



Health Care Reform **Bulletin**

Separate Section 6055 Reporting may be Required for some HRAs

Provided by JRG Advisors, LLC

Quick Facts

- 2015 draft instructions for Forms 1094-B and 1095-B were issued on Aug. 7, 2015.
- Under the draft instructions, some employers may need to separately report HRA coverage.
- These are draft versions only, and should not be filed with the IRS or relied upon. The IRS may make changes prior to releasing the final 2015 versions.

A clarification in the 2015 draft instructions would require certain employers to separately report information about individuals enrolled in an HRA under Section 6055.

The Affordable Care Act (ACA) created new reporting requirements under Internal Revenue Code (Code) Section 6055. Under these new reporting rules, employers that sponsor self-insured plans must provide information to the IRS and to covered individuals about the health plan coverage they provide. Reporting is first required in 2016, related to coverage offered or provided in 2015.

On Aug. 7, 2015, the Internal Revenue Service (IRS) released [2015 draft instructions for Form 1094-B and 1095-B](#), which will be used by entities reporting under **Section 6055**. 2015 draft Forms [1094-B](#) and [1095-B](#) were previously released on June 16, 2015.

The 2015 draft instructions include a clarification that would require employers that sponsor insured major medical plans and self-insured health reimbursement arrangements (HRAs) to **separately report the HRAs under Section 6055**. Previously, HRAs were widely believed to be considered “supplemental coverage” for which separate reporting was not required.

These 2015 forms and instructions are **draft versions only** and should not be filed with the IRS or relied upon for filing. The IRS may make

changes prior to releasing the final 2015 versions.

If this clarification in the 2015 draft instructions is included in the final versions, this would impose reporting requirements on employers that previously would not have been required to report under Section 6055.

Overview of Section 6055

Code Section 6055 requires every health insurance issuer, sponsor of a self-insured health plan, government agency that administers government-sponsored health insurance programs and any other entity that provides minimum essential coverage (MEC) to:

- File annual returns with the IRS reporting information for each individual who is provided with this coverage; and
- Provide related statements to covered individuals.

The IRS will use the information from the returns to implement the ACA’s individual mandate (that is, the requirement that individuals obtain acceptable health insurance coverage for themselves and their family members or pay a penalty). The ACA’s individual mandate became effective in 2014.



In general, an entity that is reporting under Section 6055 will file **Form 1094-B** and **Form 1095-B** with the IRS. However, a self-insured plan sponsor that is also an applicable large employer (ALE) must report under both Section 6055 and Section 6056, and will file using **Form 1094-C** and **Form 1095-C**.

Reporting MEC

Under Section 6055, entities must report information regarding individuals who are covered under any MEC provided by the entity. MEC generally includes government-sponsored programs, eligible employer-sponsored plans, individual market plans and other coverage the Department of Health and Human Services (HHS) designates as MEC.

However, entities are not required to report any MEC that is considered **“supplemental” to other MEC**. [Proposed regulations](#) under Section 6055 provided that “reporting is not required for arrangements such as health reimbursement arrangements that supplement minimum essential coverage.”

[Final regulations](#) under Section 6055 further clarified this requirement, stating that supplemental coverage not subject to reporting includes any MEC that supplements a primary plan of the same plan sponsor or supplements government-sponsored coverage (such as Medicare).

In August 2014, the IRS issued a set of [Q&As](#) that also addressed supplemental coverage. According to these Q&As, if any additional or supplemental benefits are not MEC (for example, excepted benefits like coverage at an on-site medical clinic), no reporting is required for the additional or supplemental benefits. In addition, no reporting is required under Section 6055 for additional or supplemental benefits that are MEC if:

- The primary and supplemental coverages have the same plan sponsor; or
- The coverage supplements government-sponsored coverage such as Medicare.

As a result, it was generally understood that a small employer that sponsors an insured major medical plan and a self-insured HRA would not be required to report information regarding the HRA under Section 6055. In this case, the insurance carrier of the insured major medical plan would be required to file Forms 1094-B and 1095-B with the IRS to report information about individuals covered under the plan and to provide related statements to those individuals.

Clarification in the 2015 Draft Instructions

The 2015 draft instructions included a new section addressing supplemental coverage, which echoes the IRS’ previous guidance that entities aren’t required to report the following MEC that is supplemental to other MEC:

- Coverage that supplements a government-sponsored program, such as Medicare or TRICARE supplemental coverage; or
- Coverage of an individual in more than one plan or program provided by the same plan sponsor (the plan sponsor is required to report only one type of MEC).

Historically, the “plan sponsor” of an insured plan has been the employer, not the insurance carrier. However, according to the 2015 draft instructions, coverage isn’t provided by the same plan sponsor if they aren’t reported by the same reporting entity.

According to the 2015 draft instructions, this means that **an insured group health plan and a self-insured HRA covering the employees of the same employer are not considered supplemental**.

Impact on Employers

This clarification in the 2015 draft instructions would impose reporting requirements on employers that previously would not have been required to report under Section 6055. If this clarification is included in the final versions, it would require an employer that sponsors an insured major medical plan and a self-insured HRA to **separately report the HRA under Section 6055**.



Thus, these employers would be required to file Forms 1094-B and 1095-B with the IRS to report information about individuals enrolled in the HRA, and provide related statements to those individuals. In this case, the insurance carrier would still be required to report information about the insured major medical plan.

Small employers that sponsor self-funded major medical plans will be required to report information under Section 6055 only regarding the self-insured major medical coverage. For these employers, an HRA would be considered supplemental.

ALEs with insured major medical coverage are generally required to complete Parts I and II of Form 1095-C to report information about the coverage that was offered to their full-time employees. Part III of Form 1095-C, which relates to information about self-insured coverage, generally would not have to be completed by these employers.

However, under the clarification in the 2015 draft instructions, any ALEs that sponsor insured major medical coverage and self-insured HRAs **will be required to complete Part III of Form 1095-C for any individuals enrolled in the self-insured HRAs.**

More Information

Please contact JRG Advisors, LLC for more information on reporting under Code Section 6055.

