

**LEGISLATIVE DIGEST**

[Administrative Code – Health Care Security Ordinance]

**Ordinance amending the San Francisco Administrative Code by amending Sections 14.1, 14.3 and 14.4 of the Health Care Security Ordinance, to provide that only amounts actually paid or irrevocably committed to pay for providing employee health care services shall satisfy the employer expenditure requirements of the Ordinance and add an employee notification requirement, and to modify penalty provisions.**

**Qualifying "Health Care Expenditures"**

The City's Health Care Security Ordinance (the "Ordinance") requires certain employers located in the City to make "health care expenditures" on behalf of certain of their employees. A "health care expenditure" is money paid by a covered employer to its covered employees or to another party on behalf of its covered employees for the purpose of providing health care services for the employees or reimbursing the cost of such services. Employers have various options on how to satisfy the required expenditure, including the use of health savings and reimbursement accounts.

The proposal would provide that a "health care expenditure" would only include an amount irrevocably paid by an employer to an employee or to a third party on behalf of the employee. An amount that was designated as an expenditure but still held by the employer would not satisfy the Ordinance; nor would an amount that was paid over to a third party but could later be recovered by or returned to the employer. And any unused amount would have to carry over and remain available to the employee or a surviving spouse, domestic partner or dependent for reimbursement of future health care expenses.

**Notification to Employees**

The Ordinance in its current form does not require employers to provide specific notice to their employees regarding what the company is doing on their behalf to comply with the law.

The proposal would require the employer to provide its employees with a written notice of the employer's obligation to make health care expenditures under the Ordinance and how the employer was complying with the Ordinance.

## Enforcement

Under current law, the possible penalties for failing to make the required health care expenditures include administrative fines in an amount up to one-and-one-half times the total expenditures that the employer failed to make 10 percent interest, not exceed \$1,000 for each employee for each week that the expenditures were not made.

Under the proposal, the administrative fine would be equal to the total expenditures that a covered employer failed to make, not exceed \$100 for each employee for each quarter that the expenditures were not made within five days of the quarterly due date. The \$100 figure would be adjusted annually for inflation.