CRASH COURSE

Health care compliance for employers

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Hi there!

Health insurance is so hazy, you may find yourself rattling a Magic 8-Ball looking for answers. The ACA, ERISA, things that sound like hippos — it's pretty dense stuff. And when you're the one in charge of your team's health benefits, following the law is one of the most finicky things to master. Well, was.

In this guide, we'll show you how to become best friends with compliance. We'll run through all the rules and regulations so you can stop seeing them as enemies and start seeing them as tools for success. At the end, you'll walk away with the understanding you need to craft a spectacular benefits experience for your team — no Magic 8-Balls required.

Ah, don't you feel better already?

What am I required to do exactly?

Excellent question. First, let's pin down what you have to do, and then we'll let that shape what you should do. Sound good?

The Affordable Care Act — where it all begins

The ACA was created for one purpose only: to give everyone the ability to get reasonably priced health care. Baked inside is a rule called "the employer mandate," which is just a snazzy term that says any company with 50 or more employees needs to offer health insurance that's affordable — clearly, they did a good job of naming the act — exhaustive, and covers at least 60 percent of each person's medical costs. That benchmark is called the "minimum value standard." It's a real rule, so you'll have to shell out real money to the IRS if you don't follow along.

Thanks, but does the employer mandate apply to me?

The million dollar question — it might! Use this quick chart to find out:

PRO TIP

Full-time equivalent (FTE) is a measurement that translates the hours worked by a part-time worker to those worked by someone who is full-time. Use this calculator to quickly see how many FTEs you have on staff.

IF YOU HAVE...	
49 or fewer full-time equivalent (FTE) employees	Technically, you don't have to offer health care—but there are many reasons you might want to consider it. Many companies offer benefits because they believe caring for their teams is one of the most meaningful things they can do as an employer.
50 or more FTE employees	Yes! The mandate states that you need to offer health insurance for at least 95 percent of your full-time workers.

Feel relieved now that you know where you stand? The thing is, even if you aren't required to offer health insurance, there are still plenty of reasons to do it anyway. Skip to the next chapter to uncover what those remarkable reasons are.

HAVE LESS THAN 25 FTE EMPLOYEES?

If you can nod your head "yes" to the following questions, you may be eligible for the small business health care tax credit. The credit covers up to half of the payment toward your team's premiums, and if you're tax-exempt, up to 35 percent.

- [ ] I pay at least half of my employees' premiums
- [ ] I provide health insurance through the SHOP Marketplace
- [ ] My average employee salary is $50k a year or less

Why should I offer (group) health benefits — even if I don't have to?

It's easy to turn into a group health plan groupie. While the benefits of health benefits are neverending, things really get special when you zero in on group coverage.

To help us explain, let's first take a look at two kinds of health insurance: individual and group.

Individual health insurance	Individual coverage is researched and purchased directly by employees.
Group health insurance	Group coverage is researched and prepared by an employer for their employees. Some companies cover the entire monthly premium, while in other cases, employees contribute a certain percentage toward the total amount.

Here are a few of the big reasons why group plans are so great:

1. It contributes to a great culture

A good culture is threaded through everything. It's an invisible force that helps people tap into their potential and take control of their lives — at work and beyond. What is not good culture? Laying down a welcome mat and then telling people to scramble and find health coverage on their own. As an employer, it's important for you to navigate the intricacies with your employees, especially when they first start.

Although individual plans sound like a cool, alternative way to go, they're usually not the best option for workplaces.

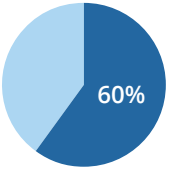
Why? Because it requires your employees to do all the research upfront, when they should really be sponging up the information they need to slip into their new role. In fact, the 2015 Guardian Workplace Benefits Study found that 80 percent of employees say valuable benefits are the main thing that determines whether they stay at their current company — or go out and find something new.

2. It keeps you compliant

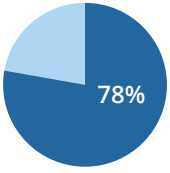
The ACA and the IRS don't like IOUs. You could be slammed with a penalty of up to $100 a day per employee if you pay back your employees for their health insurance bills. The most compliant way to provide your team with health care is to buy a group plan that everyone can participate in together. Not to mention, using loopholes doesn't exactly make your team feel valued at the end of the day.

3. It keeps your employees productive and feeling good

The proof is in the productivity. When people don't have to think about buying, switching, or in the worst case, foregoing health insurance, they feel better. It also produces a chain reaction of goodness. People who are in control of their health are happier and more productive at work. Really:



MetLife found that **60 percent** of employers report that offering benefits has resulted in more team efficiency.



Guardian Life found that **78 percent** of people who are in great health also say they're happy with their job.

4. It's a better deal for your team

Since companies contribute toward each person's premium, group insurance ends up being much cheaper for employees. And that's important because health insurance can take out a significant chunk of someone's paycheck. Helping your team feel more financially secure goes hand in hand with building a solid culture, because it's one less thing they have to fret about. MetLife found that half of employees say that benefits help them stop stressing about their overall finances and well-being.

Awesome. Now, how do I stay compliant?

By reading this. Taking the benefits plunge is exhilarating in the beginning, but then the jumble of to-dos can make that feeling disappear. Take a deep breath. In this chapter, we'll strip away all the legalese, so you can understand precisely what you need to do when offering benefits.

The Affordable Care Act (ACA) requirements

Remember the employer mandate section we covered earlier? That's just a tiny slice of the whole ACA pie. Understanding the entirety of the ACA is important if you want to make your benefits experience sparkle. Plus, it pays off. Guardian Life found companies that feel prepared for the ACA are more focused on cutting costs, helping employees make informed choices, and improving the overall wellness of their teams.

My company has been successful with...	I feel ready for the ACA	I don't feel ready for the ACA
Providing my team with affordable benefits	85%	36%
Lowering the price tag of benefits	81%	40%
Helping my team make better choices	79%	33%
Improving my team's health	77%	28%

Source: 2015 Guardian Workplace Benefits Study

Want to become an ACA aficionado too? Here are the documents you should know about:

☐ MARKETPLACE EXCHANGE NOTICE TO NEW HIRES

Striking the right note with the ACA involves a simple little notice. The ACA stipulates that you have to give all new employees — both full- and part-time — a notice that outlines the health exchanges available to them. The notice can either be a slip of paper or an email (if you meet the DOL's electronic disclosure safe harbor requirements).

- **The documents:** Click here if you offer benefits and here if you don't.
- **The due date:** Every year before October 1st.

You can use the DOL's sample notice as a starting base, or you can DIY it by following these directions:

- Explain the Marketplace, describe the services offered, and how to reach out for more details.
- Tell employees that if they purchase a Marketplace plan, they may lose the contribution they get from you
- If you don't offer minimum essential coverage, tell your employee that they might be able to obtain a Marketplace tax credit.

ACA AWESOMENESS

Since the ACA was passed in 2010, over 20 million uninsured Americans have received health insurance.

☐ SUMMARY OF BENEFITS COVERAGE (SBC)

The SBC is a plan shopper's paradise. The form provides a quick look into all the different coverage options so you can easily see the highlights of each. You're not the one who creates the SBC — it comes from your insurance company. If your team wants to comb through a variety

of plans, they can ring up their carrier for a copy, or you can hand it to them. For guidelines on how to read one, check out this overview.

- **The document**
- **The due dates:** At the start of a new plan year, when someone enrolls in a new plan, and within seven days of requesting a copy from your insurance company.

The Employee Retirement Security Act (ERISA) requirements

ERISA is all about transparency. The law helps regulate employee plans, and opens up more access to plan information for employees. It also helps protect people by holding those who touch health care plans to a higher bar. Today, all business owners who provide health care have to abide by the rules laid out in ERISA.

ERISA KEEPS ON GROWING

In 1974, ERISA was 200 pages long. Twenty years later, the law ballooned to more than 700 pages, along with 3,600 pages of associated regulations.

☐ SUMMARY PLAN DESCRIPTION (SPD)

The SPD is your team's legend for exploring the details of their plan. The document describes how the plan works, what's offered, how to file claims, and other crucial points. If anything changes with your plan, you should give your employees an updated copy of their SPD.

- **The details**
- **The due dates:** Make sure your employees receive an SPD within 90 days after they obtain coverage.

☐ FORM 5500 SERIES

If your company offers fully insured benefits, you won't have to worry about these forms. But if you're curious about what they are, here's a quick explanation. The

forms are filed online once a year by companies who have self-funded plans and contain the vitals of their team's health and pension plans. The series helps fulfill a joint reporting requirement from the IRS, Pension Benefits Guarantee Corporation, and the Department of Labor (DOL). If an employer has a self-funded plan and less than 100 employees, they would use 5500-SF, and if they have more, they would use the 5500.

- **The documents**
- **The due dates:** Employers have to file the form on the last day of the seventh month after their company's plan year comes to an end.

The Department of Labor (DOL) Requirements

For the Department of Labor, health care is a labor of love. The government body handles everything connected to employment, including minimum wage laws, workers' rights, anti-discrimination, and other issues that touch the 10 million companies and 125 million people who work in the US.

☐ NOTICE OF CREDITABLE COVERAGE (MEDICARE PART D)

Does your health plan contain Medicare drug coverage? If that's a true statement, then keep reading. You'll have to notify your team by October 15th if your current plan allows people to pay the same amount on prescriptions as they would with regular Medicare drug insurance. When that price match kicks in, coverage is considered "creditable," and your team has to know about it. Make sure everyone holds on to this notice, because they may need to refer back to it if they join a Medicare plan in the future.

- **The document**

MEDICARE CELEBS

Harry Truman was the first person to sign up for Medicare in 1965 when Lyndon B. Johnson signed the program into law. Who was up next? Truman's wife, Bess.

- **The due date:** Submit this notice to your team by October 15th, and send this disclosure form to CMS by March 1st.

☐ GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008 (GINA)

Don't you love it when acronyms magically turn into people? GINA is a law that protects people from being treated differently if they have an inherited condition. The first part of the legislation states that providers cannot allow genetic information to influence any insurance decisions. The second part prevents employers from letting genetic information sway them when making promotions, hiring, and other work-related decisions. GINA only impacts companies with more than 15 workers, and since 2013, there have been over 1,000 cases filed through the law.

- **The poster**
- **The process:** Simply display the Equal Employment Opportunity (EEO) poster above that explains the law. EEO prevents discrimination based on a variety of factors, including inherited conditions.

Want more information on genetic discrimination? Check out this overview from the National Human Genome Research Institute.

☐ CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009 (CHIPRA)

The sad truth is that many uninsured families don't know where to turn for insurance. The CHIP notice helps clear up the fog by explaining the Medicare and CHIP opportunities people can participate in for their kids. The act was put into motion by President Obama in 2009 to give states the tools and incentives to cover more

children through group health plans.

- The document
- **The deadline:** Give your team the notice once a year before January 1st (for calendar year plans).

☐ QUALIFIED MEDICAL CHILD SUPPORT ORDER (QMCSO)

Get your cards in order and learn about the QMCSO. Basically, it's a court order that tells a group health plan to cover a child that wasn't initially recognized as someone's dependent. This means that certain children of parents who are separated, single, or divorced can qualify for health insurance if state authorities (like Medicaid) issue this order.

- The details

The Internal Revenue Service (IRS) Requirements

Taxes are in the eye of the IRS. The IRS is the government arm that collects taxes, and helps regulate many of the reporting requirements that are spread across the ACA, ERISA, and other pieces of legislation. Read on to learn about the key IRS documents you need to be aware of.

☐ 1094-C AND 1095-C

These two forms are submitted each year to determine whether you pass the employer mandate. Together, the documents hold heaps of information about each teammate's health coverage for the year. If you have less than 50 FTEs, you don't have to file them, regardless of whether or not you offer insurance. This is because the carriers will file the forms on your behalf if you offer

A MEATY HISTORY

Why is the IRS called "Uncle Sam?" During the War of 1812, "Uncle Sam" Wilson gave barrels full of beef to the army. The barrels had "US" printed on them, but since they came from Wilson, people began using his nickname as slang for the government.

benefits, or because the employer mandate doesn't apply so you don't offer benefits and have nothing to file. If it applies, don't forget to get your hands on both forms — the 1094-C is the cover page that sums up all the different 1095-Cs you file.

- **The documents:** 1094-C and 1095-C
- **The due dates:** First, give the 1095-C to your team by January 31st. If you file by mail, send the 1094-C and 1095-C to the IRS by February 28th, or March 31st if you file electronically.

☐ SECTION 125 PLANS

These plans are delicious in many ways. For starters, they're called "cafeteria plans," because people can pick from a variety of pre-tax benefits, just like they would while scooting down a cafeteria line. These benefits include things like health plans, FSAs, adoption assistance, and a mishmash of other programs. Why bother with cafeteria plans? Paying for health insurance before taxes allows both you and your team to save a ton on taxes.

The most basic kinds of Section 125 plans are called premium-only plans, or POP plans. If you want to set one up, you just need two key things in order before the plan's effective date:

1. Your summary plan description (SPD)
2. Your plan document

The example below explains how much a POP plan can save for a ten-employee company with an average salary of $40,000 per year:

Employer Savings	Without POP	With POP
Annual Payroll	$400,000	$400,000
Annual Employee Premiums	$0	$24,000
Annual Taxable Payroll	$400,000	$376,000
Annual Federal Payroll Tax[1]	$30,600	$28,764
Annual Employer Tax Savings	**$0**	**$1,836**

Employee Savings	Without POP	With POP
Annual Payroll	$40,000	$40,000
Annual Employee Premiums	$0	$2,400
Annual Taxable Payroll	$40,000	$37,600
Annual Federal Payroll Tax[2]	$12,400	$11,656
Increase in Take-Home Pay	**$0**	**$744**

[1]*Based on 6.2% Social Security and 1.45% Medicare taxes, no state taxes included.*
[2]*Based on 25% Federal Income and 6% State Income taxes.*

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) requirements

It's time to get hip about HIPAA. First things first — HIPAA is not a wild animal. It's a privacy law that was created to make health records more portable and hold providers, insurance companies, and other covered entities accountable for this information. Today, the act continues to safeguard people's personal health information (PHI), alongside the cushion of support that already exists within the ACA.

Generally, there are three buckets you can fall into.

1. COVERED ENTITY

This is an umbrella term for employers who offer group medical plans, health care providers like doctors and dentists, health plans like Anthem and Blue Cross, and clearinghouses that process PHI. Think you might be an entity? The Centers for Medicare and Medicaid Services created this handy set of flowcharts to help you find out.

2. BUSINESS ASSOCIATE

These are organizations that work with covered entities, and therefore handle PHI — like Gusto! You may be a business associate if you're a law firm, work at a company that processes medical bills, or any other kind of business that touches people's sensitive health information. For example, we're a business associate because our payroll, benefits, and workers' comp platform handles people's PHI.

3. SOMETHING ELSE ENTIRELY

If you aren't a business associate or a covered entity, HIPAA probably won't affect you as much in your day to day.

NEVERENDING NAMES

Think HIPAA has a lengthy name? Just you wait — the full title of the act is really 66 words long.

However, there are two main things to know about the law as an employer:

1. You cannot ask your employee's health provider for their personal information without their consent.
2. The law doesn't prevent you from asking your employee for a doctor's note if you require more information for insurance, PTO, workers' comp, or other purposes. However, you should never allow any of this information to influence employment decisions.

Questions to ask my broker

Now that you've reached the end, you may have a few questions about what you just read. Here's a space for you to capture any questions you have that your broker can help you answer:

My questions	My broker's answers

Thanks for reading!

We hope you enjoyed learning about the dynamics of health care compliance. If you want to keep up the fun, visit our website, dive into our help center, and take a look at some of the other free Framework resources that are just waiting for you to explore.

Ready to get started with benefits?

START YOUR FREE TRIAL →

This guide is intended to help employers of various sizes get general information about compliance. Keep in mind that your specific needs may vary. If you'd like to learn more, please get in touch with a licensed broker or contact us at my-benefits@gusto.com