



March 18, 2014

## Health Care Reform: Final Rules on Health Coverage Reporting for Plans and Employers

On March 5, 2014, the Internal Revenue Service (IRS) published two new final rules related to employer and health plan reporting requirements under the Patient Protection and Affordable Care Act (ACA). Both reporting requirements become effective with respect to the 2015 calendar year.

- The first rule—**Information Reporting of Minimum Essential Coverage**—implements the requirements imposed by Section §6055 of the Internal Revenue Code (Code), which were added by the ACA on all health plans that provide “minimum essential coverage” to individuals, including employer-provided plans such as annual conference health plans.
- The second rule—**Information Reporting by Applicable Large Employers on Health Insurance Coverage Offered Under Employer-Sponsored Plans**—implements the information reporting requirements under Section §6056 of the Code, also added by the ACA. “Applicable large employers” [employers with 50 or more full-time employees (FTEs) and full-time equivalent employees (FTEEs)] must comply with these Section 6056 reporting requirements to inform the IRS of details regarding whether employer-provided coverage was offered to FTEs and dependents, and whether such coverage was accepted by individual employees.

United Methodist Church (UMC) employers with 50 or more FTEEs will have to comply with the reporting requirements under **Section 6056** of the Code. Annual conference health plans including the HealthFlex plan maintained by the General Board will have to comply with the reporting requirements under **Section 6055** of the Code for the 2015 calendar year. These obligations involve submitting information returns to the IRS (namely a *Form 1094-B* or *Form 1094-C* (a master return) and *Form 1095-B* or *Form 1094-C* for each covered participant or full-time employee in early 2016, as well as providing statements to covered participants and FTEs in January 2016.

The two final rules make a few important changes to the earlier proposed rules on the two reporting requirements. (The September 2013 proposed rules are described [here](#).) The key changes in the final rules and important reminders are explained below.

### Section 6055 Reporting for Minimum Essential Health Coverage

The final rule on Section 6055 reporting requires health insurance issuers, employers sponsoring self-insured health plans and others (including HealthFlex as a multiple employer plan) that provide “minimum essential coverage” (MEC, i.e., health coverage that satisfies the ACA’s individual mandate) to report this coverage to the IRS. Additionally, Section 6055 requires health plans to provide a statement regarding MEC to all covered individuals (employees, spouses, dependents and any other covered beneficiaries). Section 6055 reporting is intended to help the IRS confirm taxpayers’ coverage for purposes of administering the tax penalties for non-compliance with the ACA’s individual mandate.

## Who Must Report: Health Plans

- *For HealthFlex plan sponsors:* Although technically Section 6055 reporting is applicable to “plan sponsors” of self-funded plans, the General Board intends to perform the reporting for all covered lives under HealthFlex, as a service to its plan sponsors.
- *For annual conferences with self-insured health plans:* Annual conferences will have to comply with the Section 6055 reporting requirements.
- *For annual conferences sponsoring fully-insured health plans:* The issuers of health insurance policies will perform the Section 6055 reporting. However, those annual conferences with fully-insured plans may have to submit reports of covered lives under the Section 6056 reporting requirement (below) if they are applicable large employers with 50 or more FTEEs.

## What Must Be Reported

- *Name, address and employer identification number (EIN) of the reporting entity, e.g., the plan sponsor (annual conference board of pensions), plan administrator or insurer*
- *Name, address and tax identification number (TIN) of each responsible individual/primary insured (i.e., the employee/participant or retiree). TIN is typically the Social Security number*
- *Name, address and TIN of each covered dependent (individual’s birth date may be used if the plan has not obtained TIN despite using used reasonable efforts to solicit such data<sup>1</sup>)*
- *Calendar months of coverage for each individual*

## When and How to Report

Section 6055 reporting is required on a calendar-year basis, beginning with 2015 data (due in early 2016).

To report on 2015 minimum essential coverage, plans must submit a *Form 1094-B* and *Form 1095-B* (if subject only to Section 6055 Reporting *but not Section 6056 Reporting*) or *Form 1094-C* and *Form 1095-C* (if subject to Section 6056 Reporting *in addition to Section 6055 Reporting*) to the IRS by **February 29, 2016** (or **March 31, 2016** if filing electronically). In addition, plans must provide a statement by **January 31, 2016** to all covered individuals explaining their MEC for the 2015 tax year. The statements may be delivered electronically, but only if specific consent, notice and other procedural requirements are met. Entities that file at least 250 *Forms 1094* or *1095* in a calendar year *must* file electronically. Other entities *may* file electronically but are not required to do so.

These reports are subject to information reporting penalties similar to those for *Forms W-2*. The penalty for failing to file a return with the IRS is generally \$100 per return, up to a maximum of \$1.5 million per calendar year. A separate penalty of up to \$100 for each failure to provide a statement to a responsible individual may also be imposed, and also is subject to a \$1.5 million per calendar year maximum. The final rule allows for relief for failure to report due to reasonable cause.

Information on the filed *Form 1094-B/C* may become incomplete or incorrect due to a change in circumstances that occurs after the end of the coverage year, such as retroactive enrollment of a baby or retroactive cancellation of coverage because of failure to pay premiums. In these situations, the reporting entity must file a corrected return.

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<sup>1</sup> The final rule recognizes that plans may not have TINs for dependents and other individuals. Penalties for failure to provide a TIN may be waived where the plan demonstrates that it acted responsibly in attempting to obtain the TIN by issuing an initial TIN request and at least two successive annual requests.

## Coverage *Not* Subject to Section 6055 Reporting

Certain benefits are not considered MEC for Section 6055 reporting, including:

- Excepted benefits, e.g., most dental plans, vision plans and health flexible spending accounts (FSAs). (Read more about excepted benefits [here](#) or on the General Board’s [health care reform web page](#).)
- Employee assistance programs (EAPs) that do not provide significant medical benefits
- Health savings accounts (HSAs)
- Wellness programs that are an element of other minimum essential coverage (such as wellness programs offering reduced premiums or cost-sharing under a group health plan)
- Minimal essential coverage that supplements a primary plan of the same plan sponsor or that supplements government-sponsored coverage (for example, Medicare)
- Health reimbursement arrangements (HRAs) that are “integrated” with a health plan (for example, active plan HRAs for the HealthFlex consumer-driven health plan)

However, some standalone retiree-only HRAs are considered MEC and therefore *are* subject to Section 6055 reporting. Affected HRAs include:

- HRAs through OneExchange (formerly Extend Health)
- Other HRAs for participants who retire or terminate but retain access to the HRA balance for a time. **Please note:** The General Board, OneExchange and plan sponsors participating in the OneExchange program through the General Board will have to assess how to comply with Section 6055 reporting for OneExchange HRAs.

## Section 6056 Reporting—for Applicable Large Employers

The final rule on Section 6056 reporting requires employers that employ at least 50 full-time equivalent employees<sup>2</sup> (i.e., “applicable large employers”) to report to the IRS information about the health care coverage, if any, they offer to FTEs. Section 6056 reporting is intended to help the government administer the Employer Mandate and premium tax credits for Marketplace coverage. Section 6056 also requires applicable large employers to provide related statements to covered employees.

### When and How to Report

Section 6056 reporting is done on a calendar-year basis, similar to the rules explained above for Section 6055 MEC reporting. Also like Section 6055, first-time reporting for Section 6056 will begin with 2015 data, due in early 2016.

Each applicable large employer must submit one transmittal *Form 1094-C* to the IRS, with a separate *Form 1095-C* for *each* FTE. The employer also must provide a statement to each FTE about this reporting by the **January 31** immediately following the calendar year being reported [i.e., February 1, 2016 (because January 31, 2016 is a Sunday) for 2015 reporting]. Statements to FTEs may be delivered electronically only if certain conditions are satisfied.

Failure to comply with Section 6056 reporting is subject to the same penalties as described above for Section 6055 reporting: \$100 per FTE, up to a maximum of \$1.5 million per calendar year for failure to file with the IRS and a separate penalty of up to \$100 for each failure to provide a statement to an FTE, up to a \$1.5 million per calendar-year maximum. The final rule allows for relief for failure to report due to reasonable cause.

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<sup>2</sup> Under ACA, part-time employees are counted for calculating an employer’s “full-time equivalent” employees (FTEEs). However, employers are not required to offer health coverage to part-time employees (defined as working fewer than 30 hours per week on average). Employers with at least 50 FTEEs are considered “applicable large employees” subject to Section 6056 reporting and the Employer Mandate to provide affordable, minimum essential health coverage. More details about applicable large employers are available in the Employer Shared Responsibility Toolkit (coming soon) on the General Board’s [health care reform web page](#).

An applicable large employer may contract with a third party to satisfy its Section 6056 reporting obligation; however, the employer remains liable for any noncompliance penalties.

### **What to Report**

Generally, an employer is required to report the following for each full-time employee:

- Employer information:
  - *Employer name, address and employer identification number (EIN)*
  - *Name and telephone number of employer’s contact person*
  - *Calendar year for reported information*
  - *Certification of whether employer offered its full-time employees and their dependents (children to age 26) MEC by calendar month*
  - *Number of full-time employees for each month of the calendar year*
  - *Months in which minimum essential coverage was available*
- Information about each FTE:
  - *Name, address and TIN (for employee but not dependents)*
  - *Months during the calendar year when coverage was available to the FTE*
  - *Months, if any, that employee was covered under the employer’s health plan*
  - *Employee’s share of the lowest-cost monthly premium for self-only coverage offered to that FTE, by calendar month*

The return will also include these indicator codes for employers to report:

- Whether coverage provides minimum value
- Whether employees had an opportunity to enroll their spouses in coverage
- Whether an employee’s coverage effective date was impacted by a permissible waiting period
- Whether an employer had zero employees during a particular month
- Whether coverage was offered to the employee only; the employee and children only; the employee and spouse only; or the employee, spouse and children
- Reasons why coverage was not offered to an employee, if applicable
- Whether coverage was offered to an employee even though the employee was not full-time (average 30 or more hours per week)
- Whether the employer met one of the affordability “safe harbors” under the Employer Mandate

### **Alternative Methods for Reporting**

Most applicable large employers will use the above-described general method for Section 6056 reporting. The final rules also include a few simplified reporting alternatives that reduce the level of information required to be provided to the IRS and employees.

- *Option 1:* An employer can use simplified Section 6056 reporting (an indicator code) and a simplified statement for all FTEs if the employer certifies that it made a “qualifying offer” of MEC for each month of the year to any FTE and their spouse and children. A “qualifying offer” is MEC that provides minimum value at a cost to the FTE of no more than 9.5% of the federal poverty level (FPL) for employee-only coverage. (For 2014, FPL is \$11,670; 9.5% of FPL would mean the coverage to the FTE could cost no more than \$92.39 per month for employee-only coverage). If these conditions are met, the employee will not be eligible for premium tax credits.
- *Option 2:* Under a special transition rule *for 2015 only*, this simplified reporting approach can be used if the employer can certify that it made a qualifying offer of MEC to **at least 95%** of its FTEs and their spouses and dependents. In that case, the employer will be able to provide a simplified statement to employees, too.

## Section 6056 Reporting for Mid-sized Employers

Special reporting rules *for 2015 only* apply to mid-sized employers (i.e., employers with at least 50 FTEEs but fewer than 100 FTEEs).

Although “mid-sized” applicable large employers qualify for the extra year of transition relief for the Employer Mandate (i.e., the additional one-year delay from 2015 to 2016), *they must still satisfy the Section 6056 Reporting requirement related to 2015 calendar year coverage.* (The one-year delay is described in detail [here](#).) As part of this transition relief under the Employer Mandate, the mid-sized employer must certify on its Section 6056 reporting transmittal form (*Form 1094-C*) for calendar year 2015—to be filed in early 2016—that it meets the eligibility requirements set forth in the Employer Mandate’s final rule for the extra year’s delay in applying the Employer Mandate. The instructions on the soon-to-be-published *Form 1094-C* and *Form 1095-C* will contain more details of this certification.

## Combined Section 6055 and 6056 Reporting

The two sets of final rules permit certain employers to satisfy their reporting obligations under both Section 6055 and Section 6056 using a single combined form. Employers with self-insured plans will be able to submit Section 6055 and 6056 reporting information to the IRS and to employees on the same *Forms 1094-* and *1095-B or C* and individual statements.

## UMC Impact

UMC employers that have 50 or more FTEEs will have to comply with Section 6056 reporting for the 2015 tax year. This includes many general agencies, annual conference offices and many large churches. In addition, UMC plan sponsors of group health plans, e.g., annual conference health plans, will have to comply with the Section 6055 reporting requirement. Annual conference boards of pensions that sponsor a self-insured health plan and are part of a conference office that is an applicable larger employer will have to comply with both reporting requirements.

## Some Examples

- Annual Conference **A** is an applicable large employer and sponsors a fully-insured health plan. Annual Conference **B** is an applicable large employer but sponsors the HealthFlex plan. Conference **A** and Conference **B** will have to comply with Section 6056 reporting by filing *Form 1094-C* and *Form 1095-C* for its FTEs in early 2016.
  - The insurance company for Conference **A**’s fully-insured health plan will complete the Section 6055 reporting of MEC for covered participants and dependents.
  - The General Board will complete the Section 6055 Reporting of MEC for Conference **B**’s participants and dependents covered under HealthFlex.
- Conference **A** and Conference **B** will not need to complete Section 6055 reporting, and need not complete the Section 6055 reporting half of *Form 1094-C* and *Forms 1095-C*.
- Annual Conference **C** is an applicable large employer and sponsors its own self-insured health plan. Conference **C** will have to comply with both Section 6056 Reporting and Section 6055 Reporting. It can complete both reporting requirements by filing *Form 1094-C* and *Form 1095-C*, and completing the parts of the form applicable to Section 6055 and Section 6056 reporting.
- Annual Conference **D** is not an applicable large employer (i.e., has fewer than 50 FTEEs) and sponsors a self-insured health plan. Conference **D** will have to comply with Section 6055 reporting of MEC by filing *Form 1094-B* and *Form 1095-B*. But Conference **D** is not subject to Section 6056 reporting and need not complete *Form 1094-C* and *Form 1095-C* for its FTEs.

### **More About ACA Requirements**

The General Board continues to monitor federal health care reform and provide applicable information for annual conferences, local churches and other UMC employers, as well as information for individuals. We encourage you to check the General Board's **health care reform web page** frequently for updates.

### **More Information**

If you have questions or would like additional information, please send your inquiries to **healthcarereform@gbophb.org**. General information about health care reform is available from the federal government at **www.healthcare.gov**.

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