



Are You Ready for the New ACA Reporting Requirements?

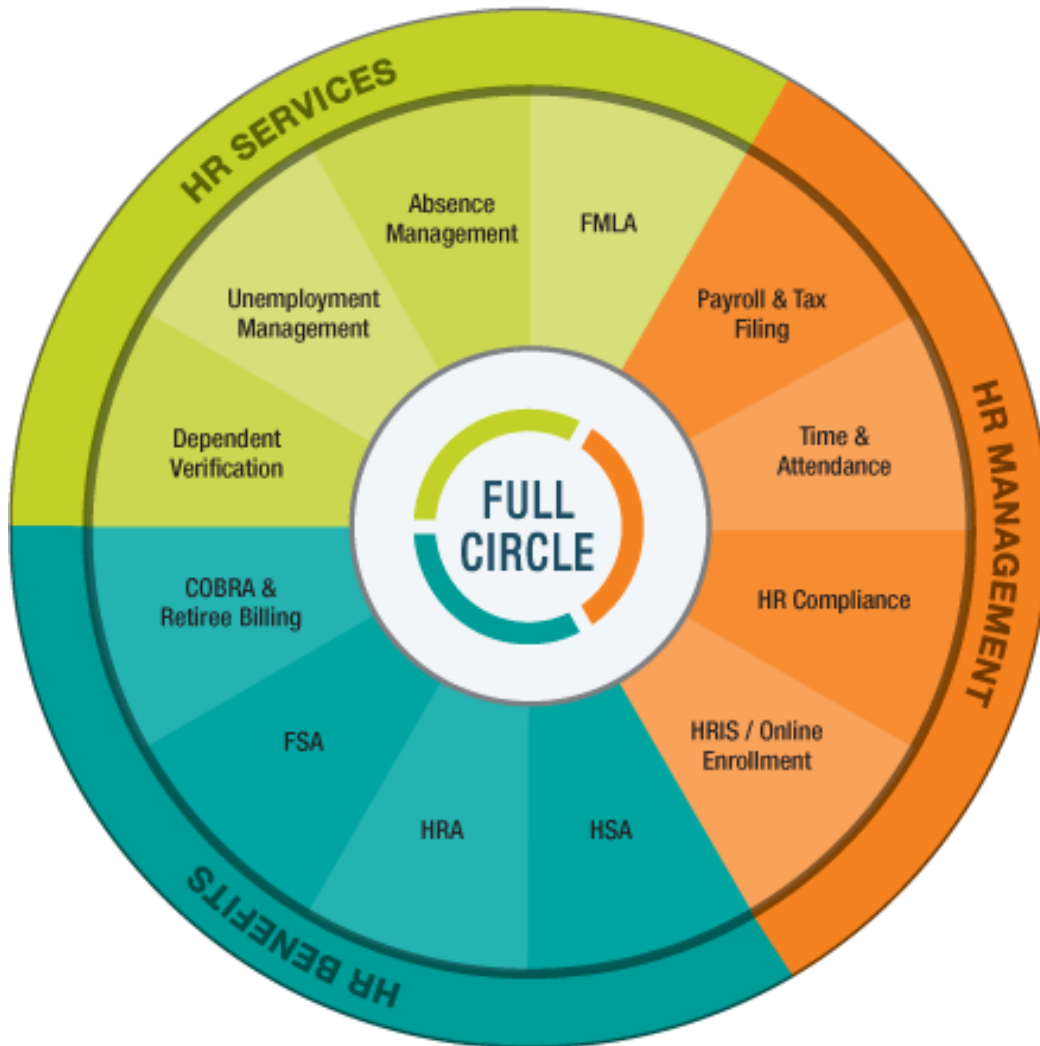
Presented by: Mary V. Bauman



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Mary V. Bauman is an attorney at Miller Johnson in Grand Rapids, MI. She works with employers in establishing, amending, and terminating employee benefit plans of all types. She often plays a consulting role to help the employer strategize ways to better control plan costs and achieve human resources objectives in connection with a plan. In addition, she represents several clients who perform various aspects of employee benefit administration. Ms. Bauman is the chair of the firm's employee benefits and executive compensation practice group, and health care reform team.



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Final Reporting Regulations



- The individual mandate penalty took effect this year
- The employer pay or play penalty takes effect next year
- Beginning in 2016 the IRS will require employer reporting to enforce the penalties

Final Reporting Regulations



- In March 2014, final regulations were issued regarding the employer reporting requirements imposed by the Affordable Care Act (also known as Health Care Reform)
- In July 2014, the IRS released draft reporting forms and in August 2014, the IRS released draft instructions to these draft reporting forms
- There are two types of reporting which will be required
 - Section 6055 reporting (individual mandate reporting)
 - Section 6056 reporting (pay or play reporting)

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- Section 6055 requires annual reporting to the IRS and “responsible individuals” whether coverage constitutes minimum essential coverage
- This reporting is intended to assist the IRS to enforce the individual mandate penalty under Health Care Reform
- All individuals (with certain exceptions) must be enrolled in health coverage which constitutes minimum essential coverage or pay a penalty

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- Taxpayers (responsible individuals) will attach the 1095-B described below to their tax return
- Section 6055 reporting applies to all employer group health plans regardless of the employer's size

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- Who is responsible for the Section 6055 reporting with respect to an employer group health plan?
 - If the plan is fully-insured, the insurer will assume this reporting requirement on the employer's behalf
 - If the plan is self-funded, the employer is responsible for the 6055 reporting

Final Reporting Regulations



- Section 6055 reporting is completed using Forms 1094-B and 1095-B:
 - Form 1094-B is a transmittal form to be filed with the IRS (along with the employee statements) that requires identifying information about the entity submitting Forms 1094-B and 1095-B
 - Form 1095-B is the “employee statement” to be provided to each responsible individual and requires the following information:

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- Information about the provider of the minimum essential coverage (e.g., for fully-insured plans, this is the insurer and for self-funded plans, this the employer)
- Identifying information about the responsible individual (employee, retiree, COBRA qualified beneficiary)
- Identifying information about each covered individual (dependent)
 - SSN of primary insured and each enrolled dependent
 - DOB if SSN unavailable after reasonable efforts

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- Section 6055 reporting is required on a calendar-year basis and is due by the following deadlines:
 - Form 1095-B must be provided to responsible individuals by the first business day on or after January 31 of the calendar year following the calendar year in which coverage was provided
 - Forms 1094-B and 1095-B must be filed with the IRS by the first business day on or after February 28 of the calendar year following the calendar year in which coverage is provided (or March 31, if filing electronically)

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- Example: For coverage provided in 2015 (the first year for which reporting is required) , here are the applicable due dates:
 - Form 1095-B must be provided to responsible individuals by February 1, 2016 (January 31, 2016 is a Sunday)
 - Forms 1094-B and 1095-B must be filed with the IRS by February 29, 2016 (2016 is a leap year and February 28, 2016 is a Sunday)
 - However, if the Forms 1094-B and 1095-B are filed electronically, the due date is March 31, 2016

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- Entities within a controlled-group of entities must complete Section 6055 on an entity-by-entity basis, but an entity may assist other entities within the controlled-group complete Section 6055 reporting
- Third-party administrators may assist entities complete Section 6055 reporting, but liability for penalties related to reporting failures is not transferred to the third-party administrator
- Most plan sponsors of self-funded plans will complete Section 6055 reporting on a combined basis with Section 6056 reporting

Final Reporting Regulations



- Section 6056 reporting only applies to large employers with 50 or more full-time employees and full-time equivalent employees
 - The purpose of the 6056 reporting is to assist the IRS to enforce the employer pay or play penalty and to assist full-time employees determine whether they are eligible for a premium credit

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- Section 6056 reporting is not required with respect to group health plans sponsored by small employers not subject to the pay or play
- Mid-size employers (50 to 99 FTEs) not subject to the pay or play until 2016 must still report under Section 6056 for 2015

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- If the large employer's plan is fully-insured the employer will only be responsible for 6056 reporting
- If the large employer's plan is self-funded, the employer will be responsible for both 6055 and 6056 reporting but these reporting requirements generally may be completed on a combined basis
- Section 6056 reporting is completed using Forms 1094-C and 1095-C

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- Form 1094-C is a transmittal form again to be filed with the IRS (along with the employee statements) that requires the following information:
 - Part I:
 - Identifying information about the employer submitting Forms 1094-C and 1095-C
 - Part II:
 - Whether the Form 1094-C is the “authoritative transmittal”
 - Whether the employer is part of a controlled-group of entities
 - Whether the employer qualifies for “transitional relief” from the pay or play penalty or whether the employer qualifies for alternative simplified reporting

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– Part III:

- Which months the employer offered minimum essential coverage
- The number of full-time employees in each calendar month
- The total number of employees in each calendar month
- Whether the employer is part of a controlled-group of entities in each calendar month
- Whether the employer qualifies for transitional relief from the pay or play penalty in each calendar month

– Part IV:

- The names and EINs of each entity that was in the same controlled-group of entities at any point in the calendar year

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- Form 1095-C is the “employee statement” to be provided to each full-time employee and requires the following information:
 - Part I:
 - Identifying information about the full-time employee or responsible individual
 - Identifying information about the employer
 - Part II:
 - Information about the employer’s offer of coverage
 - Amount of the employee’s share of the lowest-cost monthly premium for self-only minimum essential coverage
 - Whether the employee was enrolled in coverage or, if not, an indicator code regarding why the employee was not enrolled in coverage

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- Part III:
 - Identifying information about any other covered individuals (plan sponsors of fully-insured plans are not required to complete this section)
 - **Note:** Non-employees enrolled in a self-funded employer’s health plan may need to be issued a 1095-B

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- Similar to Section 6055 reporting, Section 6056 reporting is required annually during the first quarter of the calendar year after the calendar year to which the reporting relates
- The first year for which reporting is required is 2015 so the initial reporting will be due in the first quarter of 2016

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- Entities within a controlled-group of entities must complete Section 6056 on an entity-by-entity basis, but an entity may assist other entities within the controlled-group complete Section 6056 reporting
- Third-party administrators may assist entities complete Section 6056 reporting, but liability for penalties related to reporting failures is not transferred to the third-party administrator

Final Reporting Regulations



- Simplified reporting is available where the employer makes a “qualifying offer”
- A “qualifying offer” is where the employer offers:
 - Employee-only coverage which is affordable (using 9.5% of the mainland federal poverty line) and of minimum value; and
 - Coverage to the employee’s spouse and dependents

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- Employers who make qualifying offers may:
 - Use an indicator code rather than including the amount of the employee's share of the lowest-cost monthly premium for self-only minimum essential coverage
 - Provide each employee who received a qualifying offer for all 12 months a statement that includes the following information (rather than a copy of Form 1095-C):
 - Identifying information about the employer
 - Contact information for an individual responsible for answering questions about the employer's health plan
 - A statement that for all 12 months of the calendar year, the employee and his or her dependents received a qualifying offer of coverage and are not eligible for a premium tax credit

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- For 2015 only, if the employer certifies to the IRS that it has made a qualifying offer, as described above, even if not for the full 12 months, to at least 95% of its full-time employees there is additional simplified reporting relief

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- Employers who make these qualifying offers in 2015 may:
 - Use an indicator code rather than including the amount of the employee's share of the lowest-cost monthly premium for self-only minimum essential coverage
 - Provide each employee who received a qualifying offer a statement that includes the following information (rather than a copy of Form 1095-C):
 - Identifying information about the employer
 - Contact information for an individual responsible for answering questions about the employer's health plan
 - A statement that the employee and his or her dependents may be eligible for a premium tax credit in one or more months in 2015

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- An additional simplified reporting method is available if a large employer certifies to the IRS that it offers coverage which is of minimum value and affordable (using any affordability safe harbor) to at least 98% of its full-time employees
- Employers who qualify for this simplified reporting method may omit the total number of the employer's full-time employees in each calendar month on Form 1094-C

Final Reporting Regulations



- Entities within a controlled-group of entities must complete Section 6056 on an entity-by-entity basis, but an entity may assist other entities within the controlled-group complete Section 6056 reporting
- Third-party administrators may assist entities complete Section 6056 reporting, but liability for penalties related to reporting failures is not transferred to the third-party administrator

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- Large employer should think about how these reporting requirements will intersect the employer's planned recordkeeping with respect to the pay or play penalty
- There is a good faith standard for imposing 2015 reporting penalties for incorrect or incomplete filings



Questions



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Contact the Presenter



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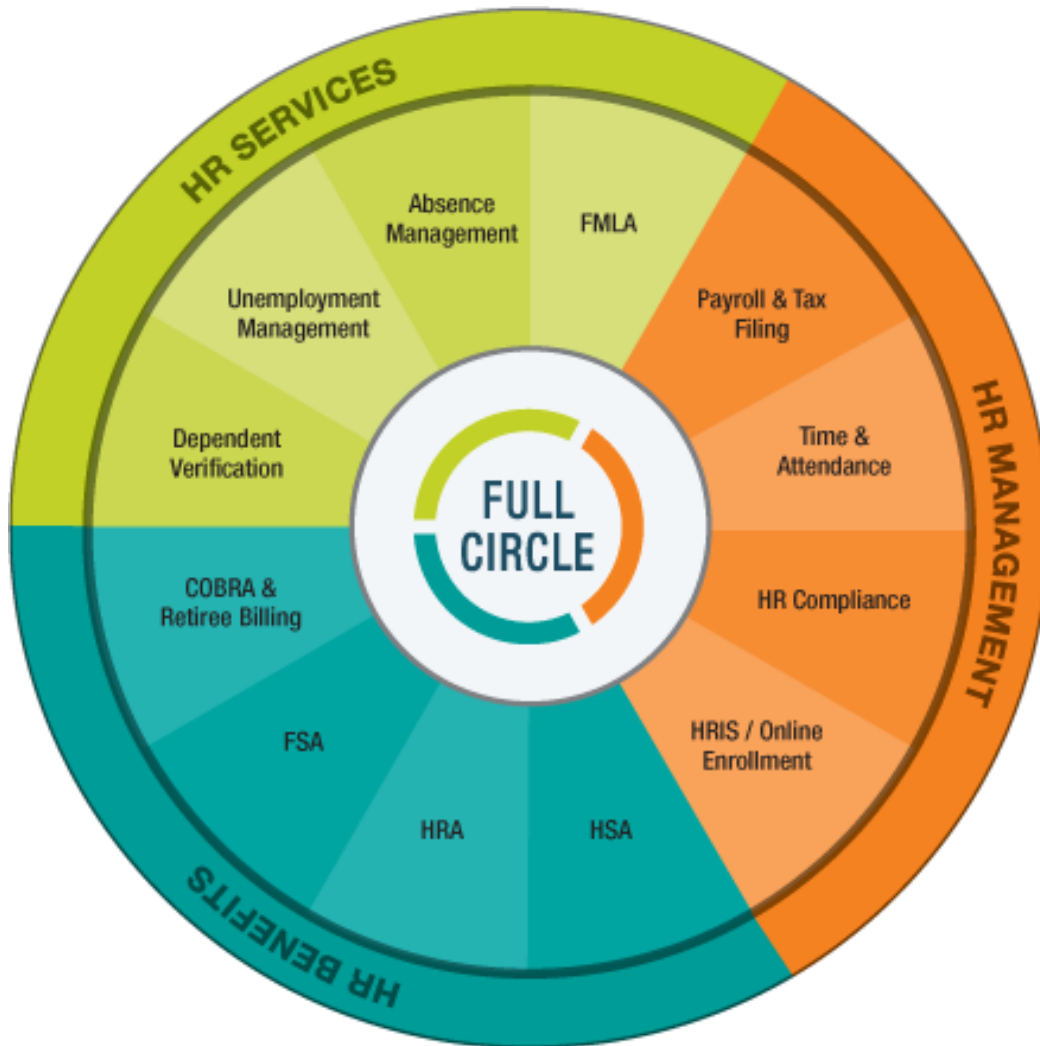
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