

## Nondiscrimination Testing

### What is Nondiscrimination Testing?

Nondiscrimination Testing is a battery of tests conducted on health and welfare benefit plans to insure the plans are not discriminating in favor of highly compensated or key employees. The IRS recommends annual testing for plans that are subject to the nondiscrimination rules under Sections 125, 129, and 105(h). Medcom provides comprehensive testing for Premium Only Plans, FSA, HRA, and DCAP plans, and Self-Funded medical and dental plans.

### Why Should Employers Conduct Nondiscrimination Testing?

In order to qualify for favorable tax treatment, plans must meet IRS nondiscrimination requirements. Conducting annual testing allows an employer to know the requirements are met or to take corrective action in the event the requirements are not met. In the event of an IRS audit, auditors will typically request test results. Recent testing with passing results may prevent further inquiry. Recent testing with failing results, with subsequent corrective action taken, can demonstrate a willingness to comply with IRS requirements. Without testing, if a plan is found to be operating in a discriminatory manner during an audit, and Highly Compensated Employees participating in the plan may suffer severe adverse tax consequences.

The IRS recommends annual testing to ensure plans are not operating in a discriminatory manner. Regular testing may be viewed as a good faith effort to comply with IRS requirements.

Medcom conducts the following tests for each type of plan as part of our Nondiscrimination Testing services.

#### Cafeteria Plans

- Cafeteria / Premium Only Plans | Section 125
  - Eligibility Test
  - Contributions & Benefits Test
  - Key Employee Concentration Test
- Health Flexible Spending Account | Section 105(h)
  - Eligibility Test
  - Benefits Test
- Dependent Care Assistance Plans | Section 129
  - Eligibility Test
  - Contributions & Benefits Test
  - More-than-5%-Owners Concentration Test
  - 55% Average Benefits Test

#### Self-Funded Medical and Dental Plans

- Health Reimbursement Arrangements | Section 105(h)
  - Eligibility Test
  - Benefits Test
- Medical and Dental Plans | Section 105(h)
  - Eligibility Test
  - Benefits Test

