



Health Care Reform

LEGISLATIVE BRIEF

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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 Legislative Brief provides a summary of the following reporting provisions:

ACA Reporting Requirements for Employers and Health Plans

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

FORM W-2 REPORTING—CURRENTLY EFFECTIVE

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 for 2012 and 2013**. Small employers will continue to be exempt from the reporting requirement for later years, 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.

APPLICABLE LARGE 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.**



Reporting Requirements for Employers and Health Plans

On March 5, 2014, the Internal Revenue Service (IRS) released [final regulations](#) on the Section 6056 reporting requirements. **Section 6056 reporting is first required to be filed in 2016, related to 2015 coverage.** However, the IRS is encouraging voluntary compliance for 2014. In addition, the IRS issued [Q&As](#) on Section 6056 reporting on Aug. 29, 2014, and a [brochure](#) to aid compliance on Feb. 9, 2015, followed by a separate set of [Q&As on Employer Reporting using Form 1094-C and Form 1095-C](#) on May 20, 2015.

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 equivalents, on business days during the preceding calendar year. Under the final regulations, only ALEs with full-time employees are subject to the filing and statement furnishing requirements of Section 6056 (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 IRS released final 2014 versions of [Form 1094-C](#) and [Form 1095-C](#) (along with related [instructions](#)) that employers will use to report under Section 6056 for 2014. **These forms are not required to be filed for 2014.** However, the IRS is encouraging voluntary compliance for 2014. On Sept. 17, 2015, the IRS released final 2015 versions of Forms [1094-C](#) and [1095-C](#), along with related [instructions](#). The 2015 final forms remained unchanged from the 2015 draft versions. The 2015 final instructions were also largely unchanged from the 2015 draft versions, but provide clarifications on some questions.

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

- The ALE's name, address and employer identification number (EIN), and the name and telephone number of the ALE's contact person;
- A certification as to whether the ALE offered to its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage (MEC) under an eligible employer-sponsored plan, by calendar month, and 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 full-time employee under an eligible employer-sponsored plan;
- The number of full-time employees for each month during the calendar year;
- The name, address and taxpayer identification number (TIN) of each full-time employee and the months (if any) during which the employee was covered under the eligible employer-sponsored plan during the year; and
- Any other information required by the IRS.

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

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. Due to the one-year delay, the first Section 6056 returns required to be filed are for the 2015 calendar year, and were required to be filed no later than **Feb. 29, 2016** (Feb. 28, 2016, being a Sunday), or **March 31, 2016**, if filed electronically.

On Dec. 28, 2015, the IRS issued [Notice 2016-4](#) to **delay the due dates for filing and furnishing forms under Section 6055 and 6056**. The due date for filing forms with the IRS has been extended from Feb. 29, 2016, to **May 31, 2016** (or, from March 31, 2016, to **June 30, 2016**, if filing electronically).

Under the final regulations, **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 employee statement is not required to include a copy of the transmittal form 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. Employee statements may identify the employee using an IRS truncated TIN rather than the social security number or other identifying number of the employee shown on the corresponding information return filed with the IRS.

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. This means that the first Section 6056 employee statements (meaning the statements for 2015) were required to be furnished no later than **Feb. 1, 2016** (Jan. 31, 2016, being a Sunday). Extensions may be available in certain circumstances.

On Dec. 28, 2015, the IRS issued [Notice 2016-4](#) to **delay the due dates for filing and furnishing forms under Section 6055 and 6056**. The due date for furnishing forms to individuals has been extended from Feb. 1, 2016, to **March 31, 2016**.

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, **the final regulations allow all ALEs to use a single combined form for reporting the information required under both Section 6055 and Section 6056**.

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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.

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 on Form 1095-B.

ALEs will also be providing 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). Employers are permitted to 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.

Reporting for Medium-sized ALEs Eligible for the One-year Delay Under the Employer Shared Responsibility Final Rules

On Feb. 10, 2014, the Treasury released [final regulations](#) implementing the ACA's employer shared responsibility provisions. These final rules include transition relief delaying compliance for medium-sized ALEs for one year, until 2016. Medium-sized ALEs are those with at least 50 full-time employees (including full-time equivalents), but fewer than 100 full-time employees (including full-time equivalents).

ALEs eligible for this transition relief will still report under Section 6056 for 2015. As part of this transition relief, the ALE must certify on its Section 6056 transmittal form for calendar year 2015 (that is, for the Section 6056 transmittal form that will be filed in 2016) that it meets the following eligibility conditions:

- The ALE employs a limited workforce of at least 50 full-time employees (including full-time equivalents), but fewer than 100 full-time employees (including full-time equivalents) on business days during 2014;
- Between Feb. 9, 2014, and Dec. 31, 2014, the ALE does not reduce the size of its workforce or the overall hours of service of its employees in order to satisfy the workforce size condition; and
- During the coverage maintenance period (that is, the period ending Dec. 31, 2015, or the last day of the plan year that begins in 2015), the ALE does not eliminate or materially reduce the health coverage, if any, it offered as of Feb. 9, 2014.

ALEs with non-calendar year plans will also certify with regard to:

- Their 2015 plan year, including the months of their 2015 plan year that fall in calendar year 2015, on the Section 6056 transmittal form for 2015 (that is, the form that will be filed in 2016); and
- The months of their 2015 plan year that fall in calendar year 2016 on the Section 6056 transmittal form for 2016 (that is, the form that will be filed in 2017).

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

The ACA requires every health insurance issuer, sponsor of a self-insured health plan, government agency that administers 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

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the ACA's individual mandate (that is, the requirement that individuals obtain acceptable health insurance coverage or pay a penalty). **The ACA's individual mandate became effective in 2014.**

On March 5, 2014, the Internal Revenue Service (IRS) released [final regulations](#) on the Section 6055 reporting requirements. **Section 6056 reporting is first required to be filed in 2016, related to 2015 coverage.** However, the IRS is encouraging voluntary compliance for 2014. In addition, the IRS issued [Q&As](#) on Section 6055 reporting on Aug. 29, 2014, and a [brochure](#) to aid compliance on April 15, 2015.

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.

To avoid collecting duplicate or unnecessary information, issuers are not required to submit Section 6055 information returns for coverage under a QHP 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 arrangements that provide benefits in addition or as a supplement to MEC. MEC is considered "supplemental coverage" not subject to reporting if it supplements a primary plan of the same plan sponsor or government-sponsored coverage (such as Medicare). Thus, providers are not required to report the following MEC that is supplemental to other MEC:

- Coverage that supplements a government-sponsored program, such as Medicare or TRICARE supplemental coverage; or
- Coverage of an individual in more than one plan or program provided by the same plan sponsor (the plan sponsor is required to report only one type of minimum essential coverage).

However, the 2015 draft instructions clarify that coverage isn't provided by the same plan sponsor if they aren't reported by the same reporting entity. **Thus, an insured group health plan and a self-insured health reimbursement arrangement (HRA) covering the employees of the same employer aren't supplemental.**

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.

Wellness programs that are an element of other MEC (such as wellness programs offering reduced premiums or cost-sharing under a group health plan) do not require separate Section 6055 reporting. The final regulations clarify that MEC that supplements a primary plan of the same plan sponsor or that supplements government-sponsored coverage (such as Medicare) are supplemental coverage not subject to reporting.

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Section 6055 IRS Return

In general, an entity reporting under Section 6055 as health insurance issuers or carriers, sponsors of self-insured group health plans that are not reporting as ALEs, sponsors of multiemployer plans and providers of government-sponsored coverage 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.

The IRS released final 2014 versions of [Form 1094-B](#) and [Form 1095-B](#) (along with related [instructions](#)) that employers will use to report under Section 6056 for 2014. **These forms are not required to be filed for 2014.** However, the IRS is encouraging voluntary compliance for 2014. On Sept. 17, 2015, the IRS released final 2015 versions of Forms [1094-B](#) and [1095-B](#), along with related [instructions](#). The 2015 final forms remained unchanged from the 2015 draft versions. The 2015 final instructions were also largely unchanged from the 2015 draft versions, but provide clarifications on some questions.

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**. As part of this combined reporting method, Form 1095-C will be used by ALEs to satisfy both the Section 6055 and 6056 reporting requirements, as applicable. The IRS released final 2014 versions of [Form 1094-C](#) and [Form 1095-C](#) (along with related [instructions](#)) that employers will use to report under Section 6056 for 2014. **These forms are not required to be filed for 2014.** However, the IRS is encouraging voluntary compliance for 2014. On Sept. 17, 2015, the IRS released final 2015 versions of Forms [1094-C](#) and [1095-C](#), along with related [instructions](#). The 2015 final forms remained unchanged from the 2015 draft versions. The 2015 final instructions were also largely unchanged from the 2015 draft versions, but provide clarifications on some questions.

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 primary insured and each other individual covered under the policy or plan;
- For each covered individual, the months for which, for at least one day, the individual was enrolled in coverage and entitled to receive benefits; and
- Any other information required by the IRS.

In addition, if coverage is through an employer's group health plan, the return must contain the following information:

- The name, address and EIN of the employer sponsoring the plan;
- Whether the coverage is a QHP enrolled in through the SHOP, and the SHOP's unique identifier; and
- Any other information the IRS may require.

Reporting entities must file the Section 6055 information return with the IRS by **Feb. 28** (or **March 31**, if filed electronically) of the year following the calendar year in which they provided MEC.

On Dec. 28, 2015, the IRS issued [Notice 2016-4](#) to **delay the due dates for filing and furnishing forms under Section 6055 and 6056**. The due date for filing forms with the IRS has been extended from Feb. 29, 2016, to **May 31, 2016** (or, from March 31, 2016, to **June 30, 2016**, if filing electronically).

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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. The employee statement must be provided by **Jan. 31** following the calendar year for which the information was required to be reported to the IRS. Reporting entities showing good cause may be allowed the flexibility to apply for an extension of time, not exceeding 30 days, to furnish statements.

On Dec. 28, 2015, the IRS issued [Notice 2016-4](#) to **delay the due dates for filing and furnishing forms under Section 6055 and 6056.** The due date for furnishing forms to individuals has been extended from Feb. 1, 2016, to **March 31, 2016.**

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, **the final regulations allow all ALEs to 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 “Applicable Large Employer Health Coverage Reporting (Code § 6056)” heading.

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.

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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.

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.

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