

2026 EMPLOYER COMPLIANCE PLAYBOOK

1. Introduction

This Employer Compliance Playbook equips HR professionals, benefits administrators, CFOs, and owners with clear, actionable steps to stay compliant with 2026 regulatory updates. It summarizes new legislation, operational requirements, and best practices drawn from the 2025 eBen Compliance Webinar, which you can view [here](#).

2. Key Legislative & Regulatory Updates for 2026

A. ACA 1095-C Reporting. Mailing the 1095-C form to each employee is no longer mandatory if employers provide notice of availability or download instructions. eBen's Annual Notice Packet includes required language.

Action Step: Use the Annual Notice Packet and retain proof of notification.

B. HDHP & HSA Adjustments. Minimum deductibles increase to \$1,700 (EE) and \$3,400 (Family) for plans as they renew in 2026. Maximum contributions increase to \$4,400 (EE) and \$8,750 (Family).

Action Steps:

- Verify plan design compliance before renewal.
- Update payroll contribution limits.
- Revise employee communication and enrollment materials.

C. ACA Affordability Thresholds. The affordability threshold is increasing as group plans renew during the 2026 calendar year to 9.96% (up from 9.02% for 2025 plans). Employers should reevaluate affordability using the W-2, Rate of Pay, and Federal Poverty Level safe harbors.

3. Medicare Creditable Coverage Requirements

Informing your Medicare eligible employees or dependents about the Creditable status of your health plan is vital, and failure to provide that notice could create issues for those individuals. There is a new "revised" determination method, prescription coverage is creditable if it covers at least 72% of average drug expenses. Employers may use one of three methods in 2026 (existing, revised simplified, or actuarial) to determine creditable status.

Employer Tip: Maintain documentation of your determination method.

4. Medicare Secondary Payer (MSP) Rules for Small Employers (<20 Lives)

Employers with fewer than 20 employees must ensure Medicare-eligible employees enroll in Part A and B. Failure to do so can result in unpaid medical claims if carriers apply Medicare estimation rules.

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5. One Big Beautiful Bill Act (OB3A) – 2026 Impacts

A. HSA & Telemedicine. Bronze/Catastrophic exchange plans qualify as HSA-eligible. Pre-deductible telemedicine coverage is now permanently allowed, and HSA funds can pay Direct Primary Care fees (up to \$150 per individual or \$300 per family monthly).

B. Dependent Care FSA Increase. Annual contribution limits rise to \$7,500 (single/married joint) and \$3,750 (married separate). Employers should update Section 125 plan documents and payroll systems accordingly.

C. Marketplace Reforms. The Act adds mandatory eligibility verification, limits SEP eligibility, and removes caps on excess subsidy repayments. This reduces improper subsidy use and potential employer penalty exposure.

6. Eligibility Compliance & Plan Integrity

A. Definition: Actively at Work. An employee is considered actively at work when they are performing regular job duties, in pay status, and working at an approved location. Extended absences over 30 days (outside of FMLA) require COBRA transition.

B. Common Pitfalls. Employee on unpaid non-FMLA leave remains on plan → Ineligible participant.

- Owner 67+ not enrolled in Medicare → Carrier may only pay secondary.
- Retired employee left on plan → ERISA fiduciary breach.

C. Documentation & Consistency. Ensure all eligibility definitions are aligned across carrier policies, handbooks, and HRIS. Apply rules consistently and maintain documentation for any exceptions.

7. The Nightmare Scenario

A long-term employee left on plan post-retirement incurred over \$250,000 in claims denied due to ineligibility. Lesson: Always verify active-at-work status and transition ineligible employees to COBRA immediately.

8. Operational Checklist

- ☒ Review all eligibility definitions in carrier policies
- ☒ Confirm FMLA and employer-granted leave tracking
- ☒ Maintain documentation for stop-loss inquiries
- ☒ Respond to carrier/TPA verification requests
- ☒ Coordinate with your account manager for COBRA guidance

9. Templates & Tools

- Annual Notice Packet Language
- Stop-Loss Claim Questionnaire
- Eligibility Audit Worksheet
- Medicare Creditability Assessment Log
- COBRA Transition Tracker