

Compliance Bulletin

Brought to you by: MST Insurance Solutions, Inc.

IRS Finalizes Deadline Extension for Furnishing ACA Statements



On Dec. 12, 2022, the IRS released a [final rule](#) that extends the annual furnishing deadlines for Sections 6055 and 6056 reporting under the Affordable Care Act (ACA). This rule finalizes guidance that was proposed by the IRS in December 2021 with minor clarifications. Specifically, the rule:

- **Finalizes the 30-day automatic extension to the due date for furnishing statements to individuals** under Sections 6055 and 6056; and
- **Confirms the availability of an alternate method for furnishing statements to individuals under Section 6055** for every year in which the individual mandate penalty is zero. Under this relief, employers generally will only have to provide Form 1095-B to covered individuals upon request.

The final rule also provides that minimum essential coverage (MEC) does not include Medicaid coverage that is limited to COVID-19 testing and diagnostic services provided under the Families First Coronavirus Response Act (FFCRA).

The due date for filing forms with the IRS under Sections 6055 and 6056 remains unchanged. This means that forms must generally be filed with the IRS by **Feb. 28** of the year following the calendar year to which the statement relates (or **March 31**, if filing electronically).

Important Dates

- **30 Days From January 31** - Individual statements are due 30 days after Jan. 31 of the year following the calendar year to which the statement relates.
- **February 28** - Annual deadline for filing with the IRS on paper.
- **March 31** - Annual deadline for filing with the IRS electronically.

Action Steps

The final rule does not provide any new relief for employers because they were permitted to rely on the IRS' proposed guidance beginning with the 2021 calendar year. Due to the 30-day automatic extension, employers subject to ACA reporting must furnish statements for the 2022 calendar year by March 2, 2023. Also, because the individual mandate penalty is zero, employers with self-insured plans that are subject to reporting under Section 6055 may use the alternate method of furnishing statements to individuals.

Sections 6055 and 6056 Reporting

Sections 6055 and 6056 were added to the Internal Revenue Code (Code) by the ACA.

- Section 6055 applies to providers of MEC, such as health insurance issuers and employers with self-insured health plans. These entities will generally use Forms 1094-B and 1095-B to report information about the coverage they provided during the previous year.
- Section 6056 applies to applicable large employers (ALEs)—generally, those employers with 50 or more full-time employees (including full-time equivalents) in the previous year. ALEs will use Forms 1094-C and 1095-C to report information relating to the health coverage they offer (or do not offer) to their full-time employees.

Individual statements (Forms 1095-B and 1095-C) are generally required to be furnished by **Jan. 31** each year. Forms are generally required to be filed with the IRS by **Feb. 28** annually (or by **March 31** annually, if filing electronically).

Extended Furnishing Deadlines

The final rule provides an **automatic extension of 30 days** to furnish statements (Forms 1095-B and 1095-C) to individuals under Sections 6055 and 6056. Because the extension is automatic, reporting entities do not need to formally request an extension from the IRS. Statements furnished to individuals will be timely if furnished **no later than 30 days after Jan. 31** of the calendar year following the calendar year to which the statement relates. This means that employers have until March 2 (or March 1 in a leap year) to furnish ACA statements. If the extended furnishing date falls on a weekend day or legal holiday, statements will be timely if furnished on the next business day.

Impact on Filing Deadline

The final rule does not extend the due date for filing Forms 1094-B, 1095-B, 1094-C or 1095-C with the IRS. This due date remains **Feb. 28** if filing on paper or **March 31** if filing electronically. Because the due dates are unchanged, potential automatic extensions of time for filing information returns are still available under the normal rules by submitting Form 8809. Additional extensions of time to file may also be available under certain hardship conditions.

Alternative Method of Furnishing under Section 6055

The final rule provides an alternative method for a reporting entity to timely furnish Forms 1095-B to individuals under Section 6055. These written statements were used to administer the ACA's individual mandate penalty. However, beginning in 2019, individuals no longer need Forms 1095-B because the individual mandate penalty was reduced to zero.

For all years that the individual mandate penalty is zero, the final rule provides an **alternative manner for a reporting entity to furnish statements to individuals under Section 6055**. Under this alternative manner of furnishing, the reporting entity must post a clear and conspicuous notice on its website stating that responsible individuals may receive a copy of their statement upon request and must furnish a statement to a requesting individual within 30 days of the date the request is received.

The notice must include an email address, a physical address to which a request may be sent and a telephone number to contact the reporting entity with any questions. It must be written in plain, nontechnical terms and with letters of a font size large enough (including any visual clues or graphical figures) to call to a viewer's attention that the information pertains to tax statements reporting that individuals had health coverage. Reporting entities must post the notice by the due date for furnishing ACA statements and must generally retain the website notice until Oct. 15 of that year.

ALEs that offer self-insured health plans are generally required to use Form 1095-C, Part III, to meet the Section 6055 reporting requirements instead of Form 1095-B. Self-insured ALEs may use this relief for employees who are enrolled in the ALE's self-insured plan and who are not full-time employees of the ALE, as well as for nonemployees (such as former employees) who are enrolled in the self-insured plan. **However, ALEs may not use the alternative method of furnishing for full-time employees who are enrolled in the self-insured plan.**

Elimination of Good-faith Transition Relief From Penalties

For reporting years prior to 2021, the IRS provided transitional penalty relief for reporting entities that could show that they made good-faith efforts to comply with the information reporting requirements. The final rule confirms that the transitional good-faith relief from penalties for the reporting of incorrect or incomplete information on information returns or statements is not available for reporting for tax year 2021 and subsequent years.

This good-faith relief was intended to be transitional to accommodate public concerns with implementing new reporting requirements under the ACA. These reporting requirements have been in place for seven years, and the IRS has determined that transitional relief is no longer appropriate. Therefore, the IRS discontinued the transitional good-faith relief after tax year 2020.

Medicaid Coverage of COVID-19 Testing and Diagnostic Services

[IRS Notice 2020-66](#) provides that Medicaid coverage that is limited to COVID-19 testing and diagnostic services under the FFCRA is not MEC under a government-sponsored program. As a result, an individual's eligibility for this type of coverage does not prevent the individual's eligibility for a premium tax credit. The final rule adds Medicaid coverage for COVID-19 testing and diagnostic services to the health coverages listed in regulations that do not qualify as MEC under a government-sponsored program.

This Compliance Bulletin is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice. © 2022 Zywave, Inc. All rights reserved.