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WHAT YOU NEED TO KNOW



Reporting Minimum Essential Coverage

Minimum essential coverage (MEC) is the type of coverage that an individual must have under the Patient Protection and Affordable Care Act (ACA). Employers that are subject to the ACA's shared responsibility provisions (often called "play or pay") must offer MEC coverage that is affordable and provides minimum value.

In the fall of 2015 the IRS issued [Notice 2015-68](#) stating it was planning to propose regulations on reporting MEC coverage that would, among other things, require health insurance issuers to report coverage in catastrophic health insurance plans, as described in section 1302(e) of the ACA, provided through an Affordable Insurance Exchange (Exchange, also known as a Health Insurance Marketplace). The notice also covered reporting of "supplemental coverage" such as a health reimbursement arrangement (HRA) in addition to a group health plan.

In August 2016, the IRS released the anticipated [proposed regulations](#), incorporating the guidance given in Notice 2015-68. These regulations are generally proposed to apply for taxable years ending after December 31, 2015, and may be relied on for calendar years ending after December 31, 2013.

The proposed regulations provide that:

1. Reporting is required for only one MEC plan or program if an individual is covered by multiple plans or programs provided by the same provider.
2. Reporting generally is not required for an individual's eligible MEC only if the individual is covered by other MEC for which section 6055 reporting is required.

These rules would apply month by month and individual by individual. Once finalized, the regulations would adopt the same information provided in the final instructions for reporting under sections 6055 and 6056 of the ACA.

The IRS provided two examples under the first rule:

- If for a month an individual is enrolled in a self-insured group health plan and also has a self-insured HRA from the same employer, the provider (the employer) is required to report only one type of coverage for that individual.
- If an employee is covered under both arrangements for some months of the year but retires or otherwise drops coverage under the non-HRA group health plan and is covered only under the HRA, the employer must report coverage under the HRA for the months after the employee retires or drops the non-HRA coverage. The employer must report the coverage in an arrangement of any individual who is covered by only one arrangement.

Under the second rule, the IRS provided that:

- Reporting would not be required if that coverage is offered only to individuals who are also covered by other MEC, including Medicare, TRICARE, Medicaid, or certain employer-sponsored

coverage for which reporting is required.

- Reporting also would not be required under the second rule for an HRA that is available only to employees and other individuals who enroll in an employer's insured group health plan for months that the individual is enrolled in the insured group health plan. It is anticipated that, for employer coverage, this rule will apply only if the two types of coverage are eligible employer-sponsored coverage of the same employer.
 - For example, if an employee is enrolled in both his employer's HRA and insured group health plan, the employer is not required to report the employee's coverage under the HRA.
 - However, if an employee is enrolled in an employer's HRA and in a spouse's non-HRA group health plan, the employee's employer would be required to report for the HRA, and the employee's spouse's employer (or the health insurance issuer or carrier, if the plan is insured) would be required to report for the non-HRA group health plan coverage.

Employer Identification Number

The IRS proposed regulations that will allow health insurance issuers and carriers to use the employer identification number (EIN) of the employer sponsoring the plan to be truncated to appear as an IRS TTIN on statements that health insurance issuers and carriers furnish to taxpayers.

TIN Solicitation

The IRS has previously stated that it will not impose penalties on a reporting entity that fails to comply with the filing and statement furnishing under sections 6055 and 6065 if it can show that it made good faith efforts to comply with the information reporting requirements. Coverage providers who make a good faith effort may use the birth date of the covered individual instead of the taxpayer identification number (TIN).

In order to avoid penalties, an employer must:

1. For the first annual solicitation, solicit the individual's TIN when the account is "opened," which means a substantially complete application for new coverage, or when an application is made to add an individual to existing coverage.
2. The second annual solicitation must be made no later than 75 days after the date the account was opened, or if retroactive, no later than 75 days after the determination of retroactive coverage was made.
3. A third annual solicitation must be made by December 31 of the year following the initial solicitation.

Additionally, a reporting entity is not required to solicit a TIN from an individual whose coverage is terminated. Filers may request more than one TIN at the same time and do not need to send separate envelopes with each request. For example, on a renewal application requesting the TINs for all covered individuals, filers only need to provide one return envelope for that application or request.

The proposed rule provides transitional relief for individuals already enrolled in coverage with a missing TIN at the time of publication. For those individuals, July 29, 2016, will be treated as the day the account was opened. The first annual solicitation must be made no more than 75 days after July 29. Practically speaking, this provides additional time for the second and third annual solicitations.

The rule does not provide any changes to the process for correcting incorrect TINs. However, a footnote indicates: "A filer of the information return required under § 1.6055-1 may receive an error message from the IRS indicating that a TIN and name provided on the return do not match IRS records. An error message is neither a Notice 972CG, Notice of Proposed Civil Penalty, nor a requirement that the filer must solicit a TIN in response to the error message."

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Our access to ACA Advisor resources can help you clear up ACA questions and better craft your company's benefit strategy for the future.



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