

COMPLIANCE



SCA & ACA
Compliance Principles

NHOA Association
May 2019

Compliance and impact of ACA

Starts with understanding the basics

- ✔ The McNamara -O'Hara Service Contract of 1965 (SCA)
- ✔ Davis Bacon and Related Acts (DBRA)
- ✔ The Affordable Care Act (ACA)



McNamera O'Hara SCA Act of 1965

The Service Contract Act (SCA):



Requires contractors and subcontractors performing services on prime contracts in excess of \$2,500 to pay service employees in various classes no less than the wage rates and fringe benefits found prevailing in the locality, or the rates including prospective increases contained in a predecessor contractor's CBA



The Department of Labor (DOL) issues wage determinations on a contract-by-contract basis in response to specific requests from contracting agencies.

These determinations are incorporated in the contract.

SCA Wage

Determination

SCA hourly workers currently receive the following:

Health & Welfare

*\$4.18 per hour

\$4.27 per hour

\$4.41 per hour

(\$4.18 if it includes E.O. 13706 Paid Sick Leave)*

This applies to the following categories of services:

- ✓ IT staff
- ✓ Boss Contracts
- ✓ Security Guards
- ✓ Janitorial and custodial
- ✓ Food service employees
- ✓ Commissary shelf-stocking
- ✓ Engineering
- ✓ Phone operations
- ✓ Administrative staff
- ✓ Grounds maintenance
- ✓ Vehicle maintenance
- ✓ Security
- ✓ U.S. Mail Haulers

Health & Welfare Fringe Benefits

- ◎ Workers **must** be paid an hourly health and welfare benefit
- ◎ These dollars are in addition to the base wage paid to the employee
- ◎ The most current health and welfare fringe on a SCA contract is \$4.18 per fringe paid hour
- ◎ Fringe benefits that meet the requirements of SCA are described in 29CFR Part 4, Section 4.171



Providing Health & Welfare Benefits

The Employers Discretion



The employer has sole discretion over this SCA H&W obligation and may choose to:



Put the health and welfare fringe in the paycheck and give it to the employee as added wage (“cash-in-lieu”)



Use it to provide “bona-fide” health & welfare benefits

Cost -Savings Calculator



FULL TIME Employees on Contract (Not Electing Coverage)		50
Estimated PART TIME Employees on Contract (74 Hrs./Month)		33
Average Cash Wages:		\$12.00
Fringe Rate:		\$4.18
Workers Compensation/(G/L) Rate per \$100:		\$4.00
Cost Saving Analysis	No Benefit Plan	Benefit Plan
Wage Determination	\$12.00	\$12.00
Health & Welfare Benefit Paid As Cash	\$3.71	\$0.00
Total Cash Wages	\$15.71	\$12.00
Payroll Burden on Cash Wages*:	\$1.75	\$1.34
FICA 7.65%		
Federal Unemployment Taxes .8%		
State Unemployment Taxes 2.7%		
Workers Compensation/(G/L) Premiums	0.63	0.48
Contribution to Fringe Benefit Plan		3.71
Employer Cost per Hour	\$18.09	\$17.53
Hourly Savings per Employee		\$0.56
Annual Savings per Part Time Employee		\$499.11
Annual Savings per Full Time Employee		\$1,169.10
Employer's Annual Savings		\$74,925.51
Employer Savings on 5 Year Contract		\$374,627.56
Estimated Overall Contract Savings **		2.82%

*Used for illustration purposes only; percentages will vary by employer.

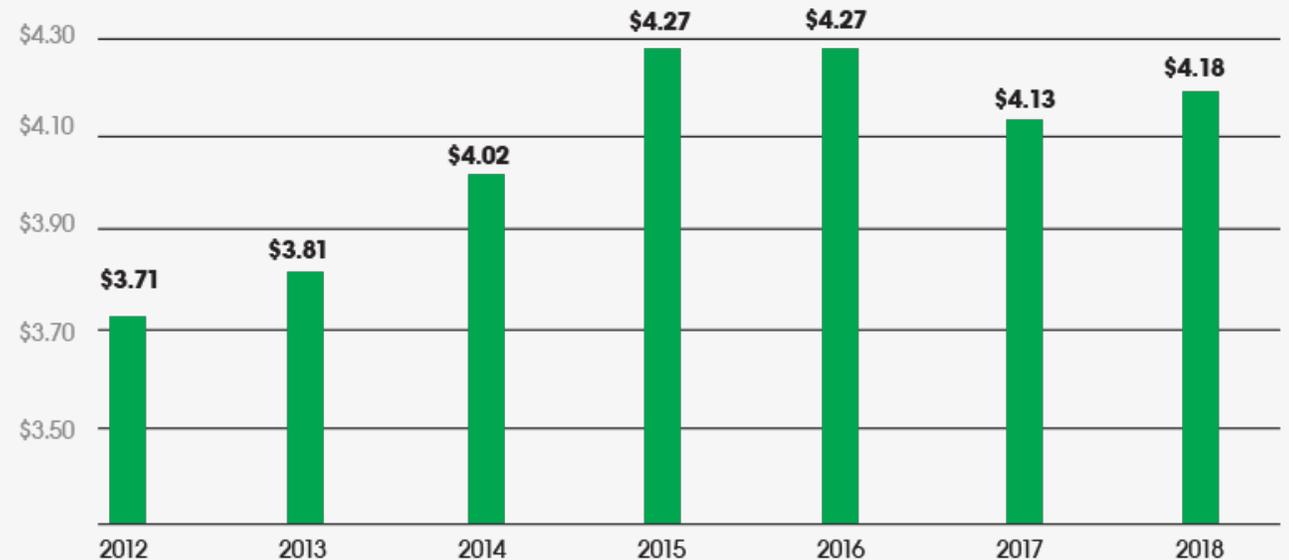
**Based on an indirect / overhead rate of 35%.

How To Plan For Health Insurance

While minimizing exposure to rising costs

- ✓ Fringe increases have averaged 1.75% over the last 7 years
- ✓ Increases for Health Insurance for Single Coverage has averaged 6.25%*
- ✓ Tough decisions will need to be made on how to control escalating health costs which exceed year over year fringe increase
- ✓ What we need here is a PLAN!

Health & Wellness Fringe - Average Increase



SOURCE: Kaiser/HRET Survey of Employer-Sponsored Health Benefits

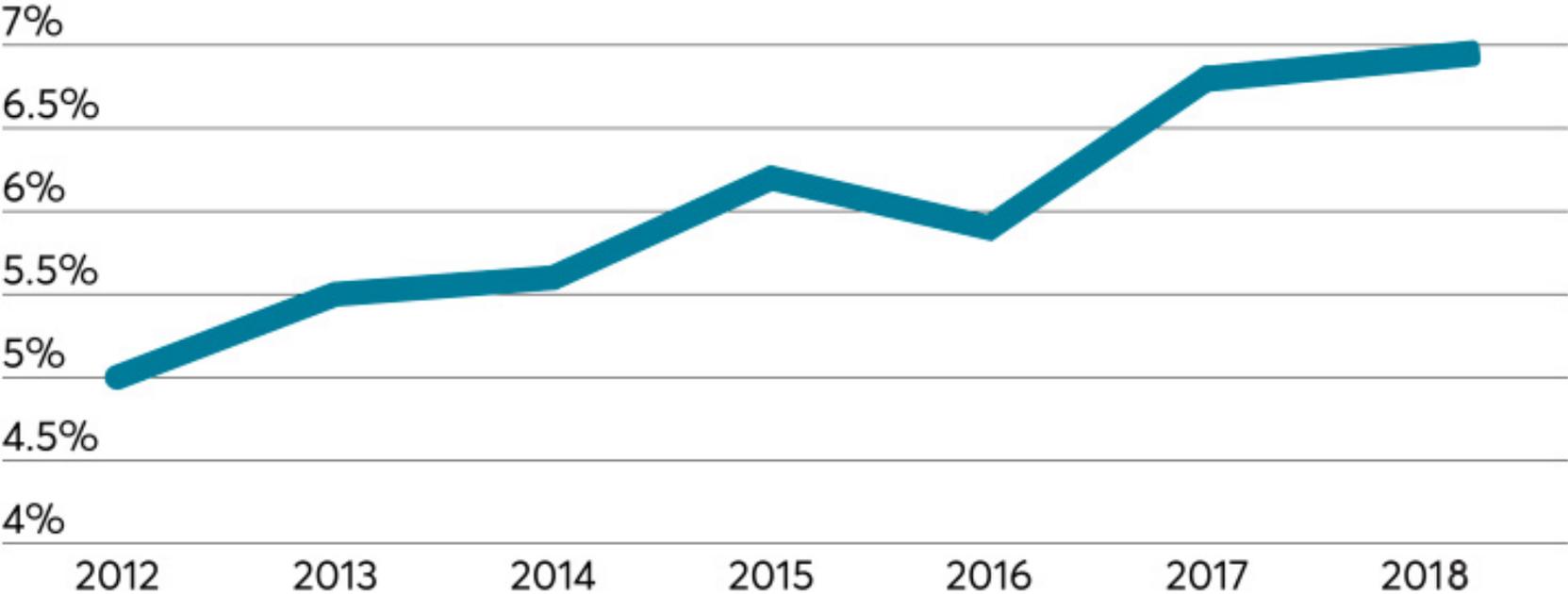
Cumulative Increases in Premiums

for Single Coverage vs Annual Health & Welfare Fringe Increase



Rising costs

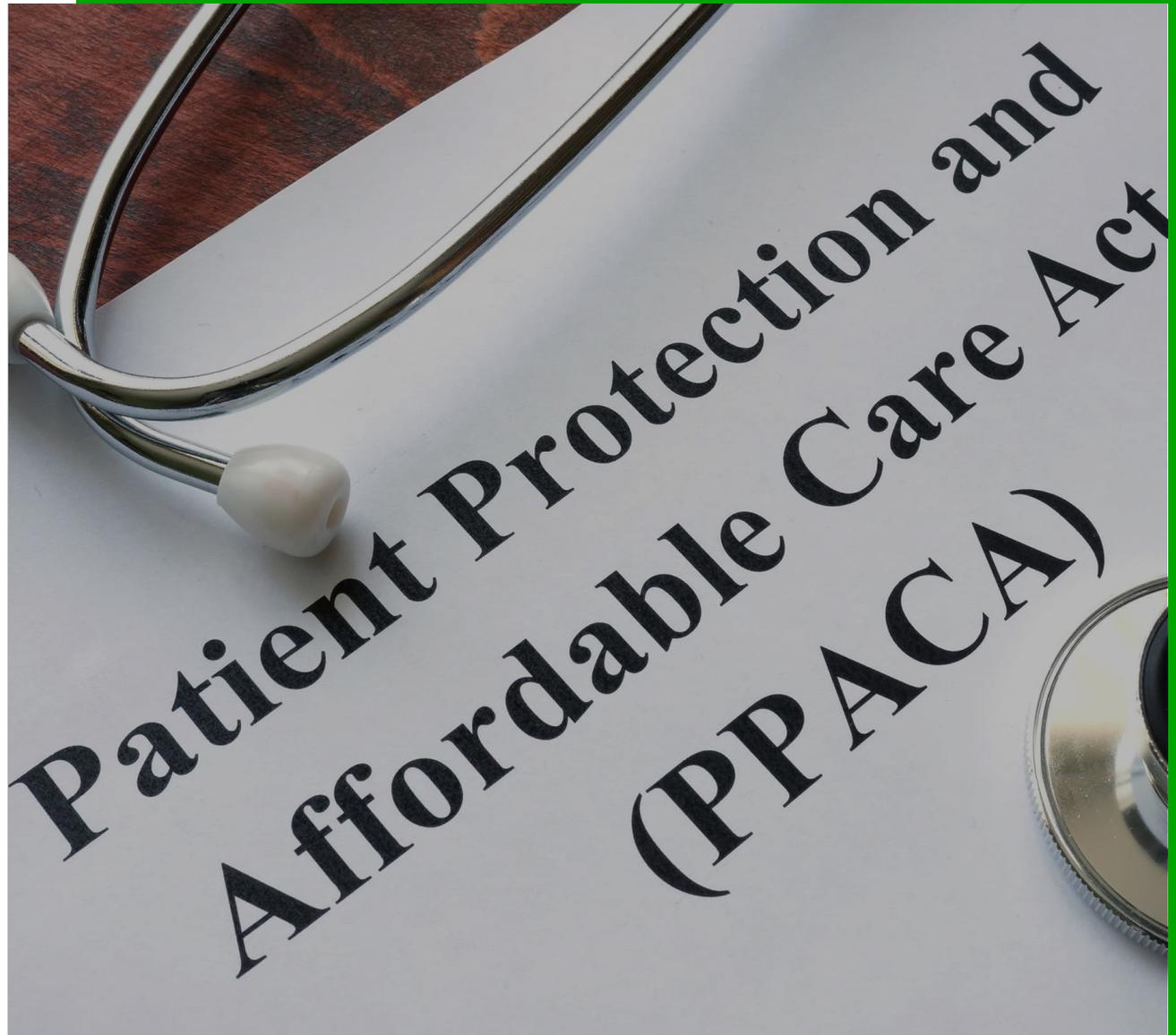
Employee benefit plan premiums continue to increase



Source: United Benefit Advisors

Increases for Health Insurance for Single Coverage has averaged 6.25%*

Addressing Problems
Contractors Face
With The **ACA/SCA**



Why Use A TPA

There are multiple reasons groups choose to outsource their fringe compliance services:

- Allows the company to focus on their core mission
- SCA/ACA management and reporting
 - W-2, 1095's, etc.
- Administrative costs may be paid by the fringe and not hit G&A
- Easy audit trail for compliance tracking
- Budget management



No More Compliance Headaches

FCE Benefits plans assure continuous compliance



- Affordable Care Act
- ERISA
- Service Contract Act
- DOL Audit Support
- SAR- Summary Annual Reports
- Annual audits (5500)
- SPD - Summary Plan Descriptions
- COBRA & FMLA tracking
- Medicare Part D & CMS filings
- HIPAA

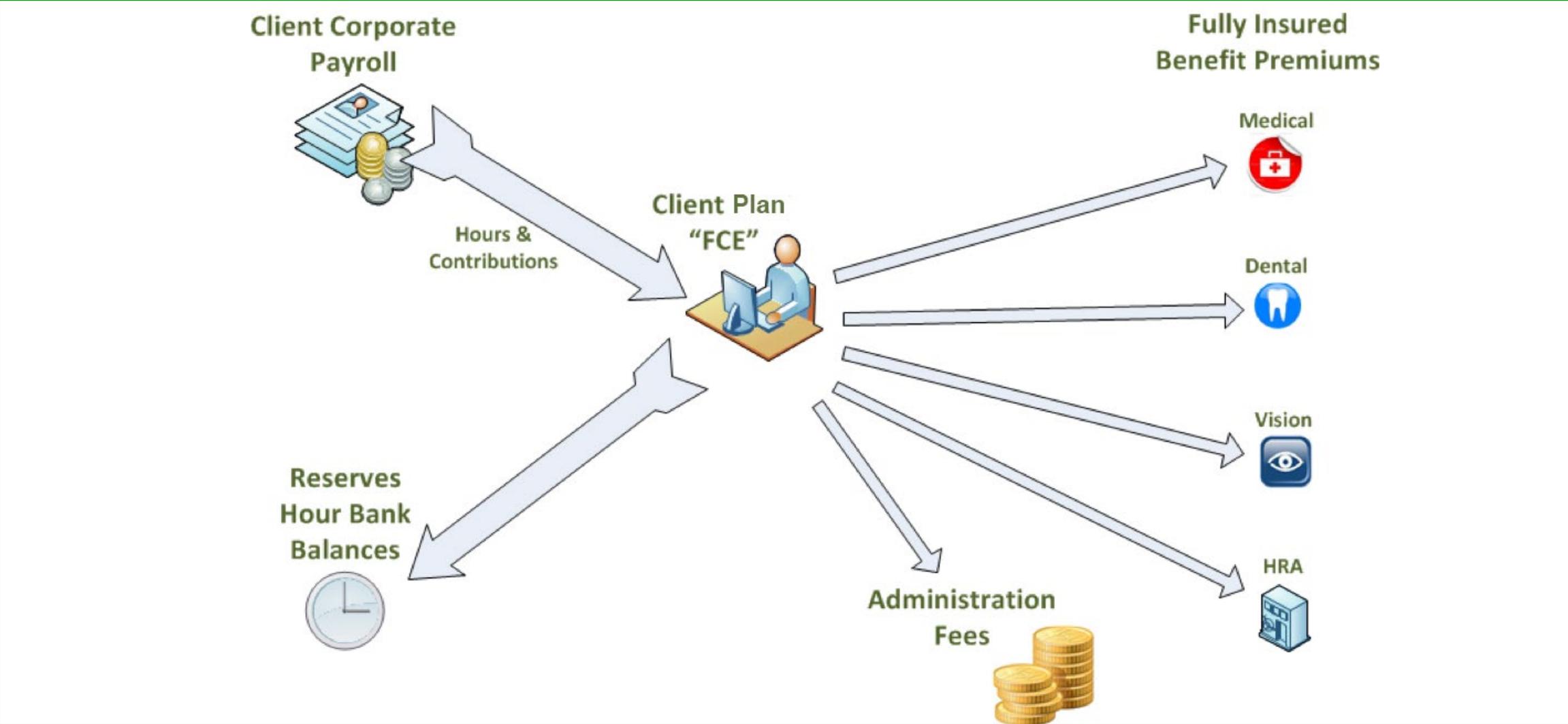


Possible Penalties For Non-compliance

- ⚠ Back wages and benefits
- ⚠ Personal liability for corporate officials
- ⚠ A hold on payments for any federally funded contracts
- ⚠ Three-year debarment from all government contracts
- ⚠ Contract cancellation and re-procurement costs

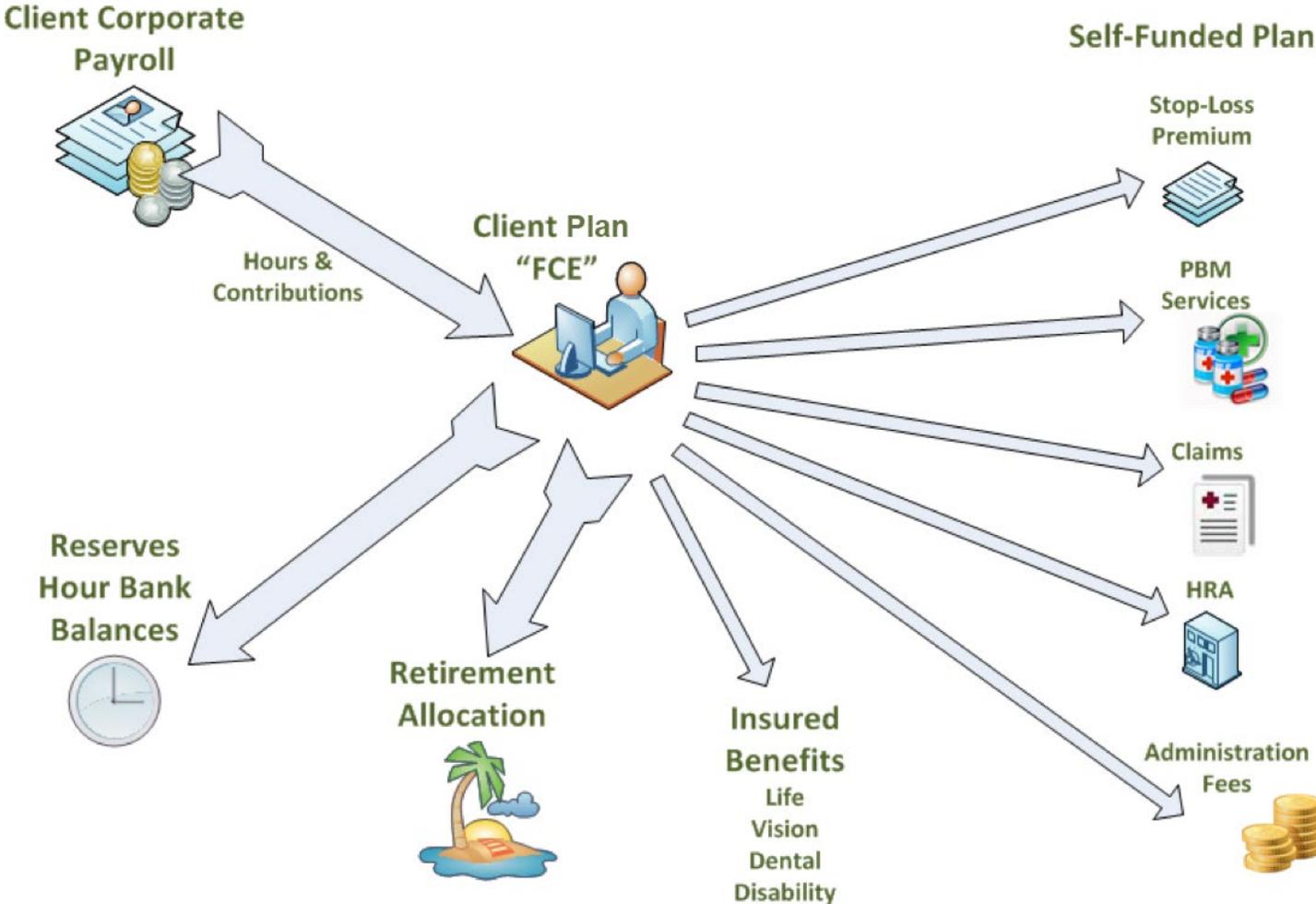
Fully Insured

Example



Self/Level Funded

Example





Things To Think About



The Federal Government, in order to “level” the playing field, provides contracts through a bidding process



Bidding Government Contracts is very competitive - to win, companies must work on low margins and reduce their G&A load



Companies that bid the H&W fringe dollars going into benefits have a competitive advantage



THE IMPORTANCE OF ACHIEVING SCA COMPLIANCE

How To Succeed In A Market Of “LPTA” Contracts?

(Low Price Technically Acceptable)

THINK LONG-TERM!



ELIMINATION

Health insurance costs rising faster than the fringe increases suggest that making thoughtful decisions today may pay dividends in the future



CONTAINING COSTS

When a contractor requires an employee to participate in its fringe benefit plan, the costs are contained within the fringe to reduce the liability to the contractor.



GUIDELINES

Remember, under SCA guidelines, contractors cannot force an employee to pay for fringe benefits from their wages



STRATEGY

Without a proper fringe strategy, hemorrhaging health plan related costs could reduce profits on a 3, 5 or 7 year contract.

THANK YOU

The image shows a modern glass-walled office building at dusk. The FCE logo is illuminated on the upper right corner of the building. The sky is a deep blue, and some trees are visible in the foreground and background.

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