

ACA 1094/1095 Reporting Requirements for 2019

Guide for brokers

NOTE: This guidance does not provide complete details for groups of 250 or more employees.

TABLE OF CONTENTS

Overview of 1094/1095 Reporting Requirements	Page 2
Guidance for Applicable Large Employers	Page 4
Coding Tips for 1095s	Page 6

Overview of Reporting Requirements

WHO MUST FILE

- Employers in level-funded or most MEWA programs are 'Self-Funded' for the purposes of ACA reporting. As such, employers in these arrangements are required to provide 1094 and 1095 reporting to the IRS and their employees for each month they were covered by a self-funded plan in the tax year. [Source]
- Applicable Large Employers (ALE)s. This is defined as employers with an average of 50 or more full-time or equivalent employees during the preceding calendar year. But you don't have to count employees who are covered through the military, Tricare or the VA for a portion of the year. IRS Resource for ALEs. [Source]

TAX FILING DEADLINES [Source]

- 1095 Forms are due from Employers to Employees by March 2, 2020
- 1094 Forms from all other entities are due to the IRS by April 1, 2020, if filing electronically or February 28, 2020, if filing via paper

WHAT IS TO BE FILED? [Source]

TYPE OF EMPLOYER	1094-B / 1095-B	1094-C / 1095-C
Self-Funded ALEs		✓ Sent by employer
Self-Funded Small Employers (<50)	See chart below	
IRS Control Groups totaling over 50		✓ Sent by employer
Fully Insured ALEs	✓ Sent by carrier	✓ Sent by employer

CARRIER GRID

CARRIER/ PRODUCT	TYPE OF PROGRAM	SMALL GROUP FILING DUTIES	LARGE GROUP FILING DUTIES
Aetna Funding Advantage	Level Funded	<p>Distribution to Members: Aetna is distributing the 1095B forms to Members in the mail.</p> <p>IRS Reporting: 1094B and 1095B Forms will be provided and filed with the IRS by Aetna on behalf of the employer.</p>	Large Group (51+): ALEs must file C-series
All Savers	Level Funded	<p>Distribution to Members: 1095B Forms are accessible via the Allsavers employer website to the employer. The employer is responsible for distributing these forms to clients.</p> <p>IRS Reporting: 1094B forms are not being provided by All Savers. All Savers will be providing the IRS 6055 Letter on the employer website, which will help the employer complete their own 1094B form. The Employer is responsible for reporting the 1094B and 1095B forms to the IRS.</p>	Large Group (51+): ALEs must file C-series
Humana	Level Funded	<p>Distribution to Members: Humana will be distributing the 1095B forms to members on behalf of the employer.</p> <p>IRS Reporting: 1094B and 1095B Forms will be provided and filed with the IRS by Humana on behalf of the employer.</p>	Large Group (51+): ALEs must file C-series
Humana Northern Kentucky Chamber	Association Plan	<p>IRS Reporting: If the employer does not opt-out during the opt-out period, Humana will complete the 1094/1095-B reporting requirements for them.</p>	They can also visit the IRS.gov site and/or speak to their tax advisor to determine if their Association has 1094/1095-C filing requirements.
Anthem SOCA MEWA	Self-Funded MEWA	<p>Distribution to Members: Anthem SOCA MEWA will provide the 1095B forms under the 'Manage Documents' Section in Formfire. Documents made available February 3rd, 2020. Employers are responsible for distribution to employees.</p> <p>IRS Reporting: Anthem SOCA MEWA will provide the 1094B and 1095B forms under the 'Manage Documents' Section in Formfire. They will both be in the same PDF file. The employer is responsible with Filing with the IRS.</p>	Product not available for large group

Anthem Indiana (IN) ChamberHealth Alliance	Self-Funded MEWA	<p>Distribution to Members: Anthem has prepared 1095-B forms. 1095B Forms will be posted to the employer portal and available to employers. Employers will be responsible for distribution.</p> <p>IRS Reporting: Anthem IN will provide the 1095B forms, however, the employer is responsible for preparing the 1094B forms. The employer is also responsible for filing 1094B and 1095B forms with the IRS.</p>	Product not available for large group
Anthem Kentucky (KY) Chamber Advantage	Self-Funded MEWA	<p>Distribution to Members: Anthem will prepare 1095B forms in Anthem's employer portal. The employer is responsible for distributing to its members.</p> <p>IRS Reporting: 1095B forms are prepared by Anthem and available on the employer portal, however, the employer is responsible for preparing the 1094B form. The employer is responsible for filing 1094B and 1095B forms with the IRS.</p>	Product not available for large group
MMO COSE MEWA	Self-Funded MEWA	<p>Distribution to Members: MMO will be distributing the 1095B forms to members on behalf of the employer.</p> <p>IRS Reporting: 1094B and 1095B Forms will be provided and filed with the IRS by MMO on behalf of the employer.</p>	Product not available for large group
Ohio Farm Bureau (OFB)	Self-Funded MEWA	<p>Distribution to Members: OFB does not provide 1095B forms. Employer is responsible for preparing and distributing 1095B Forms.</p> <p>IRS Reporting: OFB does not provide 1094B and 1095B forms. Employer is responsible for preparing and filing forms with the IRS.</p>	Product not available for large group
Other TPAs	Self-Funded	In most cases, files and reporting are provided	In most cases, files and reporting are provided.

CAN CLIENTS OUTSOURCE THIS?

Absolutely. We recommend evaluating the following options:

- Payroll Company. Clients can discuss with their payroll vendor to see if this is an option and request pricing. We understand many payroll administrators prepare this on behalf of their customers. They are best positioned with most of the employee information needed already in their systems.
- Tax Advisors. Clients can discuss with their tax advisor, CPA or tax preparer to see if they provide this service. Some tax advisors are not doing 1094/1095 reporting as they believe it is outside their scope of duties. For ALEs, they may want to also ask their tax advisors as well about their assistance with the calculations of penalties and reporting for the ACA Shared Responsibility Provision.
- Software vendors. There are a handful of vendors we have seen offering the service:
 1. EFileMyForms—\$99 annual fee plus \$3.49 per electronic form or \$3.99 per paper form for up to 50 employees [https://www.efilemyforms.com/ACA_Pricing].
 2. Pro-Ware LLC [<http://www.proware-cpa.biz/aca-features.html>]
- Third Party Administrators (TPAs). TPAs who provide this service typically work with more complex customers with a large range of employees in different measurement periods and/or a large population of seasonal or transient workers. If you don't believe the other options described above will meet your needs, please contact your Cornerstone representative to discuss alternatives and connect with one of our TPA partners.

WHAT INFORMATION DO EMPLOYERS NEED TO PROVIDE FOR THE FORMS?

These forms are relatively straightforward but tedious. Clients will need good accounting of employees, when and if they were offered coverage, what type of coverage was offered, whether they elected to join the plan or not.

For ALEs, they need to know whether their coverage met minimum value and was affordable as well as whether employees were in waiting or measurement periods. IRS.gov has instructions for these forms and samples.

Cornerstone provided some coding tips for completing 1095s on its website back in November 2017. It is included at the end of this document for your convenience.

HELPFUL LINKS

- Instructions for 1094-B and 1095-B
- Sample Form 1095-B
- Form 1094-C and Form 1094-C Instructions
- Sample Form 1095-C

Guidance for Applicable Large Employers

NOTE: This guidance applies to Applicable Large Employers (ALEs) as defined in the ACA regulations and covers the ACA Shared Responsibility (aka, ACA “Pay or Play”) Penalties. This notice is not a substitute for reading and complying with the IRS Forms and Instructions themselves. This information is not intended to be legal or tax advice.

The 1094-C and 1095-C filings used by Applicable Large Employers along with employee tax returns will be used by the IRS to determine if the employer owes a shared responsibility payment and whether employees are/were eligible for a premium subsidy.

Any penalties will be calculated and communicated by the IRS in Letter 226J. Employers owe the IRS a response within 30 days of their letter date.

IRS LINKS

- Understanding your Letter 226J [Source]
- Sample 226J [Source]
- IRS Q&A on Employer-shared responsibility provisions under ACA [Source]

EMPLOYER RESPONSE TO LETTER 226J

Employers have 30 days in which to respond and can contest any proposed penalty notices. The letter provides instructions for how the employer should respond. Form 14764 is used to dispute and/or agree with the penalty.

WHAT ARE THE PENALTIES?

For 2018, these are the applicable penalties from IRS Code 4980H(a) and (b):

- Annual maximum of \$2,320 per employee for not offering coverage to 95% of full-time employees; or
- Annual maximum of \$3,480 per employee who received a qualified subsidy due to employer not offering affordable, minimum value coverage
- REMINDER, penalties for up to 30 employees may be waived and employees who were covered through the military, Tricare or the VA for a portion of the year also do not need to be counted.

A REFRESHER ON LIMITED NON-ASSESSMENT PERIODS (IE, MEASUREMENT AND WAITING PERIODS)

Many ALEs utilize measurement and waiting periods. The Form instructions provide guidance on the reporting of employees in these sections in greater detail:

- New hires in their waiting period (which can be up to 90 days)
- Part-time, seasonal or variable hour employees who reach the end of the year before their initial measurement period is complete. They are not considered full-time employees that year and the employer is not required to provide a Form 1095-C. Federal Register, Vol 79, No 29 released 2-12-14 has additional information to review for managing and reporting for Measurement and Stability Periods, Variable Hour Employees, Temporary Staffing and Rehires [<https://www.gpo.gov/fdsys/pkg/FR-2014-02-12/pdf/2014-03082.pdf>]

NOTE: Please review the section in the Federal Register regarding REHIRES for businesses who have staff who have periods of on and off work without a separation of service.

Coding Tips for 1095 Filings

NAHU, the National Association of Health Underwriters, provided a webinar on this topic for the 2017 tax filing year presented by Trey Tompkins of AdminAmerica. We included the content this year as it may be helpful for the 2018 tax filing year. The information below is a summary.

TIPS FOR THE TRICKY PARTS ON 1095 FORMS

- Line 14

COBRA	<ul style="list-style-type: none"> For terminated employees (and their dependents), use CODE 1H with Code 2A on line 16 For current employees eligible for COBRA (and COBRA eligible dependents) use the appropriate code for the offer (i.e., who was actually eligible to elect COBRA for those months)
Retiree	<ul style="list-style-type: none"> Retiree coverage is not reported as an offer of coverage (1H on Line 14 and 2A on Line 16)

- Line 15 considerations

- » Only completed if Line 14 response is: 1B, 1C, 1D, 1E, 1J, or 1K
- » Rules allow for smoothing reported premiums evenly across months for employees paying weekly or biweekly premiums.

- Line 16 Safe Harbor Codes and considerations

Priority	Use the first that applies in this order: 2A, 2B, 2E, 2C, then whichever others apply
2A	Employee not employed during month
2B	Employee not a full-time employee
2C	Employee enrolled in health coverage offered <ul style="list-style-type: none"> » Do not use for EX-employee COBRA continuants » Do not use if coverage was not for the entire month
2D	Employee in a Limited Non-Assessment Period <ul style="list-style-type: none"> » For use in Waiting Periods (90 days) and Variable Hour Employees in Measurement Period » Do not use for employees to which Code 2E applies (union)
2E	Multiemployer interim rule relief (Union employees)

2F	<p>W-2 Safe Harbor</p> <ul style="list-style-type: none"> » Can't be used for months employer didn't offer MEC to 95% of FTEs and dependents » If used, must be used for each month the employee was offered coverage » For partial year employees, can be applied using a fraction of the employee's W-2 wages versus cost of coverage for the eligible months
2G	Federal Poverty Line Safe Harbor
2H	<p>Rate of Pay Safe Harbor</p> <ul style="list-style-type: none"> » Can't be used for months employer didn't offer MEC to 95% of FTEs and dependents
blank	Sometimes applies, but it predicts a potential penalty assessment for employer
Waivers	There is no specific code for a waiver of offered coverage, but one of the affordability safe harbor codes will <i>usually</i> apply

- Affordability Thresholds (applies to Applicable Large Employers only)

Year	Affordability %
2017	9.69%
2018	9.56%
2019	9.86%

[IRS NOTICE 2015-87](#) has some real gems to remember when calculating affordability. Here are few:

- Employer HRA contributions can count towards an employer's required contribution in certain instances.
- Wellness Program Incentives – Discounted contributions for participating are generally not considered. In other words, you report the contribution as if the wellness incentive was NOT earned unless the program was designed to prevent tobacco use.
- Flex Credits may reduce the reported cost of coverage unless: the credits can be used to purchase non-health coverage or can be cashed out or contributed to HSAs. Flex Credits do not apply to plan years that began prior to January 1, 2017 (Flex Credits in the IRS notice relates to a cafeteria plan or defined contribution plan—not necessarily a Flexible Spending Account, although FSAs can be one of the offerings).
- Opt Out Payments increase the reported cost of coverage unless:
 - » They are conditioned on providing proof of other coverage
 - » They are part of a Collective Bargaining Agreement (CBA) entered into before December 16, 2015
 - » The unconditional arrangement began before December 16, 2015

- Amounts paid to satisfy Prevailing Wage Laws reduce the cost of coverage even if they are paid in cash to employees who waive coverage.

There are several other tools, software, and outsourcing solutions that can help employers needing more support. Employers with high turnover and lots of different kinds of employee populations (e.g., seasonal, variable hour, part-timers, etc.) often need much more help. If you need to review some of the tools available, please see page 2 of this document for some resources.

This article is provided for informational purposes and should not be construed as legal or tax advice. Please consult with your tax advisor, CPA, or legal counsel for details specific to your group.