

# Health Care Reform Management Alert Series



## IRS Releases Final Employer Reporting Forms and Instructions

Issue 92

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*This is the ninety-second issue in our series of alerts for employers on selected topics in health care reform. (Click [here](#) to access our general summary of health care reform and other issues in this series). This series of Health Care Reform Management Alerts is designed to provide an in-depth analysis of certain aspects of health care reform and how it will impact your employer-sponsored plans.*

As we previously reported in [Issue 80](#), the Affordable Care Act (ACA) requires providers of minimum essential health coverage and applicable large employers to file annual reports with the IRS to report the coverage provided to its full-time employees and to inform individuals of available health coverage.

In February, the IRS released final forms along with instructions to be used for annual reporting. On May 19, 2015, the IRS released revised [Questions and Answers on Reporting of Offers of Health Insurance Coverage by Employers \(Section 6056\) \(Q&As\)](#) and [Questions and Answers about Employer Information Reporting on Form 1094-C and Form 1095-C](#) providing additional detail on how to comply with the reporting requirements for employers.

"ALE Member" means each entity, that is a member of a controlled group or "Aggregated ALE Group", with its own Employer Identification Number (EIN) that offers group health coverage to an employee.

As a brief reminder:

- **6055 Report:** Section 6055 of the Internal Revenue Code (IRC) imposes a reporting requirement on providers of minimum essential coverage (MEC). This reporting requirement is intended to collect information for purposes of enforcing the "individual mandate" and applies to health insurance issuers, sponsors of self-insured health plans, governments, and other persons that provide MEC to individuals.
- **6056 Report:** Section 6056 of the IRC imposes a reporting requirement on ALEs. The reports are meant to assist the IRS in determining whether an employer owes a payment under the employer shared responsibility provisions under IRC Section 4980H. The requirement to furnish employee statements is intended to help employees determine whether they have met the individual shared responsibility requirement and/or whether they may claim a premium tax credit on their individual tax return for the purchase of coverage on an exchange.

In response to concerns that ALEs offering self-funded group health plan coverage would have to report on multiple forms, as both the employer and the provider of the coverage, the IRS came up with a B series and a C series of Forms 1094 and 1095. The B series will generally apply to insurance providers of coverage as well as multiemployer plans. While the C series will generally apply to ALE members. This alert focuses on the C forms.

Under the [Instructions](#) for Forms 1094-C and 1095-C, ALEs subject to the employer mandate are required, to use the C forms to report information about individuals who have been offered coverage under the employer plan.

## Form 1094-C Transmittal

### Who Must File

The purpose of the Form 1094-C is for ALE members to report whether they offered adequate coverage to avoid a penalty under Section 4980H. Each ALE member must file a transmittal Form 1094-C that summarizes all of the Form 1095-C returns filed for each of its full-time employees for a given calendar year. ALE members with 50-99 full-time employees, while exempt from the employer mandate for 2015, are still required to file Forms 1094-C and 1095-C because the reporting is also intended to help employees satisfy their individual mandates.

**For purposes of reporting on both forms, a full-time employee is one identified as such under the Section 4980H regulations (see [Issue 77](#)). An employee in any of these Limited Non-Assessment Periods is not considered a full-time employee:**

- 1. First Year as ALE** - January through March of first calendar year in which an employer is an ALE if employee was not offered coverage during prior year.
- 2. Waiting Period under the Monthly Measurement Method** - Period from first full calendar month employee is eligible ending two calendar months after end of that month.
- 3. Waiting Period under the Look-Back Measurement Method (LBMM)** - If employee is expected to be full-time at start date, period from employee's start date through third full calendar month of employment
- 4. Variable, Seasonal and Part-time Under LBMM** - The Initial Measurement Period (IMP) and the immediately following Administrative Period.
- 5. Change to Full Time Status During IMP Under LBMM** - Generally the period from date of employee's change in status through end of third full calendar month following change.
- 6. New Hires** - If employee's first day is not first day of the month, first calendar month of employment.

Each ALE member must file its own Form 1094-C. One form per controlled group, even if covered by the same group health plan, will not work. (There are 3 places on the 1094-C where the ALE member must report that it is part of a controlled group; namely, on line 21, in Part III on column (d), and in Part IV.) An ALE member may file more than one Form 1094-C, but each ALE member must file one Authoritative Transmittal Form 1094-C. For example, an ALE member may file a separate Form 1094-C for each division, but it must indicate (on line 19) that one of the forms is the Authoritative Transmittal. And, the Authoritative Transmittal must include all the information on each division's Form 1094-C.

## Information Required

Part I asks for general information about the ALE member, including the ALE member's EIN.

Part II asks if the ALE member is a member of an Aggregated ALE Group (i.e., a controlled group) and for the total number of 1095-C forms that the ALE member is filing. In addition, if an ALE member is using a simplified method of reporting or transition relief, this is indicated in Part II, line 22.

### Line 22

**A. Qualifying Offer Method** - This box may be checked if an employer made a Qualifying Offer to one or more full-time employees for all months during the year. A Qualifying Offer is an offer of minimum value MEC at a monthly cost for employee-only coverage not exceeding 9.5% of the federal poverty level and MEC offered to spouse and dependents. Enter Code 1A on line 14. Do not report the dollar amount on line 15 of Form 1095-C for any month a Qualifying Offer is made.

**B. Qualifying Offer Method Transition Relief for 2015** - This box may be checked if an employer made a Qualifying Offer for one or more months during 2015 to at least 95% of its full-time employees. For any month a Qualifying Offer was made, on line 14, enter Code 1A for any months for which the employee received a Qualifying Offer or Code 1I for any months for which the employee did not receive a Qualifying Offer. Do not complete line 15.

**C. 4980H Transition Relief** - This box may be checked if an employer is eligible for either the 2015 Relief for ALEs with fewer than 100 full-time employees, or the 2015 Relief for calculation of the "no coverage penalty" for ALEs with a 100 or more full-time employees. Complete Part III, Column (e).

**D. 98% Offer Method** - An Employer may check this box if it offered for all 12 months affordable, minimum value coverage to at least 98% of its employees and MEC to those employees' dependents. Do not complete the full-time employee count in Part III, Column (b). (For more information, see Instructions.)

In Part III, employers indicate in column (a) whether they offered MEC during the 12 months of the year. If an employer offered MEC to at least 95% (70% for 2015) of its full-time employees and their dependents for the entire calendar year, the employer may check yes in line 23. If the employer did not offer MEC to at least 95% (70% for 2015) for any of the 12 months, the employer checks no for each of the appropriate months, unless the employer is eligible for 4980H Transition Relief for 2015. If eligible for such relief, the employer checks yes. Part III also asks for the number of full-time employees and total employees.

Part IV requires a listing of all ALE members within the employer's controlled group, in order of number of full-time employees, along with their EINs.

## Form 1095-C Employer-Provided Coverage Information

### Who Must File

Each ALE member must file a Form 1095-C for (i) each employee who was a full-time employee for any month of the calendar year, and (ii) for any employee who enrolls in self-funded coverage, whether or not full-time for any month. In addition to filing these forms with the IRS, the employer is also required to furnish a copy of the Form 1095-C to the employee. Form 1095-C is used to report information about each employee and to determine the eligibility of employees for the premium tax credit.

### Information Required

Part I asks for information on the individual receiving coverage and on the ALE member that is reporting on the individual. The instructions allow employers to use either the B forms or the C forms to report coverage for non-employees (e.g., directors, retirees, COBRA beneficiaries) who are enrolled in an employer-sponsored self-insured plan.

Part II, line 14 asks for information on the coverage actually offered to the individual each month. The Instructions provide 9 different codes. A code must be entered for each calendar month, even if the individual was not a full-time employee for any given month. An employer is considered to offer coverage for a month only if it offers coverage for every day of the month. This is also true for a terminated employee. Accordingly, if an employee terminates employment on any day other than the last day of a month and coverage terminates upon termination of employment, the ALE member should report that the employee was not offered coverage for that final month of employment by entering code 1H (no offer of coverage) on line 14.

Line 15 is where the employer reports the lowest-cost monthly premium for self-only minimum value coverage that is offered to the employee (even if the employee enrolls in more expensive coverage and pays a higher amount). Employers only have to report on line 15 if MEC providing minimum value was actually offered in that month. The qualified offer method and qualifying offer transition relief relieve the employer from reporting on line 15.

While line 14 relates to the offer of coverage, line 16 relates to the actual coverage in place (or not). In line 16, employers enter a code relating to whether the employee was enrolled in coverage, was not employed during the month, was not a full-time employee, or was in a limited non-assessment period, or relating to whether the employer used an affordability safe harbor or the multiemployer plan transition relief. Employers must enter Code 2C for any month in which the employee enrolled in health coverage offered by the employer for each day of the month, regardless of whether any other line 16 code might also apply. However, if no code applies, line 16 should be left blank.

Part III asks for information relevant to individual mandate. An ALE member that sponsors a self-insured plan should complete Part III for employees and family members that enroll. Non-employees are also reported in Part III. (See Q&As, Q-10.) ALE members should report an individual as having coverage for the calendar month if the individual was covered for any day of the month. Employees (and their covered dependents) covered under insured programs or multiemployer plans should not be reflected in Part III. These individuals will receive a 1095-B from the provider of the coverage.

### Social Security Numbers (SSN)

An employer must make a reasonable attempt to obtain a SSN for an enrolled individual. Under these rules, the reporting entity must make an initial solicitation at the time the relationship with the payee is established. If the reporting entity does not receive the TIN, the first annual solicitation is generally required by December 31 of the year in which the relationship with the payee begins (January 31 of the following year if the relationship begins in December). Generally, if the SSN is still not provided, a second solicitation is required by December 31 of the following year. If a SSN is still not provided, the reporting entity need not continue to solicit a SSN and may use the individual's date of birth.

## One Form per Employee per Employer

For each full-time employee of an ALE member, there must be only one Form 1095-C filed for coverage with that ALE member. For example, if an employer separately reports for each of its two divisions, the employer must combine the offer and coverage information for any employee who worked at both divisions during the calendar year so that a single Form 1095-C is filed for that employee. In contrast, a full-time employee who works for two separate ALE members at different times during a year must receive a separate Form 1095-C from each employer reflecting coverage in the applicable months. However, if an employee works for two ALE members and receives an offer of coverage in the same month, the reporting ALE member for that month would be the one for whom the employee worked the most hours.

## Reporting in the Multiemployer Plan Context

Special reporting challenges arise in the multiemployer plan context (see [“Information Overload: ACA Reporting Compliance for Multiemployer Plans”](#) by Mitchel D. Whitehead and M’Alyssa Mecenas, originally published in the December 2014 issue of *Benefits Magazine*). Unfortunately, the final instructions do little to alleviate reporting burdens contributing ALEs likely will face.

Commenters asked the IRS in fall 2014 to allow ALEs to skip lines 14 and 15 on Form 1095-C if they are eligible to use the multiemployer plan transition relief, but the IRS did not adopt that rule. Further, the instructions suggest an employer should use indicator Code 1H (no offer of coverage) on line 14 for months where the employer contributes to a multiemployer plan on behalf of an employee who is not actually eligible for coverage under the multiemployer plan. The IRS has commented that the ALE should use the code corresponding to the information provided by the multiemployer plan in line 14 (and line 15, if applicable).

If the multiemployer plan transition relief applies, an ALE should use code 2E on line 16. However, if an ALE has information about enrollment of its employees, the instructions appear to require the ALE to report those months of coverage using code 2C. This has raised concerns about whether HIPAA restricts multiemployer plans’ ability to provide ALEs with enrollment information. Informally, the IRS has made conflicting statements in this regard. Further clarification on this issue should be forthcoming.

For 2015, the instructions confirm that an employer can rely on the multiemployer plan transition relief with respect to a plan not yet offering dependent coverage, as long as the plan is taking steps toward offering that coverage.

## Delivering Individual Statements

Statements may generally be delivered in the same manner as Forms W-2 are delivered.

## Due Dates

The information reporting requirements are first effective for calendar year 2015, meaning that reporters will file information returns with the IRS and furnish statements to individual recipients in the first quarter of 2016. Specifically, Forms 1095-C must be furnished to individuals by **February 1, 2016** and Forms 1094-C and 1095-C must be filed with the IRS by **March 31, 2016**, if filing electronically (by **February 29, 2016**, if filing by paper).

## Next Steps

Though some questions remain open, employers should begin planning now for ACA reporting. We suggest that employers review the final forms and instructions in detail with their relevant vendors and legal counsel to ensure that the appropriate systems and structures are in place to allow timely, accurate and compliant reporting.

## Upcoming Webinar Thursday, June 4, 2015

Against this backdrop, Seyfarth attorneys Diane Dygert and James Napoli will provide a discussion of what is required by new IRS rules and some of the most common reporting situations that employers may encounter. For more information and registration, click [here](#).

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