Advanced Benefit Consulting Webinar Series: Legal Update: Are You Ready for the New Year?

February 18, 2026

Presented by: Marilyn A. Monahan, Monahan Law Office and
Dorothy Cociu, Advanced Benefit Consulting

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Today's Speakers & CE Information

Dorothy Cociu, President
Advanced Benefit Consulting

CE Course Information:
2 Hours of HRCI General Credit Available
Legal Update; Are You Ready for the New Year?
Agent CE course number 393377
2 hours Accident & Health or Sickness

Marilyn Monahan, Attorney
Monahan Law Office

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Agenda

- State of the Industry: Legislative Insights
- The One Big Beautiful Bill and Its Impact on Employee Benefits
- The Affordable Care Act
- Federal Roundup
- The Courts
- California: Benefits and the Workplace
- Resources & Questions

State of the Industry: Legislative Insights

Congress Approves Spending Package Advancing Longstanding Healthcare Priorities

- Congress for approving a government spending package that includes several critical healthcare provisions we have championed for years to increase transparency, accountability, and affordability across the healthcare system.
- The package advances policies designed to confront rising healthcare costs, bolster consumer protections, and improve the accuracy and integrity of health coverage information.
- The legislation includes measures to increase pharmacy benefit manager (PBM) transparency and require prescription drug rebates and related payments to be passed through to health plans, helping curb practices that drive up drug costs and mask the true cost of coverage for employers and consumers. It also strengthens Medicare site-neutral payment policies to address excessive costs, improves oversight of Medicare Advantage provider directories to protect beneficiaries from unexpected cost sharing and care disruptions, and reinforces implementation of the No Surprises Act to shield consumers from surprise medical bills.
- Additional detail in later slides.

DOL Releases Proposed Regulations Requiring PBM Disclosures & Amends ERISA Section 408(b)(2)(B)

- DOL released proposed regulations requiring PBMs to disclose up to 8 "types" of compensation streams to a self-funded group health plan in accordance with ERISA's section 408(b)(2)(B) Compensation Disclosure requirements
- Language requires a PBM to disclose to a group health plan, among other things, PBM payment practices including the receipt of rebates, price concessions, and "spread pricing," along with the gross and net costs of prescription drugs in the PBM's drug formulary, and other information like whether the PBM is dispensing covered drugs through PBM-owned pharmacies, mail-order, or specialty programs.
- Amended ERISA section 408(b)(2)(B) to delete the references to "Brokerage Services" and "Consulting," and instead, clarified that any plan service provider that furnishes the "types of services" included in the statute's enumerated "list of services" are subject to the 408(b)(2)(B) Compensation Disclosure requirements. This amendment is intended to confirm that (1) PBMs that perform "pharmacy benefit management services" and (2) TPAs that perform "third-party administrative services" (both of which are "types of services" included in the statute's enumerated "list of services") are required to disclose "direct" and "indirect" compensation to a plan's fiduciary in accordance with ERISA section 408(b)(2)(B).
- Requires a PBM to pass through 100% of the rebates paid to the PBM by a drug manufacturer to the plan itself.
- New Law Passed February 3 – details later in this presentation

Fiduciary Responsibilities Highlighted

- Recent Court Actions continue to demonstrate that Plan Fiduciaries Must Take Laws & Regulations Seriously
- Noted in DOL Cybersecurity Fiduciary Requirements in recent years (including updated guidance in 2024)
- Target on PBMs and overall Plan Management (more to follow)

AI in Benefits & Insurance

- Artificial Intelligence applications and the security of data while using AI continues to be a high priority and one of the most important topics in our industry.
- Dorothy is currently writing an article, to be published in the March-April issue of the County of Orange Insurance News as well as the Winter, 2026 ABC Benefit News, on AI & Benefits and the Importance of Security when working with AI programs.

The *Great* Healthcare Plan

Lower Rx Prices	• Codify most-favored-nation Rx deals • Allow more OTC medicines
Lower Insurance Premiums	• Send money directly to eligible Americans to buy insurance • Fund a cost-sharing reduction program • End kickbacks from PBMs to large brokerage middlemen
Hold Big Insurance Companies Accountable	• Require insurers to use plain-English for rates and cost comparisons • Require insurers to publish overhead costs v. claim payments • Require insurers to display claim denial rates
Maximize Price Transparency	• Require providers or insurers who accept Medicare or Medicaid to post pricing and fees to avoid surprise medical bills

The One Big Beautiful Bill (OBBB) and Its Impact on Employee Benefits

Health Savings Accounts (HSAs): Telehealth

- During the COVID-19 pandemic—through the CARES Act and the Consolidated Appropriations Act, 2023—**telehealth services** could be provided without cost sharing through an HSA-compatible HDHP and HSA eligibility would not be lost; this expanded benefit expired for plan years beginning on/after January 1, 2025
- OBBB permits coverage for telehealth services by HSA-compatible HDHPs before they meet the statutory deductible
- **Effective Date**: The OBBB makes this change permanent, and retroactive to **January 1, 2025**
- **New!** IRS Notice 2025-6
- **Action Items**: May require a plan amendment; communicate to participants

HSAs: Direct Primary Care

- Individuals with HDHPs may spend up to **$150/month** (individuals) or **$300/month** (family) (will be indexed) for "**direct primary care**" and maintain HSA eligibility
- In a "direct primary care arrangement" you pay a fixed periodic fee for primary care services by a primary care practitioner
- These services do not include (i) procedures that require the use of general anesthesia, (ii) prescription drugs (other than vaccines), and (iii) laboratory services not typically administered in an ambulatory primary care setting
- **In Addition**: Direct primary care fees also qualify for reimbursement through an HSA, so long as the limits are not exceeded
- **Effective Date**: Applies to months beginning after December 31, 2025
- **Action Items**: May require plan amendment; communicate to participants

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Dependent Care Flexible Spending Accounts

- Dependent Care Flexible Spending Account (DCFSA or DCAP) contributions have been limited to $5,000 per tax year, or $2,500 for married couples filing separately
- The OBBB is increasing the contribution limit to **$7,500** ($3,750 if married couples file separately); this limit will not be adjusted for inflation
- **Compliance Tips**: Non-discrimination testing will likely continue to be an issue; OBBB changes to Child and Dependent Care Tax Credit may impact participation
- **Effective Date**: Tax years beginning on/after January 1, 2026
- **Action Item**: Amend cafeteria plan document and enrollment forms; communicate to employees

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Educational Assistance Programs

- **Educational Assistance Programs:** The Consolidated Appropriations Act, 2021 (CAA) amended section 127 of the Internal Revenue Code to allow employers to set up Educational Assistance Programs that reimburse employees for qualified student loan debt, as well as tuition expenses. This expansion was due to expire at the end of 2025
- The OBBB makes this expansion permanent
- The reimbursement cannot exceed **$5,250**—to be indexed beginning in **2027**
- **Effective Date**: For payments made after December 31, 2025
- **Action Items**: Set up written plan; follow IRS rules (such as nondiscrimination rules)

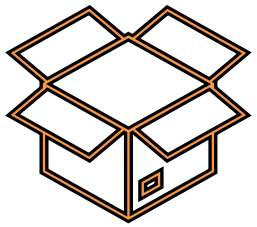
Educational Assistance Programs

- **Tax Benefit**: Employer payments are not included in the employee's gross income at the federal level (but the amount will be included at the California state level for student loan debt)
- **Tuition reimbursement**: This could include tuition, fees and similar expenses, books, supplies, and equipment; the payments may be for either undergraduate- or graduate-level courses; the payments do not have to be for work-related courses
- **Qualified Education Loan**: A qualified education loan is a loan for education at an eligible educational institution. Eligible educational institutions include any college, university, vocational school or other postsecondary educational institution (as defined in the IRC and determined by the Department of Education). A loan does not have to be issued or guaranteed under a Federal postsecondary education loan program to qualify.
- **Resources:** The IRS issued FAQs to help guide employers on the implementation of these plans, and posted a sample plan document (Publication 5993): ***https://www.irs.gov/newsroom/frequently-asked-questions-about-educational-assistance-programs***

Fringe Benefits

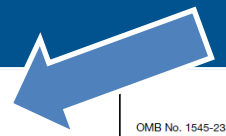
- **Transportation Fringe Benefit**: The Tax Cuts and Jobs Act of 2017 eliminated the income tax exclusion for qualified **bicycle commuting expenses**—but this was due to expire at the end of 2025
- The OBBB Act makes exclusion permanent, so reimbursements not tax-free
- **Effective Date**: Tax years beginning after December 31, 2025

- **Employer-Paid Moving Expenses**: The Tax Cuts and Jobs Act of 2017 suspended the federal income tax exclusion for employer-paid moving expenses—but this was due to expire at the end of 2025
- The OBBB Act makes this exclusion permanent, but carves out an exception for the military and intelligence community
- **Effective Date**: Tax years beginning after December 31, 2025



Trump Accounts

- **Trump Accounts** may be set up for children under age 18; operate like a custodial non-Roth IRA until age 18, then becomes a traditional IRA; qualified withdrawals will mirror traditional IRAs
- **Eligibility**: Accounts may be established for those born after December 31, 2024, must have SSN, and cannot attain the age of 18 before end of the calendar year
- **Contributions**: Annual contributions—beginning **July 4, 2026**—limited to **$5,000** (indexed)
- **Pilot Program**: For US citizens born between 1/1/25 and 12/31/28, the accounts will be credited with an initial government contribution of **$1,000**
- **Employers**: Starting next July, employers may contribute up to **$2,500** (indexed); employer contributions are excludable from the employee's gross income (IRC section 128)
- **New!** IRS Notice 2025-68 (Dec. 2, 2025); Form 4547 & Instructions
- **Action Items**: Written plan; for the exclusive benefit of employees; notice to employees must be provided; compliance with non-discrimination rules



Form **4547**
(December 2025)
Department of the Treasury
Internal Revenue Service

Trump Account Election(s)

Go to *www.irs.gov/Form4547* for instructions and the latest information.

OMB No. 1545-2336

If you have a child that is eligible for a Trump account, and you want to open a Trump account for that child, complete Form 4547.

- For each child that is eligible and for whom you want to open a Trump account, complete Parts I, II, and IV.
- For each child that is eligible to receive a $1,000 Pilot Program Contribution, check the box in Part III, line 7, in order to receive the contribution.

Part I Parent/Guardian or Other Authorized Individual Information

Note: The parent/guardian or other authorized individual listed in Part I will be the responsible party for the Trump account.

First name	Middle name	Last name	Social security number

Home address (number and street). If you have a P.O. box, see instructions.	Apartment number	Date of birth

City, town, or post office. If you have a foreign address, also complete spaces below.	County	State	ZIP code	Phone no.

Foreign country name	Foreign province/state/county	Foreign postal code	Email address

Part II Child's Information

If more than two children, see instructions.

		(i) Child 1	(ii) Child 2
1a	First name		
b	Middle name		
c	Last name		
2	Social security number		
3	Date of birth		
4	Relationship		
5	**Home Address** Check here if address is same as Part I. Otherwise, complete lines 5a through 5f. If you have a foreign address, complete lines 5g, 5h, and 5i.	☐	☐
a	Number and street		
b	Apartment number		
c	City, town, or post office		
d	County		
e	State		
f	ZIP code		
g	Foreign country name		
h	Foreign province/state/county		
i	Foreign postal code		
6	Check box if you are authorized to open the Trump account for the child. See instructions.	☐	☐

Part III Pilot Program Contribution Election

For a child to qualify to receive the $1,000 Pilot Program Contribution to their Trump account, the child must have been born in 2025–2028, must be a qualifying child of the individual opening the Trump account, must be a U.S. citizen, and must have a valid social security number. See instructions.

		(i) Child 1	(ii) Child 2
7	Check box if child qualifies for, and you want the child to receive, a Pilot Program Contribution	☐	☐

Part IV Consent to Disclose Information

By completing this form, you authorize the IRS, Treasury, and their agent(s) to create and maintain a Trump account with respect to the eligible child(ren) listed on this form. You also authorize the IRS, Treasury, and their agent(s) to disclose the fact that a Trump account has been established for the eligible child(ren) listed above to any parent, guardian, or authorized individual of the eligible child who is permitted to make an election to request creation of the Trump account.

Sign Here

Under penalties of perjury, I declare that I have examined this form, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

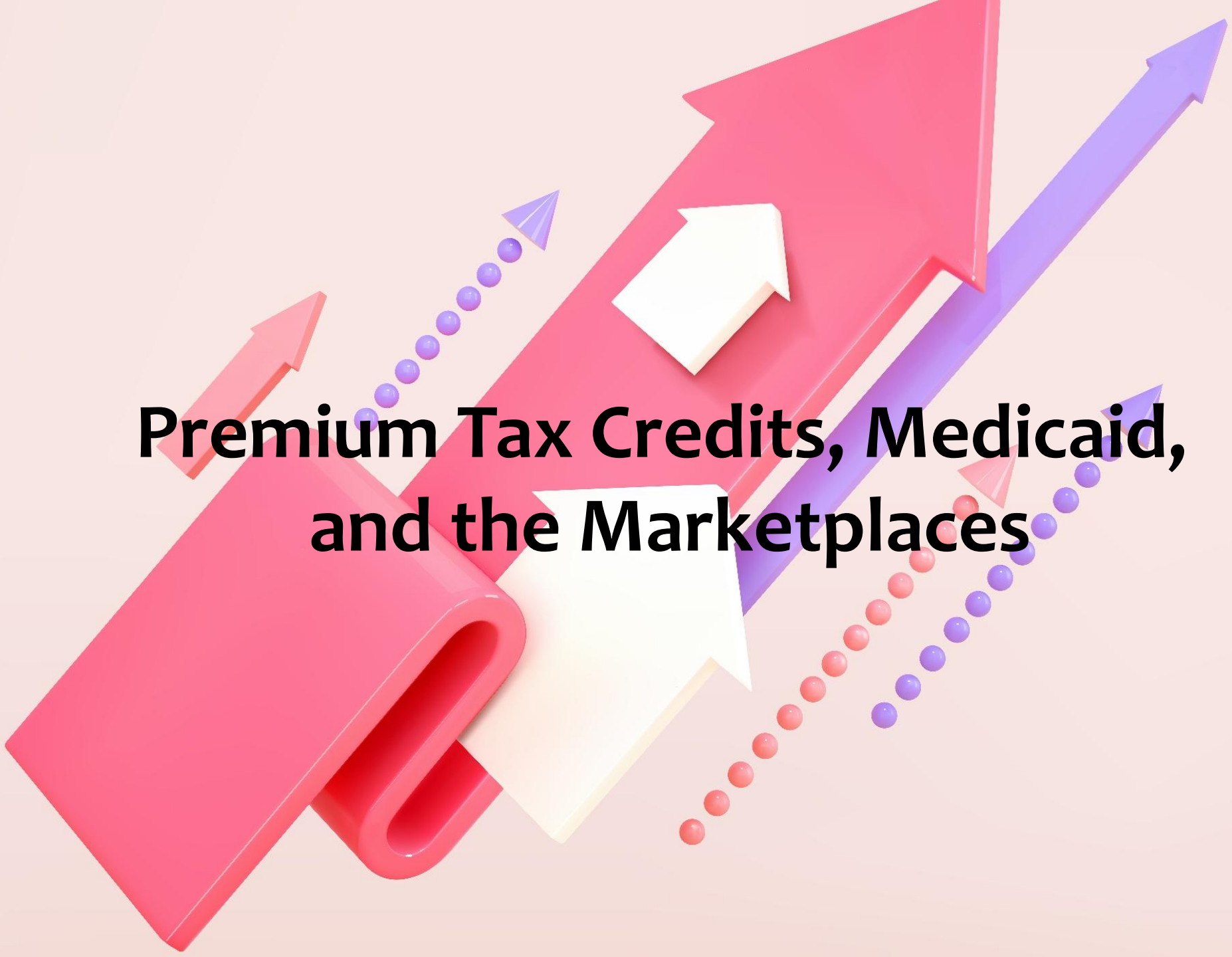
Your signature _____ Date _____

Paid Preparer Use Only

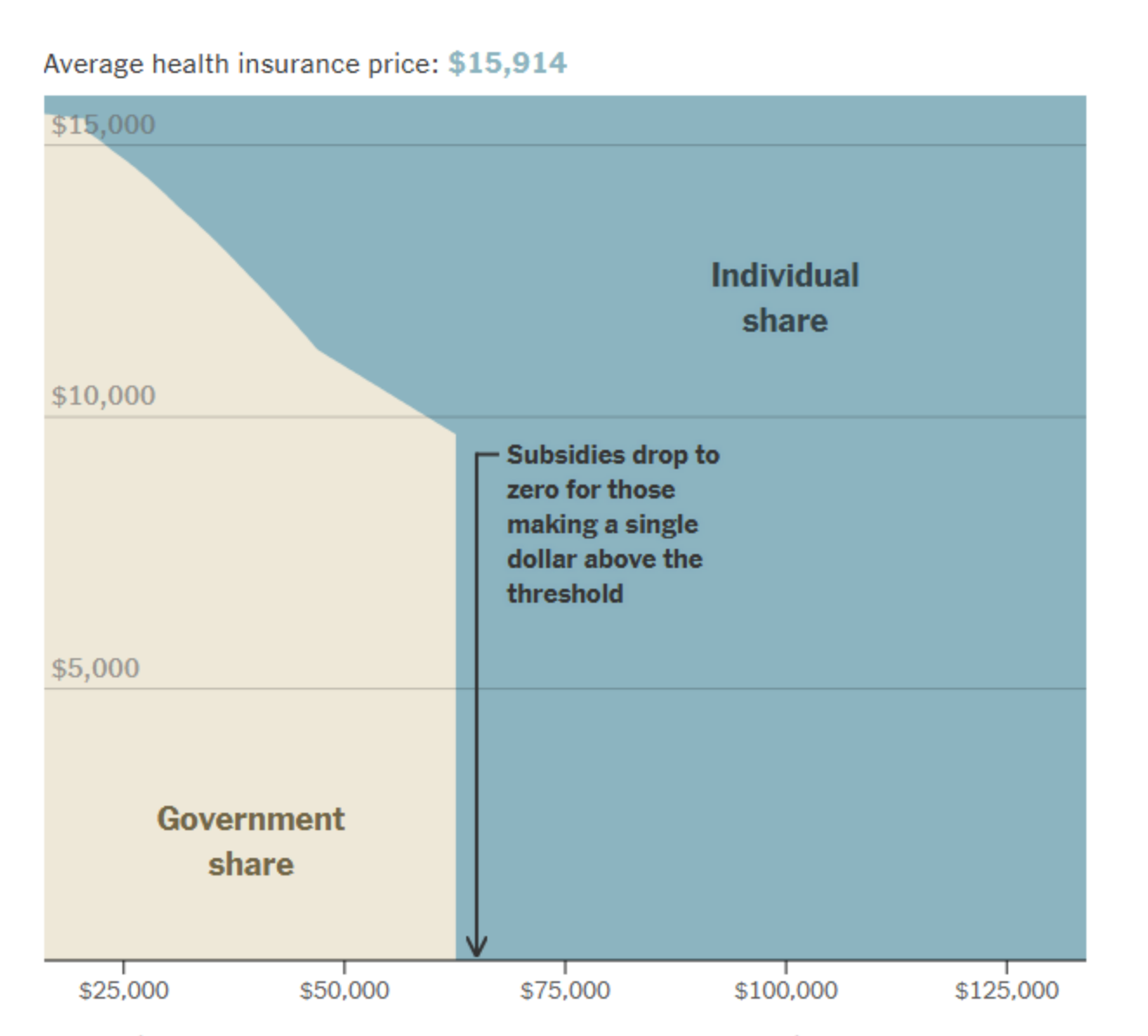
Print/Type preparer's name	Preparer's signature	Date	Check ☐ if self-employed	PTIN

Firm's name	Firm's EIN
Firm's address	Phone no.

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 95927O Form **4547** (12-2025) Created 12/30/25



Premium Tax Credits, Medicaid, and the Marketplaces



Premium Tax Credit (PTC)

"People who earn $62,600 or less — the people whose incomes fall on the left side of this chart — get income-based **subsidies** to pay most of the bill."

"People who earn more than $62,600 — the people on the right side — get no subsidies at all. They pay full price."

"That means an increase of $1 in income for the average 60-year-old — from $62,600 to $62,601 — could mean paying **$10,000 more for health insurance**."

(New York Times, Jan. 30, 2026)

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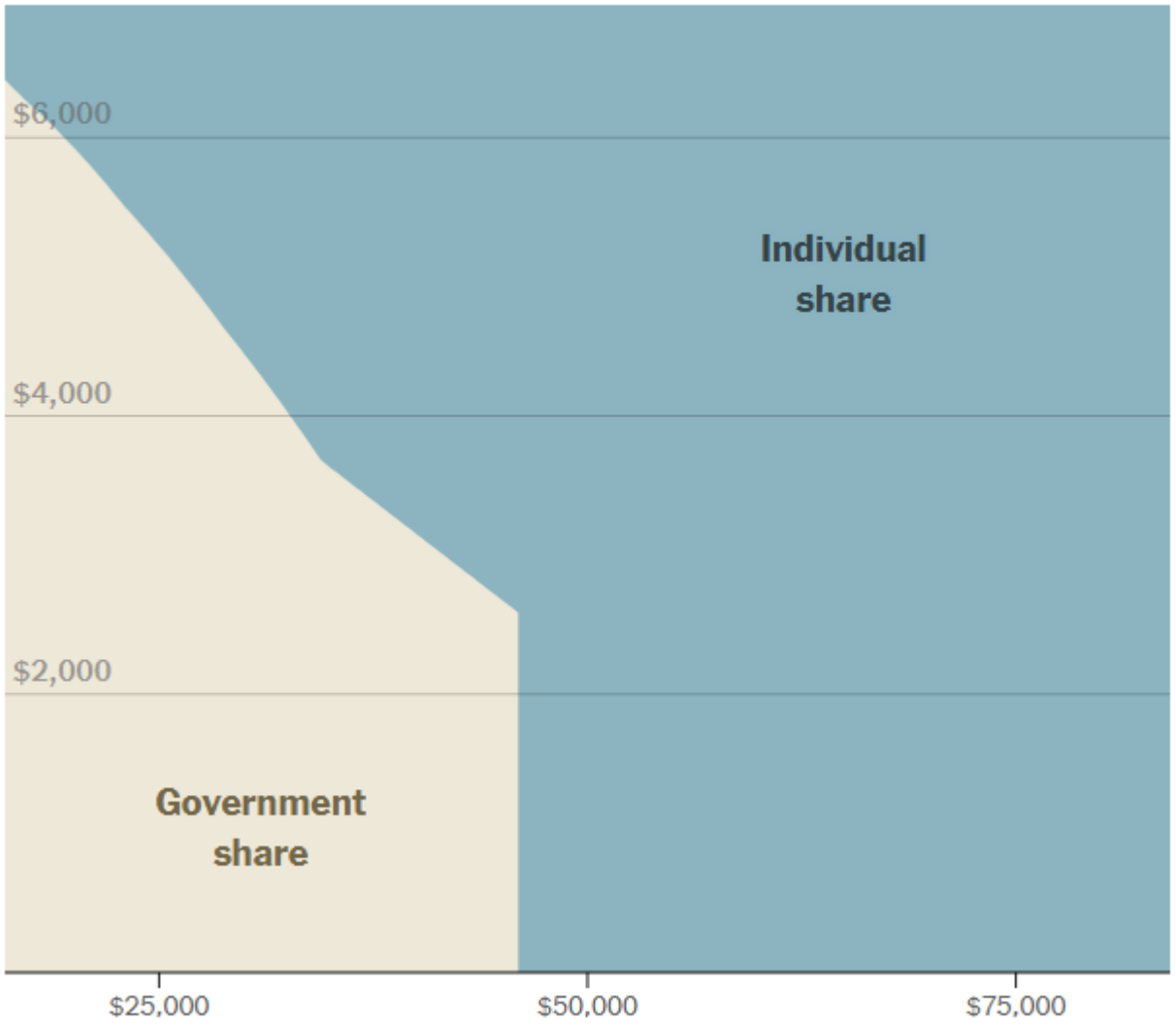

"Before the Affordable Care Act, **all those** who bought their own insurance **had to pay** the entire premium themselves in most states, regardless of income."

"To make insurance more affordable, Obamacare set up a sliding scale of **subsidies** that helped lower-income Americans pay for coverage."

"But if you earned more than four times the federal poverty level, **$45,960** at the time, you didn't qualify. Those people still had to pay the full price of insurance."

"Insurance was cheaper then, so the difference was less stark."

(New York Times, Jan. 30, 2026)

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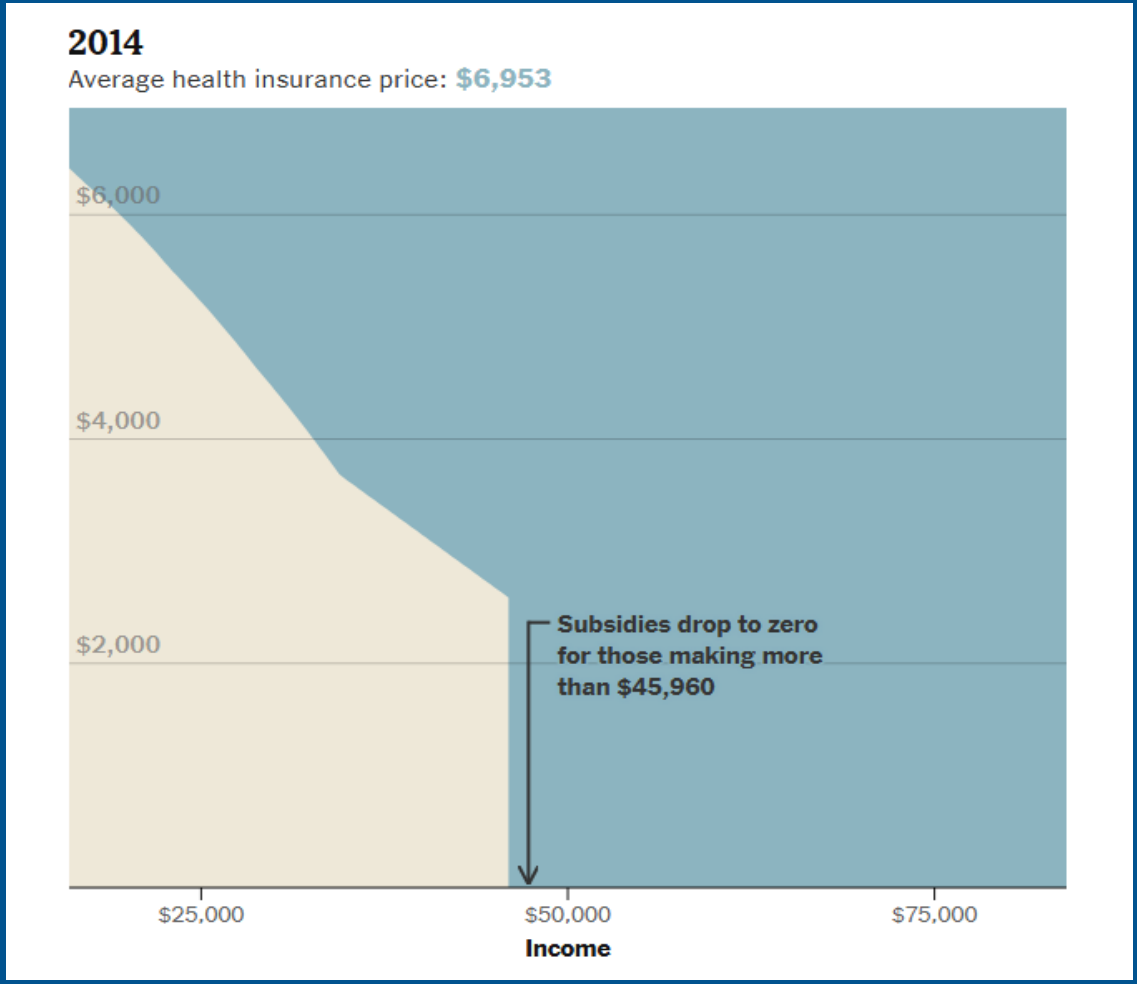
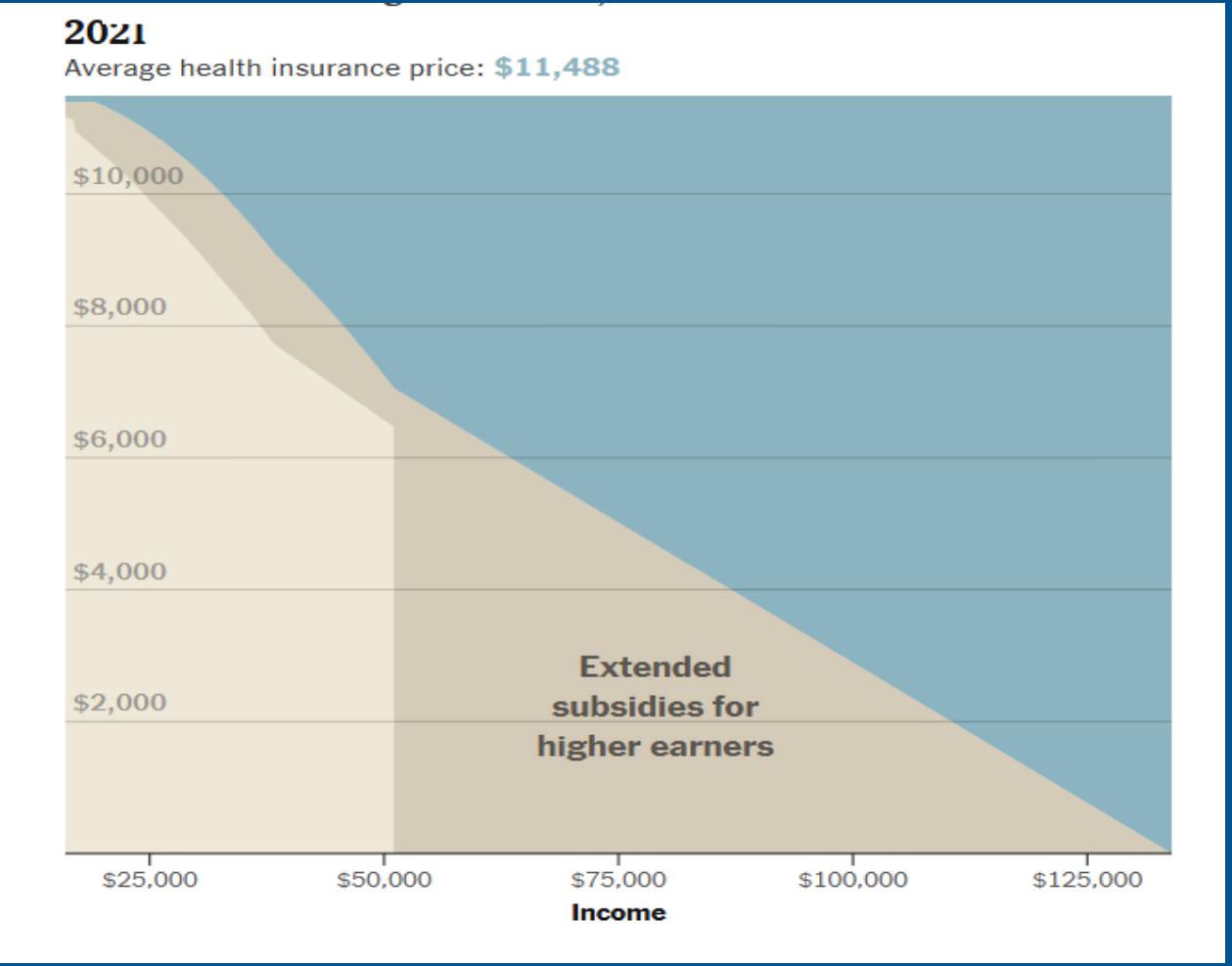




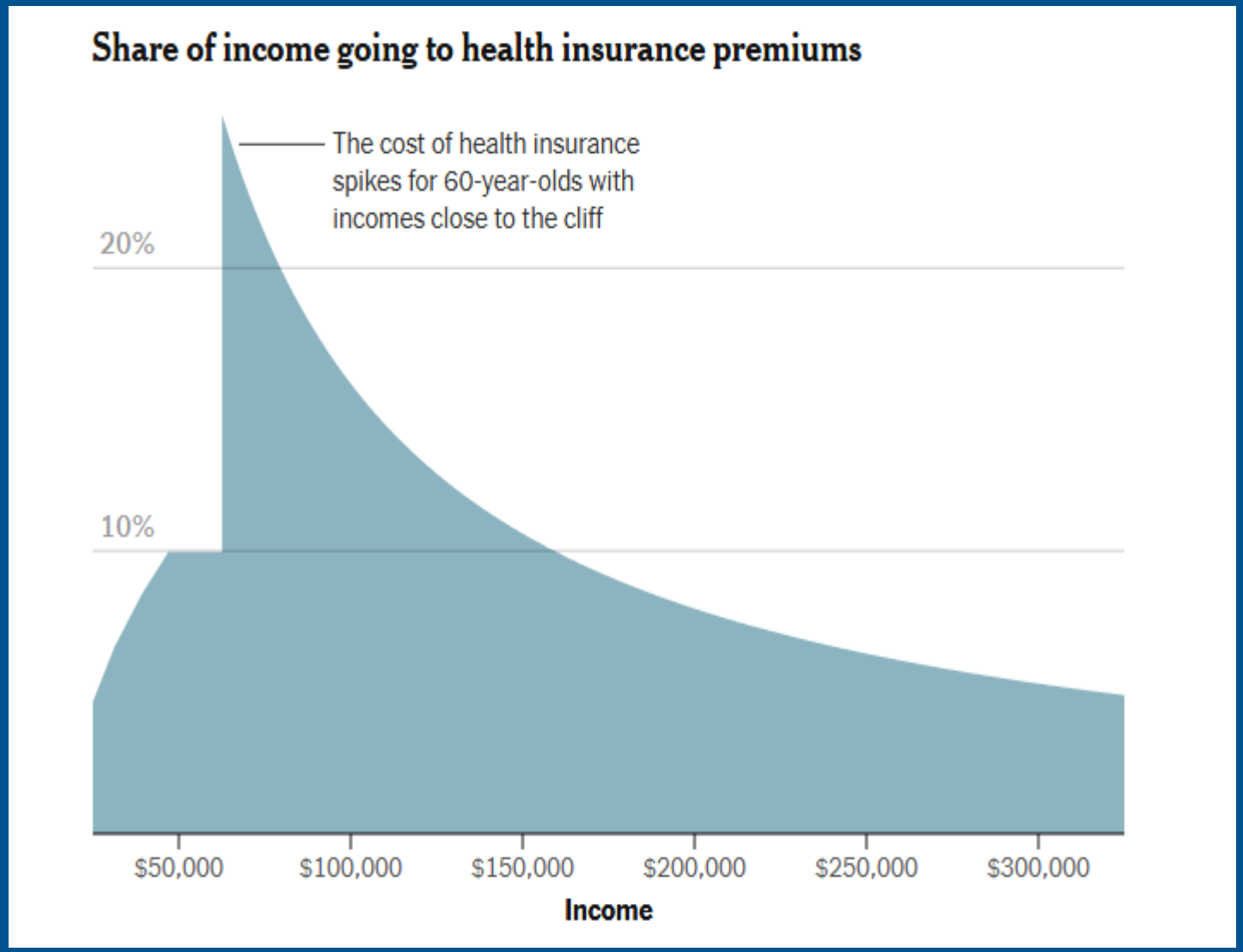
"In 2021, Congress changed the formula, making **subsidies available for higher earners**, too."

"Congress also boosted the generosity of subsidies for the original beneficiaries."

"That change meant subsidies didn't automatically go away when someone's income hit a certain number."

"But those extra subsidies expired on Jan. 1 this year, meaning people who earn too much now face a huge **subsidy cliff**."

(New York Times, Jan. 30, 2026)



"For very high earners, the impacts are still small. The typical cost of health insurance still represents a small fraction of a millionaire's income. But people with incomes close to the cliff face substantially different circumstances. The chart below shows insurance costs as a percentage of income for different earners. In 2014, 60-year-olds close to the cliff faced prices at around 15 percent of their income for insurance. This year, it's more than 25 percent."

(New York Times, Jan. 30, 2026)

PTC, Medicaid, & the Marketplaces

PTC

- Expanded subsidies expired 1/1/26

Medicaid

- Work requirement
- More stringent & frequent eligibility verification
- Limits retroactive coverage
- Reduces provider reimbursements

Marketplaces

- More stringent eligibility verification
- Changes effectively end automatic reenrollment
- Restrictions on special enrollments
- Excess PTC payments must be reimbursed in full

Marketplaces

- CMS issued regulations 6/20/25
- Regulations challenged in court so some not in effect

What Do the Changes to Medicaid, the Marketplaces, and Subsidies Mean to Employers?

More employees and dependents may seek coverage from employers, and increased COBRA/Cal-COBRA elections; possible adverse selection

Impact on workplace and costs (including workers' compensation costs) if more employees are uninsured

Fewer medical facilities available (particularly in rural areas) and fewer providers, which may impact access to medical care, changes to networks, and poorer health outcomes

Pressure on providers to make-up lost Medicaid revenue, and lost revenue from Marketplace plans; increase in premiums for commercial market

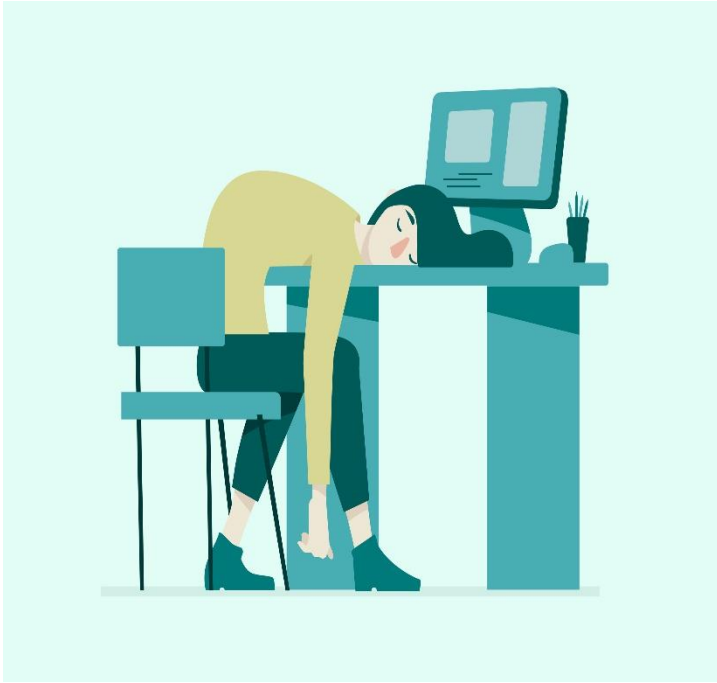
Lower enrollment may result in adverse selection, leading to an increase in premiums for both Marketplace and commercial plans

Increased administrative burden on employers to address adjustments

Other Provisions in the OBBB Affecting Employers

No Tax on Overtime

- No tax on overtime; employees may deduct the amount that exceeds regular rate of pay (the “half” portion of “time-and-a-half”)
  - Maximum deduction is $12,500 ($25,000/joint filers); deduction phases out for taxpayers w/ MAGI over $150,000 ($300,000/joint filers)
- **Eligibility**: Must include SSN on tax return; if married, file jointly
- **Claiming Deduction**: Employees file **Schedule 1-A** with Form 1040
- **Employer Reporting**: Employers must file information returns with IRS and furnish statements to employees showing total amount of qualified overtime compensation paid during the year
- **Effective Date**: 2025-2028
- **Transition Relief**: For 2025
- **Resources:** IRS Notice 2025-62 (penalty relief); IRS Notice 2025-69 (guidance for individuals); Fact Sheet 2026-01 (FAQs)



No Tax on Tips

- Employees and self-employed individuals may deduct **qualified tips** received in certain **qualified occupations wj**o customarily and regularly receive tips
  - Maximum deduction is **$25,000**; deduction phases out for taxpayers w/ MAGI over $150,000 ($300,000 for joint filers)
- **Eligibility**: In qualified occupation, include SSN on tax return, and if married file jointly
- **Claiming Deduction**: Employees file **Schedule 1-A** w/ Form 1040
- **Employer Reporting**: Employers must file information returns (W-2) with IRS and furnish statements to employees showing total amount of qualified tips paid during the year
- **Effective Date**: 2025-2028
- **Transition Relief**: For 2025
- **Resources**: Proposed regulations; IRS Notice 2025-62 (penalty relief); IRS Notice 2025-69 (guidance for individuals)
- https://www.irs.gov/forms-pubs/occupations-that-customarily-and-regularly-received-tips-on-or-before-december-31-2024

Proposed List of Qualified Occupations: Eight Categories

- Beverage and Food Service (100s)
- Entertainment and Events (200s)
- Hospitality and Guest Services (300s)
- Home Services (400s)
- Personal Services (500s)
- Personal Appearance and Wellness (600s)
- Recreation and Instruction (700s)
- Transportation and Delivery (800s)

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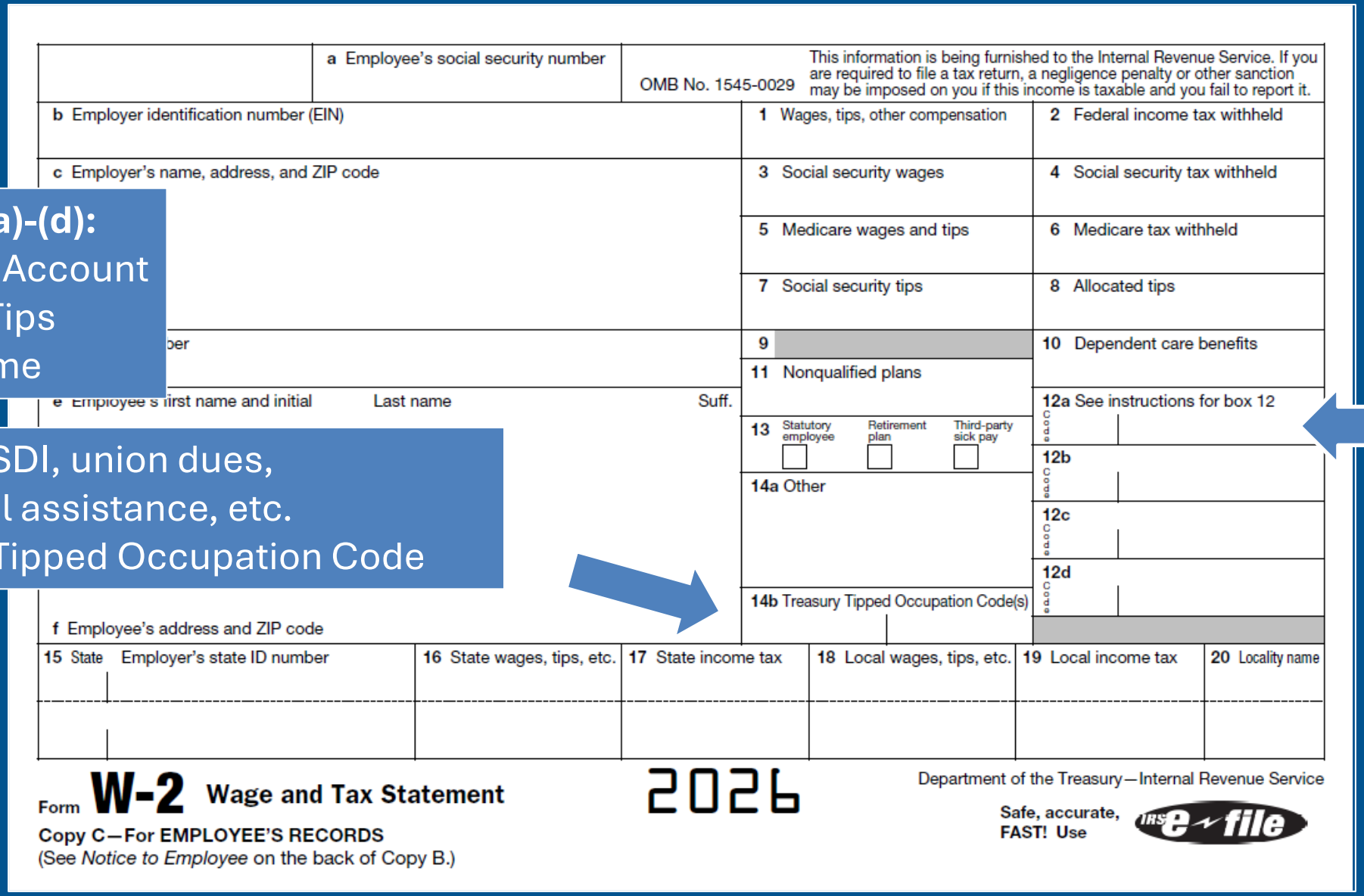
No Tax on Tips: Qualified Tips Defined

- Qualified tips must be paid in **cash or an equivalent medium**, such as check, credit card, debit card, gift card, tangible or intangible tokens that are readily exchangeable for a fixed amount in cash, or another form of electronic settlement or mobile payment application (excluding most digital assets) denominated in cash.
- Qualified tips must be **received from customers** or, in the case of an employee, through a mandatory or voluntary tip-sharing arrangement, such as a tip pool.
- Qualified tips must be **paid voluntarily** by the customer and not be subject to negotiation. Qualified tips do not include some service charges. For instance, in the case of a restaurant that imposes an automatic 18% service charge for large parties and distributes that amount to waiters, bussers and kitchen staff; if the charge is added with no option for the customer to disregard or modify it, the amounts distributed to the workers from it are not qualified tips.
- Any amount received for **illegal activity**, prostitution services, or pornographic activity is **not** a qualified tip.

Box 12(a)-(d):
TA = Trump Account
TP = Cash Tips
TT = Overtime

Box 14(a): SDI, union dues, educational assistance, etc.
Box 14(b): Tipped Occupation Code



a Employee's social security number

OMB No. 1545-0029

This information is being furnished to the Internal Revenue Service. If you are required to file a tax return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you fail to report it.

b Employer identification number (EIN)

1 Wages, tips, other compensation

2 Federal income tax withheld

c Employer's name, address, and ZIP code

3 Social security wages

4 Social security tax withheld

5 Medicare wages and tips

6 Medicare tax withheld

7 Social security tips

8 Allocated tips

9

10 Dependent care benefits

11 Nonqualified plans

e Employee's first name and initial Last name Suff.

12a See instructions for box 12

13 Statutory employee Retirement plan Third-party sick pay

12b

14a Other

12c

12d

14b Treasury Tipped Occupation Code(s)

f Employee's address and ZIP code

15 State Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name

Form **W-2** Wage and Tax Statement

2026

Department of the Treasury—Internal Revenue Service

Copy C—For EMPLOYEE'S RECORDS
(See *Notice to Employee* on the back of Copy B.)

Safe, accurate, FAST! Use IRS e-file

SCHEDULE 1-A (Form 1040)

Department of the Treasury
Internal Revenue Service

Additional Deductions

Attach to Form 1040, 1040-SR, or 1040-NR.
Go to *www.irs.gov/Form1040* for instructions and the latest information.

OMB No. 1545-0074

2025

Attachment Sequence No. **1A**

Name(s) shown on Form 1040, 1040-SR, or 1040-NR | **Your social security number**

Part I Modified Adjusted Gross Income (MAGI) Amount

1	Enter the amount from Form 1040, 1040-SR, or 1040-NR, line 11b			1
2a	Enter any income from Puerto Rico that you excluded	2a		
b	Enter the amount from Form 2555, line 45	2b		
c	Enter the amount from Form 2555, line 50	2c		
d	Enter the amount from Form 4563, line 15	2d		
e	Add lines 2a, 2b, 2c, and 2d			2e
3	Add lines 1 and 2e			3

Part II No Tax on Tips

Caution: Fill out Part II only if you received qualified tips. These tips must have been received in an occupation listed at *IRS.gov/TippedOccupations*. You and/or your spouse who received qualified tips must have a valid social security number to claim the deduction. If married, you must file jointly to claim this deduction. See instructions.

4	Qualified tips received as an employee. If you received tips as an employee with respect to employment with more than one employer, enter -0- on lines 4a and 4b and see the instructions to determine the amount to enter on line 4c. If you received tips as an employee in more than one occupation, see the instructions.			
a	Enter qualified tips included on Form W-2, box 7, but see the instructions if Form W-2, box 5 is more than $176,100 or you received tips that are not subject to social security and Medicare taxes	4a		
b	Qualified tips included on Form 4137, line 1, row A, column (c). If Form 4137 is not filed, enter -0-	4b		
c	If you only received qualified tips as an employee with respect to employment with one employer, enter the larger of line 4a or line 4b. Otherwise, see the instructions to determine the amount to enter on line 4c. If you received tips as an employee in more than one occupation, see the instructions			4c
5	Qualified tips received in the course of a trade or business. Qualified tip amount included in Form 1099-NEC, box 1; Form 1099-MISC, box 3; or Form 1099-K, box 1a. Do not enter more than the net profit from the trade or business. If you received qualified tips in the course of more than one trade or business or in more than one occupation, see instructions			5
6	Add lines 4c and 5			6
7	Enter the smaller of the amount on line 6 or $25,000			7
8	Enter the amount from line 3			8
9	Enter $150,000 ($300,000 if married filing jointly)			9
10	Subtract line 9 from line 8. If zero or less, enter the amount from line 7 on line 13			10
11	Divide line 10 by $1,000. If the resulting number isn't a whole number, decrease the result to the next lower whole number. (For example, decrease 1.5 to 1, and decrease 0.05 to 0.)			11
12	Multiply line 11 by $100			12
13	**Qualified tips deduction.** Subtract line 12 from line 7. If zero or less, enter -0-			13

Part III No Tax on Overtime

Caution: Fill out Part III only if you received qualified overtime compensation. You and/or your spouse who received the qualified overtime compensation must have a valid social security number to claim this deduction. If married, you must file jointly to claim this deduction. See instructions.

14a	Qualified overtime compensation included in Form W-2, box 1. If you received qualified overtime compensation not reported on Form W-2, box 1, see instructions	14a		
b	Qualified overtime compensation included in Form 1099-NEC, box 1, or Form 1099-MISC, box 3 (see instructions)	14b		
c	Add lines 14a and 14b			14c
15	Enter the smaller of the amount on line 14c or $12,500 ($25,000 if married filing jointly)			15
16	Enter the amount from line 3			16
17	Enter $150,000 ($300,000 if married filing jointly)			17
18	Subtract line 17 from line 16. If zero or less, enter the amount from line 15 on line 21			18
19	Divide line 18 by $1,000. If the resulting number isn't a whole number, decrease the result to the next lower whole number. (For example, decrease 1.5 to 1, and decrease 0.05 to 0.)			19
20	Multiply line 19 by $100			20
21	**Qualified overtime compensation deduction.** Subtract line 20 from line 15. If zero or less, enter -0-			21

New Guidance on Tips & Overtime!

- **IR-2025-82 (Aug. 7, 2025):** IRS announced that, as part of its phased implementation of the OBBB, there will be no changes to certain information returns or withholding tables for Tax Year 2025 related to the new law, including the 2025 Form W-2
  - 2026 W-2 and Instructions have already been issued

- **IRS Notice 2025-69 (Nov. 21, 2025)**: "As a result [of the above], employers and other payors will not be required to separately account for **cash tips** or **qualified overtime compensation** on those forms or the written statements (copies of the forms) furnished to individuals for 2025**."**
  - **IRS Notice 2025-69** provides **individuals** with guidance on overtime and tips without the employer reports
  - **Fact Sheet 2026-01** (FAQs) provides additional guidance for employers and employees on the overtime provision
  - **IRS Notice 2025-62** (over) explains the 2025 penalty/transition relief

New Guidance! Penalty Relief!

- **Transition Penalty Relief for Tax Year 2025: IR-2025-110 & IRS Notice 2025-62 (Nov. 5, 2025):** This guidance provides penalty relief from the new information reporting requirements for **cash tips** and **qualified overtime compensation** under the OBBB to employers and other payors for not filing correct information returns and not providing correct payee statements to employees and other payees. Specifically,
  - Employers and other payors will not face penalties for failing to provide a separate accounting of any amounts reasonably designated as cash tips or the occupation of the person receiving such tips.
  - Employers and other payors will also not face penalties for failing to separately provide the total amount of qualified overtime compensation.
- This relief is limited to returns and statements filed and provided for **tax year 2025** and applies only to the extent that the person required to make the return or statement otherwise files and provides a complete and correct return or statement.

The Affordable Care Act (ACA)

The ACA § 4980H Shared Responsibility Penalties: Who Must Comply?

- "**Applicable large employers**" (ALEs) must:
  - Offer at least 95% of their full-time employees (and dependent children) "minimum essential coverage" (MEC) that is also "minimum value" (MV) and "affordable" to avoid a § 4980H(a) or (b) penalty, and
  - Furnish to employees, and file with the IRS, Forms 1094/1095-C
- **Important**:
  - Even ALEs that do not offer coverage must furnish/file the Forms 1094/1095-C
  - This is an employer—not a carrier—responsibility (the carriers will furnish/file Forms 1094/1095-B, but these forms do not take the place of the Forms 1094/1095-C)
  - Small employers (non-ALEs) that self-fund (such as those with a level funded plan) must furnish/file the Forms 1094/1095-B

The § 4980H Penalties: Overview

- To avoid the § 4980H(a) and (b) penalties, the ALE member must offer "**minimum essential coverage**" (**MEC**) to at least **95%** of its full-time employees and their dependent children (not spouses); coverage must also be "**affordable**" and of "**minimum value**" (**MV**) to avoid a § 4980H(b) penalty
- **Full-Time (FT) Employees:** An employee who is employed an average of **30 hours** of service per week
  - Do not have to offer coverage to part-time employees
  - Do not have to offer coverage during "**limited non-assessment periods**" (**LNPs**), such as a waiting period (no longer than 90 days) or initial measurement period
- **Compliance Tip:** SBC states whether plan is MEC & MV

2026 ACA Section 4980H Compliance

ACA § 4980H Compliance	2026	2025
ACA Affordability Percentage	9.96%	9.02%
Section 4980H(a) Penalty	$3,340	$2,900
Section 4980(b) Penalty	$5,010	$4,350
Failure to Furnish/File Penalty - IRS	$340	$330
Failure to File Penalty - FTB	$50	$50
CA Minimum Wage*	$16.90	$16.50
Federal Poverty Level (48 states/DC)	$15,960	$15,650

*Minimum wage may differ for some employees (e.g., certain health care & fast-food workers). Some municipalities in CA have a higher minimum, & more increases take effect 7/1/25, 1/1/26, & 7/1/26. Federal minimum wage is $7.25.

Safe Harbor Examples (2026)

W-2

- Box 1 wages: $35,152 ($16.90/hour, 40 hours/week)
- $35,152 ÷ 12 = $2,929
- $2,929 x .0996 = **$291.73**

Rate of Pay

- Based on a formula, not actual hours worked
- $16.90 x 130 = $2,197; $2,197 x .0996 = **$218.82**
- $7.25 x 130 = $942.50; $942.50 x .0996 = **$93.87**

FPL

- 2025 FPL: $15,650; $15,650 ÷ 12 = $1,304.17; $1,304.17 x .0996 = **$129.90**
- May use FPL in effect 6 mos. prior to start of plan year
- 2026 FPL: $15,960; $15,960 ÷ 12 = $1,330; $1,330 x .0996 = **$132.47**

ACA Reporting: Paperwork Burden Reduction Act and Employer Reporting Improvement Act

- Employers/insurers do not have to automatically mail Forms 1095-B/C if they (a) provide **clear, conspicuous, and accessible notice** that you may request a copy of the notice, and (b) provide a copy by the later of January 31 or 30 days after the request (**IRS Notice 2025-15**)
  - Post notice by **March 2** and maintain on website through **October 15**
- If an employer/insurer is unable to collect the **TIN** of an individual whose name must be included in the form—such as a dependent—the full name and birthdate may be used
- A person is deemed to have consented to **electronically receive** Form 1095-B/C in perpetuity if they affirmatively **consent** any time during the prior calendar year, until revoked in writing
- ALEs shall have at least **90 days** to respond to a 226-J letter
- The statute of limitations on assessable payments under section 4980H is **6 years** beginning on the due date for filing the Forms 1094/1095 (or, if later, the date the forms were filed)

Forms 1094/1095: Deadlines for 2025 Forms

Employer Obligation	IRS Due Dates
Furnishing 1095-Cs to Employees	**March 2, 2026 (No extensions)**
Filing 1094-C and 1095-Cs with the IRS (on paper)	**March 2, 2026**
Filing 1094-C and 1095-Cs with the IRS (electronically)	**March 31, 2026**

- Employers may file a Form 8809 to obtain a 30-day extension to file the forms with IRS.
- Small employers that self-fund must file and furnish Forms 1094-B and 1095-B.

- These deadlines also apply to the Forms 1095-B from insurers/HMOs.

California Minimum Essential Coverage Individual Mandate (S.B. 78)

- The federal Tax Cuts & Jobs Act reduced the ACA's individual shared responsibility penalty to zero, effective **12/31/18;** effective **1/1/20,** Californians must have MEC or pay penalty to **FTB**
- **Reporting**: S.B. 78 contains a reporting requirement ($50/form penalty):
  - Employers must distribute Forms 1095 to employees; employers must file w/ FTB Forms 1095, unless carrier files (so, self-funded employers must comply); if filing electronically, **register** w/ MEC IR system
  - **Resources**: FTB website; Publications 3895B and 3895C
  - **Individual Mandates**: DC, MA, NJ, RI, VT (may have filing/distribution requirements)

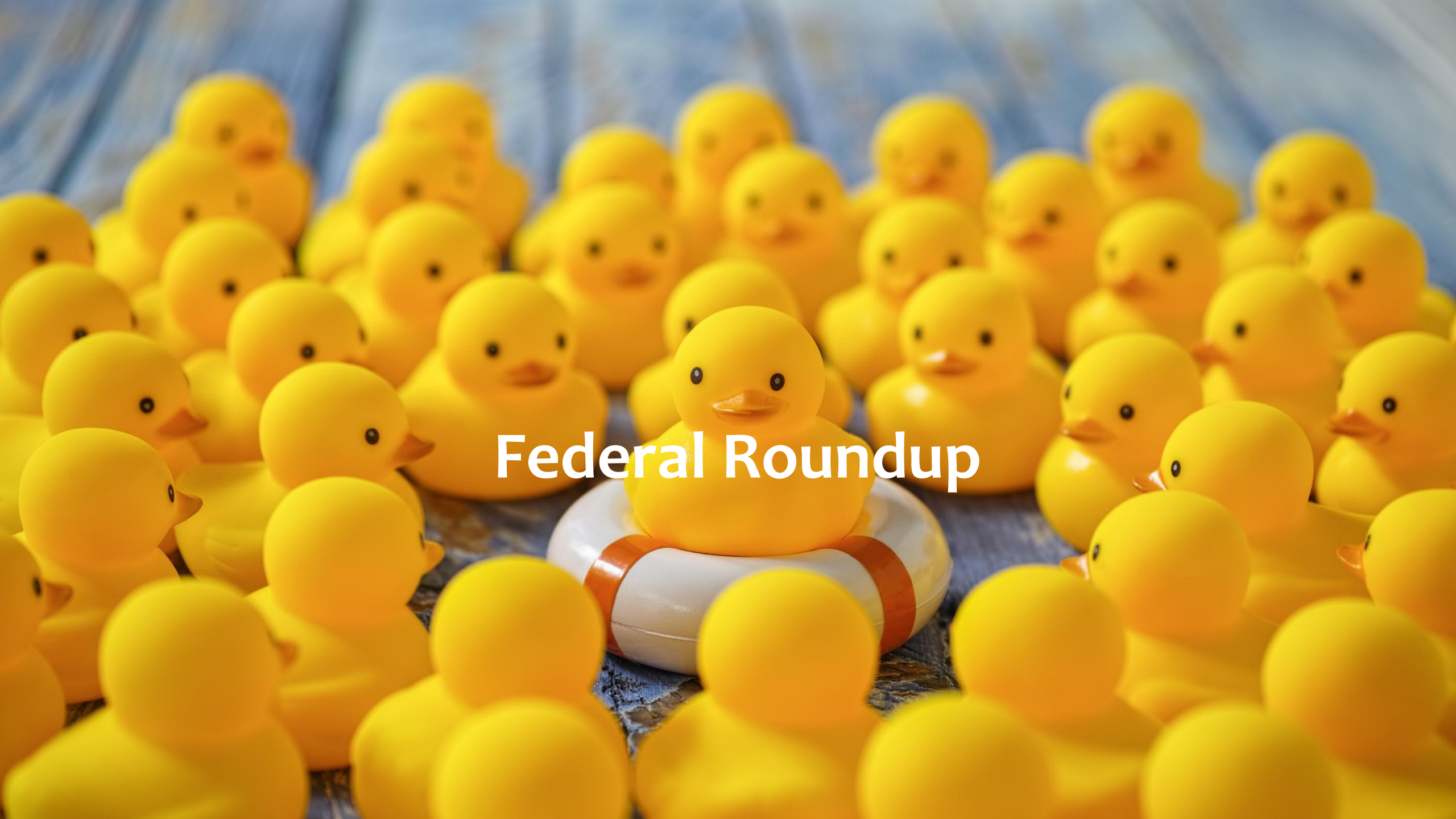
Insurer/Employer Obligation	FTB Due Dates
Furnishing Forms 1095-B/C to Employees	**February 2, 2026**
Filing Forms 1094/1095-B/C with the FTB (electronic filing required if filing ≥250 1095-Cs)	**March 31, 2026** (deadline extended to **May 31**)

IRC §§ 6721 and 6722 Penalties

Returns Due	Penalty Rate	Not More than 30 Days Late	31 Days Late thru August 1	After August 1	Intentional Disregard
From 01-01-2026 thru 12-31-2026	Per return/ max	$60/ $683,000	$130/ $2,049,000	$340/ $4,098,500	$680/ No max
From 01-01-2025 thru 12-31-2025	Per return/ max	$60/ $664,500	$130/ $1,993,500	$330/ $3,987,000	$660/ No max
From 01-01-2024 thru 12-31-2024	Per return/ max	$60/ $630,500	$120/ $1,891,500	$310 $3,783,000	$630/ No max

For 2021 forms and thereafter, same penalties will apply for forms furnished or filed with incorrect information; good faith penalty relief no longer available.

Note: Other relief may be available. Under IRC section 6724, penalties will not be imposed if a taxpayer can show that a reporting failure is due to "reasonable cause" and not willful neglect.


Federal Roundup

Pharmacy Benefit Managers (PBMs)

- **Consolidated Appropriations Act, 2026 (CAA 2026) (H.R. 7148; Pub. Law No. 119-75 (02/03/2026))**
  - **Effective:** Plan years beginning on/after **30 months** from enactment (**January 1, 2029**, for calendar year plans)
  - Prohibits contractual restrictions on disclosures in PBM contracts
  - Adds PBM reporting requirements (every 6 months)
  - Adds employee notice requirements
  - Requires pass-through pricing and prohibits spread pricing
  - Expands CAA 2021 compensation disclosure rules
  - **Enforcement:** $10,000/day (DOL)
- **Additional PBM Developments:**
  - Proposed Federal Regulations (over)
  - California's S.B. 41 (later)

Roundup: Proposed Regulations

HIPAA: Proposed Regulations Amending Security Rule: Watch for updated Security Rule regulations and more stringent requirements. HHS has this on their Legislative/Regulatory Agenda for May, 2026

Transparency into PBM Fee Disclosure Proposed Rule: Covered service providers would be required to make specified disclosures to self-funded plans; comments due **March 31, 2026**

ACA: Transparency in Coverage: Machine-Readable Files (MRFs): Proposed regulations issued; comments due **February 23, 2026**

Roundup:
Items for the To Do List

HIPAA Notice of Privacy Practices (NPP): New HIPAA regulations pertaining to reproductive health care are no longer in effect, but regulations pertaining to Substance Use Disorder benefits are; provide updated NPP by **February 16, 2026**

CAA 2021: RxDC Reporting: RxDC reporting due June 1; **watch** for requests for information/surveys from carriers; self-funded employers should coordinate with TPA

Patient Centered Outcomes Research Institute (PCORI) Fee: Self-funded plans must file IRS Form 720, and pay the PCORI fee, on/ before **July 31, 2026**. The fee is **$3.84** per covered life for policy/plan years that end on or after Oct. 1, 2025, and before Oct.1, 2026

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Roundup:
More Items for the To Do List

CAA 2021: Gag Clause Prohibition and Attestation: Remove gag clauses from network agreements; include downstream contracts; attestation due by December 31

Summary of Benefits and Coverage (SBC): New templates issued for use for plan years beginning on or after **January 1, 2025**; taglines in 8 languages

Medicare Part D Notices of Creditable/Non-Creditable Coverage: Existing simplified determination method available for **CY 2026** if not applying for retiree drug subsidy (RDS); for CY 2026 may use revised simplified method; for **CY 2027** must use revised simplified method

Roundup:
Don’t Forget

Mental Health Parity and Addiction Equity Act (MHPAEA): MHPAEA was amended by the Consolidated Appropriations Act, 2021 (CAA) to require “comparative analyses” of NQTLs; implementing regulations no longer in effect, but legal requirement remains

ERISA and Cybersecurity Guidance: DOL issued updated guidance in 2024 requiring all ERISA plans to adopt cybersecurity practices for the plan and for the plan’s service providers

Roundup:
More Items to Know About

MEWAs and DFVCP: May now use DOL's Delinquent Filer Voluntary Compliance Program (DFVCP) for failures to file Form M-1 for MEWAs

ACA FAQs, Part 72 (10/16/25): Fertility benefits may be offered through an **excepted benefit health reimbursement arrangement** (HRA)—so long as the 2019 regulations are followed

Did You Know?

USPS: New Regulations advise that mail will no longer be postmarked on date received, but on date processed

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Summary of Benefits & Coverage (SBC)

Excluded Services & Other Covered Services:

Services Your Plan Generally Does NOT Cover (Check your policy or plan document for more information and a list of any other excluded services.)

- Cosmetic surgery
- Dental care (Adult)
- Infertility treatment
- Long-term care
- Non-emergency care when traveling outside the U.S.
- Private-duty nursing
- Routine eye care (Adult)
- Routine foot care

Other Covered Services (Limitations may apply to these services. This isn't a complete list. Please see your plan document.)

- Acupuncture (if prescribed for rehabilitation purposes)
- Bariatric surgery
- Chiropractic care
- Hearing aids
- Weight loss programs

Your Rights to Continue Coverage: There are agencies that can help if you want to continue your coverage after it ends. The contact information for those agencies is: [insert State, HHS, DOL, and/or other applicable agency contact information]. Other coverage options may be available to you, too, including buying individual insurance coverage through the Health Insurance Marketplace. For more information about the Marketplace, visit www.HealthCare.gov or call 1-800-318-2596.

Your Grievance and Appeals Rights: There are agencies that can hel… ave a complaint against your plan for a denial of a claim. This complaint is called a grievance or appeal. For more information about your rights, lo… nation of benefits you will receive for that medical claim. Your plan documents also provide complete information on how to submit a claim, appea… ance for any reason to your plan. For more information about your rights, this notice, or assistance, contact: [insert applicable contact information fron… tions]

Does this plan provide Minimum Essential Coverage? Yes.

Minimum Essential Coverage generally includes plans, health in… able through the Marketplace or other individual market policies, Medicare, Medicaid, CHIP, TRICARE, and certain other coverage. If you are eligible … types of Minimum Essential Coverage, you may not be eligible for the premium tax credit.

Does this plan meet the Minimum Value Standards? Yes.

If your plan doesn't meet the Minimum Value Standards, you may be eligible for a premium tax credit to help you pay for a plan through the Marketplace.

Language Access Services:

Spanish (Español): Para obtener asistencia en Español, llame al [insert telephone number].
Tagalog (Tagalog): Kung kailangan ninyo ang tulong sa Tagalog tumawag sa [insert telephone number].
Chinese (中文): 如果需要中文的帮助，请拨打这个号码[insert telephone number].
Navajo (Dine): Dinek'ehgo shika at'ohwol ninisingo, kwiijigo holne' [insert telephone number].
Pennsylvania Dutch (Deitsch): Fer Hilf griege in Deitsch, ruf [insert telephone number] uff.
Samoan (Gagana Samoa): Mo se fesoasoani i le Gagana Samoa, vala'au mai i le numera telefoni [insert telephone number].
Carolinian (Kapasal Falawasch): ngere aukke ghut alillis reel kapasal Falawasch au fafaingi tilifon ye [insert telephone number].
Chamorro (Chamoru): Para un ma ayuda gi finu Chamoru, å'gang [insert telephone number].

To see examples of how this plan might cover costs for a sample medical situation, see the next section.

[* For more information about limitations and exceptions, see the plan or policy document at [www.insert.com].]

Some New Numbers

- **Medicare Secondary Payer**: Offering incentives penalty is **$11,823** (up from $11,524)
- **SBC**: Failure to provide an SBC is **$1,442** (up from $1,406) for each failure

HIPAA Violation Category	Each Violation 2026 (2025)	All Such Violations of an Identical Provision in a Calendar Year: Annual Maximum 2026 (2025)
(A) Did not know	$145 - $73,011 ($141 - $71,162)	$2,190,294 ($2,134,831)
(B) Reasonable Cause	$1,461 - $73,011 ($1,424 - $71,162)	$2,190,294 ($2,134,831)
(C) Willful Neglect—Corrected w/in 30 days	$14,602 - $73,011 ($14,232 - $71,162)	$2,190,294 ($2,134,831)
(D) Willful Neglect—Not Corrected w/in 30 days	$73,011- $2,190,294 ($71,162 - $2,134,831)	$2,190,294 ($2,134,831)


The Courts

The Courts: Hot Topics

Preventive Care Benefits: *Braidwood:* Court rejected (6 to 3) the challenge to the procedure used to appoint members of the US Preventive Services Task Force

Fiduciary Responsibilities: Continues to be a target of litigation, focused on plan management & PBMs, but some claims have been rejected

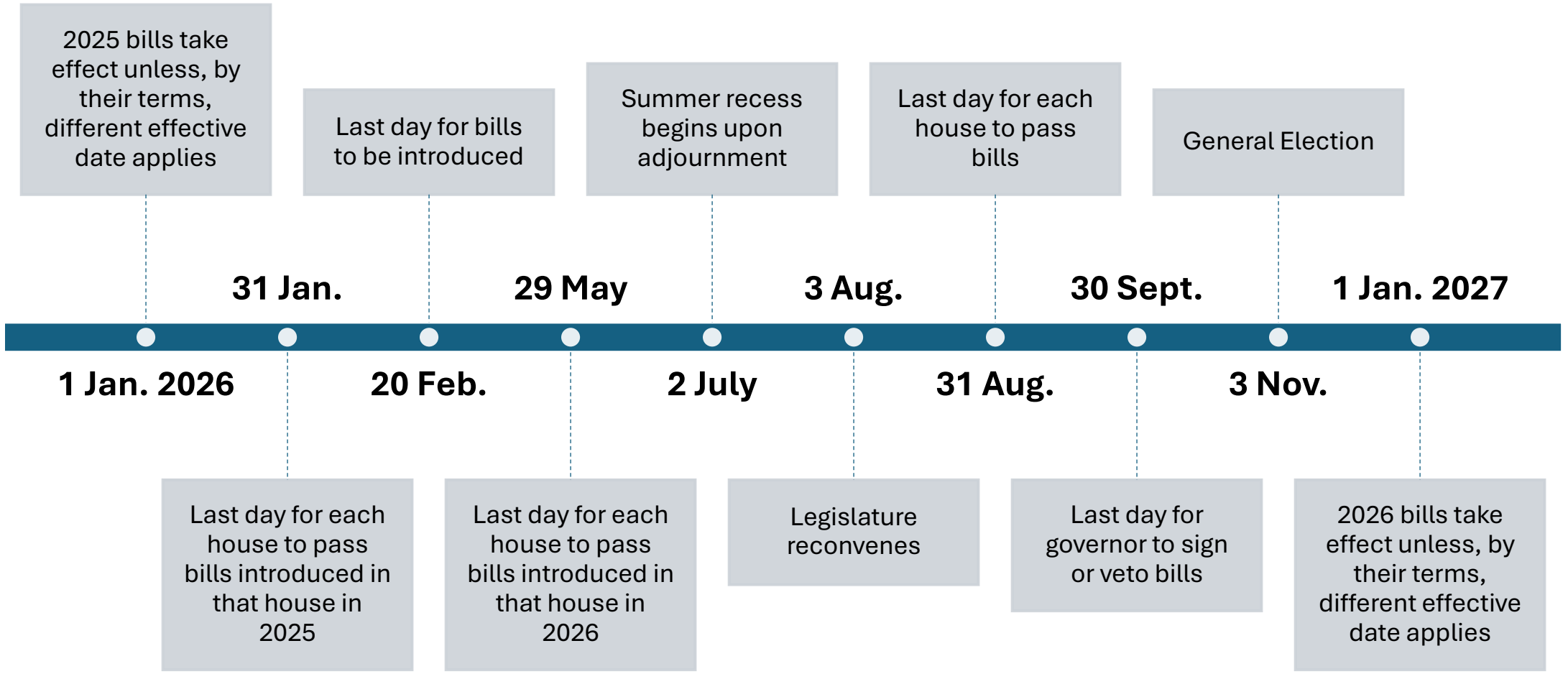
IRS Collection of 4980H Penalties: *Faulk Company, Inc. v. Kennedy et al.*—on appeal to the 5th Circuit

Wellness Programs & Tobacco Surcharges: Continue to be a target of litigation, such as lack of alternative standard or disclosure of alternative

Voluntary Benefits: New target for class action litigation against employers & brokers alleging fiduciary and prohibited transaction violations


California

2026 California Legislative Calendar



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California: Benefits Legislation

2024 Legislation: S.B. 729

- **S.B. 729 – Treatment for Infertility and Fertility Services**: S.B. 729 applies to insurer/HMO policies/contracts issued, amended, or renewed on/after **January 1, 2026.** Religious employers are exempt, and the effective date for plans/policies issued to PERS is July 2027.
- **S.B. 729** requires large group plans to cover the diagnosis and treatment of infertility and fertility services. Employers with small group plans must have the option to add the coverage.
- **Large Group Plans**: The scope of services that must be provided by large group plans is defined as "coverage for the diagnosis and treatment of infertility and fertility services, including a maximum of three completed oocyte retrievals with unlimited embryo transfers . . ." The DMHC further explains that the law covers, for large group plans, "a maximum of three attempts to collect or retrieve sperm" and a "maximum of three completed oocyte retrievals." Unlimited embryo transfers are covered. Further, among other services, large group plans must also cover "cryopreservation and storage of sperm, oocytes, and embryos for a period of five years from the time the genetic material is first cryopreserved."

2024 Legislation: S.B. 729 & A.B. 3275

- **S.B. 729 – Treatment for Infertility and Fertility Services**: **Small Group Plans**: The bill defines covered services for small groups in a more limited manner: Small group plans "shall offer coverage for the diagnosis and treatment of infertility and fertility services." Further, the DMHC specifically states that coverage of "a maximum of three attempts to collect or retrieve sperm" and a "maximum of three completed oocyte retrievals" does not apply to small group plans. Small group plans are also not subject to the minimum storage periods mentioned above.

- **A.B. 3275 – Claim Reimbursement**: A.B. 3275 changes the rules on the amount of time insurers/HMOs have to process claims. Under the new rules, claims will have to be paid within 30 calendar days (not working days). These changes go into effect **January 1, 2026**. If claims are paid late, the insurer/HMO must add 15% interest and, if they do not, they will owe the greater of an additional $15 or 10% of the accrued interest.

2025 Legislation: S.B. 41 & PBMs

- **S.B. 41 - Pharmacy Benefits**: This is a comprehensive bill that imposes substantial new requirements on pharmacy benefit managers (PBMs). Many of the provisions in the bill go into effect on **January 1, 2026**. Among other provisions:
  - The bill imposes a fiduciary duty on PBMs with respect to both self-insured employer plans and payer clients
  - The bill prohibits "spread pricing" in contracts executed, amended, or renewed on or after **January 1, 2026** (when the PBM charges the payer more than they pay the pharmacy)
  - The Department of Managed Health Care (DMHC) will create a licensure process for PBMs.
  - A contract between an insurer/HMO and a PBM issued, amended, or renewed on or after **January 1, 2027**, or the date on which the Department of Managed Health Care has established the pharmacy benefit manager licensure process, whichever is later, shall require the PBM to be licensed and in good standing with the DMHC. The effective date of this provision may be delayed if the DMHC requires additional time to create the licensure process.
  - PBMs will be restricted from requiring use of only an affiliated pharmacy, and from imposing requirements, conditions, or exclusions that discriminate against a nonaffiliated pharmacy.
- **Challenge**: *Pharmaceutical Care Management Assoc. v. Bonta*

2025 Legislation: A.B. 144 & S.B. 40

- **A.B. 144 – Health**: This bill addresses the changes being made at the federal level with regard to preventive services, A.B. 144 sets the preventive service recommendations in place on January 1, 2025, as a **baseline**. **Effective: October 8, 2025**
  - This bill requires that, for fully insured plans, the list of immunizations, items, and services that were recommended by the United States Preventive Services Task Force (USPSTF), the federal Advisory Committee on Immunization Practices (ACIP), and the federal Health Resources and Services Administration (HRSA) and were in effect on **January 1, 2025**, serve as a baseline of recommendations and would authorize the State Department of Public Health to modify or supplement those baseline recommendations.

- **S.B. 40 – Health Care Coverage: Insulin**: This bill prohibits a large group plan/policy issued, amended, delivered, or renewed on or after **January 1, 2026**, or an individual or small group plan/policy on or after **January 1, 2027**, from imposing cost sharing of more than $35 for a 30-day supply of an insulin prescription drug (unless excepted). The bill limits the $35 cap for an individual or small group plan/policy to only Tier 1 and Tier 2 insulin if the drug formulary is grouped into tiers.
  - **On/after January 1, 2026**, the bill prohibits a plan/policy from imposing step therapy as a prerequisite to authorizing coverage of insulin, and, for a large group plan/policy, requires at least one insulin for a given drug type in all forms and concentrations to be on the prescription drug formulary.

2025 Legislation: A.B. 260 & A.B. 951

- **A.B. 260 - Sexual and Reproductive Health Care**: Among other changes, A.B. 260 prohibits insurers/HMOs that cover prescription drugs from limiting or excluding coverage for brand name or generic mifepristone solely on the basis that the drug is prescribed for a use that is different from the use for which that drug has been approved for marketing by the FDA or that varies from an approved risk evaluation and mitigation strategy, except if the state deems it necessary to address an imminent health or safety concern. This bill took effect as an urgency measure on **September 26, 2025**.

- **A.B. 951 - Health Care Coverage: Behavioral Diagnoses**: This bill prohibits a policy/contract issued, amended, or renewed on/after **January 1, 2026**, from requiring an enrollee or insured previously diagnosed with pervasive developmental disorder or autism to receive a re-diagnosis to maintain coverage for behavioral health treatment for their condition. The bill requires a treatment plan to be made available to the plan or insurer upon request.

2025 Legislation: S.B. 306

- **S.B. 306 - Health Care Coverage: Prior Authorizations**: This bill requires DMHC and CDI to issue instructions on or before **July 1, 2026**, to HMOs/insurers to report statistics regarding covered health care services subject to prior authorization and the percentage rate at which they are approved or modified, among other things. HMOs/insurers must report those statistics, including information from another entity to which the HMO/insurer delegates responsibility for prior authorization decisions, to DMHC/CDI on/before **December 31, 2026**.
- **Evaluation**: Next, DMHC/CDI must evaluate these reports, identify the health care services approved at a rate that meets or exceeds the threshold rate of 90%, and, on/before **July 1, 2027**, publish a list of the services identified.
- **Limits on Prior Authorization**: No later than **January 1, 2028**, the HMO/insurer must cease requiring prior authorization for the most frequently approved covered health care services (some exceptions apply). The bill would repeal these provisions on January 1, 2034.

2025 Legislation: A.B. 1041 & S.B. 386

- **A.B. 1041 - Health Care Coverage: Health Care Provider Credentials**: First, this bill requires every full service HMO/insurer, or its delegate, to use the Council for Affordable Quality Healthcare credentialing form on and after **January 1, 2028.** In addition, within one year of the bill's operative date, every HMO/insurer that credentials providers for its networks must make a determination regarding the credentials within **90 days** after receiving a completed application. If the HMO/insurer, or its delegate, does not meet the 90-day requirement, the applicant's credentials must be provisionally approved for 120 days (unless an exception applies). Medi-Cal managed care plans are exempt.
- **S.B. 386 - Dental Providers: Fee-Based Payments**: S.B. 386 requires an HMO/insurer that provides payment directly or through a contracted vendor to a dental provider to have a non-fee-based default method of payment. The HMO/insurer must also obtain affirmative consent from a dental provider to opt into this system; the provider may also opt out. If the HMO/insurer receives the provider's affirmative consent to opt in or opt out, that decision would include both the provider's entire practice and all products or services covered pursuant to a contract with the dental provider. The bill's provisions are operative on **April 1, 2026**, and apply to contracts/policies issued, amended, or renewed on/after that date.

2025 Legislation: S.B. 402

- **S.B. 402 - Health Care Coverage: Autism**: Existing law requires a health care service plan contract or a health insurance policy to provide coverage for behavioral health treatment for pervasive developmental disorder or autism and defines "behavioral health treatment" to mean specified services and treatment programs, including treatment provided pursuant to a treatment plan that is prescribed by a qualified autism service provider and administered either by a qualified autism service provider or by a qualified autism service professional or qualified autism service paraprofessional. Existing law defines "qualified autism service provider," "qualified autism service professional," and "qualified autism service paraprofessional" for those purposes. Those definitions are contained in the Health and Safety Code and the Insurance Code.

- S.B. 402 moves those definitions to the Business and Professions Code. Why? "According to the author, this bill would place requirements for QAS providers, including behavior analysts, QAS professionals, and QASPP, in the [Business & Professions Code], which is where the requirements for all the other QAS providers are located. The [Business & Professions Code] contains the legal authority for the Department of Consumer Affairs to regulate and oversee the conduct of professionals to ensure consumer protection."

2025 Legislation: S.B. 62 & S.B. 439

- **S.B. 62 - Health Care Coverage: Essential Health Benefits**: S.B. 62 expresses the intent of the Legislature to review California's essential health benefits benchmark plan and establish a new benchmark plan for the **2027 plan year** for health care service plans. The bill requires, commencing **January 1, 2027**, if HHS approves a new essential health benefits benchmark plan for the state, the benchmark plan for health care service plans to include certain additional benefits, including coverage for specified fertility services and durable medical equipment.

- **S.B. 439 - California Health Benefit Review Program (CHBRP): Extension**: This bill would extend the operation of CHBRP and the Health Care Benefits Fund through **July 1, 2033**, and would authorize the continued assessment of the annual charge on HMOs/insurers for that purpose for the 2026–27 to 2032–33 fiscal years, inclusive. The bill would increase the allowable total annual assessment on HMOs/insurers to $3,200,000. This bill would make these provisions inoperative on **July 1, 2033**, and would repeal it as of **January 1, 2034**.

Don’t Forget: CalSavers

- **CalSavers**: As of **December 31, 2025**, employers with **1 or more employees** must either offer a qualifying retirement plan or register with CalSavers. Qualified retirement plans include: 401(a) – Qualified Plan (including profit-sharing plans and defined benefit plans), 401(k) plans (including multiple employer plans or pooled employer plans), 403(a) - Qualified Annuity Plan or 403(b) Tax-Sheltered Annuity Plan, 408(k) - Simplified Employee Pension (SEP) plans, 408(p) - Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) IRA Plan, and Payroll deduction IRAs with automatic enrollment.

The Workplace

The Workplace

- **S.B. 642 – Pay Equity Enforcement Act:** For purposes of pay scale reporting, this bill amends the definition of "pay scale" to now require employers to mean "a good faith estimate of the salary or hourly wage range that the employer reasonably expects to pay for the position upon hire." The bill also amends the Equal Pay Act to change the definition of "opposite sex" to "another sex." The statute of limitations for an Equal Pay Act violation is expanded to 3 years, and the recovery period is increased to 6 years.

- **S.B. 464 – Pay Data Reporting**: As part of California's existing pay data reporting requirement, this bill requires employers to store separately from personnel records any demographic information gathered by an employer or labor contractor for the purpose of submitting a pay data report. Also, beginning **January 1, 2027**, the number of job categories increases from 10 to 23. Finally, S.B. 464 requires a court to impose a civil penalty against an employer that fails to file the pay data report if requested to do so by the Civil Rights Department (CRD).

The Workplace

- **S.B. 648 – Gratuities**: This bill authorizes the Labor Commissioner to investigate and issue a citation or file a civil action for gratuities taken or withheld by an employer in violation of existing law.

- **S.B. 261 - Division of Labor Standards Enforcement**: This bill increases penalties on employers that do not pay final wage judgments, including triple penalties and mandatory attorney's fees.

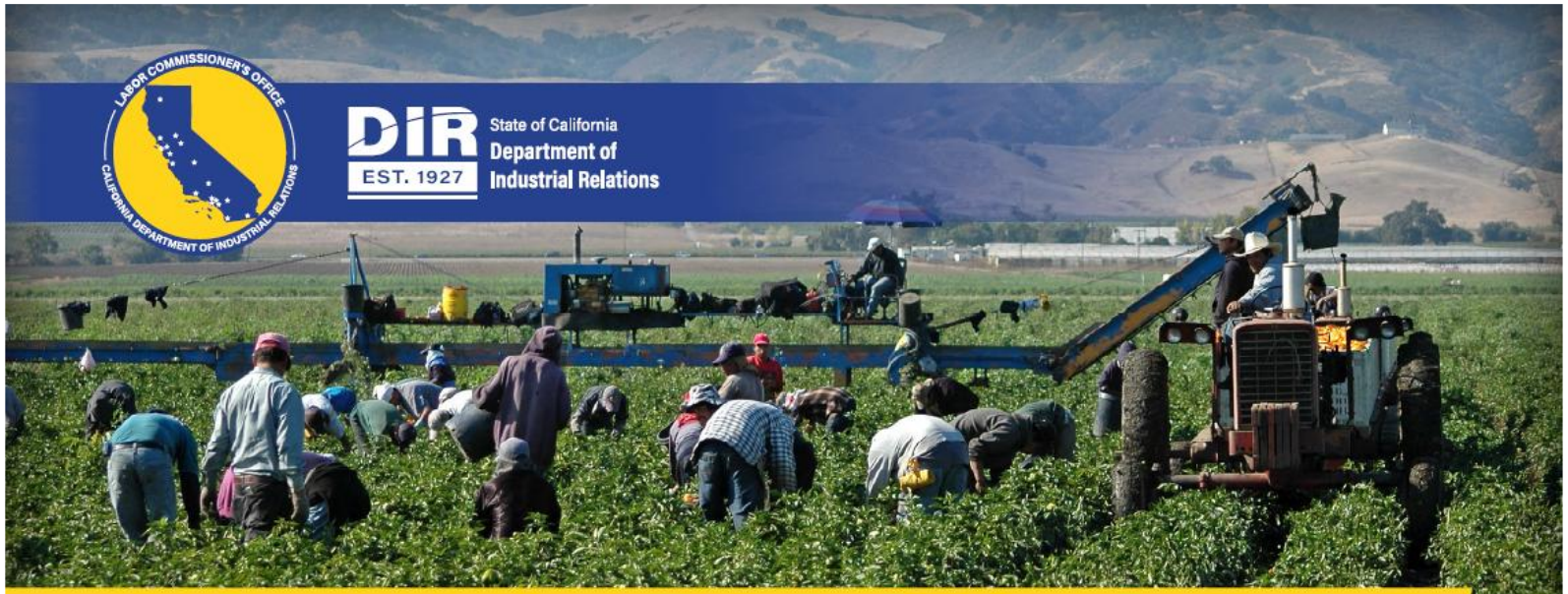
- **A.B. 692 – Employment Contracts:** A.B. 692 makes it unlawful to require employees to enter "stay or pay" agreements by which employees are obligated to pay an amount of money if their employment terminates. AB 692 applies to contracts entered into on or after **January 1, 2026**. Certain exceptions apply.

- **S.B. 513 – Personnel Records**: This bill expands the definition of "personnel records" to include education and training records. These records must then be turned over to employees when requested, consistent with existing timelines. The bill also requires employers that maintain these records to include in them specific information about the training and education, such as the name of the provider, the date and duration of the training, and other related details.

Notices/Posters

- **SB 294 – The Workplace Know Your Rights Act:** First, SB 294 requires employers, on or before **February 1, 2026**, and **annually** thereafter, to provide a stand-alone written notice to each current employee of specified workers' rights, and to new employees upon hire. The Labor Commissioner must post a template notice on or before **January 1, 2026**, and post an updated notice annually thereafter. The Labor Commissioner, on or before **July 1, 2026**, must also develop a video for employees advising them of their rights.

- Second, SB 294 requires employers to provide employees the opportunity to name an **emergency contact** on or before **March 30, 2026,** for an existing employee and at the time of hire for an employee hired after **March 30, 2026**. If an employee has designated an emergency contact for this purpose, the employer must notify the designated emergency contact if the employee is arrested or detained on their worksite.



California Workplace - Know Your Rights

As a worker in California, you are entitled to know and exercise your workplace and constitutional rights. Labor laws, including but not limited to standards for wages, hours, and health and safety, apply to all workers in the state *regardless of immigration status.*

It is against the law for your employer to retaliate against you for exercising your rights, including:

- Filing a complaint with the Labor Commissioner,

Notices/Posters

- **Survivors of Violence Notice**: A.B. 2499—signed by Governor Newsom in 2024—amended the Fair Employment and using Act (FEHA), effective **January 1, 2025**, to provide protections for survivors of qualifying acts of violence, as well as people with a family member who has survived a qualifying act of violence. “Protections include the right to get reasonable accommodations for the worker or their family’s safety. For people who work for an employer with 25 or more employees, protections also include the right to take time off work for certain activities related to the violence.”
- The bill also requires employers to provide notice in writing of the rights established by the bill. The new notice—"Survivors of Violence and Family Members of Victims Right to Leave and Accommodations”—was issued by CRD effective **July 1, 2025**. The notice must be provided to new employees upon hire, to all employees annually, at any time upon request, and any time an employee informs an employer that the employee or the employee’s family member is a victim. CRD also issued FAQs. www.calcivilrights.ca.gov

- **A.B. 406 – Victims of Violence**: Last year, A.B. 2499 expanded the rights of employees who are victims of violence, or who have family members who are victims of violence. A.B. 406 cleans up and expands some of provisions added by A.B. 2499. The new bill expands the definition of “victim,” and specifies that employees may use paid sick leave for judicial proceedings.

Notices/Posters

- **Updated Paid Sick Leave Poster**: Recent legislation (A.B. 406 and A.B. 2499) clarifies and expands the purposes for which employees may take paid sick leave, including for jury duty, to appear in court to comply with a subpoena or other court order as a witness, and in certain situations when an employee or their family member is a crime victim. The Labor Commissioner's Office has updated its paid sick leave poster and paid sick leave FAQs to reflect these purposes. https://www.dir.ca.gov/dlse/paid_sick_leave.htm

- According to the Commissioner, "Starting on January 1, 2024, employers must generally provide 5 days or 40 hours of paid sick leave to their employees in California. . . . All employers should post the new poster. An employer previously providing less than 5 days or 40 hours of paid sick leave per year will need to provide employees a new copy of the notice." Also, the poster "includes changes to the law taking effect on January 1, 2025."

The Workplace

- **S.B. 303 – Bias Mitigation Training**: This bill amends the California Fair Employment and Housing Act (FEHA) to provide that an employee's assessment, testing, admission, or acknowledgment of their own personal bias that was made in good faith and solicited or required as part of a bias mitigation training does not constitute unlawful discrimination.

- **S.B. 590 – Paid Family Leave (PFL)**: Effective **July 1, 2028**, expands the definition of "family member" to include a "designated person." When requesting PFL benefits, the individual must identify the designated person and attest, under penalty of perjury, either how the designated person is related by blood or how the designated person's association with the individual is the equivalent of a family relationship.

- **A.B. 268 - State holidays: Diwali:** This bill adds Diwali to the list of state holidays, so that community colleges and public schools may close on Diwali if the employees and their employers agree. Diwali would not be listed as a judicial holiday.

The Workplace

- **S.B. 617 – Cal-WARN Notices**: S.B. 617 expands Cal-WARN notice obligations to require disclosure of whether they are coordinating services through a local workforce development board or another agency. The bill specifies other details—such as a "functioning email and telephone number"—that must be included in the notices.

- **A.B. 288 - Labor Organizations and Unfair Practices**: An employee of a private employer may petition the Public Employment Relations Board (PERB) if the worker is employed in a position subject to the National Labor Relations Act (NLRA) but the National Labor Relations Board (NLRB) has expressly or impliedly ceded jurisdiction.

- **A.B. 1340 - Transportation Network Company Drivers Labor Relations Act**: Transportation network company (TNC) drivers have the right to form, join, and participate in the activities of TNC driver organizations, to bargain through representatives of their own choosing, to engage in concerted activities for the purpose of bargaining or other mutual aid or protection, and to refrain from such activities. The PERB will administer the Act.

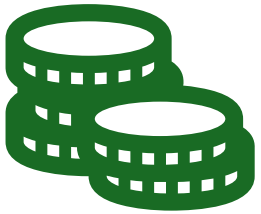
- **S.B. 446 – Data Breach Notifications**: S.B. 446 modifies California's existing data breach law to require, among other changes, that data breach disclosures be made generally within 30 calendar days of discovery or notification of the data breach (with some exceptions).

New Regulations

- **DMHC Regulations: Fertility Services**: A new Department of Managed Health Care (DMHC) regulation has been approved. The regulation, "Scope of Fertility Preservation Services for Iatrogenic Infertility," which adds section 1300.74.551 of Title 28 of the California Code of Regulations, will be effective **July 1, 2025**. What is the reason for the proposed regulation? Health and Safety Code section 1374.551, enacted by S.B. 600 — which was effective January 1, 2020 — clarified that when a covered treatment may cause iatrogenic infertility to an enrollee, standard fertility preservation services are considered a basic health care service.

- **CRD Regulations: Automated-Decision Systems**: A new set of regulations from the Civil Rights Department (CRD) went into effect on **October 1, 2025**. These new regulations—the "Employment Regulations Regarding Automated-Decision Systems"—address growing concerns over the use of artificial intelligence (AI), including automated-decision systems (ADS), in the workplace. According to the CRD, the regulations "clarify the application of existing antidiscrimination laws in the workplace in the context of new and emerging technologies, like artificial intelligence."

Minimum Wage



- **California**: The state's minimum wage increased to **$16.50** an hour effective **January 1, 2025**; effective **January 1, 2026**, the state's minimum wage will increase to **$16.90**
  - Minimum salary threshold for exempt workers is **$70,304**, and **$122,573.13** ($58.85/hr) for computer professionals
  - The federal minimum wage is **$7.25**

- **Health Care and Fast-Food Workers**: The minimum wage for certain health care and fast-food workers has been higher than $16.50, and for some health care workers the minimum wage increased again on **July 1, 2025**. More information is available at this link:
  - https://www.dir.ca.gov/dlse/Health-Care-Worker-Minimum-Wage-FAQ.htm

Minimum Wage

- **Municipalities**: Multiple municipalities had minimum wage increases effective **July 1, 2025**, and more will have increases on **January 1, 2026**
- **Action Items**:
  - Employers should update their payroll systems and workplace posters
  - The new minimums should be taken into consideration when setting “affordable” employee contributions under the Affordable Care Act (ACA) and Internal Revenue Code section 4980H(b)

Resources

TIMELINE OF HR-1 MAJOR MEDICAID PROVISIONS

CHBRP

Current as of July 21, 2025

2025

Q3
July 1–Sept 30

Abortion provider restrictions

Bars Medicaid participation by abortion providers.

Provider tax limitations

Generally bans new provider taxes; implements phased-down cap on provider taxes in Medi-Cal expansion states. CA Prop 35 (Managed Care Organization tax) is noncompliant with this provision.

Caps new SDPs at 100% of Medicare levels

Reduces hospital funding through a ~17% reduction in Medicaid payments by reducing state-directed payments (SDPs).

2026

Q4
Oct 1–Dec 31

Reduction in Federal Medical Assistance Percentage (FMAP)

States will have to pay a larger share of costs for emergency medical care provided to noncitizens (FMAP drop from 90% to 50%)

Ends federal funding to some noncitizens

Ends the availability of federal Medicaid and CHIP funding for refugees, asylees, victims of human trafficking, and certain other noncitizens

2027

Q1
Jan 1–Mar 30

Start Work Requirements

Ages 19–64 must work 80 hours a month to qualify; exception for people w/ disability

Start 6 month Medi-Cal eligibility redetermination

Review eligibility every 6 months instead of annually

Retroactive Coverage

Shorten Medicaid retroactive coverage and provide CHIP retroactive coverage

Q4

Ramp-down of provider tax cap

6% tax cap reduced by 0.5% until 3.5% is hit

2028

Q1
Jan 1–Mar 30

Gradual reduction of existing SDPs

Deadline for SDPs above Medicare rates reduce payments by 10% per year until they reach 100% of Medicare or less

Q4

Impose copay on most services for expansion adults

Adults ages 19–64 with incomes above 100% of the federal poverty level pay copayments for most covered services

2029

Q4
Oct 1–Dec 31

CMS prohibited from waiving federal penalties

Under HR-1, the federal definition of "improper payments" includes payments without sufficient information available to confirm eligibility for Medicaid.

Effects on California

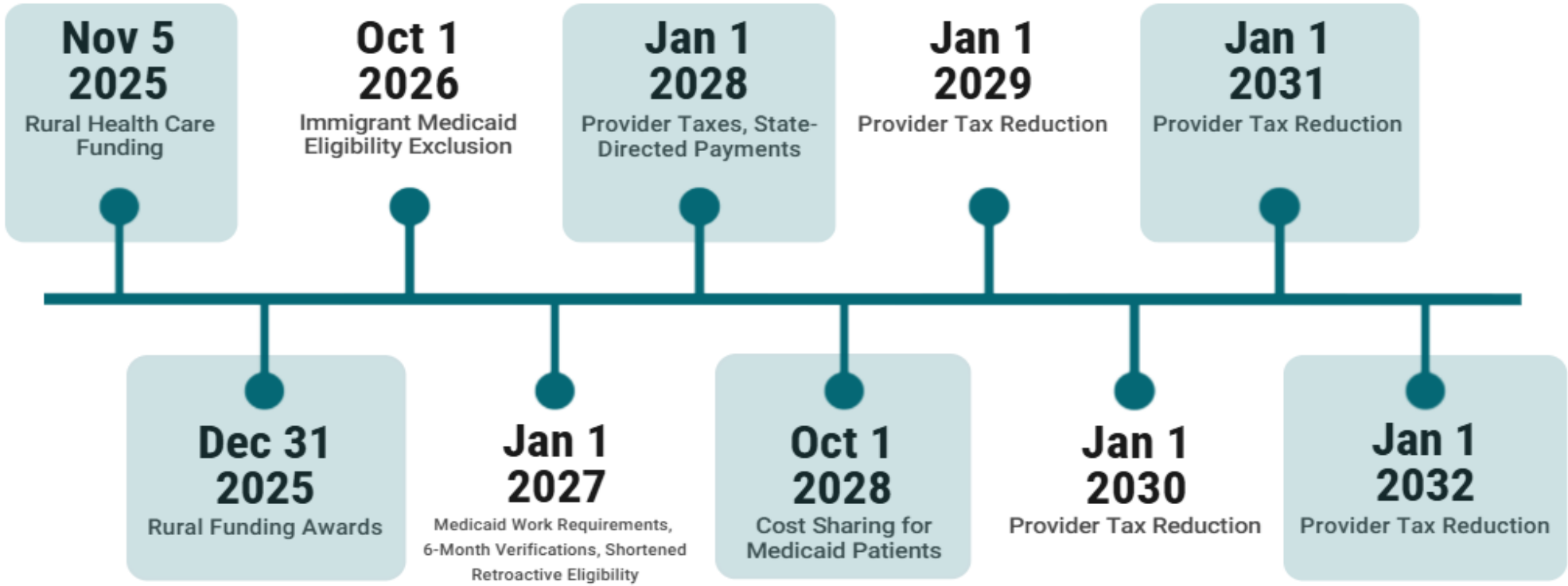
States and federal government share Medicaid costs. If improper payments are made by CA, then federal funds may be taken away as a penalty, whether or not a corrective action plan has been generated. This increases financial risk to CA's general fund.

Source: www.chhs.ca.gov

Advanced Benefit Consulting

MONAHAN LAW OFFICE

Key Dates for H.R. 1 Health Coverage Changes, 2025 - 2032



Note: Hover above each date to see more details.
Source: Impact Health Policy Partners

CALIFORNIA HEALTH CARE FOUNDATION, OCTOBER 2025

Some Key 2026 Health & Welfare Deadlines

- **2025 W-2s**
  - Distribute by February 2, 2026
- **HIPAA Notice of Privacy Practices**
  - Distribute by February 16, 2026
- **2025 Forms 1094/1095**
  - Distribute 1095-C by March 2, 2026 (February 2, 2026, for FTB)
  - File 1094/1095-C w/ IRS by March 2 (paper) or March 31, 2026 (electronic) (ALEs must file electronically)
  - Publish notice on website by March 2, 2026, for alternative reporting
  - File 1094/1095-C w/ FTB by March 31, 2026 (self-funded plans only, if insurer files for fully insured) (extended to June 1, 2026)
- **CMS Disclosure for Medicare Part D**
  - Complete on-line disclosure within 60 days after the beginning of plan year (March 2, 2026, for calendar year plans)
- **HIPAA Data Breaches**
  - Breaches of unsecured protected health information (PHI) affecting fewer than 500 individuals must be reported to HHS/OCR w/in 60 days of the end of the calendar year in which the breach was discovered (this year, March 2, 2026)
- **Multiple Employer Welfare Arrangements (MEWAs) Form M-1**
  - The Form M-1 must be filed annually with the DOL no later than March 1 following the end of the calendar year (this year, March 2, 2026)
- **San Francisco HCSO and FCO**
  - File annual report by April 30, 2026

- **RxDC Reporting**
  - File annual report by June 1, 2026
- **PCORI Fee**
  - File IRS Form 720 by July 31, 2026, and pay applicable fee (self-funded plans only)
- **Form 5500**
  - Must file by the last day of the 7th month after end of plan year (July 31, 2026, for calendar year plans)
- **Summary Annual Report (SAR)**
  - Must distribute by the last day of the 9th month after end of plan year (September 30, 2026, for calendar year plans)
- **MLR Rebates**
  - Distribute w/in 90 days after receipt (insurer/HMO must distribute by September 30, 2026)
- **Medicare Part D Certificate of Creditable/Non-Creditable Coverage Notice**
  - Distribute prior to October 15 each year
- **Gag Clause Attestation**
  - File annual attestation by December 31, 2026
- **Note:**
  - Certain deadlines which fall on a weekend or holiday were moved to the next business day

OBBB Resources

- IRS:
  - https://www.irs.gov/newsroom/one-big-beautiful-bill-provisions
  - https://www.irs.gov/newsroom/one-big-beautiful-bill-act-tax-deductions-for-working-americans-and-seniors
  - https://www.irs.gov/newsroom/frequently-asked-questions-about-educational-assistance-programs
  - https://www.irs.gov/newsroom/section-45s-employer-credit-for-paid-family-and-medical-leave-faqs
- CMS:
  - https://www.cms.gov/newsroom/fact-sheets/2025-marketplace-integrity-and-affordability-final-rule
- KFF:
  - https://www.kff.org/medicaid/tracking-the-medicaid-provisions-in-the-2025-budget-bill/

Questions?

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