Kinney Pike
Insurance Professionals

Issue Brief

Employer Reporting Requirements

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Beginning in early 2016, employer reporting will be required for the first time based on data from the 2015 calendar year. Depending on the size of the employer and the funding arrangement of the benefits offered, employer reporting requirements vary in regard to what type of information needs to be reported (if any) and whether the employer is required to use Forms 1094-B and 1095-B (the "B" forms) or Forms 1094-C and 1095-C (the "C" forms). This issue brief covers who is responsible for reporting and which forms should be used in different situations.

Background
All applicable large employers — those with 50 or more full-time equivalents (FTEs) — will be required to report whether minimum value, affordable coverage was offered to any employees who were full-time for at least one month during the year based on the 4980H definition of full-time (using the monthly measurement method or the look-back measurement method). And all employers sponsoring a self-funded medical plan will be required to report which individuals were covered under the plan. The employer will report by using Forms 1094 and 1095. Employers filing 250 or more Form 1095s are required to file electronically using the Affordable Care Act Information Returns (AIR) system. Those filing fewer than 250 Form 1095s have the option to file by paper or electronically.

Reporting Requirements by employer and plan type
The table below sets forth which forms employers should use depending on the size of the employer and the funding arrangement of the medical plan offered (if any). In all cases, Forms 1094 and 1095 are provided to the IRS, and a copy of Form 1095 is provided to full-time employees and covered individuals as applicable. Below the table is a more detailed description of each possible arrangement.

APPLICABLE LARGE EMPLOYER (50 or more FTEs)		
	Fully-insured	**Self-funded**
Offered by single employer	Employer is required to provide the "C" forms for all full-time employees Insurance carrier will provide the "B" forms to covered individuals	Employer is required to provide the "C" forms for all full-time employees and any covered individuals
Offered by multiple employers (either through a MEWA or as part of a controlled group)	Employer is required to provide the "C" forms for all its own respective full-time employees Insurance carrier will provide the "B" forms to covered individuals	Employer is required to provide the "C" forms for all its own respective full-time employees and covered individuals
Offered to union employees by multiemployer (union)	Employer is required to provide the "C" forms for all full-time employees (including union employees) Insurance carrier will provide the "B" forms to non-union covered individuals Multiemployer plan sponsor will provide the "B" forms to union covered	Employer is required to provide the "C" forms for all full-time employees (including union employees) and any non-union covered individuals Multiemployer plan sponsor will provide the "B" forms to union covered individuals

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	individuals	
SMALL EMPLOYER (less than 50 FTEs)		
	Fully-insured	**Self-funded**
Offered by single employer	Insurance carrier will provide the "B" forms to covered individuals	Employer is required to provide the "B" forms to covered individuals
Offered by multiple employers (either through a MEWA or as part of a controlled group)	Insurance carrier will provide the "B" forms to covered individuals	Each employer is required to provide the "B" forms for his or her respective covered individuals
Offered to union employees by multiemployer (union)	Insurance carrier will provide the "B" forms to non-union covered individuals Multiemployer plan sponsor will provide the "B" forms to union covered individuals	Employer is required to provide the "B" forms to non-union covered individuals Multiemployer plan sponsor will provide the "B" forms to union covered individuals

<u>Applicable Large Employer: 50 or more FTEs</u>, including FTEs from any related entities under a controlled group or affiliated service group (Section 414 rules)

- Fully-insured plan offered by a single employer:
  - Employer is responsible for reporting whether or not a minimum value, affordable offer of coverage was made to any employees who were full-time for at least one month during the year (based on monthly measurement method or look-back measurement method), using Form 1094-C and Parts I and II of Form 1095-C.
  - The insurance carrier is responsible for reporting on any covered individuals, using Forms 1094-B and 1095-B.
  - Full-time employees will receive a Form 1095-C from the employer, and individuals covered under the fully-insured plan will receive a Form 1095-B from the insurance carrier.

- Fully-insured plan offered by multiple employers either through a multiple employer welfare arrangement (MEWA) or due to a controlled group/affiliated service group relationship:
  - Each employer is responsible for reporting whether or not a minimum value, affordable offer of coverage was made to his or her respective employees who were full-time for at least one month during the year (based on monthly measurement method or look-back measurement method), using Form 1094-C and Parts I and II of Form 1095-C.
  - The insurance carrier is responsible for reporting on any covered individuals, using Forms 1094-B and 1095-B.
  - Full-time employees will receive a Form 1095-C from the employer, and individuals covered under the fully-insured plan will receive a Form 1095-B from the insurance carrier.

- Fully-insured plan offered by a single employer to non-union employees and a self-funded plan offered by a multiemployer plan (a collectively bargained plan) to union employees:
  - Employer is responsible for reporting whether or not a minimum value, affordable offer of coverage was made to any employees (including union employees) who were full-time for at least one month during the year (based on monthly measurement method or look-back measurement method), using Form 1094-C and Parts I and II of Form 1095-C; some coordination with the union may be required to obtain this information, but ultimately it is the employer's responsibility.

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- The insurance carrier is responsible for reporting on any non-union covered individuals, using Forms 1094-B and 1095-B; the multiemployer (i.e. union) plan sponsor is responsible for reporting on any union covered individuals, using Forms 1094-B and 1095-B.
- Full-time employees will receive a Form 1095-C from the employer; non-union individuals covered under the fully-insured plan will receive a Form 1095-B from the insurance carrier; and union individuals covered under the self-funded plan will receive a Form 1095-B from the multiemployer (i.e. union) plan sponsor.

- Self-funded plan offered by a single employer
  - Employer is responsible for reporting whether or not a minimum value, affordable offer of coverage was made to any employees who were full-time for at least one month during the year (based on monthly measurement method or look-back measurement method), using Form 1094-C and Parts I and II of Form 1095-C.
  - Employer is also responsible for reporting on any covered individuals, using Form 1094-C and Part III of Form 1095-C; Forms 1094-B and 1095-B may be used instead of the "C" forms for non-employees (i.e. COBRA participants, retirees) at the employer's discretion.
  - Full-time employees and individuals covered under the self-funded plan will receive a Form 1095-C from the employer (covered non-employees may receive a Form 1095-B from the employer instead).

- Self-funded plan offered by multiple employers either through a multiple employer welfare arrangement (MEWA) or due to a controlled group/affiliated service group relationship:
  - Each employer is responsible for reporting whether or not a minimum value, affordable offer of coverage was made to his or her respective employees who were full-time for at least one month during the year (based on monthly measurement method or look-back measurement method), using Form 1094-C and Parts I and II of Form 1095-C.
  - Each participating employer is also responsible for reporting on his or her respective covered individuals, using Form 1094-C and Part III of Form 1095-C; Forms 1094-B and 1095-B may be used instead of the "C" forms for non-employees (i.e. COBRA participants, retirees) at the employer's discretion.
  - Full-time employees and individuals covered under the self-funded plan will receive a Form 1095-C from the employer (covered non-employees may receive a Form 1095-B from the employer instead).

- Self-funded plan offered by a single employer to non-union employees and a self-funded plan offered by a multiemployer plan (a collectively bargained plan) to union employees:
  - Employer is responsible for reporting whether or not a minimum value, affordable offer of coverage was made to any employees (including union employees) who were full-time for at least one month during the year (based on monthly measurement method or look-back measurement method), using Form 1094-C and Parts I and II of Form1095-C; some coordination with the union may be required to obtain this information, but ultimately it is the employer's responsibility.
  - The employer is also responsible for reporting on any non-union covered individuals, using Form 1094-C and Part III of Form 1095-C; Forms 1094-B and 1095-B may be used instead of the "C" forms for non-employees (i.e. COBRA participants, retirees) at the employer's discretion; the multiemployer (i.e. union) plan sponsor is responsible for reporting on any union covered individuals, using Forms 1094-B and 1095-B.
  - Full-time employees and non-union individuals covered under the self-funded plan will receive a Form 1095-C from the employer (covered non-employees may receive a Form 1095-B from the employer instead); union individuals covered under the self-funded plan will receive a Form 1095-B from the multiemployer (i.e. union) plan sponsor

- Mix of fully-insured and self-funded plan options offered by a single employer
  - Employer is responsible for reporting whether or not a minimum value, affordable offer of coverage was made to any employees who were full-time for at least one month during the year (based on monthly measurement method or look-back measurement method), using Form 1094-C and Parts I and II of Form 1095-C.
  - Employer is also responsible for reporting on any individuals covered under the self-funded plan, using Form 1094-C and Part III of Form 1095-C; Forms 1094-B and 1095-B may be used instead of the "C"

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forms for non-employees (i.e. COBRA participants, retirees) at the employer's discretion; the insurance carrier is responsible for reporting on any individuals covered under the fully-insured plan, using Forms 1094-B and 1095-B.
    - Full-time employees and individuals covered under the self-funded plan will receive a Form 1095-C from the employer (covered non-employees may receive a Form 1095-B from the employer instead); individuals covered under the fully-insured plan will receive a Form 1095-B from the insurance carrier.

<u>Small employer: fewer than 50 FTEs</u>, including FTEs from any related entities under a controlled group or affiliated service group (Section 414 rules)

- Fully-insured plan offered by a single employer:
    - No reporting by the employer is required; the insurance carrier is responsible for reporting on any covered individuals, using Forms 1094-B and 1095-B.
    - Individuals covered under the fully-insured plan will receive a Form 1095-B from the insurance carrier.

- Fully-insured plan offered by multiple employers either through a multiple employer welfare arrangement (MEWA) or due to a controlled group/affiliated service group relationship:
    - No reporting by the employer is required; the insurance carrier is responsible for reporting on any covered individuals, using Forms 1094-B and 1095-B.
    - Individuals covered under the fully-insured plan will receive a Form 1095-B from the insurance carrier.

- Fully-insured plan offered by a single employer to non-union employees and a self-funded plan offered by a multiemployer plan (a collectively bargained plan) to union employees:
    - No reporting by the employer is required; the insurance carrier is responsible for reporting on any non-union covered individuals, using Forms 1094-B and 1095-B; the multiemployer (i.e. union) plan sponsor is responsible for reporting on any union covered individuals, using Forms 1094-B and 1095-B.
    - Non-union individuals covered under the fully-insured plan will receive a Form 1095-B from the insurance carrier; union individuals covered under the self-funded plan will receive a Form 1095-B from the multiemployer (i.e. union) plan sponsor.

- Self-funded plan offered by a single employer:
    - Employer is responsible for reporting on any covered individuals, using Forms 1094-B and 1095-B.
    - Individuals covered under the self-funded plan will receive a Form 1095-B from the employer.

- Self-funded plan offered by multiple employers either through a multiple employer welfare arrangement (MEWA) or due to a controlled group/affiliated service group relationship:
    - Each participating employer is responsible for reporting on his or her own respective covered individuals, using Forms 1094-B and 1095-B.
    - Individuals covered under the self-funded plan will receive a Form 1095-B from the employer.

- Self-funded plan offered by a single employer to non-union employees and a self-funded plan offered by a multiemployer plan (a collectively bargained plan) to union employees:
    - Employer is responsible for reporting on any non-union covered individuals, using Forms 1094-B and 1095-B; the multiemployer (i.e. union) plan sponsor is responsible for reporting on any union covered individuals, using Forms 1094-B and 1095-B.
    - Non-union individuals covered under the self-funded plan will receive a Form 1095-B from the employer; union individuals covered under the self-funded plan will receive a Form 1095-B from the multiemployer (i.e. union) plan sponsor.

Summary

Except for those employers with fewer than 50 FTEs offering no plan or only a fully-insured plan, all other employers are required to do at least a portion of the reporting using either the "B" or "C" versions of Forms 1094 and 1095. Small employers will use the "B" forms, and applicable large employers will generally use the "C" forms (although the "B" forms can be used for coverage of non-employees). Depending on the funding arrangement of the plans, it is possible that employees will receive more than one Form 1095 (i.e. one from the employer and one from the insurance carrier).

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IRS FAQ in regard to employer reporting can be found here.

Final employer reporting forms and instructions can be found here.

IRS draft electronic reporting guide can be found here.

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