

Welcome to November - The Homestretch of 2014
Your organization is likely facing end-of-the-year assignments and projects as well as an increase of holiday-related time off from work. This is a hectic time of year and it's easy to become overwhelmed, but maintaining a balance between work and time off for relaxing and enjoying the company of friends and family is essential to helping stave off feelings of stress.



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"The real measure of your wealth is how much you'd be worth if you lost all your money." -Unknown

Understanding Employer Pay Obligations for Travel Time

For many employers, sending employees out into the world to perform their job duties is an everyday occurrence. However, many employers are not aware of the situational details that may make time compensable or not compensable for non-exempt employees. Employers must consider both state and federal law surrounding travel time pay and then apply the most generous policy to the employee. It is key for employers to understand that the obligation for keeping track of hours worked for a non-exempt employee lies with the employer under the Fair Labor Standards Act. If an employer had reason to know that an employee was working though the time was not recorded, the employer is obligated to pay for that time actually spent working.

In order to avoid confusion and misunderstandings, it is recommended to have a written policy on travel time pay that is distributed to employees. Employers may also safeguard themselves from preventable issues if they go over the policy with an employee prior to the employee embarking on company travel.

Per Diem – Per diems are generally optional for employers. Travel time pay still applies when a per diem is provided.

Mileage Reimbursement – Employers who provide a mileage reimbursement for maintenance, wear and tear on an employee's vehicle must also pay the employee for the travel time. We typically recommend the standard IRS rate, which is currently 56 cents per business mile driven.

Different Travel Time Rate – A different rate of pay for travel is allowed so long as the rate is not less than minimum wage. This should be clearly communicated in writing prior to the beginning of the travel.

Calculating Overtime – An employer must count travel hours when calculating overtime pay for a workweek.

Worksite to Worksite Travel – If an employee must travel in order to accomplish the day's work this time counts as paid time. This is common for service and maintenance employees.

One-Day Travel to Another City – Should an employee travel to and return from another city in a workday, that time counts as hours worked. However, the employer is not required to count the time that an employee would normally be commuting to their regular worksite.

Q: What are the 2015 Contribution Limits and Minimum Deductibles?

A: The IRS has released the 2015 inflation adjusted amounts for health savings accounts (HSAs). To be eligible to make HSA contributions, an individual must be covered under a high deductible health plan (HDHP) and meet certain other eligibility requirements.

High Deductible Health Plan Coverage

An HDHP has a higher annual deductible than typical health plans and a maximum limit on the sum of the annual deductible and other out-of-pocket expenses. For 2015, the minimum annual deductible is **\$1,300 for self-only coverage** or **\$2,600 for family coverage**. Annual out-of-pocket expenses (deductibles, co-payments, and other amounts, but not premiums) may not exceed **\$6,450 for self-only coverage** or **\$12,900 for family coverage**. (An HDHP may provide certain preventive care benefits without a deductible, as required under Health Care Reform.)

Annual HSA Contribution Limitation

An eligible employee, his or her employer, or both may contribute to the employee's HSA. For calendar year 2015, the annual limitation on HSA deductions for an individual with self-only HDHP coverage is **\$3,350**. For an individual with family coverage under an HDHP, the annual limitation on HSA deductions is **\$6,650**. The limit is increased by \$1,000 for eligible individuals age 55 or older at the end of the tax year.

You can learn more about HSAs in IRS Publication 969, *Health Savings Accounts and Other Tax-Favored Health Plans*.

Additional Permitted Election Changes for Health Coverage Under Cafeteria Plans

New [agency guidance](#) expands the application of the permitted election change rules for employer-sponsored health coverage under a cafeteria plan in two situations -- an employee's **enrollment in Marketplace coverage** and **reduction in hours of service** -- provided specific conditions are met. The guidance became effective on **September 18, 2014**.

Current Permitted Election Changes

Generally, elections under a [cafeteria plan](#) (also known as a section 125 plan) must be made before the start of a plan year and are irrevocable during the year, with limited exceptions such as certain "[changes in status](#)" (including changes in employment status) and with respect to [special enrollment rights](#).

Highlights of New Guidance

In general, a cafeteria plan may allow an employee to prospectively revoke an election of coverage under a group health plan -- that is not a health flexible spending arrangement (FSA) and that provides [minimum essential coverage](#) (MEC) -- provided the following conditions are met:

Revocation Due to Enrollment in Marketplace Coverage

1. The employee is eligible for a [special enrollment period](#) to enroll in Marketplace coverage, or the employee seeks to enroll in such coverage during the Marketplace's annual open enrollment period; and

The employee (and any related individuals who cease coverage due to the revocation) enrolls in Marketplace coverage, effective immediately following the last day of the original coverage that is revoked. For this purpose, a cafeteria plan may rely on an employee's reasonable representations.

Revocation Due to Reduction in Hours of Service

1. The employee changes from full-time status to part-time status (i.e., he or she will reasonably be expected to average **less than 30 hours of service** per week after the change), even if the reduction in hours does not result in the employee ceasing to be eligible under the group health plan; and
2. The employee (and any related individuals who cease coverage due to the revocation) enrolls in another plan that provides MEC, effective no later than the first day of the second month following the month the original coverage is revoked. For this purpose, a cafeteria plan may rely on an employee's reasonable representations.

Cafeteria plans **must be amended** to provide for the new permitted election changes in accordance with the guidance under [Notice 2014-55](#), which generally provides that such amendments can be made for plan years beginning in 2014 at any time on or before the last day of the plan year beginning in 2015.



Updated EEOC Enforcement Guidance on Pregnancy Discrimination and Related Issues

The U.S. Equal Employment Opportunity Commission (EEOC) recently issued updated Enforcement Guidance on pregnancy discrimination and other related issues, along with a Q&A document about the guidance and a Fact Sheet for Small Businesses. This is the first comprehensive EEOC update on the subject of discrimination against pregnant workers since 1983.

In addition to addressing the requirements of the Pregnancy Discrimination Act (PDA), which prohibits sex discrimination on the basis of pregnancy, childbirth, or related medical conditions, the guidance discusses the application of the Americans with Disabilities Act (ADA) to individuals who have pregnancy-related disabilities. The updated guidance also discusses:

- The fact that the PDA covers not only current pregnancy, but discrimination based on past pregnancy and a woman's potential to become pregnant;
- The circumstances under which employers may have to provide light duty for pregnant workers;
- Issues related to leave for pregnancy and for medical conditions related to pregnancy;
- When employers may have to provide reasonable accommodations for workers with pregnancy-related impairments under the ADA and the types of accommodations that may be necessary; and
- Best practices for employers to avoid unlawful discrimination against pregnant workers.

Both the PDA and ADA generally apply to employers with **15 or more employees**. Additional protections may be provided under state and local nondiscrimination laws, which may apply to smaller employers.

Dates to Remember

Enrollment counts must be submitted through Pay.gov **no later than November 15, 2014**

The first contribution amount must be remitted through Pay.gov **no later than January 15, 2015**

If applicable, the second contribution must be remitted through Pay.gov **no later than November 15, 2015**

The deadline for obtaining a [Health Plan Identifier](#) (HPID) for controlling health plans is **has been delayed until further notice**. This enforcement delay applies to all HIPAA covered entities, including healthcare providers, health plans, and healthcare clearinghouses.



IRS: Increase in Contribution Limits

The IRS recently announced that in 2015, participants in 401(k), 403(b), 457 plans, and those in the federal Thrift Savings Plan have the option to increase their annual contribution rate to \$18,000 (up from \$17,500). According to a report by the Center for Retirement Research at Boston College, participants who contributed the maximum amount earned at least six figures, which equated to about twelve percent of people with 401(k)s. The IRS also increased the following contribution limits:

- SEP IRAs and solo 401(k) plans for self employed and small business owners: Annual contribution limit of \$53,000;
- SIMPLE defined contribution plans: \$12,500;
- "Savers Credit," which helps offset part of the first \$2,000 people voluntarily contribute to IRAs and to 401(k) plans. This credit can increase a taxpayer's refund or reduce the tax owed.

Employee Pay: 3 Common Mistakes and How to Avoid Them

The federal Fair Labor Standards Act (FLSA) sets some basic rules when it comes to paying employees minimum wage and overtime, but certain common pay practices can violate the law without employers even knowing it. If any of the following sound familiar, it may be time for a compliance check.

1. "All Our Employees Are Exempt - They're Salaried"

Don't assume that just because you pay your employees a salary, they are considered exempt (not entitled to the FLSA minimum wage and overtime pay protections). Similarly, giving an employee a high-ranking job title such as "manager" does not, by itself, determine the employee's status. In order for an exemption to apply, you must ensure that an employee's specific job duties and salary meet all the requirements of the law for the specific exemption claimed.

2. "We Don't Need to Pay Overtime - Our Employees Volunteer to Work Late"

Non-exempt employees must be paid for all hours worked, including time spent doing work not requested by the employer but still allowed (otherwise known as working "off the clock"). Employees generally may not volunteer to perform work without the employer having to count the time as hours worked. It is the responsibility of management to exercise control and see that work is not performed if the employer does not want it to be performed.

3. "Overtime Doesn't Apply - We Use Contract Workers"

While it is true that independent contractors are not entitled to overtime pay because they are not considered "employees" covered under the FLSA, the mere existence of a contract stating that a worker is an independent contractor is not sufficient to determine the worker's status. Analyze the underlying nature of each relationship in light of all relevant factors to ensure that each worker is properly classified.

Note that state wage and hour laws may also apply to employment subject to the FLSA. When both the FLSA and a state law apply, the law setting the higher standards must be observed. If you have any questions regarding permissible pay practices, please consult a knowledgeable employment law attorney.

Taking a Step in the Right Direction

"Physical activity will add years to your life and life to your years." If you're trying to lead a healthier lifestyle, healthy habits must be developed. This means eliminating certain foods from your diet, adding healthy foods and beverages, and incorporating exercise into your daily routine. You can ensure your success by making a little change while you're at work...choose to take the stairs!

Climbing stairs improves leg strength, strengthens your heart, improves aerobic lung capacity and gives you energy that makes your everyday tasks seem less strenuous. Taking the stairs is a move in the right direction for your health. After all, "small steps make big differences." One reason that employees might not choose stairs over an elevator ride, however, could be that they feel that their stairwells aren't safe or attractive. Some companies have elected to integrate a "StairWell to Better Health" intervention program that involves making stairwells more appealing to increase usage. Depending upon attaining proper building permits and making room in the budget, companies can opt to carpet the stairs, add rubber treading for safety, paint the walls in bright colors, add framed artwork of picturesque scenery, active people or nutritious food or even motivational signage. If you find out what motivates people, you can design the ideal stairwell to inspire people to get moving.



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Thank you!

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