

Health care reform requires employers and individuals to report certain information to the Internal Revenue Service (IRS) each year verifying that they offer or have required health benefits under the law and do not owe any penalties. Employers will need to provide information about their health benefits plan and the individuals covered under the plan. Individuals will need to provide information about their coverage and confirm eligibility for subsidies (if any) when filing their taxes. Employer plan information will be reported under two sections of the Patient Protection and Affordable Care Act (PPACA) – sections 6055 and 6056. Initial reports on employer sponsored health benefits will be due in early 2016 for the 2015 tax year. Reporting under 6055 will be used to verify that an individual has Minimum Essential Coverage (MEC) and reporting under 6056 will be used to determine whether or not employer coverage is affordable or meets minimum value.

Final regulations implementing reporting requirements were published by the IRS on March 10, 2014. While final regulations have been released, applicable reporting forms are still pending. Final details on reporting will be available when forms and instructions are released. The IRS has indicated draft forms and instructions will be available soon, but a date has not been provided.

#### **Employer size determines reporting requirements**

- An employer with fewer than 50 full-time and full-time equivalent employees that sponsors a fully insured group health plan will not be required to do any reporting. The insurer will provide 6055 reporting on MEC.
- An employer with fewer than 50 full-time and full-time equivalent employees that sponsors a self-funded group health plan will complete the section 6055 portion of the form. This employer will not be required to provide 6056 reporting on affordability or minimum value.
- An employer with 50 or more full-time and full-time equivalent employees that sponsors a self-funded plan will complete both Sections 6055 & 6056.

Employers with 50 to 99 full-time equivalent employees during 2014 may not be subject to the employer shared responsibility requirements in 2015 if they certify, under Section 6056, that they are eligible for the delay. It is not clear if these employers will be required to provide additional Section 6056 reporting for 2015 to validate employee applications for premium tax credits.

#### **Reporting due dates and distribution methods**

This reporting will coincide with W-2 and W-3 reporting. Individuals will receive a report on an IRS Form 1095 that provides coverage information. This 1095 Form is due to employees no later than January 31 following the calendar year that is being reported. The employer will provide a roll-up report on IRS Form 1094 which includes copies of the individual 1095 forms. These will be due by February 28 (or March 31 if filed electronically). Employers issuing 250 or more 1095 forms will be required to file electronically. Reporting must be done on a calendar year basis, even if the plan or policy operates on a non-calendar year.

The named insured will receive the 1095 form. Employers can include this form with their W-2 form mailing. Forms can be sent to the last known permanent address and are not required to resend the form if it is returned. Employers also have the option of providing the form electronically. Employees will need to provide written consent to receive the form electronically. If the form is sent electronically and

it is returned, the employer must try to obtain a current electronic address. If that is not possible, the notice must be mailed or hand-delivered within 30 days.

### **Minimum Essential Coverage (Section 6055) reporting**

Minimum Essential Coverage reporting for fully insured plans and Small Business Health Options Program (SHOP) Marketplace will be provided by the insurer. The employer or plan sponsor is required to provide reporting for self-funded plans (regardless of employer size). The Marketplace will provide reporting for individual policies. Joint trustees or a committee that oversees a multiemployer plan and government agencies that provide non-employment coverage (such as Medicare and Medicaid) will also report this required information. Each employer in a multiple employer welfare arrangement (MEWA) must file a separate report. Government agencies may designate an entity to file for the entire plan. The employee organization must file for a self-funded plan maintained solely by a union or employee organization.

Insurers and employers or plan sponsors will provide reporting for all individuals covered by the plan including individuals that are exempt from the individual mandate. Individuals that decline coverage do not need to be included. Section 6055 reporting must include:

- Insurer or plan sponsor name, address and employer identification number (EIN)
- The name, address and Social Security number of the "responsible individual" (typically the employee or primary insured)
- The name and Social Security number (or date of birth if a Social Security number is not available; generally the employer must make two attempts to obtain the number) of each covered spouse and dependent
- The calendar months each employee, spouse or dependent child was covered for at least one day
- The name, address and EIN of an employer sponsoring the plan
- Whether coverage is through a SHOP Marketplace, and if so, the SHOP's unique identifier

### **Large Employer (Section 6056) reporting**

Large employers will use Section 6056 to report whether or not plans offered to full-time employees are affordable and meet minimum value. If coverage does not meet affordability, minimum value or no coverage is offered, this reporting will be used to calculate any applicable employer penalty. This reporting will also help determine an employee's eligibility for a premium tax credit. All large employers (those with 50 or more full-time or full-time equivalent employees in the prior calendar year) must provide Section 6056 reporting, regardless of whether the group health plan is fully insured or self-funded. All employers in a controlled or affiliated service group are combined for purposes of deciding if the employer is "large", but each employer in the group must file the Section 6056 report separately.

The large employer will need to report:

- Name, address and EIN
- The name and telephone number of a contact person (who can be a third party)
- The calendar year for which the information is being reported (even non-calendar year plans must report on a calendar year basis)

- A certification, by calendar month, as to whether minimum essential coverage was offered to its full-time employees (and dependents)
- The number of full-time employees for each month
- The name, address and Social Security number of each full-time employee and:
  - The months during the year that minimum value coverage was offered to the employee
  - The employee's share of the cost of self-only coverage for the least expensive minimum value plan offered to the employee, by calendar month

In addition, it is expected that employers will be required to use a series of codes to indicate:

- Whether the offered coverage met minimum value (60%)
- Whether the employee's spouse was eligible for coverage
- If a full-time employee was not offered coverage, whether the employee was excluded due to a permissible waiting period, because the employee was not full-time for the month, because the person was not employed for the month or for another reason
- Whether the coverage met an affordability safe harbor
- The total number of employees by calendar month
- If the employer had no full-time employees during a given calendar month
- If a member of a controlled or affiliated service group, the name and EIN of all other employers in the group
- The name, address and EIN of anyone filing on behalf of the employer
- If a contributing employer to a multiemployer plan, whether the employee is eligible for that plan because of the employer's contributions, and the name, address and EIN of the administrator of the multiemployer plan
- Whether coverage was offered to the employee only, the employee and children only, the employee and spouse only, or the employee, spouse and children

Simplified reporting is available for employers offering generous benefit packages. Employers may be able to use simplified reporting for some employees even though it must use the general reporting method for others. Three alternative methods will be available for reporting on coverage offered in 2015:

- If the employer makes a "qualifying offer" for each month in the calendar year, it can provide a certification of coverage instead of some of the demographic reporting and provide streamlined reporting to the covered employees. If the employee was not eligible for the full year, this alternative method may not be used for that employee. A "qualifying offer" is an offer that meets all of these requirements:
  - Is offered to the employee and to any spouse and dependent children
  - Provides minimum value
  - Has an employee contribution for single coverage that is less than 9.5% of the federal poverty level (FPL) in the 48 contiguous states (which would be a maximum contribution for 2014 of \$92.38 per month)
- If the employer offers affordable, minimum value coverage to at least 98% of its total employees (regardless of whether they are full-time or part-time) it does not need to report whether an employee is full-time and it does not need to provide a count of its full-time employees. However, it will need to provide all of the other information required under the general method,

- and if an employee requests a premium tax credit, it will need to respond to an IRS inquiry about the employee's work and coverage status.
- For 2015 only, an employer that has provided a “qualifying offer” to 95% of its full-time employees, their spouses and dependents may simply provide each of its full-time employees with a statement informing the covered employees that they will not be eligible for premium tax credits (if the qualifying offer was made for each of the 12 months of the year), or that they may be eligible for premium tax credits for any months in which a qualifying offer was not made. The statement must provide contact information for the employer. The employer transmittal will need to provide identifying information for the covered employees and affirmation that a qualifying offer was made.

The regulations acknowledge the difficulties reporting may present for employers with employees covered by multiemployer plans. The plan sponsor or administrator of the multiemployer plan may complete the reporting form for its members and provide it to the employer to transmit with the forms for employees not covered by the multiemployer plan. The employer is ultimately responsible for the filing. Additional details are to be provided in the instructions when they become available.

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