

LAW & POLICY GROUP**GRIST**

BIPARTISAN BILLS WOULD SIMPLIFY ACA EMPLOYER-REPORTING REQUIREMENTS

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Bipartisan, bicameral legislation ([S 2366](#), [HR 4070](#)) in Congress would simplify employer shared-responsibility (ESR) and minimum essential coverage (MEC) reporting duties under the Affordable Care Act (ACA). The bills would create a voluntary, prospective reporting system and include other changes, such as making it easier for employers to send employees electronic coverage statements (e.g., [Form 1095-C](#)).

CURRENT EMPLOYER REPORTING SYSTEM FOUND 'BURDENSOME'

Under the ACA, employers subject to the ESR provisions and other MEC providers must send coverage statements to employees and file IRS reports at the end of the tax year detailing information about any health coverage offered and the specific months when individuals had employer health coverage.

These “retrospective reporting requirements create a heavy back-end burden for employers and can lead to reporting discrepancies that end up subjecting employers to IRS tax penalties as well as additional compliance costs and burdens,” noted [press releases](#) from Senate bill sponsors Rob Portman, R-OH, and Mark Warner, D-VA. Companion House legislation has been introduced by Reps. Mike Thompson, D-CA, and Adrian Smith, R-NE. Portman and Warner offered substantially similar legislation in the last Congress.

PROSPECTIVE REPORTING SYSTEM, OTHER REFORMS

The Commonsense Reporting Act of 2019 would make several changes to current requirements:

- **Voluntary, prospective ESR/MEC reporting system.** Allow employers that offer MEC to full-time employees to voluntarily report specified information about their health plan(s) to IRS within 45 days before the Nov. 1 start of the public exchanges' annual open-enrollment period.
- **Reporting required only for certain employees.** Eliminate the duty to provide individual statements and file IRS returns about MEC offers unless employees have purchased qualified health plan (QHP) coverage for themselves or their dependents through a public exchange. Employees or dependents for whom the employer has not received a public exchange notice about their enrollment in a QHP would no longer receive individual statements or require IRS reporting.

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- **SSNs of spouses and dependents not required.** Clarify that IRS can accept full names and birth dates in lieu of dependents' and spouses' Social Security numbers. This should eliminate many of the "Accepted with Errors" messages that employers often receive after filing IRS Forms 1094/5-C.
- **Electronic delivery.** Expand employers' ability to distribute electronic statements (e.g., Form 1095-C) to employees and covered individuals who "at any prior time" affirmatively consented to receive such statements electronically.
- **GAO study.** Require the Government Accountability Office to study the functionality of the prospective reporting system.

BUSINESS TO PUSH FOR BILLS AMID UNCERTAIN OUTLOOK

The legislation, substantially similar to bills offered in the prior Congress, is backed by many business groups that will try to move it forward. How far the measure might advance this year or next is unclear, as the partisan fight over healthcare policy and the ACA intensifies ahead of the 2020 election.

RELATED RESOURCES

Non-Mercer Resources

- [Press Release and Summary of Commonsense Reporting Act](#) (Sen. Rob Portman, Aug. 2, 2019)
- [S 2366](#), the Commonsense Reporting Act of 2019 (Congress, July 31, 2019)
- [Information Reporting by Providers of Minimum Essential Coverage](#) (IRS, March 27, 2019)
- [Questions and Answers on Reporting of Offers of Health Insurance Coverage by Employers \(Section 6056\)](#) (IRS, March 26, 2019)
- [Questions and Answers on Information Reporting by Health Coverage Providers \(Section 6055\)](#) (IRS, March 26, 2019)
- [Questions and Answers About Information Reporting by Employers on Form 1094-C and Form 1095-C](#) (IRS, March 22, 2019)
- [Information Reporting by Applicable Large Employers](#) (IRS, March 18, 2019)

Mercer Law & Policy Resources

- [Top 10 Compliance Issues for 2020 Health and Fringe Benefit Planning](#) (June 25, 2019)
- [2019 Outlook for ACA Legislation](#) (Feb. 6, 2019)
- [2019 Compliance and Policy Outlook for Employer-Sponsored Health Benefits](#) (Feb. 6, 2019)

Other Mercer Resources

- [US Health News: Health Law and Policy](#)
- [2019 Outlook for Healthcare Issues in Congress](#) (Jan. 24, 2019)

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