EMPLOYEE BENEFIT COMPLIANCE CHECKLIST

Plan Administration

Fiduciary

- ☐ Ensures participants receive promised benefits and rights are not violated. Carry out duties in a prudent manner, avoiding any conflicts of interest. Manage plans for the exclusive benefit of participants and beneficiaries.
- ☐ Report and disclose information on benefit plans to participants and governing agencies as required.

Documentation/Record Keeping

- ☐ Maintains a plan document or SPD Wrap that includes a plan document and SPD.
- ☐ Determines whether or not Company is an Applicable Large Employer (ALE) and elects to offer coverage or pay fines accordingly (ALE if average 50+ FT or full-time equivalent employees during the prior calendar year).
- ☐ Maintains records of insurance billings, premium schedules and paymentwithholdings.
- ☐ Maintains evidence of plan's compliance with the Affordable Care Act and following all applicable requirements.

Open Enrollment/Communications

- ☐ Reviews plan alternatives and coverage options annually looking out for the best interest of participants, beneficiaries and the company.
- ☐ Allows participants to enroll or make changes to benefits once a year during open enrollment, unless they experience a qualifying event allowing an additional opportunity to make changes to benefits.
- ☐ Follows guidelines allowing participants to make changes mid-year for allowable qualifying events such as loss of coverage, marriage, new baby, divorce, etc.
- ☐ Communicates all plan options, rights and rates to eligible participants, including COBRA participants.
- ☐ Collects an application or waiver form from all eligible participants.

Administration, Eligibility & Participation - Medical Insurance

- ☐ Maintains clearly defined benefit eligibility for participation in all benefit plans and allows participation accordingly.
- ☐ Maintains clearly defined employment categories for full-time (FT), part-time (PT), temporary and seasonal employees.
- ☐ Allows medical insurance to start no later than 90-days from date of hire for full-time employees (unless using a 30-day orientation period).
- ☐ Offers benefit coverage to all eligible employees
- ☐ Collects a completed application or waiver from all eligible participants.
- ☐ Maintains a measurement period defining the time period to determine eligibility using a monthly method or look back of 90-days to 12 months approach. Anyone averaging 30-hours are more for their defined measurement period is allowed to participate. May define different measurement periods for new hires and ongoing employees.
- ☐ Defines an administrative period of 30 to 90-days following the measurement period to determine eligibility and get participants on the plan. The combined measurement period and administrative period cannot be more than 13 months for newemployees.
- ☐ Manages a stability period allowing participants to remain on the medical plan, once they meet

measurement period requirements for a time period of 6 months or the same time as the measurement period months, whichever is greater.

- ☐ Does not discriminate in medical insurance and other tax-favored benefits toward highly compensated employees, key employees or owners.
- ☐ If domestic partner benefits are offered, ensure they are set up as post-tax deductions/imputed income per IRS regulations.

Benefit Termination / Qualifying Events

- ☐ Notifies plan providers of employee termination date and time to remove them from coverage.
- ☐ Provides HIPAA Certification of Creditable Coverage Notice or confirms this notice is sent by provider.
- ☐ Sends qualifying event continuation of coverage (COBRA) notice to participant and beneficiaries (or notifies outsourced COBRA provider of the need to send notice).

Disclosures & Notifications

If offering medical insurance, provide the following applicable notices to eligible participants and beneficiaries annually, unless noted otherwise:

- ☐ Summary of Benefits & Coverage (SBC) - Given to new participants upon application and annually to all participants for renewal.
- ☐ Patient protection and provider selection notification (all medical plans, if applicable).
- ☐ Grandfathered plan notice (only if you have a grandfathered plan).
- ☐ Mental Health Parity and Addiction Equity Notice (50 employees +).
- ☐ Employee Notice of Exchange (All employers to all employees) within 14 days of hire.
- ☐ Initial COBRA Notice (20+ employees) or State continuation notice (< 20 employees if required by your state).
- ☐ HIPAA Notice of Privacy Practices (all plans).
- ☐ Special enrollment rights notice (all plans).
- ☐ Women's Health & Cancer Rights Act Notice (all plans).
- ☐ Newborn's and Mother's Health Protect Act Notice.
- ☐ Children's Health Insurance Program (CHIP) Reauthorization Act Notice (if applicable to your state).
- ☐ Wellness Program Disclosure (if offering a health contingent wellness program in order to obtain a reward).
- ☐ Summary of Material Modifications (SMM) - Given for modifications of the plan that are material within 210 days after the end of the plan year in which a modification or change is adopted. Communicates material plan reductions within 60 days of the change and plan terminations 60 days in advance.
- ☐ Qualified medical child support order receipt and determination handling – responds to such notices within 20 business days of the date of notice.
- ☐ Medicare Part D Notice by October 15th (anyone eligible for Medicare).
- ☐ Registers with the Center for Medicare Services regarding whether or not your prescription drug plan is creditable.
- ☐ Provides participant's a list of ERISA rights (all ERISA plans).

COBRA Administration

- ☐ Maintains a COBRA administration policy and procedures or outsources COBRA administration to ensure all rights and responsibilities are met.
- ☐ Provides initial/general COBRA notice to new participants within 90-days of joining the plan.
- ☐ Provides qualifying event or election notices within 14-days of a qualifying event such as termination of employment and other loss of coverage events.
- ☐ Collects COBRA participant's premium payments and pays on their behalf to insurance providers.
- ☐ Provides COBRA participants with benefit plan information, changes, rights and costs similar to information given to employee participants.
- ☐ Allows COBRA rights for past employees and eligible dependents.

- ☐ Allows participants to stay on for their eligible amount of time.
- ☐ Provides notice of unavailable continuation of coverage for the following:
    - If someone applies for continuation coverage and is not eligible.
    - If participants are 30-days or later on making COBRA premium payment.
        - When the plan is about to terminate.
            - Provides details about the date the plan terminates, reason for termination and applicable rights, if any.

HIPAA Privacy Policies and Practices

(If handling Protected Health Information (PHI)).

- ☐ Designates a HIPAA Privacy Officer who has responsibility for HIPAA program and maintenance.
- ☐ Maintains a HIPAA policy defining permitted use and disclosure of PHI. Documentation and retention, complaint procedure and documentation and retention.
- ☐ Maintains privacy safeguards in storing and transmitting data, both physical and electronic information.
- ☐ Takes steps to minimize or eliminate handling of PHI.

Summary Plan Descriptions (SPD) or SPD Wrap Documents

- ☐ Provides a summary plan description for each group benefit plan offered or use an SPD Wrap document.
- ☐ Distributes the SPD or SPD Wrap to new participants within 90-days of their joining benefit plans.
- ☐ Distributes an updated SPD or SPD Wrap to ongoing employees at least every 5 years.
- ☐ Maintains current plan documents and SPDs or SPD Wrap.

125 Premium Only Plans (POP)

(If allowing payment of eligible premiums on a pre-tax basis and does not have an FSA)

- ☐ Maintains an up-to-date 125 Plan document (later than 2014).
- ☐ Does not allow owners to participate in the 125 POP plan.
- ☐ Does not discriminate in favor of Highly Compensated Employees (HCE) in the following nondiscrimination tests:
    - ☐ **Eligibility Test:** Does not exclude non-HCEs from participating in favor of HCEs and key employees.
    - ☐ **Concentration & Benefit (Utilization) Test:** Waiting periods, employee contributions and benefit levels are uniform for participants, not favoring HCE.
    - ☐ **Key Employee Concentration Test**: Key employees do not receive more than 25% of the total of nontaxable benefits provided to all employees.

Flexible Spending Accounts

(If allowing payment of eligible premiums on a pre-tax basis and/or allowing payment of eligible uncovered medical cost or work related dependent care on a pre-tax basis)

- ☐ Participants estimate contributions for medical and/or dependent care spending accounts at the beginning of the year with deductions coming out each pay period.
- ☐ Changes to contribution levels are not allowed, unless participant experiences a mid-year qualifying event. Changes once a year during open enrollment are allowed.
- ☐ Contribution amounts for medical FSA are limited to not more than $2,750 (see new annual limit each year).
- ☐ Distributions to FSA medical and dependent care are only allowed for eligible expenses.
- ☐ Unused contributions are subject to “use-it-or-lose-it”. Employees are not directly refunded estimated deductions, and they do not carry over to the next year except as define here.
    - If written into your plan, you may allow a grace period of up to 2.5 months after the end of the plan year to allow qualified deductions.
    - Plans may allow up to $500 of unused amounts remaining at the end of the plan year for medical expenses incurred in the following year.
        - The plan may allow either the grace period or a carryover, but not both.

Health Reimbursement Accounts

(if applicable)

- ☐ Solely funded by the employer. No salary deductions are allowed by participants.
- ☐ Reimburses eligible participants for qualified medical expenses up to the maximum amount for a coverage period on a tax-free basis.
- ☐ Are not reported on W-2 or shown as wages.
- ☐ Does not allow self-employed individuals to participate.

Health Savings Accounts

(if applicable)

- ☐ Are made available only to participants in a high deductible health plan (HDHP) (See HDHP limit requirements).
- ☐ Does not allow contributions in excess of HSA limits allowed on a pre-tax basis:
  - Family - $7,100 (2020)
  - Single - $3,550 (2020)
  - Allows up to an additional $1,000 for participants who are 55 or older at the end of the tax year.
- ☐ Reimbursement are allowed only for eligible medical expenses.
- ☐ Submits forms S498-SA and 1099-SA, as needed to report contributions to and distributions from HSAs.

ACA Reporting

(If Applicable Large Employer (ALE) 50+ employees or offering a self-funded medical plan).

- ☐ Tracks the following data throughout the year:
  - Employee name
  - Employee SS#
  - Employee address
  - Employee telephone number
  - The month coverage was offered to each employee and each month thereafter for which the employee was eligible for coverage
  - Number of employees (full-time and full-time equivalent)
  - Employee's cost of the lowest cost monthly premium for self-only
  - Name, SS# OR DOB if no SS# is attainable for spouse and dependents for ALL self-funded plans (ALE and small employers)
- ☐ Provides form 1095-C to anyone who was FT for one month during the year by January 31st each year.
- ☐ Provides form 1094-C to IRS, along with copies of 1095-C by May 31st, if mailing forms or by June 30th, if done electronically. (If 250 + EEs, must file electronically)
- ☐ (If self-funded plan and not ALE) Provides form 1095-B to anyone who was FT for one month during the year by January 31st each year. Provides form 1094-B to the IRS, along with copies of form 1095-B by May 31st, if mailing forms or by June 30th, if done electronically.