



San Francisco updates contractor-lessee health plan standards, pay rates

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Beginning Jan. 1, 2023, San Francisco [contractors and lessees](#) (and their subcontractors and subtenants) must comply with new [health plan standards](#) for covered employees under the [Health Care Accountability Ordinance](#) (HCAO). Effective July 1, a new poster and notice and higher alternative payment took effect for HCAO-covered employees, along with higher minimum compensation rates for covered employees under the city's [Minimum Compensation Ordinance](#) (MCO). Also effective July 1, a higher alternative payment took effect for covered employees at the San Francisco International Airport (SFO) under the [Healthy Airport Ordinance](#) (HAO), which amended the HCAO in 2020.

HCAO compliance obligations

Overview

HCAO compliance requires a contract for services with the city and county of San Francisco, or a lease at SFO or the Port of San Francisco, and includes subcontractors and subtenants under the contract or lease. The contract or lease must be for at least \$25,000 annually (\$50,000 for nonprofit employers). Covered employers include for-profit employers with 20 or more employees anywhere in the world (50 or more employees for nonprofit employers). A covered employee includes any employee working for a covered employer on an HCAO-covered contract or leased property for at least 20 hours a week, anywhere in the United States.

San Francisco contractors and tenants must offer minimum health benefits at no cost to covered employees under the HCAO and HAO.

HCAO requirements should not be confused with San Francisco's [Health Care Security Ordinance](#) (HCSO), applicable to employees working in the city and county of San Francisco (including remote

workers). For information on the HCSO, see [San Francisco Health Care Expenditure rates released for 2023](#) (Aug. 8, 2022).

The new HCAO minimum standards from the San Francisco Department of Public Health require plans to cover all services listed in California's current [essential health benefit \(EHB\) benchmark plan \(CA Benchmark Plan\)](#). The standards apply to employee-only coverage and do not require dental or vision benefits. The Office of Labor Standards Enforcement (OLSE) also has released an [updated poster](#), which employers have had to conspicuously display at each San Francisco worksite for several years.

Changes to the 2023 standards relate to cost sharing: coinsurance, copayments, deductibles and out-of-pocket maximums. Non-calendar year plans need not comply with the 2023 standards until the first day of the plan year that starts in 2023. See the [2023 standards chart](#) below.

Employers must annually obtain covered employees' signed acknowledgment of a [HCAO Know Your Rights notice \(also recently updated\)](#). Employees may waive their coverage rights by signing an approved [waiver form](#). Employers must retain notices and waivers for four years after the applicable contract expires. All notices and posters must be available in English, Spanish, Chinese and any other language spoken by at least 5% of the employees at the workplace or job site. Templates are also available in Filipino.

2023 standards chart

Besides covering EHBs, a contractor's health plan must comply with these 16 standards (changes are in **bold**):

Requirement	2022 standard	2023 standard
1. Premium contribution	Employer pays 100% of employee portion	No change
2. Annual out-of-pocket maximum (OOPM). Note: nongrandfathered plans are subject to Affordable Care Act (ACA) limits (see Q/A-2 of DOL FAQ Part XII)	In-network (INN), employee-only: \$8,200 Out-of-network (OON): not specified	INN, employee-only: \$8,750; employer must now cover OOP expenses up to 50% of OOPM on first-dollar basis OON: not specified
3. Regular deductible	INN: \$3,000; employer reimburses all expenses that count toward deductible OON: not specified	INN: \$3,000; employer reimbursement requirement removed OON: not specified

Requirement	2022 standard	2023 standard
4. Prescription drug deductible	INN: \$300 OON: not specified	No change
5. Prescription drug coverage	Plan must cover prescription drugs, including brand-name	No change
6. Coinsurance	INN: 80%/20% OON: 50%/50%	INN: 60%/40% OON: no change
7. Copayment maximum — primary care providers	INN: \$50/visit OON: not specified	INN: \$60/visit OON: not specified
8. Preventive/wellness services	INN: subject to ACA rules OON: subject to plan's terms	No change
9. Prenatal/post-natal care	INN: subject to ACA rules OON: subject to plan terms	No change
10. Outpatient care	Subject to coinsurance (#6) and copayment rules (#7) Specialty visits: not specified	No change
11. Inpatient care	Subject to coinsurance (#6) rules, but not subject to copayment rules (#7)	No change
12. Mental health/substance use disorder services (including behavioral health). Note: Group health plans are subject to Mental Health Parity and Addiction Equity Act rules	Subject to coinsurance (#6) rules, but not subject to copayment rules (#7)	No change
13. Rehabilitative and habilitative services	Subject to coinsurance (#6) rules, but not subject to copayment rules (#7)	No change

Requirement	2022 standard	2023 standard
14. Laboratory services	Subject to coinsurance (#6) rules, but not subject to copayment rules (#7)	No change
15. Emergency room and ambulatory services	Limited to treatment of medical emergencies; INN deductible and coinsurance apply to OON emergency services	No change
16. Other services	Based on ACA list of EHBs in CA Benchmark Plan	No change

Employers may use a health savings account or health reimbursement account that supports the OOPM standard. All gold- and platinum-level plans are compliant if they meet requirements #1, #5 and #8 through #16 above. Employers can offer other health plan options but must make at least one option available at no cost to covered employees that meets the standards. A compliant plan option may be self-funded or fully insured.

Alternative payment

HCAO-covered employers that do not provide minimum benefits must pay the city an additional amount per hour for covered employees who live or work in San Francisco. For covered employees who live or work outside San Francisco, employers must make these payments directly to the employees. The payment is capped and changes annually for inflation, effective July 1. Here are the changes effective July 1:

HCAO fee option rate	Rates through June 30	Rates as of July 1
Hourly rate	\$5.85/hour	\$6.10/hour
Weekly maximum	\$234/week	\$244/week

Employers should remit these amounts along with the HCAO Payment Option Form. Employers selecting this option need not collect waivers from covered employees.

MCO compliance obligations

In addition to the health coverage requirements, a separate set of standards for minimum compensation and time off may also apply. The MCO covers most service contractors and tenants at the San Francisco International Airport. The law generally requires covered employers to provide to their covered employees:

- The minimum MCO hourly wage currently in effect

- 12 paid days off per year (or cash equivalent) for vacation, sick leave, or personal necessity (prorated for part-time employees)
- 10 days off without pay per year (again, prorated for part-time employees)

Minimum hourly pay rates vary by employer type and change annually for inflation, effective July 1. Here are the changes that took effect July 1:

Employer type	Rates through June 30	Rates as of July 1
For profit	\$18.55/hour	\$19.15/hour
Nonprofit	\$17.34/hour	\$17.90/hour
Public entities	\$18.00/hour	\$18.75/hour

HAO compliance obligations

The HAO amended the HCAO in 2020 to include employers and employees covered by SFO's [Quality Standards Program](#), which provides comprehensive safety and security rules for the San Francisco airport. This ordinance took effect April 1, 2021. Like the other two ordinances, OLSE implements and enforces the HAO. Covered employers must provide health plan coverage meeting these standards:

- Benefits are at no cost to the covered employee.
- The plan option is actuarially equivalent to a platinum-level plan available on the [Health Insurance Marketplace](#) (i.e., at least 90%), allowing for a de minimis variation as allowed under [ACA rules](#).
- The plan option coverage includes those benefits in the CA Benchmark Plan, including pediatric dental and vision benefits (which can be on a stand-alone basis). Beyond that, no other cost-sharing requirements apply.
- Coverage must be available to the following dependents: spouses or registered domestic partners and the covered employee's child (including any legally adopted child, recognized natural child, stepchild, foster child, and minor legal ward).

Alternatively, employers may contribute to the City Option program. Effective July 1, the City Option contribution rate is \$9.90 per hour (up from \$9.50), subject to a \$396.00 weekly maximum (up from \$380). The HAO also has its own versions of the [notice](#), [poster](#) and [waiver](#), similar to the HCAO.

Next steps

Covered employers need to evaluate whether they and their workers are covered by the HCAO, MCO and/or HAO. These employers need to determine who qualifies as an HCAO-covered employee and ensure appropriate coverage or payouts for 2023. Other tasks include evaluating 2023 plan designs for any changes and estimating costs for the wage and/or alternate payment changes. In particular, employers trying to satisfy the HCAO standard with a self-funded plan option (or a fully insured option

issued in another state) should review the CA Benchmark Plan, which includes coverage of some services that might normally be excluded (for example, bariatric surgery, acupuncture and temporomandibular joint disorders).

Even if employers are not subject to the HCAO, MCO or HAO, they should review potential compliance requirements with the HCSO for their San Francisco workforce.

Related resources

Non-Mercer resources

- [California's Essential Health Benefit \(EHB\) Benchmark Plan](#) (Centers for Medicare & Medicaid Services)
- [Healthy Airport Ordinance](#) (OLSE)
- [Health Care Accountability Ordinance](#) (OLSE)
- [Minimum Compensation Ordinance](#) (OLSE)
- [San Francisco Labor Laws for City Contractors](#) (OLSE)
- [HCAO Minimum Standards effective Jan. 1, 2023](#) (Department of Public Health, Aug. 11, 2022)
- [HCAO Payment Option Form](#) (OLSE, June 2, 2022)
- [HCAO Know Your Rights notice — July 1, 2022](#) (OLSE, May 27, 2022)
- [HCAO Notice to Employees poster — July 1, 2022](#) (OLSE, May 27, 2022)
- [HCAO Waiver Form](#) (OLSE, June 20, 2019)
- [HAO Know Your Rights notice — July 1, 2022](#) (OLSE, May 27, 2022)
- [HAO Notice to Employees poster — July 1, 2022](#) (OLSE, May 27, 2022)
- [HAO Waiver Form](#) (OLSE, Jan. 26, 2021)

Mercer Law & Policy resources

- [San Francisco updates city option, 2022 health care expenditure rates](#) (Aug. 12, 2021)
- [San Francisco updates contractors' health standards, pay Rates](#) (June 27, 2019)
- [San Francisco updates health care expenditure rates and contractor minimum standards](#) (Oct. 10, 2018)
- [San Francisco updates contractors' health standards, pay rates](#) (June 27, 2019)

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