

ACA OVERVIEW

Provided by Hickok & Boardman HR Intelligence

Reporting Requirements for Employers and Health Plans

The Affordable Care Act (ACA) created a number of federal reporting requirements for employers and health plans. The additional reporting is intended to promote transparency with respect to health plan coverage and costs. It will also provide the government with information to administer other ACA mandates, such as the large employer shared responsibility penalty and the individual mandate.

This ACA Overview summarizes the following reporting provisions:

- Form W-2 reporting;
- Employer health coverage reporting (Code § 6056);
- Reporting of health coverage by health insurance issuers and sponsors of self-insured plans (Code § 6055);
- Quality of care reporting; and
- Transparency in coverage reporting and cost-sharing disclosures.

This ACA Overview is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

HIGHLIGHTS

FORM W-2 REPORTING

Employers must report the aggregate cost of employer-sponsored coverage on their employees' Forms W-2.

§ 6055 AND § 6056 REPORTING

Under Sections 6055 and 6056, certain employers must provide information to the IRS about the coverage they offer (or do not offer) to their employees.

QUALITY OF CARE REPORTING

Group health plans and issuers must submit an annual report to HHS regarding plan information that may affect quality of care in certain ways.

TRANSPARENCY REPORTING

Issuers seeking QHP certification to disclose certain information to the Exchange, HHS, state insurance commissioner and the public.



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FORM W-2 REPORTING—CURRENTLY EFFECTIVE

The ACA requires employers to report the aggregate cost of employer-sponsored group health plan coverage on their employees' Forms W-2. The purpose of the Form W-2 reporting requirement is to provide information to employees regarding how much their health coverage costs.

In general, all employers that provide "applicable employer-sponsored coverage" must comply with the Form W-2 reporting requirement. Applicable employer-sponsored coverage is, with respect to an employee, coverage under any group health plan made available to the employee by the employer which is excludable from the employee's gross income under Code Section 106.

The Form W-2 reporting requirement is **optional for small employers until further guidance is issued**. Small employers will continue to be exempt from the reporting requirement, unless and until the IRS issues further guidance. An employer is considered a small employer if it had to file **fewer than 250 Forms W-2** for the prior calendar year.

Large employers (those that file 250 or more Forms W-2) were required to comply with the reporting requirement beginning in 2012, for the Forms W-2 that were due by the end of January 2013.

EMPLOYER HEALTH COVERAGE REPORTING (CODE § 6056)—CURRENTLY EFFECTIVE

Under Code Section 6056, applicable large employers (ALEs) subject to the ACA's employer shared responsibility provisions must file a return with the IRS that reports the terms and conditions of the health care coverage provided to the employer's full-time employees for the calendar year. Related statements must also be provided to employees.

The IRS will use the information that ALEs report to verify employer-sponsored coverage and administer the employer shared responsibility provisions. These shared responsibility provisions impose penalties on ALEs that do not offer affordable, minimum value coverage to their full-time employees and dependents. **The ACA's employer penalties took effect for most employers on Jan. 1, 2015**. Section 6056 reporting was first required to be filed in 2016, related to 2015 coverage.

LINKS AND RESOURCES

- In April 2011, the IRS issued [Notice 2011-28](#) to provide interim guidance on the Form W-2 reporting requirement.
- On March 5, 2014, the IRS released [final regulations](#) on the Section 6055 reporting requirements, and separate [final regulations](#) on the Section 6056 reporting requirements.

An employer qualifies as an ALE under the employer shared responsibility provisions if it employed an average of at least **50 full-time employees**, including full-time equivalent employees, on business days during the preceding calendar year. Only ALEs with full-time employees are subject to the Section 6056 reporting requirements (and only with respect to their full-time employees). Thus, **ALEs without any full-time employees are not subject to the Section 6056 reporting requirements.**

Each ALE is required to file a Section 6056 return with the IRS with respect to its full-time employees. A separate **Section 6056 employee statement** is required for each full-time employee, along with a **single transmittal form** for all of the returns filed for a given calendar year. The final regulations include a general method for filing Section 6056 returns, as well as several optional alternative methods that may be used with respect to specific groups of employees.

Section 6056 IRS Return

In general, Section 6056 reporting will be accomplished by filing:

- A single [Form 1094-C](#) (a transmittal) for all of the returns filed by the ALE; and
- A separate [Form 1095-C](#) (an employee statement) for each full-time employee of the ALE.

A substitute form may be used, as long as it includes all of the required information and complies with IRS procedures or other applicable guidance.

The ALE's **return filed with the IRS** must include the following information:

- The ALE's name, address and employer identification number (EIN);
- The name and telephone number of the ALE's contact person;
- A certification of whether the ALE offered to its full-time employees (and their dependents) the opportunity to enroll in MEC under an eligible employer-sponsored plan, by calendar month;
- The months during the calendar year for which MEC under the plan was available;
- Each full-time employee's share of the lowest cost monthly premium for self-only coverage providing minimum value offered to that employee, by calendar month;
- The number of full-time employees for each month during the calendar year;
- The name, address and Social Security number (SSN) or other taxpayer identification number (TIN) of each full-time employee and the months (if any) during which he or she was covered under the eligible employer-sponsored plan during the calendar year; and
- Any other information required by the IRS.

Some of the information will be provided through the use of indicator codes, rather than detailed explanations or summaries.

Deadline for Filing with the IRS

Section 6056 returns must be filed with the IRS annually, no later than **Feb. 28 (March 31, if filed electronically)** of the year immediately following the calendar year to which the return relates. For the 2016 calendar year, returns were due no later than Feb. 28, 2017, or March 31, 2017, if filed electronically. For the 2017 calendar year, returns must be filed no later than **Feb. 28, 2018, or April 2, 2018**, if filed electronically.

Electronic filing is required for all ALEs filing at least 250 returns under Section 6056 during the calendar year. Only Section 6056 returns are counted in applying the 250 return threshold, and each Section 6056 return for a full-time employee is counted as a separate return. ALEs filing fewer than 250 returns during the calendar year may choose to file in paper form, but are permitted (and encouraged) to file electronically.

Section 6056 Employee Statement

The Section 6056 employee statement may be made by furnishing:

- A copy of the Form 1095-C for that full-time employee; or
- A substitute employee statement for that full-time employee, as long as it includes all of the required information and complies with IRS procedures or other applicable guidance.

The ALE is not required to furnish a copy of the transmittal Form 1094-C that accompanies the return.

The Section 6056 employee statement must include the name, address and EIN of the ALE, and the information required to be shown on the Form 1095-C with respect to the full-time employee.

Deadline for Furnishing to Individuals

Section 6056 employee statements must be furnished annually to full-time employees on or before **Jan. 31** of the year immediately following the calendar year to which the employee statements relate. Due to a delay in IRS [Notice 2016-70](#), for the 2016 calendar year, individual statements were required to be furnished no later than March 2, 2017.

For the 2017 calendar year, individual statements were required to be furnished by Jan. 31, 2018. However, the IRS has extended the due date for furnishing 2017 Forms 1095-B and 1095-C to individuals. Specifically, [Notice 2018-06](#) extended the due date for furnishing the 2017 Forms 1095-B and 1095-C to individuals for an additional 30 days, from Jan. 31, 2018, until **March 2, 2018**.

Employee statements may be furnished electronically if certain notice, consent and hardware and software requirements are met. These electronic furnishing rules are substantially similar to the process currently in place for the electronic furnishing of employee Forms W-2.

Combined Reporting

In an effort to minimize burden and streamline the reporting process, while minimizing the need for employers and the IRS to build multiple systems to accommodate multiple forms, **ALEs will use a single combined form for reporting the information required under both Section 6055 and Section 6056.** Under the combined reporting method, Form 1095-C will be used by ALEs to satisfy the Section 6055 and 6056 reporting requirements, as applicable.

- An ALE that sponsors a self-insured plan will complete all parts of the combined Form 1095-C to report the information required under both Sections 6055 and 6056. Therefore, these ALEs will be able to use a single form to report information regarding whether an employee was covered.
- An ALE that provides insured coverage will also report on Form 1095-C, but will complete only the parts of Form 1095-C related to Section 6056 (Parts I and II).

Section 6055 reporting entities that are not ALEs or are not reporting in their capacity as employers (such as health insurance issuers, self-insured multiemployer plans and providers of government-sponsored coverage) will report under Section 6055 using Forms 1094-B and 1095-B.

ALEs must also provide only a single employee statement (with the Section 6056 information and, with respect to employers with a self-insured group health plan, Section 6055 information). ALEs may mail to an employee in the same mailing one or more of the required information returns, such as the combined Section 6055 and Section 6056 employee statement and the Form W-2.

PROVIDER REPORTING OF HEALTH COVERAGE (CODE § 6055)—CURRENTLY EFFECTIVE

The ACA requires health insurance issuers, sponsors of self-insured health plans, government agencies that administer government-sponsored health insurance programs and any other entity that provides minimum essential coverage (MEC) to file an annual return with the IRS reporting information for each individual who is provided with this coverage. Related statements must also be provided to individuals.

The IRS will use this information to implement the ACA's individual mandate (the requirement that individuals obtain acceptable health insurance coverage or pay a penalty), which became effective in 2014. Section 6056 reporting was first required to be filed in 2016, related to 2015 coverage.

For employers with insured group health plans, health insurance issuers are responsible for Section 6055 reporting for all insured coverage except:

- Coverage under certain government-sponsored programs (such as Medicaid and Medicare) that provide coverage through a health insurance issuer; and
- Coverage under QHPs through the individual market Exchange.

Issuers are not required to file under Section 6055 for QHP coverage through an individual market Exchange. The Exchange will provide the necessary information to the IRS and the individual. However,

issuers must report on QHPs in the small group market enrolled in through the Small Business Health Options Program (SHOP), because the Exchanges will not be reporting information on these plans.

The **plan sponsor** is responsible for Section 6055 reporting for a self-insured group health plan. In general, the plan sponsor is the entity that establishes or maintains the plan. The employer is the plan sponsor for self-insured group health plans established or maintained by a single employer, and each participating employer is the plan sponsor for a plan established or maintained by more than one employer (other than a multiple employer welfare arrangement). For a multiemployer plan, the plan sponsor is the association, committee, joint board of trustees or other group of representatives who establish or maintain the plan.

Section 6055 reporting is not required for “**supplemental coverage**,” if an individual is covered by more than one MEC plan or program, where one of the plans or programs supplements the other “primary” coverage. This rule is intended to eliminate duplicative reporting of an individual’s MEC in situations where there is reasonable certainty that the provider of the “primary” coverage will report. In addition, reporting is not required for coverage that is not MEC. Thus, no reporting is required for health savings accounts (HSAs), coverage at on-site medical clinics or for Medicare Part B. However, Medicare Part A qualifies as MEC and is subject to reporting.

Section 6055 IRS Return

In general, an entity reporting under Section 6055 will report using:

- A single [Form 1094-B](#) (a transmittal) for all of the returns filed for a given calendar year; and
- A separate [Form 1095-B](#) (individual statement) for each individual who is provided MEC.

Substitute statements that comply with applicable requirements may be used, as long as the required information is included.

However, a reporting entity that is reporting under Section 6055 as an ALE will file under a combined reporting method, using [Form 1094-C](#) and [Form 1095-C](#). Form 1095-C will be used by ALEs to satisfy both the Section 6055 and 6056 reporting requirements, as applicable.

The Section 6055 **return filed with the IRS** must include the following information:

- The name, address and EIN of the reporting entity;
- The name, address and TIN of the responsible individual;
- If coverage is through an employer’s group health plan, the name, address and EIN of the employer sponsoring the plan;
- The name and TIN (or birthdate) of each individual covered under the policy or plan, and the months for which, for at least one day, each individual was enrolled in coverage; and
- Any other information required by the IRS.

Deadline for Filing with the IRS

Reporting entities must file the Section 6055 information returns with the IRS by **Feb. 28** (or **March 31**, if filed electronically) of the year following the calendar year in which they provided MEC. 2016 calendar year returns were due no later than Feb. 28, 2017, or March 31, 2017, if filed electronically. For the 2017 calendar year, returns must be filed no later than **Feb. 28, 2018**, or **April 2, 2018**, if filed electronically.

Any reporting entity who is required to file at least 250 returns under Section 6055 must file electronically. The transmittal (Form 1094-B or 1094-C) is not treated as a separate return, but must be electronically filed in the form and manner required by the IRS when the Form 1095 is electronically filed. All other reporting entities that are required to file fewer than 250 returns under Section 6055 are permitted, but not required, to file electronically. A substitute form may be used, as long as it complies with IRS procedures or other guidance.

Section 6055 Employee Statements

Every person required to file a return under Section 6055 must also furnish a written statement to the responsible individual identified on the return. A “responsible individual” includes a primary insured, employee, former employee, uniformed services sponsor, parent or other related person named on an application who enrolls one or more individuals (including him or herself) in MEC. Statements are not required to be provided to any other individual who is not the responsible individual.

Individual statements may be made by furnishing to the responsible individual a copy of the IRS return (or a substitute statement that includes the required information). The individual statement must show the phone number for the reporting entity’s designated contact person and policy number, if any, and the information required to be shown on the Section 6055 return for the responsible individual and each covered individual listed on the return.

Deadline for Furnishing to Individuals

The individual statement must be provided by **Jan. 31** following the calendar year for which the information was required to be reported to the IRS. Due to a delay in IRS [Notice 2016-70](#), for the 2016 calendar year, individual statements were required to be furnished no later than March 2, 2017.

For the 2017 calendar year, individual statements were required to be furnished by Jan. 31, 2018. However, the IRS has extended the due date for furnishing 2017 Forms 1095-B and 1095-C to individuals. Specifically, [Notice 2018-06](#) extended the due date for furnishing the 2017 Forms 1095-B and 1095-C to individuals for an additional 30 days, from Jan. 31, 2018, until **March 2, 2018**.

Electronic delivery of employee statements is permitted only if the recipient affirmatively consents. The final regulations explicitly allow statement recipients to provide consent and to access Section 6055 statements in response to a notice on a website. A reporting entity may simultaneously request consent

to receive an electronic Section 6055 statement and consent regarding other statements. However, each form must be specifically referenced.

Reporting entities may also furnish the Form 1095-B or 1095-C with the Form W-2 in the same mailing. If mailed, the statement must be sent to the individual's last known permanent address or, if no permanent address is known, to the individual's temporary address. A reporting entity's first class mailing to the recipient's last known permanent address, or if no permanent address is known, the temporary address, discharges the requirement to furnish the statement, even if the statement is returned. A reporting entity that has no address for an individual should send the statement to the address where the individual is most likely to receive it.

Combined Reporting

In an effort to minimize burden and streamline the reporting process, while minimizing the need for employers and the IRS to build multiple systems to accommodate multiple forms, **ALEs will use a single combined form for reporting the information required under both Section 6055 and Section 6056.** For more information on the combined reporting method, see the "Combined Reporting" section above, under the "Employer Health Coverage Reporting (Code § 6056)" heading.

QUALITY OF CARE REPORTING—EFFECTIVE DATE TO BE DETERMINED

The ACA requires group health plans and health insurance issuers to submit an annual report to HHS regarding plan benefits and provider "reimbursement structures" that may affect the quality of care in certain ways. Grandfathered plans are not subject to the ACA's "quality of care" reporting requirement. In general, the report must address whether the plan or coverage:

- Improves health outcomes through activities such as quality reporting, effective case management, care coordination, chronic disease management, and medication and care compliance initiatives (including the medical homes model);
- Implements activities to prevent hospital readmissions using a comprehensive discharge program and post-discharge reinforcement;
- Implements activities to improve patient safety and reduce medical errors through best clinical practices, evidence-based medicine and health information technology; and
- Implements wellness and health promotion activities.

The annual quality of care reports will be available to the public through an Internet website. This report must also be provided to enrollees under the plan or coverage during each open enrollment period.

The ACA does not include a compliance deadline for the quality of care reporting requirement. The ACA required HHS to issue guidance on this reporting requirement by March 23, 2012 (that is, two years after the ACA's enactment date). However, HHS has not yet issued this guidance. When this guidance is issued, it will likely specify a compliance deadline for plans and issuers.

TRANSPARENCY IN COVERAGE REPORTING AND COST-SHARING DISCLOSURES—DELAYED

The ACA requires health insurance issuers seeking certification of a health plan as a QHP under an Exchange to disclose certain information to the Exchange, Department of Health and Human Services (HHS) and state insurance commissioner. QHP issuers must also make this information available to the public. The information subject to reporting includes, for example:

- Claims payment policies and practices;
- Data on enrollment and disenrollment;
- Data on the number of claims denied;
- Data on rating practices; and
- Information on cost-sharing and payments for any out-of-network coverage.

Also, a health plan seeking QHP certification must provide certain cost-sharing disclosures (including deductibles, copayments and coinsurance) to participants upon request. At a minimum, this information must be made available through an Internet website and by other means for individuals without Internet access.

The ACA's transparency in coverage reporting and cost-sharing disclosure requirements also apply to non-grandfathered group health plans and health insurance issuers offering group or individual coverage outside of an Exchange. The reporting requirements are identical to those for QHPs, except plans and issuers outside of the Exchange are not required to report information to an Exchange.

Because QHP insurers will not have certain required data until the first year of operation, this reporting requirement will go into effect after a QHP has been certified for one benefit year. This reporting requirement will become applicable to other group health plans and insurers no sooner than when the QHP reporting requirement becomes effective.

It is expected that HHS will issue more guidance on this reporting requirement, including how it applies to health plans and issuers offering coverage outside of an Exchange.