IRS REQUIRES HEALTH INSURANCE PROVIDERS AND EMPLOYERS TO REPORT MEDICAL INSURANCE COVERAGE

Executive Summary

The Internal Revenue Service recently issued final regulations implementing Internal Revenue Code §§ 6055 and 6056, requiring health insurers, self-funded plans, and certain employers to report medical insurance coverage.

Among other things:

- Internal Revenue Code § 6055 requires health insurers, self-funded plans, and others\(^1\) to report medical insurance information for the prior year to both the IRS and to covered individuals.

- Internal Revenue Code § 6056 requires employers with at least 50 full-time employees to provide the IRS with details of the prior year’s medical insurance information for employees and their dependents. In addition, the employer must report this information to its full-time employees.

- The reports required under the implementing regulations are due in early 2016.

Background

On December 24, 2009, the United States Senate ("Senate") passed the Affordable Care Act ("ACA"), which was later passed by the United States House of Representatives ("House") on March 21, 2010.\(^2\) An amendment bill, the Health Care and Education Reconciliation Act, was also passed by the House on March 21. President Obama signed the ACA on March 23, 2010.

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\(^1\) Internal Revenue Code § 6055 reporting also applies to health insurance issuers and carriers, employers, governments and other persons that provide minimum essential coverage. See 79 F.R. 13220.

\(^2\) The ACA has also been referred to as “PPACA,” “healthcare reform,” and “Obamacare.”
The ACA was reconciled with the amendment bill by the Senate on March 25, 2010, and signed by President Obama on March 30, 2010.

Under the ACA, all legal United States residents, with certain exceptions, must maintain medical insurance that includes a minimum set of benefits. Additionally, certain employers with at least 50 full-time employees must offer medical insurance that includes a minimum set of benefits to their employees or face penalties.

To enable the tracking of individuals who have health coverage, the Internal Revenue Service (“IRS”) has issued rules implementing Internal Revenue Code (“IRC”) §§ 6055 and 6056. In addition, IRC § 6056 requires employers to provide its employees with statements which the employees can use to determine if they are entitled to a premium tax credit on their individual tax returns.

### Significant Terms

**Applicable Large Employer (“ALE”)** – an employer who employs at least 50 or more full-time employees and is subject to IRC § 6056 reporting requirements.

**Covered Individuals** – persons who have Medical Insurance coverage.

**Medical Insurance** – for purposes of this release, Medical Insurance is Minimum Essential Coverage. **Minimum Essential Coverage** includes:

- a. medical benefits provided under government sponsored programs such as Medicare, Medicaid, etc.;
- b. coverage under an eligible employer sponsored plan;
- c. plans in the individual market;
- d. grandfathered health plans; and
- e. other coverage.

**Self-Funded Plans** – company sponsored health plans funded by employer contributions and employee payments to provide Medical Insurance to its employees. Under a self-funded plan, the employer and not the health insurer bears the medical costs incurred by the employees.

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3 Exceptions include, but are not limited to, the following: if the lowest priced coverage available would cost more than 8% of an individual’s household income; if an individual didn’t have to file a tax return because his or her income was too low; and if there were certain hardship conditions, such as being homeless, experiencing domestic violence, being foreclosed upon in the preceding 6 months, and filing bankruptcy.

4 See 26 U.S.C. §§ 4980H, 5000A and Legislative & Regulatory Information release LI-487 for more information on both the Individual Mandate and Employer Mandate requirements.

5 See 79 F.R. 13232-13233 for a discussion by the IRS of how employees may use these statements as proof to show if they qualify for a premium tax credit.

6 See Legislative & Regulatory Information release LI-497 for an explanation of how an employer calculates its full time employees, taking into account the hours worked by its part-time employees.
Analysis

To identify U.S. residents who have Medical Insurance as required under the ACA, the IRS has issued rules implementing IRC §§ 6055 and 6056. IRC § 6055 requires all health insurers and Self-Funded Plans report the prior year’s Medical Insurance information to both the IRS and the Covered Individuals, IRC § 6056 imposes additional reporting requirements on ALEs similar to those described in IRC § 6055. Each is discussed below.

IRC § 6055

Under IRC § 6055, health insurers and Self-Funded Plans must report information regarding the prior year’s Medical Insurance coverage to the IRS and Covered Individuals.

Information Reportable to the IRS

The following general data must be reported to the IRS by health insurance issuers and carriers, Self-Funded Plans, employers, governments and other persons who provide Medical Insurance:

- the name, address and Social Security Number (SSN) of the primary insured under the policy, and if applicable, dependents covered under the policy;
- the date(s) (on a month-by-month basis) during which an individual received Medical Insurance; and
- any other information that may be required.

In addition, group health plans providing Medical Insurance to Covered Individuals are required to provide the following information to the IRS:

- the name, address and employer identification number (EIN) of the plan sponsor;
- the premium amount paid by the employer (if any); and
- the Small Business Health Options Program’s (SHOP) unique identifier, if the Medical Insurance coverage is a qualified health plan offered through SHOP.

Information Reportable to Covered Individuals

Similar to an employer providing a W-2 which sets forth the earnings reported to the IRS, all health insurers and Self-Funded Plans must furnish Covered Individuals with statements containing their Medical Insurance details, as provided to the IRS. In addition, the statement must contain the name, address and phone number of the individual (or entity) filing the information on behalf of the health insurer and/or Self-Funded Plan.

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7 The IRS recently released draft guidelines for the completion of the forms to be used with IRC §§ 6055 and 6056 reporting. See IRS.gov/draftforms.
9 The regulation makes reference to Tax Identification Numbers (TIN) instead of Social Security Numbers. As the most common TIN is a social security number, this legislative release uses the term Social Security Number. The IRS commentary explains that if a TIN is not available, the date of birth of a Covered Individual may be used, provided that reasonable efforts are made to obtain a TIN. See 79 F.R. 13222.
10 The IRS has not yet issued guidance as to what these additional requirements might be.
11 See Legislative & Regulatory information release 487 for more information on SHOP insurance plans.
In addition to the requirements of IRC § 6055, ALEs must provide and certify to the information required in IRC §6056. This includes: level of coverage, number of full-time employees, and how many employees and dependents had Medical Insurance the prior year.

General Information Reportable to the IRS
ALEs must report the following information to the IRS:
- name, address and EIN of the ALE;
- number of full-time employees for each month during the calendar year;
- name, address and SSN of each full-time employee during the calendar year; and
- any other information that may be required.

Medical Insurance Information Reportable to the IRS
ALEs must report the following Medical Insurance information to the IRS:
- length of waiting period before a full-time employee or dependent receives Medical Insurance under the plan;
- months during the calendar year when Medical Insurance under the plan was available;
- monthly employee premium for the lowest cost option;
- employee’s share of the total allowed costs of benefits provided under the plan;
- months when each full-time employee and dependent received Medical Insurance under the benefit plan; and
- any other information that may be required.

Information to Full-Time Employees
ALEs must furnish full-time employees with statements containing the same details of their Medical Insurance provided to the IRS. In addition, the statement must contain the name, address and phone number of the individual (or entity) filing the information on behalf of the health insurer and/or Self-Funded Plan.

Reporting Requirements for Self-Funded Plans that are ALEs
ALEs with Self-Funded Plans may combine reporting under IRC §§ 6055 and 6056 on one form. Additionally, other ALEs may be eligible for simplified reporting, as explained below.

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13 While ALEs can engage the services of third parties to file these reports on their behalf, they remain responsible for the reports’ accuracy. See 79 F.R. 13246.
14 The IRS has not yet issued guidance as to what these additional requirements might be.
15 See FN 14 above.
16 See 79 F.R. 13240-13242.
To simplify reporting, the IRS will allow less information to be reported where an ALE makes a qualifying offer to its full-time employees. A qualifying offer is when an employer provides Medical Insurance, at a minimum value, to an ALE’s employees.17

When an ALE certifies it made a qualifying offer, the following reports can be submitted:

1. For qualifying offers made to full-time employees for all 12 months of the year, ALEs will only include the names, addresses, and SSNs of their full-time employees, as well as confirmation that the full-time employees received a qualifying offer.

2. For employees who received qualifying offers for less than 12 months, ALEs will simply provide the IRS and full-time employees with a code indicating that the qualifying offer was made.

In 2015 only, an even simpler option is available. If an ALE provides a qualifying offer to at least 95% of their full-time employees (and eligible dependents), the ALE can simply certify to the IRS that such an offer was made.

Finally, if an ALE can confirm and document that they offered Medical Insurance affordable to at least 98% of their full-time employees, the ALE can provide an estimate of their full-time employees without providing detailed information of such employees in their reports.18

### Timing

**IRS Filing Deadlines:** All health insurers, Self-Funded Plans, and ALEs must file the required information for the prior calendar year with the IRS by the following dates:19

- paper submission – February 28; and
- electronic filing – March 31.20

**Covered Individuals and Employee Statements:** In general, Covered Individual and employee statements under these regulations must conform with the reporting guidelines required for W-2s. Statements must be furnished to all full-time employees or Covered Individuals on or before January 31 of the year following the calendar year in which Medical Insurance was provided.21 Statements may either be delivered in paper form or electronically. An individual may receive electronic statements only after he or she has provided consent.22

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17 For 2015, the costs to the employee cannot exceed 9.5% of the Federal Poverty Level, or about $1,100, combined with an offer of coverage to the employee’s dependents.
18 See 79 F.R. 13242.
19 The original due date of February 28, 2016 for the filing of paper reports and January 31, 2016, for the provision of employee or Covered Individual statements were changed to March 1, 2016 and February 1, 2016 respectively because the original dates fall on Sundays.
20 Electronic filing is required under IRC § 6055 where the entity files at least 250 returns. These returns may include Forms W-2, 1099, income tax returns, employment tax returns and excise tax returns.
21 Alternatively, full-time employees and/or Covered Individuals can be provided with copies of the reports, which must be mailed to the last known permanent address, and if no known permanent address, to the last known temporary address. An extension not exceeding 30 days can be sought if a statement was not provided by January 31. Health insurers, Self-Funded Plans, and ALEs include the IRC §§ 6055 and 6056 statements in their Form W-2 mailing to employees.
22 See 79 F.R. 13239-13240.
Penalties

Health insurers, Self-Funded Plans and ALEs that fail to comply with the filing and statement requirements may be assessed penalties at $100 per filing or statement for each violation. There is a cap of penalties not exceeding $1,500,000 for filings or for statements. Examples of failing to comply include filing incorrect or late reports. The IRS will reduce penalties if a health insurer, Self-Funded Plan, or ALE files a corrected return within 30 days after the filing date, or if corrections to a filing are made by August 1st of the filing year.

Effective/Applicability Dates

The final regulations are effective March 10, 2014. Health insurers, Self-Funded Plans, and ALEs must file with the IRS and provide Covered Individuals and employee statements in early 2016 for the 2015 calendar year. As reporting and provision of statements are optional for 2014, health insurers, Self-Funded Plans and ALEs will not be penalized for failing to comply in 2015.

For 2016, initial paper filed reports are due to the IRS by March 1, 2016, while electronically filed reports are due by March 31, 2016. ALEs, health insurers and Self-Funded Plans must provide statements to employees or Covered Individuals by February 1, 2016.

Impact

Health insurers, Self-Funded Plans and Applicable Large Employers must report Medical Insurance information to the IRS, and furnish the same information in statements to Covered Individuals and full-time employees. MetLife is aware of these requirements and is taking steps to comply.

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23 See 26 U.S.C. §§ 6721 and 6722 and 6724(d).
24 IRS Notice 2013-45 provides transitional relief, making the reporting and provision of statements optional for coverage year 2014. Health insurers, Self-Funded Plans, and ALEs are encouraged to voluntarily report health coverage information for the 2014 calendar year. See 79 F.R. 13246.
25 See FN 19 above.