



July 31, 2017

*Submitted electronically via: [www.regulations.gov](http://www.regulations.gov)*

**Re: Department of the Treasury - Review of Regulations**

Dear Sir or Madam:

The National Business Group on Health is pleased to respond to the Department of the Treasury's request for information regarding regulations that can be eliminated, modified, or streamlined to reduce burdens.

The National Business Group on Health represents 412 primarily large employers, including 73 of the Fortune 100, who voluntarily provide group health plan coverage and other health programs to over 55 million American employees, retirees, and their families. Our members employ and provide health coverage under a wide variety of arrangements, including full-time, part-time, seasonal, and temporary. They often have multiple lines of business in multiple locations and tailor employee work and benefit arrangements to the specific needs of each line of business.

As our members continue to comply with the numerous Internal Revenue Code requirements applicable to employer-sponsored group health plans, a primary concern will be minimizing the administrative and cost burdens associated with these requirements. Allowing plan sponsors flexibility to adapt their compliance procedures to existing work, benefit, and payroll arrangements will reduce these burdens and allow plan sponsors to devote more resources toward maintaining and improving health benefits for employees and their families. Therefore, we welcome the Department's efforts to minimize regulatory burdens. Our members are particularly concerned with reporting requirements under the Affordable Care Act and specifically, requirements related to Code §§ 6055, 6056, 36B, and 4980H.

**I. Streamlining Reporting**

Currently, reporting under Code §§ 6055 and 6056 involves maintaining, requesting, annually updating, and reporting a number of data elements, including but not limited to:

- Offers of coverage to employees, former employees, spouses, and children;
- Coverage months for each covered employee, spouse, and child;
- Reasons for not offering coverage;
- Monthly premiums for the lowest cost employee-only coverage option;
- Employee contributions for health coverage;
- Spouse and child names, addresses, and Social Security numbers; and
- Applicable waiting periods.

Complying with this reporting burden is all the more complex for large employers because they often operate multiple lines of business and tailor plan designs to the specific needs of each line of business. Large employer-sponsored health plans often make numerous benefit packages with different premium, coinsurance, deductible, and copayment levels available to employees. Cost-sharing levels, premiums, and coverage options may vary with employees' compensation.

Furthermore, our members employ full-time, part-time, seasonal, and temporary employees, and employees' eligibility for health coverage may change mid-year, such as when they shift between part-time and full-time status. Tracking and reporting coverage months for employees who have coverage for less than a full plan year, have coverage for multiple periods within a plan year, work for multiple related employers in a single plan year, or change benefit packages within a plan year presents a substantial administrative burden.

Therefore, our members—who voluntarily provide group health plan benefits often exceeding the ACA's minimum value standard—encourage the Department to allow a streamlined reporting option for employers that make health coverage available to employees, provided that coverage meets the ACA's affordability and minimum value standards. A prospective reporting system whereby employers verify, at the beginning of each plan year, the availability of health coverage meeting these standards would, we believe, allow the Internal Revenue Service to determine liabilities under §4980H, if any. This information, combined with information from individual taxpayers, would also allow the Service to verify eligibility for premium tax credits under §36B.

Having a streamlined §§ 6055 and 6056 compliance process would allow plan sponsors to devote more resources to maintaining and developing high-quality, cost-effective health coverage for employees and their dependents.

## **II. Relief from Applicable Penalties**

Because of the complexity of complying with §§ 6055 and 6056, it is likely that Forms 1094-C and 1095-C will include inadvertent errors, particularly if the reporting requirements or instructions change from year to year. Such errors are likely to occur in situations such as mergers and acquisitions among different employers, when employers may need to transition employees from one plan and recordkeeping system to another.

Therefore, we recommend that the Department allow relief from applicable penalties under Code §§ 6721 and 6722, provided employers make reasonable, good faith efforts to comply and correct errors within a reasonable period after discovering the errors.

## **III. Electronic Reporting and Disclosure**

As noted above, a primary concern for Business Group members will be minimizing administrative and cost burdens associated with reporting under §§ 6055 and 6056 and other ACA-related Code provisions. Because our members often sponsor multiple group health plans that are available to large populations of employees and dependents, our

members view electronic reporting and disclosure as a key tool in maintaining streamlined and cost-effective reporting and disclosure procedures. Many of our members have devoted substantial resources toward providing plan-related notices and disclosures electronically—such as the summary of benefits and coverage (SBC), summary plan descriptions (SPD), the Notice to Employees of Coverage Options (Notice), and Forms W-2—and have found that many employees prefer electronic communications because the communications can be accessed at any time, often from a single location. Therefore, Business Group recommends simplifying the rules for providing electronic employee statements under § 6056 and § 6055. Specifically, we recommend that the Service permit employers to provide § 6056 and § 6055 employee statements—as well as and other required disclosures—electronically by default, provided employers provide paper copies upon request.

We believe that the above recommendations, if implemented, will reduce administrative and cost burdens and allow group health plan sponsors much-needed flexibility with plan compliance.

Thank you for considering our comments and recommendations. Please contact me or Steven Wojcik, the National Business Group on Health's Vice President of Public Policy, at (202) 558-3012 if you would like to discuss our comments in more detail.

Sincerely,

A handwritten signature in black ink, reading "Brian J. Marcotte". The signature is fluid and cursive, with a long horizontal stroke at the end.

Brian J. Marcotte  
President and CEO