

Health Care Security Ordinance Employer Annual Reporting Form Summary 2014-2017

CITY AND COUNTY OF SAN FRANCISCO

GENERAL SERVICES AGENCY

OFFICE OF LABOR STANDARDS ENFORCEMENT

TABLE OF CONTENTS

Contents

Executive Summary _____	1
HCSO Overview _____	2
Findings _____	5

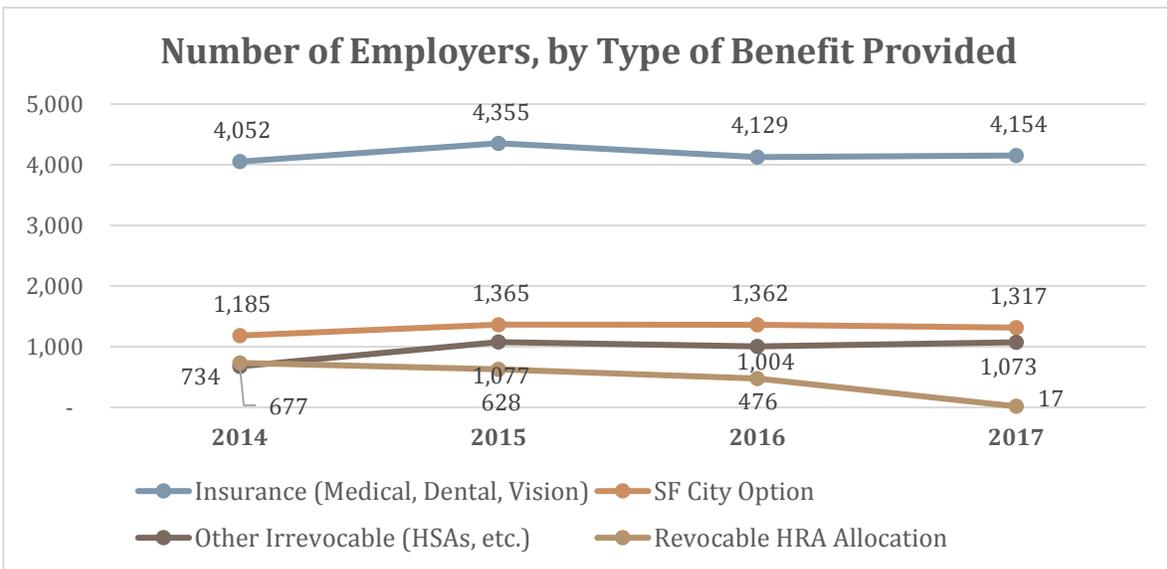
Executive Summary

The San Francisco Health Care Security Ordinance (HCSO) requires employers to make minimum health care expenditures on behalf of their covered employees. Covered employers are San Francisco employers with 20 or more workers worldwide and nonprofit employers with 50 or more workers worldwide.

Employers covered by the law must submit an Employer Annual Reporting to the Office of Labor Standards Enforcement (OLSE) each April summarizing how they complied for the prior calendar year. This document summarizes employers' self-reported health care expenditures from 2014 to 2017. The key findings include:

	2014	2015	2016	2017
Number of Covered Employers Reporting	4,407	4,676	4,389	4,641
Reported Covered Employees	292,412	373,174	330,314	335,231
Total Reported Health Care Expenditures	\$1.86 billion	\$2.40 billion	\$2.22 billion	\$2.36 billion

For each year, the vast majority of employers reported complying with the HCSO by paying for their employees' insurance premiums (medical, dental, and/or vision). The number of employers reporting that they utilized Health Reimbursement Accounts declined between 2014 and 2017 as revocable benefits were phased out (see "Policy Changes on page 3). Note that many employers provide more than one type of benefit and are counted more than once in the chart below.



HCSO Overview

A. STATUTORY AUTHORITY

The San Francisco Health Care Security Ordinance (HCSO) was passed unanimously by the Board of Supervisors in July of 2006 and codified as Chapter 14 of the San Francisco Administrative Code. The HCSO is comprised of two main components:

- 1) A health access program – also known as the San Francisco City Option created by the Department of Public Health; and
- 2) An employer spending requirement, which mandates that employers subject to the HCSO “make Required Health Care Expenditures to or on behalf of each of their Covered Employees each quarter.”¹

The City’s Office of Labor Standards Enforcement (OLSE) is charged with enforcing the employer spending requirement. Pursuant to the ordinance, employers are required to provide information to the OLSE on an annual basis regarding their compliance with the health care expenditure requirement. The OLSE established procedures for covered employers to submit an Annual Reporting Form (ARF) by April 30th every year summarizing their expenditures in the previous calendar year.

B. THE HCSO EMPLOYER SPENDING REQUIREMENT

Since 2008, the HCSO has required “covered employers” to make health care expenditures for their “covered employees.” Covered employers are private sector San Francisco employers with 20 or more workers worldwide and nonprofit employers with 50 or more workers worldwide. The employer spending requirements for 2014 - 2017 are listed in the reference table below.

Employer Size	Number of Employees	2014 Rate	2015 Rate	2016 Rate	2017 Rate
Medium	Businesses w/20-99 workers Nonprofits w/50-99 workers	\$1.63 / hour	\$1.65 / hour	\$1.68 / hour	\$1.89 / hour
Large	All employers w/100+ workers	\$2.44 / hour	\$2.48 / hour	\$2.53 / hour	\$2.83 / hour

¹ The HCSO is codified in Chapter 14 of the San Francisco Administrative Code, and is available via the HCSO website: www.sfgov.org/olse/hcso.

The HCSO defines a 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 or reimbursing the cost of Health Care Services for Covered Employees and/or their spouses, domestic partners, children, or other dependents. Health Care Expenditure also means an amount paid by a Covered Employer to the City on behalf of a Covered Employee to establish his or her eligibility to participate in the City’s Health Access Program (the City Option).”

Employers can make valid health care expenditures on behalf of covered employees in a number of ways, including:

- payments for health, dental, or vision insurance;
- payments to the “City Option”;
- contributions to irrevocable reimbursement accounts, such as a Health Savings Account (HSA) or Medical Reimbursement Account (MRA).
- Other irrevocable health care spending,

C. HCSO POLICY CHANGES

The San Francisco Board of Supervisors passed an amendment to the HCSO on June 17, 2014, which phased in over 3 years a requirement that all health care expenditures be irrevocable. Prior to the amendment, some employers had complied with the HCSO by making allocations to Health Reimbursement Accounts (HRAs). HRA funds typically revert to the employer if they are not used within a certain period of time and are therefore “revocable.” The 2014 amendment limited contributions to these types of revocable benefits to 40% of the required health care expenditures for each employee for 2015 and 20% for 2016. The amendment prohibits employers from using any revocable benefits to comply with the HCSO for 2017 and beyond.

D. DATA COLLECTION

OLSE notifies covered employers of their obligation to submit the Employer Annual Reporting Form by U.S. Mail and by email. OLSE mails a notice to all businesses that report having 20 or more employees on their business registration certificate application or their payroll tax filing. OLSE also sends the notice to all registered non-profit and tax-exempt entities. For calendar year 2017, OLSE’s mailing list was 12,093 addresses.

The OLSE also emails reminders to the agency’s employer email list. In March of 2018, OLSE sent the notice to submit the Employer Annual Reporting Form for calendar year 2017 to 9,490 email addresses.

The OLSE dedicates significant staff time to help employers complete the form, specifically, during the month of April given the April 30 deadline. In April of 2017, OLSE staff answered 1,090 calls from employers.

The OLSE does not audit or otherwise verify the reports that employers submit. Some employers may have failed to provide accurate information. Moreover, not all employers covered by the law submitted forms. In addition, any forms or corrections to a form submitted after May 31 of each submission year were not included in this summary. This report does not include any employers whose reports indicated that they were not covered by the law (either they had fewer than 20 employees worldwide or they reported no covered employees in SF).

E. THE ANNUAL REPORTING FORMS FOR 2014-2017

The Annual Reporting Form (ARF) is a web-based form developed in collaboration with the Treasurer and Tax Collector's Office. The questions remained similar to the questions asked in prior years' forms. Employers reported on the following:

- The total number of persons employed (worldwide) in each calendar quarter
- The number of employees covered by the HCSO in each calendar quarter
- Health care expenditures made in each calendar quarter (see below); and
- Surcharges collected from customers to cover, in whole or in part, the cost of complying with the HCSO.

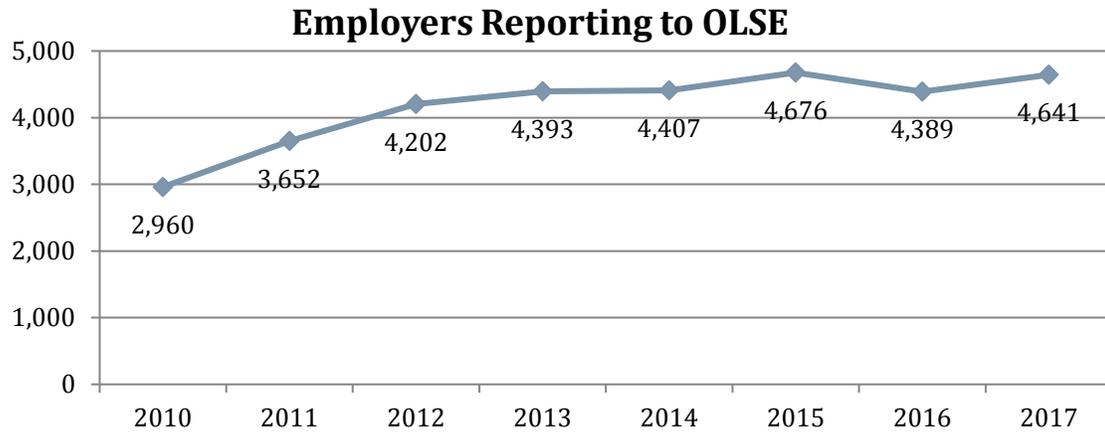
Employers provided information on a number of health care expenditures types:

- **Health insurance** – payments for insurance premiums, including medical, dental, and vision insurance.
- **Payments to the City Option** – Contributions to the San Francisco Health Plan, which are allocated to Healthy San Francisco or to Medical Reimbursement Accounts (MRAs).
- **Other Health Care Expenditures, including:**
 - **Irrevocable reimbursement accounts:** Contributions to other benefits that never revert to the employer. Examples include employer contributions to Health Savings Accounts (HSAs) and Medical Savings Accounts (MSAs), tax-exempt accounts that employees can use to pay for or reimburse medical expenses.
 - **Revocable Health Reimbursement Accounts Revocable Benefits:** Funds allocated to an employer-funded account that is available to an employee to reimburse health care costs during a limited period. Examples include revocable HRAs

Findings

EMPLOYER ANNUAL REPORTING FORM SUBMISSIONS

The number of employers that report to OLSE has increased since 2010, but submissions have levelled off in the last few years.

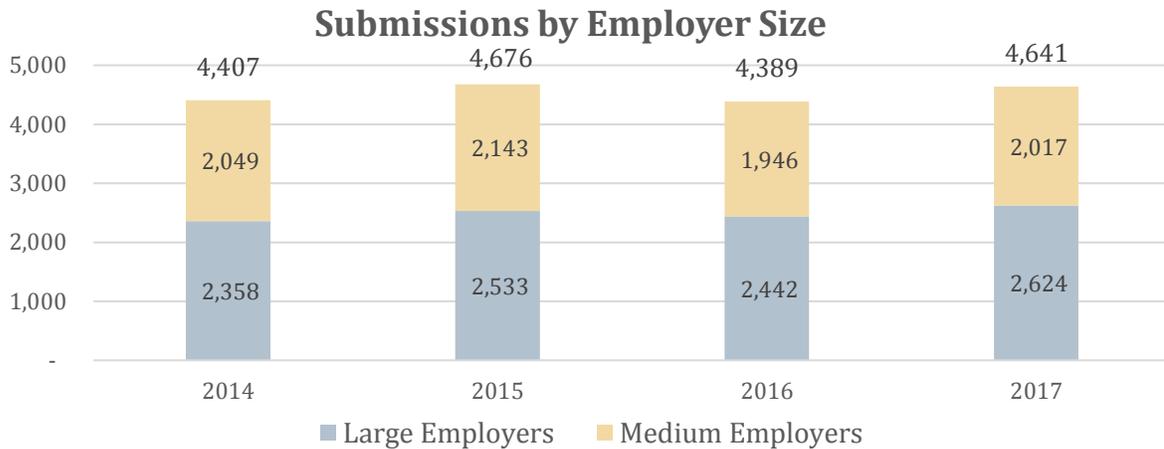


Submissions by Employer Size

The HCSO applies to medium and large private-sector employers in San Francisco, business sizes are defined using the following criteria:

- Medium-sized employers: businesses with 20-99 workers and nonprofits with 50-99 workers
- Large employers: all employers with 100+ workers

The number of submissions from each category of employer has remained stable since 2014.



* Number of employees worldwide, based on the highest quarter reported by the employer

Covered Employees

Covered employees are employees who:

- (1) are entitled to be paid the minimum wage;
- (2) have been employed by their employer for at least 90 calendar days;
- (3) perform at least 8 hours of work per week within the geographic boundaries of San Francisco; and
- (4) and do not meet any of the exemptions (see the [HCSO Administrative Guidance](#) for exemptions).

REPORTED NUMBER OF COVERED EMPLOYEES*

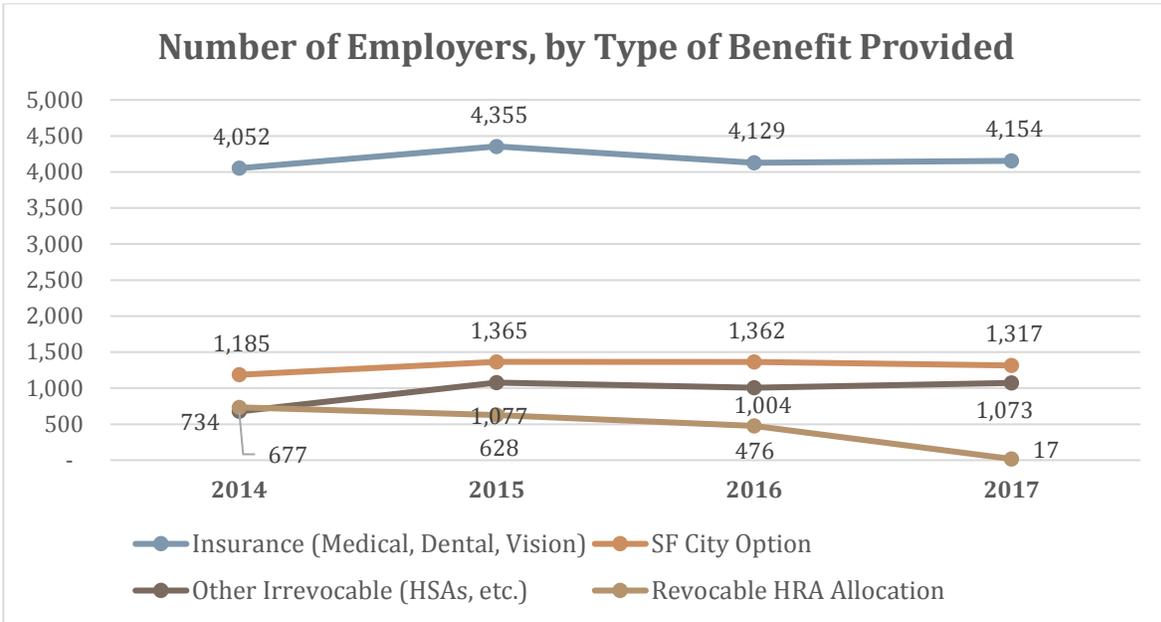
	2014	2015	2016	2017
Covered employees at Medium-Sized Employers (20-99 workers)	55,831	57,622	53,419	52,720
Covered employees at Large employers (100+ worker)	236,581	315,552	276,895	282,511
Total	292,412	373,174	330,314	335,231

**based on an employer's highest number of employees in any quarter of the calendar year*

EMPLOYERS' HEALTH CARE EXPENDITURE CHOICES

Employer Benefit Choices

The vast majority of employers comply with the HCSO by paying for their employees' insurance premiums (medical, dental, and/or vision), and the number of employers providing health insurance for at least some employees has remained stable since 2014. The number of employers reporting revocable HRAs declined from 734 in 2014 to 17 in 2017 as revocable benefits were phased out. The number of employers using the SF City Option to comply has increased very slightly, as have the number using paying for other irrevocable benefits (such as HSAs or others).



Note that many employers provide more than one type of benefit to their employees. For this reason, adding the number of employers making expenditures on each type of benefit will result in a number that is higher than the total number of employers that submitted forms.

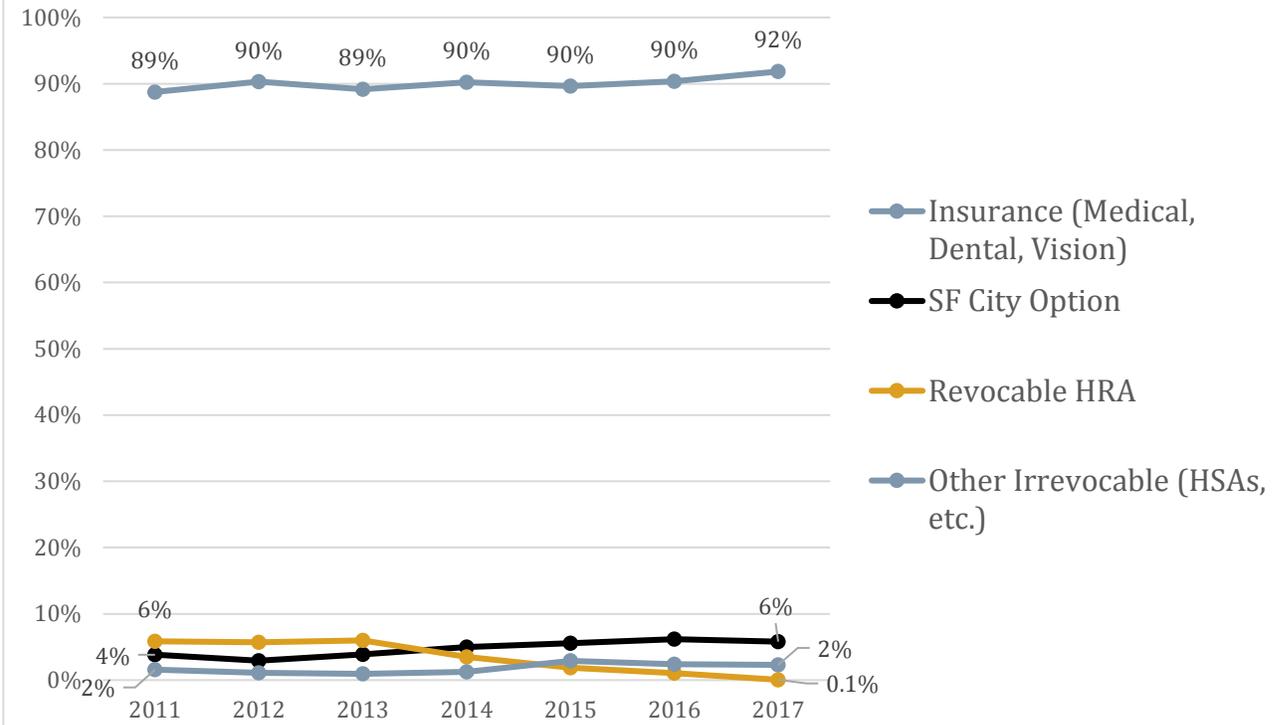
Total Health Care Expenditure Dollars

Employers reported spending a total of more than \$2.3 billion on health care for employees covered by the HCSO in 2017. Employers spent \$2.16 billion or 92% of the total on insurance premiums. Dollars allocated to revocable HRAs declined from \$65 million in 2014 to \$1.2 million in 2017.

Benefit Type	2014	2015	2016	2017
Insurance (Medical, Dental, Vision)	\$1,673,577,306	\$2,154,043,367	\$2,009,736,949	\$2,162,955,103
SF City Option	\$93,002,712	\$133,848,471	\$137,298,395	\$136,993,749
Revocable HRA Allocation	\$65,202,929	\$44,970,022	\$23,931,995	\$1,209,101
Other Irrevocable Benefit (HSAs, etc.)	\$23,396,979	\$69,718,340	\$53,301,859	\$54,015,930
Total	\$1,855,179,926	\$2,402,580,200	\$2,224,269,198	\$2,355,173,883

The percent of the total health care dollars spent on each benefit type has been relatively consistent since 2014. Employers report a slight increase in health insurance spending from 89% to 92% on and a decrease from 6% to 0.1% in allocations to HRAs.

Percent of Health Care Dollars Spent on Each Benefit Type



Covered Employee Benefits

Employers reported a maximum of 335,231 covered employees in 2017. Notably, the number of employees covered by the City Option has gone up between 2014 and 2016, and the number of employees covered by HRAs continuously decreased during that time.

REPORTED EMPLOYEES RECEIVING EACH BENEFIT TYPE

	2014	2015	2016	2017
Insurance (Medical, Dental, Vision)	217,716	217,716	217,716	268,369
SF City Option	47,196	47,196	58,093	51,036
Revocable HRA	41,474	32,686	22,966	664
Other Irrevocable Benefit (HSAs, etc.)	15,829	31,135	31,854	34,259
Total	292,412	373,174	365,872	335,231

**based on the employer's highest number of employees receiving the benefit in any quarter of a calendar year.*

Note that a covered employee may receive more than one type of health benefits, and may be counted in more than one row. The sum of the covered employees receiving each type of benefit does not equal the total number covered employees.

CUSTOMER SURCHARGES

A small fraction of employers choose to collect surcharges from their customers to cover the cost of complying with the HCSO. Any business that chooses to do so must report to OLSE on their collections in the Annual Reporting Form.

For 2017, 133 employers reported collecting \$25,712,664 in surcharges from their customers to cover “in whole or in part” the cost of complying with the HCSO. The proportion of employers reporting that they collected surcharges from customers declined, with 2.9% of employers reporting surcharges in 2017, down from 2.7% in 2015. Note that some employers collect surcharges to cover the cost of complying with other San Francisco requirements in addition to the HCSO.

	2014	2015	2016	2017
Employers Collecting Surcharges	220	268	242	133
% of Employers	5.0%	5.7%	5.5%	2.9%
Total Surcharge Collected	\$ 24,287,977	\$ 50,906,231	\$ 35,918,236	\$ 25,712,664