



*San Francisco Healthy Airport Ordinance*  
*(Amendment to the Health Care Accountability Ordinance)*  
*Implementation Guidance*

**Updated April 30, 2021**

**NOTE:** On April 6, 2021, the San Francisco Board of Supervisors adopted an ordinance that would amend the San Francisco Healthy Airport Ordinance as follows:

1. Allows employers that offer covered employees a compliant, no cost platinum-level healthbenefit plan and an alternative gold-level or platinum-level health benefit plan that is more expensive to require covered employees who elect that gold-level or platinum-level health benefit plan to pay a portion of the premium costs, limited to the difference between the premium costs of that plan and the compliant, no cost plan. *Updated April 12, 2021*
2. Specifies who must be covered by the family health benefit plan: the covered employee, the covered employee's spouse or registered domestic partner, and the covered employee's child, which shall include any legally adopted child, recognized natural child, stepchild, foster child, and minor legal ward.

In accordance with federal law, coverage for children must be made available until a child reaches the age of 26, even if the young adult no longer lives with the covered employee, is not a dependent on the covered employee's tax return, or is no longer a student.

3. Delays the health benefit plan requirements from March 21, 2021 to April 1, 2021.

On March 9, 2021, the Board of Supervisors adopted a resolution urging the Office of Labor Standards Enforcement to exercise administrative discretion to administer the Healthy Airport Ordinance in accordance with the pending amendments. OLSE intends to exercise that discretion pending enactment of the amendments, meaning that the office will not take any enforcement action regarding health plans that are consistent with these amendments, for example plans that are effective April 1, 2021 rather than March 21, 2021, or plans that include limited premium cost sharing for additional plans consistent with the amendments.

To view the proposed ordinance, please go to [www.sf.gov/olse-hao](http://www.sf.gov/olse-hao).

The Healthy Airport Ordinance ("Amendment") is an amendment to the Health Care Accountability Ordinance. The Amendment requires employers at the San Francisco

International Airport (“SFO”) to provide employees covered by SFO’s Quality Standards Program with family health insurance or to make a specified contribution on their behalf to the City Option Program.

The San Francisco Office of Labor Standards Enforcement administers and enforces the Amendment’s requirements.

### **Operative Date**

#### **1. Q: When will the Amendment become operative?**

A: Covered employers must comply with the Amendment’s requirements on its operative date, March 21, 2021. However, as noted above, for covered employers that elect to comply with the Amendment by providing family health insurance, OLSE will consider the provision of such family health insurance beginning April 1, 2021 to be compliant.

*Updated March 4, 2021*

### **Scope of Amendment**

#### **2. Q: Which employers are covered by the Amendment?**

A: The Healthy Airport Ordinance is an amendment to the Health Care Accountability Ordinance (HCAO), but it applies only to employees covered by SFO’s Quality Standards Program (QSP), adopted by the San Francisco Airport Commission. Employers may contact SFO’s Office of Social Responsibility and Community Sustainability at 650-8211003 or [qsp@flysf.com](mailto:qsp@flysf.com) to determine if they have employees covered by the QSP.

Employers with employees who are covered by the HCAO but not the Amendment must continue to comply with all of the HCAO’s requirements and its regulations, available at [www.sf.gov/olse-hcao](http://www.sf.gov/olse-hcao). OLSE anticipates issuing updated HCAO regulations to provide additional guidance on the Amendment. In the interim, OLSE will apply all applicable HCAO regulations to the Amendment, including HCAO regulations 2.2 - 2.3 and 8 – 11.

#### **3. Q: Are all employees at SFO covered by the Amendment?**

A: No. Only employees covered by the QSP at SFO are covered employees under the Amendment.

#### **4. Q: Are employees required to work a minimum number of hours per week to be covered by the Amendment?**

A: No. Although other employees must work at least 20 hours per week to be covered by the HCAO, there is no minimum hours requirement for employees to be covered by the Amendment.

## **Health Care Requirements**

### **5. Q: What health care benefits must employers provide to their covered employees?**

A: Employers of QSP employees must provide them with family health insurance that meets the compliance requirements at no cost to the employee or pay \$9.50 per hour (up to \$380 per week) on behalf of the employee to the City Option Program. Employers may choose which option they use to comply.

*Updated February 23, 2021*

### **6. Q: Are there minimum standards for the family health insurance provided to covered employees?**

A: Yes. Employers must provide health plan benefits to the covered employee and the covered employee's dependents, with all of the following features:

- A. The health benefits must be offered at no cost to the covered employee;
- B. Is actuarially equivalent to a platinum-level plan ( $\geq 90\%$ ). [Federal rules](#) allow for a de minimis variation in actuarial value (AV) of  $-4/+2$  percentage points. OLSE has determined that the same standard is appropriate here, so a plan would be compliant with an overall AV of at least 86%. Once satisfied, an employer may also offer additional plans with an actuarial value equivalent to at least a gold-level plan ( $\geq 80\%$ ), or no less than 76% including the allowance for de minimis variation; and
- C. Provides comprehensive coverage for benefits listed in [California's Essential Health Benefit Benchmark Plan](#). The scope of coverage must equal or exceed that listed in the Benchmark Plan summary or in the sample Evidence of Coverage (EOC), whichever is greater or more specific. For example, preventive care such as scheduled prenatal and the first postnatal visits must be covered at no cost as described in the sample EOC. However, general costsharing limits for other benefits are not prescribed.

For more information on the family health insurance minimum standards, contact the Department of Public Health at 415-554-2925 or [patrick.chang@sfdph.org](mailto:patrick.chang@sfdph.org).

**7. Q: Are there cost-sharing requirements for health plans similar to those required under the Health Care Accountability Ordinance?**

A: The Amendment only requires that compliant health plans have a minimum actuarial value of 90% – and at least 80% for any additional plans – and cover all the services in [California’s Essential Health Benefit Benchmark Plan](#). The actuarial value means the average percentage of the total costs for covered in-network benefits that the health insurance plan will pay. [Federal rules](#) allow for de minimis variation in actuarial value (AV) of –4/+2 percentage points, so a plan would be compliant with an overall AV of at least 86%. Additional gold-level plans would be compliant with an overall AV of at least 76%.

Beyond that, there are no specific cost-sharing limits (e.g., out-of-pocket maximum, deductible, co-pay, coinsurance) for plans to comply with.

For example, while the plan must cover skilled nursing facility care up to 100 days, as part of California’s Essential Health Benefit Benchmark Plan, there is no requirement for what the cost-sharing must be.

**8. Q: Is coverage for pediatric dental and vision required?**

A: The Amendment requires covered employers to offer health coverage to eligible employees and their dependents that provides coverage for all services listed in the [California Essential Health Benefit Benchmark Plan](#). This includes coverage of pediatric dental and pediatric vision for dependents aged 0-18 years.

There are no restrictions or parameters on how benefits are to be configured as long as the scope of coverage requirements are met. Pediatric dental and vision benefits can be embedded in the health plan or offered as a stand-alone plan from more than one insurance carrier.

Scope of coverage for pediatric dental benefits are pursuant to the [2011-2012 Children’s Health Insurance Program \(CHIP\)](#). Other supporting references can include the [California Dental Benefit Plan Designs](#) and the [Covered California Dental Copay Schedule](#).

Pediatric vision benefits are pursuant to those offered under [FEDVIP](#). It generally includes coverage for exams and eyewear (i.e., lenses and frames or contact lenses).

There is no actuarial value (AV) threshold for pediatric dental and vision benefits, and the Amendment only requires the overall offer of benefits to equal at least 86% AV based on [federal rules](#) allowing for a de minimis variation in actuarial value (AV) of –4/+2 percentage points.

*Updated April 30, 2021*

**9. Q: Who must be covered by family health benefit plans under the Amendment?**

A: The following persons must be covered by family health benefits under the Amendment: the covered employee, the covered employee's spouse or registered domestic partner, and the covered employee's child, which shall include any legally adopted child, recognized natural child, stepchild, foster child, and minor legal ward.

In accordance with federal law, coverage for children must be made available until a child reaches the age of 26, even if the young adult no longer lives with the covered employee, is not a dependent on the covered employee's tax return, or is no longer a student.

*Added March 4, 2021*

**10. Q: Can employers with self-funded plans use the COBRA-equivalent rates for its platinum-level and gold-level health benefit plans to determine the portion of the premium costs that it may require of covered employees who choose to enroll in the gold-level health plan?**

A: Yes.

*Added April 7, 2021*

**11. Q: Are employers required to offer covered employees that are currently enrolled in compliant health insurance plans with the opportunity to enroll in other compliant plans by March 21, 2021?**

A: No. If a covered employee is currently enrolled in a family health insurance plan that complies with the minimum standards and is provided at no cost to the employee, the employer is not required to offer open enrollment prior to March 21, 2021.

However, consistent with FAQ 1 above, for covered employees that previously declined employer health insurance, employers must provide compliant health benefits or obtain a signed voluntary waiver form with supporting documentation by April 1, 2021.

*Updated March 4, 2021*

**12. Q: For employers that choose to comply with the Amendment by providing family health insurance, when must employers provide these health benefits to covered employees?**

A: Consistent with FAQ 1 above, employers that choose to comply with the Amendment by providing family health insurance must have the coverage in place by April 1, 2021 for its covered employees. For covered employees hired after that date, employers must provide family health insurance no later than the first day of the month after 30 days from the covered employee's start of employment.

*Updated March 4, 2021*

**13. Q: For employers that choose to comply with the Amendment by making a specified contribution on the covered employee's behalf to the City Option Program, when must those contributions be made?**

A: Employers that choose to comply with the Amendment by making the specified contribution on the covered employee's behalf to the City Option Program must make these contributions to the City Option Program by April 15, 2021 for hours worked from March 21 through March 31, 2021. Thereafter, contributions must be made by the 15<sup>th</sup> of each month for hours worked in the preceding month, including for covered employees hired after the Amendment's operative date.

**14. Q: How can employers make contributions on their covered employees' behalf to the City Option Program?**

A: Employers can make contributions to the City Option Program through the Department of Public Health's dedicated website: <https://sfcityoption.org>.

**15. Q: Is the per hour payment figure and weekly maximum fee adjusted annually?**

A: Yes. Beginning with fiscal year 2022-2023, and for each following fiscal year, the Director of Health will propose adjustments to the hourly rate and weekly maximum fee based on changes since the prior year in the Bureau of Labor Statistics Consumer Price Index for Medical Care in the San Francisco Bay Area or in average Health Maintenance Organization premiums in California.

After review and potential adjustments by the Controller's Office, the adjusted hourly rate and weekly maximum fee will take effect on July 1 each year.

**16. Q: For employers that choose to comply with the Amendment by making a specified contribution on the covered employee's behalf to the City Option Program, can they also offer non-compliant health insurance after the contributions are made?**

A: Yes. Once employers make the monthly contributions to the City Option Program, they may also offer health plans, including non-compliant health plans, to the covered employee.

*Added February 23, 2021*

**17. Q: Can employees waive employer health care requirements under the Health Care**

## **Accountability Ordinance, including those requirements contained in the Amendment?**

A: Yes. Employees of employers who offer compliant health plans may waive employer health care requirements but only by (1) providing the employer with proof of current health plan coverage and (2) completing the official SFO QSP Voluntary Waiver Form, which can be found here: [www.sf.gov/olse-hcao](http://www.sf.gov/olse-hcao).

For employees covered by the Healthy Airport Ordinance, proof of current health plan coverage must include the covered employee's dependents.

Covered employers must retain voluntary waiver forms and proof of health plan coverage for three years and must provide OLSE access to them upon request.

*Updated February 23, 2021*

## **Notice and Posting**

### **18. Q: Are employers required to post a notice informing employees of their rights under the Ordinance?**

A: Yes. Under the Health Care Accountability Ordinance and its accompanying regulations, covered employers are required to post the HCAO Employee Notice poster in a conspicuous place at any workplace or job site where any Covered Employee works. Covered employers shall post this notice in English, Spanish, Chinese, Filipino, and any language spoken by at least five percent of the employees at the workplace or job site.

In lieu of the standard HCAO Employee Notice, employers covered by the Healthy Airport Ordinance are required to post a special notice for the Ordinance, which is available at [www.sf.gov/olse-hcao](http://www.sf.gov/olse-hcao).

## **Waiver through Collective Bargaining**

### **19. Q: May a collective bargaining agreement waive some or all of the provisions of the Amendment?**

A: No. While the Health Care Accountability Ordinance generally permits a waiver through a collective bargaining agreement, that does not apply to covered employees under the Healthy Airport Ordinance.

**Please email further questions to [HCAO@sfgov.org](mailto:HCAO@sfgov.org) or call (415) 554-7903**