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Medicare Part D – CMS Notification Reminder

Employers sponsoring a group health plan are required by federal law to inform the Centers for Medicare and Medicaid Services within 60 days after the beginning of the plan year about the creditable status of the plan's prescription drug coverage.

Reminder: Final 2020 Forms 1094-C and 1095-C Issued

Applicable large employers must furnish the 2020 Forms 1095-C to its full-time employees by no later than Tuesday, March 2, 2021.

Medicare Part D – CMS Notification Reminder

Employers sponsoring a group health plan (whether insured or self-insured) need to report information on the creditable (or non-creditable) status of the plan's prescription drug coverage to the Centers for Medicare and Medicaid Services (CMS). In order to provide this information, employers must access CMS's online reporting system at: <https://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/CCDisclosureForm.html>.

As a reminder, notice must be provided by the following deadlines:

- Within 60 days after the beginning date of each plan year;
- Within 30 days after the termination of the prescription drug plan; and
- Within 30 days after any change in the creditable coverage status of the prescription drug plan.

For example, an employer with a calendar year plan (January 1 – December 31, 2021) must complete this reporting no later than Monday, March 1, 2021.

Additional guidance on completing the form is available at: <https://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/CCDisclosure.html>.

Reminder: Final 2020 Forms 1094-C and 1095-C Issued

The IRS released final 2020 Forms 1094-C, 1095-C, and applicable instructions. Applicable large employers (“ALEs”) must furnish Form 1095-C to full-time employees and file Form 1094-C and all 1095-Cs with the IRS. ALEs offering a self-insured group health plan must also furnish Forms 1095-C to covered employees or other primary insured individuals in the self-funded health plan (e.g., COBRA qualified beneficiaries).

Due to the COVID-19 pandemic and challenges to business operations, ALEs may have variations to their reporting for 2020 due to furloughs and/or layoffs. ALEs, in coordination with their payroll or other reporting vendors, should have records to determine each employee’s status as an ACA FTE or not an ACA FTE for each month during 2020 in preparation to complete, furnish and file these forms for 2020.

As a reminder, IRS Notice 2020-76 provided the following extended relief related to 2020 reporting:

- Extension of due date to furnish Form 1095-C. 2020 Forms 1095-C are due to employees by March 2, 2021 (instead of January 31, 2021).
 - Filing the 2020 Form 1094-C and all Forms 1095-C with the IRS has not been extended and is due March 31, 2021 (for filing electronically) or March 1, 2021 (for paper filing, as permitted).
- Extension of good faith relief for reporting and furnishing. The IRS will not impose a penalty for incorrect or incomplete information on Form 1095-C, if there is a good faith effort to comply

What’s New?

For 2020, there are some notable changes to the Forms, specifically addressing individual coverage health reimbursement arrangements (“ICHRAs”). For employers that do not sponsor an ICHRA, much of the reporting remains the same.

- On Form 1095-C, Part II the “Plan Year Start Month” is a required field. An ALE must enter a two-digit number to reflect the plan year start month (e.g., for January 2020, use “01”; for June 2020, use “06”). In previous years, this was optional.
- To accommodate reporting associated with ICHRAs:
 - In Part II, there is a new reference to the “Employee’s Age on January 1” and “Line 17 Zip Code”
 - If an ICHRA is not offered, do not complete these fields.
 - In Part II, there are new Codes (used in Line 14) used to report offers of ICHRAs. The new Codes are 1L, 1M, 1N, 1O, 1P, 1Q, 1R, 1S, 1T, and 1U.
 - If an ICHRA is not offered, these new codes should not be used.
 - There is also information in the instructions on how to calculate the amount reported on Form 1095-C, Line 15 for an ICHRA offer of coverage.
 - Part III must be completed with respect to coverage through an ICHRA.

Note to non-ALEs. While small employers (non-ALEs) are not subject to reporting for purposes of the employer mandate, if offering a self-insured group health plan or ICHRA, reporting under Section 6055 to the IRS and to covered employees or other primary insured individuals who have coverage provided through a self-insured group health plan is required. In most cases, a non-ALE will use Forms 1094-B and 1095-B to satisfy this requirement. If a non-ALE is offering an ICHRA, that coverage is considered a self-insured health plan and is subject to this reporting requirement. According to the instructions, a new code “G” must be entered on Form 1095-B, line 8 to identify an ICHRA.

Penalties

Failure to furnish a correct Form 1095-C may result in penalties of \$280/form with an annual calendar year maximum of \$3,392,000. Failure to file correct Forms 1095-C and 1094-C with the IRS may result in penalties of \$280/form with an annual calendar year maximum of \$3,392,000.

As announced in Notice 2020-76, there is good faith penalty relief available with respect to incorrect or incomplete information on the applicable Forms.

In addition, penalties may be waived if the failure was due to reasonable cause and not willful neglect.

Forms and Instructions

2020 Form 1094-C, <https://www.irs.gov/pub/irs-pdf/f1094c.pdf>

2020 Form 1095-C, <https://www.irs.gov/pub/irs-pdf/f1095c.pdf>

2020 Instructions for Forms 1094-C and 1095-C,
<https://www.irs.gov/pub/irs-pdf/i109495c.pdf>

