

Health Care Reform & Same-Sex Spouse Benefits

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Overview

- ▶ Patient Protection and Affordable Care Act (“ACA”) Updates
 - Reporting for 2015 Tax Year
 - *King v. Burwell*
- ▶ Wellness Program Update
- ▶ Same-Sex Spousal Benefits
 - *Obergefell v. Hodges*
 - Issues to Consider post-*Windsor*

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Code §§ 6055 and 6056 Reporting

- ▶ Mandatory reporting for 2015 tax year (due 2016)
- ▶ Two different reporting requirements
- ▶ Code § 6055: Minimum essential coverage reporting
- ▶ Code § 6056: Applicable large employer reporting
- ▶ Forms for reporting
 - 1094-B
 - 1095-B
 - 1094-C
 - 1095-C

Information Reported

- ▶ Information reported for each calendar month
- ▶ Examples:
 - Type of coverage offered
 - To whom coverage offered (employee, spouse, dependents)
 - Enrollment in coverage
 - Cost of coverage
 - Covered individuals' Social Security numbers
 - Enrollment information

Form 1095-C

Form 1095-C **Employer-Provided Health Insurance Offer and Coverage** VOID CORRECTED **OMB No. 1545-0045**
Information about Form 1095-C and its separate instructions is at www.irs.gov/1095-C.

Part I Employee **Applicable Large Employer Member (Employer)**

1 Name of employer 2 Social security number (SSN) 3 Name of employee 4 Employee identification number (EIN)
 5 Street address (including apartment no.) 6 Street address (including suite or suite no.) 7 Contact telephone number
 8 City or town 9 State or province 10 Country and ZIP or foreign postal code 11 City or town 12 State or province 13 Country and ZIP or foreign postal code

Part II Employee Offer and Coverage

14 Offer of coverage under employer plan
 15 Employee Share of Monthly Premiums, the Self Only Minimum Value Coverage
 16 Applicable Premium Reduction Percentage

(a) State	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$

Part III Covered Individuals
 If Employer provided self-insured coverage, check the box and enter the information for each covered individual.

(a) Name of covered individual(s)	(b) SSN	(c) COB (or SSN if not available)	(d) Covered all 12 months	(e) Months of Coverage											
				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
17			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat No. 101705A Form 1095-C (2014)



Reporting for Fully Insured Plans

- ▶ Insurer reports minimum essential coverage
 - Form 1095-B to employees
 - Forms 1095-B and 1094-B to IRS
- ▶ Employer reports offers of coverage
 - Form 1095-C to employees
 - Forms 1095-C and 1094-C to IRS
- ▶ Deadline for reporting



Reporting for Self-Insured Plans

- ▶ Minimum essential coverage and “employer mandate” reported on one form (Form 1095-C)
- ▶ Employer responsible for reporting on Form 1095-C
 - Due to employee January 31 (for 2015)
 - Due to IRS February 28 if filing on paper (March 31 if filing electronically) (for 2015)
- ▶ Employer transmits Forms 1095-C to IRS using Form 1094-C

Preparing To Report

- ▶ Start preparing now!
- ▶ Forms look simple ... but ...
- ▶ Questions to consider:
 - Where is the data?
 - How will the data be aggregated/analyzed?
 - Who is responsible for preparing, filing, and mailing?
 - Role of current vendors?
 - Implementation timeline?

King v. Burwell

- ▶ Background
 - Subsidized coverage through Exchanges (Marketplaces)
- ▶ Issue before the Court
- ▶ Potential implications

Wellness Program Background

- ▶ Generally considered a “group health plan”
- ▶ Primarily governed by HIPAA
 - Exception to general rule prohibiting discrimination based on a health factor
 - If it complies with the regulations, a group health plan may provide rewards (penalties) based on health factors
 - Examples:
 - ◆ Surcharge for tobacco use
 - ◆ Biometric screenings
 - ◆ Health risk assessments

Two Types of Wellness Programs

Participatory

- ▶ Does not provide a reward, or
- ▶ Does not include any conditions for obtaining a reward that is based on satisfying a standard related to a health factor
- ▶ Examples

Health-contingent

- ▶ Two sub-types
- ▶ Activity-only
 - Perform/complete activity relating to a health factor to obtain reward
 - Not required to attain specific health outcome
- ▶ Outcome-based
 - Must attain or maintain specific health outcome to obtain reward

New EEOC Proposed Regulations

- ▶ Federal Equal Employment Opportunity Commission (“EEOC”) concern: wellness programs violate Title I of the Americans with Disabilities Act (“ADA”)
- ▶ New proposed regulations:
 - Voluntary
 - Notice
 - Limitations on Incentives
 - Confidentiality
- ▶ Compliance steps

Same-Sex Spouse Benefits

▶ *Obergefell v. Hodges*

- Issues
 - ◆ Is there a constitutional right for individuals of the same-sex to marry?
 - ◆ Does the Constitution require one state to recognize same-sex marriages legally performed in another state?
- To be decided in June 2015 by United States Supreme Court

Post-*Windsor* Issues

- ▶ Definition of “spouse” in plan documents
- ▶ Selected health plan issues
 - HIPAA special enrollment
 - COBRA
 - Dependent care assistance plan limits
 - Controlled groups
- ▶ Tax issues
 - State versus federal tax treatment
 - Imputed income

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