Compliance Recap | April 2025

April 5, 2025

The Maryland Paid Family and Medical Leave Insurance program is delayed, and the definition of "Employer" under Maryland's Parental Leave Act gains clarification. The DOL released an updated version of the CHIP Model Notice and covered employers under the San Francisco Health Care Security Ordinance (HCSO) need to submit the 2024 Employer Annual Reporting Form. Affected filers can use IRS Form 8928 to Report Certain Excise Tax.

Maryland Delays Paid Family and Medical Leave Implementation

Originally approved in 2022, the state-regulated family and medical leave insurance (FAMLI) program mandates that all Maryland employers provide qualified employees up to 12 weeks of paid family and medical leave, and potentially another 12 weeks for parental leave—totaling up to 24 weeks of paid leave. Qualified workers will receive job protection and take time away from work to care for themselves or a family member and be paid up to $1,000 a week.

A qualified worker will be eligible for benefits after working at least 680 hours in positions based in Maryland in the four calendar quarters reported before they need to take leave.

Ongoing implementation difficulties have caused repeated delays. Most recently, Maryland House Bill 102 pushed employer and employee contributions to January 1, 2027, with benefits beginning no later than January 3, 2028.

Additionally, the legislation introduces the term "anchor date," defined as the earlier of the benefit application completion date or the actual start of FAMLI leave. The employee's wage replacement will be based on the highest wages from the four quarters prior to that date. The law also permits yearly adjustments to the weekly benefit amount based on the Consumer Price Index (CPI).

Previously published draft regulations were recently removed from the department's website following the latest delay, leaving their future uncertain.

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Employer Considerations

Contributions to the state plan will depend on payroll size. Employers will collect the (optional) employee payroll contributions and must make contributions for employees working in Maryland.

- Employers with 15 or more employees: The rate will be 0.90% of covered wages up to the Social Security cap. Employers may withhold up to half (0.45%) of the contribution rate from the employees' pay.
- Employers with fewer than 15 employees: The rate will be 0.45% of covered wages up to the Social Security cap. Employers may withhold up to this full amount from the employees' pay.

Contribution rates for the following state fiscal year will be announced by the Maryland Department of Labor each February. Employers will be responsible for electronically remitting contributions on a quarterly basis to the state through its website, making quarterly wage and hour reports and notifying workers about paid family and medical leave.

Maryland Clarifies "Employer" Under the Parental Leave Act

Senate Bill 785 amends Maryland's Parental Leave Act, which mandates up to six weeks of unpaid leave for employees (at companies with 15 to 49 Maryland-based staff) in cases of childbirth, adoption, or foster care placement. To qualify, an employee must have been employed for at least 12 months and worked at least 1,250 hours in the preceding year.

This amendment affirms that companies already covered under the federal Family and Medical Leave Act (FMLA)—those with 50 or more employees nationwide—are excluded from the state law's definition of "employer."

This clarification takes effect on October 1, 2025.

DOL Releases New 2025 CHIP Model Notice

The U.S. Department of Labor (DOL) has released an updated version of the Children's Health Insurance Program (CHIP) model notice.

Under the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), employers that sponsor group health plans are required to provide an annual CHIP notice to employees who reside in states offering premium assistance under Medicaid or CHIP programs. This requirement is based on the location of eligible employees, not the employer's physical address.

Employer Considerations

Employers are not required to use the DOL model notice. Many opt to tailor the content to their workforce by:

- Including only the relevant state-specific information
- Incorporating company branding and formatting

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- Embedding the notice into benefit guides or other plan documents

There is also no prescribed delivery method, as long as the notice reaches all employees who are, or may become, eligible for the group health plan and who live in states with available premium subsidies. Distribution often takes place during open enrollment or as part of a Wrap Summary Plan Description but must also occur upon hiring new employees.

Regardless of the method used, employers must distribute the CHIP notice annually to comply with federal law. Timely and accurate dissemination is key to ensuring employees are informed of their potential eligibility for premium assistance.

San Francisco Employer Annual Report

Employers subject to the San Francisco Health Care Security Ordinance (HCSO) must complete and file their 2024 Employer Annual Reporting Form no later than May 2, 2025. This form must be submitted online through the submission portal.

This annual filing also fulfills a reporting obligation under the San Francisco Fair Chance Ordinance (FCO), which shares the same deadline of May 2, 2025. The Fair Chance Ordinance (FCO) requires employers to follow strict rules regarding applicants' and employees' arrest and conviction records and related information. Employers with five or more employees (total worldwide) and San Francisco contractors, subcontractors, and leaseholders are covered by the FCO.

Key Requirements for the HCSO Annual Report

Under the HCSO, businesses that meet the coverage criteria must allocate a minimum amount toward health care expenses for every hour worked by qualifying employees in San Francisco. Each year, these employers are obligated to submit the Employer Annual Reporting Form, documenting their compliance with the ordinance.

While the form is generally due on April 30 of the subsequent year, the Office of Labor Standards Enforcement (OLSE) has granted an extension this year, moving the deadline to May 2, 2025. As clarified in a recent OLSE communication, no submissions will be accepted after that date. Failure to submit on time can result in penalties of $500 per quarter.

Employers who were not subject to either the HCSO or the FCO at any point in 2024 are exempt from submitting the form. To verify if filing is required, employers will begin the process by completing a brief eligibility questionnaire on the first page of the online form. Those who are obligated to report will proceed to the relevant sections of the form.

Employer Considerations

For employers interested in reviewing the form before filling it out online, the OLSE has provided a downloadable sample version of the 2024 form along with instructions.

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Covered employers must ensure the 2025 HCSO Notice is visibly displayed at each job site or workplace where covered employees are based. For employees working remotely or offsite, the notice should be distributed by email or regular mail. The Notice is available in several languages.

IRS Form 8928 Due to Report Certain Excise Tax

Employers and plan administrators self-report excise tax due for failure to comply with various group health plan requirements, including requirements related to the ACA, COBRA, HIPAA, mental health parity, and the comparable contribution requirement for health savings accounts (HSAs), using IRS Form 8928.

Question of the Month

Q. Do groups need to file and pay PCORI fees if they offer an FSA? Do groups have to file twice if group benefits run on calendar year, but the renewal and FSA run on different months? For example, a May 1 level-funded group with a medical plan that runs calendar year has an FSA that runs May 2025 through April 2026. Does the employer need to file two?

A. In short, an FSA is not subject to the PCORI fee if it is an excepted benefit. This means the employer cannot contribute more than $500 to the FSA (unless it is structured as a match) and employees eligible for the FSA must be eligible for the company's group health plan. If the FSA meets these requirements, no PCORI fee is due.

In the second question, if the FSA is excepted, then no PCORI is needed, regardless of whether it operates on a different plan year. The level funded plan will need to pay the PCORI fee.

If the employer had an HRA and a level funded plan (i.e., two self-funded plans), or an FSA that is NOT excepted and a level-funded plan, two PCORI fees are due unless the two plans have the same employer-sponsor and operate on the same plan year.

The IRS has provided a helpful chart for applying the PCORI fee to various types of health coverage.

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