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HEALTH CARE REFORM

## Eye on Washington

# IRS ISSUES NEW FAQs ABOUT ACA EMPLOYER INFORMATION REPORTING: OFFERS OF COBRA COVERAGE ON FORM 1094-C AND FORM 1095-C

On May 19, the Internal Revenue Service (IRS) released new “Questions and Answers” (FAQs) detailing how employers should report Offers of COBRA Coverage on Form 1094-C and Form 1095-C. This additional guidance from the IRS provides welcome information on some difficult reporting scenarios related to reporting offers of COBRA coverage.

### Background

Beginning in January 2016 (for 2015), Internal Revenue Code (IRC) Code Section 6056 under the Affordable Care Act (ACA) requires applicable large employers (ALEs) to report to the IRS the details of any health coverage offered to full-time employees. Generally, an applicable large employer (ALE) is an employer that, together with other employers in its controlled group, employed an average of at least 50 full-time and full-time equivalent employees on business days during the preceding calendar year.

IRS Form 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns, and Form 1095-C, Employer-Provided Health Insurance Offer and Coverage will be used for Section 6056 reporting. The IRS published Forms 1094-C and 1095-C, and instructions on the employer-reporting requirements under Code Section 6056, in February 2015. Electronic filing is mandatory for ALEs that issue 250 or more Forms 1095-C. Draft electronic filing specifications were released on April 27, 2015.

### Reporting Offers of COBRA Coverage and Other Enrollment Information

New “Questions and Answers” (FAQs) detailing reporting of COBRA Coverage on Form 1094-C and Form 1095-C offer helpful insights to employers; for example detailing how to report self-insured coverage for nonemployees, such as former spouses, board members, and retirees.

The guidance also clarifies how to report full-time employees who terminate employment and receive an offer of COBRA continuation coverage. Generally, offers of COBRA continuation coverage made to former employees are not reported as an offer of coverage on Part II of Form 1095-C, unless the individual actually enrolls in self-insured coverage.

In one example offered within the guidance, a full-time employee enrolled in self-only coverage, but later terminated employment. The individual received an offer of continuation coverage under COBRA, but did not enroll. For the month in which the employee terminated employment, the employer should enter code “1H” (No offer of coverage), on Form 1095-C, line 14; and code “2B” (Employee not a full-time employee), on line 16. After the month in which the termination occurs, the employer would report code “1H” on line 14 and code “2A” (Not employed on any day of the calendar month) on line 16.

The next example goes on to explain that, if the former employee enrolled in self-only COBRA coverage following termination of employment, in addition to entering code “1E” (Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage offered to dependent(s) and spouse) on line 14, the employer should report the COBRA premium for the lowest-cost, self-only coverage providing minimum value offered on line 15, and should enter code “2C” (Employee enrolled in coverage offered), on line 16.

### Reporting for Ongoing Employees Who Receive COBRA Coverage Due to a Reduction in Hours

The IRS FAQs clarify that ALE members offering COBRA continuation coverage to employees that lose coverage under the employer-sponsored plan due to a reduction in hours (e.g., to part-time status) should report the offer of COBRA coverage as an offer of coverage in Part II of Form 1095-C.

As an illustrative example, a full-time employee was enrolled in self-only coverage offered from January 1, 2015 through October 31, 2015, with an employee contribution for the lowest-cost, self-only coverage option of \$150 per month. On November 1, 2015, the person transferred



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to a part-time position and was offered COBRA coverage with a premium of \$250 per month for self-only coverage (the lowest-cost option for COBRA coverage available). If the employee enrolls in COBRA coverage for the months of November and December 2015, the ALE should report on Form 1095-C, line 14, code "1E" (Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage offered to dependent(s) and spouse assuming the offer was made to dependent(s) and spouse). The ALE would report \$250 on line 15 (the lowest-cost, self-only COBRA coverage providing minimum value), and should enter code "2C" (Employee enrolled in coverage offered), on line 16.

Alternatively, if the employee elects not to enroll in the COBRA continuation coverage, the ALE member should complete lines 14 and 15 in the same manner, but enter the applicable code (if any), for line 16, such as a code denoting any applicable affordability safe harbor that was met. If no affordability safe harbor was met (e.g., due to the reduction in hours), and the employee is still in a stability period in which they are considered a full-time employee, the ALE member could be liable for a Shared Responsibility Assessment under Section 4980H(b) (i.e., in this example, \$250 (indexed) per month for November and December), if the employee obtains a Premium Tax Credit and Marketplace/Exchange health coverage. Line 16 may be left blank if no code applies.

## Reporting Coverage of Spouses and Dependents Who Separately Elect COBRA Coverage

Generally, self-insured ALE members may report coverage of a nonemployee spouse and/or dependent that separately elects COBRA continuation coverage either on a separate Form 1095-B or Form 1095-C. However, if a spouse (or former spouse) or dependent receives COBRA coverage because the employee or former employee has elected COBRA continuation coverage that also provides coverage to the spouse and/or dependent, such coverage should be reported together on the same Form 1095-C or Form 1095-B that is provided to the employee or former employee.

The IRS underscores the requirement for Social Security numbers on Form 1095-C, noting that "Form 1095-C requires the recipient's Social Security number (SSN) on line 2 in all instances, so Form 1095-C cannot be used for covered individuals who have not provided a SSN to the employer...". Thus, if there is no employee to report and the nonemployee covered person does not provide their SSN to the employer, self-insured ALE members may be required to report such coverage on Form 1095-B.

The new FAQs also contain additional guidance related to alternative reporting methods and on reporting for governmental units. For additional details, see [Questions and Answers About Employer Information Reporting on Form 1094-C and Form 1095-C](#).

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