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DC DETAILS EMPLOYER REPORTING FOR INDIVIDUAL HEALTH COVERAGE MANDATE

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Washington, DC, employers will face reporting obligations under the city's individual health coverage mandate. New tax guidance ([Notice 2019-04](#)) sets out requirements for the annual reports due beginning June 30, 2020. Employer reporting to the [DC Office of Tax and Revenue](#) (OTR) will incorporate the IRS forms that employers and insurers currently use to report coverage offered or provided.

DC INDIVIDUAL MANDATE

Under a District of Columbia law effective in 2019 ([DC Code §§ 47-5101 to 47-5109](#)), most DC residents must have minimum essential coverage (MEC) for themselves and their dependents or pay a tax penalty. Modeled on the federal Affordable Care Act (ACA) mandate before Congress zeroed out the IRS penalty for going without coverage, the DC law follows many ACA definitions, including MEC.

Minimum Essential Coverage

The law defines MEC as any plan covered by the federal mandate ([Internal Revenue Code \(IRC\) § 5000A](#)) and implementing regulations in effect on Dec. 15, 2017. These coverage options include:

- Government-sponsored programs, including Medicare, Medicaid, TRICARE, Veteran's Affairs and other government plans, such as the [DC Immigrant Children's Program](#)
- Employer-sponsored health plans, including grandfathered health plans
- Coverage under a health plan offered in the individual market that complies with requirements in effect Dec. 15, 2017
- Coverage under a multiple-employer welfare arrangement (MEWA) that complies with the federal standards in effect on Dec. 15, 2017

The term excludes plans that offer only excepted benefits, such as stand-alone vision or dental plans, long-term care insurance, supplemental or specified-disease coverage, and accident or disability insurance.

EMPLOYER REPORTING OBLIGATION

Applicable entities include plan sponsors covering at least 50 employees and at least one DC resident, as well as health insurers providing MEC to DC residents during the coverage year. These entities must sign up and file information returns with OTR.

The reporting requirement encompasses any employee for whom the employer withholds DC taxes. Reporting also applies to any employee who has a DC mailing address, even if the employer doesn't withhold and report DC taxes. Employers that furnish covered employees with MEC notices for federal purposes don't have to provide duplicate notices for DC.

Filing Details

Applicable entities should electronically file with OTR the same information filed with the IRS, including:

- [1094-B](#), Transmittal of Health Coverage Information Returns
- [1095-B](#), Health Coverage
- [1094-C](#), Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns
- [1095-C](#), Employer-Provided Health Insurance Offer and Coverage

All information returns must be uploaded through MyTax.DC.gov, using OTR's prescribed layouts and file formats. Entities may contract with third-party providers to complete the filing. Any filer that doesn't currently have a MyTax.DC.gov account will have to sign up to obtain login credentials. Special bulk-filing accounts will apply for filers that are not DC taxpayers.

Filing Deadlines

For the 2019 coverage year, filings will be due June 30, 2020. In later years, reports will be due 30 days after the federal filing deadline, including any delay. The FAQs in the DC notice don't address any possible federal delays for the 2019 plan-year filing due in 2020.

UNANSWERED QUESTIONS

While the task of submitting the federal forms to DC tax regulators may seem fairly straightforward, several issues remain unclear:

- **Insured group health plans.** Do employers whose employees receive health coverage through an insured plan have to file Forms 1094-C and 1095-C? The notice indicates the carrier must file health coverage information for any individual under the policy who had a DC home or mailing address at any time during the applicable calendar year. Information on the carrier's Forms 1094-B and 1095-B would make the limited coverage details on the employer's forms redundant.
- **Limiting to DC residents.** Forms submitted to the IRS by multijurisdictional employers include nationwide coverage information. Must employers filter out the forms and data pertaining to non-DC residents before filing with OTR? If not, does this raise confidentiality issues for nonresidents?

- ***Tenuous state of the ACA.*** Ongoing litigation and bipartisan bills pending in Congress could affect employer reporting requirements. If this happens, will DC revise reporting dates and/or forms?

OTHER STATES' MANDATES

In addition to DC, five states — California, Massachusetts, New Jersey, Rhode Island and Vermont — have implemented or enacted individual health coverage mandates. The Massachusetts mandate has been in place since 2006. The New Jersey mandate took effect in 2019, and reporting begins in 2020. New mandates in California and Rhode Island take effect next year. Vermont's mandate also takes effect next year but requires no employer reporting, unless federal reporting ends. Below is a brief recap of these states' mandates.

California

Beginning Jan. 1, 2020, California's new mandate (2019 Ch. 38, [SB 78](#)) will require state residents to maintain MEC for themselves and their dependents or pay a state tax penalty. Self-insured plan sponsors, health insurers and other entities that provide MEC to residents must file coverage reports with the California Franchise Tax Board (FTB) by March 31 after the coverage year has ended. The FTB will develop reporting forms, but the same information reported to IRS under [IRC § 6055](#) (as of Dec. 15, 2017) will suffice for California reporting.

Massachusetts

By Jan. 31 after the close of each coverage year, employers that provide minimum creditable coverage (MCC) or their vendors must distribute [Form MA 1099-HC](#) to covered Massachusetts residents and report this information to the state Department of Revenue (DOR). Most employers rely on their vendors to determine MCC status, distribute the forms and file the DOR report. Insurers subject to Massachusetts regulation [must determine](#) MCC status and typically complete the reporting requirements. However, employers that self-insure or contract with more than one vendor for a single plan may need to complete an [attestation form](#) before their vendor will complete the annual reporting.

New Jersey

Beginning in 2020, New Jersey will require employers to report prior-year health coverage information for covered employees and their dependents residing in the state. Reporting [guidance](#) specifies that employers and other MEC providers must transmit health coverage returns for the 2019 tax year through [New Jersey's e-file system for W-2 forms](#) by March 31, 2020. The returns must contain the information required for IRS Forms 1094-C and 1095-C. Companies are encouraged to send only New Jersey residents' data, but the state will accept the same 1094/1095 files sent to the IRS — even if they include data for out-of-state residents. Filers of Forms 1094-B and 1095-B should use those forms for New Jersey filings.

Rhode Island

Rhode Island's Market Stability and Reinsurance Act (2019 Ch. 88, HB 5151 [Art. 11](#)) reinstates the individual coverage mandate for state residents, beginning in 2020. The state law closely follows the ACA mandate in its original form, including the definition of MEC and penalty calculations. Third-party

healthcare payers — including employers sponsoring self-insured group health plans — will have to file state reports. The IRS coverage-reporting forms may suffice for Rhode Island's reports.

Vermont

Amendments to Vermont's individual health coverage mandate (2019 Act 63, [HB 524](#)) require residents to self-report compliance beginning in 2020. Residents filing individual income tax returns will indicate if they had MEC during the tax year and, if requested by the state, will have to submit their IRS Forms 1095-B and 1095-C as proof. Vermont doesn't require employer reporting unless the ACA mandate ([IRC § 6055](#)) for MEC providers to furnish a statement to covered individuals is suspended or eliminated.

EMPLOYER NEXT STEPS

Employers with DC employees should plan to take these steps:

- **Monitor additional information from regulators.** Questions remain on the issues raised above. Employers will need to watch for updates that may clarify these and any other questions that arise.
- **Work with vendors to set up reporting processes.** Vendors that currently file federally required reports may be in the best position to help employers comply with DC's and other jurisdictions' reporting mandates.
- **Track ongoing ACA litigation or legislation for potential impact on DC and state laws.** If some or all of the ACA provisions relating to MEC or reporting are revised or eliminated, some of these state and local coverage mandates could change, possibly causing each jurisdiction to adopt its own standards.

RELATED RESOURCES

Non-Mercer Resources

- [Notice 2019-04](#) (DC Office of Tax and Revenue, Aug. 9, 2019)
- [DC Code §§ 47-5101 to 47-5109](#), Individual Taxpayer Health Insurance Responsibility Requirement (DC Council, Oct. 30, 2018)
- [DC Office of Tax and Revenue](#)
- [MyTax.DC.gov](#)
- [Internal Revenue Code § 5000A](#)
- [About Form 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns](#) (IRS, April 18, 2019)
- [About Form 1095-C, Employer-Provided Health Insurance Offer and Coverage](#) (IRS, April 18, 2019)

- [Questions and Answers on Information Reporting by Health Coverage Providers \(Section 6055\)](#) (IRS, March 26, 2019)
- [About Form 1094-B, Transmittal of Health Coverage Information Returns](#) (IRS, Nov. 7, 2018)
- [About Form 1095-B, Health Coverage](#) (IRS, Nov. 5, 2018)
- 2019 Ch. 38, [SB 78](#) (California Legislature, June 27, 2019)
- [Form MA 1099-HC](#) (Massachusetts Revenue Department, Oct. 29, 2018)
- [Plan Sponsor Attestation Form](#) (Massachusetts Health Insurance Connector Authority, Dec. 7, 2011)
- [Bulletin 2010-07](#) (Massachusetts Insurance Division, June 29, 2010)
- [NJ Health Insurance Mandate — Guidance for Health Coverage Filings](#) (New Jersey Treasury, July 25, 2019)
- [Practitioner's E-File Page](#) (New Jersey Treasury)
- 2019 Ch. 88, HB 5151 ([Art. 11](#)) (Rhode Island General Assembly, July 5, 2019)
- 2019 Ch. 63, [HB 524](#) (Vermont General Assembly, June 17, 2019)

Mercer Law & Policy Resources

- [Bipartisan Bills Would Simplify ACA Employer-Reporting Requirements](#) (Aug. 12, 2019)
- [California Individual Coverage Mandate Includes Employer Health Plan Reporting](#) (July 16, 2019)
- [New Jersey Posts Update on Health-Coverage Reports Due in 2020](#) (April 16, 2019)
- [Trump Administration Adjusts Course on ACA Case](#) (March 27, 2019)

Other Mercer Resources

- [Grab Some Ibuprofen: State Mandates May Create Reporting Headaches](#) (June 20, 2018)

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