

December 2023

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KEY DEADLINES

A Dec. 15, 2023—Provide SAR to plan participants (calendar-year plans only) – if Form 5500 deadline was extended

Provide an SAR to covered employees by Dec. 15, 2023, if the plan's form 5500 deadline was extended. In general, the SAR must be provided within nine months of the close of the plan year. However, if the plan's Form 5500 deadline was extended, the SAR must be provided within two months after the close of the extension period. For calendar-year plans, this extended deadline is Dec. 15, 2023. Plans that are exempt from the annual 5500 filing requirement are not required to provide a SAR. Unfunded welfare plans are also generally exempt from the SAR requirement.

B Dec. 31, 2023—Submit a gag clause attestation for your health plan

A new transparency provision requires health plans and health insurance issuers to submit attestations of compliance with the prohibition on gag clauses by Dec. 31 each year. The first attestation is due by Dec. 31, 2023. Plans and issuers must submit their attestations through a [CMS website](#). If the issuer for a fully insured health plan provides the attestation, the plan does not also need to provide an attestation. Employers with

self-insured health plans can enter into written agreements with their third-party administrators to provide the attestation, but the legal responsibility remains with the health plan.

COMPLIANCE REMINDERS

As 2023 comes to a close, review your company's compliance to ensure that all required activities will be completed by the end of the year. This review may include the following tasks:

- Complete any outstanding annual performance reviews.
- Confirm that any required workplace employee trainings will be completed by the appropriate deadline.
- Encourage employees to fill out a new [Form W-4](#) for 2024 if they have experienced personal or financial changes that impact their tax withholding.
- Confirm that annual nondiscrimination testing has been performed for employee benefit plans that are subject to these testing requirements, including Section 125 cafeteria plans, self-insured health plans, health FSAs, dependent care FSAs, HRAs, group term life insurance and retirement plans.