



The Vita Viewpoint Important Information for Decision Makers

San Francisco Health Care Security Ordinance Upheld Employers should prepare first Annual Reporting Form by April 30, 2009

Background

The city of San Francisco passed the Health Care Security Ordinance (HCSO) in 2006. Originally, the Ordinance was to go into effect January 1, 2008 and would require "Covered Employers" to make a reasonable health care expenditure on behalf of their employees. This reasonable expenditure is referred to as the "Employer Spending Requirement". Shortly after enactment of the HCSO in 2006, the Golden Gate Restaurant Association (GGRA) filed a lawsuit challenging the Employer Spending Requirement on the basis that it was preempted by ERISA. In December 2007, a federal district court ruled in favor of the GGRA and prohibited enforcement.

The city of San Francisco filed an appeal and on January 9, 2008, the Ninth District Court allowed the HCSO Employer Spending Requirement to go into effect immediately. The enforcement of the ordinance was to remain in effect until a final determination was made.

Final Ruling

On March 9, 2009, the Court of Appeals denied the Golden Gate Restaurant Association's request for a rehearing. Finally, on March 30, 2009, Justice Kennedy of the United States Supreme Court denied GGRA's emergency application which sought to prevent the City from continuing enforcement while the GGRA prepared their appeal. The GGRA's appeal is due on June 8, 2009.

Required Health Care Expenditure Amounts

The minimum expenditure requirements, as well as the number of employees covered, were increased in 2009. For employers with 100 or more employees across the United States, the minimum hourly expenditure rate has increased from \$1.76 to \$1.85. The average number of hours an employee must work in San Francisco in order to be eligible for the expenditure was decreased from 10 hours to 8 hours per week. Please refer to the additional attachment that outlines the various San Francisco ordinances in effect.

Annual Reporting Form

Covered Employers are required to complete the Annual Reporting Form (ARF). The 2008 ARF is due by April 30, 2009, and failure to file will subject the employer to penalties and corrective action. The Annual Reporting Form and the instructions are also attached to this Vita Viewpoint email.

For questions or additional information, please contact Vita Benefits Group at (650) 968-8811.