

Affordable Care Act (ACA) Bill 03.23.10; Reconciliation 03.30.10 OML Annual Employment Seminar

Regulatory Reporting Calendar Year 2015

December 4, 2015 | 3:20pm – 4:10pm

Political Subdivision Synergy

Engaged in Managing the Healthcare Dollar by Optimized
Efficient Performance Based Outcome

To comply with IRS regulations, we are required to notify you that any advice contained in this material that concerns federal tax issues was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax related penalties under the Internal Revenue Code, (ii) promoting, marketing, or recommending to another party any matters addressed herein.

IEBP ALE and NON-ALE Members Summary as of 06.10.15

	2015 ALE 100 lives greater			2016 ALE 50 lives or greater		
	Non-ALE	ALE	Total	Non-ALE	ALE	Total
# of Groups	877	55	932	804	128	932
EE Lives	14,057	15,278	29,335	8,956	20,379	29,335
Dep Lives	9,103	13,879	22,982	5,500	17,482	22,982

Pending Regulatory Compliance Deadlines/3 year record retention

August 13, 2015: IRS released final regulations 9.17.15 IEBP Noted Forms Noted as Final

▶ IRS Deadlines

- File. Department of Treasury, IRS Center, Austin, TX 73301
 - To covered participants: February 1, 2016 **January 31, 2016**
 - ▶ Paper or Electronic
 - ▶ If Electronic employer must maintain a consent for electronic submission from employee
 - File Deadline February 28, 2016: < 250 paper forms
 - Electronic filing: March 31, 2016
 - 30 day **non-automatic** extension form 8809 Note: 2016 is a Leap Year. In 2017 employers will no longer be eligible for extension: IRS Information Returns Branch, Attn Extension of Time Coordinator 240 Murall Drive, Mail Stop 4360, Kearneysville, WV 25430. Filer name, TIN, address, type of return, extension request, reason for delay. Signature of filer, Postmarked by date statements due

▶ IEBP Solutions for Regulatory Reporting 6055 and 6056 Calendar Year 2015

- IEBP will work with Greatland for the Regulatory Reporting Annual Software Subscription
 - Forty-five (45) days to respond to request of PHI accounting of release of PHI information to covered entity
 - Thirty (30) days of discovering PHI breach
- IEBP will have software for 3 IEBP licensure
- Benefit Platform
 - > 100 W-2 Play or Pay ALE Regulatory Reporting
 - > 50 W-2 ALE Regulatory Reporting
 - < 50 NON ALE Regulatory Reporting

Pending Regulatory Compliance Deadlines/3 year record retention

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➤ IEBP Solutions for Regulatory Reporting 6055 and 6056 Calendar Year 2015

- IEBP will purchase at bulk rates Individual Transmittals in 10,000 increments. Employer will be billed for the following:
 - \$0.9130 fee to employer for each individual transmittal plus IEBP admin fee
 - Transmittal corrections will be an additional \$0.9130/**\$1.10** fee per employee individual transmittal plus admin fee
- Reporting Notification: Eligible Employees and Dependents waiving coverage

➤ IEBP Compliance

- IEBP is requesting a regulatory reporting form to be completed by 9.30.15
- IEBP will conduct a dry run of the 1094 and 1095 B&C forms and mapped information November 2015
- **By January 31, 2016** individual transmittals must be mailed (Employer approval required)
- By 02/28/16, IEBP receives all corrected employee file layouts due to individual receipt of individual transmittal
- 03/01/16-03/15/16 corrections are made to the Greatland Aggregate IRS template and corrected individual transmittals resubmitted
- 03/31/16 Greatland downloads information to IRS electronically (Employer final approval of information required)

If the due date falls on a Saturday, Sunday, or legal holiday, you can provide the copy on the next business day.

Minimum Essential Coverage Reporting

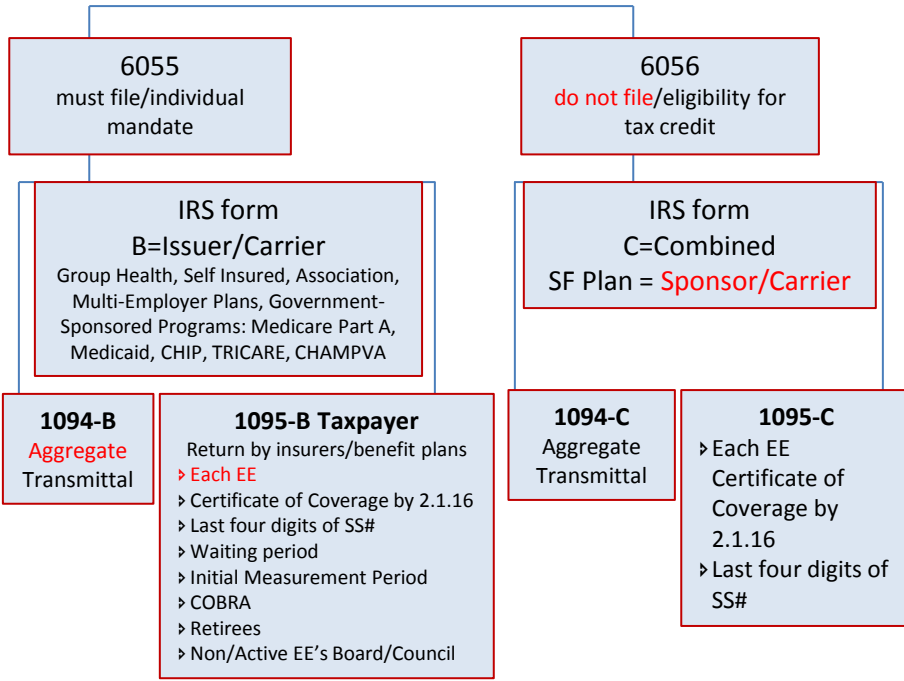
Calendar Year 2015: < 250 Paper File by Feb 28 or Electronic File Mar 31 - excess of 250 must file electronically,

95% accuracy delayed 70% covered - Excess of 13/26 week break in employment new hire

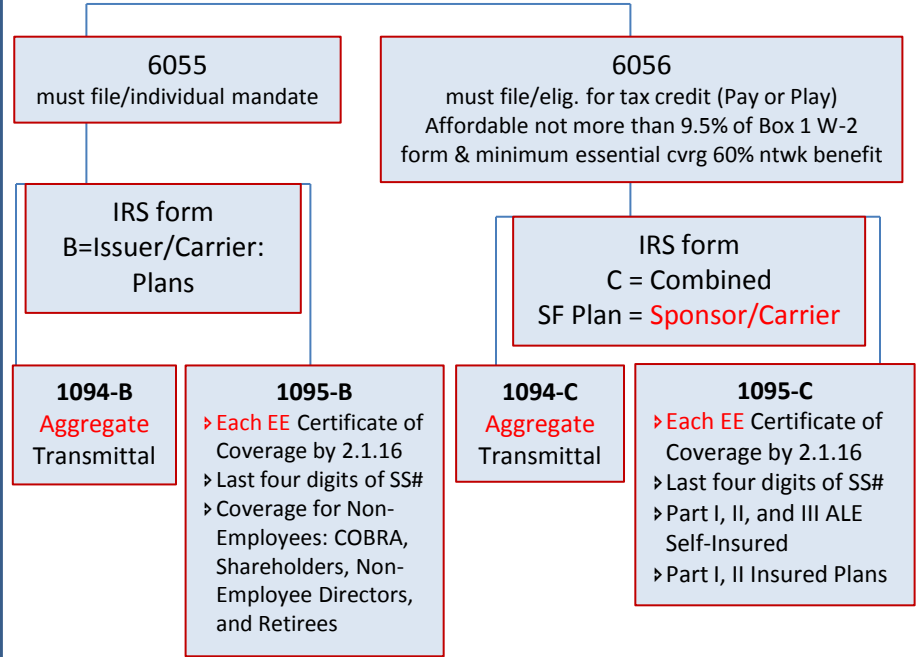
Pending Regulatory Reporting Benefit Platform | ≥ 100 W-2 Play or Pay ALE Regulatory Reporting

≥ 50 W-2 ALE Regulatory Reporting | < 50 NON ALE Regulatory Reporting

Small Employers (<50 EEs, 30 hour a week a 130 hours a month, 1560 hours a year for the census ALE/NON-ALE FTE count)



Applicable Large Employers ALE (≥50 2015 reporting compliance ≥100 employees compliance with FTE (30 hour a week a 130 hours a month, 1560 hours a year) access to benefit compliance)



For Section 6055:

- Reporting required by anyone that provides minimum essential coverage.
- This report is used to determine months in which an individual is covered by minimum essential coverage. (Section 5000A)

For Section 6056:

- Information about the employer offering coverage (including contact information and the number of full-time employees).
- For each full-time EE, information about the coverage (if any) offered to the EE, by month, including the lowest EE cost of self-only coverage offered.
- This report is used to determine an employee's eligibility for premium tax credit. (Section 4980H)

File: Department of Treasury, IRS Center, Austin, TX 73301 - Penalties Reported on IRS Form 8928. Reporting penalties under sections 6721 and 6722.

Penalty Relieve 2015 if good faith effort is documented. File Deadline 2.28.16 <250 paper forms or Electronic filing March 31, 2016, Covered Participants January 31, 2016

Insurance Mandate Compliance Penalties

Penalties Reported on IRS Form 8928. Reporting penalties under sections 6721 and 6722. Penalty Relieve 2015 if good faith effort is documented.

Regulatory Requirement	Definition	Penalty Amount
Applicable Large Employer Mandate for Affordable MEC 4980H9(a)	Penalty for failure to offer health coverage “PLAY” to required percentage of Individuals	<p>\$166.67/mo (2,000/yr indexed times the employer’s total # of full-time employees:</p> <ul style="list-style-type: none"> ▪ 2015: 80 deductible; 2016: 30 ▪ 2015 70% vs 2016 95% accuracy
Affordability of Health Plan	<ul style="list-style-type: none"> ▪ No greater than 9.5% of employee’s wages as reported in Box 1 of the W-2 Form ▪ IRS has proposed several hardship waivers for individuals. Employers may charge a premium that is: <ul style="list-style-type: none"> ‣ Affordability test only applies to employee only coverage. ‣ One is if the premium paid by the individual exceeds 8.05 percent of the individual (family) adjusted gross income. ‣ Up to 9.5% of W2 wages; ‣ Up to 9.5% of rate of pay; or ‣ 9.5% of the salary that is equal to 100 percent of the federal poverty level 	<ul style="list-style-type: none"> ▪ 2015: \$3,000 annually/\$250 month ▪ 2016: estimate \$3,120
Individual Mandate Compliance	Greater of the two	<ul style="list-style-type: none"> ▪ 2015: 2% of the yearly household income ▪ \$325 per person for the year (\$162.50 per child under 18). Maximum penalty per family for using this method is \$975.00

Regulatory Reporting Penalties

Failure	Previous Penalty Amount	New Penalty Amount
Failure to file a return or to file a complete return; failure to provide an employee statement or a complete statement	\$100 per return or statement, not to exceed \$1,500,000: “per Return or statement” relates to both a failure with respect to an information return required to be filed with the IRS and a failure with respect to the payee statement required to be furnished to an individual.	\$250 per return or statement, not to exceed \$3,000,000.
If failure is corrected on or before the day 30 days after the date required	\$30 per return or statement, not to exceed \$250,000	\$50 per return or statement, not to exceed \$500,000
If failure is corrected after the 30 th day but on or before August 1 of the year the return is due	\$60 per return or statement, not to exceed \$500,000	\$100 per return or statement, not to exceed \$1,500,000
If a failure is caused by intentional disregard	\$250 Penalty is doubled to \$500 for each failure, corrections will not apply, and no cap will apply with respect to the amount of penalties that can be applied for that calendar year.	

Affordable Care Act Compliance Penalties

Regulatory Requirement	Definition	Penalty Amount
W-2 Reporting Employers with 250 or greater W-2 forms	<p>Identify cost of healthcare benefits per participant per year via one of the following census calculations:</p> <p><u>Actual</u>: Census Per Month/Days in month</p> <p><u>Snapshot Factor</u></p> <ul style="list-style-type: none"> ▪ March 5, 2014 ▪ June 5, 2014 ▪ September 5, 2014 <p><u>Census on Most Recent 5500</u></p>	<p>Penalty Applied for non-compliance</p> <ul style="list-style-type: none"> ▪ \$30 per each form maximum <ul style="list-style-type: none"> – \$250,000 per year if filed by March 30th ▪ \$60 per each form maximum <ul style="list-style-type: none"> – \$500,000 per employee per year if form filed after August 1st
Employer Illegal Dumping Prohibitions and Penalties	Sending employees to the insurance marketplace with a tax-free contribution to pay for insurance is prohibited	\$100.00/day per employee

Affordable Care Act Compliance Penalties

Regulatory Requirement	Definition	Penalty Amount
<ul style="list-style-type: none"> ▪ Excise Tax 2018: Congressional Budget Office predicts the nation’s employers will pay over \$3 billion for the Cadillac tax in 2018, but, with health-care costs increasing faster than inflation, it expects the burden on employers to rise, doubling to \$6 billion in 2019. ▪ Unless employers transition to high deductible health plans ▪ Taxable period will be the calendar year for all plans. ▪ The “Cadillac” tax on high-end insurance plans is also under bipartisan political fire. Recent studies show that about a quarter of employers who offer health plans would be subject to the tax, which goes into effect in 2018. 	<ul style="list-style-type: none"> ▪ Individual \$10,200; Family \$27,500 (second notice released by IRS February 23, 2015) ▪ High Risk: Individual \$11,850; Family \$30,950 Administrative Penalty July 20, 2015 the Treasury Department and Internal Revenue Service released Notice 2015-52, which offers additional guidance regarding the implementation of the Excise Tax on High Cost Employer-Sponsored Health Coverage. 	<ul style="list-style-type: none"> ▪ 40% Excise Tax Taxable Years beginning after December 2017 <ul style="list-style-type: none"> ‣ $[40\% \times (\text{coverage divided by threshold}) = \text{amount of applicable tax liability}]$ ‣ Considering the filing of Form 720, quarterly Federal Excise Tax Return, as the appropriate method for the payment of the tax ▪ Taxable Period <ul style="list-style-type: none"> ‣ Calendar Year ▪ Coverages in Discussion “applicable coverage” <ul style="list-style-type: none"> ‣ Employer Funded Premium/Contributions ‣ Employer Funded Section 125 Plans ‣ Employer Contributions to HSAs ‣ On-site medical clinics excluded if offer only to active medical employees ‣ Limited scope dental and vision ‣ Employee Assistance Programs ▪ Responsible Party to Pay Excise Tax (In Comment) <ul style="list-style-type: none"> ‣ Self-Funded Employer ‣ Plan Administrators ▪ Payment of the Tax: The Treasury and IRS are considering using the existing Quarterly Federal Excise Tax Return (Form 720) as the vehicle for paying the tax.

Administrative Payment Requirements

Administrative Category	Administrative Fee	Comments
Patient Centered Outcome Research Institute (PCORI)	<ul style="list-style-type: none"> ▪ 2012 - \$1.00 per participant ▪ 2013 - \$2.00 per participant ▪ 2014 - \$2.08 per participant ▪ Fee is based on increases in the projected per capita amount of National Health Expenditures, lasting through 2019 ▪ Form of Payment is 720 ▪ Collection of overpayment Form 720X ▪ Payment Date is July 	

Administrative Payment Requirements

Administrative Category	Administrative Fee	Comments
Reinsurance Trust Fund	<ul style="list-style-type: none"> ▪ 2014 Jan-Sept Per Participant Per Year Census Calculation <ul style="list-style-type: none"> ‣ \$63.00 two installments <ul style="list-style-type: none"> – 1st-\$52.50; 2nd-\$10.50 ‣ Eligibility Enrollment Date 11.15.14 delayed to 12.5.14 ‣ Remit 1st contr. amt no later than 1.15.15; remit 2nd contr. amt no later than 11.15.15 ▪ 2015 <ul style="list-style-type: none"> ‣ \$44.00 paid in full by 1.15.16 ‣ two installments <ul style="list-style-type: none"> – \$33 payable by 1.1516 and \$11 towards payments to November 15, 2016. ‣ Risk Adjustment Allowance \$70,000 attachment point \$45,000 a \$250,000 reinsurance cap and a 50% coinsurance rate ▪ 2016 <ul style="list-style-type: none"> ‣ \$27.00 paid in full 1.15.17 ‣ two installments <ul style="list-style-type: none"> – \$21.60 payment 1.15.17 and \$5.40 payment 11.15.17 ‣ Risk Adjustment Allowance \$90,000 attachment point, a \$250,000 ‣ Reinsurance cap and a 50% coinsurance rate ▪ Enter payment information (electronic only) <ul style="list-style-type: none"> ‣ Ensure bank does not have ACH transaction blocked ‣ U.S. Gov't IDs are referred to as the Agency Location Code or ALC +2 value <ul style="list-style-type: none"> – For the reinsurance contribution submission process the ALC +2 is 7505008015 	<p><u>Administrative Payments</u></p> <p>CMS is postponing the release of its preliminary risk corridor program results, the agency said Friday (Aug. 7), in order to further validate the data after finding a "significant number of discrepancies." The information was slated for publication on Thursday (Aug. 14).</p> <p>"We will provide further information when the risk corridors data is accurate, complete, and validated," CMS said. "If CMS determines that an issuer must resubmit its risk corridors data, CMS will work with the issuer to do so." Payment being made for 12.6% of corridor fees. Average insurance marketplace rate increase 7.5%--Some states have little competition. For example, West Virginia has only two insurers offering health plans, and the average premium of a benchmark plan there is going up by 18.5%.</p> <p>Risk corridors are one of three premium stabilization programs created by the Affordable Care Act to protect insurers from too-high or too-low projections of the claims costs they will incur from plan years 2014 to 2016. Under the law, issuers that earn 3 percent more than estimated must pay in to the risk corridor, while those that lost more than 3 percent get payments. CMS plans to publicize the program's first year of payments and charges.</p> <p>"Virtually all QHP issuers" sent in their risk corridors and Medical Loss Ratio forms by July 31 as required, the notice said. A spokesperson has not responded to a request for more details on the nature of the discrepancies or how long the validation process will take.</p>

Administrative Payment Requirements

Administrative Category	Administrative Fee	Comments
Health Insurance Provider Fee	<ul style="list-style-type: none"> ▪ Provider Fee Schedule Form 8963 ▪ Net Premium in 2014: Health, Vision, Dental and Retiree: take the ratio of net premium per industry premium and multiply by the applicable amount to achieve the health insurance provider fee schedule ▪ Filed to the IRS Form 8963 by April 15 of the year 2015 ▪ 2014 Net Premium in 2014, by total industry net premiums from health, vision, dental and retiree benefits. ▪ Take the ratio of the net premium per industry premium and multiply by the applicable amount to achieve the health insurance provider fee schedule for 2014=\$8B – 2018=\$14.3B ▪ Exclusions <ul style="list-style-type: none"> ▸ Self insured employers, governmental entities certain non-profit employers and certain VEBAs. 	

Full Time Equivalent Definition

- ▶ **Step 1: Are you covered by the Affordable Care Act?**
 - “Applicable Large Employer” (ALE)
 - \geq 100 full-time employees (2015)
 - \geq 50 full-time employees (2016)
 - Ensure payroll system is tracking hours and reporting unpaid hours (disability, sick, WC, vacation, jury duty, FMLA, etc.)
 - Payroll departments need to review reporting for hours worked, measurement period, high turnover positions, unpaid work hours, employees being paid outside of payroll, unpaid work hours, variable hourly employees, temporary staff, terms and rehires.
 - What is Measurement Period for FTE (*used primarily for new hires and status changes*)
 - Employers may measure full-time status using either a look-back or monthly measurement method.
 - Look Back Period
 - ▶ 3, 6, 12 months
 - Stability Period
 - ▶ 6-12 months
 - ▶ Must be at least six (6) consecutive calendar months, but may not be shorter than the measurement period
 - Administrative Period
 - ▶ No more than ninety (90) days between the end of the measurement period and the start of the stability period
 - Waiting Period cannot be in excess of 90 days

Full Time Equivalent Definition

- ▶ Step 2: To whom do you have to Cover?
 - Who is full-time
 - Full Time Equivalent
 - ▶ 30 hours a week/130 hours a month/1560 hours a year
 - ▶ Assure coverage to all full time equivalent employees and their biologic and/or adoptive children
 - Seasonal employee
 - ▶ Hired for typically **not more than six consecutive months** each year; 120 hours per month based on a 4 week month or 150 hours per month based on a 5 week month
 - ▶ May be measured under look back period up to 12 months from date of hire, no benefits need to be offered until end of measurement period if deemed to be a FTE employee.
 - ▶ Employees rehired with less than a 13/26 week break in employment may apply "rule of parity" if rehired with a greater than 13/26 week break, will be treated as new hire.

Full Time Equivalent Definition

- ▶ Step 2: To whom do you have to Cover?
 - Who is full-time (*cont'd*)
 - Seasonal employee
 - ▶ Employees not paid on an hourly bases may be calculated on (1) counting actual hours of service; (2) using a days-worked equivalency, which credits the employee with 8 hours of service for each day or (3) using a weeks-worked equivalency of 40 hours of service per week.
 - ▶ As under the proposed regulations, this includes any payment made or due for vacation, holiday, illness, incapacity, layoff, jury duty, FMLA, military duty or leave of absence.
 - Employees hired through staffing contracts, independent contractors, union employees, interns, variable hour, seasonal, COBRA participants, retirees, Executive Team, Trustees, Board Members, Partners, Election Waivers/Benefit Declinations
 - Contract workers from a professional staffing agency will defer to state definition of employee for measurement requirement application
 - Part-time hired to work less than 30 hours per week
 - ▶ May be measured under look-back period (Up to 12 months from date of hire) no benefits need to be offered until end of measurement period if deemed to be a FTE benefit recipient employee

Full Time Equivalent Definition

▶ Step 2: To whom do you have to Cover?

- Who is full-time (*cont'd*)
 - Variable Hours: hours fluctuate week to week over and under 30 hrs/wk
 - ▶ May be measured under look back period (up to 12 mos. from date of hire) no benefits need to be offered until end of measurement period if deemed to be FTE
 - Paid student work and grant money employees should be included in the FTE count
- Who are not considered FTE
 - Federal or state sponsored volunteers who do not receive compensation except for reimbursement of reasonable expenses and certain reasonable benefits and nominal fees
 - Hours worked for income that is taxed as income from sources outside the U.S.
 - unpaid interns
 - students in federal work-study programs
 - typically independent contractors, sole proprietors and partners are not included in the measurement period

Full Time Equivalent Definition

▶ Step 2: To whom do you have to Cover?

- Who are not considered FTE
 - volunteers
 - volunteer firefighters
 - ▶ At this time the IRS has not initiated a formal rulemaking proceeding to determine whether volunteer firefighters (or any other volunteer) are to be considered employees for purposes for the Affordable Care Act.
 - ▶ Therefore, it would be premature to draw any conclusions on how the IRS could rule on this issue or to take action in support of any legislation without more clarification.
- Who are eligible dependents
 - Solely for purposes of the penalties under Code Section 4980H
 - ▶ employers are not required to offer dependent coverage to foster or stepchildren;
 - ▶ **employers must offer** coverage only for employees' biological and adopted children.

MEC 2015 Calendar Year Enforcement

- Step 3: What is minimum value coverage
 - 60% benefit percentage
 - Not excess of \$2,000 individual deductible and \$4,000* family deductible
 - No discrimination rules
 - Coverage of dependents to attained age 26
 - Ban on rescissions
 - Coverage of designated no cost share preventive benefits
 - Timely Notice Requirements: Insurance Marketplace
 - Prohibition of Pre-existing coverage
 - Prohibition of >90 day waiting period; additional 30 day documented orientation period may be applied

Union Population

- Employers are responsible for reporting for their union employees even if the union employees are enrolled in a union trust
- Union employees who are full-time can trigger “play or pay” penalties on their employers
- Union trust will need to certify that the plan offered to the agency’s employees meet minimum essential coverage, Minimum Value and affordable
- The union trust may be required to provide employer with the necessary information to comply with the reporting requirements
- Union can assume reporting requirements on behalf of the agency
- Unions/Plans cannot be made to meet 6056 reporting obligations, but employees still count for ALE determinations

Retiree Population

- Must report on retirees who access the self-funded plan and are not enrolled in Medicare
- Retirees on Medicare Supplemental Plans are not reporting requirements
- Medicare, Medicare Advantage Plans are not reported by the employer
- Remember: reporting requirements will be mandated for any months when employee was on employer plan
- Surviving spouses will be reported if their coverage was not related to their spouse's active employment for one or more months in a calendar year
- Spouses of retirees who are not eligible for Medicare A and/or B that are enrolled must be reported

TRICARE Population

- ▶ Congress passed a law exempting Tricare and Veterans from the counting of eligible employees only as it relates to the threshold of whether or not an employer has more than 50 FTEs.

Reporting Notification

- ▶ What should the political subdivision do if they receive a notice from the Marketplace stating that an employee received a subsidy for individual health insurance?
 - Marketplaces are required to send notices to employers regarding employees who purchase coverage through the Marketplace and qualify for a subsidy.
 - The notice will be sent regardless of whether an employer is subject to the play or pay mandate and are not intended to be an official notification of excise taxes under Internal Revenue Code Section 4980H.
 - The notice the employer receives will identify the employee, indicate the employee has been determined eligible for a Marketplace subsidy and notify the employer that it may be liable for the excise tax assessed under Code Section 4980H, and if so, that the employer has a right to appeal the decision.
 - This is the employer's opportunity to correct the information provided by the employee if it is inaccurate and protect the employer from later being incorrectly assessed an excise tax.
 - Employers may choose not to appeal and see if the IRS attempt to assess excise taxes following the employer's 6056 reporting in early 2016.

Reporting Notification

- ▶ What should the political subdivision do if they receive a notice from the Marketplace stating that an employee received a subsidy for individual health insurance?
 - Employers will be allowed 90 days from the date of the subsidy notice to request an appeal and submit relevant evidence to support the appeal.
 - The Marketplace will accept appeal requests by telephone, mail, via the internet, or in person (if possible) and will provide assistance if requested.
 - Employers should remember, that these notices are NOT an official notification of excise taxes under Internal Revenue Code Section 4980H.
 - This assessment likely would not be received until mid-2016 or later, and the employer could challenge the assessments at that time.
 - An employer choosing not to appeal a Marketplace notice may want to inform the employee it believes he or she should not be receiving a subsidy and should discuss the matter with the Marketplace representative to avoid a possible subsidy payback situation.

Subsidy Payment Concerns

- **The latest OIG report finds problems with verifying plan eligibility and data inconsistencies include:**
 - Social Security numbers were not always validated through the Social Security Administration.
 - Citizenship was not always verified properly.
 - Annual household income was not always verified properly.
 - Family size was not always determined correctly.
 - Inconsistencies related to certain eligibility requirements were not always resolved or expired properly.
 - Applicant data and documentation related to resolving inconsistencies were not always maintained properly.

August 21, 2014 Tax Form 8962

- Washington states about 1.8 million households that got financial help for health insurance under President Obama's law have issues with their tax returns that could jeopardize their subsidies next year.
- The national average was \$272 a month, covering roughly $\frac{3}{4}$ of the premium.
- Consumers that received tax credits are required to file tax returns that properly account for them.
- About 760,000 households that received tax credits and/or requested tax returns omitted a new form that is the key to accounting for the subsidies called form 8962.
 - This form is new for this year's tax filing season.

Have a Great Day!

Your Time is Appreciated