KEY
BENEFIT
ADMINISTRATORS, INC.

February, 2015

Re: Affordable Care Act Required IRS Reports: Final Forms Available!

Dear Friends of Key Benefit Administrators;

The Affordable Care Act ("ACA") added sections 6055 and 6056 to the Internal Revenue Code. These provisions apply to employers that average 50 full-time, plus full-time equivalent employees in the preceding year (called an "applicable large employer" or "ALE"). These provisions require that an ALE that sponsors a self-insured health plan must report to the IRS and to employees whether it offers a health plan that provides minimum essential coverage ("MEC") or an affordable minimum value plan ("MVP") as defined by the ACA. The reports will be made using newly created (but not yet finalized) IRS Forms 1094 and 1095.

Here are points to be considered in this process that will help avoid ACA penalties:

- IRS Forms 1094 and 1095 will be used to report to each employee and the IRS whether the employee was offered MEC coverage each month during the year and whether the plan qualified as MVP coverage.
- The employer will use information on the forms to show the IRS that it did or did not offer MEC and/or MVP coverage to its full-time employees.
- Simplified methods of reporting may be available under certain circumstances
- The employer must send its employees IRS Form 1095-C by January 31, 2016.
- An employee will use the information to report to the IRS whether he/she actually had MEC coverage so as to avoid the individual coverage mandate tax.
- Employees who are not covered by MEC during 2015 face paying the individual coverage mandate tax of the greater of 2% of their household income or $325 per adult and $162.50 per child.
- The IRS and employees will use the information provided, in part, to determine the amount of premium tax credit that should have been available for Marketplace coverage for the employee.
- An employee may have to refund to the IRS any overpayment of premium tax credit based on their final annual household income.
- If an employee adds or drops coverage during the year, the ALE must show that on a monthly basis as a part of IRS Form 1095-C.
- The IRS will use the information provided on the returns to determine if the employer must pay a fine under ACA §4980H (the $2,000 and $3,000 penalties) for not offering appropriate coverages to all full-time employees (less a certain number).
- Employer filings to the IRS for 2015 will be due by February 29, 2016 or March 31, 2016 if filing electronically. No filings for the year 2014 are required.

P.O. Box 55210, Indianapolis, IN 46205-0210 317.284.7100

- Payment of a penalty is not required with the filing of the IRS Forms. The IRS will invoice the employer.
- Even if an ALE member does not offer coverage to any of its full-time employees, it must file returns with the IRS and furnish statements to each of its full-time employees to report that coverage was not offered.
- The IRS will match the reports filed by employers with employee filings to verify that qualifying coverage had or had not been offered to ALE full-time employees. This matching program will be the basis of employer audits by the IRS.
- Any employer that sponsors a self-insured health plan is required to file a report even if the employer has fewer than 50 full-time employees.

Other points to be considered about MEC and MVP plans:

- Note that MEC coverage is always included in an affordable MVP plan.
- If the employee contributes to the employer health coverage through a pre-tax §125 Cafeteria Plan Premium Only Program he or she cannot drop the coverage mid-year without a qualifying event.
- An ALE must begin coverage for an employee and dependents no later than 90 days after the date they became eligible for coverage or face a $100 a day fine for each impacted person (employee and eligible dependents).
- MEC or MVP coverage must be offered to all new full-time employees as they become eligible as well as all current full-time employees at least once a year during an open enrollment period. Failing to do so could result in a $100 a day penalty times the number of impacted employees and dependents.
- If an employer drops qualifying coverage it will be subject to the ACA penalties for the remainder of the year.
- An employer that drops coverage mid-year would expose its employees to the individual coverage mandate tax for not being covered by at least a MEC program unless the employee obtains other qualifying coverage.

With these points in mind it is important for employers to offer qualifying MEC or MVP health coverage to all eligible new hires and during its open enrollment period. Employers should also encourage their full-time employees to maintain coverage all year long to avoid the individual tax for not having coverage.

IRS Forms 1094 and 1095 and the instructions for their use have now been finalized. We have attached the forms and instructions for the voluntary (but not required) filings for 2014 so you can begin to understand the reporting requirements. KBA is working on a guide and process to help you be compliant with this filing process and will be updating you on our progress in a future memo.

Sincerely yours,

Wallace T. Gray

Wallace T. Gray, JD, MBA
General Counsel