



Compliance Recap

August 2015

August was a generally slow month with a few important updates for the benefits industry. Notably the Internal Revenue Service (IRS) issued draft instructions for its reporting forms relating to the Patient Protection and Affordable Care Act's (ACA) employer-shared responsibility requirements. The draft instructions, although generally unremarkable, did contain new language regarding reporting on health reimbursement accounts (HRAs) that raises more questions than answers. Finally, the Department of Labor (DOL) issued an FAQ regarding reporting rulemaking for non-qualified health plan coverage.

UBA Guides and Compliance Documents

UBA released an updated version of "[The Play-or-Pay Penalty and Counting Employees under the ACA.](#)"

Draft 6055/6056 Reporting Instructions

Under the Patient Protection and Affordable Care Act (ACA), individuals are required to have health insurance while applicable large employers (ALEs) are required to offer health benefits to their full-time employees. Reporting on this coverage is done in large part through IRS Forms 1094-B, 1095-B, 1094-C, and 1095-C. The IRS has issued draft 2015 instructions, which include a variety of changes from the 2014 instructions. For the 1094-C and 1095-C forms, the following important clarifications were provided: (1) who must file, (2) information on extensions and waivers, (3) how to correct returns, (4) an example and further information on the 98% offer method, (5) information on the new plan start month box, (6) multiemployer plan reporting, (7) offers of COBRA coverage, (8) reporting on employee premiums, and (9) break in service information.

[Read more about the draft instructions.](#)

The new draft instructions relating to section 6055 had new language that affects reporting on HRAs. Beginning in 2013, during the proposed rulemaking stage, the government was clear that health savings accounts (HSAs) and HRAs that supplement minimum essential coverage (MEC) are not required to report under the 6055 requirements. This obligation, or lack thereof, was repeated in the final regulations and in related IRS FAQs. The new draft instructions contain new and contradictory information on page three.

Supplemental Coverage

Providers aren't required to report the following minimal essential coverage that is supplemental to other minimum essential coverage.

- Coverage that supplements a government-sponsored program, such as Medicare or TRICARE supplemental coverage.
- 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).

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 covering the employees of the same employer aren't supplemental. (Emphasis added)

Taken at face value, this language in the draft instructions would require employers of all sizes to greatly increase their reporting obligations if they offer an HRA to employees. Employers with HRAs should reach out to their carriers, third-party administrators, and any vendor they rely on for reporting to discuss the approach or approaches these entities are taking. Until the instructions are finalized, it is unclear what the reporting obligations for HRAs will be.

[Read more about the 6055 reporting on HRAs.](#)

Transparency Reporting Rulemaking for Non-QHP Coverage

The DOL [announced](#) that it will propose transparency reporting for non-QHP (Qualified Health Plan) issuers and non-grandfathered group health plans in the future. Federal agencies intend to streamline reporting under multiple reporting provisions of the ACA and reduce unnecessary duplication.

Question of the Month

Q. In 2013 employers were required to notify their employees of the existence of the Health Insurance Marketplace. The DOL provided a [model notice](#). What are the current notification requirements that employers have regarding the Marketplace?

A. After the requirement to provide a written notification by October 1, 2013, employers are only required to provide the notice to new employees. There are no rules that would prevent an employer from providing the notice to employees regularly, but providing it in workplace break areas or on an internal website would not meet the notice requirement for new hires. Employers should ensure the notice is provided as part of a comprehensive new hire process.

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