



# States update group health plan sponsor reporting obligations

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## In this article

[Individual health coverage mandates](#) | [Other health plan sponsor reporting](#) | [Looking ahead](#) | [Chart: State/city GHP reporting and disclosure schedules and due dates](#) | [Related resources](#)

Group health plan (GHP) sponsors continue to be subject to state reporting, but no state has added a new reporting obligation since 2021. As a reminder, ERISA arguably preempts some, but not all, state reporting requirements for GHP sponsors. This GRIST summarizes key state reporting mandates for GHP sponsors and reflects recent changes.

## Individual health coverage mandates

Since Jan. 1, 2019, the Affordable Care Act (ACA) no longer assesses a tax on individuals who do not maintain minimum essential coverage (MEC), the so-called “individual mandate.” Four states — California, New Jersey, Rhode Island and Vermont — along with Washington, DC, now impose their own individual mandates with penalties to ensure compliance. In addition, Massachusetts has a long-standing individual mandate, which predates the ACA.

## Coverage

The five jurisdictions with post-ACA individual mandates generally give residents a choice of maintaining ACA-defined MEC or paying a state tax penalty. Only Massachusetts differs in its coverage mandate, setting a more stringent [minimum creditable coverage](#) (MCC) standard. The other jurisdictions define MEC as any plan meeting the federal statutory definition ([26 USC § 5000A\(f\)](#)) and [implementing regulations](#). Those coverage options include:

- Government-sponsored health programs, including Medicare, Medicaid, TRICARE, Children's Health Insurance Program (CHIP), Veterans Affairs, Peace Corps and other government plans
- Employer-sponsored health plans, including grandfathered health plans

- Individual health coverage through a public exchange

MEC 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. Certain other programs like short-term, limited-duration insurance and healthcare sharing ministries also do not count as MEC.

## Reporting

Most state-required reports due in 2023 for the 2022 coverage year will follow the same schedule as the IRS Forms 1094/1095 deadlines. Most jurisdictions have indicated they will accept the federal forms that GHP sponsors or other MEC providers must send to IRS and will not require duplicative statements to residents.

### California

By March 31 after the close of each calendar year, GHP sponsors and other MEC providers must file coverage reports with the California [Franchise Tax Board](#) (FTB). However, California's [reporting guidance](#) states that penalties for failure to file do not apply for federal forms filed with the FTB by May 31.

By Jan. 31 after the close of each calendar year, a coverage statement is due to individuals. [IRS rules](#) provide an automatic and permanent 30-day deadline extension — to March 2 (March 1 in leap years) — for GHP sponsors and other MEC providers to furnish ACA individual statements. However, California has not extended its Jan. 31 due date for individual statements. Nonetheless, the [FTB website](#) indicates that California does not impose penalties for failing to furnish statements to covered individuals by Jan. 31. In addition, duplicative California statements are not necessary if individuals have received the federal coverage statement (Form [1095-B](#) or [1095-C](#)).

The FTB [requires](#) MEC providers to submit the same information reported to IRS under [Section 6055](#) of the Internal Revenue Code. Entities that have to file Forms 1094/1095 may submit the same forms to the FTB. Entities submitting at least 250 returns in a year to the FTB must file electronically, unless granted a waiver due to technology constraints or undue financial hardship. Smaller entities may file either on paper or electronically.

### Massachusetts

By Jan. 31 after the close of each calendar year, GHP sponsors and other MEC providers (or their vendors) that provide [MCC](#) to Massachusetts residents age 18 or older must distribute [Form MA 1099-HC](#) to covered Massachusetts residents. By Jan. 31 (or the next business day if Jan. 31 falls on a weekend) after the close of each calendar year, GHP sponsors and other MEC providers (or their vendors) must transmit this information to the state [Department of Revenue](#) (DOR). These deadlines are earlier than the federal deadline.

Most self-funded GHP sponsors rely on their vendors to determine MCC status, distribute the forms to covered persons and file the DOR report. Insurers subject to Massachusetts regulation must determine MCC status and typically complete the reporting requirements. However, employers that sponsor self-funded GHPs or contract with more than one vendor for a single GHP may need to complete an attestation form before their vendor will complete the annual reporting. GHPs sponsors and other MEC providers whose plans do not meet MCC standards may apply for MCC certification by Nov. 1 of the plan year.

Filing of all DOR reports must be electronic. A GHP sponsor whose insurer or third-party administrator (TPA) will not file the Form MA 1099-HC can upload XML files through MassTaxConnect and distribute the forms to covered residents.

## New Jersey

By March 2 after the close of each calendar year, GHP sponsors and other MEC providers must supply coverage statements to primary enrollees unless they receive a Form 1095-B or 1095-C (duplicative statements are not required).. This deadline aligns with the federal deadline. By March 31 after the close of each calendar year, GHP sponsors and other MEC providers must transmit to the state Division of Revenue and Enterprise Services health coverage information about primary enrollees and their dependents residing in the state during the prior year.

The state will accept NJ-1095 forms, fully completed federal Forms 1095-B and 1095-C, and/or Form 1095-C with at least Parts I and III completed. Form 1095-C with only Parts I and II completed will not meet New Jersey filing requirements. (Employers with fully insured coverage typically complete only Parts I and II.) The state does not require Forms 1094 but will accept them as part of a larger file that includes Forms 1095.

MEC providers filing fewer than 100 forms can register to complete Form NJ-1095 online. MEC providers submitting 100 or more forms must file electronically using the Division of Taxation's system for W-2 submissions (Axway). Fully insured plan sponsors should file Forms 1095 with New Jersey only if their insurer does not. MEC providers can submit reporting questions to the state. The filing requirement applies to businesses that withhold New Jersey payroll taxes and out-of-state plan sponsors that cover New Jersey residents — including part-year residents who live in the state at least 15 days in any month.

## Rhode Island

By March 2 after the close of each calendar year, GHP sponsors and other MEC providers must furnish coverage statements to individuals. This deadline aligns with the federal deadline. By March 31 after the close of each calendar year, GHP sponsors and other MEC providers that cover any Rhode Island resident generally must send reports to the Division of Taxation (DOT), based on recent state guidance (Advisory 2022-29). The DOT will accept Forms 1095. File uploading is on the DOT's health insurance mandate website.

## Vermont

Vermont's individual mandate requires residents to maintain MEC and self-report compliance. The state's [general tax instructions](#) require individual income tax return filings to indicate whether the resident had MEC during the tax year and, if requested by the state, to submit Form 1095 as proof. Vermont does not require GHP sponsor reporting, unless the federal ACA's MEC reporting requirement is suspended or eliminated.

## Washington, DC

GHP sponsors and other MEC providers covering at least 50 full-time employees and at least one DC resident during the calendar year must sign up with the [Office of Tax and Revenue](#) (OTR) to upload files through [MyTax DC](#). MEC providers should electronically file with the OTR the same information filed with the IRS. Filings are generally due by April 30 (30 days after the federal March 31 deadline, including any extensions granted, for submitting Forms 1095) after the close of each calendar year. However, no penalty applies for failing to file the city reports.

MEC providers may contract with third-party providers to complete the filing. Any filer that does not currently have a MyTax DC account will have to obtain login credentials. Special bulk-filing accounts apply for filers that are not DC taxpayers.

## Other health plan sponsor reporting

GHP sponsors face other state reporting requirements, sometimes in conjunction with a covered-lives surcharge or employment benefit. While ERISA preempts state laws that regulate key facets of plan administration, including claims reporting, a state's "innocuous and peripheral set of additional rules" may withstand preemption (*Gobeille v. Liberty Mutual Ins. Co.*, 577 US 312 (2016)). The US Supreme Court has upheld certain incidental health assessments and related reporting that indirectly apply to ERISA plans (*New York State Conference of Blue Cross & Blue Shield Plans v. Travelers Ins. Co.*, 514 US 645 (1995)).

In addition, ERISA (29 USC § 1181(f)(3)(B)(ii)) requires GHP sponsors to disclose plan details if requested by state Medicaid premium-assistance programs described in the [model CHIP notice](#). This allows state Medicaid agencies to evaluate the feasibility of providing premium assistance.

The following state and local reporting requirements generally fall into these categories. To date, no final court decision has held that employers are exempt from these mandates due to ERISA preemption.

### California — San Francisco

The [Health Care Security Ordinance](#) (HCSO) requires employers with San Francisco employees to electronically [submit](#) by April 30 (or the next business day if April 30 is on a weekend) an [annual Health Care Expenditure \(HCE\) reporting form](#) (ARF) for the preceding year. Under COVID-19 relief, the Office of Labor Standards Enforcement waived this requirement for the 2019 and 2020 forms due in 2020 and 2021, respectively. However, all HCSO requirements remained in place during that time. Reporting for

the 2021 plan year resumed in 2022, and the existing reporting rules now apply. The next ARF reporting deadline is May 1, 2023.

The HCE is the minimum amount employers must spend on healthcare for each hour worked by a covered employee. Covered employees include anyone employed for more than 90 days who regularly works at least eight hours a week in San Francisco. Minimum HCE amounts change annually and vary by employer size. To determine workforce size, employers must count all employees, no matter where they live or work. However, the expenditure applies only to hours worked in San Francisco.

## Hawaii

The [Hawaii Prepaid Health Care Act](#) (HPHCA) requires employers to offer health coverage to all eligible employees in the state. The HPHCA predates ERISA and is exempt from ERISA preemption. The law strictly limits employee contributions and requires minimum benefit levels and certain plan provisions. The state's Department of Labor and Industrial Relations (DLIR) must approve all employer health plans — fully insured and self-funded (which are relatively rare) — before they are offered to employees. Approval also is required before an employer makes any plan changes, including changes to deductibles and out-of-pocket maximums (OOPMs). Plan approvals typically occur only if they are at least actuarially equivalent to the two most prevalent plans offered in the state, commonly called [plans 7a and 7b](#).

An employee may waive coverage under the employer's health plan if certain conditions apply, including having other health coverage. To claim an exemption, the employee must complete and provide [Form HC-5](#) to the employer. This notice is binding for only one year, so exempt employees must annually complete a new form by Dec. 31.

If employees waive employer-sponsored coverage because they have other health coverage, they must include the plan name and health plan contractor on Form HC-5, which the employer must forward to the DLIR. ACA public exchange plans for individuals do not qualify for the other health coverage exemption because those plans do not meet or exceed Hawaii's minimum requirements. The employer must keep this form on file. If an employee who works two jobs waives coverage of the second employer, that employer must file the notification with DLIR.

## Illinois

Employers must compare the health benefits covered by each GHP offered to Illinois employees against the essential health benefits (EHBs) detailed in a [chart](#) provided by the state Department of Labor (ILDOL). The [FAQs](#) indicate that for each EHB, an employer should compare coverage with the state's benchmark plan. Acceptable responses are:

- Yes (the employer's plan covers the EHB to the same or greater extent covered under the benchmark plan)
- Yes, *partially* or *Partially*, with a corresponding explanation of the discrepancy (the employer's plan covers the EHB but not to the extent covered under the benchmark plan)

- *No* (the employer's plan does not cover the EHB at all)

Employers do not have to use the ILDOL-provided chart (in Excel format). However, the disclosure must meet the ILDOL requirements.

**Disclosure method.** Employers may provide the written disclosure by email or post it on a website that employees regularly access. Employers must maintain disclosure records for at least one year.

**Timing.** The law requires employers to provide this information to Illinois employees at hire, annually and on request.

**Penalties.** Noncompliance penalties range from \$500 to \$5,000, depending on employer size and the number of offenses. However, employers first receive 30 days' notice to correct any noncompliance.

## Massachusetts

In addition to the state's individual mandate reports due each January, Massachusetts requires every employer with six or more employees in the state to submit an annual [Health Insurance Responsibility Disclosure](#) (HIRD). The [HIRD Form](#) is due by Dec. 15 each year; online submission starts Nov. 15. Employers must complete the HIRD form if they included six or more employees in any [Department of Unemployment Assistance](#) wage report during the 12 months before the HIRD due date.

Required data may include the availability of coverage, eligibility requirements, employment-based classifications, plan description, MCC status, wellness plan credits, employee contributions per tier, deductibles and OOPMs. Employers must file a separate form for each covered entity that has its own federal employer identification number, even if all other information is the same. Employers with multiple plans or substantive variations must report information about each plan offered in Massachusetts. A payroll vendor can file forms on behalf of client employers if it has the relevant information. Employers complete the form by logging into their withholding account on [MassTaxConnect](#).

## New York

The [New York Health Care Reform Act](#) (HCRA) imposes two separate surcharges on health claim payors, including self-funded employer-sponsored GHPs:

- One surcharge, which subsidizes indigent care and state healthcare initiatives, applies to payments for New York hospital inpatient and outpatient services, comprehensive diagnostic and treatment centers, and ambulatory surgery centers. For this surcharge, nonelecting payors must pay an additional amount — essentially a penalty for not electing direct payment to the state Public Goods Pool administrator.
- The other surcharge, which funds a graduate medical education pool, applies to health claim payors that cover New York residents. For this surcharge, electing payors pay an annual covered-lives assessment directly to the state pool administrator, while nonelecting payors instead incur a surcharge on direct payments to in-state hospital expenses for covered services.

The two surcharges are subject to slightly different operating guidelines. Monthly online reports on covered charges are due to the state [Office of Pool Administration](#) (OPA) for the first year after a claim payor becomes an electing payor. The OPA may notify payors that subsequent reports will be due annually, which is the typical schedule for out-of-state health plan sponsors with few or no New York employees. Reports must be filed electronically within 30 days after the end of the reporting month or year, even if a payor has no activity to report. Self-funded health plan sponsors commonly rely on TPAs to file the monthly or annual report. However, the ultimate responsibility falls to the plan sponsor.

## Vermont

Vermont requires certain employers to pay a quarterly fee for “uncovered employees” who do not have qualifying health coverage. Employers must file their uncovered employee report with any required payment on Form [WHT-436 and HC-1](#), *Quarterly Withholding Reconciliation and Health Care Contribution Worksheet*. Employers can file through [myVTax.vermont.gov](#) or by paper, using the most recent forms and information on the [Department of Taxes website](#). All employers with Vermont employees must complete and submit the report within 25 calendar days after the end of each calendar quarter, even if no payment is due.

## Washington

Washington imposes a covered-lives assessment with reporting obligations on health plan insurers and sponsors. Quarterly [reports](#) are due within 45 calendar days after the end of each calendar quarter and must contain information on covered state residents. Though reports and assessments are due quarterly, assessments are computed monthly. Reporting for the Washington [Partnership Access Lines](#) (WAPAL) fund is in three age bands:

1. Child covered lives (ages 0–18)
2. Adult band 1 (ages 19–64)
3. Adult band 2 (ages 65 and above)

The WAPAL fund first [announced](#) a monthly assessment of \$0.13 per covered life for quarterly payments due starting Nov. 15, 2021. The WAPAL fund temporarily [reduced](#) the rate to \$0.07 per covered life for payments due Feb. 15–June 30, 2022. Rates apply to Washington covered lives of all ages. The [WAPAL fund](#) applies to any healthcare insurer or other entity — including a self-funded ERISA plan — that contracts or offers to provide, deliver, arrange, pay for, or reimburse any costs of health services.

## Looking ahead

The movement to remote work has required employers to become more cognizant of statutory requirements in states where they historically have not had employees. Reporting laws are no exception. Compliance will entail working with the appropriate vendor, such as a TPA or payroll processor, to clarify who will report.

## Chart: State/city GHP reporting and disclosure schedules and due dates

This chart identifies state reporting schedules for GHP sponsors.

Jurisdiction	Covered entities	Report schedule	Report due to individual / jurisdiction
California	Plan sponsors providing MEC to California residents	Forms 1094/1095 or equivalent state form	Individual: annually by Jan. 31 (but late penalties do not apply) State: annually by March 31 (but late penalties do not apply if filed by May 31)
San Francisco, CA	Employers with 20 or more employees and at least one in San Francisco	Employer Annual Reporting Form	City: annually by April 30
Hawaii	Employers with a Hawaii employee who waives health plan participation due to other coverage	Form HC-5	State: annually by Dec. 31
Illinois	All employers with Illinois employees	Model EHB comparison chart	Individual: annually and at hire State: none
Massachusetts	Plan sponsors providing MCC to Massachusetts residents	Form MA 1099-HC	Individual: annually by Jan. 31 State: annually by Jan. 31
	Plan sponsors seeking MCC certification for health plan	MCC Certification Application	State: Nov. 1 of reporting year
	Employers with six or more Massachusetts employees	HIRD Form	State: annually by Dec. 15
New Jersey	Plan sponsors providing MEC to New Jersey residents	Forms 1094/1095 or Form NJ-1095	Individual: annually by March 2 State: annually by March 31
New York	Self-funded employers that elect to participate for lower HCRA surcharge	Public Goods Pool report	State: 30 days after end of reporting month or year
Rhode Island	Plan sponsors providing MEC to Rhode Island residents	Forms 1094/1095 or equivalent state form	Individual: annually by March 2 State: annually by March 31

Jurisdiction	Covered entities	Report schedule	Report due to individual / jurisdiction
Vermont	Employers paying Vermont wages	Form WHT-436	State: 25 days after end of each calendar quarter
Washington	Plan sponsors covering Washington residents	WAPAL Fund Online Assessment Tool	State: 45 days after end of each calendar quarter
Washington, DC	Plan sponsors providing MEC to Washington, DC, residents	Forms 1094/1095	Individual: annually by March 2 City: Generally by April 30 (30 days after federal deadline — including any extensions — to file Form 1095-B or 1095-C)

## Related resources

### Non-Mercer resources

- [CA Gov't Code § 100700 et seq.](#), California individual MEC mandate (Legislature)
- [CA Rev. & Tax. Code § 61000 et seq.](#), California individual-mandate tax penalty law (Legislature)
- [California individual-mandate reporting regulations](#) (Franchise Tax Board)
- [California MEC information reporting website](#) (Franchise Tax Board)
- [California instructions for filing federal Forms 1094-C and 1095-C](#) (Franchise Tax Board)
- [Hawaii Form HC-5](#) (Disability Compensation Division)
- [Hawaii Prepaid Health Care Act](#) (Disability Compensation Division)
- [Illinois model EHB chart](#) (Insurance Department)
- [Illinois EHB disclosure FAQs](#) (Labor Department)
- [MA Gen. Laws Ch. 118E, § 78](#), HIRD reporting mandate (MA Legislature)
- [Massachusetts minimum creditable coverage standards](#) (Department of Revenue)
- [MassTaxConnect](#) (Department of Revenue)
- [Massachusetts plan sponsor MCC attestation form](#) (Department of Revenue)
- [Massachusetts HIRD reporting FAQs](#) (Department of Revenue)

- [Massachusetts Form MA 1099-HC](#) (Department of Revenue)
- [Massachusetts MCC Certification Application](#) (Health Connector, July 6, 2021)
- [Massachusetts requirements for MCC disclosure](#) (Division of Insurance, June 29, 2010)
- [NJ Stat. Ch. 54A:11](#), New Jersey individual mandate (NJ Legislature)
- [New Jersey e-file system](#) (Treasury Department)
- [NJ-1095 instructions](#) (Treasury Department)
- [New Jersey Central Forms Repository & Payment Collection System](#) (Division of Revenue & Enterprise Systems)
- [New Jersey payroll taxes and wage withholding filing, payment and reporting service](#) (Division of Taxation)
- [New Jersey reporting guidance](#) (Treasury Department, Nov. 1, 2022)
- [New York HCRA guidance](#) (Health Department)
- [New York electronic reporting obligations](#) (Office of Pool Administration)
- [RI Gen. Laws §§ 44-30-101 and -102](#), Rhode Island individual mandate (Division of Taxation)
- [Rhode Island final individual-mandate regulations](#) (Division of Taxation)
- [Rhode Island Advisory 2022-29](#) (Division of Taxation, Oct. 19, 2022)
- [Rhode Island individual mandate website](#) (Division of Taxation)
- [Rhode Island health insurance mandate: Reporting requirements FAQs](#) (Division of Taxation, Nov. 5, 2020)
- [San Francisco Health Care Security Ordinance](#) (Office of Labor Standards Enforcement)
- [San Francisco Annual Reporting Form instructions](#) (Office of Labor Standards Enforcement )
- [VT Stat. tit. 32 § 10451 et seq.](#), Vermont individual mandate (VT General Assembly)
- [Vermont myVTax](#)
- [Vermont Form WHT-436](#) (Department of Taxes, December 2020)
- [Vermont health care fund contribution assessment](#) (Department of Taxes)
- [Washington covered-lives reporting instructions](#) (WAPAL Fund)
- [WAPAL fund website](#)

- [DC Code § 47-5101 et seq.](#), Washington, DC's individual mandate (City Council)
- [Washington, DC, OTR Notice 2020-04](#), Updated guidance on city's individual mandate (Office of Tax and Revenue, March 31, 2020)
- [MyTax.DC.gov](#) (Office of Tax and Revenue)
- [Washington DC, OTR Notice 2019-04](#), Guidance on city's individual mandate (Office of Tax Revenue)
- [Gobeille v. Liberty Mutual Ins. Co.](#), 577 US 312 (2016)
- [New York State Conference of Blue Cross & Blue Shield Plans v. Travelers Ins. Co.](#), 514 US 645 (1995)

## **Mercer Law & Policy resources**

- [Massachusetts sets 2023 individual mandate coverage dollar limits](#) (Aug. 12, 2022)
- [San Francisco Health Care Expenditure rates released for 2023](#) (Aug. 8, 2022)
- [Hawaii employee health and leave benefits may need special attention](#) (Feb. 18, 2022)
- [Illinois mandates health plan disclosure with EHB comparison](#) (Feb. 10, 2022)
- [New York announces 2022 HCRA covered-lives assessment rates](#) (Jan. 31, 2022)
- [Roundup of selected state health developments, second-quarter 2021](#) (July 30, 2021)
- [Massachusetts employers' health coverage reports due by Dec. 15](#) (Nov. 13, 2019)
- [Massachusetts employers need to gear up for health coverage reporting](#) (Oct. 1, 2019)
- [Vermont reissues employer health plan assessment reporting guidelines](#) (Sept. 24, 2019)
- [DC details employer reporting for individual health coverage mandate](#) (Aug. 20, 2019)
- [California individual health coverage mandate includes employer health plan reporting](#) (July 16, 2019)
- [New Jersey posts update on health coverage reports due in 2020](#) (April 16, 2019)

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