



**San Francisco  
Health Care Security Ordinance**

Joannie C. Chang  
Office of Labor Standards Enforcement  
City & County of San Francisco

January 2009

### Legislative Intent

To ensure that all individuals who live or work in San Francisco have access to affordable health care by:

- Mandating the DPH to create a comprehensive health care reform program called the Health Access Program (HAP)/*Healthy San Francisco*, as an option for uninsured San Franciscans
- Requiring businesses to make reasonable health care expenditures on behalf of their employees

4

### Statutory Authority

Health Care Security Ordinance (HCSO)

- Passed by the Board of Supervisors on July 18, 2006
- Amended on April 2, 2007
- Codified at Chapter 14 of the San Francisco Administrative Code

2

### What are the responsibilities of each city agency?

- The DPH is responsible for creating the HAP/*Healthy San Francisco* and ensuring that it is an affordable option for uninsured individuals living or working in San Francisco.
- The OLSE is responsible for ensuring that employers understand and fulfill the "Employer Spending Requirement" under the HCSO.

5

### Legislative Findings

- Approximately 82,000 adult SF residents are uninsured (\*at the time legislation was introduced)
- More than half of this population is employed
- Uninsured non-residents who work in SF utilize emergency health care services in SF

3

### When did the Employer Spending Requirement of the HCSO take effect?

- The "Employer Spending Requirement" of the HCSO took effect for all employers with 50 or more employees on January 9, 2008.
- The effective date for for-profit employers with 20 or more employees was April 1, 2008.
- NOTE: Nonprofit employers with fewer than 50 employees and Small employers with fewer than 20 employees are exempt from this law.

6

### What is the Employer Spending Requirement?

- quarterly “health care expenditures”
- meeting a minimum “expenditure rate”
- made by “covered employers”
- to their “covered employees” or for the benefit of their “covered employees”
- for “health care services”

7

### What qualifies as a “Health Care Expenditure” (HCE)?

An 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 health care services for covered employees, or reimbursing the cost of such services for its covered employees.

Health care services means medical care, services, or goods that may qualify as tax deductible medical care expenses under Section 213 of the Internal Revenue Code, or medical care, services, or goods *having substantially the same purpose or effect* as such deductible expenses.

10

### Who is a covered employer?

A business is covered by the HCSO if it

- engages in business within the City and is required to obtain a valid San Francisco business registration certificate, and
- employs 20 or more employees per week.

Exempt Employers:

- Nonprofits with fewer than 50 employees, and
- Small Businesses (with fewer than 20 employees)

8

### How is the HCE calculated?

The HCE for each covered employee is calculated by multiplying the total number of “hours paid” to that employee by the applicable HCE rate.

- “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, such as paid vacation hours, paid time off, and paid sick leave hours
- Only hours worked in SF are used in the calculation
- Ceiling/Cap of 172 hours paid per month

11

### Which employees are covered?

Any person who

- has been employed for at least 90 calendar days, and
- performs at least 8 hours of work per week within San Francisco,
- including those who work on a part-time or temporary basis

*NOTE: The 2008 hours requirement was 10 hours/week.*

9

### Applicable Expenditure Rates

Business Size		January 9 2008	April 1 2008	January 1 2009
Large {	100+ Employees		\$1.76/hour	\$1.85/hour
	50-99 Employees		\$1.17/hour	\$1.23/hour
Medium {	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.

12

### When must the HCE be made?

- Calculations must be made and expended at least quarterly, within 30 days after the end of the preceding quarter.
- Employers are, however, free to begin making expenditures before that time.

13

### How does this requirement apply to union employees?

- Only the portion of the Health and Welfare contributions going toward health care coverage may be counted towards the minimum expenditure required under the HCSO.
- The portion of Health and Welfare contributions that goes towards health care coverage must be separated from payments for unrelated benefits, such as life insurance, disability payments, etc.

16

### Examples of HCEs that meet the requirements of the HCSO

- Payments of premiums for health insurance coverage for the covered employee;
- Payments to the City for enrollment of the covered employee in the HAP/*Healthy San Francisco (HSF)*;
- Contributions on behalf of the covered employee to a health spending account, such as a health reimbursement arrangement, a flexible spending account, or a health savings account; and
- Cash reimbursements to the covered employee for expenses incurred in the purchase of health care services, such as doctor's and pharmacy bills.

NOTE: Payments made directly or indirectly for workers' compensation or Medicare benefits do not qualify as health care expenditures.

14

### Additional Employer Responsibilities

- Notice to Employee/City Option Deposit Confirmation
- Recordkeeping
- Annual Reporting Requirement – **available online**
- Cooperation with OLSE Investigations & Audits
- Anti-retaliation Provision

17

### How does this requirement apply on public works contracts?

- Payment of the prevailing wage fringe benefit requirement in cash (as part of the covered employee's paycheck or otherwise) shall not satisfy the Employer Spending Requirement of this Ordinance.

15

### Resources

- Office of Labor Standards Enforcement
  - [www.sfgov.org/olse/hcso](http://www.sfgov.org/olse/hcso)
  - (415) 554-7892
  - [HCSO@sfgov.org](mailto:HCSO@sfgov.org)
- Department of Public Health/San Francisco Health Plan
  - [www.HealthySanFrancisco.org](http://www.HealthySanFrancisco.org)
  - (415) 615-4500 general inquiries
  - (415) 615-4567 employer services line
  - [info@sfp.org](mailto:info@sfp.org)
- Office of Small Business/Small Business Assistance Center
  - [www.sfgov.org/sbc](http://www.sfgov.org/sbc)
  - (415) 554-6134
- Treasurer/Tax Collector
  - [www.sfgov.org/treasurer](http://www.sfgov.org/treasurer)
  - Taxpayer Assistance (415) 554-4400

18

**SF Office of Labor Standards Enforcement**  
City Hall, Room 430  
1 Dr Carlton B Goodlett Place  
San Francisco, CA 94102

<b>Health Care Accountability Ordinance</b> <a href="mailto:HCAO@sfgov.org">HCAO@sfgov.org</a> (415) 554-6292	<b>Paid Sick Leave Ordinance</b> <a href="mailto:PSL@sfgov.org">PSL@sfgov.org</a> (415) 554-6271
<b>Health Care Security Ordinance</b> <a href="mailto:HCSO@sfgov.org">HCSO@sfgov.org</a> (415) 554-7892	<b>Prevailing Wage Unit</b> (415) 554-6235
<b>Minimum Compensation Ordinance</b> <a href="mailto:MCO@sfgov.org">MCO@sfgov.org</a> (415) 554-6292	<b>Sweatfree Ordinance</b> (415) 554-6235
<b>Minimum Wage Ordinance</b> <a href="mailto:MWCO@sfgov.org">MWCO@sfgov.org</a> (415) 554-6292	

19