

Health Reform Bulletin

CBIZ

Subject: 1) Correcting Forms 1094-C and 1095-C; 2) Required Contributions – Indexed Adjustments for Minimum Essential Coverage; 3) Revised SBC Templates and 4) Update on Employer Appeals to Marketplace Determinations
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Correcting Forms 1094-C and 1095-C

March 31st has come and gone and there are surely lingering questions about how to correct the newly required IRS reports. As background, Internal Revenue Code (IRC) Section 6055 requires insurers, self-funded plans and other providers of minimum essential coverage (MEC) to report certain information to the Internal Revenue Service (IRS). IRC Section 6056 obligates employers subject to the employer shared responsibility rules of the ACA, specifically employers employing 50 or more employees (known as “applicable large employer” or “ALE”), to report certain information annually to the IRS, as well as provide related benefit statements to employees.

This article will focus on the IRC Section 6056 obligation which is accomplished on the Form 1095-C benefit statement and Form 1094-C transmittal document. The Form 1095-C must be provided to each employee who was a full-time employee for at least one month in 2015. Generally, the first reports are due in 2016 for reporting information on the 2015 calendar year. The Form 1095-C must be provided to individuals by January 31st and transmitted to the IRS by February 28th (or March 31st if filing electronically). However, for this reporting year only, the filing dates were **extended**:

- ♦ The 2015 Form 1095-C must be provided to individuals by March 31, 2016;
- ♦ The 2015 Forms 1094-C and 1095-C must be submitted to the IRS no later than May 31, 2016 (or by June 30, 2016, if filed electronically).

There are penalties for not complying with the filing requirements (see [Updates on Section 6055/6056 Reporting - Increase in Tax Information Reporting Penalties, 7/13/15](#)). There are also potential penalties for providing incorrect or incomplete tax forms to the IRS, as well as to individuals. The IRS indicated that penalties could be abated as long as a good faith effort is made to provide the corrected information and as long as it is provided timely. Accordingly, for example, if the Form 1095-C was not furnished to individuals by March 31, 2016, then the potential penalty for failure to provide the form would be reduced from \$250 to \$50 if there is a reasonable cause for the delay in furnishing the form.

Similarly, because the IRS extended the due dates of the 2015 forms, the deadlines for correcting and furnishing the forms were likewise extended. If reporting failures are corrected within 30 days of the due date, the penalty would be reduced to \$50. The penalties are also reduced if corrections are made after 30-day deadline and prior to October 1, 2016 for forms furnished to individuals, or by November 1, 2016 for forms filed with the IRS.

Process for Correcting Returns

According to the [Form 1094/1095 instructions](#), any mistakes to the information contained in the forms must be corrected as soon as possible following discovery of the error. The instructions provide examples of errors and the processes for correcting the forms, depending on whether the forms have been submitted to the IRS and/or furnished to individuals.

I. Steps to correct errors on original Form 1095-C that has not been filed with IRS but furnished to individuals

As long as the Form 1095-C has not been transmitted to the IRS, then once the correction is made to the Form, write the words, "Corrected Form" at the top of the corrected Form 1095-C and send the corrected Form to the affected individual.

II. Steps to correct errors on the original Form 1095-C that has been filed with the IRS and furnished to Employee

1. Prepare a new Form 1095-C;
2. Enter an "X" in the "CORRECTED" box at the top of the Form 1095-C;
3. Submit corrected Form 1095-C with a Form 1094-C transmittal to the IRS (however, do not check the 'corrected' box on the Form 1094-C); and
4. Furnish a corrected Form 1095-C to the employee.

This process applies if any of the following information is incorrect on the originally filed form:

- ◆ Name, SSN, Employer EIN
- ◆ Offer of Coverage
- ◆ Premium Amount
- ◆ Safe Harbor and Other Relief Codes
- ◆ Covered Individuals Information

III. Steps to correct errors on the original Form 1094-C that has been filed with IRS:

1. Prepare a new authoritative Form 1094-C;
2. Enter an "X" in the "CORRECTED" box at the top of the form; and
3. Submit the standalone corrected transmittal with the corrected information.

Do not re-submit the Form(s) 1095-C if the correction only relates to Form 1094-C. This process applies when any of the following information is incorrect on the originally filed form:

- ◆ ALE Member or Designated Government Entity (Name and/or EIN)
- ◆ Total Number of Forms 1095-C filed by and/or on behalf of ALE Member
- ◆ Aggregated Group Membership
- ◆ Certifications of Eligibility
- ◆ Minimum Essential Coverage Indicator
- ◆ Full-Time Employee Count for ALE Member
- ◆ Aggregated Group Indicator
- ◆ Section 4980H Transition Relief Indicator

Note: If both the Form(s) 1094-C and 1095-C must be corrected, follow both processes described above in sections II and III for correcting forms that have already been filed.

Correcting Electronically Filed Forms. For issues specific to electronically filed forms, ALEs should refer to the correction process contained in Section 7 of [IRS Publication 5165, Guide for Electronically Filing Affordable Care Act \(ACA\) Information Returns for Software Developers and Transmitters](#).

Required Contributions - Indexed Adjustments for Minimum Essential Coverage

IRS Revenue Procedure 2016-24 provides indexed adjustments in required contributions relating to minimum essential coverage beginning in 2017, as follows:

- ❑ **Premium Assistance Affordability Standard.** For purposes of determining premium assistance affordability, coverage is deemed affordable if the employee’s required contribution does not exceed 9.5% of the employee’s household income for the taxable year. For plan years beginning in 2016, the threshold percentage is 9.66%; for plan years beginning in 2017, the threshold percentage will increase to 9.69%. According to Notice 2015-87 released last year, the IRS and Treasury Department anticipate amending the employer shared responsibility regulation to provide that the employer affordability safe harbor is adjusted in the same manner as the premium assistance affordability standard. The employer safe harbor should likewise be 9.69% for 2017.

- ❑ **Hardship Exemption.** The required contribution percentage by individuals for MEC for purposes of determining eligibility for a hardship exemption under the individual shared responsibility requirement (IRC Section 5000A). One of these exemptions occurs if the cost to the individual to purchase coverage exceeds a certain percentage of household earnings. For 2016, the required contribution percentage is 8.1% of household earnings for purposes of exemption from the individual shared responsibility requirement. In 2017, the percentage increases to 8.16%. This affordability standard is distinct from the employer’s shared responsibility affordability standard and distinct from the affordability standard for being entitled to premium assistance.

- ❑ **Premium Tax Credit.** The following contribution percentages are used to determine whether an individual is eligible for affordable employer-sponsored MEC for the 2016 and 2017 tax years:

HOUSEHOLD INCOME PERCENTAGE OF FEDERAL POVERTY LINE	INITIAL PERCENTAGE 2016	FINAL PERCENTAGE 2016	INITIAL PERCENTAGE 2017	FINAL PERCENTAGE 2017
Under 133%	2.03%	2.03%	2.04%	2.04%
Between 133% and 150%	3.05%	4.07%	3.06%	4.08%
Between 150% and 200%	4.07%	6.41%	4.08%	6.43%
Between 200% and 250%	6.41%	8.18%	6.43%	8.21%
Between 250% and 300%	8.18%	9.66%	8.21%	9.69%
Between 300% and 400%	9.66%	9.66%	9.69%	9.69%

Revised Summary of Benefits and Coverage (SBC) Templates

The Affordable Care Act (ACA) requires individual and group health plans to provide participants with a written summary of benefits and coverage (SBC) of the plan. Both the Departments of Labor and HHS provide model SBC templates, a uniform glossary and related materials that can be used by plan sponsors and insurers.

On April 7, 2016, these agencies released updated versions of these documents. The revised SBC template is to be used beginning on the first day of the first open enrollment period that begins on or after April 1, 2017 relating to coverage for plan years beginning on or after that date. For plans and insurers that do not use an annual open enrollment period, the revised SBC template is to be used beginning on the first day of the first plan year that begins on or after April 1, 2017.

Both sets of model SBC templates, instructions and related materials to be used for current applicable coverage, as well as the revised template to be used on or after April 1, 2017, can be obtained from the [DOL](#) and [HHS](#) websites. Along with making the SBC simpler and shorter, some of other the changes in the revised version include:

- ◆ A discussion of deductibles and out-of-pocket amounts that individuals may incur based upon their selection of participating vs. non-network providers
- ◆ Modification of language relating to continuation of coverage, grievance and appeals, and whether the plan provides minimum essential coverage and meets the minimum value standards
- ◆ The current template contains two coverage examples – one relating to maternity expenses and the other relating to on-going management of diabetes. The newer template contains a third coverage example involving a simple fracture to show how a plan would handle an in-network emergency room situation.

Employer Appeals - Marketplace Decisions

As follow-up to a prior article, employers may begin receiving letters from the federal marketplace or a state marketplace relating to whether any of their employees are eligible to receive premium assistance (see *Employer Notices of Marketplace Determinations*, *CBIZ Health Reform Bulletin*, 10/12/15). Part of the ACA is the ability to get assistance in the form of a tax credit for the purchase of health coverage. Individuals eligible to receive the assistance are those who fall between 100 and 400% of federal poverty level and who do not have access to employer provided coverage.

These marketplace determinations are particularly important to employers subject to the ACA's employer shared responsibility requirements. These employers could be at risk for an excise tax penalty if one or more of their full-time employees who work 30 or more hours per week qualify for premium assistance. If the marketplace determines that an employee is not being offered affordable coverage that meets minimum value, it will then notify the employer of this determination. If the employer disagrees with the marketplace determination, it then has 90 days from the date of the marketplace determination to file an appeal. The appeal can be accomplished either by completing an on-line appeal form, or by sending a letter to HHS by US Mail. Information about submitting an appeal can be found on the [HHS website](#).

It is important to note that in no way does this marketplace determination impose a tax upon the employer. The employer would only be subject to an excise tax after it has received a notice from the IRS and after it has had an opportunity to appeal. The IRS notice would be generated after the individual has filed his/her tax return and after the employer has filed its Form 1094-C and 1095-C. These employer tax filings occur in the year following the year for which the premium assistance is being considered. Responding to the marketplace determination could allay future inquiries from the IRS, assuming the individual was offered coverage.

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