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HR INTELLIGENCE

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Technology to automate your company's HR and Benefits processes to become more effective, efficient and paperless.



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Enhancing the overall benefit strategy of your organization while meeting the diverse protection needs of your employees.

The Affordable Care Act *Measurement Periods* *Reporting Requirements*

CATBERT: EVIL DIRECTOR OF HUMAN RESOURCES



Nov 3, 2015



Hickok & Boardman
HR INTELLIGENCE

Today's Agenda

- Employee Definitions
- Measurement Periods
- Section 6055 & 6056 reporting
 - Why you have to report
 - Who has to report
 - What has to be reported
 - How to report



Employee Definitions

Employee Type	Definition	Penalty / Parameters
Full-Time	Always average 30+ hours/week	Employer must offer affordable coverage, 90 day or less waiting period. No measurement required.
Full-Time New Hire	Expected to always average 30+ hours/week	Employer must offer affordable coverage, 90 day or less waiting period. No measurement required.
Part-Time	Always average < 30 hours /week	If coverage is offered to employees working <30 hours per week must have 90 day or less waiting period; but no applicable employer penalty. Measurement required.
Variable	Employee hours vary such that employer can't determine whether employee is reasonably expected to work at least 30 hours per week	Eligibility determined based on measurement process.
Seasonal Employee	Worker who performs labor or services on a seasonal basis, including (but not limited to) retail workers employed exclusively during holiday seasons	Treat as variable employee for measurement and stability process

Measurement Periods

With respect to a calendar month

An employee who is employed on average at least **30 hours of service per week**

130 hours of service in a calendar month = the monthly equivalent of 30 hours of service/week

Measurement Periods

Standard Measurement Period

Counting hours of service (3-12 months)



Administrative Period

Time for enrollment/disenrollment (Up to 90 days)



Stability Period

Coverage provided (or not) – same length for new and **ongoing employees**



Ongoing vs New Hire Employees

- **Ongoing Employees:** employed for at least one complete standard measurement period.

- **New Employees** (not employed 1 full Standard Measurement period)
 - Expected Full-Time
 - Reasonably expected to work 30 hours of service per week
 - Must be offered minimum essential coverage by the end of the first 3 months of employment (90 days)
 - Measurement of hours not required
 - Variable Hour/Part Time/Seasonal*
 - Employer is unable to determine at start date if the employee will average 30 hours a week or employment is expected to be of limited duration
 - Measurement of hours is required
 - *Seasonal – has time limits on employment dates



Example of a 12 month SMP

PLAN YEAR JAN 1 - DEC 31

	SMP		ADMIN PERIOD	STABILITY PERIOD
2016 PLAN YEAR	Nov. 1, 2014 — Oct. 31, 2015		Nov. 1, 2015 — Dec. 31, 2015	Jan. 1, 2016 — Dec. 31, 2016
2017 PLAN YEAR	Nov. 1, 2015 — Oct. 31, 2016		Nov. 1, 2016 — Dec. 31, 2016	Jan. 1, 2017 — Dec. 31, 2017

■ **REMEMBER: Ongoing Employees:** employed for at least one complete standard measurement period.

Aug – July PLAN year	SMP		ADMIN PERIOD	STABILITY PERIOD
2015 PLAN YEAR	June 1, 2014 — May 31, 2015		June 1, 2015 — July 31, 2015	Aug 1, 2015- July 31, 2016



Example of an Initial Measurement Period

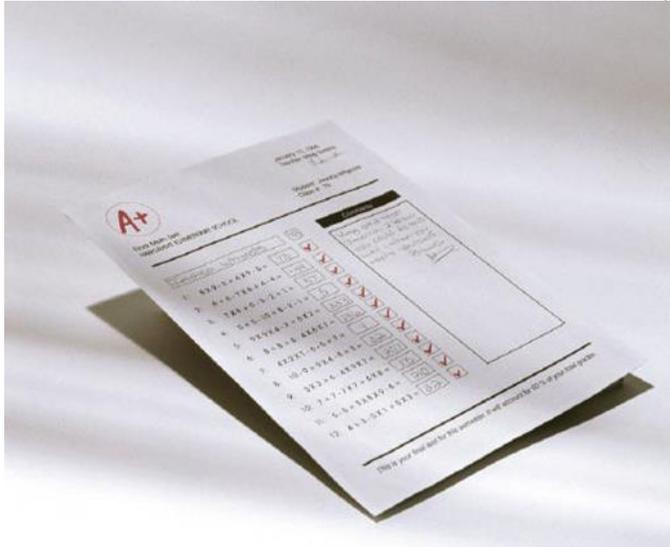
➤ **New** Variable Hour Employee – DOH is December 9, 2014

	INITIAL MEASUREMENT PERIOD	ADMIN PERIOD	STABILITY PERIOD
Option one:	Dec 9, 2014 — Dec 8, 2015	Dec 9, 2015– Jan 31, 2016	Feb 1, 2016-Jan 31, 2017
	<i>The IMP and the administrative period combined cannot extend beyond the last day of the first calendar month beginning on or after the one-year anniversary of the employee’s start date (totaling, at most, 13 months and a fraction of a month).</i>		
Option two: Split admin period	Begin measuring first of month after hire Jan 1, 2015 – Nov 30, 2015 (11 months) Measure for 11 months	2 months admin period Dec 1, 2015-Jan 31, 2016	Feb 1, 2016-Jan 31, 2017

Remember your SMP will begin to run again on Nov 1, 2015 – and this “new” employee will be an ongoing employee then. You will be running the measurements concurrently for the 30 days in November.

The Affordable Care Act

Overview of Title 26 (IRC) Section 4980H, Section 6055 & 6056



➤ **Section 4980H** addresses the Employer Mandate of Applicable Large Employers (ALEs) if not complying with ACA requirements.

➤ Part A and Part B Penalties (aka: Pay or Play rules).

➤ **Section 5000A** addresses the individual mandate and penalty for not having insurance.

➤ *****

➤ **Section 6055** requires information be reported by ANY ENTITY (including self insured employers and insurers) who provides *minimum essential coverage* to an individual.

Section 6056 requires ALE's to report information on what coverage was offered to employees, which employees have coverage, and the premium amount.

Both 6055 and 6056 information must be reported to the IRS AND the individual.

6055 reporting is necessary for the IRS to enforce the individual mandate.

6056 is to enforce the employer mandate and monitor eligibility for subsidies.

Sections 6055 & 6056

- **Section 6055** requires the insurer to report the actual coverage the employee and dependent has by month for the year.
 - SELF-INSURED plans – **the employer** has to report this actual coverage
 - Reporting is used to comply with Individual Mandate requirements
- **Section 6056** requires Applicable Large Employers to report the offer of coverage and the affordability of that coverage.
 - All ALEs report – used to comply with Employer Mandates (offer and affordability)
- Reporting is done on tax forms 1095B/1094B or 1095C/1094C

Applicable Large Employers

- Have to comply with the Employer Shared Responsibility Payments
 - Pay or Play
- **Penalty A**
- ALE's that do not offer Minimum Essential Coverage to ***substantially all (70%)*** FTE's employees & children to age 26. (increases to 95% of FTEs in 2016)
- Penalty is triggered by at least 1 FTE who is not offered coverage **and** they enroll in subsidized exchange coverage
 - Penalty is $1/12^{\text{th}}$ of \$2,000 per month (\$166.67) X **all** FTEs
 - Excluding first 80 FTEs (reduces to 30 in 2016)

Applicable Large Employers

- **Penalty B**
- ALE's who fail to offer coverage that is ***affordable*** or coverage that does not meet Minimum Value (60%)
- Penalties are triggered when
 - at least 1 FTE coverage is unaffordable and they enroll in subsidized exchange coverage.
 - Penalty is 1/12th of \$3,000 per month (\$250) per employee who receives a premium credit or other cost sharing reductions through the state exchange.
- Side note: penalty amounts will be indexed.

Affordability

- ***Affordability Determination***
- The affordability of health coverage is a key point in determining whether an ALE will be subject to Penalty B.
 - For 2014 – 9.5% of household income
 - For 2015 – 9.56% of household income
 - For 2016 – 9.66% of household income
 - Indexed every year based on CPI/inflation
- ***Will you as an employer necessarily know what the household income is?***

Safe Harbors

- Three safe harbors available to employers.
 - The Form W-2 safe harbor (affordability determined based on Form W-2 wages from that employer)
 - The rate of pay safe harbor (affordability determined based on an employee's rate of pay)
 - The federal poverty level (FPL) safe harbor (affordability determined based on FPL for a single individual)
 - For 2015 that amount is \$11,770
 - <http://aspe.hhs.gov/2015-poverty-guidelines#thresholds>
- ***Here is the catch – IF you use a safe harbor, you have to use the 9.5% amount NOT the indexed amount.***

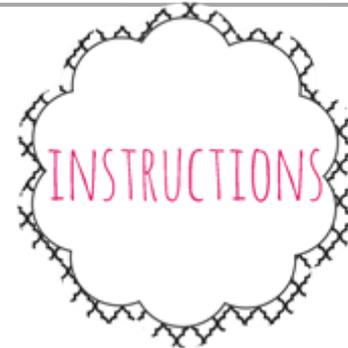
Reporting Requirements

- ALEs are required to report the **offer** of coverage and the **affordability** of the coverage on a tax form to the employee and to the IRS. This is the Section 6056 reporting.
- Health issuers will be required to report the actual coverage (months covered, all dependents covered) . This is the Section 6055 reporting.
 - Employers that sponsor a self-insured health plan are the health issuers.
- ALEs are required to report to employees on the [IRS Tax Form 1095C form](#).
 - Employee Info; Employer Info
 - Offer of coverage by month
 - Cost of premium (lowest cost plan, single coverage only)
 - Applicable Safe Harbor Code

If you are an ALE and self-insured you will report the actual employee and dependent months of coverage too
*TINs

Form 1094C is reporting to the IRS

- [Form 1094C](#)
- Is sent with copies of the 1095Cs
- Report Employer Information
- # of FT employees for each month
- Total # of all EEs per month
- Third party info IF they are reporting for you



[Instructions for BOTH
1095C and 1094C](#)



Transition Relief for employers 50-99

- **Transition relief** for employers with **50-99 FTEs** – no penalties this year, but reporting is still necessary!
 - Will file information to show eligibility for transition relief
- Maintenance of Workforce and Aggregate Hours of Service. During the period beginning on Feb. 9, 2014 and ending on Dec. 31, 2014
 - may not reduce the size of its workforce or the overall hours of service of its employees in order to qualify for the transition relief. However, an employer that reduces workforce size or overall hours of service for bona fide business reasons is still eligible for the relief.



Transition Relief 50-99 and Non-Calendar Year

- **Maintenance of Previously Offered Health Coverage.** During the period beginning on Feb. 9, 2014 and ending on Dec. 31, **2015** (or, for employers with non-calendar-year plans, ending on the last day of the 2015 plan year)
 - does not eliminate or materially reduce the health coverage, if any, it offered as of Feb. 9, 2014.
 - An employer will not be treated as eliminating or materially reducing health coverage if (i) it continues to offer each employee who is eligible for coverage **an employer contribution toward the cost of employee-only coverage that either**
 - (A) is at least 95 percent of the dollar amount of the contribution toward such coverage that the employer was offering on Feb. 9, 2014, or
 - (B) is at least the same percentage of the cost of coverage that the employer was offering to contribute toward coverage on Feb. 9, 2014;

Non Employees

➤ COBRA

- Active employee (due to reduction in hours) is reported in the same manner and using the same code as an offer of that type of coverage to any other active employee on 1095C
- A former employee (due to termination) should not be reported as an offer of coverage on line 14. For a terminated employee, code 1H (No offer of coverage) should be entered for any month for which the offer of COBRA continuation coverage applies.
 - 1095C if an employee during the year
 - Either form if not an employee during the year
- A former employee – (non employee all year) SELF-INSURED plans only – report can use [1095B](#) or 1095C

➤ Retirees

- an individual who was a retired employee
 - If retired for entire year – either form
 - If an employee for part of the year – C form

Penalties for not doing the reporting:



~~\$100~~–**\$250** per return not filed. May be waived if due to reasonable cause (not willful)
May be reduced if corrected returns filed within 30 days

Information Returns

Failure to timely file or include all required information

Including incorrect information

Individual Statements

Failure to timely furnish or include all required information

Including incorrect information on the statement

June 29, 2015: The Trade Preferences Extension Act
Increased penalties beginning for returns filed in 2016

HRAs!

Summary of Forms

IS Health Insurance Plan **Fully** Insured?

NO

(It is self-insured)

Are you an ALE?

YES

NO

Report on 1095C/1094C Complete Sections I, II and III on 1095C (6055 & 6056 reporting)

Report on 1095B/1094B (6055 reporting)

YES

Are you an ALE?

YES

NO

Report on 1095C/1094C Complete Sections I & II only on 1095C (6056 reporting)

No reporting required

Note: for an ALE who has COBRA participants or retirees on their health plans:

- If a participant was an employee at any time during the calendar year you are reporting, you **MUST** use the 1095C/1094C forms.
- If participant was NOT an employee at any time during the calendar year and you are:
 - Fully insured – your carrier will provide the 1095B to the participants and file the 1094B with the IRS.
 - Self-insured – you have the option to use the 1095C/1094C forms OR the 1095B/1094B forms. Most self-insured employers will use the 1095C/1094C for COBRA/retiree coverage for ease of administration (as they are already providing these forms to current employees.)



Reporting Deadlines

- **Same as W2 reporting**
- Employee Statements (1095-B and 1095-C) by January 31st of each year for the prior year information
- Transmittals (1094-B and 1094-C) to the IRS by Feb 28th (if paper) or by March 31st (if electronically).
- Important to note: Employers with 250 + returns must file electronically

Confused – You are NOT alone!

“This law is one of the most complex and onerous laws employers have had to face since President Roosevelt signed the Social Security Act into law in 1935..... The requirements placed on employers by the ACA are so complex, and the penalties for noncompliance so massive that no business can afford to ignore it.” The Employers Guide to Obamacare Kayla Bromley, JD, MSW

“Extremely difficult” ... “complicated” ... “multiple layers of complexity” ... “scary”
“enormously challenging” ... “data needs to be drawn from disparate sources”
“shouldn’t try this at home”.

Comments regarding form 1095-C at 2015 Staffing Law Conference in Washington, DC from ACA session leaders Alden Bianchi Esq., Ed Lenz, Esq., James Essey, CSP and Jason Leverant, PHR, CSP

Next Steps

- Gather your information! – Review Technology Capabilities
 - Does your payroll system and HR system “talk”
 - How are you going to get all this information in one report
 - May have to amend contracts with third party providers
- Who will be responsible for this reporting and gathering information?
- If self insured – check with carrier on collection of SSNs

Resources

- IRS Information Pages:
- <http://www.irs.gov/Affordable-Care-Act/Employers/ACA-Information-Center-for-Applicable-Large-Employers-ALEs>
- <http://www.irs.gov/Affordable-Care-Act/Employers/Questions-and-Answers-on-Reporting-of-Offers-of-Health-Insurance-Coverage-by-Employers-Section-6056>
- <http://www.irs.gov/Affordable-Care-Act/Employers/Questions-and-Answers-about-Employer-Information-Reporting-on-Form-1094-C-and-Form-1095-C>

Thank You!



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