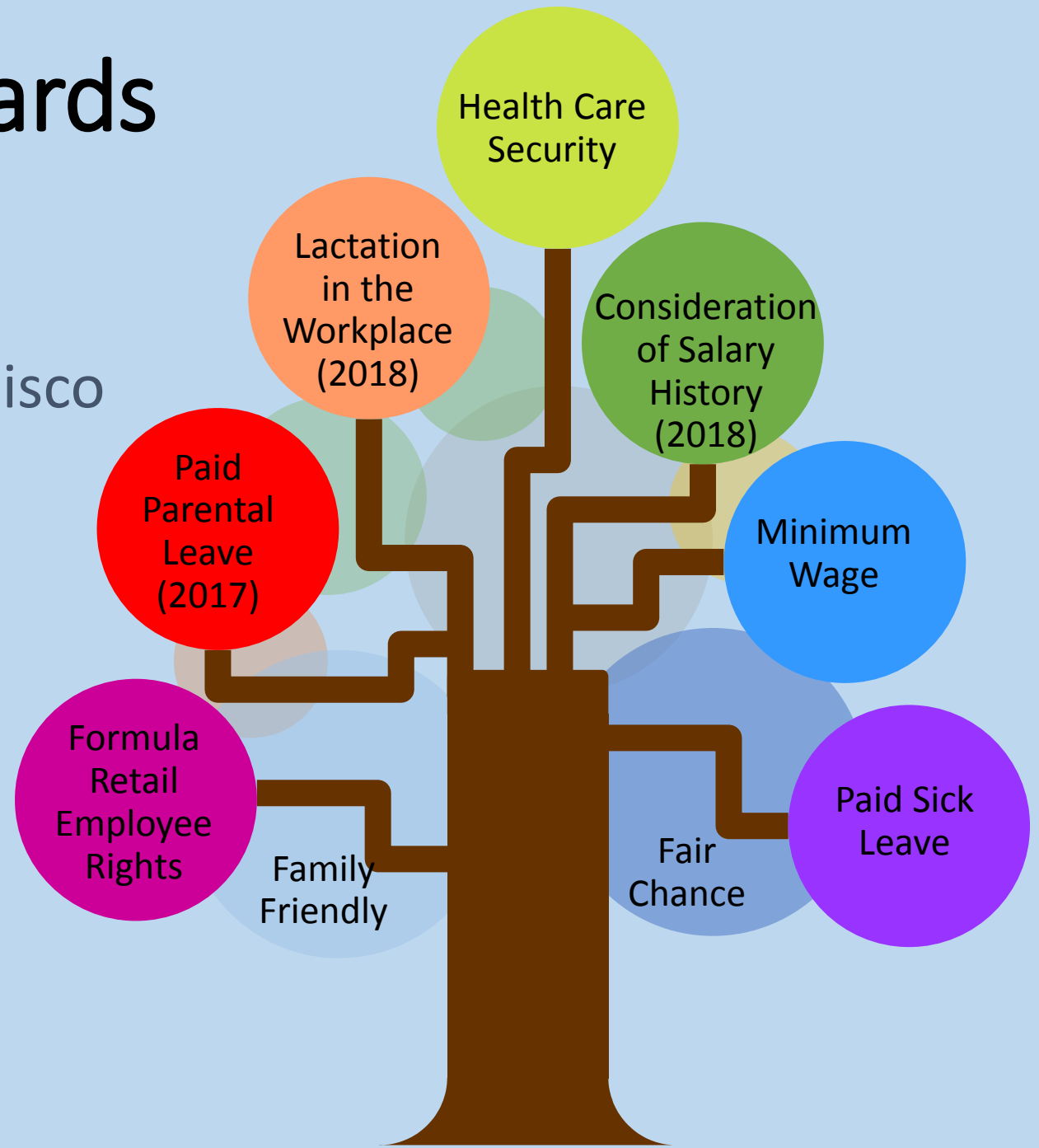
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Office of Labor Standards Enforcement (OLSE)

Enforces an array of 15 San Francisco labor ordinances, including:

OLSE has investigative authority & enforcement power, and offers technical assistance for employers



HCSO Background

- The Health Care Security Ordinance (HCSO) requires covered employers to make health care expenditures for covered employees at a specific rate.
- **2018 Large Employer rate was \$2.83/hour.**
- Large employers are those with 100 or more employees worldwide.
- New Rules in effect October 29, 2017 changed how the City evaluates expenditures under self-funded insurance plans.
- **Full text of HCSO Rules available at <http://sfgov.org/olse/hcso>**



New Rules for Self-funded Insurance

- Pursuant to HCSO Rules changed in Oct. 2017:
 - 1) **Employers may no longer use the COBRA premium rate to calculate their required health care expenditures (beginning 1/1/18);**
 - 2) For self-funded plans in which the employer pays claims as they are incurred, the employer may calculate the health care expenditures on an *annual* basis;
 - 3) If the employer's annual spend fell short of the HCSO expenditure rate, the employer must make "top-off" payments for employees enrolled in these plans by Feb 28th of the following year.



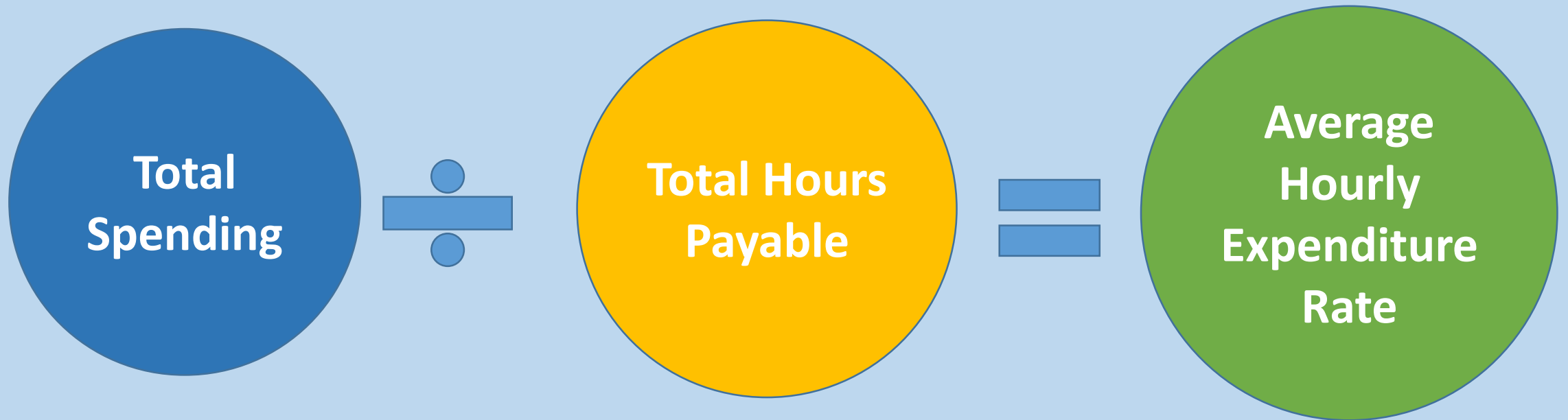
Self-Funded Insurance Plan Calculations

HCSO Rule 5.9

- **5.9(a): employer pays a fixed monthly premium to a carrier**
 - the premiums are the cost, and employer must satisfy the spending requirement each quarter.
- **5.9(b): employer pays claims as they are incurred**
 - the employer may look at the annual spend
 - **Note:** for employees enrolled in traditional insurance plans, or employees who are not enrolled in the company's insurance, the regular quarterly deadlines still apply.
 - **How does the employer assess the annual “cost” of the plan?**



Average Expenditure Calculation



Calculation Notes – Uniform Health Plans

- Employers are only permitted to average expenditures for employees enrolled in a uniform health plan.
- Only average expenditures for employees must be on the same uniform plan
 - Kaiser Bronze cannot be averaged with Kaiser Silver



Calculation Notes – Geography and Max Hours

- Employer can opt to average total costs and total hours for:

A. all employees in the plan, or (*nationwide*)



B. all “Covered Employees” (San Francisco only) in the plan.



C. Expenditures for all employees in the plan nation-wide and an estimated hours per employee of 172 hours per month.

- Note: HCSO requires expenditures for a maximum of 172 Hrs./Mo. A full-time employee will have 2064 hours in a year (not 2080).



Calculation Notes – Time Frame

- To be compliant, the employer must demonstrate that “the preceding year’s average hourly expenditures meet or exceed that year’s expenditure rate.”
- OLSE will issue future guidance clarifying the phrases “preceding year” and “that year.”



Calculation Notes – Time Frame

- For 2018 calculations, employers may use either of the following:
 - (1) Average actual 2018 expenditures (claims paid) equals the 2018 rate; OR**
 - (2) Average actual 2017 expenditures equals the 2018 rate.**
- OLSE is offering this flexibility in the first year of the transition to new rules. For 2019 compliance, employers will need to ensure actual 2019 expenditures match the 2019 rate (\$2.93/hr).
- If 2018 was the employer's first year with a self-funded plan, it will need to look at the value of actual claims paid in 2018.



Calculation Notes – Included Expenses

- Count only claims paid in 2018 (not claims incurred).
- If employer receives a refund for a “good claims year,” the amount refunded **may not** be included in the expenditure calculation.
- Claims paid for dependents enrolled in the plan may also be included.



Calculation Notes – Included Expenses:

- All claims paid for employees' Health Care Services
- Some types of reasonable fees may be included as expenditures; for example, stop loss insurance.
- Other fees cannot be included as expenditures; for example, consulting fees, or fees associated with compliance with other laws.
 - Contact OLSE for more information regarding which fees are acceptable.



Self-Funded Calculation Example

Option A: Nationwide Average

Acme Employer 350 employees enrolled in the self-funded plan. 300 are full-time and 50 are part-time employees working 20 hrs/week.

Total Claims Paid by Employer	Total Payable Hours	Average Hourly Expenditure	Compliance
\$1,508,000	300 FT employees (x2064 hrs) and 50 PT employees (x1032 hrs) = 670,800 hrs	$\$1,508,000 / 670,800$ Hrs. = \$2.24 per Hr.	\$2.24 per hour falls short of the 2018 Large Employer rate of \$2.83.
Do NOT count employee's share of premium.	Include paid vacation hours, sick time, etc. (172 Hr. /mo. maximum)	Calculation: Total Claims Paid / Total Payable Hours	Employer must make additional expenditures of \$.59 per Hours Payable to each employee covered by the HCSO.



Self-Funded Calculation Example

Option B: Covered Employee-only Average

25 SF employees enrolled in the plan are all covered by the HCSO.

Claims Paid by Employer for SF Employees	SF Payable Hours	Average Hourly Expenditure	Compliance
\$120,000	25 Employees x 2064 Hrs. = 51,600 Hrs.	\$120,000 / 51,600 Hrs. = \$2.33 per Hr.	\$2.33 does not meet the 2018 Large Employer rate of \$2.83.
Do NOT count employee's share of premium.	Include paid vacation hours, sick time, etc. (172 Hr./mo maximum)	Calculation: Total Claims Paid / Total Payable Hours	Employer must make additional expenditures of \$.50 per Hours Payable to each employees covered by the HCSO



Self-Funded Calculation Example

Option C: Employer can't isolate SF claims, and can't match up nationwide hours with nationwide enrollment info.

Claims paid for all employees enrolled nationwide	Use <u>2064</u> annual payable hours (172/mo)	Average Hourly Expenditure	Compliance
\$3,500,000 claims paid for 950 employees enrolled	950 employees enrolled x 2064 Hrs. = 1,960,800 Hrs.	\$3,500,000 / 1,960,800 Hrs. = \$1.78 per Hr.	\$1.78 does not meet the 2018 Large Employer rate of \$2.83.
*Total # employees enrolled during calendar year, regardless of length of enrollment.	Use 2064 figure as a stand-in since e'er does not know actual payable hours for enrollees.	Calculation: Total Claims Paid / Total Payable Hours = hourly rate	Employer must make additional expenditures of \$1.05 per Hour Payable to each employees covered by the HCSO



Account for Other Health Care Expenditures

- Dental
- Vision
- HSA Contributions (employer only)
- Other irrevocable spending for Health Care Services



Questions?

Self-Funded Calculations



Self-Funded Insurance Plan Top-offs

- If average expenditures fall short of the required amount for 2018, the employer must make “top-off” payments by **February 28, 2019.**
- [See HCSO Rule 5.10\(3\).](#)



Self-Funded Insurance Plan Top offs:

Who to make top-off payments for:

- Only employees covered by the HCSO (in San Francisco).
 - Even if average expenditures were calculated using a nationwide average, top-off payments are owed only to the SF employees.
- Payment shall be made on a pro rata basis based on the number hours worked by the employee during the calendar year.
- Former employees should also get top-off payments.



Calculating the Top-off Payment Example

- Nationwide, Acme Employer has **200 full-time** employees & **50 part-time** employees who all work 20hrs per week. All are enrolled in the same self-funded medical plan.
- **10 full-time employees** and **5 part-time** employees work in **San Francisco** and are covered by the HCSO.
- After completing the uniform coverage calculation, Acme determines that its nationwide average hourly expenditure in 2018 was **\$2.24/Hr.**
- This is **\$0.59/Hr. less than the \$2.83/Hr. expenditure requirement** for Large Employers in 2018.



Calculating the Top-off: Example A

(employer calculated a \$.59 shortfall)

	Payable Hrs in 2018 per Employee	Shortfall	Employees in SF covered by the HCSO	Total Due
Part time	86 hrs x 12 mo. = 1032	\$0.59/hr x 1032 hrs = \$608.88/person	5	5 x \$608.88 = \$3,044.40
Full time	172 hrs x 12 mo = 2064	\$0.59/hr x 2064 hrs = \$1,217.76/person	10	10 x \$1,217.76 = \$12,117.60
				\$15,162 in top off payments



Self-Funded Insurance Plan Top offs:

How to make top-off payments:

1. Deposits to the employee's Health Savings Account; or
 2. Deposits to the SF City Option program for the employee; or
 3. Some other form of irrevocable expenditure.
- Ensure top-off payments can be distinguished from other 2019 expenditures.
 - OLSE does not manage the SF City Option. Visit <http://sfcityoption.org>.



Questions?

Top Off Payments



Recordkeeping

- Employers must keep records for 4 years. (Rule 7.2)
- Self-funded employers should keep records of the following:
 - Calculation for expenditures of the self-funded plan(s);
 - Underlying data (record of claims paid, enrollment records, etc).
 - Calculations for determining the amount of the top-off payments;
 - Underlying data used to calculate the individual top-off payments (employee payroll records)
 - Copies of communications to employees regarding the top-off payments.



Best Practices for Self-Funded Employers

NUMBER 1: COMMUNICATE WITH YOUR EMPLOYEES

(If you don't, they think you're not complying with the HCSO!)

- Inform employees that they're enrolled in a self-funded plan. Start this communication during open enrollment and in advance of significant benefits transitions (ie, switching from fully-funded to self-funded).
- Tell employees (current & former):
 - what the average spending was on the self-funded plan,
 - the dollar amount of the top-off payment,
 - and where the payment will be made.
- **Consider using the Sample Letter on OLSE's website.**



Best Practices for Self-Funded Employers

- If the payment is being made to the City Option program, inform employees that:
 - They will need to fill out a Program Finder Form before they can access the funds; and
 - There can be a processing time of 2-4 weeks between the payment being made and employees being able to see and use the funds.
- Questions about the City Option should be directed to the City Option program, not OLSE.
 - Employer inquiries: (415) 615-4492; Employee inquiries: (415) 615-5720.



Best Practices for Self-Funded Employers

NUMBER 2: HAVE A KNOWLEDGEABLE POINT PERSON

(If you don't, OLSE may think you're not complying with the HCSO!)

- Employees are likely to have questions regarding why they are/are not getting a payment.
- If employees cannot get their questions answered by their employer or benefits administrator, they are likely to contact OLSE.
- If OLSE also cannot get questions answered in a timely manner, the employer is likely to be audited.



Best Practices for Self-Funded Employers

NUMBER 3: BE PROACTIVE NEXT YEAR

- If you expect to have a shortfall in 2019, you can avoid a large payment in February 2020 by making top-off payments throughout the year.
- This is not required, but can help the employer by spreading payments out.
- If you had a large shortfall for 2018, you may want to examine the employee share of cost. If that decreases, more people enroll, employer spending increases, and shortfall may be smaller next time.
- See the examples on instruction form.



HCSO Resources

- [Sign up](#) for OLSE updates
- **OLSE HCSO [Website](#)**
 - Self-funded instructions & examples
 - Rules & Administrative Guidance
 - Sample letters to employees
 - OLSE Official Notices
 - Annual Reporting Form
 - Employee Voluntary Waiver Form
- **Email us: HCSO@sfgov.org**
- **Call us: (415) 554-7892**

