

On March 10, 2014, the U.S. Department of the Treasury published final regulations regarding the employer and issuer information reporting requirements of the Patient Protection and Affordable Care Act (“ACA”). In July and August 2014, the Internal Revenue Service (“IRS”) released draft forms and instructions to be used for the information reporting; these are expected to be finalized before the end of 2014. This summary provides an overview of the draft reporting requirements affecting both employers and health insurance issuers.

Summary: Beginning with coverage offered in calendar year 2015, large employers, health insurance issuers, and sponsors of self-insured coverage are required to provide the IRS and individuals detailed coverage information. For 2015 coverage, the information must be provided in early 2016. The information provided in these reports will allow the IRS to verify compliance with employers’ obligation to offer coverage and individuals’ obligation to obtain coverage, as well as to determine whether federal subsidies are available for individual coverage.

Large Employer Requirements: Large employers (generally those with 50 or more full-time equivalent employees on average during the prior calendar year¹) will satisfy their reporting requirements by filing **Form 1094-C** (a transmittal to the IRS) and **Form 1095-C** (a statement to employees), as described below:

1. **Form 1094-C: Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns.** This transmittal form must be filed with the IRS along with all Forms 1095-C. The transmittal requires that employers submit summary information regarding coverage, including:
 - a. Employer name, identification number (“EIN”), and contact information; and
 - b. A statement indicating whether offer of minimum essential coverage (“MEC”) was made to 95% of full-time employees, full-time employee count, total employee count, whether employer was a member of an aggregated group, and whether transition relief applies.
2. **Form 1095-C: Employer-Provided Health Insurance Offer and Coverage.** This information return must be filed with the IRS, and a copy must be provided to the employee. Employers are required to provide one form for each employee covered through the employer’s plan (whether or not the employee is full-time) for any calendar month during the reporting year. The information required in this form consists of the following:
 - a. Employee name, social security number (“SSN”), and address;
 - b. Employer name, EIN, and contact information; and
 - c. Statement indicating the nature of coverage offered, employee share of lowest-cost monthly premium for self-only minimum value coverage, and applicable affordability safe harbor.
 - d. Additionally, employers providing self-insured coverage must fill out a

¹ For more information about the definition of large employers under the ACA, please see the BCBSRI fact sheet titled “Shared Responsibility for Employers.”

final section providing employee information for each individual covered under the plan (that is, any covered dependents).

Large employers that sponsor self-insured plans must complete both sections of Form 1095-C to satisfy their obligation, whereas a large employer sponsor of a fully insured plan will complete only the top half of Form 1095-C.

Whether an employer is a large employer subject to this requirement is determined by reference to all of the employers in an employer's controlled, or aggregated group, as defined by IRS rules; however, each member of the controlled group is required to file its own transmittal and employee statements. The aggregated group must file one Form 1094-C that will serve as an "Authoritative Transmittal," providing comprehensive information on all of the aggregated group's employees.

Issuer and Small Self-Insured Employer Requirements:

Issuers and small self-insured employers (generally, a small employer is an employer with fewer than 50 full-time equivalent employees on average during the prior calendar year) are required to file **Form 1094-B** (a transmittal to the IRS) and **Form 1095-B** (a statement to members), as described below:

1. **Form 1094-B: Transmittal of Health Coverage Information Returns.** This transmittal form must be filed with all Forms 1095-B. The transmittal requires the issuer's name, EIN, and contact information, as well as the total number of Forms 1095-B it is submitting.
2. **Form 1095-B: Health Coverage.** This information return must be filed with the IRS, and a copy must be provided to each individual responsible for the coverage. The form requires issuers to provide contact information for the employer sponsoring coverage, if there is one, as well as information about the provider of coverage (for fully insured plans, this is the issuer; for small self-insured plans, this is the employer sponsor). The form also requires issuers to list the other individuals covered under policy, identify them by either SSN or date of birth if SSN is not available after reasonable efforts to obtain it, and certify the months in which they were covered.

Generally, issuers must produce these forms for all insured coverage, including individual market coverage and coverage provided through employers. However, these forms are not required for coverage under the Children's Health Insurance Program ("CHIP"), Medicaid, and Medicare (including Medicare Advantage). While the forms are not required for individuals buying coverage through an Exchange, both Forms 1094-B and 1095-B are required to be submitted for employees whose employers have purchased coverage through an Exchange (through the SHOP). Issuers and third party administrators of self-insured plans are not required to file Forms 1094-B and 1095-B for individuals covered under self-insured plans; the sponsors of those plans are required to do the reporting for those individuals, whether under Forms 1094-B and 1095-B for small employers or under Forms 1094-C and 1095-C for large employers.

***Employers
Sponsoring
Self-Insured
Plans***

Large employers sponsoring self-insured plans will file Forms 1094-C and 1095-C to satisfy both their obligation as employers and their obligation as sponsors of a self-insured plan. The last section of Form 1095-C, required only for employer sponsors of self-insured plans, is an exact duplicate of the last section of issuer's Form 1095-B. By including that last section in the employer forms, the IRS was able to allow large employers who sponsor self-insured plans to file only the employer forms.

Small employers with self-insured health plans who do not trigger the large employer filing requirement are required to use the issuer forms, Form 1094-B and Form 1095-B, to report coverage information. Sponsors of multi-employer plans also must use issuer Forms 1094-B and 1095-B, to report coverage information.

***Safe Harbors
and Simplified
Filing
Methods***

The IRS has provided a simplified reporting method for large employers that make “qualifying offers” of coverage to full-time employees, their spouse and their dependents for all 12 calendar months of the reporting year. A “qualifying offer” is an offer of minimum value coverage that provides employee-only coverage at a cost to the employee of no more than about \$1,100 in 2015 (9.5 percent of Federal Poverty Level).

An employer that makes a qualifying offer to an employee for all 12 months can simply provide employees who receive such an offer with a statement (in lieu of a 1095-C form) that the employee (and his or her spouse and dependents, if any) received a qualifying offer for all 12 months and thus is ineligible for a premium tax credit.

For 2015 only, an employer that makes a qualifying offer to at least 95 percent of its full-time employees can provide statements (in lieu of Form 1095-C) to employees who received a qualifying offer for some months but not all 12 months. The statement would inform the employee that he or she may be eligible for premium tax credits in one or more months.

Other simplified filing methods and safe harbors related to the employer shared responsibility transition relief are available, and the instructions should be read carefully for accurate application of these options.

***When and
How to File:***

There is no filing requirement for coverage offered in 2014. Employers are encouraged to file voluntarily; however, employer shared responsibility penalties will not be assessed for 2014 coverage, regardless of whether the employer files voluntarily.

Issuer and employer transmittal forms for the 2015 year must be filed by February 29, 2016 (if paper filing) and by March 31, 2016 (if filing electronically). Information returns generally must be provided on or before January 31 of the year following the coverage year, but the first Forms 1095-C from employers are due to individuals on or before February 1, 2016.

Filers of 250 or more forms must file electronically. Filers with fewer than 250 forms may file using paper, but are allowed and encouraged to file electronically.

Distribution of Forms 1095-B and 1095-C to Individuals:

Filers of the information returns Forms 1095-B and 1095-C are required to provide copies to the person identified as the “responsible individual” or “employee” on the form. The copy must be provided on or before January 31 of the year following the calendar year in which coverage was provided (however, the first Forms 1095-C must be provided on or before February 1, 2016). The draft instructions provide that the copy “must be furnished on paper by mail, unless the recipient affirmatively consents to receive the statement in an electronic format.” The consent to electronic mailing can be made on paper or electronically, but if by paper, it must be confirmed electronically. The requirement to provide paper copies by mail may also prove difficult for employers, many of whom likely expected they could use hand delivery or intra-office mail to deliver the statements to their employees. Clarification from the IRS may come with the final instructions.

BCBSRI Approach:

BCBSRI will file Forms 1094-B and 1095-B and provide Form 1095-B to all fully insured subscribers. BCBSRI will not complete the large employer forms, Forms 1094-C and 1095-C, on behalf of employers sponsoring coverage, regardless of whether the coverage is provided on a fully insured or self-insured basis.

Summary of Issuer & Employer Responsibility:

	<i>Issuer Responsibility</i>	<i>Employer Responsibility</i>
Individual – Purchased through the Exchange	N/A (1095-A is sent by the Exchange)	N/A
Individual – Purchased through BCBSRI	Form 1095-B	N/A
Small Fully Insured Employer – Regardless of purchasing channel	Form 1095-B	N/A
Small Self-Insured Employer	N/A	Form 1095-B
Large Fully Insured Employer	Form 1095-B	Form 1095-C Sections I & II
Large Self-Insured Employer	N/A	Form 1095-C All Sections

References:

Regulations: <http://www.gpo.gov/fdsys/pkg/FR-2014-03-10/pdf/2014-05051.pdf> ; <http://www.gpo.gov/fdsys/pkg/FR-2014-03-10/pdf/2014-05050.pdf>
FAQs: <http://www.irs.gov/uac/Questions-and-Answers-on-Reporting-of-Offers-of-Health-Insurance-Coverage-by-Employers-Section-6056>
Forms & Instructions 1094-B: www.irs.gov/form1094b
Form & Instructions 1095-B: www.irs.gov/form1095b
Form & Instructions 1094-C: www.irs.gov/form1094c
Form & Instructions 1095-C: www.irs.gov/form1095c

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