

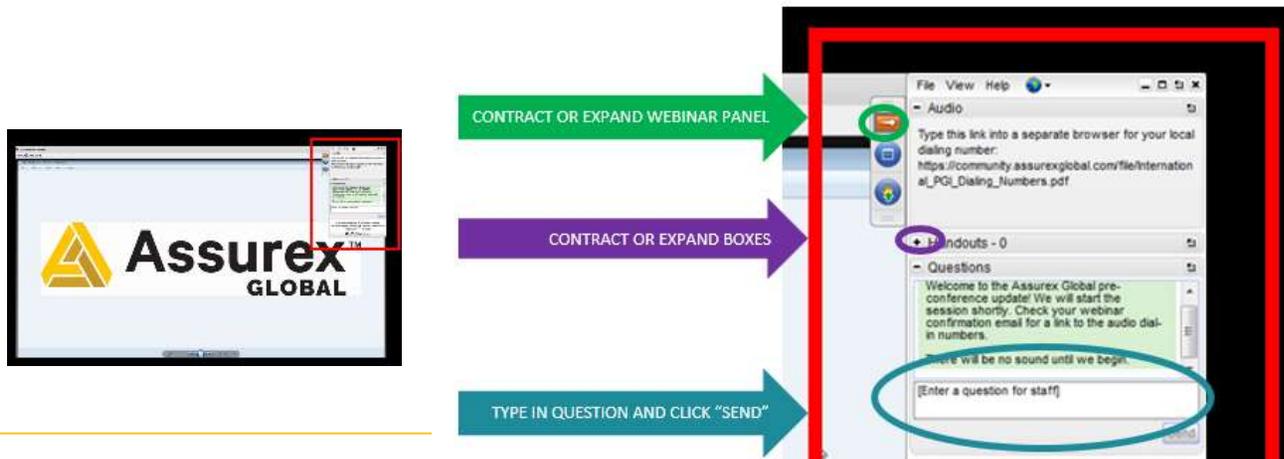
2021

# Employer Reporting

Presented by Benefit Comply

## Dependent Care Assistance Plans

- 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.

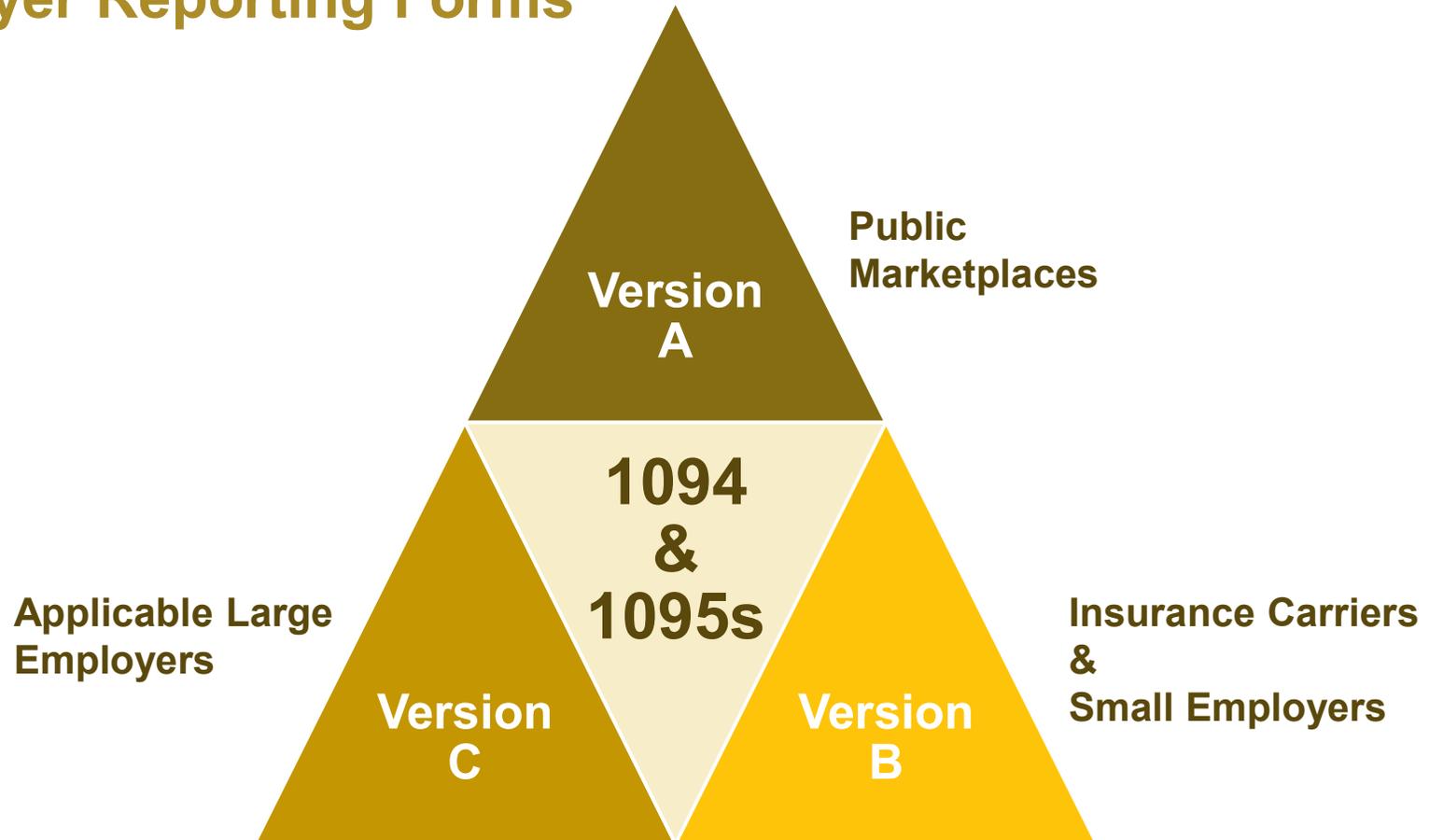


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## Assurex Global Partners

- Bolton & Company
- Catto & Catto
- Cottingham & Butler
- Cragin & Pike, Inc.
- Daniel & Henry
- Foa & Son
- The Graham Company
- Haylor, Freyer & Coon, Inc.
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- R&R Insurance
- RCM&D
- The Rowley Agency
- Starkweather & Shepley
- Sterling Seacrest Pritchard
- Woodruff Sawyer

# Employer Reporting Forms



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## Employer Reporting Deadlines

### IRS Reporting Deadline

February 28<sup>th</sup> by mail / March 31<sup>st</sup> electronically

- Submit Form 1094 and all Form 1095s to the IRS
- Employers filing 250 or more Form 1095s must submit forms electronically

### Copies to Individuals

January 31<sup>st</sup> (no automatic extension this year)

- Provide copies of Form 1095s to full-time employees and covered individuals
- Forms may be delivered by hand, mail, or electronically if consent is given

## Employers Subject to Reporting

**Applicable large  
employers**



**All size employers  
offering self-funded  
group medical plans**

**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  
enrolled in the self-funded  
group medical plan**

# Employers Required to Report

## Applicable Large Employers

- A Form 1094-C and 1095-Cs for each full-time employee
- Always file by EIN
  - Members of an aggregated ALE group report separately, but list each other in Part IV of the Form 1094-C
- Mergers/Acquisitions
  - No clear guidance, and no way to report for a partial year

## Employers Offering Self-Funded Medical Coverage

- Small employers report coverage using Form 1094-B and Form 1095-Bs for covered individuals
- Applicable large employers generally report coverage using Part III of Form 1095-C
- One form can be prepared for the primary subscriber and include covered dependents
- Change in funding mid-plan year
  - Report coverage only for months employer offered self-funded medical coverage

# 2021 Employer Reporting

## Draft Instructions Released – Only Minor Changes

1	Adjusted affordability percentage	9.78% for plan years beginning in 2020 9.83% for plan years beginning in 2021
2	Due dates not extended unless 30-day extension is requested and granted	IRS reporting due Feb. 28 <sup>th</sup> / Mar. 31 <sup>st</sup> Copies to individuals due Jan. 31 <sup>st</sup>
3	New ICHRA offer of coverage codes (IT and IU)	
4	Good faith relief for inaccurate or incomplete information is no longer available (reporting penalties of \$280/form)	
5	Copies of coverage reporting (generally Form 1095-B) must be delivered to individuals; ability to post notice on internet no longer available	

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# Employer Reporting for Applicable Large Employers

# Offer of Coverage Reporting Tips

## Line 14 (Offer of Coverage)

- ✓ **Must be coded for all 12 months**
- ✓ Offer of coverage valid only if available for the entire month
- ✓ Offer of coverage valid for 12 months, and COBRA counts as an offer of coverage
- ✓ Coding not affected by whether employee enrolled or waived
- ✓ Most employers use one code to indicate an offer (e.g., 1E) and one to indicate no offer (1H)
- ✓ Codes 1A – 1K are for traditional group medical plans, and Codes 1I – 1U are for individual coverage HRAs (ICHRAs)

## Offer of Coverage Reporting Tips

### Line 15 (Employee Contribution)

- ✓ Use lowest cost minimum value employee-only coverage offered
- ✓ Adjust the amount if the employee contribution changes for active coverage or COBRA
- ✓ HSAs and HRAs generally do not affect the employee contribution
- ✓ Be careful with opt-out incentives and flex credits
- ✓ If a wellness incentive affects the employee contribution, use the non-wellness rate (unless tobacco-related)
- ✓ Individual coverage HRAs (ICHRAs) = lowest cost silver Marketplace plan – monthly ICHRA contribution

# Offer of Coverage Reporting Tips

## Line 16 (Safe Harbors)

- ✓ Not necessary to enter a code if no code applies
- ✓ Code 2C is always used when the employee enrolled
  - Unless the employer is using 2E to indicate multiemployer (union) transition relief
- ✓ Code 2D is used for the first partial month of employment, a waiting period or initial measurement period
- ✓ No specific code for when an employee waived

## Offer of Coverage Reporting Tips

### Line 17 (Zip Code)

- ✓ An ALE who offers an ICHRA to an employee must complete Line 17 on the employee's 1095-C
- ✓ Zip code entered on Line 17 should reflect the zip code used by the employer to determine affordability (i.e., employee's residence or primary site of employment)

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## Offer of Coverage Reporting Tips

- Employee NOT offered coverage for the month
  - Code 1H on **Line 14**
  - Leave **Line 15** blank
  - Indicate why coverage was not offered on **Line 16**
    - 2A – Not employed
    - 2B – Part-time (or coverage terminated mid-month due to termination of employment)
    - 2D – In a waiting period or initial measurement period
    - Blank – Leave it blank if a full-time employee was not offered coverage and there is no valid reason

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## Offer of Coverage Reporting Tips

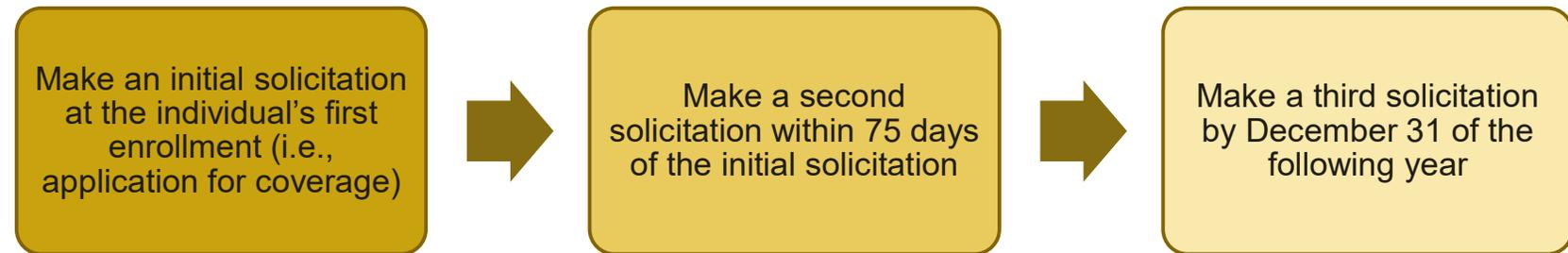
- Employee Offered Coverage for the Month
  - Applicable offer code on **Line 14** (generally 1A or 1E)
  - Monthly employee contribution on **Line 15**
  - **Line 16:**
    - If employee enrolled – 2C
    - If employee waived:
      - 2F, 2G or 2H indicating the applicable affordability safe harbor
      - Leave blank if coverage did not meet an affordability safe harbor

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# Employer Reporting for Self-Funded Group Medical Plans

# SSN/TIN Reporting

- SSN/TIN
  - Required only when reporting enrollment in a self-funded group medical plan
  - Generally required to make at least 3 attempts to obtain accurate information



*If employer is unable to obtain SSN/TIN using this process, employer may use date of birth, but should document the 3-step process for audit purposes*

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## IRS Enforcement

### Letter 226J

- IRS proposes assessments based on self-reporting of §4980H compliance and subsidized Marketplace enrollment

### Letter 5699

- IRS is reaching out to employers who appear to be applicable large employers (based on Form W-2s filed) and did not report

### Letter 972CG

- IRS is enforcing penalties for late or missed filings
- Penalty is \$280/form for 2021 reporting

# Reporting Penalties

- **No More Good Faith Relief**

- Thru 2020, IRS provided relief from the reporting penalties for failing to provide complete, correct information if it was clear the employer made a good faith effort to report and submitted the reporting on a timely basis
- Beginning with the 2021 reporting, this good faith relief is no longer available

Employers should be extra careful in reviewing and approving submissions to the IRS to make sure the reporting is as complete and accurate as possible

# State Individual Mandate Reporting

- State Individual Mandates

	Required Forms	Reporting Deadlines
<b>California</b>	Form 1094 and Form 1095s	<ul style="list-style-type: none"><li>Statements to covered individuals due January 31<sup>st</sup></li><li>Filing with FTB due March 31<sup>st</sup></li></ul>
<b>Massachusetts</b>	Form 1099-HC	<ul style="list-style-type: none"><li>Statements to covered individuals due January 31<sup>st</sup></li><li>Filing with DOR due March 31<sup>st</sup></li></ul>
<b>New Jersey</b>	Form 1094 and Form 1095s	<ul style="list-style-type: none"><li>Statements to covered individuals to be determined</li><li>Filing with DORES due March 31<sup>st</sup></li></ul>
<b>Rhode Island</b>	Form 1094 and Form 1095s	<ul style="list-style-type: none"><li>Statements to covered individuals due January 31<sup>st</sup></li><li>Filing with DOT due March 31<sup>st</sup></li></ul>
<b>Washington D.C.</b>	Form 1094 and Form 1095s	<ul style="list-style-type: none"><li>Statements to covered individuals due January 31<sup>st</sup></li><li>Filing with OTB due 30 days after federal reporting</li></ul>

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# §4980H Refresher

## Applicable Large Employers (ALEs)

- ALE = 50 or more full-time equivalents (FTEs) in previous calendar year

Calculating ALE Status			
<b>Step 1</b> <ul style="list-style-type: none"><li>• Count employees with 120 or more hours of service for each month</li></ul>	<b>Step 2</b> <ul style="list-style-type: none"><li>• For each month, aggregate hours of service for all other employees (with &lt;120 hours) and divide the total by 120</li></ul>	<b>Step 3</b> <ul style="list-style-type: none"><li>• Add the numbers from Steps 1 and 2 for each month and round to the nearest hundredth</li></ul>	<b>Step 4</b> <ul style="list-style-type: none"><li>• Add up the totals for each month from Step 3 and divide the number by 12</li></ul>

- Tips for Determining ALE Status
  - ✓ Count all employees (including seasonal and union employees)
  - ✓ For each month, count all hours of service for any employee employed for at least one day during the month (“hours of service” include all hours paid or payable with U.S.-source income)
  - ✓ Aggregate FTEs for entities within the same controlled group or affiliated service group
  - ✓ In mergers and acquisitions, no clear guidance and no way to report for a partial year

## §4980H (Employer Mandate) Requirements

### §4980H(a)

- ALEs must offer minimum essential coverage to 95% (or all but 5, if greater) of full-time employees and their dependent children
- 2021 Penalty - \$225/mo. (\$2,700/yr) X (full-time employees – 30)

### §4980H(b)

- ALEs must offer coverage that provides minimum value AND is affordable to all full-time employees
- 2021 Penalty - \$338.33/mo. (\$4,060/yr) X each full-time employee who purchased subsidized coverage through a public Marketplace

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# Full-Time Employee Status

- Definition of Full-Time
  - 30 or more hours of service per week (130 or more per month)
  - “Hours of service” generally include all hours paid or payable with U.S.-source income
- Choosing a Measurement Method
  - Employers have the option to determine full-time status 2 ways:
    - Monthly Measurement Method – employees with 130 or more hours of service for the month are full-time
    - Look-Back Measurement Method – employees who average full-time over a 3–12 month measurement period are full-time for a stability period of equal length
  - Employer may only differentiate measurement methods for: (i) hourly vs. salaried employees; (ii) union vs. non-union employees; (iii) employees in different states; or (iv) different entities within a controlled group or affiliated service group

# Full-Time Status

## Full-Time Employees

- *Employed an average of at least 30 hours of service per week (130 per month)*
  - *Count all hours paid or payable, including paid time off*
- *Monthly vs. Look-Back Measurement Method Approach*
  - *For reporting purposes, employers must determine full-time status monthly or using the look-back measurement method, even if eligibility rules are different*

## Variable Hour Employees

*“...based on the facts and circumstances at the employee's start date...cannot determine whether the employee is reasonably expected to be employed on average at least 30 hours of service per week during the initial measurement period because the employee's hours are variable or otherwise uncertain”*

## Seasonal Employees

*“...an employee who is hired into a position for which the customary annual employment is six months or less”*

## Full-Time Status

- Break in Service = Period of time with no hours of service (e.g., during a leave of absence, furlough or employment termination and rehire)
- Upon Return to Work

**Break in Service 13+ weeks  
New Hire**

- May impose a new waiting period or initial measurement period

**Break in Service <13 weeks  
Continuing Employee**

- If previously covered, must offer coverage by 1<sup>st</sup> of month following return
- Measurement and stability periods continue

Rule of Parity – break in service was 4+ weeks and longer than weeks of employment prior to the break (not used very often)

## §4980H (Employer Mandate) Requirements

### Minimum Essential Coverage

- Most employer-sponsored group health plans considered MEC

### Minimum Value

- Minimum value = actuarial value of 60% or better
- SBC must specify whether plan provides minimum value

### Affordability

- Coverage is “affordable” if the employee contribution for single minimum value coverage doesn’t exceed a set percentage of the employee’s household income (or one of the affordability safe harbors)

# Affordability

- Affordability
  - Employee contribution for lowest cost MV single coverage
  - Affordability percentages

2015	2016	2017	2018	2019	2020	2021	2022
9.56%	9.66%	9.69%	9.56%	9.86%	9.78%	9.83%	9.61%

- Affordability Safe Harbors
  - Employer is protected from any potential §4980H(b) penalties if coverage affordable under a safe harbor:
    - Federal poverty level (FPL) safe harbor;
    - Rate of pay safe harbor; or
    - Form W-2 safe harbor
  - Different safe harbors may be used per category of employees

# Affordability Safe Harbors

## Federal Poverty Level (FPL)

Monthly cost cannot exceed % of FPL

- 2021 Calendar year plan = \$104.52 or less per month ( $9.83\% \times \$12,760 / 12$ )
- 2021 Non-calendar year plan = \$105.50 or less per month ( $9.83\% \times \$12,880 / 12$ )

## Rate of Pay

Monthly cost cannot exceed % of hourly rate x 130 or monthly salary

- Hourly Employees – Must use hourly rate as of the beginning of the coverage period, unless it is reduced
- Salaried Employees – If the monthly salary is reduced, this safe harbor is not available

## Form W-2

Annual cost does not exceed % of Box 1 wages

- Employee's contribution must remain a consistent amount or percentage of Form W-2 wages during the year or this safe harbor is not available

2021

# Employer Reporting

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