

Health Care Security Ordinance (HCSO)

By AdminAssist – Jan 17, 2021



What is the HCSO?

The Health Care Security Ordinance (HCSO) requires covered employers to assist employees working in San Francisco to pay for their medical expenses. Employers are required to contribute a certain amount per eligible employee per hour. If an employer does not meet the contribution requirement, they may be required to pay an additional amount to the city.

In addition, employers are obligated to post official notices in all workplaces, report health care expenditures annually, and maintain employment records as well as records of compliance.

Who is a covered employer?

An employer is covered under the HCSO if it,

- is a for-profit business with 20 or more employees;
- is a non-profit business with 50 or more employees;
- has employees who work in San Francisco.

How to determine covered employers Health Care Expenditure (HCE) rate?

The HCSO defines three categories of employers:

Employer Size	Employee Count (Average # of employees who perform work for compensation during quarter)	2021 Expenditure Rate*
Large	100+ employees	\$3.18 per hour payable
Medium	20-99 employees	\$2.12 per hour payable
Small	19 or fewer employees	Exempt

**Rates subject to change annually.*

How does the HCSO determine employee count?

For the purposes of determining employer size the HCSO shall,

- include ALL employees performing work for compensation during a quarter, regardless of their status or classification as seasonal, permanent, or temporary, full-time, or part-time, contracted (employed by a staffing agency) or commissioned;
- not be limited to covered employees;
- include both those employees who work within San Francisco and those who work outside of San Francisco;
- include owners performing work for compensation (including money, benefits, or in-kind compensation).

For businesses with a fluctuating number of employees during a quarter, size will be determined based upon the average number of employees per week performing work for compensation during the applicable quarter.

In addition, employees employed by a “controlled group of corporations” will be counted to determine the overall size of the employer.

How to define a covered employee?

An employee is covered by the HCSO if the employee works for a covered employer and,

- performs work within the city and county of San Francisco;
- is entitled to be paid the minimum wage;
- has been employed by the employer for at least 90-calendar days after their first day of work (including any period of leave to which an employee is legally entitled);

- performs at least 8 hours of work per week.

Are any employees exempt from the HCSO?

The following individuals may be exempt from HCSO,

- Employees who voluntarily waive their right to have their employers make Health Care Expenditures for their benefits. An official [HCSO Waiver Form](#) must be obtained each year to qualify as a waiver;
- Managerial, supervisory, or confidential employees who earn a salary equivalent to at least \$107,991.00 per year or \$51.92 per hour in 2021 (*Rates are subject to change annually*). Employees must satisfy both the job duties test and the salary requirement;
- Employees who are covered by Medicare or TRICARE. Employers must be able to document eligibility;
- Employees who are employed by a non-profit corporation for up to one year as trainees in a bona fide training program consistent with federal law;
- Employees covered by the Health Care Accountability Ordinance (HCAO).

How are payable hours determined?

As per the HCSO rules, payable hours include hours for which a person is paid wages for work performed within San Francisco and hours for which a person is entitled to be paid wages, including but not limited to, paid vacation hours, paid parental leave, paid time off and paid sick leave hours. Hours are not to exceed 172 hours in a single month or 516 hours in a single quarter.

What happens if the employee reaches their 90-day eligibility in the middle of the quarter?

If an employee's 90th day of employment is any day other than the first of the month, then the employer may wait until the first of the following month to begin calculating Health Care Expenditures on the employee's behalf (i.e., if the employee reaches 90 days in the middle of the first quarter on 02/15/2021, then the calculated payable hours will start on 03/01/2021).

What if the employee splits time between a project inside and outside San Francisco?

Under the HCSO, payable hours include only those hours in which the employee worked within the geographic boundaries of the city and county of San Francisco. Employers will need to maintain records to accurately report hours worked in each location where the employee may perform any work.

Covered employees who perform some work outside of San Francisco, payable hours which are not actually worked in San Francisco will be calculated on a pro rata basis for the quarter. (i.e., an employee works 20 hours per week in San Francisco and 20 hours outside of San Francisco. When the employee submits time off, half those hours shall count as Hours Payable under the HCSO).

What Health Care Expenditures (HCE) meet the requirement?

Health care expenditures may include,

- employer contributions toward health, dental and/or vision insurance premiums;
- expenditures made by self-insured and/or self-funded insurance programs;
- expenditures made to a union trust fund, for healthcare;
- irrevocable contributions to medical reimbursement accounts such as an HAS;
- costs incurred in the delivery of health care services for a covered employee;
- payments on behalf of a covered employee to the city option.

How is the Health Care Expenditure (HCE) requirement calculated?

Employers must make a minimum health care expenditure for each employee, based upon the number of hours the employee works in San Francisco multiplied by the expenditure rate set each year by the City.

Payable Hours x Health Care Expenditures (HCE) = HCE Requirement (Amount to Spend Quarterly)

(i.e., 516 Hours x \$2.12/hour = \$1,093.92)

How is the Employer Contribution calculated?

The total employer contribution will be determined by calculating the total employer healthcare contribution as posted to the payroll ledger in the quarter for each employee.

If an employee's 90th day of employment is any day other than the first of the month, then the employer will calculate the employer contribution as of the first of the month following the date of eligibility (i.e., if the employee reaches 90 days in the middle of the fourth quarter on 11/28/2017, the employer health care contribution amount will be calculated for the month of December only).

How is the Contribution Amount calculated?

If the employer has already contributed an amount toward the employee's health care expenditure, then the contribution must be calculated on an individual basis by subtracting the employer healthcare contribution from the total Health Care Expenditure requirement.

$$\text{HCE Requirement} - \text{Employer Healthcare Contribution} = \text{Contribution Amount}$$

Examples provided below,

- **AMOUNT OWED**

HCE REQUIREMENT: 516 Hours * \$2.12 = \$1,093.92
EMPLOYER CONTRIBUTION: \$250.00 Employer Dental Premium Contribution
CONTRIBUTION AMOUNT: \$1,093.92 - \$250.00 = \$843.92 Contribution Amount Due

- **ZERO AMOUNT DUE**

HCE REQUIREMENT: 516 Hours * \$2.12 = \$1,093.92
EMPLOYER CONTRIBUTION: \$1500 Employer Medical and Dental Premium Contributions
CONTRIBUTION AMOUNT: \$1,093.92 - \$1500 Employer Medical Contribution = \$-406.08

**Contribution amounts must be greater than zero to appear on the report.*

How is the HCSO Contribution Amount paid to the city?

The [SF City Option](#) program will allow employers to contribute to the city's public benefit program on behalf of their employees.

Employers may upload an HCSO report to the SF City Option site each quarter. A payment may then be made electronically if the bank account has already been established online.

All contributions to the SF City Option are irrevocable and may not be returned to the employer.

What healthcare can my employees receive if I make payment to SF City Option?

Payments made for each employee are held in an employer contribution pool until the employee contacts SF City Option to enroll in one of three health care programs based on program eligibility.

When is the deadline to upload and pay the HCE?

The HCE must be made 30 days after the end of the preceding quarter.

Quarter 1	April 30 th	Quarter 3	October 30 th
Quarter 2	July 30 th	Quarter 4	January 30 th

Do I need to file the Annual Reporting Form (ARF) each year?

All employers covered by the HCSO are required to submit the Employer Annual Reporting Form by April 30th of each year. If you were covered for one or more quarters of the period year, the employer is required to complete the form. Reporting instructions may be located on the [Office of Labor Standards Enforcement \(OLSE\) site](#).

Information required to complete the annual reporting may be located on the quarterly reports. No additional reports are prepared to complete the annual reporting. A sample ARF is available here, [Sample Employer Annual Reporting Form](#).

Can I charge our Customers a surcharge for this expense?

Employers are not required to, nor prohibited from imposing a surcharge to their customers to offset the cost of complying with the HCSO. Employers who do elect to impose a surcharge must comply with specific requirements,

- Employers must report two pieces of information to the OLSE on an annual basis,
 - The amount collected from the surcharge for Covered Employee Healthcare
 - The amount spent on Covered Employee healthcare
- If the amount collected is greater than the amount spent, the employer must irrevocably spend the excess surcharges on health care for these covered employees. Employers must spend the excess surcharge funds in the following year in addition to spending any health care surcharge funds collected in that year.

In addition, businesses should be aware that when a surcharge is separately added to any taxable sale, the surcharge is also subject to sales tax. ([SFHSCO Sales Tax](#)).

How can AdminAssist assist with HCSO reporting?

If AdminAssist is your current payroll provider, we have you covered.

AdminAssist will generate an HCSO report each quarter to include both eligible and ineligible employees. Clients will be able to download the report to audit prior to upload and payment.

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