



Greater New York  
Automobile Dealers  
Association

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**Spectrum**   
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AUTOMOTIVE





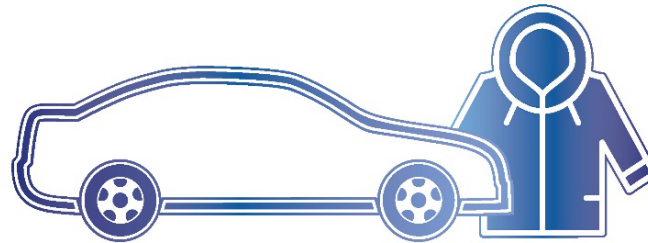
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**AUTOMOTIVE**

**Contact Tim Minter 267-566-2139**



Greater New York  
Automobile Dealers  
Association



# TURN CARS INTO COATS

## BRING WARMTH TO A NEW YORKER IN NEED

With the chilly air setting in and winter weather on the way, we are asking you to help New Yorkers stay warm this season by participating in GNYADA's annual coat drive.

# TURN CARS INTO COATS

**BRINGING WARMTH  
TO A NEW YORKER IN NEED**

**WE ARE DONATING A NEW COAT FOR EVERY  
CAR SOLD IN NOVEMBER AND DECEMBER**

Now, more than ever before, with the chilly air setting in, and winter on the way, these donations are essential to keep children warm. You can also help by making a donation here at our dealership. Ask us how.



Greater New York Automobile Dealers Association



# DMV-DIRECT

REGISTRATION, TITLING, & BEYOND...  
CALL 718.747.0400

GNYADA's vehicle registration and titling service, DMV-DIRECT, has been dealers go-to source for fast, convenient, & reliable DMV services.

**DMV-DIRECT provides many DMV related services, including:**

- Permanent Registration Issuance
- Duplicate Titles In 3 To 5 Days
- Out-of-State Registration & Title Processing for 42 States
- On-Site Connecticut Plates Issuance
- Dial-In Information Verification
- In-Transit Processing
- Duplicate Registrations
- Registration Renewals
- Title-Only Transactions
- Plate Surrenders
- Dealer Plate Renewals
- Rental Plate Renewals
- Repossessed Vehicles Processing
- MV-82 & Transmittal Forms Supplied
- Boat Registrations – Renewed and Duplicates
- Trailer Plates
- Commercial Plates





# 2022 **NADA**SHOW



***EXPERIENCE THE FUTURE***

NADA SHOW 2022 | LAS VEGAS | MARCH 10-13



Risk & Insurance | Employee Benefits | Retirement & Private Wealth

## About HUB

Insurance for the way you work  
and the way you live.

HUB is a global insurance brokerage that puts you at the center of everything we do. Our reach and resources mean you have the insurance you need when you need it — and before you know you need it. HUB provides complete protection: property, casualty, life and health insurance products; employee benefits and business risk management; and wealth management products and services.

When you work with HUB, you're working with a team of experts dedicated to helping you understand your risks and manage all of your insurance requirements.

[hubinternational.com](http://hubinternational.com)



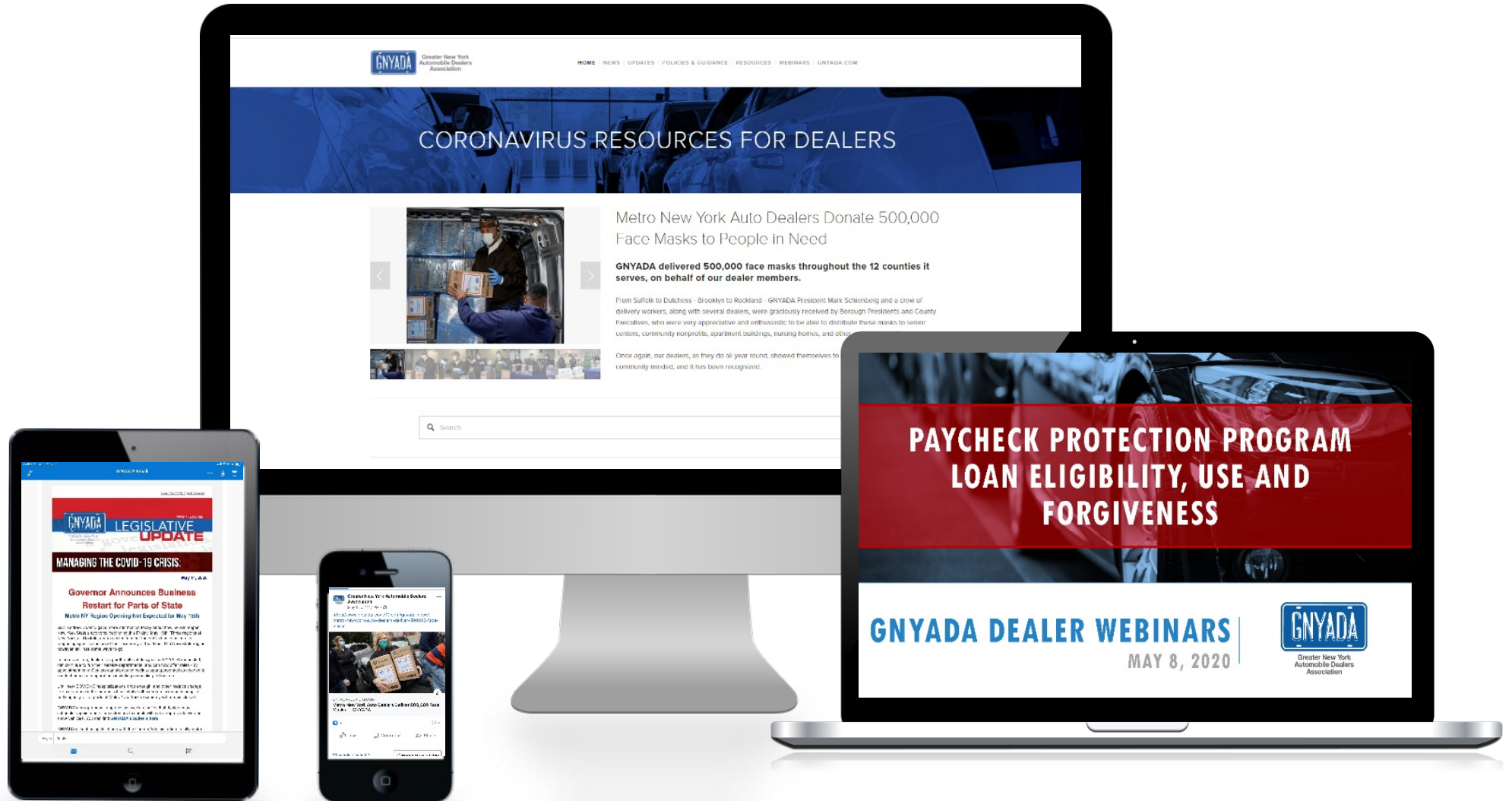
Greater New York  
Automobile Dealers  
Association



For more information contact:  
**Michael W. Conway,**  
**GNYADA Insurance**  
**Phone: 718-767-8100**  
**[mconway@gnyada.com](mailto:mconway@gnyada.com)**



# WWW.GNYADA-COVID19.COM



Greater New York Automobile Dealers Association





Risk & Insurance | Employee Benefits | Retirement & Private Wealth

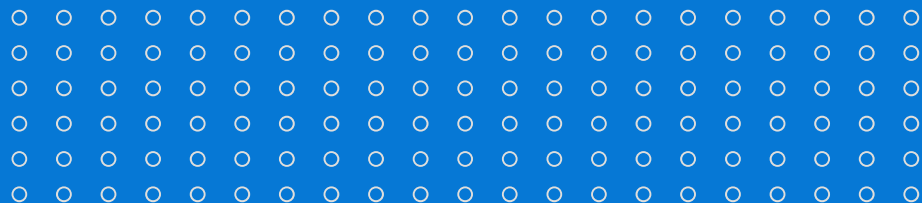
# EB Compliance Update

Developments and what to Expect  
for 2022

# Agenda

- *Transparency for Employers*
- *No Surprises Act*
- *Open Enrollment Notifications*
- *ACA Refresh*
- *ACA Updates*

# 1



## Transparency for Employers

Compensation Disclosures





# Compensation Disclosure

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- **On or after December 27, 2021**, GHP fiduciaries must obtain a disclosure from the brokers/consultant regarding services and compensation information
  - It does not necessarily tie to the plan year or policy renewal date, so 1/1 plan years are likely not affected
- This disclosure is different from the information included on the Form 5500 because:
  - It contains compensation not disclosed on Schedule A
  - It will look different as well
  - It's provided in advance
  - It applies to all ERISA-covered entities
- Largely modeled on 401(k)/retirement plan fee disclosures effective in 2012

# Compensation Disclosure

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- If the broker/consultant **fails** to provide the required information, the plan fiduciary may be required to notify the U.S. Department of Labor (“DOL”) of such failure, and to terminate the contract, in order to prevent a prohibited transaction from occurring.
- Steps plan fiduciary will take if the disclosure is not provided:
  - Plan fiduciary will request the disclosure from the broker/consultant
  - If no response in 90 days, employer must report broker/consultant to the DOL to avoid a prohibited transaction
- Consequences of a prohibited transaction
  - DOL investigation
  - Excise taxes

# Compensation Disclosure

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- Group health plans
  - Medical, dental, vision, EAPs
  - Health FSA, HRAs (not HSAs)
- Where broker/consultant is making or expects to receive at least \$1,000 (will be adjusted in the future)
- Compensation Includes:
  - Direct compensation (received from i.e., from the plan – but not the employer)
  - Indirect compensation (received from the carrier, or other third parties providing services for the group health plan)
  - Compensation Paid received from affiliates (including wholesalers)
- Excludes non-cash gifts of \$250 or less (will be adjusted in the future)



# Compensation Disclosure



## 3 Required Disclosures

1



“Reasonably in Advance” of when the contract or arrangement is entered

2



“Reasonably in Advance” of any extension or renewal of the contract or arrangement

3



60 days from which we are informed of a change

- 60 days *in advance* (or as soon as we can)
- Note this may require prompt post-closing or pre-closing for M&A

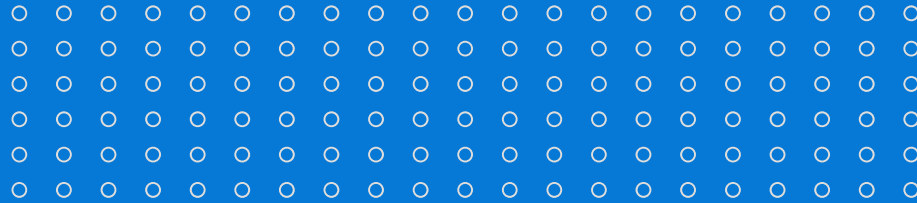
# Compensation Disclosure

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1. Description of services (and those of subcontractors) to GHP
2. A statement if the services are provided to the GHP is as a fiduciary
3. Description of all direct compensation the broker/consultant (affiliates) reasonably expect to receive for the services (i.e., from the plan)
4. Description of all indirect compensation the broker/consultant (affiliates) reasonably expect to receive for the services, including incentive compensation with paid to the broker/consultant based on a structure of incentives, not solely related to the contract with the GHP
5. Description of compensation that will be paid among the entity, its affiliates, and/or its subcontractors
6. The manner compensation will be received. For example, disclosure is required for transaction-based finder's fees, including who is paying and receiving commissions/fees.
7. Description of termination-related fees, including (if applicable) pre-paid amounts will be calculated and refunded
8. If requested, "any other information relating to the compensation" necessary for ERISA compliance (e.g., Form 5500 disclosure)

# 2



## No Surprises Act

(with some transparency as well)





# No Surprises Act



“No Surprises Act” – effective January 1, 2022, for providers and group health plans’ plan year **beginning on or after January 1, 2022.**

- **Purpose:** Protect plan participants from receiving surprise medical bills from out-of-network (OON) providers requiring more money from the patient after the plan has paid its part
- A health plan or carrier must apply the in-network (INN) rules for prior authorization and in-network cost-sharing for a patient who receives:
  - Emergency services from an OON provider
  - Non-emergency services from an OON provider at an INN facility, or
  - OON air ambulance services
- OON provider blocked from balance billing the patient for emergency services or air ambulance services & certain ancillary services provided by OON doctors at an INN facility (e.g., anesthesia)
- It implements an independent dispute resolution process if the health plan (carrier or self-insured/level-funded plan) and the healthcare provider fail to agree on the qualified payment amount for services rendered
- IDR provisions extend to Grandfathered plans

# Emergency Services



- **If a health plan covers emergency services, they must be covered:**
  - Without any prior authorization (i.e., no approval beforehand can be required);
  - In-network and out-of-network on the same basis; and
  - Regardless of any other term or condition of the plan (other than benefit exclusions, coordination of benefits, or affiliation or waiting periods).
- Emergency services and certain non-emergency services provided by out-of-network providers at in-network facilities must:
  - Out-of-network cost-sharing for these services must be the same as for in-network services.
  - Amounts spent for out-of-network care must count toward the in-network deductible and out-of-pocket maximum
- IFR specifies that cost-sharing amounts for air ambulance services provided by out-of-network providers must be calculated using the lesser of the billed charge or the plan's (or issuer's) **qualifying payment amount**, and the cost sharing requirement must be the same as if services were provided by an *in-network* air ambulance provider

# Calculating Cost Sharing

Member coinsurance/copayment calculated based on one of the following amounts:

- An amount determined by an applicable **All-Payer Model Agreement** under SSA Section 1115A
  - All-Payer Model **establishes a process for states to set prices for items and services that are accepted as final by providers and payers.** (As predetermined rates they effectively function like in-network rates)
- If there is no such applicable All-Payer Model Agreement, an amount determined under a specified state law (note state law payment parameters are preempted by ERISA and do not apply to self-insured plans).
- If neither of the above guidelines apply, the service provider must use **the lesser amount** of either the billed charge or the **qualifying payment amount (QPA)**, which the IFR defines as generally *the plan's or issuer's median contracted rate*.
- If the parties do not agree on a specific reimbursement amount, the amount will be determined by an independent dispute resolution (IDR) entity. (e.g., *default to "Baseball" style arbitration*.)
  - IDR must register with the Departments and be certified to act in this capacity
  - Parties must select an IDR within 4 business days after the end of the open negotiation process by providing notice via the Federal IDR system and also notify the Departments
  - Parties will pay the IDR administrative fee at the time they submit their offer
  - IDR must certify they do not have a conflict of interest within 3 days of being appointed by the parties
  - IDR must review parties' proposal and rule based on the amount closest to qualified payment amount.

# Does No Surprises Act (NSA) Kill RBP?

Some have predicted No Surprises Act enactment is bad news for reference-based pricing

- *That's likely an overstatement and oversimplification*

**Not all claims are impacted by the No Surprises Act**

- NSA doesn't mandate how plan initially pays provider: **only that the member can't be balance billed**
- Plan can continue to reimburse surprise bills using the current reference-based price
- Instead of balance billing the patient, the provider and plan need to reach an agreement on the payment amount – or else the matter is required to default to arbitration (IDR) process
- Any disagreement would be handled in the same manner as today, **except** instead of the member starting the process by reporting a balance bill, the process starts with the provider rejecting the plan's initial reimbursement amount
- IFR specifies that services must be calculated using the lesser of the billed charge or the plan's **qualifying payment amount**
- Plans must now use the QPA... disallowed from using a UCR "formula" such as a percentage of Medicare or Medicaid, or billed charges to assess payment amount



# No Surprises Act



If state law applies to determine how much the provider will be paid, it will govern, otherwise,

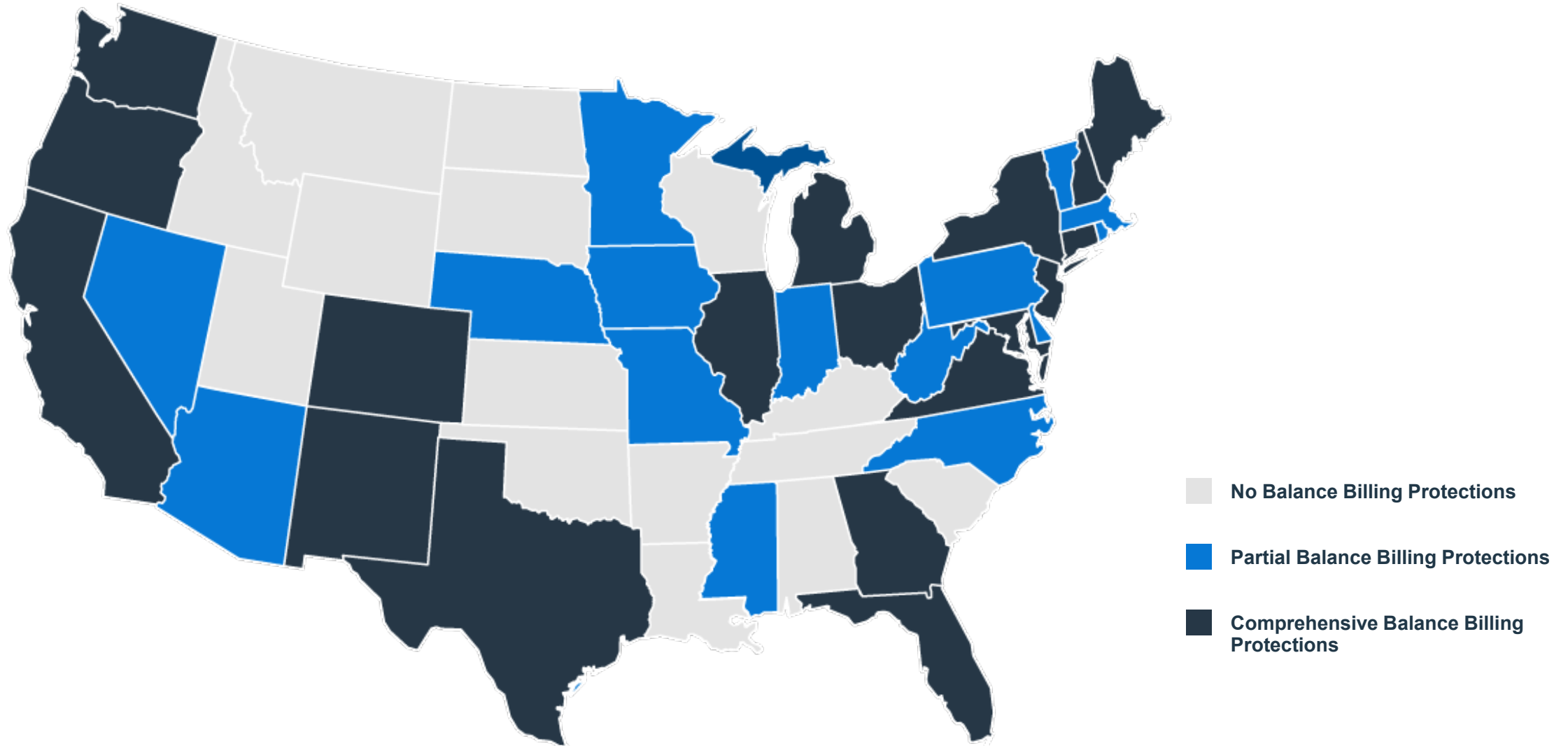
Negotiation and Independent Dispute Resolution Process must be followed:

- 30 days of open negotiation between plan and provider, If no agreement →
  - Each party must provide within 10 business days of selecting an IDR their proposed payment amount and pay the IDR administrative fee
  - IDR must select the amount most closely related to the qualified payment amount (plan's proposed reimbursement or the provider's requested reimbursement),
  - Losing side pays IDR expenses (winning party is refunded fee);
  - IDR makes decision within 30 days of being appointed and plan must pay the amount determined within 30 days of decision being rendered

- **Good Faith Estimates - Advanced EOBs - *Suspended until further notice***

- Provider must send patient an advance estimate of what provider will charge and get patient's consent prior to performing any services to balance bill patient
  - *Not applicable if no INN provider is available at facility or for certain ancillary services*
- Plan required to provide participant with an automatic advance EOB
- Uninsured individuals/cash patients MUST receive a good faith estimate of the cost effective **January 1, 2022**

# State Anti-balance Billing Laws



# Opting-in or Out: Self-funded Plan Considerations

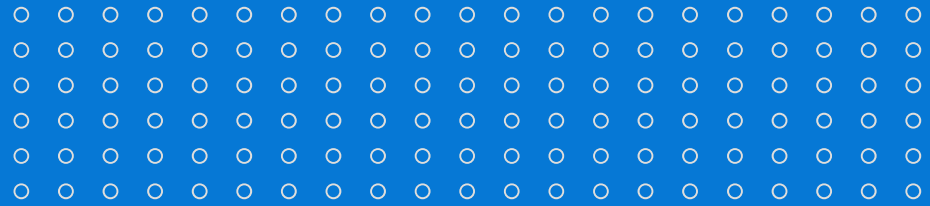
- Self-insured plans will have to determine if they will opt-in or opt-out of complying with the IFR No Surprises Act or state anti-balance billing laws.
- Some states, including WA, VA, and NJ, allow self-insured plans to opt-in and adopt the state anti-balance billing laws.
  - **Note:** ERISA preemption challenges when the state law contradicts a federal law.
- **Fully insured**: GHPs comply with state anti-balance billing laws as long as the state law does not contradict federal law
- **Self-Funded**: If no state law governs anti-balance billing (e.g. the self-insured employer chooses to opt-out) the self-insured plan **MUST** adopt and comply with the IFR No Surprises Act.

# Next Steps

- **Insured plans:** Insurance carriers responsible for updating EOCs and other plan documentation to comply with this new requirements
  - Carriers already reaching out to employers explaining options
- **Self-insured Employers:**
  - Confirm TPA/ASO is familiar with the No Surprises Act IFR and is prepared to update their payment practices and systems to adequately process claims for emergency services, air ambulance and other OON providers in an in-network setting
  - Plan will be required to amend their plan documents to include new payment parameters based on the IFR for certain OON providers and also clearly define the methodology the plan uses to assess the qualified payment amount. Sample language in development
  - Work with stop-loss carrier to ensure stop-loss will pay amounts determined by the IDR that exceed the plan's payment parameters
  - Opt-in or opt-out of the state anti-balance billing laws?
  - Can employer's TPA administer plans under state law vs. the No Surprises Act IFR?



# 3



## Open Enrollment Notifications

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# Why must employers send these notices and forms?

- Department of Labor (“DOL”) and other federal agencies require
  - Notices intended to offer participants important EB information
  - Notice failures trigger problems
- Notice failures can lead to liability
  - Penalties vary, but for example
    - \$100/day/failure excise tax from the IRS
    - \$100/day/failure penalty from CMS
    - \$120/day/failure penalty from the DOL
  - Lawsuits from the DOL or participants for inadequate disclosure



# Am I legally required to send all notices at once?

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**NO**

- *However*, open enrollment season presents unique annual opportunity to catch employees while they are paying EB attention
- Many Employers find it helpfully efficient (and less expensive) to distribute required notifications with the enrollment materials
- Doing so may cure any previous failure to give the notice, and it demonstrates an employer's good faith effort to apprise plan participants of their rights under various laws

# Notifications: Annual, discretionary and initial

## Required Annual Notices for All Plans

- Medicare Part D Notice
- Children's Health Insurance Program Reauthorization Act (CHIPRA) Notice
- Women's Health and Cancer Rights Act Notice



## Annual Notices and Forms for Some Plans

- Wellness Program Disclosures
  - HIPAA
  - EEOC
- HIPAA Notice of Availability of Notice of Privacy Practices
- Patient Protection Disclosures
- Grandfathered Status Notice
- Second SSN/ITIN Solicitation
- Sample Waiver Form

2

## Notices and Forms Required Around Initial Hire/Enrollment

- Notice of Marketplace Coverage Options
- Notice of Special Enrollment Rights
- First SSN/ITIN Solicitation
- COBRA Initial Notice



*Note: Additional notices may apply (e.g., Summaries of Benefits and Coverage (SBCs))*



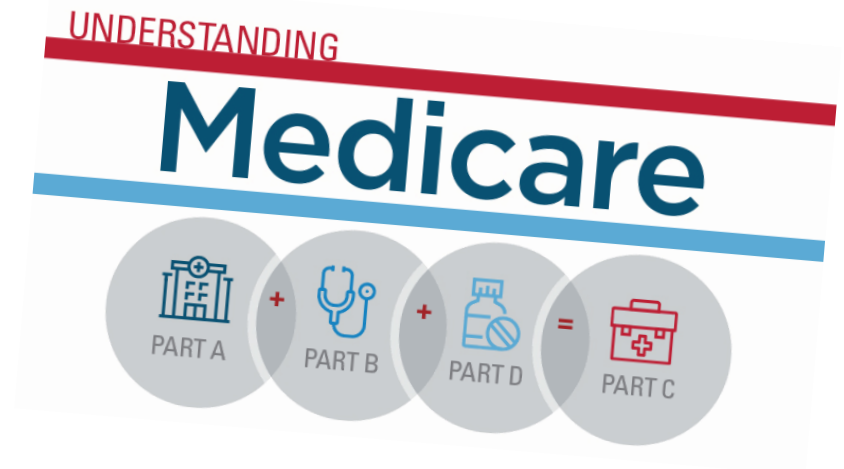
# Specific Notices Depend on Plan Design

- Non-grandfathered, fully-insured employer (no wellness program, no access to PHI under HIPAA, using an electronic enrollment process and an outsourced COBRA vendor)
  - Medicare Part D Notice
  - Children's Health Insurance Program Reauthorization Act (CHIPRA) Notice
  - Women's Health and Cancer Rights Act Notice
  - Patient Protection Disclosures (maybe)
  - Notice of Marketplace Coverage Options (New hire)
  - Notice of Special Enrollment Rights (Initial Enrollment)
- Self-funded, large, grandfathered plan, with a robust wellness program, and self-administering COBRA
  - Medicare Part D Notice
  - Children's Health Insurance Program Reauthorization Act (CHIPRA) Notice
  - Women's Health and Cancer Rights Act Notice
  - Wellness Program Disclosures
    - HIPAA
    - EEOC
  - HIPAA Notice of Availability of Notice of Privacy Practices
  - Grandfathered Status Notice
  - Second SSN/ITIN Solicitation
  - Sample Waiver Form
  - Notice of Marketplace Coverage Options (New Hire)
  - Notice of Special Enrollment Rights (Initial Enrollment)
  - First SSN/ITIN Solicitation (After Enrollment)
  - COBRA Initial Notice (After Enrollment)



# Required Annual Notices for All Plans

- Medicare Part D Creditable or Non-Creditable Coverage Notices
  - Lets participants know whether prescription drug coverage is at least as good as Medicare Part D
  - Can't just send it to seniors
  - Creditable v non-creditable – Carriers and TPAs may make this determination
  - Due before October 15
  - Can be sent electronically – ERISA disclosure rules
  - Must be in 14-point font
  - Can be in a combined document
  - Can be mailed/distributed with other items
  - Generally, notice to employee is enough
- Spanish versions of these notices have been substantially revised.



# Required Annual Notices for All Plans

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- Children's Health Insurance Program Reauthorization Act (CHIPRA)
  - Tells employees that they may be eligible for premium assistance from a state program
  - Due before first day of the plan year
  - Can be sent electronically – ERISA disclosure rules
  - Notice must be a separate document (not printed on opposite side of HIPAA Notice)
    - However, can be mailed/distributed with other items
  - Only must reach the employee

# Required Annual Notices for All Plans

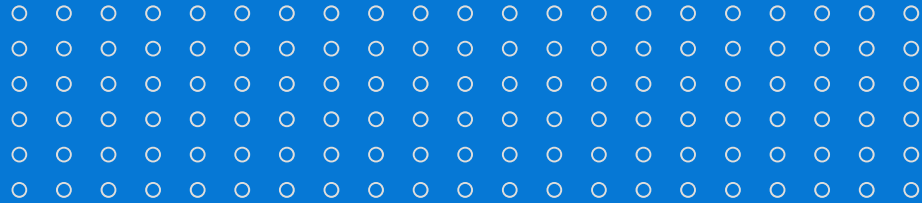
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- Women's Health and Cancer Rights Act Notice
  - Let's participants know about required post-mastectomy reconstructive services (despite the title, could also apply to men)
  - Must be provided once per year
  - Can be sent electronically – ERISA disclosure rules
  - Can be combined with other documents
  - Can be mailed/provided with other documents
  - Generally, notice to employee is enough





# 4



## ACA Refresher: Penalties & Logistics

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# ALEs Have to Report

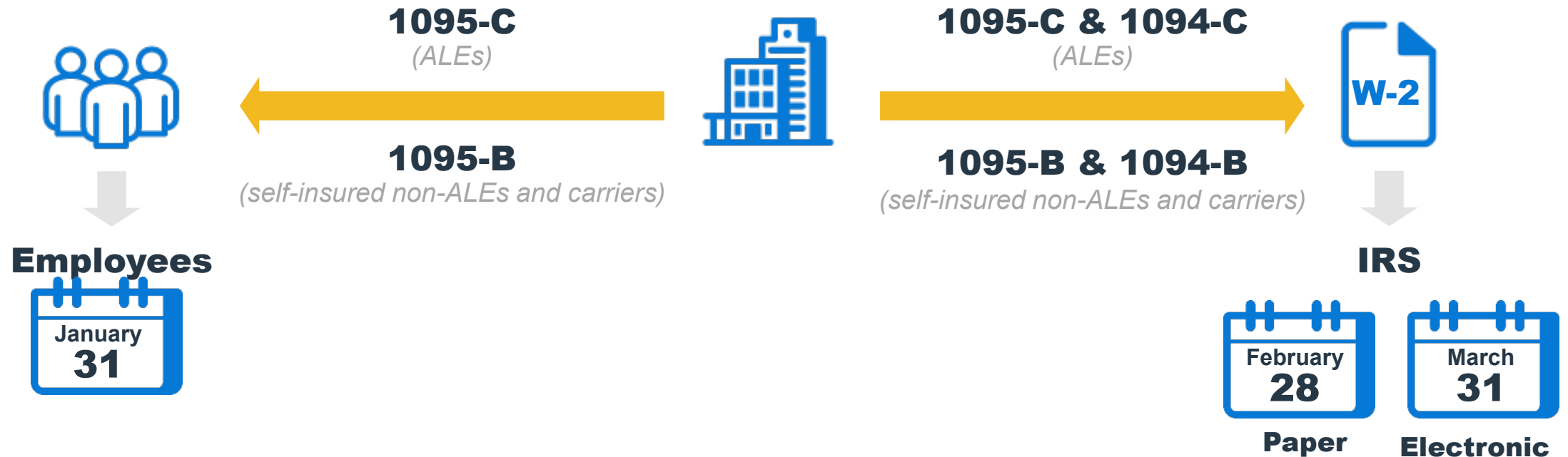


## Applicable Large Employers (ALE; 50+ FTEs)

Form 1095 must be created and filed **for all full-time employees** (130 hrs / month or 30 hrs wk)

Under 50 FTEs **do not have to report** (unless self-insured)

## All Self-Insured Employers



# 1094-C & 1095-C: Filing Extensions **Breaking NEWS**

- IRS Announces Automatic extensions
- May request an automatic 30-day extension - **Form 8809**
- May request one additional 30-day extension by submitting a second Form 8809 (not automatic)
- **Form 8809– does not apply to 109!**
- Deadlines for filing Form 8809:
  - **Paper forms – February 28**
  - **Electronically – March 31**

**Form 8809**  
(Rev. September 2016)  
Department of the Treasury  
Internal Revenue Service

**Application for Extension of Time To File Information Returns**  
(For Forms W-2, W-2G, 1042-S, 1094-C, 1095, 1097, 1098, 1099, 3921, 3922, 5498, and 8027)  
OMB No. 1545-1081  
▶ This form may be filled out online. See How to file below.

**Do not use this form to request an extension of time to (1) file Form 1040 (use Form 4868), (2) file Form 1042 (use Form 7004), or (3) furnish statements to recipients (see Extensions under part M in the General Instructions for Certain Information Returns).**

**1 Payer's/filer's information. Type or print clearly in black ink.**

Payer's/filer's name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

Contact name \_\_\_\_\_ Telephone number \_\_\_\_\_

Email address \_\_\_\_\_

**2 Taxpayer identification number (TIN)**  
(Enter the payer/filer nine-digit number. Do not enter hyphens.)

**3 Check your method of filing information returns (check only one box). Use a separate Form 8809 for each method.**

☐ electronic ☐ paper

**4 If you are requesting an extension for more than one payer/filer, enter the total number of payers/filers and attach a list of names and taxpayer identification numbers. See How to file below for details. ▶**

**5 Check this box only if you already requested the automatic extension and you now need an additional extension. See instructions. ▶** ☐

**6 Check only the box(es) that apply. Do not enter the number of returns.**

Form(s)	✓ here	Form(s)	✓ here	Form(s)	✓ here
W-2	<input type="checkbox"/>	5498	<input type="checkbox"/>	8027	<input type="checkbox"/>
1097, 1098, 1099, 3921, 3922, W-2G	<input type="checkbox"/>	5498-ESA	<input type="checkbox"/>	1094-C, 1095-C	<input type="checkbox"/>
1099-MISC NEC reporting only	<input type="checkbox"/>	5498-QA	<input type="checkbox"/>	1095-B	<input type="checkbox"/>
1042-S	<input type="checkbox"/>	5498-SA	<input type="checkbox"/>		

**7 If you are requesting an extension for Form W-2, or if you checked the box on line 5, you must provide a detailed explanation of why you need an extension or an additional extension of time. If you need more space, attach additional sheets. Include the filer name and taxpayer identification number on each additional page.**


# Form 1094-C



# Part I –Applicable Large Employer Member

- IRS Enforcement Letters will be sent to this person
- IRS will not speak to anyone other than the signer – will need a POA

<b>Form 1094-C</b> Department of the Treasury Internal Revenue Service		<b>Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns</b> ▶ Go to <a href="http://www.irs.gov/Form1094C">www.irs.gov/Form1094C</a> for instructions and the latest information.		<input type="checkbox"/> CORRECTED	OMB No. 1545-2251 <b>2020</b>
<b>Part I Applicable Large Employer Member (ALE Member)</b>					
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**  


- Multi-employing entity organizations

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.

# Enforcement Triggers

- Failure to indicate that Minimum Essential Coverage was offered in **Column (a)**
- The number of 1095-Cs does not reconcile to the counts in **Column (b)**
- The number of W-2s does not reconcile to the counts in **Column (c)**
- IRS penalty allocation may be incorrect if **Column (d)** isn't marked for control groups

120218

Form 1094-C (2017)

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) Reserved
		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"/>	

# Part IV –Other ALE Members

- Failure to include other control group entities here will impact the penalty calculation
- IRS will not apply appropriate penalty allocations

120316

Form 1094-C (2017)

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			

# Notable Sections



Department of the Treasury  
Internal Revenue Service  
Group 2219  
7300 Turfway Road, Suite 410  
Florence, KY 41042

**Tax year:** → **Enforcement year**  
**Letter date:** → **Date sent by IRS**  
**Employer ID number:**  
**Contact name:**  
**Contact ID number:**  
**Contact telephone number:**  
**Contact e-fax number:**  
**Response date:** → **Deadline to respond/appeal**

Dear

We have made a preliminary calculation of the Employer Shared Responsibility Payment (ESRP) that you owe.

**Proposed ESRP \$ [XXXXXX]** → **Proposed Penalty**

Our records show that you filed one or more Forms 1095-C, Employer-Provided Health Insurance Offer and Coverage, and one or more Forms 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns, with the IRS. Our records also show that for one or more months of the year at least one of the full-time employees you identified on Form 1095-C was allowed the premium tax credit (PTC) on his or her individual income tax return filed with the IRS. Based on this information, we are proposing that you owe an ESRP for one or more months of the year.

You generally owe an ESRP for a month if either:

**If No – is that accurate?**  
**Should be 30 for one entity**

ESRP Summary Table

Information Reported to IRS							
Month	a. Form 1094-C, Part III, Col (a) Minimum essential coverage offer indicator offered to at least [70% or 95%]	b. Form 1094-C, Part III, Col (b) Full-time employee count for ALE member	c. Allocated reduction of full-time employee count for IRC Section 4980H(a)	d. Count of assessable full-time employees with a PTC for IRC Section 4980H(a)	e. Count of assessable full-time employees with a PTC for IRC Section 4980H(b)	f. Applicable IRC Section 4980H provision	g. Monthly ESRP amount
Jan	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
Feb	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
March	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
Apr	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
May	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
June	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
July	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
Aug	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
Sep	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
Oct	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
Nov	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
Dec	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
						Total Proposed ESRP	[\$xxx,xxx]



# Form 1095-C

# Part II—Employee Offer and Coverage



Incorrect codes and coding-combinations will trigger penalties

Form <b>1095-C</b> Department of the Treasury Internal Revenue Service		<b>Employer-Provided Health Insurance Offer and Coverage</b> ▶ Do not attach to your tax return. Keep for your records. ▶ Go to <a href="http://www.irs.gov/Form1095C">www.irs.gov/Form1095C</a> for instructions and the latest information.		<input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED		OMB No. 1545-2251 <b>2020</b>							
<b>Part I Employee</b>				<b>Applicable Large Employer Member (Employer)</b>									
1 Name of employee (first name, middle initial, last name)		2 Social security number (SSN)		7 Name of employer		8 Employer identification number (EIN)							
3 Street address (including apartment no.)		6 Country and ZIP or foreign postal code		9 Street address (including room or suite no.)		10 Contact telephone number							
4 City or town	5 State or province	6 Country and ZIP or foreign postal code		11 City or town	12 State or province	13 Country and ZIP or foreign postal code							
<b>Part II Employee Offer of Coverage</b>				<b>Employee's Age on January 1</b>		<b>Plan Start Month (enter 2-digit number):</b>							
	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
14 Offer of Coverage (enter required code)													
15 Employee Required Contribution (see instructions)	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16 Section 4980H Safe Harbor and Other Relief (enter code, if applicable)													
17 ZIP Code													

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

Cat. No. 60705M

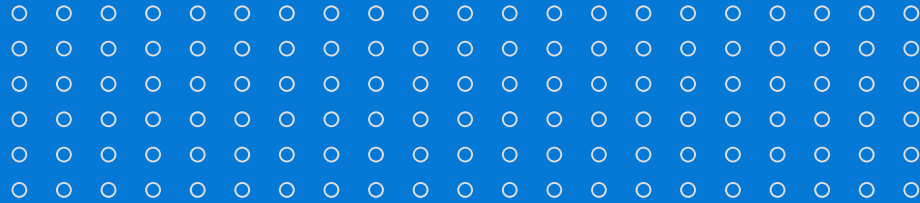
Form **1095-C** (2020)

# IRS Enforcement of ESRP: Letter 226J

- New Administration brings enhanced focus on ACA enforcement efforts from the IRS
  - *Note: Four years with few employers paying penalty assessment (apart from overt failure) ENDED*
- IRS is currently auditing employer compliance with the 2018 ACA ESRP provisions
  - IRS uses Letter 226-J to inform ERs of failure to comply with IRS 4980H(a) or (b) provisions
  - Letter provides employer 30 days to respond to the inquiry
    - Employer agrees and pays penalty
    - Employer appeals the penalty and supports additional information with the appeal
    - Penalty can be neutralized with **TIMELY RESPONSE** and **STRONG DOCUMENTATION**
- ER should file extension with the IRS to appeal decision- fax request to the number that appears at on right-hand corner of letter. Automatic 30-day extension to appeal decision.

**NEW:** Letters 226J question if a plan is deemed to be affordable under the ACA, new codes used in Form 14765. ER must show proof affordability satisfied (attestation inadequate)

# 5



## ACA Updates

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# 2022 ACA Affordability



## Affordability of Employee-only Coverage

Lowest cost plan that is **minimum value**. Safe harbor decreased from 9.83% to 9.61% based on one of the three safe harbors:

### 1 Rate of Pay

#### (Hourly rate of pay x 130)

9.83% Maximum amount to charge for employee-only coverage would be greater in 2021 than 2020

- **Example:** An employee earning \$13.00 an hour in 2021 cannot pay more than \$166.12 per month if the plan is to be deemed affordable; however, in 2022, that same employee cannot pay more than \$162.41.

### 2 Federal Poverty Level (FPL)

Calendar year plans must use **2021 FPL x 9.61% / 12** to assess affordability

$(\$12,880 \times 9.61\% / 12) = \underline{\$103.14}$   
vs. the 2021 rate of \$104.53 per month.

- Non-calendar year plans unknown as 2022 FPL guidelines have not been issued

### 3 W-2 Safe Harbor

#### Use Box 1 of employee's W-2 earnings.

Must use projected 2022 income; amount cannot change throughout the year.

- Box 1 = gross earnings minus pre-tax deductions under a cafeteria plan and a 401(k) plan.



# Penalties Through the Years

		2017	2018	2019	2020	2021	2022
<b>4980H(a) Penalty</b>	<b>Annual Amount</b>	\$2,260.00	\$2,320.00	\$2,500.00	\$2,570.00	<b>\$2,700.00</b>	<b>\$2,750.00</b>
	<b>Monthly Amount</b>	\$188.33	\$193.33	\$208.33	\$214.17	<b>\$225.00</b>	<b>\$229.16</b>
	<b>MEC Offer % of FT</b>	95%	95%	95%	95%	<b>95%</b>	<b>95%</b>
	<b>FT Headcount Reduction</b>	30	30	30	30	<b>30</b>	<b>30</b>

<b>4980H(b) Penalty</b>	<b>Annual Amount</b>	\$3,390.00	\$3,480.00	\$3,750.00	\$3,860.00	<b>\$ 4,060.00</b>	<b>\$4,120.00</b>
	<b>Monthly Amount</b>	\$ 282.50	\$290.00	\$312.50	\$321.67	<b>\$338.33</b>	<b>\$343.33</b>
	<b>Affordability Safe Harbor %</b>	9.69%	9.56%	9.86%	9.78%	<b>9.83%</b>	<b>9.61%</b>
	<b>FPL Annual Amount</b> <i>(individual)</i>	\$11,880.00	\$12,060.00	\$12,140.00	\$12,490.00	<b>\$12,880.00</b>	<b>Unknown</b>

# Likely ACA & Related Changes in Reconciliation Bill



- Last year's ARP expanded premium tax credits to taxpayers with household income above 400 percent of the federal poverty line by lowering the upper premium contribution limit to 8.5 percent of household income
  - Reconciliation Bill proposes would make this expanded premium tax credit **permanent** for those above 400% of the Federal Poverty level
  - Would also reduce affordability for employer coverage to **8.5%**, with no indexing (currently 9.83%, 9.61% in 2022, and is adjusted)
  - Those with household income below 138% of FPL in states that did not expand Medicaid could get subsidized individual coverage
- Other provisions:
  - Expand Medicare to include dental, vision, and hearing benefits
  - Drug price provisions / Administration seeks to empower Medicare RX negotiation / opponents fear innovation chill
    - Formula for benchmark drug price control extremely fluid.... International benchmarks?

# Thank you.

For more information and resources, visit:  
**[www.hubinternational.com](http://www.hubinternational.com)**