



Benefits Administration Letter

Number: 15-204

Date: September 8, 2015

Subject: Federal Employees Health Benefits Information to Fulfill Mandatory Reporting Requirements for Plan Year 2015 under Internal Revenue Code Sections 6056 and 4980H

I. Background

Beginning in 2015, employers, including Federal government employers, are subject to the Employer Shared Responsibility (ESR) provisions under sections 6056 and 4980H of the Internal Revenue Code (IRC). Employers are required to file information annually to the Internal Revenue Service (IRS) about the health insurance offered to eligible full-time employees and must also provide information to their full-time employees about their health insurance offer and coverage.

Employers are required to report health insurance information for calendar year 2015 to the IRS by no later than February 29, 2016, or March 31, 2016, if filed electronically. If filing more than 250 returns during the calendar year, the employer must file electronically. Employers may use IRS Forms [1094-C](#) and [1095-C](#) or a substitute form to report this information.

Employers are required to furnish employee statements for calendar year 2015 by February 1, 2016 (January 31, 2016, being a Sunday). Employers may use IRS Form [1095-C](#) or a substitute form to furnish this information.

II. Purpose

This Benefits Administration Letter (BAL) provides relevant information on Federal Employees Health Benefits (FEHB) Program coverage for all agencies providing FEHB to their employees to fulfill ESR reporting requirements. **The Federal Government is subject to these requirements.** For purposes of ESR provisions, your agency is the employer and is required to report¹ (See BAL 14-207 for more information on the structure of Executive agency reporting). OPM understands that many agencies have designated their shared service center (SSC) to report on their behalf. Those agencies should discuss the information in this BAL with their SSC when applicable.

¹There may be some agencies outside of the Executive Branch that are not required to report due to the number of their employees. Please see [IRS guidance](#) for further information.

Other OPM Guidance

OPM has released three BALs on this topic:

1. [BAL 14-207](#) provides guidance on Executive agency reporting by defining an applicable large employer (ALE) structure and ALE member and the recommended method for determining full-time employee status
2. [BAL 14-212](#) discusses the designation of reporting responsibilities to a shared service center/payroll provider and provides a designation form
3. [BAL 15-202](#) provides links to IRS resources.

These BALs can be accessed at <http://www.opm.gov/esr>. This site also has links to a previously recorded webcast, Frequently Asked Questions (FAQs) for agencies, payroll providers and FEHB enrollees. OPM will continue to update this site with additional information as it becomes available.

IRS Webinars

The IRS has conducted a series of webinars on ESR and information reporting. The webinars have been designed for business owners, tax managers, employee benefits managers and health coverage providers. More information about these webinars and how to register is available on the [IRS website](#).

III. Minimum Essential Coverage, Minimum Value, and Affordability Standard

Employers must offer health coverage that is considered “minimum essential coverage” providing “minimum value” and is “affordable” to their full-time employees. OPM has previously released guidance on “minimum essential coverage” and “minimum value” for purposes of FEHB. See below.

A. Minimum Essential Coverage and Minimum Value

- All FEHB plans are eligible employer-sponsored plans and provide “minimum essential coverage” for 2015 and every year thereafter. See [BAL 13-205](#) for more information.
- All FEHB plans meet the “minimum value standard” for 2015. OPM will let you know if this changes in future years. See [BAL 13-206](#) for further information.

B. Affordability

Health coverage is considered affordable when the employee’s share of the premium for the self-only coverage offered to the employee would cost the employee less than 9.5% of that employee’s annual household income. Employers are instructed to use the lowest-cost monthly premium for self-only coverage that is offered to the employee. For purposes of ESR reporting for calendar year 2015, the lowest cost plan will in most cases be the NALC Value Option, enrollment code KM1. The NALC Value Option is the nationwide plan with the lowest cost

share for the employee at \$93.38² per month or \$1120.60 per year.

a. Affordability Safe Harbors

Since employers generally will not know their employees' household incomes, employers can take advantage of one or more of the three IRS affordability safe harbors to determine whether coverage is affordable. The employer may choose to apply these safe harbors for any reasonable category of employees, provided it does so on a consistent basis. The three affordability safe harbors are: form W-2 safe harbor, rate of pay safe harbor and the federal poverty line safe harbor.

For calendar year 2015, the NALC Value Option meets the threshold for the Form W-2 safe harbor for all employees working a 40 hour work schedule and employed as a Grade 1, Step 1 on the General Schedule. For calendar year 2015, the NALC Value Option may meet the threshold for the rate of pay safe harbor for hourly employees depending on the number of hours worked and their hourly rate. However, for calendar year 2015, the NALC Value Option does not meet the threshold for the federal poverty line safe harbor.

SSCs should have their systems programmed to properly code for the affordability safe harbors. Those agencies that are not using an SSC are encouraged to read more about the affordability safe harbors in sections 54.4980H-4 and 54.4980H-5 of the [IRS regulations](#). Further information on the safe harbors can be requested at ESR@opm.gov.

b. Part-Time Employees

For purposes of ESR provisions, employees working 30 hours per week or 130 hours per month are considered full-time employees. Under the Federal Employees Part-Time Career Employment Act, employees working 16 to 32 hours a week are considered part time. This means that federal part-time employees working 30-32 hours per week are considered full-time for purposes of ESR provisions and must be reported.

Under current law, these employees are entitled to a partial Government contribution for FEHB coverage prorated to the number of hours worked. Therefore, these employees may not have health care that is considered affordable for purposes of ESR provisions.

Example: Mary works 30 hours per week and is a GS-3, Step 1. Mary is entitled to 75% of the government contribution of a full-time employee. Mary's share of the NALC Value Option premium is \$163.42 per month. Mary's share does not meet any of the affordability safe harbors, therefore Mary's FEHB coverage is not considered affordable.

c. Regional Low Cost Plans

Certain regional FEHB plans have a lower enrollee cost than the NALC Value Option for calendar year 2015. These premium amounts should be considered when determining affordability for individuals living in geographic areas where these plans are available. A chart of

² This applies to all non-postal rates.

these plans is below:

Plan Name	Code	Option	2015 Enrollee Share
TakeCare	KX	HDHP	\$48.23
Kaiser Foundation Health Plan of Colorado	N4	BASIC	\$77.83
Humana Health Plans of Puerto Rico, Inc.	ZJ	HIGH	\$82.33
AultCare HMO	3A	HDHP	\$89.03
Coventry Health Care of Iowa	SV	HDHP	\$89.24
Kaiser Foundation Health Plan of Hawaii	63	STANDARD	\$91.15
Calvo's SelectCare	B4	STANDARD	\$91.39
Altius Health Plans	9K	HDHP	\$91.40
HealthPartners	V3	STANDARD	\$91.64
TakeCare	JK	STANDARD	\$93.12
NALC Health Benefit Plan	KM	VALUE	\$93.38

IV. Certification of Eligibility

Alternative methods of reporting under section 6056 were developed by the IRS to offer a simplified method of employer reporting. Both methods are consistent with the statutory requirements to file an information return with the IRS and furnish an employee statement to each full-time employee. These alternative reporting methods, the qualifying offer method and the 98% method, may permit employers to provide less detailed information than under the general method for reporting. Employers choosing these methods must meet certain conditions.³ **The qualifying offer method is not applicable to agencies.**

A. Qualifying Offer Method

Under this method, the employer certifies on the Form 1095-C that it made a qualifying offer of minimal essential coverage to its full-time employees for all months during the year in which the employee was a full-time employee. A “Qualifying Offer” is an offer that satisfies all of the following criteria:

- an offer of minimum essential coverage that provides minimum value;
- an offer of minimum essential coverage is also made to the employee’s spouse and dependents; and,
- the employee cost for employee-only coverage for each month does not exceed 9.5 percent of the mainland single federal poverty line divided by 12.

³ The conditions are described in detail in Subsections A through D of Section X in the preamble to the [section 6056 regulations](#) and in the [draft 2015 instructions for Forms 1094-C and 1095-C](#).

FEHB plans meet the first and second requirements for the 2015 reporting year. For 2015, the NALC Value Option does not meet the third requirement. **Therefore, agencies using the NALC Value Option for their employees should not use this method for the 2015 reporting year.** In future years, FEHB plans may meet this threshold depending on premium rates.

B. 98% Method

Employers that offered affordable health coverage providing minimum value coverage to all or nearly all of their employees and can accurately report that the only employees they do not offer coverage to are not full-time employees may use the 98% offer method. Under the 98% offer method, employers are permitted to report under section 6056 without having to determine which employees are actually full-time for purposes of section 4980H. An employer must certify on its transmittal form that it offered, *for all months of the calendar year*, affordable health coverage providing minimum value to at least 98% of its employees and their dependents for whom it is filing a Form 1095-C employee statement. If an employer uses this method, it is not required to complete the “Full-Time Employee Count” in Part III, column (b).⁴

Since the level is set at 98 percent, this helps ensure that the employer has offered coverage to at least 95 percent of its full-time employees and is not subject to an assessable payment under section 4980H(a) without knowing which reported employees are full-time and which are part-time. Note, however, that the 98% method does not exempt the employer from any penalties that might apply for failure to report with respect to any full-time employee, and reporting is still required under the normal rules for all full-time employees.

For purposes of FEHB, agencies may use this method if 98% of their full-time employees have [been offered](#) affordable health insurance. As mentioned, all FEHB plans meet minimum essential coverage and provide minimum value. Agencies should review their workforce, specifically regarding part time employees that are considered full time for purposes of the IRC provisions to determine whether they should use this method. Agencies that have designated their SSC to report on their behalf must certify to their SSC that this is the case for their agency if they choose to use this method. Agencies must also retain records and proof of the analysis used to conclude the 98% method is available.

V. Other Reporting Information

A. Dependent Information

FEHB carriers will provide information about the dependents of covered individuals, as they must file and furnish Form 1095-B statements for all enrollees and their covered dependents.

⁴ See IRS [draft 2015 Instructions](#) for Forms 1094-C and 1095-C.

B. Agencies with Payroll Separate from their Executive Cabinet-level Department

According to OPM guidance under BAL 14-207, all Executive cabinet-level agencies must report as a single entity, rather than on an individual sub-component basis. There are some agencies that use a different payroll provider than their cabinet-level department.

These agencies must coordinate with their Department for purposes of ESR reporting requirements. These agencies have two options:

- 1) file 1095-Cs and 1094-C or
- 2) work with Department payroll provider to report on the agency's behalf.

If the agency chooses the first option, the agency must use the Department level Employer ID Number (EIN). On line 19 of the 1094-C, this is NOT an authoritative transmittal (box unchecked). The agency must provide information on full-time employee and total employee count to OPM (for the 2015 mandatory reporting year).

VI. Certification

OPM is continuing to work closely with agencies and Shared Service Centers to facilitate employer shared responsibility reporting. OPM expects agencies and SSCs will perform a final readiness check of reporting capabilities in November 2015 and will certify readiness to OPM by November 30, 2015 to ESR@opm.gov.

If you have any questions regarding this Benefits Administration Letter please contact Rachel Royster, Senior Policy Analyst, Planning and Policy Analysis, at 202.606.4181 or email ESR@opm.gov.

Sincerely,

John O'Brien
Director