

Affordable Care Act (ACA)— Reporting and Compliance

HealthFlex Summit
November 5, 2015



General Board

Pension and Health Benefits

Caring For Those Who Serve

Topics for Today

- The Simple ACA*
- Outlook for 2016–2017
- 2018 Cadillac Tax
- ACA Reporting Requirements

* ACA: Affordable Care Act

The Simple ACA



- Health coverage should be **available to all**
- Coverage should be **affordable**
- **Essentials** should be **covered**

Availability

All lawful residents now have coverage available through the public exchanges*

- Not unauthorized aliens
- Fewer uninsured (33 million in 2014)
 - **Down 10.4%** in 2014—
biggest decline since 1987
 - Decline of uninsured continues in 2015

* Public exchanges: i.e., Health Insurance Marketplace

ACA Enrollment 2015

- **Pre-ACA**—47 million lacked health coverage
- **As of 2015**—16.4 million uninsured gained coverage
 - 11.7 million enrolled in public exchanges
 - 2.3 million young adults stayed on parent plan

**10+ million additional uninsured could gain coverage
if their states expand Medicaid**

2015 Premiums in Federal Exchanges

- More than 80% qualify for a PTC* in 2015
- Average PTC covers 72% of premium
- Average net monthly premium paid by those with a PTC: **\$105**

Choice Example:

Single mother of two making 200% of FPL:
Choose “**silver**” or “**bronze**” plan?

*PTC: Premium tax credit

Essentials Should Be Covered

Problem: “Minimum essential coverage” (MEC) is truly **minimum**—avoids the (a) penalty

Example: HRA* alone is MEC

- “Minimum value” coverage covers most essential benefits—required to avoid the (b) penalty

PROBLEM—What if employer offers both?

* HRA: Health reimbursement account

Provider Choice—Not “Essential”

- 41% of provider networks in exchange plans are **extra-small** (less than 10% of physicians) or **small** (25% or less of practicing physicians)
- 39% of hospital networks are **narrow** (less than 70% of hospitals in the area)
- Potential relationship to rate differences in the same exchanges
- Consumers may pick lowest rate

Outlook for 2016 – 2017

- Developments in Small Group Market
- Automatic expansion of SHOP* program in 2016 **cancelled** by recent legislation
 - Now: state option
- Non-discrimination rules
 - (Delayed) rules for insured plans may trigger renewed focus on self-insured plans

* SHOP: Small Business Health Options program

Small Group Insurance Market

Small = less than 51

(state option to expand to 101) employees

- Small employers have historically paid more
- ACA requires insurers to set rates using **single risk pool** for all their enrollees in the state
- ACA prohibits prior practice of basing premiums based on health status of a group

Exemptions for Small Employers

- Exempt from requirement to offer coverage
- Even if offer coverage, small employers are exempt from many ACA requirements:
 - Grandfathered plans
 - Grandmothered plans
 - Self-funded plans

Strategy: Arrangements with other employers to be treated as large-group plans

Result—Decline in Small Group Market

Private-sector entities that offer health insurance
(fewer than **50 employees**)

2011	35.7%
2012	35.2%
2013	34.8%
2014	32.2%

Source: Robert Wood Johnson Foundation (September 2015)

SHOP Program

To help small employers, the ACA also mandated state exchanges for small employers to shop for group health policies from insurers

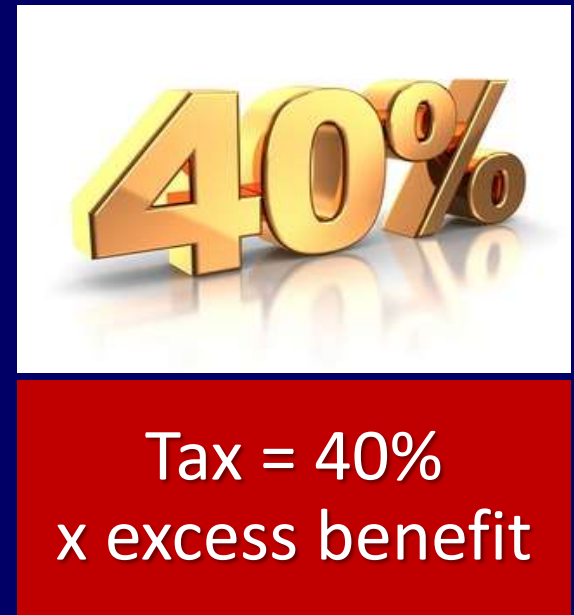
- Initial enrollment has been low (in the thousands for states that have released data)
- **Reasons**—dysfunctional websites, low broker and insurer interest, difficult tax credit rules

Non-Discrimination Rules

- **Code 105(h)**—self-insured medical reimbursement plan may not discriminate in favor of highly compensated employees (HCEs)
- **Highest-paid 25%** = highly compensated
- Penalty for non-compliance—
taxation of benefits provided to HCEs
- ACA applies 105(h) rule to insured plans,
but enforcement (excise tax) has been delayed

Cadillac Tax—2018

- On high-cost health coverage sponsored by an employer
- “Cost” determined like COBRA
 - Includes employer and employee contributions
- “High” determined by comparing to baselines, as adjusted



Purposes of Cadillac Tax

- Raise revenue to pay for subsidies and other ACA costs (\$87 billion)
- Encourage coverage providers and consumers to control health care costs (by making high-cost coverage more expensive)
- Cut back on tax-free health benefits

Cadillac Tax Effect

“No politician would want to say out and out that benefits are going to be taxed, so this is kind of a stealth way of doing it.”

Jonathan Gruber (one of the ACA's architects)

- **2018**—limit adjusted by medical inflation
- **Post-2018**—limit adjusted by general inflation
- Most plans will be over the limit by 2022

Source: Mercer study (also Towers Watson)

Calculation of Tax

- Thresholds
 - Self-only coverage: **\$10,200** (as adjusted)
 - Other coverage: **\$27,500** (as adjusted)
- Likely elements of total cost
 - COBRA-type cost of major medical plan
 - “Employer” contributions to account-based plans (FSAs, HSAs, HRAs*)
- Possible adjustments

* **FSA: Flexible spending account**

HSA: Health savings account

HRA: Health reimbursement account

Potential Adjustments

Health Cost Adjustment

If cost of health care (per employee FEHB* coverage) increases by more than 55% by 2018

- COLA** adjustments after 2018
- Age and gender

* FEHB: Federal Employee Health Benefit plan

** COLA: Cost-of-living adjustment

Example

\$10,200 self-only limit (adjusted)

- If plan sponsor offers \$2,500 health FSA, a \$7,800 medical plan could trigger the tax

Note: Employees who choose to fund health care FSA at higher levels may trigger the tax, while other employees may not

Calculation of Tax

- For each individual whose cost of coverage for a month exceeded $\frac{1}{12}$ of the threshold—
40% x excess
- Add up all monthly taxes for each individual in applicable employer-sponsored coverage
- Employer calculates the tax
- Provider pays the tax

W-2 Reporting—HealthFlex Employers

HSAs	Box 12—Employer HSA contributions and pre-tax salary reduction contributions
FSAs	<ul style="list-style-type: none">• Health FSA (MRA)—no reporting required yet• Box 10—DCAP* salary-reduction contributions
HRAs	Not required yet

Cost of coverage—not required yet!

* DCAP: Dependent Care Assistance Program

New Reports Required by ACA

Reporting by providers of health coverage (providers of “minimum essential coverage”)

- Reports to IRS
- Statements to member/primary insured
- **Purpose**—enable IRS to confirm compliance with:
 - Individual mandate (to get MEC)
 - Employer mandate (no liability if employee accepts MEC)
 - Subsidy eligibility (if individual accepts offer of MEC, cannot go to exchange and get subsidy)

HealthFlex will file these reports on coverage administered by HealthFlex
(but not for non-HealthFlex add-on plans – e.g. retiree “stipend” HRAs)

New Reports Required by ACA

Reporting by large employers (ALEs)

- Report to IRS whether the employer offered “minimum essential coverage” to full-time employees and dependents
- Send statements disclosing this information to full-time employees
- **Purpose**—allow IRS to confirm whether ALE offered coverage that was **MEC** and **affordable** and **minimum value**

Early 2016 Deadlines

**Reporting by providers of coverage
(plans and insurance companies)**

**Due
early 2016**

Reporting by large employers

**Due
early 2016**

Note for 2016 Reporting

Reports due in 2016—based on 2015 plan year
Tracking should be in place **now!**

However, “good faith” standard
will be applied to reports filed in 2016
(at least if they are filed on time)

Reporting by Providers of Coverage

- **Entities that provided MEC**—must file report with IRS (includes small employers that self-insure)
 - Most employer group coverage is MEC
- **Forms 1095-B** and **1094-B**
- Send **1095-B** to member/primary insured
- Send copies of all **1095-Bs** plus **1094-B cover sheet** to IRS
- List individuals covered and for what months
 - Must be tracking this **in 2015!**

General Board Website— Health Care Reform Page

**Detailed guidance on reporting requirements,
including:**

- Controlled group rules for local churches
- Controlled group rules for conferences
- Overview of requirements
- Details for counting employees
- Penalties

General: ACA Choices for Large Employers (ALEs)

Choice 1: PARTICIPATE

- Offer **group health plan** that is **affordable** and provides **minimum value**

Choice 2: PAY

- **\$2,000 x number of full-time employees** (as adjusted) if you offer no MEC at all, and one or more employees gets a subsidy on the Exchange
- **\$3,000 for each full-time employee** who gets a subsidy if you offer coverage but it's not affordable or not minimum value

Reporting by Applicable Large Employers

Purpose: Allow IRS to confirm compliance with employer mandate to offer coverage

- Applies to applicable large employers (ALEs)
- **Forms 1094-C** and **1095-C**
- Code 6056
- Who is an ALE?

Large Employer Reporting

Large employer definition

- 50 or more full-time employees employed on average on business days in preceding calendar year
- “Full-time employees” includes full-time equivalents (FTEs)
- “Full-time equivalent”—hours of service per month of other employees divided by 120

Entities under “common control” are grouped as one employer (i.e., **controlled group**)

Five Steps to ALE Status

1. What is the number of full-time employees for each month in the preceding calendar year?
2. What is the number of FTEs for each month in the preceding calendar year?
3. Add the number of full-time employees and FTEs from Steps 1 and 2 for each month
4. Add up the 12 monthly numbers from Step 3 and divide by 12 (round down to next whole number)

5a. Is the Number from Step 4 Less than 50?



Go for a bike ride and relax!

5b. Is the Number from Step 4 50 or More?



Examples

Example 1

Church has 40 full-time employees for each calendar month during 2014

Example 2

Church has 15 part-time employees for each calendar month, each having 60 hours/month

Five Steps

1 Full-time employees in each month:

- 40 in January
- 40 in February
- Etc.

2 FTEs for each month:

- 15 employees x 60 hours = 900 hours
- $900 \div 120 = 7.5$
- So FTEs for January = 7.5; same for February, etc.

3 Full-time plus FTEs for each month:

- $40 + 7.5$ (January) + $40 + 7.5$ (February), etc.

4 Add total for each month:

- $47.5 + 47.5 + 47.5$ (etc. for 12 mos.) = 570
- $570 \div$ by 12 (months) = 47.5
- Round down to 47

5 47 is less than 50

Or use Toolkit calculator

Applicable Large Employer Worksheet under ACA for 2015

Calculation Period:

Enter a period from 6 to 12 months in 2014.

Full-Time Employees (30 or more hours per week on average):

Enter total number of Full-Time Employees (including full-time seasonal) in column 1. Enter number of Seasonal-only Full-Time Employees in column 2. Seasonal workers for this part of the calculator, are those employees who perform labor or services on a seasonal basis as defined by the Department of Labor (DOL), e.g., summer camp staff.

	Total Full-time (including seasonal)	Seasonal
January	51	4
February	51	4
March	51	4

	Total Full-time (including seasonal)	Seasonal
April	51	4
May	51	
June	51	

	Total Full-time (including seasonal)	Seasonal
July		
August		
September		

	Total FTEs (including seasonal)	Seasonal
October		
November		
December		

Proceed to Next Section to enter any part-time or part-time seasonal employees.

Part-Time Employees (less than 30 hours per week on average):

Enter hours worked for Part-Time (including part-time seasonal) employees to Calculate Full-Time Equivalent Employees (FTEs).

If you need additional lines to list your part-time employees, please email healthcarereform@gbophh.org

Employee	January	February	March	April	May	June	July	August	September	October	November	December
How many of your part-time employees are seasonal only?												
Total FTEs	0	0	0	0	0	0	0	0	0	0	0	0
Total FTEEs (FTEs + Full-time Employees)	51	51	51	51	51	51	0	0	0	0	0	0

Based on the information you entered, the total FTEEs are: 51

Your organization employs 50 or more employees. However your organization may not be subject to the coverage requirements of an Applicable Large Employer until 2016, if certain rules are met. Refer to the 'Instructions' tab for more information.

Common Control

- Employees of corporations that are in a **controlled group** of corporations are treated as employed by **one employer**
- Provision designed to prevent avoidance of tax rules by fractionalizing businesses or other entities
 - Anti-abuse “evade or avoid” rule
- Does one entity control the other?

Tests

- Same Employer Identification Number (EIN) or federal tax identification number?
- 80% of entity's operating funds from a different organization?
 - And common management or supervision of the two?
- 80% of the governing (managing) body:
 - Are representatives of another entity, or
 - Are directly or indirectly controlled by another organization?

Form 1094-C

Form **1094-C**

Department of the Treasury
Internal Revenue Service

Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns

► Information about Form 1094-C and its separate instructions is at www.irs.gov/form1094c

CORRECTED

120116
OMB No. 1545-2251

2015

Part I Applicable Large Employer Member (ALE Member)

1 Name of ALE Member (Employer)		2 Employer identification number (EIN)	
3 Street address (including room or suite no.)			
4 City or town	5 State or province	6 Country and ZIP or foreign postal code	
7 Name of person to contact		8 Contact telephone number	
9 Name of Designated Government Entity (only if applicable)		10 Employer identification number (EIN)	
11 Street address (including room or suite no.)			
12 City or town	13 State or province	14 Country and ZIP or foreign postal code	
15 Name of person to contact		16 Contact telephone number	
17 Reserved <input type="checkbox"/>			

For Official Use Only



18 Total number of Forms 1095-C submitted with this transmittal

19 Is this the authoritative transmittal for this ALE Member? If "Yes," check the box and continue. If "No," see instructions

Part II ALE Member Information

20 Total number of Forms 1095-C filed by and/or on behalf of ALE Member

21 Is ALE Member a member of an Aggregated ALE Group? Yes No

If "No," do not complete Part IV.

22 Certifications of Eligibility (select all that apply):

- A. Qualifying Offer Method B. Qualifying Offer Method Transition Relief C. Section 4980H Transition Relief D. 98% Offer Method

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature _____ Title _____ Date _____

Form 1094-C / Page 2

120216

Page 2

Form 1094-C (2015)

Part III ALE Member Information—Monthly

	(a) Minimum Essential Coverage Offer Indicator		(b) Full-Time Employee Count for ALE Member	(c) Total Employee Count for ALE Member	(d) Aggregated Group Indicator	(e) Section 4980H Transition Relief Indicator
	Yes	No				
23 All 12 Months	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
24 Jan	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
25 Feb	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
26 Mar	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
27 Apr	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
28 May	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
29 June	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
30 July	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
31 Aug	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
32 Sept	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
33 Oct	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
34 Nov	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
35 Dec	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	

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Form 1094-C (2015)

Part IV Other ALE Members of Aggregated ALE Group

Enter the names and EINs of Other ALE Members of the Aggregated ALE Group (who were members at any time during the calendar year).

Name	EIN	Name	EIN
36		51	
37		52	
38		53	
39		54	
40		55	
41		56	
42		57	
43		58	
44		59	
45		60	
46		61	
47		62	
48		63	
49		64	
50		65	

Form 1094-C (2015)

Between 50 and 100 in 2014?

No penalty for failure to offer coverage in 2015 if:

- Employed **50-99 full-time employees** (including FTEs) in 2014
- **Did not reduce workforce or hours** to avoid ALE status (February 9 – December 31, 2014)
- **Did not materially reduce health coverage**
- File a **certification of qualification for this relief** on *Form 1094-C*—transmittal form for reporting whether employer offered coverage to full-time employees

100 or More in 2014?

- Hopefully, you **offered coverage** (that was **affordable** and **minimum value**) to your full-time employees
 - And offered at least MEC to dependents in 2015
- If not, plan for **PENALTY**
- But—**Margin of Error Rule** for subsection (a)
 - Transition relief for 2015

All ALEs

- Whether 50-99 or 100 or more—
reports are due in early 2016
- *Form 1095-C*
- Mail one statement to each full-time employee
by **February 1, 2016**
- Mail copies to IRS by **February 29, 2016**—
or file electronically by **March 31, 2016**

Who Must Be Offered Coverage by ALE to Avoid Penalty?

- Only “real” full-time employees (not equivalents)
- Those reasonably expected to work average of 30 hours or more per week
- If unsure, employer can “look back” at employee’s history and determine whether to offer coverage
- **Did employee work 30 hours per week, on average?**

Form 1095-C

Form **1095-C**

Department of the Treasury
Internal Revenue Service

Employer-Provided Health Insurance Offer and Coverage

► Information about Form 1095-C and its separate instructions is at www.irs.gov/form1095c

VOID

CORRECTED

OMB No. 1545-2251

2015

Part I Employee

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

Applicable Large Employer Member (Employer)

Part II Employee Offer and Coverage

Plan Start Month (Enter 2-digit number):

	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
14 Offer of Coverage (enter required code)													
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16 Applicable Section 4903H Safe Harbor (enter code, if applicable)													

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) DOB (if SSN is 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. 60705M

Form **1095-C** (2015)

What Is on the “C” Form?

- Employee
- Employer
- Offers of coverage to full-time employees
 - MEC?
 - Minimum value?
 - Affordable?
 - Employee share of lowest-cost coverage?
- List of each individual who received coverage

Who Must Be Offered Coverage if You Are an ALE?

- **Lookback method**—For use if you do not know if a person will average 30 or more hours per week
- Pick **measurement period** (3–12 months)
- Did the employee work **30 hours or more per week** on average during those months?
(alternative: **130 hours per month**)
- Decide on **administrative period**
- Offer (or don't offer) coverage during **stability period** (at least as long as measurement period)

Penalties for Not Offering Affordable Minimum Value Coverage

- At least one employee must be certified as having received a subsidy to buy health coverage on the Marketplace
- For **failure to offer (minimum essential) coverage** at all
 - **\$2,000 x number of full-time employees**
(minus 30 generally; different for transition)
- For offering coverage that is **not affordable** or **not minimum value**
 - **\$3,000 x number of full-time employees who receive subsidies** to buy health coverage on the Marketplace (generally)

Reporting

- ALEs must file reports—even if they are not subject to penalties for failing to offer coverage in 2015
- Filing-related penalties
 - For not filing a report
 - For filing the report late
 - If filed on time and in good faith, no penalty for filing an incorrect report

