

What's Old – and New! – with the ACA



January-February 2017
Maine Municipal Employees
Health Trust

1-800-852-8300

www.mmeht.org

The Difference Is Trust

Today's Agenda

- Large Employer Reporting
- Employer Shared Responsibility
- Affordability and Buyouts
- The Future of the ACA?



Large Employer Reporting on Coverage / Affordability

- Effective starting with reporting for calendar year 2015
- Applies to Applicable Large Employers
 - 50 or more full-time/full-time equivalent employees
 - “Full-time” => 30 or more hours per week
 - Can also calculate at 130 hours/month
 - “Full-time equivalents” => less than 30 hours per week
 - Calculate “hours of service” for all of these employees in a month
 - Add all hours together
 - Divide by 120
 - This will tell you how many full-time equivalents you have for that month

Employer Reporting - Form 1095-C

- Form 1095-C => Employer-Provided Health Insurance Offer and Coverage
- A Form 1095-C must be provided:
 - To each Employee who was a Full-Time Employee, for **any month** during calendar year 2016
 - Full-Time Employee = Employee worked at least 30 hours per week / at least 130 hours per month
 - Regardless of whether or not Employee was covered under the Employer's Health Plan

Employer Reporting - Form 1095-C

- Timeframe for providing forms to employees
 - ACA says by January 31 each year
 - For 2016 Forms: On or before **March 2, 2017**
 - IRS Notice 2016-70 (issued 11/18/2016) provided 30-day extension

- Final form issued October 2016
 - Form: <https://www.irs.gov/pub/irs-pdf/f1095c.pdf>
 - Instructions: <https://www.irs.gov/pub/irs-pdf/i109495c.pdf>

Employer Reporting - Form 1095-C

- Form 1095-C - Changes to 2016 Forms
 - Top of page: “Do not attach to your tax return. Keep for your records.”
 - Plan Start Month: Still optional.
 - Line 14, Offer of Coverage: Never leave blank.
 - Code changes: 1I “Reserved”, not used in 2016 (formerly 2015 Qualifying Offer Transition Relief).
 - Codes 1J/1K: Refer to “conditional offer of spouse coverage”
 - Offer of coverage for spouse subject to one or more reasonable, objective conditions (e.g., offer to cover spouse only if spouse is not eligible for another employer’s group health plan or Medicare) – regardless of whether spouse met the required condition(s)
 - May affect spouse’s eligibility for premium tax credit (Marketplace)
 - Line 15: Renamed “Employee Required Contribution (see instructions)”.
 - Previously called “Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage”.

Employer Reporting - Form 1095-C

- Form 1095-C - Changes to 2016 Forms
 - Line 16, Safe Harbor.
 - Code changes: 2I “Reserved”, not used in 2016 (formerly Non-Calendar Year Transition Relief).
 - Codes 2F/2H: Affordability safe harbor for 2016 is 9.66% (increased from 9.5%).
 - Retirees: Should be reported same as COBRA participants who have separated from employment in that year.

Form 1095-C (Large Employer)

600117

Form **1095-C**
Department of the Treasury
Internal Revenue Service

Employer-Provided Health Insurance Offer and Coverage

▶ Do not attach to your tax return. Keep for your records.

▶ Information about Form 1095-C and its separate instructions is at www.irs.gov/form1095c

VOID

CORRECTED

OMB No. 1545-2251

2016

Part I Employee

1 Name of employee		2 Social security number (SSN)	
3 Street address (including apartment no.)			
4 City or town	5 State or province	6 Country and ZIP or foreign postal code	

Applicable Large Employer Member (Employer)

7 Name of employer			8 Employer identification number (EIN)		
9 Street address (including room or suite no.)					
11 City or town	12 State or province	13 Country and ZIP or foreign postal code			

Part II Employee Offer of Coverage

14 Offer of Coverage (enter required code)	Plan Start Month (Enter 2-digit number):												
	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
15 Employee Required Contribution (see instructions)	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16 Section 4980H Safe Harbor and Other Relief (enter code, if applicable)													

Part III Covered Individuals

If Employer provided self-insured coverage, check the box and enter the information for each individual enrolled in coverage, including the employee.

(a) Name of covered individual(s)	(b) SSN or other TIN	(c) DOB (if SSN or other TIN is not available)	(d) Covered all 12 months	(e) Months of Coverage											
				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
17			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Employer Reporting - Form 1095-C

Part I:

- Reporting includes:
 - Employee's name, address, and SSN
 - SSN may be truncated (5 asterisks, last 4 numbers)
 - May not truncate SSN on forms filed with IRS
 - Employer's name, address, phone number and EIN
 - May not truncate EIN on forms filed with IRS
- Upon request, MMEHT will provide participating employer groups with a list of their covered employees (and dependents)
- Will include coverage, by month, for all of 2016

Employer Reporting - Form 1095-C

Part II:

- Reporting includes:
 - Plan Start Month
 - First month of the plan year
 - Optional for 2016
 - For MMEHT members, this is 01 (January)
 - Month-by-month information regarding:
 - Offer of Coverage
 - Employee Contributions
 - Safe Harbor and Other Relief

Employer Reporting - Form 1095-C

Offer of Coverage (Line 14)

- ALEs will need to complete this information for each employee who worked at least 30 hours per week in any month during 2016, whether or not the employee is enrolled in the health plan
- “Offer of coverage” only applies if coverage offered would provide coverage to employee every day of the calendar month
- A code must be entered for every month of the year, even if employee was not a full-time employee for one or more months of the year
- If same code applies for all 12 months of year, employer may enter code in the “All 12 Months” box and not in boxes for individual months

Employer Reporting - Form 1095-C

Offer of Coverage (Line 14)

- The Codes in this section (Code Series 1) specify the type of coverage (if any) offered to:
 - Employee
 - Employee's spouse
 - Employee's dependent children
- If employee terminates employment and is offered COBRA - do not report COBRA as offer of coverage
- But - if employee's hours are reduced and is offered COBRA - report COBRA as offer of coverage

Employer Reporting - Form 1095-C

Offer of Coverage (Line 14) - The Codes

- **1A. Qualifying Offer:** Minimum essential coverage providing minimum value offered to full-time employee with Employee Required Contribution equal to or less than 9.5% (as adjusted) of mainland single federal poverty line and at least minimum essential coverage offered to spouse and dependent(s).
- This means - minimum essential, minimum value, **affordable** coverage
 - Note: If you use this Code 1A, you will not enter any contribution information on Line 15
 - Use of this Code 1A is optional - if you don't use it, what should you use instead?

Employer Reporting - Form 1095-C

Offer of Coverage (Line 14) - The Codes

- **1B.** Minimum essential coverage providing minimum value offered to employee only.
- **1C.** Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage offered to dependent(s) (not spouse).
- **1D.** Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage offered to spouse (not dependent(s)).
 - Do not use this code if coverage for spouse was offered conditionally.
- **1E.** Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage offered to dependent(s) and spouse.
 - Do not use this code if coverage for spouse was offered conditionally.

Employer Reporting - Form 1095-C

Offer of Coverage (Line 14) - The Codes

- **1F.** Minimum essential coverage NOT providing minimum value offered to employee; employee and spouse or dependent(s); or employee, spouse and dependents.
- **1G.** Offer of coverage for at least one month of the calendar year to an individual who was not an employee for any month of the calendar year or to an employee who was not a full-time employee for any month of the calendar year (which may include one or more months in which the individual was not an employee) and who enrolled in self-insured coverage for one or more months of the calendar year.
 - Code 1G applies for the entire year or not at all.

Employer Reporting - Form 1095-C

Offer of Coverage (Line 14) - The Codes

- **1H.** No offer of coverage (employee not offered any health coverage or employee offered coverage that is not minimum essential coverage, which may include one or more months in which the individual was not an employee).
- **1I.** Reserved (not used in 2016).

Employer Reporting - Form 1095-C

Offer of Coverage (Line 14) - The Codes

- **1J.** Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage conditionally offered to spouse; minimum essential coverage not offered to dependent(s).
- **1K.** Minimum essential coverage providing minimum value offered to employee; at least minimum essential coverage offered to dependent(s); and at least minimum essential coverage conditionally offered to spouse.
 - Conditional offer of spouse coverage: Offer of coverage for spouse subject to one or more reasonable, objective conditions (e.g., offer to cover spouse only if spouse is not eligible for another employer's group health plan or Medicare) - regardless of whether or not spouse met the required condition(s)
 - Refers to offer of coverage only - not to payment of premium
 - May affect spouse's eligibility for premium tax credit (Marketplace)

Employer Reporting - Form 1095-C

Employee Contributions (Line 15)

- Complete line 15 only if code 1B, 1C, 1D, 1E, 1J, or 1K is entered on line 14 either in the “All 12 Months” box or in any of the monthly boxes.
 - Do not complete Line 15 if you used Code 1A in line 14.
- Enter the amount of the Employee Required Contribution – that is, the employee share of the monthly cost for the lowest-cost self-only minimum essential coverage providing minimum value that is offered to the employee.
 - Enter the amount including any cents.

Employer Reporting - Form 1095-C

Employee Contributions (Line 15)

- If the employee is offered coverage but is not required to contribute any amount towards the premium, enter “0.00” (do not leave blank).
- If the employee share of the lowest-cost monthly premium amount for self-only coverage was the same amount for all 12 calendar months, enter that monthly amount in each monthly box or enter that monthly amount in the “All 12 Months” box and do not complete the monthly boxes.
- If the employee share of the lowest-cost monthly amount was not the same for all 12 months, enter the amount in each calendar month for which the employee was offered minimum value coverage.

Employer Reporting - Form 1095-C

Employee Contributions (Line 15)

- For line 15, enter the **lowest-cost** monthly premium for **self-only** minimum essential coverage providing minimum value that is offered to the employee.
- **This amount may not be the amount the employee is paying for the coverage, for example, if the employee chose to enroll in more expensive coverage such as family coverage.**

Employer Reporting - Form 1095-C

Safe Harbor and Other Relief (Line 16)

- The Codes in this section (Code Series 2) specify the employee's employment status (and thus, eligibility for coverage) during each month of the year.
- For each calendar month, enter the applicable code, if any, from Code Series 2. You may enter only one code from Code Series 2 per calendar month.
- If the same code applies for all 12 calendar months, enter the applicable code in each monthly box or enter the code in the "All 12 Months" box. If none of the codes apply for a calendar month, leave the line blank for that month.

Employer Reporting - Form 1095-C

Safe Harbor and Other Relief (Line 16) - The Codes

- **2A.** Employee not employed during the month. Enter code 2A if the employee was not employed on any day of the calendar month. Do not use code 2A for a month if the individual was an employee of the employer on any day of the calendar month. Do not use code 2A for the month during which an employee terminates employment with the ALE Member.
- **2B.** Employee not a full-time employee. Enter code 2B if the employee is not a full-time employee for the month and did not enroll in minimum essential coverage, if offered for the month. Enter code 2B also if the employee is a full-time employee for the month and whose offer of coverage (or coverage if the employee was enrolled) ended before the last day of the month solely because the employee terminated employment during the month (so that the offer of coverage or coverage would have continued if the employee had not terminated employment during the month).

Employer Reporting - Form 1095-C

Safe Harbor and Other Relief (Line 16) - The Codes

- **2C.** Employee enrolled in health coverage offered. Enter code 2C for any month in which the employee enrolled for each day of the month in health coverage offered by the ALE Member, regardless of whether any other code in Code Series 2 might also apply (for example, the code for a section 4980H affordability safe harbor) except as provided below. Do not enter 2C in line 16 for any month in which the multiemployer interim rule relief applies (enter code 2E). Do not enter code 2C in line 16 if code 1G is entered in line 14. Do not enter code 2C in line 16 for any month in which a terminated employee is enrolled in COBRA continuation coverage or other post-employment coverage (enter code 2A). Do not enter code 2C in line 16 for any month in which the employee enrolled in coverage that was not minimum essential coverage.

Employer Reporting - Form 1095-C

Safe Harbor and Other Relief (Line 16) - The Codes

- **2D.** Employee in a section 4980H(b) Limited Non-Assessment Period. Enter code 2D for any month during which an employee is in a Section 4980H(b) Limited Non-Assessment Period.
- If an employee is in an initial measurement period, enter code 2D (employee in a section 4980H(b) Limited Non-Assessment Period) for the month, and not code 2B (employee not a full-time employee).
 - Limited Non-Assessment Period -> Waiting Period.
- **2E.** Multiemployer interim rule relief.
 - Generally applies to Taft Hartley plans. Does not apply to MMEHT.

Employer Reporting - Form 1095-C

Safe Harbor and Other Relief (Line 16) - The Codes

- **2F.** Section 4980H affordability Form W-2 safe harbor. Enter code 2F if the ALE Member used the section 4980H Form W-2 safe harbor to determine affordability for purposes of section 4980H(b) for this employee for the year. If an ALE Member uses this safe harbor for an employee, it must be used for all months of the calendar year for which the employee is offered health coverage.
- **2G.** Section 4980H affordability federal poverty line safe harbor. Enter code 2G if the ALE Member used the section 4980H federal poverty line safe harbor to determine affordability for purposes of section 4980H(b) for this employee for any month(s).
- **2H.** Section 4980H affordability rate of pay safe harbor. Enter code 2H if the ALE Member used the section 4980H rate of pay safe harbor to determine affordability for purposes of section 4980H(b) for this employee for any month(s).

Employer Reporting - Form 1095-C

Safe Harbor and Other Relief (Line 16) - The Codes

- Codes 2F/2H: Affordability safe harbor for 2016 is 9.66% (increased from 9.5% in 2015).
 - Note: Codes 2F, 2G, and 2H should not be used for any month that the employer did not offer **minimum essential coverage** to at least 95% of its full-time employees and their dependents (that is, any month for which the employer checked “No” on Form 1094-C, Part III, column (a)).
 - Note: “minimum essential” coverage, not necessarily “affordable”.
- **2I**. Reserved (not used in 2016).

Employer Reporting - Form 1095-C

Part III:

- For self-insured large employers
- Reporting includes:
 - Who was enrolled and when (by month)
 - Identifying info (name and SSN or TIN) for each covered individual - employee and dependents

Information in Part III will be provided to employees and the IRS via Forms 1095-B, completed by MMEHT



Employer Reporting - Form 1094-C

- Form 1094-C => Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns
- Form 1094-C must be provided:
 - To the IRS, along with copies of all Forms 1095-C provided to full-time employees
 - On or before **February 28, 2017** (if filing paper copies)/ **March 31, 2017** (if filing electronically)
 - Employers filing 250+ returns **must** file electronically; those with fewer than 250 returns **may** file electronically
 - Employers may file for a 30-day extension via IRS Form 8809, Application for Extension of Time to File Information Returns
 - Final form issued October 2016
 - Form: <https://www.irs.gov/pub/irs-pdf/f1094c.pdf>
 - Instructions: <https://www.irs.gov/pub/irs-pdf/i109495c.pdf>

Employer Reporting - Form 1094-C

- Forms 1094-C => Changes to 2016 Forms
 - Line 22, Certifications of Eligibility.
 - Box B: “Reserved”, not used in 2016 (formerly 2015 Qualifying Offer Transition Relief).
 - Box C and Part III, column (e): Transition Relief (50-99 employees, and Assessable Payments) – Only applies to employers with non-calendar year health plans.
 - Part III, column (a): Marking “yes” means MEC offered to at least 95% of eligible full-time employees.
 - Increased from 70% in 2015.

Form 1094-C (Transmittal to IRS) - p.1

120117

Form **1094-C**

Department of the Treasury
Internal Revenue Service

Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns

► Information about Form 1094-C and its separate instructions is at www.irs.gov/form1094c

CORRECTED

OMB No. 1545-2251

2016

Part I Applicable Large Employer Member (ALE Member)

1 Name of ALE Member (Employer)		2 Employer identification number (EIN)	
3 Street address (including room or suite no.)			
4 City or town	5 State or province	6 Country and ZIP or foreign postal code	
7 Name of person to contact		8 Contact telephone number	
9 Name of Designated Government Entity (only if applicable)		10 Employer identification number (EIN)	
11 Street address (including room or suite no.)			
12 City or town	13 State or province	14 Country and ZIP or foreign postal code	
15 Name of person to contact		16 Contact telephone number	

For Official Use Only



17 Reserved

18 Total number of Forms 1095-C submitted with this transmittal ►

19 Is this the authoritative transmittal for this ALE Member? If "Yes," check the box and continue. If "No," see instructions

Part II ALE Member Information

20 Total number of Forms 1095-C filed by and/or on behalf of ALE Member ►

21 Is ALE Member a member of an Aggregated ALE Group? Yes No

If "No," do not complete Part IV.

22 Certifications of Eligibility (select all that apply):

- A. Qualifying Offer Method
- B. Reserved
- C. Section 4980H Transition Relief
- D. 98% Offer Method

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and to the best of my knowledge and belief, they are true, correct, and complete.

► Signature _____ Title _____ Date _____

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 61571A

Form **1094-C** (2016)

Employer Reporting - Form 1094-C

Part I, Lines 1 - 18:

- Reporting includes:
 - Name, address, contact name and telephone number, and EIN for Applicable Large Employer (ALE)
 - Information regarding Designated Governmental Entity filing on behalf of the ALE (only if applicable)
 - Total number of Forms 1095-C submitted with transmittal

Employer Reporting - Form 1094-C

Part I, Line 19:

- Question: Is this the authoritative transmittal for this ALE Member?
 - There must be only one Authoritative Transmittal filed for each ALE Member. If this is the only Form 1094-C being filed for the ALE Member, this Form 1094-C must report aggregate employer-level data for the ALE Member and be identified on line 19 as the Authoritative Transmittal. If multiple Forms 1094-C are being filed for an ALE Member so that Forms 1095-C for all full-time employees of the ALE Member are not attached to a single Form 1094-C transmittal (because Forms 1095-C for some full-time employees of the ALE Member are being transmitted separately), one (and only one) of the Forms 1094-C must report aggregate employer-level data for the ALE Member and be identified on line 19 as the Authoritative Transmittal.

Employer Reporting - Form 1094-C

Part II, Lines 20 - 22:

- Complete only if Authoritative Transmittal
- Reporting includes:
 - Total number of Forms 1095-C filed by and/or on behalf of ALE Member
 - Part of Aggregated ALE Group?
 - **Aggregated ALE Group.** An Aggregated ALE Group refers to a group of ALE Members treated as a single employer under section 414(b), 414(c), 414(m), or 414(o). An ALE Member is a member of an Aggregated ALE Group for a month if it is treated as a single employer with the other members of the group on any day of the calendar month. If an ALE is made up of only one person or entity, that one ALE Member is not a part of an Aggregated ALE Group. Government entities and churches or conventions or associations of churches may apply a reasonable, good faith interpretation of the aggregation rules under section 414 in determining their status as an ALE or member of an Aggregated ALE Group.
 - If “no” – do not complete Part III column (d) or Part IV of Form 1094-C

Employer Reporting - Form 1094-C

Part II, Line 22:

Certifications of Eligibility (select all that apply)

- A. Qualifying Offer Method
 - Qualifying Offer = minimum value, affordable, minimum essential coverage to employee + minimum essential coverage to spouses and dependents
 - Employer made Qualifying Offer to at least one full-time employee for all months, and reports this on Form 1095-C, Line 14, Code 1A for any employee receiving the Qualifying Offer
 - Remember: Do not complete Line 15 (actual contribution amount) on Form 1095-C if using this method
 - Employer is not required to use this method, even if eligible to do so
 - Employer may choose to report Offer Code (1B, 1C, 1D, or 1E, whichever is applicable) and Contribution Amount instead

Employer Reporting - Form 1094-C

Part II, Line 22:

Certifications of Eligibility (select all that apply)

- B. Reserved (not used in 2016)
- C. Section 4980H Transition Relief
 - Available only if ALE Member offers coverage under health plan beginning on a date other than January 1, and only for calendar months in 2016 that fall within the 2015 plan year.
 - Does not apply to MMEHT.

Employer Reporting - Form 1094-C

Part II, Line 22:

Certifications of Eligibility (select all that apply)

- D. 98% Offer Method
 - Employer offered:
 - minimum value coverage
 - that met the ACA's definition of affordable
 - to at least 98% of employees for whom it is filing a 1095-C, and
 - minimum essential coverage to their dependents
 - Note: If check this box, employer does not need to complete "Full-Time Employee Count" in column b in Part III of Form 1094-C.
 - Takes into account all months during which individuals were employees and not in Limited Non-Assessment (Waiting) Period
 - Employer must still file Forms 1095-C for all full-time employees

Form 1094-C (Transmittal to IRS) - p.2

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Form 1094-C (2016)

Page 2

Part III ALE Member Information - Monthly

		(a) Minimum Essential Coverage Offer Indicator		(b) Section 4980H Full-Time Employee Count for ALE Member	(c) Total Employee Count for ALE Member	(d) Aggregated Group Indicator	(e) Section 4980H Transition Relief Indicator
		Yes	No				
23	All 12 Months	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
24	Jan	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
25	Feb	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
26	Mar	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
27	Apr	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
28	May	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
29	June	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
30	July	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
31	Aug	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
32	Sept	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
33	Oct	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
34	Nov	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
35	Dec	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	

Employer Reporting - Form 1094-C

Part III:

- Reporting includes:
 - Column A - Minimum Essential Coverage Offer
 - Did employer offer MEC to at least 95% of full-time employees and their dependents?
- If the ALE Member offered minimum essential coverage to at least 95% of its full-time employees and their dependents for the entire calendar year, enter "X" in the "Yes" checkbox on line 23 for "All 12 Months" or for each of the 12 calendar months.
- If the ALE Member offered minimum essential coverage to at least 95% of its full-time employees and their dependents only for certain calendar months, enter "X" in the "Yes" checkbox for each applicable month.
- For the months, if any, for which the ALE Member did not offer minimum essential coverage to at least 95% of its full-time employees and their dependents, enter "X" in the "No" checkbox for each applicable month.
- If the ALE Member did not offer minimum essential coverage to at least 95% of its full-time employees and their dependents for any of the 12 months, enter "X" in the "No" checkbox for "All 12 Months" for each of the 12 calendar months.

Employer Reporting - Form 1094-C

Part III:

- Reporting includes:
 - Column A - Minimum Essential Coverage Offer
 - Did employer offer MEC to at least 95% of full-time employees and their dependents?
- For purposes of column (a), if the ALE Member offered minimum essential coverage to all but five of its full-time employees and their dependents, and five is greater than 5% of the number of full-time employees of the ALE Member, the ALE Member may report in column (a) as if it offered health coverage to at least 95% of its full-time employees and their dependents (even if it offered health coverage to less than 95% of its full-time employees and their dependents, for example to 75 of its 80 full-time employees and their dependents).
- For purposes of column (a), an employee in a Limited Non-Assessment Period (e.g. waiting period) is not counted in determining whether minimum essential coverage was offered to at least 95% of an ALE Member's full-time employees and their dependents.

Employer Reporting - Form 1094-C

Part III:

- Reporting includes:
 - Column B - Full-Time Employee Count
 - Remember: Full-time = 30+ hours/week, not including those in waiting period
- Enter the number of full-time employees for each month, but do not count any employee in a Limited Non-Assessment Period. (If the number of full-time employees (excluding employees in a Limited Non-Assessment Period) for a month is zero, enter "0".)
- **Note.** If the ALE Member certified that it was eligible for the 98% Offer Method by selecting box D, on line 22, it is not required to complete column (b).

Employer Reporting - Form 1094-C

Part III:

- Reporting includes:
 - Column C - Total Employee Count
- Enter the total number of all of the ALE Member's employees, including full-time employees and non-full-time employees, and employees in a Limited Non-Assessment Period, for each calendar month. An ALE Member must choose to use one of the following days of the month to determine the number of employees per month and must use that day for all months of the year: (1) the first day of each month; (2) the last day of each month; (3) the 12th day of each month; (4) the first day of the first payroll period that starts during each month; or (5) the last day of the first payroll period that starts during each month (provided that for each month that last day falls within the calendar month in which the payroll period starts). If the total number of employees was the same for every month of the entire calendar year, enter that number in line 23, column (c) "All 12 Months" or in the boxes for each month of the calendar year. If the number of employees for any month is zero, enter "0" .

Employer Reporting - Form 1094-C

Part III:

- Reporting includes:
 - Column D - Aggregated Group Indicator
- An ALE Member must complete this column if it checked “Yes” on line 21, indicating that, during any month of the calendar year, it was a member of an Aggregated ALE Group. If the ALE Member was a member of an Aggregated ALE Group during each month of the calendar year, enter “X” in the “All 12 Months” box or in the boxes for each of the 12 calendar months. If the ALE Member was not a member of an Aggregated ALE Group for all 12 months but was a member of an Aggregated ALE Group for one or more month(s), enter “X” in each month for which it was a member of an Aggregated ALE Group. If an ALE Member enters “X” in one or more months in this column, it must also complete Part IV.

Employer Reporting - Form 1094-C

Part III:

- Reporting includes:
 - Column E - Section 4980H Transition Relief
 - This transition relief is available in 2016 only for ALE Members with plans with a non-calendar year plan year or for ALE Members that are members of an Aggregated ALE Group with at least one plan with a non-calendar year plan year. For such an ALE Member, the relief applies only to the calendar months in 2016 that fall within the 2015 plan year.
 - Does not apply to MMEHT.

Form 1094-C (Transmittal to IRS) - p.3

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Form 1094-C (2016)

Page 3

Part IV Other ALE Members of Aggregated ALE Group

Enter the names and EINs of Other ALE Members of the Aggregated ALE Group (who were members at any time during the calendar year).

Name	EIN	Name	EIN
36		51	
37		52	
38		53	
39		54	
40		55	
41		56	
42		57	
43		58	
44		59	
45		60	
46		61	
47		62	
48		63	
49		64	
50		65	

Form 1094-C (2016)

Employer Reporting - Form 1094-C

Part IV:

- Reporting includes:
 - Names and EINs of Other ALE members of the Aggregated ALE Group
 - Members at any time during the calendar year
 - Aggregated ALE Group - Affiliated employers with common ownership or that are part of a controlled group, treated as a single employer under Section 414(b), 414(c), 414(m), or 414(o)
 - Complete this section only if checked "Yes" on line 21.
 - Consult with your attorney with questions on Aggregated ALE Group Status



Employer Reporting - Form 1094-C

- Here's a link to the IRS website, where you can find information on how to file your ACA Information Returns electronically: <https://www.irs.gov/for-Tax-Pros/Software-Developers/Information>Returns/Affordable-Care-Act-Information-Return-AIR-Program>
- This website includes a tutorial with step by step instructions on how to file electronically
- You can also submit questions regarding electronic filing of forms, by using the links at the bottom of the page
 - Look for the link to the AIR Mailbox, under Additional Resources

What Happens If You Don't File?

- If a large employer does not file the required forms, there is a penalty!
 - **\$260 for each return that is not filed but should have been, to a maximum of \$3,193,000 per calendar year**
- **PLUS**
 - **\$260 for each payee statement that is not provided but should have been, to a maximum of \$3,193,000 per calendar year**
- Penalties may be increased if “intentional disregard” of requirement to furnish payee statement
 - If errors – can file corrected forms
 - IRS Notice 2016-70 extended “good faith effort” relief for one more year

And Here's Another Reason to Care

- There's this little thing called Employer Shared Responsibility under the ACA.....
- Some people call it the Employer Mandate
- Also sometimes referred to as "Play or Pay"



Employer Shared Responsibility

- Not a **mandate**, but
- Imposes a **penalty** on large employers that either:
 - **Do not offer coverage** to substantially all eligible full-time employees; or
 - **Do offer coverage**, but that coverage does not meet key criteria
 - Minimum value
 - Affordability
- Will this survive? We don't yet know.
- But just in case

Who Must Play or Pay?

- Applicable Large Employers (ALEs)
 - Defined in the ACA as having at least 50 full-time/full-time equivalent employees
- Effective dates (“transition relief”):
 - 100 or more full-time/FTE employees – 1/1/2015
 - 50-99 full-time/FTE employees – 1/1/2016
- No more “transition relief” – now applies to all Applicable Large Employers
- No requirement for small employers to offer coverage
 - Full-time equivalents (FTEs) are counted when determining if group is an Applicable Large Employer, but they do not all have to be offered coverage

Who Must Be Offered Coverage?

- Under the ACA, in order to avoid a penalty, Applicable Large Employers (ALEs) must offer **minimum value, affordable** coverage to **substantially all full-time employees**
 - Minimum value = actuarial value of at least 60%
 - Bronze level plan
 - Affordable = Employee's premium contribution for self-only coverage for the lowest cost, minimum value plan offered by the employer, in which the employee is eligible to enroll, may not exceed 9.5% of household income
 - Indexed - Affordability based on 9.66% in 2016; 9.69% in 2017
 - Three Safe Harbors for determining Affordability
 - Substantially all = 95%
 - "Transition relief" (70%) no longer applies
 - Full-time employees = work at least 30 hours per week/
130 hours per month

What Is the Penalty, and Who Will Have To Pay It? (“Sledgehammer”)

- An employer that **does not offer** Minimum Essential, Minimum Value Coverage to substantially all full-time employees will be responsible for paying a penalty **if**:
 - at least one full-time employee obtains coverage through the Marketplace, **and**
 - that employee receives a subsidy to help pay for coverage
- Penalty for 2016 will be equal to \$2,160 annually for each full-time employee employed by the employer, not counting the first 30 employees
 - “Transition relief” (80 employees) no longer applies
- Penalty amount will increase each year
 - \$2,160 in 2016 becomes \$2,260 in 2017

What Is the Penalty, and Who Will Have To Pay It? (“Tackhammer”)

- An employer that **does offer** Minimum Essential, Minimum Value Coverage to substantially all full-time employees will be responsible for paying a penalty **if**:
 - at least one full-time employee obtains coverage through the Marketplace, **and**
 - that employee receives a subsidy to help pay for coverage
- Penalty for 2016 will be equal to **the lesser of**:
 - \$3,240 annually for each full-time employee that enrolls in coverage, and receives a subsidy, through the Marketplace, or
 - \$2,160 annually for each full-time employee employed by the employer, not counting the first 30 employees
- Penalty amount will increase each year
 - \$3,240 in 2016 becomes \$3,390 in 2017
 - \$2,160 in 2016 becomes \$2,260 in 2017

How Will the Penalty Be Assessed?

According to the IRS:

- Employer will not make a payment with a return
 - IRS will determine amount and notify employer
 - Employer will have opportunity to respond before assessment
 - IRS will send a notice and demand after assessment
-
- From: *Employer Shared Responsibility Provisions - What Government Employers Need to Know*; IRS Presentation, July 24, 2014



How Can A Large Employer Avoid the Penalty?

- An Applicable Large Employer may avoid the **Sledgehammer** penalty by doing **all** of the following:
 - Offer **Minimum Essential Coverage** to **substantially all (95%) full-time** employees and their dependents (children to age 26)
 - Ensure that the plan provides **Minimum Value**
 - Ensure that the employee's premium contribution for **self-only** coverage for the **lowest-cost**, Minimum Value plan in which the employee is eligible to enroll is **Affordable**
- May still be subject to the **Tackhammer** penalty
 - Remember: If no full-time employees receive a subsidy through the Marketplace, the employer is not subject to a penalty.

Who Is Eligible for a Subsidy Through the Marketplace?

- Employee is eligible for subsidy if:
 - Between 100% and 400% of Federal Poverty Level;
 - Not eligible for coverage through a government-sponsored health insurance programs such as Medicaid or CHIP;
 - Not eligible for employer-sponsored coverage; or, eligible for employer-sponsored coverage but such coverage is considered to be **unaffordable** or does not provide minimum value

Who Is Not Eligible for a Subsidy Through the Marketplace?

- If an employee is offered employer-sponsored coverage that meets the definitions of **Minimum Essential Coverage, Minimum Value, and Affordable**, that employee **and his dependents** will not be eligible to receive a subsidy through the Exchange
 - “And his dependents” – sometimes referred to as “the family glitch”

Determining Affordability - W-2 and Rate of Pay Safe Harbors

- Using the W-2 and Rate of Pay safe harbors will require the employer to look at the **lowest paid employee** in each contribution category, to determine whether coverage is Affordable
- If Affordable for the lowest paid employee, will be Affordable for all others
- If using Rate of Pay safe harbor, calculate based on 130 hours per month (regardless of how many hours the employee actually works)

Determining Affordability - Federal Poverty Level Safe Harbor

- Using the Federal Poverty Level “safe harbor” method for calculating whether a plan is Affordable:
 - 2016 Single FPL = \$11,880 (annual)
 - 9.66% of that = \$1,147.61 (annual)
 - Employee’s premium contribution for self-only coverage cannot exceed \$95.63 per month
 - Reporting done in 2017 will be based on 2016 Single FPL



What About Buyouts??

- IRS Notice 2015-87 (www.irs.gov/pub/irs-drop/n-15-87.pdf)
- Outlines two types of opt-out payments
 - Unconditional
 - Conditional
- Type of opt-out arrangement may affect how employer calculates affordability
 - Final regulations published December 19, 2016 did not finalize the opt-out arrangement provisions described in the proposed regs
 - Treasury and the IRS “continue to examine the issues raised by opt-out arrangements and expect to finalize regulations ... at a later time”.

Unconditional

- Unconditional opt-out
 - Payment made if employee declines (opts out of) employer-sponsored health plan, with no other requirements
 - IRS views such an offer as increasing the actual amount paid by employees who enroll in the employer's plan
 - Employer will need to add opt-out payment amount to employee's share of premium costs when determining affordability, if the unconditional opt-out arrangement was adopted after December 16, 2015 ("non-relief-eligible opt-out arrangement")
 - At this time, employers do not need to add opt-out payment amount if arrangement was adopted before December 16, 2015

Unconditional Opt-Out

- Example:
 - Employee premium cost for self-only coverage for lowest cost plan offered by the employer = \$50/month = Affordable
 - Effective January 1, 2016, employer offers unconditional opt-out payment of \$250/month
 - Employee may opt out, even if not enrolled in other group health coverage, and receive \$250/month payment
 - Non-relief-eligible opt-out arrangement (*adopted after 12/16/2015*)
 - Employer must report employee's monthly premium cost as \$300/month (\$50 + \$250) = Unaffordable
 - IRS views the employee's inability to receive the \$250 if enrolled in coverage as an added cost to employee
 - Employee may become eligible for subsidy through Marketplace
 - Employer may become subject to penalty

Conditional

- Conditional opt-out
- Payment made if employee declines (opts out of) employer-sponsored health plan, **and** satisfies “meaningful requirement related to the provision of health care to employees”
- No effect on calculation of “affordability”
 - Employer does not need to add opt-out payment amount to employee’s share of premium costs when determining affordability

Conditional

- Conditional opt-out
- Employee must attest that he and all of his tax dependents will have other minimum essential health coverage for the period of coverage to which the opt-out payment applies
 - Other coverage may **not** be individual coverage – either through individual insurance market or Marketplace or state Exchange
 - “Reasonable evidence” of other coverage must be provided at least every plan year
- Payment may not be made if the employer knows (or has reason to know) that the employee and any of his tax dependents will not have alternative coverage





The Future of the ACA

- www.donaldjtrump.com/positions/healthcare-reform
- “On day one of the Trump Administration, we will ask Congress to immediately deliver a full repeal of Obamacare.”
 - Major targets:
 - The Individual Mandate
 - Employer Shared Responsibility (Employer Mandate) and Accompanying Penalties
 - The Cadillac Tax
- Some parts of the ACA are deeply entrenched in healthcare now – and popular with most Americans
 - Coverage for dependent children to age 26
 - No pre-existing condition restrictions
 - Preventive care covered at 100%

Proposed Changes

- www.donaldjtrump.com/positions/healthcare-reform
- “*Congress must act.* Our elected representatives in the House and Senate must..... “:
 - Eliminate the individual mandate.
 - Allow the sale of health insurance plans across state lines.
 - Allow individuals to fully deduct health insurance premium payments from their tax returns.
 - Expand the use of Health Savings Accounts (HSAs), make contributions tax-free, and allow individuals to pass them on to their heirs.
 - Require price transparency from all health care providers.
 - Block-grant Medicaid to the states.
 - Allow consumers access to imported drugs, by removing barriers to entry into free markets for overseas drug providers.

The Executive Order

- Executive Order 13765, Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal
 - Signed on January 20, 2017
 - Provides certain agencies and departments with the discretion to “waive, defer, grant exemptions from, or delay the implementation of any provision or requirement of the Act that would impose a fiscal burden on any State or a cost, fee, tax, penalty, or regulatory burden on individuals, families, healthcare providers, health insurers, patients, recipients of healthcare services, purchasers of health insurance, or makers of medical devices, products, or medications.”
 - But the agencies must still “comply with the Administrative Procedure Act and other applicable statutes in considering or promulgating such regulatory provisions.”

The Executive Order - in English

- The Executive Order provides no legally enforceable relief from applicable ACA compliance obligations **unless and until** the applicable agency or Congress adopts that relief consistent with law.
- Statutory limits on the jurisdiction and authority of the agencies under the ACA may limit the scope of the relief that an agency can grant.
- Until the agencies act to change relevant provisions of the ACA, plan sponsors and employers (among others) remain legally obligated to continue to comply with the ACA as it currently exists, following applicable regulations and rulings.
- So You still need to complete your Forms 1095-C!!

So Is It.....

- Repeal and Replace??
 - And what would the ACA be replaced with?

or

- Repeal and Delay??
 - And how soon could a replacement be ready?

Possible Replacements? (1)

- Paul Ryan (Speaker of the House)
- abetterway.speaker.gov/?page=health-care
- A Better Way
 - Preserve employer-based insurance, but place a cap on open-ended tax breaks on employer-based premiums
 - Eliminate the Cadillac Tax
 - Offer age-adjusted refundable tax credit to help pay for individual insurance
 - Expand the use of health savings accounts
 - Allow dependent children to stay on parents' plans until age 26
 - No denial of coverage if pre-existing conditions
 - Block grant Medicaid, giving states more control

Possible Replacements? (2)

- Tom Price (Nominee for Secretary of HHS)
- www.tomprice.com/issues
- Empowering Patients First Act
 - “Positive, patient-centered solutions exist to resolve all of the challenges in our health care system”
 - Return health care decisions to patients, families, and doctors
 - Portability of health coverage
 - High risk pools
 - Lawsuit abuse reform to “end the practice of defensive medicine and help bring down the skyrocketing cost of health care”
 - Prohibit the IRS from implementing or enforcing any provisions of the ACA (e.g., employer mandate, individual mandate, Cadillac Tax, etc.) –
 - Keep the IRS Off Your Health Care Act of 2013 (H.R. 2009)

Possible Replacements? (3)

- Susan Collins, Bill Cassidy, et al
- <http://www.cassidy.senate.gov/imo/media/doc/PFA%20Bill%20Text.pdf>
- Patient Freedom Act
 - Takes power from Washington and returns it to the states, “in order to increase access to affordable health insurance and improve patient choice, while preserving important consumer protections.”
 - Repeals the individual mandate, employer mandate, actuarial value requirements, age band requirements, and benefit mandates.
 - Keeps prohibitions on annual and lifetime limits, prohibition on pre-existing condition exclusions, and prohibitions on discrimination.
 - Preserves guaranteed issue and renewability, and allows children to remain on parent’s plan until age 26; preserves coverage for mental health and substance abuse disorder.

Possible Replacements? (3)

- Susan Collins, Bill Cassidy, et al
- Patient Freedom Act
 - Repeals Title I of the ACA (the Marketplace, or Exchanges), and allows states to choose one of three options:
 - Option 1: Reimplementation of Title I of ACA. State could reinstate ACA Title I, including mandates and other requirements. State can continue to receive federal premium tax credits, cost-sharing subsidies, and Medicaid dollars.
 - Option 2: Choose a New State Alternative. State can enact a new market-based system. State can continue to receive federal premium tax credits, cost-sharing subsidies, and the federal match for Medicaid expansion. State can choose to receive funds as grants or advanceable tax credits – but these will be deposited in a Roth Health Savings Account, going directly to the patient.
 - Option 3: Design an Alternative Solution without Federal Assistance. Power returns to individual States to design and regulate insurance markets as they see fit, for their own populations, without any federal assistance.

And on the Other Side

- Protect Our Care Coalition / Families USA
 - Announced Friday, December 9, 2016
 - “The Protect Our Care Coalition will pool resources and work together to ensure people in America understand the damage of repealing the ACA. Congress should not take away the promise of future coverage without simultaneously voting on a plan that guarantees people will have health and financial security.”
 - <http://familiesusa.org/press-release/2016/national-groups-call-congress-protect-our-care-announce-new-coalition-fight>
- More to Come.....



*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.*

GENERAL QUESTIONS?

*Contact: Anne M. Wright
Director, Health Trust Services
awright@memun.org*