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PBCG News Alert

Health Care Reform

Draft 2016 ACA Reporting Forms Released

The Internal Revenue Service (IRS) has released 2016 draft forms for reporting under Internal Revenue Code Sections 6055 and 6056, which were created under the Affordable Care Act (ACA). Draft or final instructions for the 2016 forms have not yet been released.

- Forms 1094-B and 1095-B are to be used by entities reporting under Section 6055, including self-insured plan sponsors that are not applicable large employers (ALEs).
- Forms 1094-C and 1095-C are to be used by ALEs to report under Section 6056, as well as for combined Sections 6055 and 6056 reporting by ALEs who sponsor self-insured plans.

Minor changes were made to Forms 1094-C and 1095-C, including the addition of two new "Offer of Coverage" codes:

- Code 1J can be used if: (1) minimum essential coverage providing minimum value was offered to the employee; (2) minimum essential coverage was conditionally

offered to the employee's spouse; and (3) minimum essential coverage was not offered to the employee's dependent(s).

- Code 1K can be used if: (1) minimum essential coverage providing minimum value was offered to the employee; (2) minimum essential coverage was conditionally offered to the employee's spouse; and (3) minimum essential coverage was offered to the employee's dependent(s).

Other changes include:

- **Plan Start Month:** The 2015 Form 1095-C included a "Plan Start Month" box, which was optional for 2015, but was expected to be required for 2016 and beyond. However, the 2016 draft Form 1095-C provides that the "Plan Start Month" box will remain optional on the 2016 Form 1095-C.
- **Reserved Fields Relating to 2015 Transition Relief:** For reporting under Section 6056, a transition relief rule was available in 2015 under the Qualifying Offer Method. However, the Qualifying Offer Method Transition Relief rule was only available for 2015 offers of coverage. As a result, the 2016 draft Form 1094-C reserved Box B, making it unavailable for employers in 2016. In addition, the 2016 draft Form 1095-C reserved Code 1I for 2016.

Individual statements for 2016 must be furnished by Jan. 31, 2017, and IRS returns must be filed by Feb. 28, 2017 (March 31, 2017, if filed electronically). These 2016 forms are draft versions only, and should not be filed with the IRS or relied upon for filing.

Significant Changes Proposed To Form 5500

The Department of Labor (DOL), IRS, and the Pension Benefit Guaranty Corporation (PBGC) have proposed changes to the Form 5500 reporting regulations. The Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code require pension and other employee benefit plans to file annual returns/reports concerning the financial conditions and operations of the plan. Filing the Form 5500 generally satisfies these annual reporting requirements.

The proposed changes would eliminate the complete Form 5500 exemption for small group health plans. Small group plans are currently completely exempt from the Form 5500 filing requirement if they have fewer than 100 covered participants at the beginning of the plan year; and are unfunded, fully insured or a combination of insured and unfunded. Under the Departments' proposal, all ERISA-covered plans that provide group health benefits would be required to file a Form 5500, together with any required attachments and schedules, including a new Schedule J (Group Health Plan Information).

For small, fully insured plans that provide health benefits, the DOL is proposing a new limited exemption as an alternative form of reporting. Specifically, these small plans would be required to answer only a limited number of questions on the Form 5500 and the new Schedule J. According to the DOL, this limited filing is intended to serve as an annual registration statement with basic identifying and insurance information.

The current exemptions from financial reporting on Schedules H, G and C for insured plans, unfunded plans and plans that are combination of unfunded/insured would continue to apply to all qualifying group plans, regardless of size. Also, the current exemption from financial reporting on Schedule G for group plans that cover fewer than 100 participants would continue to apply. The new proposed Schedule J would report information about group health plan operations and ERISA compliance, plus compliance with certain provisions of the ACA.

To avoid duplication, the DOL is considering whether a group health plan could satisfy its obligation under the ACA's transparency in coverage reporting requirement by filing a completed Form 5500 and Schedule J and providing that information to the necessary parties. According to the DOL, much of the information required to be reported under the ACA's transparency in coverage reporting requirement - for example, data on enrollment, claims payment policies and practices and claims denials - is information that would be included in the proposed Schedule J. The ACA's transparency in coverage reporting requirements, which are not currently effective, will require non-grandfathered group health plans and health insurance issuers to disclose detailed plan information to HHS, state insurance commissioners and the public.

The revisions are expected to apply for plan years beginning on or after Jan. 1, 2019, but are subject to change before becoming legal and being implemented. Public comments on the proposals can be made to the DOL until October 4, 2016.

Penalties Increase For Health Plan Violations

On July 1, 2016, the DOL issued an interim final rule that increases the civil penalty amounts that may be imposed under various federal laws, including the Employee Retirement Income Security Act (ERISA). The interim final rule increases the civil penalty amounts associated with:

- Failing to file an annual Form 5500 (as applicable);
- Failing to provide the annual notice regarding premium assistance under the Children's Health Insurance Program (CHIP); and
- Failing to provide the Summary of Benefits and Coverage (SBC), as required by the ACA.

The increased amounts apply to civil penalties that are assessed after Aug. 1, 2016, for violations that occurred after Nov. 2, 2015.

The excise tax for group health plan violations, including violations of the ACA's market reforms, is not impacted by these adjustments. This excise tax is generally \$100 per day, per individual, per violation, subject to certain minimum and maximum amounts.

After the initial catch-up amounts become effective on Aug. 1, 2016, the DOL must update its maximum penalty amounts based on the Consumer Price Index each year. The first annual inflation adjustment will be allowed for 2017. The DOL is required to publish

annual updates reflecting the annual increases. These updates must be published in the Federal Register by Jan. 15 of each year.

Individual Coverage

Humana Exiting Several ACA Marketplaces

Humana announced it will be leaving several ACA exchanges and off-exchange individual markets next year. The insurance carrier will only offer individual plans in 156 counties in 11 states, down from 1,351 counties in 19 states this year. It was originally announced in May that Humana was considering such a move.

Wellness

Benefits Of Workplace Wellness Programs

Thinking about adding a workplace wellness program for your employees? Wellness affects your company's bottom line in many ways - in particular, it can lower health care costs, increase productivity, decrease absenteeism and raise employee morale. Because employees spend many of their waking hours at work, the workplace is an ideal setting to address health and wellness issues.

The U.S. Centers for Disease Control and Prevention promotes the formation of workplace wellness programs because, according to one of its studies, employees in companies with "a strong culture of health" are three times more likely to actively strive to improve their health. Below are some additional benefits to take into consideration:

- **Control Health Insurance Costs:** A wellness program can help employees with high risk factors make the lifestyle changes to improve their quality of life and reduce their health care costs, while also helping employees with fewer risk factors stay healthy.
- **Reduce Workers' Compensation and Disability Costs:** Employees who make healthy changes and lower their health risk factors often have a reduced chance of a workplace injury, illness or disability.
- **Increase Employee Productivity and Fewer Missed Days:** Healthier employees tend to be more productive since they are not coming to work ill or are worried about their health problems. Increased productivity and reduced absenteeism can yield significant cost savings.
- **Higher Morale and Improved Recruiting:** A company that cares about its employees' health is often seen as a better place to work, and wellness programs can attract top talent in a competitive market. In addition, demonstrating a commitment to your employees' health can improve employee morale and strengthen retention.