

GENERAL SERVICES AGENCY

OFFICE OF LABOR STANDARDS ENFORCEMENT

DONNA LEVITT, MANAGER



The ESR Calculator has been created to assist employers in calculating the minimum health care expenditure required under the San Francisco Health Care Security Ordinance. **In the event of calculation errors, the employer will nonetheless have an obligation to fully comply with the Ordinance.** Accordingly, employers are advised to verify the accuracy of the calculations.

QUESTIONS & ANSWERS ABOUT THE HCSO ESR CALCULATOR

(See page three for Line-by-Line Instructions for the HCSO Employer Spending Requirement Calculator.)

What is the HCSO? HCSO stands for the Health Care Security Ordinance, a new law that went into effect on January 9, 2008. The HCSO requires Covered Employers to spend a minimum amount of money on health care for their Covered Employees. The Office of Labor Standards Enforcement (OLSE) is the City agency mandated to implement and enforce these legal requirements. If you have more questions about the HCSO, please check the OLSE website at www.sfgov.org/olse/hcso; many answers can be found in our Frequently Asked Questions document or our Final Regulations, both of which are available from that webpage.

Does the Ordinance require that the Employer Spending Requirement (ESR) be paid to the City? No, the Ordinance simply requires that Covered Employers make a minimum Health Care Expenditure. In deciding how to meet the ESR, employers have many options to choose from, such as private health insurance plans, the City's Healthy San Francisco program, or health spending or medical reimbursement accounts.

Does the Ordinance require employers that already provide health insurance to their employees to spend more money on their employees? Not necessarily. The premiums that a Covered Employer pays for medical insurance for its Covered Employees count toward its minimum Health Care Expenditures, so if that amount meets or exceeds the amount required under the Ordinance, the Covered Employer will have no further obligations. However, if the amount spent does not meet the minimum expenditure amount set by the Ordinance, the Covered Employer must decide how it will spend the difference. The employer could choose a health insurance plan that provides more comprehensive benefits, such as dental and vision benefits, or increase its contribution towards the health care premiums while decreasing the portion paid by the employee. Another option is to allow the employee to be reimbursed, up to that difference, for out-of-pocket health care expenses, such as co-payments for doctor's visits or prescription medications. Yet another way to spend the remainder of the minimum spending requirement is to send a check to the City to create a medical reimbursement account for the Covered Employees.

How is the minimum Health Care Expenditure calculated? The minimum Health Care Expenditure for each Covered Employee is calculated by multiplying the total number of "hours paid" to that Covered Employee (including fractions of hours) by the applicable health care expenditure rate, set forward in the table below:

Business Size		January 9 2008	April 1 2008	January 1 2009
Large {	100+ Employees	\$1.76/hour		\$1.85/hour
Medium {	50-99 Employees	\$1.17/hour		\$1.23/hour
	20-49 Employees *	Not Applicable	\$1.17/hour	
Small {	1-19 Employees	Not Applicable		

* Non-profits with less than 50 employees are exempt from the spending requirement.

What are “hours paid”? “Hours paid” includes both the hours for which a person is paid wages for work performed within San Francisco and the hours for which a person is entitled to be paid wages, including, but not limited to, paid vacation hours, paid time off, and paid sick leave hours, but not exceeding 172 hours in a single month or 516 hours in a single quarter.

Must minimum Health Care Expenditures be calculated separately for each employee? Yes, subject to certain exceptions described below. The employer must make a minimum Health Care Expenditure to or on behalf of each Covered Employee. Payments to or on behalf of one Covered Employee that exceed the required minimum Health Care Expenditure for that employee will not be considered in determining whether an employer has met its total required minimum Health Care Expenditures for other employees.

How does an employer that provides uniform coverage to Covered Employees, or that has a self-funded plan, determine if its expenditures meet or exceed the minimum Health Care Expenditure rate? If you provide uniform coverage (meaning, coverage in the same health plan) or you have a self-funded plan that provides uniform coverage, you are permitted to calculate an average hourly expenditure rate per employee for all employees actually covered under that plan. **Please review FAQs #39-40 for instructions on how to calculate your average expenditure.**

May I deduct the Health Care Expenditures from my employee’s paycheck? No, the minimum Health Care Expenditure must be paid by the employer; thus, a deduction from the employee’s earned wages for deposit in the employee’s health savings or flexible spending account, for example, shall not satisfy the employer’s Employer Spending Requirement. Likewise, an employee’s contribution towards his/her health insurance premium shall not be credited towards the employer’s minimum Health Care Expenditure.

When does the Health Care Expenditure have to be made? Health Care Expenditures must be made each quarter, within 30 days of the end of preceding quarter. The first quarter of the year is defined as the period from January 1 through March 31; the second quarter, from April 1 through June 30; the third quarter, from July 1 through September 30; and the fourth quarter, from October 1 through December 31. If your pay periods do not correspond with these dates, you may adjust your calculations to reflect that fact, as long as all hours paid are included in your calculations for either the current or subsequent quarter.

This notice is intended to provide general information and does not establish policy or offer legal advice regarding the Health Care Security Ordinance, Chapter 14 of the San Francisco Administrative Code. If you have any questions about your obligations under the ordinance, please visit www.sfgov.org/olse/hcso, call 554-7892, or email HCSO@sfgov.org.

Para asistencia en Español, llame al 554-7892

中文幫助，請電 554-7892

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LINE-BY-LINE INSTRUCTIONS FOR THE HCSO ESR CALCULATOR

(See page one for Questions & Answers about the HCSO Employer Spending Requirement Calculator)

HIGHLIGHTS

- Employers are required to calculate and make expenditures at least once per quarter.
- Expenditures must be made within 30 days of the end of the quarter.
- Generally, a quarter consists of 13 weeks; however, if you are calculating expenditures based on your pay period and the number of weeks in the pay periods covered in the relevant quarter do not equal 13, be sure to adjust your calculations accordingly.
- The Employer Spending Requirement (ESR) took effect for all employers with 50 or more employees on January 9, 2008. For these employers, the expenditure calculation for the first quarter must include hours paid in January, February, and March 2008, and the first expenditure must be made by April 30, 2008.
- The effective date for for-profit employers with 20-49 employees was April 1, 2008. The expenditure calculation for their first quarter must include hours paid in April, May, and June 2008, and the first expenditures must be made by July 30, 2008.

TECHNICAL NOTES

- *When you open the program, allow Excel to "Enable Macros."* This allows the program to perform the necessary calculations. If your Macro Security level in Excel is set on "high," you will need to change the setting to "medium," then close and reopen the file in order to enable the macros necessary to use this spreadsheet. You can change the Macro Security level by selecting the "Tools" menu, "Macro," "Security," and "medium."
- *Allow the program to complete its update before attempting to enter any additional data.* Because of the size of the Excel file, your computer may take several minutes to update the table each time you enter data. When the program is updating the spreadsheet, the status will appear as a percentage in the bottom, left hand corner of the screen, *i.e.* 45% done.

ARE YOU A COVERED EMPLOYER UNDER THE HCSO? (p. 1) *These questions will help you determine whether you are a Covered Employer, and, if so, specify the applicable expenditure rate.*

Line 1: Select the correct effective date. The Employer Spending Requirement took effect for all employers with 50 or more employees on January 9, 2008. The effective date for for-profit employers with 20-49 employees was April 1, 2008.

Line 2: Employers are required to calculate and make expenditures at least once per quarter. Select the quarter for which these calculations apply, so that your records are accurate and clear.

(continued on next page)

Line 5: Enter the total number of employees employed per week during this quarter, including any employees working outside of San Francisco. For businesses employing a fluctuating number of employees during the quarter, employer size is based on the average number of persons performing work for compensation per week during that quarter.

If several incorporated businesses constitute a "controlled group of corporations" for purposes of income tax filing, they are considered one employer under the Ordinance, and all employees of each entity must be counted to determine the size of the employer. Employees of businesses that are not incorporated are counted as working for one employer if the businesses are under common control. For purposes of this Ordinance, "under common control" means either (a) one person (individual, estates, or trusts) has at least an 80 percent ownership interest in the businesses or (b) two to five persons hold more than a 50 percent ownership interest in each of the businesses.

Line 6: If your business is a nonprofit, please select "yes." Otherwise, select "no."

Lines 7-9: This page helps you determine if your business is covered by the HCSO. Your expenditure rate, which is determined by your business size, is shown on Line 9.

- *If you are a Covered Employer, you have an obligation to make health care expenditures for each of your Covered Employees. Proceed with page 2 to determine which of your employees are Covered Employees under the HCSO.*
- *If you are not covered by the HCSO, you do not need to make any health care expenditures for any of your employees this quarter. You may stop here, but be sure to review these steps each quarter to ensure you are in compliance with the HCSO.*

IS YOUR EMPLOYEE A COVERED EMPLOYEE UNDER THE HCSO? (p. 2) *These questions will help you determine whether your employees are Covered Employees. You will need to answer each of the questions on this page for each of your employees, then enter their names in the first column of Expenditures1 or Expenditures2 (pp. 3 or 4) to calculate your minimum expenditure for each Covered Employee.*

Line 1: Select the correct effective date. The Employer Spending Requirement took effect for all employers with 50 or more employees on January 9, 2008. The effective date for for-profit employers with 20-49 employees was April 1, 2008.

Line 2: Employers are required to calculate and make expenditures at least once per quarter. Select the quarter for which these calculations apply, so that your records are accurate and clear.

Line 5: In order to qualify for this exemption category, the employee must meet both criteria: (1) the employee must be a manager, supervisor, or confidential employee and (2) the employee must make an annual base salary that is at or above \$80,397 (or \$38.65/hour) in 2009.

Line 6: In order to claim the Medicare exemption, an employer must be able to document that the Social Security Administration (SSA) has determined that the employee is covered by Medicare.

Line 7: Your business must be a nonprofit to qualify for this exemption, and the training program must meet the requirements set forth in the spreadsheet.

Line 8: Employers must maintain documentation of voluntary waivers, which must meet the requirements set forth in the spreadsheet, and provide employees with complete copies of such documentation.

Line 9: If your business is covered by the HCAO and you are meeting the requirements of the HCAO for your employees who are covered by the HCAO, those employees are exempt from coverage under the HCSO. For more information about the HCAO, please call (415) 554-6292, email HCAO@sfgov.org, or visit www.sfgov.org/olse/hcao.

Line 10: Covered Employees are those who have been employed for at least 90 calendar days, and, after completing this 90-day eligibility period, regularly work 8 or more hours per week in San Francisco. If an employee has been employed by your business for at least 90 calendar days, you will use Expenditures1 or Expenditures2 (pp. 3 or 4) to determine whether that employee has worked enough hours to qualify for health care expenditures under this Ordinance.

Line 11: If this employee is not covered by this Ordinance, you do not need to make any health care expenditures for this employee this quarter, and you do not need to enter any information on Expenditures1 or Expenditures2 for this employee. However, you must answer all of the questions on this page for each of your employees.

If you have determined that this employee is a Covered Employee under the HCSO, you will need to determine whether the employee is eligible for health care expenditures.

- ***If this employee regularly works 8 or more hours/week in San Francisco, enter his/her name in the first column of Expenditures1 (p. 3) to calculate your minimum expenditure for this employee.*** An employee who *regularly* works 8 or more hours per week is covered, even if the number of hours worked over the quarter falls below an average of 8 hours per week. For example, an employee who works forty hours per week for three weeks is a Covered Employee for those three weeks, even if she is no longer employed during the last ten weeks of the quarter.
- ***If this employee has a fluctuating work schedule (e.g., the employee's weekly work hours in SF fluctuate above & below 8 hours during the quarter), enter his/her name in the first column of Expenditures2 (p. 4) to calculate your minimum expenditure for this employee.*** For employees whose work hours in SF fluctuate from week to week, Expenditures2 allows you to take an average of the hours worked for that quarter, *i.e.* it will add up all the hours worked in SF and divide that number by 13 weeks to obtain the average hours worked per week during that quarter. Averaging is not permitted for employees who regularly work 8 or more hours per week in San Francisco.

IMPORTANT! *You need to answer all of the questions on this page for each of your employees.*

EXPENDITURES1 & EXPENDITURES2: ESR CALCULATOR (pp. 3&4) – *These spreadsheets will help you calculate your minimum health care expenditure for each of your Covered Employees, compare it with your actual expenditure, and tell you if you are required to make any additional health care expenditures for your Covered Employees.* The instructions are the same for both pages. Note that you will only need to enter the names of your Covered Employees on one of these two pages.

Line 1: Select the correct effective date. The Employer Spending Requirement took effect for all employers with 50 or more employees on January 9, 2008. The effective date for for-profit employers with 20-49 employees was April 1, 2008.

Line 2: Employers are required to calculate and make expenditures at least once per quarter. Select the quarter for which these calculations apply, so that your records are accurate and clear.

The next two columns ask you to enter the “hours paid” to all your employees who met the criteria you reviewed on page 2. “Hours paid” includes both the hours for which a person is paid wages for work performed within San Francisco and the hours for which a person is entitled to be paid wages, including, but not limited to, paid vacation hours, paid time off, and paid sick leave hours, but not exceeding 172 hours in a single month or 516 hours in a single quarter. (This spreadsheet automatically caps “hours paid” at 172 hours/month or 516 hours/quarter.)

Hours Worked in SF: Please enter only the hours worked within the geographic boundaries of San Francisco in this column. **Please be sure to enter hours, not days, in this column.**

Hours Worked Outside of SF: Please enter only the hours worked outside the geographic boundaries of San Francisco in this column. **Please be sure to enter hours, not days, in this column.**

Paid Time Off (PTO), Vacation, Sick Days in Hours: The spreadsheet will help you help you pro-rate PTO, Vacation, or Sick Leave Hours that were accrued based on hours worked in San Francisco. **Please be sure to enter hours, not days, in this column.**

Monthly Expenditures Made: If you made monthly health care expenditures to or for the benefit of each of these employees, please enter the amount spent per month in the appropriate cells. **IMPORTANT:** If you made quarterly expenditures, leave this cell blank. Enter zero only if you made no expenditures this quarter.

Quarterly Expenditures Made: If you made quarterly health care expenditures to or for the benefit of each of these employees, please enter the total amount spent in this quarter in the appropriate cells. **IMPORTANT:** If you made monthly expenditures, leave this cell blank. Enter zero only if you made no expenditures this quarter.

Remaining Monthly Balance (to be spent within 30 days of the end of the quarter): If this number is negative, your health care expenditure did not meet the minimum expenditure required under this Ordinance. You must decide how you want to spend the balance, and it must be spent within 30 days of the end of the quarter. If this number is positive, you are in compliance and can stop here.

Remaining Quarterly Balance (to be spent within 30 days of the end of the quarter): The sum of this column appears above Week 4. If this number is negative, your health care expenditure did not meet the minimum expenditure required under this Ordinance. You must decide how you want to spend the balance, and it must be spent within 30 days of the end of the quarter. If this number is positive, you are in compliance and can stop here.

REMINDER! *To calculate your TOTAL minimum expenditure, remember to add the subtotals on pp. 3 & 4; the subtotal for each page only includes the minimum expenditures for the employees listed on that page.*

FINAL STEP: Print pages 3 & 4 for your records. You can print just the areas of the spreadsheet that have data either (1) by selecting those cells from the bottom, right-hand corner, then selecting “File,” “Print Area,” “Set Print Area,” then “Print” or (2) by deleting all the empty cells before printing.

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