



December 2021

MEMORANDUM

TO: CONTRIBUTING EMPLOYERS

**FROM: BOARD OF TRUSTEES
CARPENTERS HEALTH AND WELFARE TRUST FUND FOR CALIFORNIA**

RE: EMPLOYER REPORTING REQUIREMENTS UNDER THE AFFORDABLE CARE ACT

Internal Revenue Code (IRC) Sections 6055 and 6056 of the Affordable Care Act (ACA) require annual reporting by certain employers. This letter will explain the role of the Carpenters Health and Welfare Trust Fund for California (“Trust”) in assisting employers in fulfilling these requirements for employees receiving health care coverage from the Trust.

Overview:

IRC Section 6056 requires Applicable Large Employers (ALE) to file information returns with the Internal Revenue Service (IRS) and provide statements to their full-time employees about the health care coverage the employer offered. IRC Section 6055 requires all providers of Minimum Essential Coverage (MEC) to report coverage information to the IRS and provide a statement to individuals.

Only employers that meet the definition of being an ALE must complete the reporting under IRC Section 6056. In general, you are an ALE if you have 50 or more full-time employees (including full-time equivalent employees). There is significant guidance from the IRS for how to determine if you are an ALE (see <https://www.irs.gov/affordable-care-act/employers/determining-if-an-employer-is-an-applicable-large-employer>).

All providers of MEC must complete the reporting under IRC Section 6055. You are not responsible for this reporting as to those employees on whose behalf you contribute to the Trust. ***If you provide coverage to your employees other than through the Trust, consult with legal counsel and/or tax professionals about potential further reporting requirements.***

The two reporting requirements apply to plan sponsors, employers and health insurance companies. These reporting requirements determine:

1. If an employer must pay a penalty for failure to offer affordable health coverage that meets minimum value standards to its full-time employees.
2. If individuals qualify for tax credits (subsidies) to buy health coverage in the public exchanges/marketplaces.

California Employees:

Plan sponsors providing minimum essential coverage (MEC) under a self-insured health plan to residents of California also have reporting and disclosure obligations. Insurers and self-insured plan sponsors that provided MEC to a California resident during the 2021 calendar year must provide disclosures of minimum essential coverage to the primary subscriber/insured by January 31, 2021. Please note:

- The federal IRS Forms 1095-B and 1095-C may be used for this purpose.
- Although the deadline to provide these forms to individuals remains January 31, 2022, the statute provides no penalty for failure to provide the disclosures by this January 31 deadline.
- Insurers and self-insured plan sponsors must report the MEC provided to California residents to the FTB by March 31, 2022. As with the individual disclosures, the federal Forms 1095-B and 1095-C may be used for this filing. The information may be submitted to the FTB electronically or by paper. There is a \$50 penalty per individual on the information return for failing to report the required information to the FTB, however, no penalty will be imposed for Forms 1095-B or 1095-C filed with the FTB before May 31, 2022.

There is no requirement for employers to report offers of coverage to individuals under this California mandate. Contributing employers to multiemployer plans will not have any reporting obligations under this California law. For these entities, the reporting of coverage to the FTB will be done by the multiemployer plan and the insurers, as applicable.

More information, as well as California instructions for filing the federal forms, is available on the California Franchise Tax Board website at <https://www.ftb.ca.gov/file/business/report-mec-info/index.asp>.

Forms:

There are two sets of forms: the B series includes the 1094-B and 1095-B and the C series includes the 1094-C and 1095-C. The B series will be used by insurance carriers and self-insured plan sponsors who offer MEC. The C series will be used by ALE members. The Trust Office and insurance carriers will be responsible for producing and filing the 1094-B and 1095-B forms. **If you are an ALE, you as the employer are responsible for producing and filing the 1094-C and 1095-C forms. The 1095-C form must be completed for and sent to each of your full time employees. All the 1095-C forms and a 1094-C form are to be reported to the IRS.**

| When to complete the forms? | | |
|------------------------------------|---|--------------------------|
| Form | Due Date | Send to |
| 1094-C (transmittal) | February 28, 2022 (if filing on paper) or March 31, 2022 (if reporting electronically*) | Internal Revenue Service |
| 1095-C (employee statement) | Extended from January 31, 2022, to March 2, 2022.** | Individual |
| 1095-C (employee statement) | February 28, 2022 (if filing on paper) or March 31, 2022 (if reporting electronically*) | Internal Revenue Service |

*Employers with more than 250 employees must file electronically. See <https://www.ftb.ca.gov/forms/2020/2020-3895c-publication.pdf>

**IRS Notice of Proposed Rulemaking would make these extensions permanent. 86 Fed. Reg. 68939 (December 6, 2021).

What do you need to do as a Contributing Employer?

ALEs must file the 1094-C and 1095-C forms with the IRS and must also provide a copy of the 1095-C form to each full-time employee. For those employees that you report contributions on to the Trust, you will only need to complete Parts I & II of the form 1095-C. On August 6, 2015, the IRS released revised draft Instructions for Forms 1094-C and 1095-C. The draft Instructions provide how an employer that is required to contribute to a multiemployer plan on behalf of its employees can complete forms 1094-C and 1095-C without specific eligibility or coverage information for its full-time employees. Specifically the draft Instructions provide that for coverage provided in 2015, “an employer relying on the multiemployer arrangement interim guidance should enter code 1H on line 14 for any month for which the employer enters code 2E on line 16 (indicating that the employer was required to contribute to a multiemployer plan on behalf of the employee for that month and therefore is eligible for multiemployer interim rule relief).” In light of this guidance, the Trust will not provide data to employers regarding whether participants are eligible or enrolled in coverage offered by the Trust.

| How to know if you need to report as a Contributing Employer | |
|---|---|
| Contributing Employer <u>is</u> an Applicable Large Employer | Contributing Employer <u>is not</u> an Applicable Large Employer |
| Contributing employer will file forms 1094-C and 1095-C, except Part III and the Trust or insurance carrier, will file forms 1094-B and 1095-B. | The Trust Office and insurance carriers will file forms 1094-B and 1095-B. The employer does not need to do anything. |

**** IF YOU PROVIDE HEALTH COVERAGE TO EMPLOYEES NOT COVERED BY THE TRUST, CONSULT WITH LEGAL COUNSEL AND/OR TAX PROFESSIONALS REGARDING REPORTING REQUIREMENTS. ****

You should start determining now how your company will complete this reporting. There are significant penalties for failing to file and distribute these forms.

Below is additional information you need in completing the 1094-C and 1095-C.

This Trust is a multiemployer trust. Under IRS interim guidance, employers that provide coverage through a multiemployer trust will not be treated, with respect to employees for whom the employer is required by the collective bargaining agreement or appropriate related participation agreement to make contributions to the multiemployer plan, as failing to offer the opportunity to enroll in minimum essential coverage to full-time employees (and their dependents) and will not be subject to an assessable payment under section 4980H (b).

This Trust can confirm that the Trust offers minimum essential coverage, the Trust coverage provides minimum value, and the Trust’s coverage is affordable under the collective bargaining agreements. Additionally, this Trust offers coverage to dependent children under the age of 26.

Below are links to where you can find the forms and the information on how to complete the forms:

- For information about IRC Section 6055 please visit:
<https://www.irs.gov/affordable-care-act/employers/questions-and-answers-about-information-reporting-by-employers-on-form-1094-c-and-form-1095-c>
- For information about IRC Section 6056 please visit:
<https://www.irs.gov/affordable-care-act/employers/questions-and-answers-on-reporting-of-offers-of-health-insurance-coverage-by-employers-section-6056>

- For information about the 1094-C Form please visit:
<http://www.irs.gov/uac/About-Form-1094-C>.
- For information about the 1095-C Form please visit:
<http://www.irs.gov/uac/About-Form-1095-C>.
- For information about the IRS guidelines for electronic reporting please visit the IRS website at www.irs.gov/ and search for Publication 5165.

**Please note, the IRS has released the DRAFT 2022 instructions and reporting forms.
Below are the links to the DRAFT instructions and forms:
[2021 Instructions for Forms 1094-C and 1095-C \(irs.gov\)](#)**

Please note that the Carpenters Health and Welfare Trust Fund for California cannot provide legal or tax advice to employers and that the foregoing is for informational purposes only. Each employer should consult its own legal and tax advisors for advice regarding compliance with Internal Revenue Service requirements.

Carpenters Health and Welfare Trust Fund for California Frequently Asked Questions from Employers about Employer Reporting Requirements

1. Q: What is the Plan Year for the Fund (e.g. calendar year or other)?
A: September 1 through August 31.
2. Q: Are there eligibility criteria for participation in the Fund (e.g. hours worked)? If so, what?
A: Yes, the **Eligibility Rules for Active Participants – Plan A / Plan R/ Plan B/ Flat Rate Plan:**
<https://carpenterfunds.com/benefits/>
3. Q: Does the Fund cover dependent children?
A: Yes, qualifying children.
4. Q: If so, what is the definition of dependent children?
A: See Plan Rules (links above).
5. Q: Does the Fund cover spouses/domestic partners?

A: Yes, qualifying spouses and domestic partners.

6. Q: Does the Fund offer “minimal essential coverage” (MEC)?

A: Yes.

7. Q: Is the coverage offered of minimum value?

A: Yes.

8. Q: If so, how has the Fund verified minimum value (e.g. HHS MV calculator, independent actuary, or consultant)?

A: Independent actuary and consultant.

9. Q: Is a Bronze plan offered?

A: The Active Plans exceed Bronze level coverage.

10. Q: If employees pay premiums, what is the employee’s cost of the lowest cost coverage for employee-only?

A: Not Applicable, no premiums.

11. Q: Does the Fund have a mechanism by which premiums can be adjusted to comport with the affordability criteria of ACA?

A: Not Applicable, no premiums.

12. Q: Are the Plans offered by the Fund affordable? If so, do you require earnings information from the employer?

A: The Fund’s coverage is affordable under the collective bargaining agreements.

13. Q: Is there a waiting period for coverage under the Fund once contributions are made? If so, how long?

A: See Plan Rules (links above).

14. Q: Will the Fund track paid leave hours?

A: No.

15. Q: Will the Fund track Short-Term Disability (STD) / Long-Term Disability (LTD) payments and submit such information to employers?

A: No.

16. Q: Will the Fund take on the IRC section 6056 reporting requirements for employers with respect to union employees covered by the Fund?

A: No.

17. Q: Will the Fund notify employers of any individual who loses coverage and the reason for loss of coverage?

A: No.