



Maine Municipal Employees Health Trust

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To: Health Trust Participating Employers
From: Anne Wright, Assistant Director, MMEHT
Date: September 11, 2015
Re: Affordable Care Act (ACA) Reporting Requirements – Part One (some background)

For the next several weeks, and through most of the rest of this year, these email updates will focus on some of the new, upcoming reporting requirements under the ACA. There is a huge amount of information to pass along to you, and in an effort to make it all somewhat more understandable, we will continue our past practice of breaking it down into small, hopefully more manageable pieces of information.

Last week, we informed you of the dates for this fall's series of ACA Workshops, which will focus on the new reporting requirements for Applicable Large Employers, or ALEs. This reporting requirement is only one of many under the ACA. Today's update will provide you with a bit of background on the reason for these new requirements.

For example, **individuals** are now required to report to the IRS on whether or not they had health insurance coverage. This requirement started in 2015, for the 2014 tax year. You may have noticed the question regarding "Health care individual responsibility – Full-year coverage" on your 2014 tax returns. Checking this box notified the IRS that you had appropriate health insurance coverage for the entire year, and thus were not subject to the ACA's Individual Shared Responsibility penalty for not having coverage. (If you did not have coverage for the entire year, and you did not fall within one of the ACA's exemptions, you may be subject to a penalty, depending on how long you went without coverage. The IRS will be in touch – if they haven't been already. Please consult with your tax advisor for more information.)

Plan sponsors and **insurers** will also be required to report on health care coverage, for all individuals covered under a health plan during the previous year. So, in 2016, all insurers (for fully-insured health plans) and plan sponsors (for self-insured health plans) will have to report not only to the IRS, but to each policyholder (generally, the employee), outlining which months the policyholder and any covered dependents had coverage during the previous year. This information will need to be provided to all policyholders by January 31, via the new **IRS Form 1095-B**; and to the IRS by March 31 (February 28 if filing paper forms), via **IRS Form 1094-B**, along with copies of all of the Forms 1095-B.

This reporting helps covered individuals to determine whether they satisfied the ACA's Individual Shared Responsibility provision for the previous year, and thus also helps them to determine whether they might be subject to a penalty for that year. This reporting also helps the IRS to determine who might be subject to a penalty under the ACA's Individual Shared Responsibility provision, based on whether or not they had Minimum Essential Coverage during the previous year. Theoretically, the IRS will be matching up all of the information provided by insurers/plan sponsors and by individual taxpayers, to determine who might be subject to a penalty.

Is your head spinning yet? Fortunately for those employers participating in the **Maine Municipal Employees Health Trust health plan**, the **Health Trust** is the **plan sponsor** of the plan, and will be providing **Forms 1095-B and 1094-B** to employees and to the IRS as required.

But there's a third reporting requirement that **employers** need to be aware of. This requirement applies to **Applicable Large Employers** – those employers with 50 or more full-time plus full-time equivalent employees. If you are not sure how to calculate your number of employees, here's a quick summary.

The ACA defines a full-time employee as one who works 30 or more hours per week (or 130 or more hours per month). First, count the number of employees that you have who meet the ACA's definition of a full-time employee. If that number is 50 or more – you will be subject to the new reporting requirement.

If the number is less than 50, don't give up yet! You will also need to consider your non-full-time employees (i.e. those working fewer than 30 hours per week). Add up all of the hours that all of these non-full-time employees work during a month, and divide that number by 120 (yes, we know that a full-time employee is defined as 130 hours per month, but the calculation here uses 120 hours per month). This will tell you how many full-time equivalent employees you had in any given month.

Add the number of full-time employees plus the number of full-time equivalents, to see if you have reached that 50 employee threshold. Do this for the entire year. If the number is 50 or more – you will be subject to these reporting requirements. Less than 50 – well, you can continue reading these updates if you want, but they probably will not apply to you, at least not for a while.

Why are Applicable Large Employers – those with 50 or more full-time / full-time equivalent employees – required to comply with these new reporting requirements? It all goes back to the Employer Shared Responsibility provision of the ACA – what some people call the “Play or Pay” provision, or the “employer mandate”. This provision says that if large employers do not offer health insurance coverage to their full-time employees, or if that coverage does not meet certain minimum standards, the employer may be subject to a penalty if one or more full-time employees purchases health insurance coverage through the Marketplace and receives a subsidy. And how will the IRS know whether the employer is offering minimum value, affordable coverage? Why, by the employer's reporting on the IRS's new **Forms 1095-C and 1094-C** (not to be confused with the IRS Forms 1095-B and 1094-B described above), of course. But that's an email update for another week. We've just about reached our two-page limit for today.

But before we sign off for this week, there is one further wrinkle that we want you to be aware of. The most recent draft of the IRS instructions for the Forms 1094-B and 1095-B seem to indicate that employers that provide a **Health Reimbursement Arrangement (HRA)** to their employees will be required to file these Forms, even if the employer has fewer than 50 full-time employees; and that large employers who provide an HRA will also be required to complete additional reporting on their Forms 1095-C. This provision has caused a great deal of consternation on many fronts, as it is a different interpretation of HRAs than had previously been used (previously, HRAs were considered “supplemental” benefits and were not subject to the reporting requirements). These are still the draft instructions, so this may change by the time the final instructions are issued later this year. We will keep you informed as we learn more.

Have a great weekend.

Please note that the Maine Municipal Association and the Maine Municipal Employees Health Trust are sharing this information to assist you with your compliance planning. We recommend that you contact your legal counsel with specific questions relating to this law.