

The End-Of-Year HR Checklist

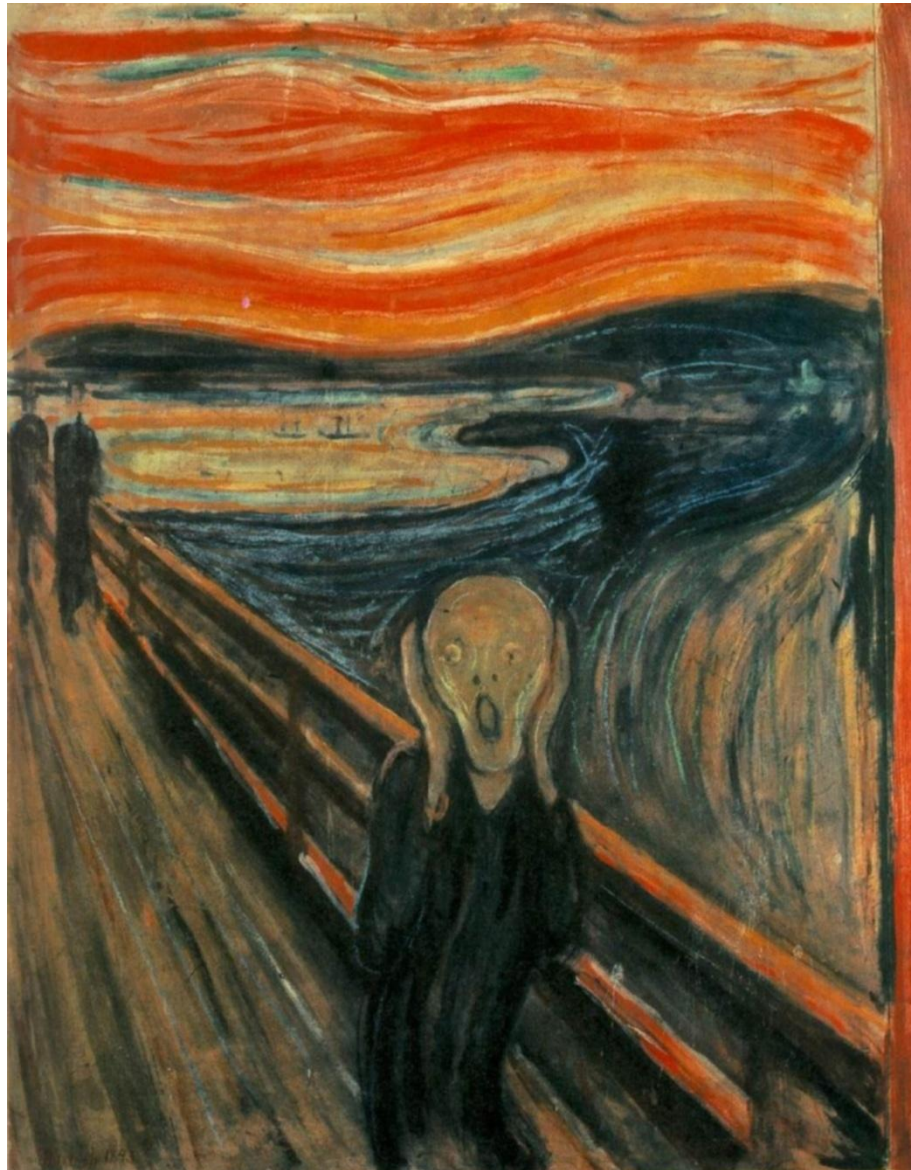
October 25, 2016

Presented By | Adam Jensen, Vice President

AGENDA

- **Regulatory Compliance**
- **Administrative**
- **Housekeeping**

WHAT DO YOU MEAN IT'S ALREADY THE END OF THE YEAR?



Take care of year end regulatory compliance duties!

REGULATORY COMPLIANCE

Medicare Part D Creditable/Non-Creditable Disclosures

- **Distribute to everyone on your health plan, NOT just to those over age 65**
- **Can hand out as memos, payroll stuffer, or email**
- **Cannot just post on the bulletin board in the break room**
- **Supposed to be done not later than October 14th each year**
- **Must disclose (report) notice delivery to federal government not later than 60 days after the end of the plan year by filling out two-page web form found at:**
https://www.cms.gov/CreditableCoverage/45_CCDisclosureForm.asp#TopOfPage

REGULATORY COMPLIANCE

Benefit plan Summary Annual Reports (SARs)

- **Textural copy of information provided in the Form 5500**
- **All H&W and retirement plans that file a Form 5500 must provide one to plan participants not later than 270 days after the end of the plan year**
- **For calendar year plans this is 9/30**
- **Can be delivered as memo, payroll stuffer, or email**

REGULATORY COMPLIANCE

Double check to make sure that all Form 5500 filings have been done

- **Any H&W plan that starts the year with 100 or more participants must file for that year**
- **Filing due not later than 210 days after end of the plan year- for calendar year plans this is July 31st**
- **Extensions available via Form 5558- to the 15th day of the third month after the normal due date of the return (October 15th)**
- **Better late than never!**
- **Can use Delinquent Filer Voluntary Compliance (DFVC) Program to fix missing filings at a fraction of the cost (\$10/day vs. \$2,063/day)**

REGULATORY COMPLIANCE

Other required annual health law notices

- **Women's Health and Cancer Rights Act**
- **Children's Health Insurance Program (CHIP)**

REGULATORY COMPLIANCE

ACA Transitional Reinsurance Fee

- 2016 supposed to be final year of the tax
- Provide count to HHS by November 15th
- \$27 PMPY, due in January 2017 and November 2017 if paying in installments
- If paid in two installments, then the contribution amounts are \$21.60 and \$5.40, respectively

REGULATORY COMPLIANCE

ACA Transitional Reinsurance Fee

- Remember to try both the regular Snap Shot method and the Snap Shot Factor method when measuring average lives
- Snap Shot Factor method usually results in a lower legal count and lower tax liability

REGULATORY COMPLIANCE

ACA Transitional Reinsurance Fee

Fee Calculation Example:

- **790 Actual Lives (Employees, Spouses, Dependents)**
 - 102 Employee Only
 - 87 Employee +1 contracts
 - 127 Family contracts

Snapshot Actual Method

790 Members x \$27/Member = \$21,330

Snapshot Factor Method

- **Separate single contracts**
 - 102 Employee Only
- **Add non-single contracts and multiply by 2.35**
 - 87 + 127 = 214; 214 x 2.35 = 503
- **Add singles and non-singles**
 - 102 + 503 = 605 Members

605 Members x \$27/Member = \$16,335, SAVINGS OF \$4,995!

REGULATORY COMPLIANCE

ACA Reporting- Out with the old and in the new!

- The old: 1094-C/1095-C error reporting for 2015 should be completed, or reasonable effort to fix should be made by December 1, 2016 to avoid fines
- The new: 2016 plan year reporting deadline approaching, using same dates as W-2 reporting
- Touch base with your vendor and verify they will be able to:
 1. Deliver employee statements by January 31, 2017
 2. File forms with IRS by February 28, 2017 (paper)/March 31, 2017 (electronic)

REGULATORY COMPLIANCE

W-2 Reporting

- **Deliver employee statements by January 31, 2017**
- **File forms with IRS by February 28, 2017 (paper)/March 31, 2017 (electronic)**
- **ACA reporting of employer + employee health plan contributions in Box 12 using code DD**
- **Employers filing more than 250 W-2's required to report**
- **Small employers filing fewer than 250 W-2's are not subject to the reporting per**

IRS Notice 2012-9

- **Tribal employers (governments and enterprises) specifically exempted**

REGULATORY COMPLIANCE

HIPAA Security

- HIPAA Security Rule requires Covered Entities to conduct an annual Security (IT) audit
- Failure to do so may be considered “willful neglect” not corrected within 30 days that is subject to \$50,000
- Remember- under the HITECH rules, HHS keeps the fines it assesses
- HHS/CMS ramping up “desk audit” process remotely from Washington, D.C.
- Make sure you’ve done your 2016 audit or start planning your 2017 audit

REGULATORY COMPLIANCE

HIPAA Privacy

- **Make sure PHI flow is up to date and that all persons who need access to PHI have been identified and trained**
- **Verify that policies and procedures are up to date and available to your “HIPAA workforce”**
- **Does your onboarding process flag persons who have a legitimate business need for PHI access?**
- **Update PHI access roster**
- **Verify that all required Business Associate Agreements are on file**

REGULATORY COMPLIANCE

Non-discrimination testing for cafeteria/Section 125 plans

- Required by final rules for Internal Revenue Code Section 125 as of end of the plan year
- Best to test prior to end of plan year *with annualized numbers* in case corrections are needed
- Three tests should be run

REGULATORY COMPLIANCE

Non-discrimination testing for cafeteria/Section 125 plans

1. 25% Key employee concentration test

- **Nontaxable benefits provided to Keys cannot exceed 25% of such benefits provided for all employees under the plan. Otherwise, the plan will be discriminatory and the Keys will lose their income exclusion—they will be taxed on the maximum taxable benefits they could have received.**

2. Dependent Care more than 5% concentration test

- **DCAP benefits provided to more-than-5% owners cannot exceed 25% of such benefits provided for all employees under the plan. Otherwise, the plan will be discriminatory and the HCEs (including those who are not more-than-5% owners) will lose their DCAP benefit exclusion. Because this test looks at amounts “paid or incurred . . . during the year,” all benefits provided during the year should be taken into account, even if received by employees whose employment terminated during the year.**

REGULATORY COMPLIANCE

Non-discrimination testing for cafeteria/Section 125 plans

3. Dependent Care 55% Average Benefits Test

- The 55% Average Benefits Test is meant to ensure that HCEs do not participate disproportionately. The 55% Average Benefits Test focuses on the average (per capita) benefit received by HCEs as compared to that received by non-HCEs. A plan meets the requirements if the average benefits provided to employees who are non-HCEs under all DCAP plans of the employer is at least 55 percent of the average benefits provided to HCEs under all DCAP plans of the employer.

REGULATORY COMPLIANCE

FLSA Overtime Changes

- **The new FLSA rules go into effect December 1, 2016**
- **Don't count on Congressional or court challenges to delay implementation**
- **Risk analysis and review for each exempt position for employees making between \$23,660 and \$47,476**
- **Cost analysis associated with potential strategies being considered**
- **Consider conducting salary benchmarking for exempt positions**
- **Duties test exemption classification and independent contractor assessment**
- **Review or create job descriptions as needed**
- **Review and update compensation structure as needed**

ADMINISTRATIVE

- **Make sure that year end reviews are done and any annual adjustments (raises/bonuses) are calculated**
- **Year end bonuses should be paid within 2 ½ months of the end of the tax year to be counted in the prior year's income (get them calculated early enough to include with W-2s)**
- **Complete both a budget and a business plan for coming year factor in any additions to staff, including potential M&A activity**
- **Ensure that licenses and certifications are up to date for employees**

HOUSEKEEPING

- **Review all your existing policies and procedures and ensure that they still apply or comply with the frequent changes to laws and regulations (Fair pay law, employee classification compliance, labor laws, etc.) that happened throughout the year.**

HOUSEKEEPING

- **Make sure your HR and filing systems are correctly in compliance**
- **To ensure this, conduct an HR audit**
- **Third-party audit can prove to be more effective.- especially important if there have been changes in staff or leadership or if there has been M&A activity.**

HOUSEKEEPING

At a minimum, an HR audit should examine the following:

- 1. Executive Summary**
- 2. Required Notices and Postings**
- 3. Employee Files**
- 4. Record Retention**
- 5. Employee Handbook**
- 6. Compensation**
- 7. Recruitment and Selection**
- 8. Orientation**
- 9. Leave Compliance**
- 10. Safety and Security**
- 11. Termination**
- 12. Employee Communications**

HOUSEKEEPING

Review the guidelines to retain necessary documents and dispose of records that are no longer required

HOUSEKEEPING

<u>Type of Record</u>	<u>Retention Period (years)</u>	<u>Law/Policy (source)</u>
ACCOUNTING		
Auditors' reports	P	CCH recommendation
Budgets	7	CCH recommendation
Cancelled checks, generally	3	UPPBRA
Depreciation records	P	CCH recommendation
Officer, director and employee expense reports	3	UPPBRA
Employee payroll records (W-2, W-4 annual earnings records, etc.)	3	FLSA, UPPBRA
Inventory lists	7	CCH recommendation
Invoices	7	CCH recommendation
Payroll journal	3	FLSA, UPPBRA
Petty cash vouchers	3	UPPBRA
Subsidiary ledgers (accounts receivable, accounts payable, etc.)	7	CCH recommendation

HOUSEKEEPING

<u>Type of Record</u>	<u>Retention Period (years)</u>	<u>Law/Policy (source)</u>
<u>CORPORATE RECORDS</u>		
Annual reports	P	CCH recommendation
Authorizations and appropriations for expenditures	7	CCH recommendation
Contracts, generally	Expiration +7	CCH recommendation
Contracts, government	Expiration +7	CCH recommendation
Contracts, sales (UCC)	7	CCH recommendation
Notes (internal reports, memos, etc.)	3	UPPBRA

HOUSEKEEPING

<u>Type of Record</u>	<u>Retention Period (years)</u>	<u>Law/Policy (source)</u>
<u>CORRESPONDENCE</u>		
General, routine	3	UPPBRA
<u>INSURANCE</u>		
Accident reports	7	CCH recommendation
Insurance policies	P	Practical experience
<u>LEGAL</u>		
Claims and litigation files	P	

HOUSEKEEPING

<u>Type of Record</u>	<u>Retention Period (years)</u>	<u>Law/Policy (source)</u>
<u>PERSONNEL</u>		
Applications	1	Title VII, ADA
Employee earnings/payroll records	3	FLSA
Employee files	4	SSA, FLSA, ERISA,
ADEA, Equal Pay Act		
Employment contracts	Expiration + 3	FLSA
Form I-9	3	Immigration Reform
& Control Act		
Garnishments	7	FLSA

HOUSEKEEPING

<u>Type of Record</u>	<u>Retention Period (years)</u>	<u>Law/Policy (source)</u>
<u>PERSONNEL</u>		
Medical or exposure to toxic substances records	30	OSHA
Pension documents/profit sharing plans	6	ERISA
Government reports	5	CCH recommendation
Employee pension records, including service, eligibility, personal information, pensions paid	6	ERISA, ESA
Time cards/sheets	3	FLSA

HOUSEKEEPING

<u>Type of Record</u>	<u>Retention Period (years)</u>	<u>Law/Policy (source)</u>
<u>REAL ESTATE</u>		
Leases	Expiration + 7	CCH recommendation
Deeds	P	CCH recommendation
Mortgages	P	CCH recommendation
<u>TAXES</u>		
Income tax returns and cancelled checks (federal, state and local)	6	IRS Code
Payroll tax returns	4	IRS Code
Property tax returns	P	CCH recommendation

HOUSEKEEPING

Document destruction

- Purge old documents that have reached the end of their retention schedule
- Use a reputable document management vendor
- Cross-cut shredders with smallest possible tagents are a best practice for do-it-yourselfers

THANK YOU!

QUESTIONS
