

# IAA Legislative Ledger



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## It Has Been Quiet In The Healthcare Trenches

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### First Things First; Our sincere gratitude!

Thanks to you, our IAA client friends and family, we finished our 2017 business year with double digit client growth. Our continual investment in our staff, equipment and services has paid off. We have added many new Self-Funding Medical, HRA/FSA/HSA and COBRA clients over the last year. Our ancillary services (listed at the end of this bulletin) have provided our clients with flexibility they need to keep their employees happy and healthy.

Please let me know if we can do anything to make our service better and your business even stronger. Now, let's get to business.

### ACA Employer Reporting

Employer's who have ignored submitting ACA reporting are subject to penalty! For those Employer's that have made a good faith effort to report, the IRS will offer penalty relief. So please contact IAA if you need assistance with your 2018 ACA reports. IAA has the experience and system to help you file accurately.

### IRS Relief

For reporting in 2018 for coverage provided in 2017, the IRS will not impose penalties on reporting entities that can show that they have made good faith efforts to comply with the information reporting requirements. Specifically, relief is provided from penalties for incorrect or incomplete information reported on the return or statement.

The IRS webpage gives the following example: A group health plan insurer that makes a

reasonable effort to obtain the EIN of the employer sponsoring the coverage will not be subject to penalties under sections 6721 or 6722 if the insurer fails to enter an EIN on line 11 of Form 1095-B or enters an EIN that is found to be incorrect.

No relief is provided in the case of reporting entities that cannot show a good faith effort to comply with the information reporting requirements or that fail to timely file information returns or furnish a statement.

However, reporting entities that fail to timely meet the requirements still may be eligible for penalty relief if the IRS determines that the standards for reasonable cause under section 6724 are satisfied.

### Not Sure If You Have To File?

**ALE = Applicable Large Employer**  
**MEC = Minimum Essential Coverage**

- Form 1094-B: Transmittal of Non-ALE MEC Reporting
- Form 1095-B: Non-ALE MEC Reporting
- Reporting entities that are not ALE (applicable large employers) members, such as health insurance issuers and providers of government-sponsored coverage, report information about individuals who are covered by minimum essential coverage (MEC) on Forms 1094-B (transmittal) and 1095-B (return).
- Self-funded plan sponsors with less than 50 full-time employees or equivalents (not an ALE) and therefore not subject to the employer shared responsibility provisions will use Forms 1094-B and 1095-B to report information about

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individuals covered by minimum essential coverage.

- Fully insured plan sponsors with less than 50 full-time employees or equivalents (not an ALE) - The health insurance issuer has the responsibility to report using Forms 1094-B and 1095-B. These plan sponsors do not need to do ALE reporting.
- Fully insured plan sponsors with 50 or more full-time employees or equivalents (an ALE) - The health insurer has the responsibility to report using Forms 1094-B and 1095-B. The plan sponsor has the responsibility to report as an ALE using Forms 1094-C and 1095-C.
- Form 1094-C: Transmittal of ALE and MEC Reporting
- Form 1095-C: ALE and MEC Reporting (Offer and Coverage)
- Self-funded plan sponsors with 50 or more full-time employees or equivalents (an ALE) - They must file to report information about individuals who are covered by minimum essential coverage as well as to report for each employee who was a full-time employee for one or months during the calendar year the coverage was offered to that employee (or, that the employer did not offer). The plan sponsor can use Form 1094-C and Form 1095-C to satisfy the MEC and the ALE reporting requirements.
- Fully insured plan sponsors with 50 or more full-time employees or equivalents (an ALE) - The health insurer has the responsibility to report using Forms 1094-B and 1095-B. The plan sponsor has the responsibility to report as an ALE using Forms 1094-C and 1095-C.

## Administration Releases Proposed Rule on Short Term Limited Duration Insurance Plans

Last fall, the President issued Executive Order 13813 entitled “Promoting Healthcare Choice and Competition Across the United States.” This order directed the Departments of Health and Human Services (HHS), Labor, and Treasury to consider regulations that would expand the availability of short term limited duration health plans for individuals. In February, the Departments released a proposed rule pursuant to that executive order.

Short term limited duration plans are plans in the individual market that are intended to provide benefits for a limited period of time, often filling temporary gaps in coverage as individuals transition between plans. For example, a young, healthy individual changing jobs and leaving one employer-sponsored plan may find a short term limited duration plan a more affordable option compared to COBRA to bridge the gap until a plan at the new job kicks in.

These plans are not considered individual health insurance coverage under the Affordable Care Act (ACA), and are therefore not subject to ACA requirements like coverage of essential health benefits, coverage for preexisting conditions, and the prohibition on annual or lifetime caps. Short term limited duration plans are frequently less expensive than an individual plan from the ACA marketplaces for relatively young, healthy individuals.

Under an October 2016 regulation, short term limited duration plans are currently limited to less than three months in duration. In addition, short term limited duration plan contracts are required to prominently include a notice alerting the consumer that the plan does not satisfy the

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health coverage requirement under the ACA, also known as the individual mandate or minimum essential coverage. The notice further states that without obtaining minimum essential coverage, the individual may owe an additional payment with his or her taxes.

The February proposed rule would make two changes to the current regulations governing short term limited duration plans:

- The current limit on the duration of plan contracts of less than three months would be extended to less than 12 months.
- The required notice language in plan contracts would change. For plans with a start date before January 1, 2019, the notice would state that the plan is not required to comply with ACA insurance requirements, and urges the consumer to carefully check the policy and fully understand what is covered and what is not. It alerts the consumer that if the plan expires or they lose coverage, they may have to wait until an open enrollment period to obtain other insurance. It also includes the existing language regarding minimum essential coverage and the possibility of additional tax liability.

For plans starting after January 1, 2019, the provisions on minimum essential coverage and the possibility of additional tax liability is omitted from the required notice language. This reflects the 2017 tax reform legislation, which the President signed into law on December 22. Under this law, the individual shared responsibility payment, or the individual mandate, is reduced to \$0 for the months following December 31, 2018.

Comments on the proposed rules must be received by the Departments no later than 5 p.m. EST on April 23, 2018.

Other services related to employee benefits that are available from IAA:

- Consumer Directed: FSA, HRA, HSA, Transit/Parking administration
- COBRA Administration
- Summary Plan Description Preparation
- Level and Partially Funded Self-Insurance Medical/Dental/Rx/Vision
- Family Medical Leave administration
- Report Generating Portal for Brokers and Clients

Enjoy the rest of your day!

*Thank you,  
Paul Kelly, President*

Insurance Administrator of America, Inc.