Less Paperwork, More Peace of Mind: New ACA Laws Lighten Employers' Reporting Load

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On December 23, 2024, President Biden signed into law two important pieces of legislation, the Paperwork Burden Reduction Act (Reduction Act) and the Employer Reporting Improvement Act (Reporting Act), that aim to ease the administrative and reporting burdens on health plan sponsors and insurance providers under the Affordable Care Act (ACA). Both bring significant changes to the way employers must handle ACA reporting, particularly regarding the distribution of Forms 1095-B and 1095-C, and offer more flexibility in responding to Internal Revenue Service (IRS) penalty assessments.

A breakdown of the changes introduced by these new laws and what they mean for employers going forward is included below.

THE PAPERWORK BURDEN REDUCTION ACT: EASING ACA REPORTING REQUIREMENTS

For over a decade, employers and insurers have been required to provide Forms 1095-B and 1095-C to inform employees whether they had minimum essential coverage under the ACA in the previous year. Applicable large employers (ALEs) were required to annually provide a paper copy of the applicable form to employees unless the employee affirmatively consented to receiving an electronic copy.

This reporting process, particularly the paper-based distribution of these forms, created significant administrative burdens for employers. The Reduction Act, alleviates this pressure in several key ways:

- No Mandatory Distribution: Employers are no longer required to automatically send Forms 1095-B or 1095-C to employees unless the employee specifically requests a copy, if the notice requirements below are met. This change drastically reduces the volume of paperwork employers must distribute each year.

- Notice of Availability: Employers must provide employees with a "clear, conspicuous, and accessible notice" informing them that they can request a copy of the form. The law directs the IRS to provide further guidance on the timing and manner of this notice, but employers should be prepared to notify employees accordingly.
- Timely Response: If an employee requests a Form 1095-B or 1095-C, the employer must provide it by the later of January 31 of the year following the form's reporting year or 30 days after receiving the request.

These changes will be effective for Forms 1095-B and 1095-C related to the 2024 calendar year and beyond. The new rules will apply to forms that are due by March 3, 2025, for the 2024 coverage year. However, it is important to note that some states have their own individual mandate requirements (e.g., California, Massachusetts, New Jersey, Rhode Island, and Washington, D.C.). Employers subject to state laws with their own individual mandate requirements may still be required to provide paper forms.

THE EMPLOYER REPORTING IMPROVEMENT ACT: ENHANCING ACA COMPLIANCE

The Reporting Act codifies key IRS regulations designed to simplify the ACA reporting process for employers and modifies penalty assessment rules under the ACA. Among the notable provisions of the Reporting Act are:

- Substitution of Date of Birth for Tax Identification Number (TIN): The Reporting Act codifies IRS guidance allowing employers to substitute an employee's date of birth for their TIN on ACA-related returns when the TIN is unavailable. This provision reduces the administrative burden on employers who may have difficulty obtaining an employee's TIN in a timely manner.
- Electronic Delivery of Forms: The Reporting Act also confirms and strengthens IRS rules allowing employers to deliver Forms 1095-B and 1095-C electronically to employees who consent to electronic delivery. This can significantly streamline the reporting process and reduce paper-related administrative work.
- Extension of Response Time to Penalty Letters: Previously, employers had only 30 days to respond to an IRS penalty notice (Letter 226-J) related to ACA coverage failures. The Reporting Act extends this window to 90 days for letters issued on or after January 1, 2025.
- Statute of Limitations on Penalties: For the first time, the Reporting Act establishes a statute of limitations for penalty assessments related to Section 4980H coverage failures under the ACA. The statute of limitations, which is six years, will begin to run on the later of (1) the due date of the employer's Form 1094-C and 1095-C filings, or (2) the actual filing date of those returns. Prior to the Reporting Act, the IRS could assess penalties indefinitely. This statute of limitations applies to coverage failures occurring after December 31, 2024, and employers may still face penalties for violations prior to this date

without the benefit of this time limitation.

NEXT STEPS FOR EMPLOYERS

With these changes coming into effect, ALEs should take certain steps to ensure compliance and minimize their administrative burden:

1. **Ensure Timely Filing:** ALEs must still file Forms 1094-C and 1095-C with the IRS by March 31, 2025, (for electronic filings) or February 28, 2025, (for paper filings) for the 2024 coverage year.
2. **Implement Notice of Availability:** Employers who plan to take advantage of the Reduction Act's relief from automatic distribution before the IRS issues guidance should begin preparing the "clear, conspicuous, and accessible notice" to inform employees of their right to request a copy of Form 1095-C. Although a model notice has not yet been issued by the IRS, employers can prepare a notice based on good faith efforts and monitor the IRS for further guidance.
3. **Consider State Mandates:** Employers with employees in states that have individual health insurance mandates should be aware that those states may still require paper copies to be distributed. Employers should consult with their ACA vendors and legal advisors to determine the best approach for state-specific compliance.
4. **Review Response Protocols for Penalty Letters:** Employers should familiarize themselves with the new 90-day response period for IRS penalty letters and update their internal procedures for addressing these letters. This additional time can help employers better manage their response and prevent penalties from escalating.
5. **Monitor IRS Guidance:** Employers should stay informed about additional IRS guidance on the Reduction Act's notice requirements and the Reporting Act's changes to ACA reporting. As the IRS issues regulations, employers will need to adapt their compliance efforts accordingly.

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