

2021

Answering Employer Compliance Questions

Presented by Benefit Comply

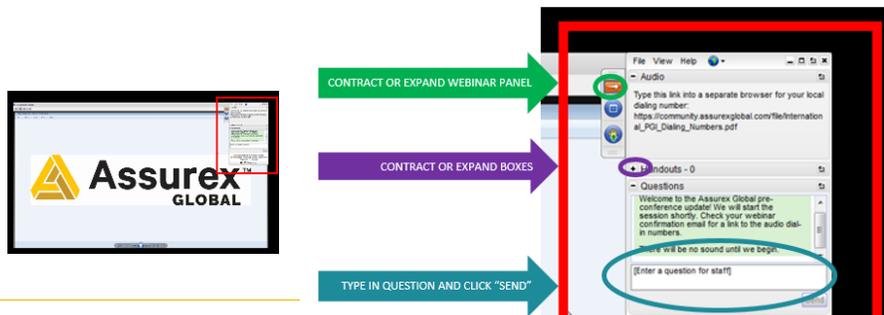


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Answering Employer Compliance Questions

- Welcome! We will begin at 3 p.m. Eastern
- There will be no sound until we begin the webinar. When we begin, you can listen to the audio portion through your computer speakers or by calling into the phone conference number provided in your confirmation email.
- You will be able to submit questions during the webinar by using the “Questions” or “Chat” box located on your webinar control panel.
- Slides can be printed from the webinar control panel – expand the “Handouts” section and click the file to download.



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With all the cafeteria plan flexibility we have been given due to the pandemic, can I give unused money in a Health FSA (HFSA) or Dependent Care Plan (DCPA) back to the employee?



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HFSA or DCAP Forfeitures

- Unfortunately, No – The Use it or Lose Rule Still Applies
- Current Cafeteria Plan Flexibility Options
 - Election Change Flexibility
 - Prospective changes to HFSA and DCAPs only
 - For any plan years ending in 2021, even without a recognized election change event
 - Expanded Carryover Allowed for HFSA and DCAP
 - Participant allowed to carry over their entire unused balance for plan years ending in 2020 or 2021
 - HFSA: Increase from \$550 carryover limit - **Previously not permitted for DCAPs at all**
 - Extended Grace Periods
 - Grace period of up to 12 months for plan years ending in 2020 or 2021
 - Current rules allow a grace period of only up to 2 ½ months for both HFSA and DCAP
 - Special Rule for DCAP Participants with Dependents Who Age Out
 - Temporary rule permits expenses for some dependents up to age 14
 - Amendments
 - Required by last day of plan year following the plan year during which the change is permitted

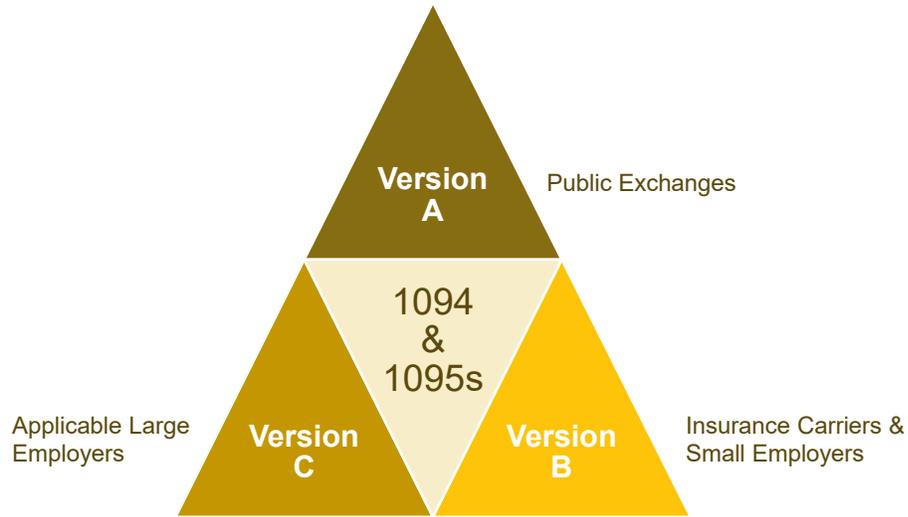
When does HIPAA apply to employee COVID-19 related information?

HIPAA & COVID-19

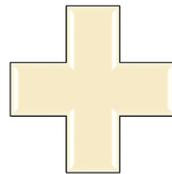
- HIPAA applies to “protected health information” (PHI) – generally individually identifiable information that comes from an employer’s health plan records
 - Medical information collected directly from an individual would not be PHI
 - Medical information collected from a provider for an employment-related purpose, e.g., as a condition of hire, would not be considered PHI
 - Beware of other laws – e.g., the ADA!
- Examples of when it is PHI and when is it simply confidential medical information...

Should employers use Forms 1094B and 1095B,
or 1094C and 1095C? Which parts of Form
1095C should be completed?

Employer Reporting Forms



Employers Subject to Reporting



Required to report offer of coverage information for all employees who were full-time for at least one month

Required to report coverage information for all individuals who enrolled in the self-funded group medical plan

ALE (“C” Forms)

**Form
1094-C**

- Report by EIN
- Part III, Column (a) marked “yes” to show compliance with §4980H(a)

**Form
1095-C**

- Report offer of coverage information for any employee who was full-time for at least 1 month in Part II, Lines 14-17
- Report enrollment in self-funded plans in Part III

How should an employer code an offer of
COBRA coverage on Form 1095-C?

Employer Reporting: COBRA for Employees

- Unpaid leave of absence/ furlough, reductions of hours
- Reported as an offer of coverage, but only to those who are offered COBRA
 - Example: Full-time to part-time as of May 1 (offer of coverage terminated end of April). Offered self-funded minimum-value coverage to employee, spouse, and children (\$105 a month for single only). Employee enrolled in single and then waived COBRA (\$425 a month single only).

Form 1095-C													
Part II Employee Offer and Coverage		Employee's Age on January 1:					Plan Start Month (enter 2-digit number): 01						
	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
14 Offer of Coverage (enter required code)		1E	1E	1E	1E	1B	1B	1B	1B	1B	1B	1B	1B
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage		\$105.00	\$105.00	\$105.00	\$105.00	\$425.00	\$425.00	\$425.00	\$425.00	\$425.00	\$425.00	\$425.00	\$425.00
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)		2C	2C	2C	2C	2B	2B	2B	2B	2B	2B	2B	2B
17 Zip Code													

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)	(d) Covered all 12 months	(e) Months of Coverage											
				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
18 John Doe	123-45-6789		X	X	X	X									
19															
20															
21															
22															
23															



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Form 1095-C													
Part II Employee Offer and Coverage		Employee's Age on January 1:					Plan Start Month (enter 2-digit number): 01						
	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
14 Offer of Coverage (enter required code)		1E	1E	1E	1E	1B	1B	1B	1B	1B	1B	1B	1B
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage		\$105.00	\$105.00	\$105.00	\$105.00	\$425.00	\$425.00	\$425.00	\$425.00	\$425.00	\$425.00	\$425.00	\$425.00
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17 Zip Code													

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				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
18 John Doe	123-45-6789		X	X	X	X									
19															
20															
21															
22															
23															



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Employer Reporting: COBRA for Former Employees

- Not reported as offer of coverage
 - Example: Full-time employee terminated from employment on June 13th (offer of coverage extended through end of June). Offered self-funded minimum value coverage (\$105 a month for single only). Employee and spouse enrolled in coverage and then elected COBRA upon termination.

Form 1095-C													
Part II	Employee Offer and Coverage	Employee's Age on January 1:											
		All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov
14 Offer of Coverage (enter required code)	1E	1E	1E	1E	1E	1E	1E	1H	1H	1H	1H	1H	1H
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$105.00	\$105.00	\$105.00	\$105.00	\$105.00	\$105.00	\$105.00						
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)	2C	2C	2C	2C	2C	2C	2C	2A	2A	2A	2A	2A	2A
17 Zip Code													

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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)	(d) Covered all 12 months	(e) Months of Coverage												
				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	
18 John Doe	123-45-6789		X													
19 Jane Doe	987-65-4321		X													
20																
21																
22																
23																



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				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	
18 John Doe	123-45-6789		X													
19 Jane Doe	987-65-4321		X													
20																
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Who is responsible for the new state group health plan reporting requirements?



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State Individual Mandate Employer Reporting Requirements

- States with reporting requirements for 2020 plan data
 - CA, MA, NJ, RI, Washington D.C.
- Who Reports?
 - Generally, self-funded employers must report
 - TPA/vendor can report for employer
 - In MA, TPA will generally handle reporting requirement
 - Carriers will generally handle reporting for fully-insured plans
 - But if carrier does not report, it is still employer's responsibility!
- What Forms are Accepted?
 - All states except MA will accept federal 1094/1095 forms or electronic data feed of 1094/1095 data
 - MA requires 1099-HC



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I have a calendar year plan, when is my creditable coverage reporting due to CMS?



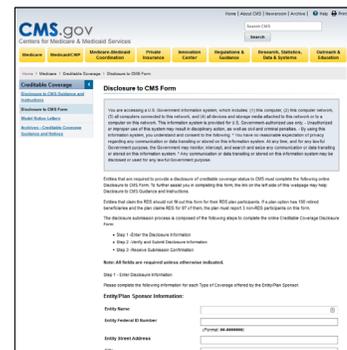
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CMS Creditable Coverage Reporting

- Disclosure to CMS Due Date
 - Within 60 days after the beginning date of the plan year
 - Within 30 days after termination of the prescription drug plan
 - Within 30 days after any change in creditable status of the prescription drug plan

Due Date for 2021 Plan Years:
March 2nd, 2021 for Calendar Year Plans

- Where to Report
 - <https://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/CCDisclosureForm>



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Regulatory and Legislative Update



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Regulatory and Legislative Update

- COVID Relief Bill Being Debated in Congress
 - Contains a COBRA subsidy
 - House version 85% subsidy effective from the first month after bill is signed into law until end of Sept. 2021
 - New paid leave requirements
 - Requirements for group health plans to pay for all COVID-19 testing and vaccine related costs
- EEOC Wellness Regulations
 - Pulled from publication and being reviewed – timing of status update unknown



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