



# **City and County of San Francisco Office of Labor Standards Enforcement**

## **Health Care Security Ordinance: Self-funded Health Plan Calculations**

**Office of Labor Standards Enforcement (OLSE)**

**January 28, 2026**

**Maura Prendiville  
Supervising Compliance Officer**

**Bianca Polovina  
Compliance Officer**

# Agenda

---

- 1 HCSO Background
- 2 Rules for Self-Funded Plans
- 3 Calculating Average Expenditures for 2025
- 4 Making Top-off Payments in Feb 2026
- 5 Best Practices



# Housekeeping

---

- 1 Webinar is recorded and all materials will be posted on our website
- 2 Q & A Session after Part 1—how to calculate value of plan
- 3 Q & A Session after Part 2—how to make topoff payments
- 4 If questions not answered during session, they will be responded to within 48 hours
- 5 [hcso@sfgov.org](mailto:hcso@sfgov.org)



# Office of Labor Standards Enforcement

OLSE enforces an array of San Francisco labor ordinances, including Citywide laws and laws specifically for City contractors, lessees, and grantees.

OLSE has investigative authority & enforcement power, and offers technical assistance for employers.

<https://sf.gov/olse/>



Office of Labor Standards Enforcement

## Citywide labor laws

### Minimum Wage Ordinance

Employers are required to pay no less than the San Francisco minimum and temporary employees.

### Paid Sick Leave Ordinance

Employers are required to provide paid sick leave to all employees (incl. Francisco).

### Health Care Security Ordinance

Employers with 20 or more workers must spend a minimum amount on

### Paid Parental Leave Ordinance

San Francisco law requires employers to provide supplemental compensation for Family Leave.

### Fair Chance Ordinance

Employers are required to follow strict rules regarding applicants' and employees' rights.

### Lactation in the Workplace Ordinance

Employers must provide employees with lactation breaks and a lactation room. Employees are entitled to reasonable time and a request for lactation accommodation.

### Formula Retail Employee Rights Ordinance

Chain stores with at least 40 formula retail establishments worldwide and their contractors, must follow legal guidelines that regulate scheduling, pay, and working conditions.

# HCSO Background

- The Health Care Security Ordinance (HCSO) requires covered employers to make health care expenditures for covered employees at a specific rate.
- **2025 Large Employer rate was \$3.85/hour.** (For a full-time employee, this equates to \$662.20/mo, \$1,986.60/Q, \$7,946.40/yr). Large employers are those with 100 or more employees worldwide.
- HCSO Rules changed in 2017 with respect to how OLSE evaluates expenditures under self-funded insurance plans, but allowed self-funded plans to look at *annual*, rather than quarterly, expenditures.
- Full text of HCSO Rules available at [Health Care Security Ordinance | San Francisco \(sf.gov\)](https://sf.gov/Health-Care-Security-Ordinance)



# **Reminder: all other provisions of HCSO still apply!**

---

- **Quarterly spending deadlines still apply to employees who are covered by the HCSO and are:**
  - Enrolled in fully-funded health plans;
  - Choose not to enroll in your company's insurance;
  - Are not eligible for your company's insurance.



# Rules for Self-Funded Insurance

---

1. Using the COBRA premium rate to calculate health care expenditures has not been permitted since 2018;
2. For self-funded plans in which the employer pays claims as they are incurred, the employer may calculate the health care expenditures on an *annual* (rather than quarterly) basis;
3. If the employer's annual spend fell short of the HCSO expenditure rate, the employer must make "top-off" payments for employees enrolled in these plans by the end of February of the following year.



# Self-Funded Calculations

---

## HCSO Rule 5.9

5.9(b): Employer pays claims as they are incurred, the employer may look at the annual spend

Remember, for employees enrolled in fully-funded insurance plans, or who are not enrolled, the *quarterly* deadline still applies.

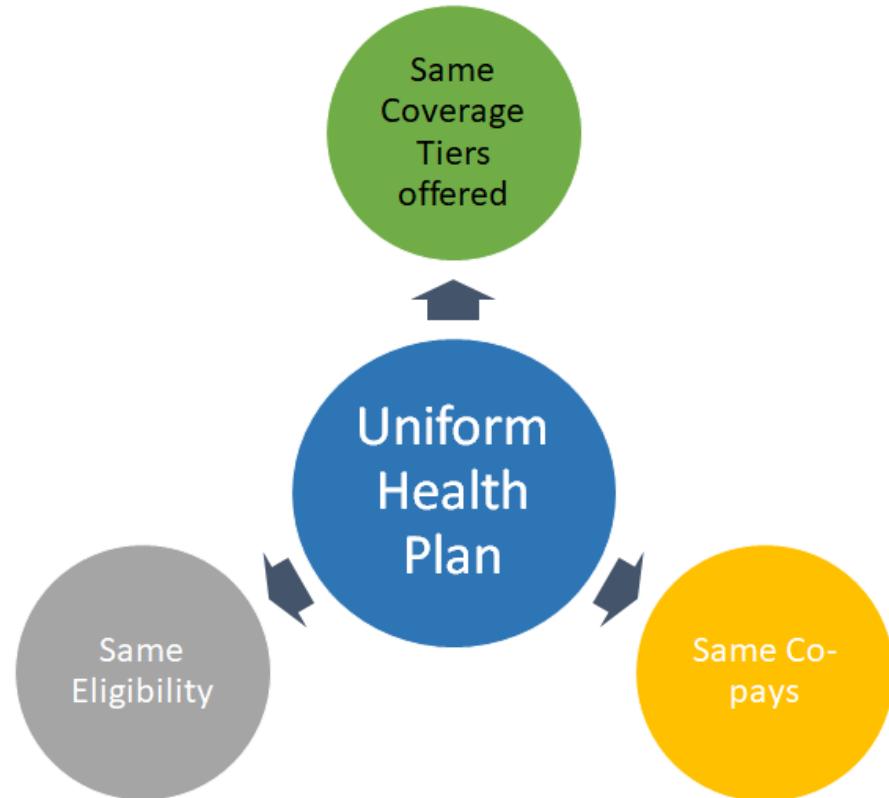
→ So, how does the employer assess the annual “cost” of the plan? →



# Uniform Health Plans

---

- See Rule 5.8 and FAQ D9.
- Employers are only permitted to average expenditures for employees who are actually enrolled in the uniform plan.
- Uniform health plan = uniform benefit design
- Large employers typically offer a “menu” of different plan offerings. Each “menu item” has a different cost.



# Uniform Health Plans: Example

- See [Rule 5.8](#) and [FAQ D9](#).
- Employers are only permitted to average expenditures for employees who are actually enrolled in the uniform plan.
- Uniform health plan = uniform benefit design
- Large employers typically offer a “menu” of different plan offerings. Each “menu item” has a different cost.

## *Health Plan Menu*

Kaiser HMO Silver:

- Costs e'er \$3.46/hr → does not comply w/ HCSO in 2025

Aetna HDHP:

- Costs e'er \$3.15/hr → does not comply w/ HCSO in 2025

Blue Shield PPO plan:

- Costs e'er \$3.93/hr → complies with HCSO in 2025

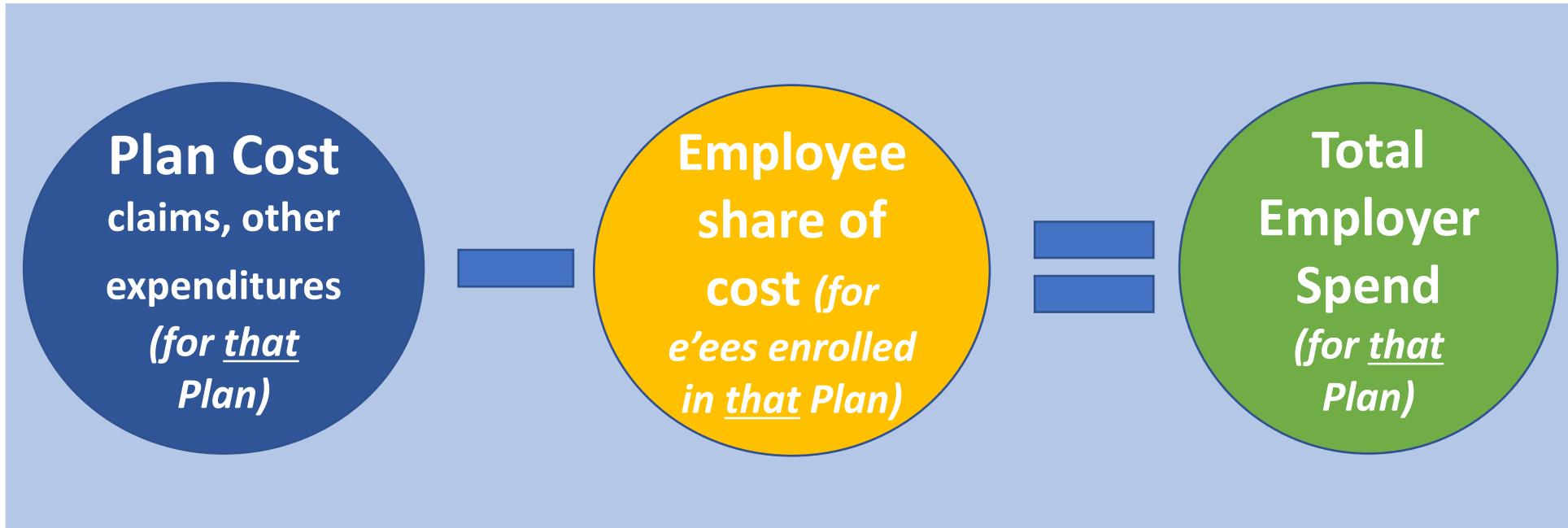
Cigna PPO plan:

- Costs e'er \$4.14/hr → complies w/ HCSO in 2025



# Average Expenditure Calculation

## Step 1: Costs



- Employer spending does NOT include premium contributions from employees! You MUST subtract employee share of cost from amounts spent by employer.
- Different tiers likely have different costs for employees.



# Employer Costs

---

- Count only claims paid in 2025 (not claims incurred).
- Claims paid for dependents enrolled in the plan may also be included, assuming those claims are paid by the employer.
- **Remember, if employees pay a portion of the premiums, you must subtract those dollar amounts from the claims.**



# Employer Costs: Claims

- What is a “claim”?
  - ➡ amounts paid directly to medical providers;
  - ➡ tax-deductible medical expenses under I.R.S. Publ. 502, § 213; and medical care, services or goods having substantially the same purpose or effect.
  - ➡ See [Rule 5.11](#) and [Admin. Guidance E1 and E2](#).
- Some types of reasonable fees may be included as expenditures; for example, stop loss insurance
- Other fees cannot be included as expenditures; for example, consulting fees, or fees associated with compliance with other laws, such as the ACA.

Contact OLSE for more information regarding which fees can be included.



# Employer Costs: Health Savings Accounts

---

- Examples
  - **Self-funded Plan A:** Employer pays claims plus \$1,500/yr in irrevocable HSA contributions to each employee enrolled in Plan A. 400 employees are enrolled.
    - $400 \times \$1,500 = \$600,000$  in expenditures can be added to claims for that plan.
  - **Self-funded Plan B:** Employer pays claims plus \$75/mo in irrevocable HSA contributions to each employee enrolled in Plan B. 500 employees are enrolled.  $\$75 \times 12 \text{ mos} \times 500 \text{ employees} = \$450,000$  in employer expenditures can be added to claims for that plan.
  - Any amounts that employees contribute to their own HSAs are not employer expenditures



# Employer Costs: Fertility Services

---

- Example
  - Employer's self-funded plan offers up to \$10,000/yr in fertility expenses for employees who choose to use it. There are 100 employees enrolled in the plan, so employer has *allocated* \$1,000,000 to fertility services.
  - In 2025, 20 employees utilized these services. 5 of them used \$10,000 and 15 of them used \$2,000.
  - $5 \times \$10,000 + 15 \times \$2,000 = \$80,000$  in **fertility expenditures that can be added to cost of the plan.**
  - The remaining \$920,000 that employer had *allocated*, but *not spent*, does not count as an expenditure!



# Calculation Issue: Refunds

---

- If employer receives a refund of any type for a “good claims year,” the amount refunded **may not** be included in the expenditure calculation (it’s not “money spent” if you end up getting it back!)
- If employer receives a refund, or confirmation of the refund amount, prior to the end of February, simply subtract that amount from the employer cost.
- If employer receives a refund *after* it’s done the February top-offs, it must do a **second round of top-off payments**.



# Calculation Note: Time Frame

---

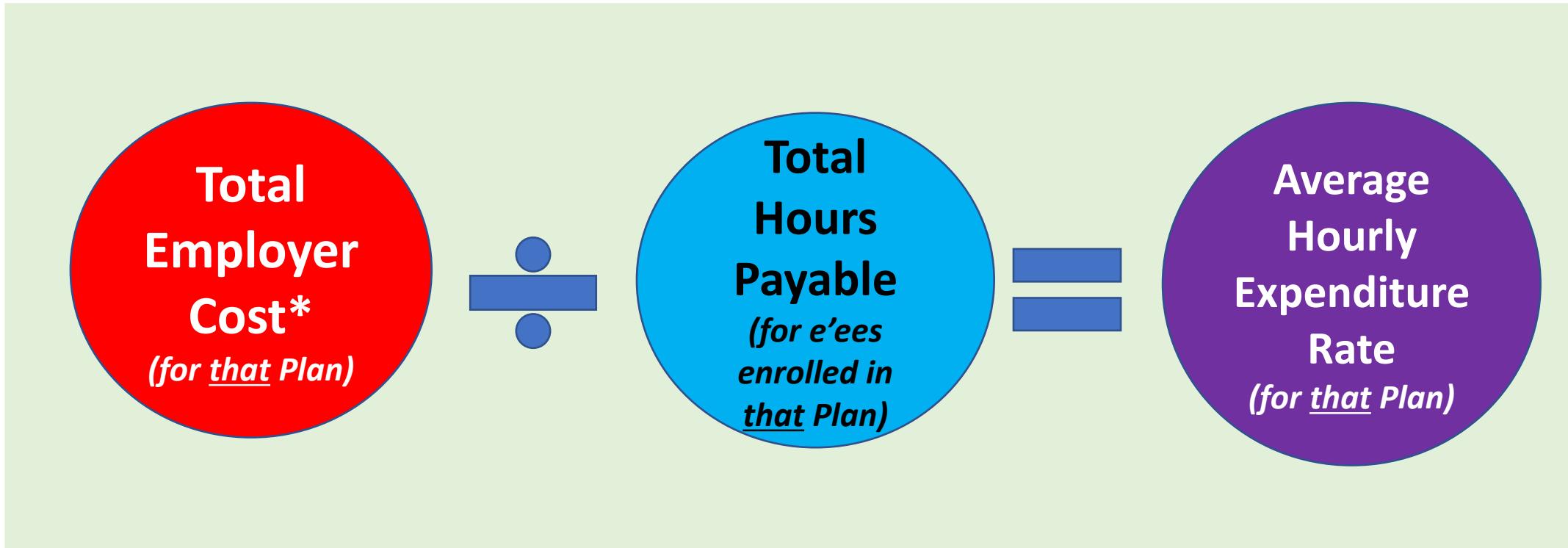
- To be compliant, the employer must demonstrate that “*the preceding year’s average hourly expenditures meet or exceed that year’s expenditure rate.*” Rule 5.9(b)
- OLSE interprets this rule to mean that a self-funded plan complies with the HCSO when the employer pays claims as they are incurred, and **that calendar year’s** expenditures meet or exceed **that calendar year’s** expenditure rate.
- For example, in early 2026, when employer assesses the cost of its 2025 plan, it must insure the 2025 plan satisfied the 2025 rates.



# Average Expenditure Calculation

## Step 2: Hourly Expenditure Rate

---



- Employer cost does NOT include refunds to employers!



# Calculation Notes: Geography & Max Hours

---

- Employer can opt to average total costs and total hours for:



- A. all employees in the plan (*nationwide*), or



- B. all “Covered Employees” (San Francisco only) in the plan, or



- C. expenditures for all employees in the plan nationwide with assumed hours of 172h/mo.

*Note: HCSO requires expenditures for a maximum of 172 hrs/mo. So, a full-time employee will have 2064 hours in a year (not 2080).*



# Self-Funded Calculation Example A

## Option A: Nationwide Average

Acme Corp has 350 employees enrolled in the self-funded plan. 300 are full-time and 50 are part-time employees working 20hrs/week.

Total Costs Paid by Employer	Total Payable Hours	Average Hourly Expenditure	Compliance
\$2,350,000	300 FT employees (x2064 hrs) and 50 PT employees (x1032 hrs) = 670,800 hrs	\$2,350,000 / 670,800 Hrs. = <b>\$3.50</b> per Hr.	\$3.50 per hour falls short of the 2025 Large Employer rate of \$3.85.
Do NOT count employee's share of premium (subtract it if needed)	Include paid vacation hours, sick time, etc. (172 Hr. /mo. maximum)	Calculation: Total Claims Paid / Total Payable Hours	Employer must make additional expenditures of \$.35 per Hour Payable to each employee covered by the HCSO.



# Self-Funded Calculation Example B

## Option B: Covered Employee-only Average

Acme Corp has 25 San Francisco employees enrolled in the self-funded plan.

Total Costs Paid by Employer	Total Payable Hours	Average Hourly Expenditure	Compliance
\$185,000	25 FT employees x 2064 hrs = 51,600 hrs	\$185,000 / 51,600 hrs = <b>\$3.58 per Hr.</b>	\$3.58 per hour falls short of the 2025 Large Employer rate of \$3.85.
Do NOT count employee's share of premium (subtract it if needed)	Include paid vacation hours, sick time, etc. (172 Hr. /mo. maximum)	Calculation: Total Claims Paid / Total Payable Hours	Employer must make additional expenditures of \$.27 per Hour Payable to each employee covered by the HCSO.



# Self-Funded Calculation Example C

Option C: Can't match up nationwide hours with nationwide enrollment info (cannot do option A), and can't isolate San Francisco claims (cannot do option B).

Acme Corp has 950 employees enrolled nationwide in the self-funded plan, and doesn't know their hours

Total Costs Paid by Employer nationwide	2064 annual payable hours per person (172/mo)	Average Hourly Expenditure	Compliance
\$6,475,000 claims paid for 950 employees enrolled	950 employees enrolled x 2064 hrs = 1,960,800 hrs	\$6,475,000 / 1,960,800 hrs = <b>\$3.30</b> per Hr.	\$3.30 per hour falls short of the 2025 Large Employer rate of \$3.85.
<i>*total # employees enrolled during calendar year, regardless of length of employment</i>	<b>Use 2064 figure as a stand-in since employer doesn't know actual payable hours for enrollees</b>	Calculation: Total Claims Paid / Total Payable Hours = hourly rate	Employer must make additional expenditures of \$.55 per Hour Payable to each employee covered by the HCSO.



# Next Step: Account for other health care expenditures

Look at other expenditures that were made by the *employer*:

- Dental insurance
- Vision insurance
- Other irrevocable spending for health care services (is not already counted within a plan's costs)

Example: Acme Company's self-funded medical plan is valued at \$3.45/hr

Anna is enrolled only in the medical plan.	Beth is enrolled in the medical plan AND the dental plan valued at \$.27/hr	Carlos is enrolled in the medical plan AND the dental plan AND the vision plan, valued at \$.17/hr
$\$3.85 - \$3.45 =$ <b><i>\$.40 hourly shortfall for Anna</i></b>	$\$3.85 - \$3.45 - \$0.27 =$ <b><i>\$.13 hourly shortfall for Beth</i></b>	$\$3.85 - \$3.45 - \$0.27 - \$0.17 =$ <b><u><i>no shortfall for Carlos</i></u></b> ~ Acme exceeded the spending requirements ~





Q & A SESSION 1- [hcso@sfgov.org](mailto:hcso@sfgov.org)

# Self-Funded Insurance Plan Top-Offs

---

- If average hourly expenditures fell short of the required amount for 2025, the employer must make “top-off” payments by **February 28, 2026**.
- This year, February 28<sup>th</sup> falls on a Saturday, so employers may make the top-offs up until the following business day—Monday, March 2<sup>nd</sup>, 2026.



# Self-Funded Insurance Plan Top-Offs: WHO

---

## WHO to make top-off payments for:

- Only employees covered by the HCSO: *employees who worked in San Francisco in 2025;*
  - Even if you calculated the expenditures based on a nationwide average, top-off payments are owed only to the SF employees.
- Payment shall be made on a pro rata basis based on the employees' payable hours during the calendar year.
- Former employees should also get top-off payments.



# Calculating the Top-off Payments: Example

- Nationwide, Acme Corp has **200 full-time** employees and **50 part-time** employees who all work 20hrs per week. All 250 employees are enrolled in the same self-funded medical plan.
- **10 full-time** employees and **5 part-time** employees work **in San Francisco** and are covered by the HCSO.
- After completing the uniform coverage calculation, Acme Corp determines that its nationwide average hourly expenditure in 2025 was **\$3.47/hr**.
- This is **\$.38/hr less than the \$3.85 hourly requirement for 2025**.



# Calculating the Top-Off: Example A

Acme Corp has 15 San Francisco employees enrolled in the self-funded plan, which was \$.38/hr short of the 2025 required rate.

	<b>Payable hours in 2025, per employee</b>	<b>Shortfall per person</b>	<b>HCSO-covered employees (worked in SF)</b>	<b>Total Top-Off Payment Due</b>
Part time	$86 \text{ hrs/mo} \times 12 \text{ mos} = 1032$	$$.38/\text{hr} \times 1032 \text{ hrs} = \$392.16/\text{person}$	5	$5 \times \$392.16 = \$1,960.80$
Full time	$172 \text{ hrs/mo} \times 12 \text{ mos} = 2064$	$$.38/\text{hr} \times 2064 \text{ hrs} = \$784.32/\text{person}$	10	$10 \times \$784.32 = \$7,843.20$
				<b>\$9,804 in top off payments owed to 15 SF employees</b>



# Calculating the Top-Off: Example B

Let's look at three different San Francisco employees

	<b>Medical plan = \$3.47/hr</b>	<b>Dental plan = \$.32/hr</b>	<b>Vision plan = \$.10/hr</b>	<b>Total Top-Off Payment Due</b>
Anna was enrolled in medical only and worked full time (2064 hrs)	$\$3.85 - \$3.47 =$ \$.38/hr short	n/a	n/a	$\$.38 \times 2064 =$ \$784.32 owed
Beth was enrolled in medical + dental and worked part time (1032 hrs)	$\$3.85 - \$3.47 =$ \$.38/hr short	$\$.38 - \$.32 =$ .06/hr short	n/a	$\$.06 \times 1032 = \$61.92$ owed
Carlos was enrolled in medical + dental + vision and worked full time (2064 hrs)	$\$3.85 - \$3.47 =$ \$.38/hr short	$\$.38 - \$.32 =$ .06/hr short	$“.06 - \$.10 =$ no shortfall	\$0: Acme exceeded the spending requirement for Carlos



# Self-Funded Insurance Plan Top-Offs: HOW

---

## HOW to make top-off payments:

1. Deposits to the SF City Option program (employee Medical Reimbursement Account); or
2. Deposits to the employee's Health Savings Account; or
3. Some other form of irrevocable health care expenditure (not direct payment to employees)

- Ensure 2025 top-off payments can be distinguished from expenditures made for 2026
- OLSE does not manage the SF City Option MRA. Visit [San Francisco City Option](#).



# Top-Offs with Refunds: Example A

- At the end of 2025, Acme Corp calculated a \$.38/hr shortfall, and made top-offs by Feb 28, 2026.
- However, in May 2026, Acme receives a refund from its carrier. Acme recalculates the value of its self-funded plan and determines the true shortfall was \$.61/hr
- Acme must now pay the remaining \$.23/hr shortfall within 30 days.

Feb 2026 top-off	June 2026 top-off
Part time: \$.38/hr x 1032 hrs = \$392.16/person x 5 PTEs = \$1,960.80	Part time: \$.23/hr x 1032 hrs = \$237.36/person x 5 PTEs = \$1,186.80
Full time: \$.38/hr x 2064 hrs = \$784.32/person x 10 FTEs = \$7,843.20	Full time: \$.23/hr x 2064 hrs = \$474.72/person x 10 FTEs = \$4,747.20
<b>\$9,804 in top-offs made to 15 employees</b>	<b>\$5,934 in additional top-offs made to same 15 employees</b>



# Top-Offs with Refunds: Example B

After receiving a refund, Acme recalculates the value of its self-funded plan and determines the true shortfall was \$.61/hr. Acme must now pay the remaining \$.23/hr

Medical plan was previously calculated at \$3.47 (prior to refund)	Medical plan new cost: <b>\$3.24/hr</b>	Dental plan: <b>\$.32/hr</b>	Vision plan: <b>\$.10/hr</b>	Total Top-Off Payments Due
Anna was enrolled in medical only and worked full time (2064 hrs)	$\$3.85 - \$3.47 =$ \$.61/hr short	n/a	n/a	$“.61 \times 2064 = \$1259.04$ owed (minus \$784.32 paid in Feb) = \$474.72 owed in June.
Beth was enrolled in medical + dental and worked part time (1032 hrs)	$\$3.85 - \$3.47 =$ \$.61/hr short	$“.61 - \$.32 =$ = \$.29/hr short	n/a	$“.29 \times 1032 = \$299.28$ owed (minus \$61.92 paid in Feb) = \$237.36 owed in June.
Carlos was enrolled in medical + dental + vision and worked full time (2064 hrs)	$\$3.85 - \$3.47 =$ \$.61/hr short	$“.61 - \$.32 =$ = \$.29/hr short	$“.29 - \“.10 =$ = \$.19/hr short	$“.19 \times 2064 = \$392.16$ owed in June.



# Top-Off Payments

---

- Top-off payments are not part of the value of the plan!!!
- Example: Employer calculates the value of the plan at \$3.24/hr → In order to comply with the HCSO, employer must make top-offs of \$.61/hr. Only the combination of the Plan, with the timely top-off, gets the employer to the required \$3.85/hr.
- The value of the plan itself is still only \$3.24/hr.



# Covered Employees: remote work

---

- The definition of “Covered Employee” under the HCSO regards where the work is performed.
- If an employee works remotely from home, look at where the employee lives. If she lives in San Francisco, she is a Covered Employee. If she does not live in San Francisco, she is not.
- If an employee has a “hybrid” arrangement—meaning sometimes working remotely from home, and sometimes coming to a worksite, any top-off payments are based only on her *payable hours* (payable hours reflects work performed in San Francisco)



# Other Requirements: Recordkeeping

---

- Annual reporting: April of each year
- Employers must keep records for 4 years (Rule 7.2).
- Self-funded employers should keep records of the following:
  - Calculation for expenditures for the self-funded plan(s);
  - Underlying data (claims paid, enrollment records, etc.);
  - Calculations for determining the amount of top-off payments;
  - Underlying data used to calculate the individual top-off payments (such as employee payroll records);
  - Copies of communications to employees regarding the top-off payments.





Q & A SESSION 2 – [hcsolab@sfgov.org](mailto:hcsolab@sfgov.org)

# Best Practice #1: Communicate with your employees

---

1

Inform employees that they're enrolled in a self-funded plan.

2

Tell employees: (a) what the spending rate was; (b) the dollar amount of the top-off payment; (c) how and when the payment will be made.

3

Start this communication during open enrollment, and in advance of significant benefits transitions (ie, switching from fully-funded to self-funded).

4

Consider using the sample letter on OLSE's website, and contribution letter on City Option's website.

5

If you don't communicate with your employees, they might think you're not compliant!



# Best Practice #2: Have a knowledgeable point person

---

1

“Why does my coworker get something I don’t?”

2

Employees have questions about why they are/are not getting a top-off.

3

When employees cannot get their questions answered by their employer, they call OLSE.

4

If OLSE cannot get questions answered by an employer in a timely manner, employer may be audited.



# Best Practice #3: Be Proactive

---

- 1 Pay attention to employees who switch their enrollment from fully-funded to self-funded plans.
- 2 If you had a large shortfall for 2025, examine employee share of cost before next open enrollment.
- 3 If you expect to have a large shortfall at the end of 2026, you can *choose* to make top-off payments throughout the year so you can avoid a large payment in Feb. 2027.





# HCSO Resources

- **Sign up for OLSE updates**
- **HCSO website has instructions, examples, sample letters, Rules, and FAQs.**
- **Email us: [hcsolab@sfgov.org](mailto:hcsolab@sfgov.org)**
- **Call us: (415) 554-7892**
- **No one gets penalized for calling OLSE to ask for help!**





# Thank You!



Office of Labor Standards Enforcement