



ACA Reporting and Filing: What You Need to Know for 2016

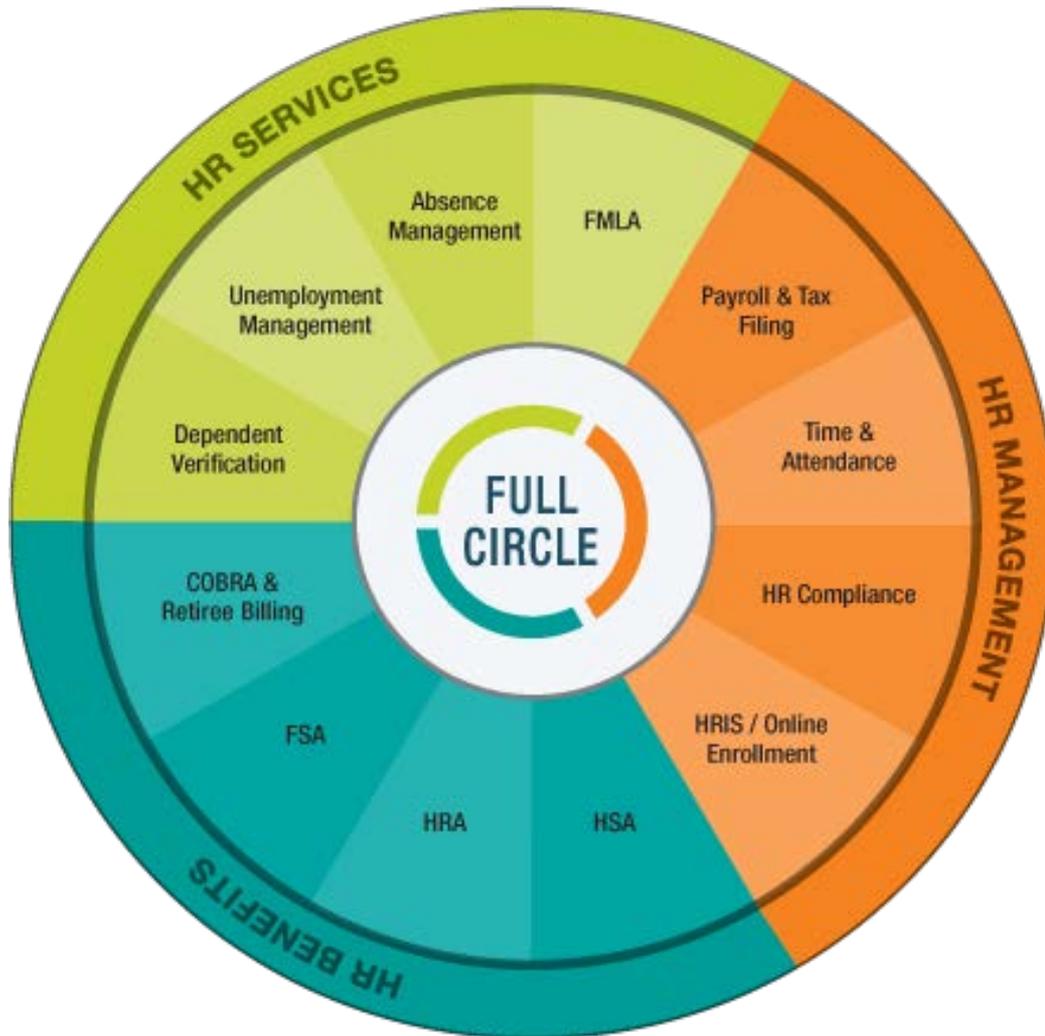
Presented by: Mary Bauman



- HR Benefits
- HR Management
- HR Services

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Marketplace Notice Appeals

Marketplace Notice Appeals



- Recently, many of you have received notices from the Health Insurance Marketplace reporting that in 2016, one or more of your employees enrolled in coverage on the exchange and received a premium tax credit
- This is **NOT** an IRS notice that you owe a pay or play penalty

Marketplace Notice Appeals



- What should you do?
 - You should appeal the notice if the employee was eligible for your health plan and your plan was of minimum value and affordable
- Why?
 - If the employee was eligible for your minimum value, affordable health plan, the employee is not eligible for a premium tax credit and will ultimately be required to repay
 - Correcting the error sooner rather than later minimizes this consequence for the employee

Marketplace Notice Appeals



- While this is not an IRS notice of assessment of a pay or play penalty, if the employee receives the premium tax credit, the marketplace will report this information to the IRS
- This information may lead the IRS to assess an employer pay or play penalty
- Clearing this up now with the marketplace may make the imposition of a pay or play penalty by the IRS with respect to this employee less likely

Marketplace Notice Appeals



- On the other hand, if the employee was not eligible for your health plan or was eligible but waived and the coverage was not affordable, then the employee was eligible for a premium tax credit and you should **NOT** appeal
 - If you should not be subject to a penalty (for example, because you didn't offer coverage to an employee who is part-time), you should make sure you maintain records to demonstrate that the employee was not an ACA full-time employee

Marketplace Notice Appeals



- If you appeal, please note the following:
 - You should appeal using the prescribed form*
 - The form is fairly straightforward

*[HealthCare.gov/marketplace-appeals/employer-appeals](https://www.healthcare.gov/marketplace-appeals/employer-appeals)

Marketplace Notice Appeals



- In Section 3 of the form there is a space for a narrative to explain why the employee should not be eligible for a premium tax credit and you can attach supporting documentation
 - For example, you could attach a copy of the election form or enrollment form showing that the employee was offered coverage
 - You should explain that the coverage constituted minimum value coverage (at least as good as a bronze plan on the exchange)

Marketplace Notice Appeals



- You can demonstrate minimum value coverage by attaching the schedule of benefits
- You should explain that the coverage was affordable
- You should set forth the employee contribution for single coverage under your cheapest medical plan and also explain which one of the three affordability safe harbors you are relying on

Marketplace Notice Appeals



- You should attach a copy of the notice to the form and mail and/or fax it to the address/fax number provided

What's Next?



- IRS may issue a notice of assessment regarding pay or play penalties
 - The notice will not be issued until after the individual files his or her tax return for the year at issue indicating whether the individual received a premium tax credit **and** the employer files its 1094-C and 1095-C with the IRS
 - The employer will have an opportunity to respond before the IRS assesses penalties



Update on 1094-C and 1095-C Filing

1094-C & 1095-C Filing



- Many employers have experienced difficulty filing the 1094-C and 1095-Cs electronically with the IRS for 2015
- The IRS recently announced that it is continuing to keep the AIR system up and running after the June 30 deadline
- The IRS is reassuring employers that they can still complete required testing after June 30 and that if any filings were rejected employers have 60 days to submit corrections and that this can occur after June 30

1094-C & 1095-C Filing



- While there are late filing penalties, the IRS also indicated that missing the June 30 deadline will generally not trigger late filing penalties as long as the employer has made legitimate efforts to register with the AIR system and file the returns as soon as possible

Reporting Penalties



- IRS can assess \$250 penalty per return for late, incomplete or incorrect forms
- IRS will grant relief for incomplete or incorrect returns for first year if good faith effort

Correcting Forms



- IRS expects a corrected 1095-C to be prepared and filed for any of the following errors:
 - Individual's name or Social Security Number
 - Employer's EIN
 - Indicator code in Lines 14 or 16
 - Cost in Line 15
 - Information about enrollees in Part III (where self-funded)

Correcting Forms



- If incorrect 1095-C has **not** already been filed with IRS:
 - Prepare corrected form
 - Write “corrected” on top
 - Redistribute to employee
 - File with IRS by deadline
 - Original incorrect Form 1095-C is not filed

Correcting Forms



- If incorrect 1095-C **was** filed with the IRS:
 - Prepare corrected form
 - Enter “X” in corrected check box
 - Redistribute to employee
 - File all corrected 1095-Cs with IRS along with 1094-C transmittal form
 - Do not check corrected check box on 1094-C
 - Do not check as authoritative transmittal and complete only Part I of 1094-C

Correcting Forms



- IRS expects a corrected 1094-C to be prepared and filed for any of the following errors:
 - Employer's name or EIN
 - Number of 1095-Cs filed
 - Information regarding ALE group
 - Line 22 relief
 - Any column of Part III except total employee headcount

Correcting Forms



- If incorrect 1094-C was filed with IRS:
 - Prepare corrected form (all parts)
 - Enter “X” in corrected check box
 - Mark as authoritative transmittal
 - Do not include 1095-Cs
 - File with IRS

Quicker Deadlines



- For 2016 and later years 1095-Cs must be distributed to employees by the first business day on or after January 31
- The 1094-C and 1095-Cs must be filed with the IRS
 - By the first business day on or after February 28 if filing by mail
 - By the first business day on or after March 31 if filing electronically

New Forms



- Draft forms and instructions for 2016 just released
- Forms for 2016 will be different
 - No special reporting mid-size employers for full year
 - Special qualifying offer relief for 2015 eliminated
 - Plan start month still optional

New Forms



- If spouse's offer of coverage is conditioned on not being eligible for other employer coverage, two new indicator codes for Line 14
- If rely on qualifying offer in Line 14 can leave Line 16 blank or complete

Maintain Transition Relief Records



- Mid-size employers during 2014 must complete reporting for 2015 but pay or play penalties deferred until 2016
- Records to demonstrate 50-99 size during 2014?
- For 2016 and later reporting and penalties will be the same for all employers with 50 or more FT employees
- Employers under 50 must continue to maintain records to demonstrate **not** a large employer

Maintain Transition Relief Records



- Employers operating their group health plans on a non-calendar year basis can defer any pay or play penalty liability until the first day of the 2015 plan year
- Records to demonstrate plan has operated on a non-calendar year basis per requirements in regulations?
- First day of plan year will continue to be relevant for measuring affordability

Maintain Records to Prove Who Isn't Full-Time



- IRS will assume all your common-law employees are full-time unless you can demonstrate otherwise
- Two options:
 - Monthly measurement period
 - Look-back measurement period
- Records to demonstrate testing?

Count All Hours in Measuring for Full-Time Status



- Must credit:
 - All hours worked and paid
 - All hours paid but not worked (e.g., PTO)
 - All unpaid hours not worked due to FMLA, USERRA or jury duty

Count All Hours in Measuring for Full-Time Status



- IRS Notice 2015-87 clarifies hours crediting rules
- An employee's hours of service:
 - Do **not** include hours paid solely to comply with state workers' compensation or disability laws
 - Do include hours paid under an employer-provided short or long-term disability plan **unless** the benefit is solely paid with employee after-tax dollars

Make Sure SPD and Administrative Practice Align with Reporting



- For any employees not classified as full-time but who are credited with minimum hours during a measurement period, will you offer coverage?
 - What coverage-medical only or all benefits?
 - Same terms as full-time?
- If part-time employee or leased employee is transferred to/hired into a full-time position, will you credit past service toward waiting period?

Maintain Records to Demonstrate Affordability



- Which affordability safe harbor are you relying on?
 - Box 1 W-2
 - Federal poverty line
 - Rate of pay

Maintain Records to Demonstrate Affordability



- In measuring for affordability, the employee's required contribution cannot exceed 9.5% of one of three affordability safe harbors
- While the 9.5% figure was adjusted annually for inflation when determining an employee's eligibility for a premium tax credit on the exchange, IRS regulations did not extend the inflation adjuster for pay or play purposes

Maintain Records to Demonstrate Affordability



- IRS Notice 2015-87 clarifies that the inflation adjuster is also intended to apply on the affordability/pay or play side
- For **plan years** beginning in 2015 affordability is measured based on a 9.56% threshold, increasing to 9.66% for plan years beginning in 2016

Update on Affordability



- Last December the IRS announced that it would issue regulations to require employers who provide additional compensation to employees who opt out of group health coverage to include that amount when measuring for affordability for pay or play penalty purposes
- In the notice, the IRS also indicated that there may be a special rule where the opt out is conditioned on the employee having other group health coverage

Update on Affordability



- The IRS just announced that while it has not yet issued regulations to implement this new rule, the earliest the rule will apply is for plan years beginning on or after January 1, 2017
- In addition, in the new announcement the IRS indicates that opt out arrangements which require employees to provide reasonable evidence that the employee, spouse and dependents have other group health coverage will **not** be included in measuring affordability

Don't Overlook Impact of Transfer to Part-Time Status



- If you measure for full-time status based on look-back measurement period, a full-time employee must continue to be reported as full-time for entire plan year even if mid-year transfer to part-time status
- Options upon transfer:
 - Terminate coverage and offer COBRA
 - Subsidize COBRA cost so affordable
 - Continue medical coverage until end of plan year

And Don't Forget About Leaves of Absence



- Same issues as part-time employee transfer situation
- IRS requires employee on leave to continue to be reported as full-time unless terminated
- This rule is not just for FMLA leaves but any employer-allowed leaves of absence



Questions



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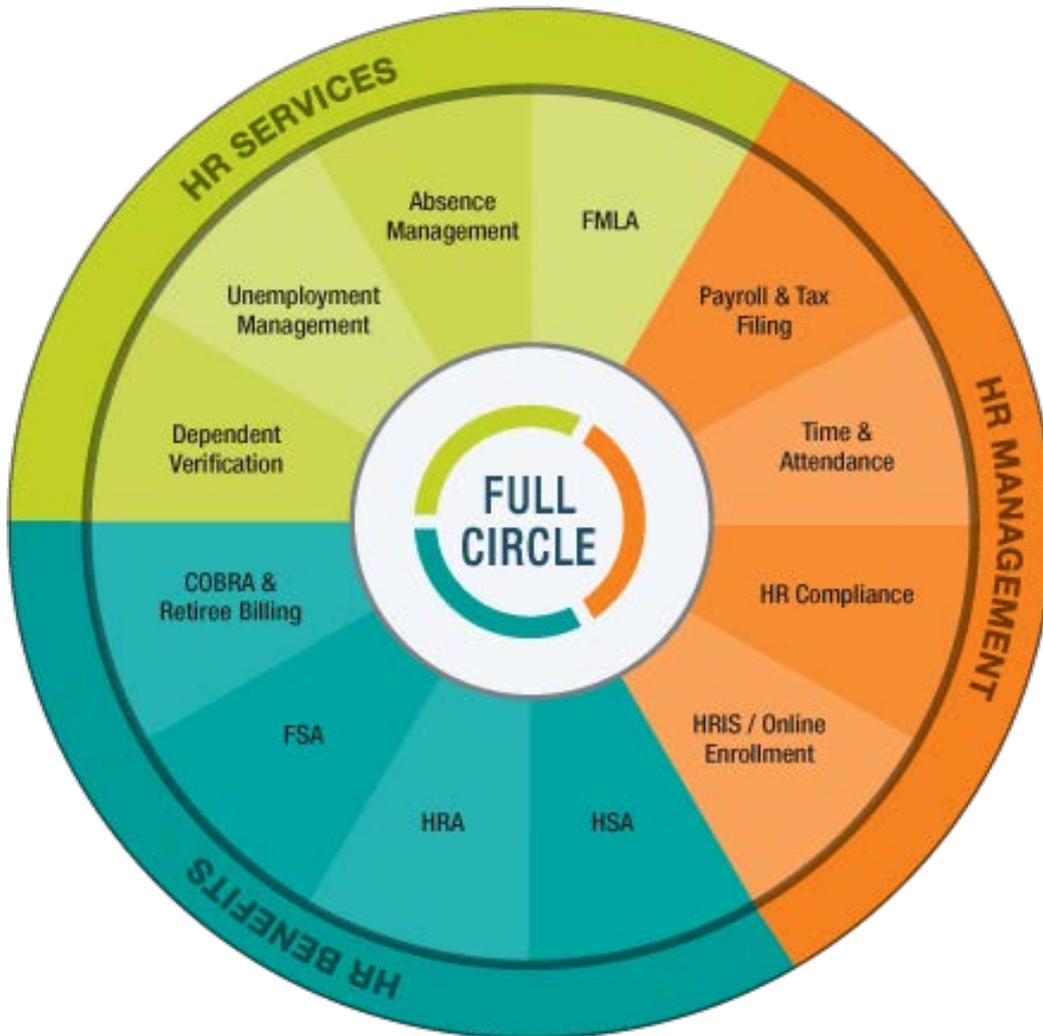
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