



# San Francisco HCSO Expenditures and Reporting Update

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The San Francisco Health Care Security Ordinance (“HCSO”) has been amended to cover certain workers teleworking from outside of San Francisco in the event a public health order requires or recommends telework. In addition, the HCSO minimum expenditure rates for 2022 have been released, and the HCSO Annual Reporting Form for calendar year 2021 is due on April 30, 2022.

## ■ Employees who Telework

The HCSO was amended effective August 1, 2021, to provide that the HCSO applies to an employee teleworking from a residence or other location outside of San Francisco, if both of the following requirements are met:

- The employee was, is, or (after the COVID-19 pandemic) will be permitted or required to work from the covered employer’s office or worksite within the geographic boundaries of San Francisco; and
- An applicable health order places restrictions on onsite work within the geographic boundaries of San Francisco and/or encourages telework.

For now, this amendment has no impact on any covered employer. According to the San Francisco Office of Labor

Standards Enforcement (“OLSE”), employees teleworking outside San Francisco are not covered by the HCSO at this time, because San Francisco does not currently have a public health order in effect that recommends or requires teleworking. San Francisco previously recommended that employers “allow office employees to continue to work remotely as much as possible,” but this recommendation was withdrawn on June 11, 2021.

It should be noted, however, that the HCSO continues to apply to employees performing telework within the geographic boundaries of San Francisco for a covered employer.

## ■ 2022 Minimum Expenditure Rates

Under the HCSO, covered employers must make minimum health care expenditures at the following rates for each hour worked by covered employees in San Francisco:



Employer Size	Number of Employees	2021 Health Care Expenditure Rate	2022 Health Care Expenditure Rate
Large	All employers with 100 or more employees	\$3.18 per hour payable	\$3.30 per hour payable
Medium	Businesses with 20-99 employees Nonprofits with 50-99 employees	\$2.12 per hour payable	\$2.20 per hour payable
Small	Businesses with 19 or fewer employees Nonprofits with 49 or fewer employees	Exempt	Exempt

The hours payable under the HCSO for each employee are capped at 172 hours per month. Therefore, for 2022 the maximum required health care expenditure for a covered employee of a large employer is \$567.60 per month (\$3.30/hour x 172 hours). For a medium-sized employer, the maximum required expenditure for a covered employee is \$378.40 per month (\$2.20/hour x 172 hours).

Managerial, supervisory, or confidential employees who earn more than a specified amount are exempt from the minimum health care expenditures requirement under the HCSO. For 2021, the earnings threshold for these employees to be exempt from the HCSO is \$107,991 annually (or \$51.92 per hour). As of January 1, 2022, the new threshold will be \$109,643 per year (or \$52.71 per hour).

## ■ Annual Reporting Form

Covered employers must submit an online report each year that summarizes how they complied with the HCSO. The web-based HCSO Annual Reporting Form for the prior calendar year is typically available on OLSE's HCSO website by April 1 and must be submitted by April 30. For example, the HCSO Annual Reporting Form for calendar year 2021 is expected to become available on the HCSO website by April 1, 2022.

Due to the COVID-19 pandemic, OLSE did not require employers to submit the HCSO Annual Reporting Form for calendar years 2019 and 2020. It is important to note that only the HCSO reporting requirement was waived; employers were still obligated to make minimum health care expenditures under the HCSO for calendar years 2019 and 2020.

OLSE has indicated that the HCSO annual reporting requirement will not be waived for calendar year 2021. This means that covered employers must submit the HCSO Annual Reporting Form for calendar year 2021 by no later than April 30, 2022.

## ■ Employer Action

Covered employers should ensure that they will be making the required minimum health care expenditures in 2022 at the new rates for employees in San Francisco.