



COMPLIANCE CONCERNS UPDATE

REPORTING, PENALTIES AND MORE

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NAHU

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Continuing Professional Credits



**Recertification Program Requirement
Continuing Professional Credit (CPC)**

The National Association of Health Underwriter's Registered Employee Benefits Consultant® (REBC®), Registered Health Underwriter (RHU®) and the Chartered Healthcare Consultant® (ChHC®) designations acquired from The American College January 1, 2017 began accepting new students into their newly released REBC® designation program January 1, 2017.

NAHU CPC Requirements: REBC, RHU & ChHC designation recipients need 24 credit hours every two years to maintain their designation. Each reporting period includes two calendar years from the program completion date. Credits are self reported during consecutive two-year periods. Those designees having earned their REBC, RHU or ChHC through the American College will begin their first reporting period from January 1, 2017 through December 31, 2018. Beginning January 1, 2017 all prior REBC & ChHC recipients will start over for the 2017 calendar year and remain in good standing until 24 credits are reported through December 31, 2018. This will provide graduates greater flexibility in regards to earning credits. Required credits can be earned at any time during the two-year period and/or earned through a single qualifying activity. Alternatively, the credits can be earned in smaller increments at any time within the reporting period.

- Designees bound by the CPC Recertification Program specified REBC, RHU and ChHC categories must earn continuing education (CE) credits—24 CE credits per reporting period from educational activities in acceptable subject matter areas following NAHC guidelines. Designees with more than one designation need only 24 credits to satisfy CPC requirements.
- Grandfathering rules, Emeritus and 1st time designees after January 1, 2017 - for detailed information about your requirements: https://nahu.org/media/1233/nahu_cpc_rebc_requirements_credits.pdf
- Where do I report my CPCs acquired through participation in a qualifying event? <http://nahu.inreachce.com/>

Session Title	Instructor	NAHU Live (mm/DD/YYYY)	
Signature	Print Name Legible (only signed submissions qualify – electronic signature acceptable)	State	NPN #

Attendance is tracked and can only qualify for credit if for the full duration of the event.

Contact: 844.257.0990 or professionaldevelopment@nahu.org [CPC Form](#)

REBC, RHU, and ChHC designation holders are required to self-report 24 continuing education credits every two years to maintain their designation.

This webinar, if attended during its live broadcast and until the conclusion, is worth one continuing education credit that can be reported in a designation holder's Online Learning Institute account.

In the handouts section is information on self-reporting and the professional development department's contact information if you should have any questions.

FOR YOUR INFORMATION



Today's presentation is available for PDF download in the handouts section of your webinar pane.

**RECORDING
IN PROGRESS**

This webinar is being recorded will be emailed to all attendees following the broadcast.

HAVE A QUESTION?



*Ask it in the questions box
at any time during the webinar.*

*We will address as many of
these as time permits at the end
of the webinar.*

Please note:

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This presentation is not to be duplicated or distributed.

Pamela Mitroff

Senior Director of Health Reform Compliance

Pamela Mitroff joined the staff at the National Association of Health Underwriters in March of 2011 as a Director of State Affairs. She was promoted to the new position of Senior Director of Health Reform Compliance in November 2013. In that role, Mitroff has provided NAHU members consultative compliance assistance, answering more than 1000 written member inquiries annually.

She has more than 30 years in the health care and workers' compensation insurance and cost control field. Mitroff is a licensed Illinois insurance producer and has held positions with a major insurance company and a third-party administrator of benefit plans for self-funded companies. She was a lobbyist for the Illinois State Chamber of Commerce, lobbying on health insurance, employee benefits and workers' compensation issues.

Prior to joining NAHU's staff, Mitroff had been an active NAHU member on federal, state and local levels. Mitroff established the professional lobbying role for the state association (ISAHU). She was Associate Chairman for Employee Benefits of NAHU's Legislative Council from 2007 to 2010. Mitroff previously had a Wheaton, Illinois based consulting firm, Pamela D. Mitroff Consulting, Inc. The firm provided services to insurance companies, employers, brokers and associations in the public policy, government relations, employee benefits compliance, marketing and training areas.

In 2012, Mitroff was awarded the prestigious Edward H. O'Conner Memorial Distinguished Service Award from the Chicago & Northeastern Illinois Association of Health Underwriters. She received NAHU's Distinguished Service Award in 2006 and the NAHU Region 3 Distinguished Service Award for Legislative activities in 2007.

She has a B.A. degree from Knox College in Galesburg, Illinois and an MBA from Dominican University in River Forest, Illinois.



LEGISLATIVE & REGULATORY SNAPSHOT

Congressional Actions

Tax Reform

- ACA's individual mandate penalties to obtain health insurance eliminated beginning in **2019**
- The medical-expense deduction is retained and temporarily expanded for two years by reducing the threshold to 7.5% of AGI, the level that was set prior to the enactment of the ACA
- **Did not address the employer exclusion of health insurance**

Continuing Resolutions

January 22, 2018

- Delays the Cadillac/excise Tax until January 2022
- One-year moratorium of the Health Insurance Tax for calendar year 2019
- Delays the Medical Device Tax until January 2020
- Six-year extension of the Children's Health Insurance Program (CHIP)

February 8, 2018

- Included numerous NAHU-supported Medicare changes, value-based insurance design (VBID), and four additional years of CHIP funding (through 2027)

March 23, 2018

- Package did not include the \$30 billion in market stability funds, as initially proposed

LEGISLATIVE & REGULATORY SNAPSHOT

Regulatory Actions

This Just In...

- “Grandmothered” plans given new life
 - Extended until end of year 2019
- ACA Affordability limit for 2019 –9.86%
 - Up from 9.56% in 2018
- IRS has announced limited bare-county SHOP relief (Notice 2018-27)
- HSA 2018 family limit restored to \$6,900
- Proposed rule aggregates electronic information return threshold of 250 – result more employers will file electronically
- PCORI fee due by July 31, 2018
 - No longer to be assessed for plan years ending after September 30, 2019
 - Calendar year plans last year for assessment is 2018 calendar year

ASSOCIATION HEALTH PLANS FINAL REGULATION

- Modifies the definition of “employer” under ERISA regarding AHPs that can sponsor group health coverage.
- Employers must:
 - Be in the same trade, industry, line of business, or profession;
-or-
 - Have a principle place of business within a region that does not exceed the boundaries of the same State or the same metropolitan area (can cross state lines)
- Groups or associations sponsoring the AHPs must be bona fide employment-based associations
- Self-employed individuals/sole proprietors are permitted to take part in associations
- Plans remain at the discretion of states and carriers

SHORT-TERM PLANS PROPOSED REGULATION

- Short-term plans (STPs), also known as short-term limited-duration insurance (STLDI) plans are currently limited to a maximum of 3-months under a regulatory policy established by the Obama Administration in 2016.
- Proposed rule issued February 20 would effectively end that policy and extend eligibility for STPs to 364 days (no more than 12 months), with the ability to renew coverage at the end of that period.
 - Coverage could only be renewed with consent of issuer, and consumer may need to undergo underwriting again.

HEALTH REIMBURSEMENT ARRANGEMENTS

Executive Order 13813 (October 12, 2017)

- Provides 120 days for the secretaries of HHS, Treasury and Labor to consider proposing regulations or revising guidance to expand Health Reimbursement Arrangements.
- The intent of this directive is to expand HRAs and allow employers to contribute more to their employees' HRAs, which could provide employees with more flexibility in how their healthcare is financed.

EMPLOYER REPORTING

Yes, ALEs (Employers)
Still Have to Report!

Prepare for Next Year Regarding W-2 Data

- Employers need to know when they will have access to their W-2 data
 - If a third party payroll vendor is involved, find out in advance when delivery is expected
 - Consider making it part of contract requirements for service
- Evaluate the possibility of using the Federal Poverty Line or Rate of Pay Safe Harbors instead of the W-2 Safe Harbor
- If the W-2 Safe Harbor will be needed, identify the employees in advance for whom exact data is needed and complete the forms for other employees in advance
- If date will not be available until too close to the January 31 deadline, file a request with the IRS for an extension of time to deliver forms to employees before January 31
- IRS warns an extension for filing may not occur in 2019

What If We Still Haven't Filed For Last Year?

- Employers who simply did not file for 2015 or 2016 are currently facing penalties of **\$250 and/or \$260 per form** (depending on the year) for failure to deliver to employees as well as duplicate penalties for failure to file the forms with the IRS
 - The penalty is only \$50 per form if the delinquency is corrected within 30 days of due date (but doubled to account for failure to deliver and failure to file)
 - The penalty is only \$100 per form if the delinquency is corrected more than 30 days after the due date but before August 1 of that year (but doubled to account for failure to deliver and failure to file)

Late Filing Considerations

- Obviously filing now brings the tardiness of an employer's filing to the IRS's attention
- Penalties for failure to file do not increase over time after August 1 of the year for which they were due... except
- Filing now avoids possible exposure to an even higher penalty reserved for employers who willfully refuse to comply with their reporting obligation **(\$540 per form for filing in 2019)**
- Employers who are counting on a lack of enforcement by the IRS should consider the recent guidance regarding penalty assessments related to 2015 employer shared responsibility non-compliance

Good Faith Compliance Relief – Not a Free Pass

- Under Good Faith Compliance relief, penalties will not be assessed for incorrect or incomplete information when employers can show they made good faith efforts to comply with the reporting requirements.
 - The relief applies to missing and inaccurate TINs and dates of birth and other required information.
 - Evidence of good faith efforts may include:
 - gathering necessary data and transmitting it to a third party
 - testing the ability to transmit data to the IRS, and
 - taking steps to ensure compliance for the following year
- Good Faith Penalty Relief was renewed for 2018! Don't count on it for next year....

EMPLOYER REPORTING

File These Items Under
“Good to Know”

Other Affordability Considerations

- The affordability threshold percentage for 2018 is 9.56%
 - It was 9.66% in 2016, 9.69% in 2017 and will be 9.86% in 2019
 - The percentage is based on the rate of projected premium growth relative to the rate of projected personal income growth.
- If the W-2 Safe Harbor is used for an employee, it must be used for each month the employee was offered coverage
- For partial year employees, the W-2 safe harbor can be applied using a fraction of the employee's W-2 wages compared to the cost of their coverage for the months they would have been eligible
 - The fraction is the number of months the employee was eligible divided by the number of months the employee was employed (In either case, a single day equal a full month)
- Safe harbors can differ by location, bona fide classes

Maintaining Documentation of Reported Data

- Employers should prepare and maintain detailed records to support the information reported on their 1094 and 1095 filings.
 - Maintaining complete records will help the employer in the event of an IRS examination regarding the accuracy of its filings
 - Well maintained records may also help the employer in the event they must dispute a penalty calculation presented in a Letter 226J
- IRS guidance is that the records should be maintained for at least three years from the due date of the filings (late filers should maintain their records at least three years from their filing date)

Recommended Documents To Retain

- Employers should retain documentation their selection of which affordability safe harbor they applied to their eligible employees
- They should also retain records of any calculations regarding the benefits eligibility of variable hour employees
- In addition, employers should retain the necessary payroll, open enrollment and demographic records needed to document the data reported in the individual 1095 filings as well as their 1094 transmittal

IRS “LOVE” LETTERS

What Employers Need to Know Regarding Letter 226J *And Letter 227*

IRS Penalty Letters

Per acting IRS commissioner David Kautter 10,000 letters have gone out – testimony April 2018

Required by law

80% have been resolved without any amounts due

Common errors seen so far

- 1094-C failure to assert transition relief
- 1094-C failure to say “yes” to offer of MEC

Common Error – Line 22 Box C

Form **1094-C** Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns

Department of the Treasury Internal Revenue Service

OMB No. 1545-2251

120116

2015

Information about Form 1094-C and its separate instructions is at www.irs.gov/form1094c

Part I Applicable Large Employer Member (ALE Member)

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

17 Reserved

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.

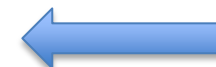
22 Certifications of Eligibility (select all that apply):

☐ A. Qualifying Offer Method ☐ B. Qualifying Offer Method Transition Relief ☐ C. Section 4980H Transition Relief ☐ D. 98% Offer Method

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature Title Date

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 61571A Form 1094-C (2015)



Common Error

Part III Columns (a) and (e)

Form 1094-C (2015)

Page **2**

Part III ALE Member Information—Monthly

		(a) Minimum Essential Coverage Offer Indicator		(b) Full-Time Employee Count for ALE Member	(c) Total Employee Count for ALE Member	(d) Aggregated Group Indicator	(e) Section 4980H Transition Relief Indicator
		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"/>	
27	Apr	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
28	May	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
29	June	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
30	July	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
31	Aug	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
32	Sept	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
33	Oct	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
34	Nov	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
35	Dec	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	

Code A if employer 50-99 relief; code B if eligible for 100 or more relief

Form **1094-C** (2015)

Important Considerations

- Consider the rules that were in effect for the year in question
 - Transition rules were in effect in 2015 that are no longer available today, for example
- May require an “archeological dig” through your files
- Employer may have changed vendors for reporting
 - Who has the employer data for the year in question?
 - Tip – ensure that employer owns their data or gets the data returned once filing of reports has occurred
- Maintain privacy of employee specific info
 - Important not to take action against an employee for obtaining subsidy even if it results in employer penalty

Letter 226 J

What's in the notice?

- A table itemizing the proposed payments by month (and specifying whether (a) or (b) penalty applies)
- An explanation of the table
- An employer response form (Form 14764)
- Listing of employees triggering penalties (Form 14765)
- Next steps– **including responding to the Letter 226J within 30 days of date of letter**
- Consequences of failing to act
- IRS Contact info

Letter 226J Sample



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

Tax year:

Letter date:

Employer ID number:

Contact name:

Contact ID number:

Contact telephone number:

Contact e-fax number:

Response date:

Dear

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

Proposed ESRP \$ [XXXXXX]

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:

- You did not offer minimum essential coverage (MEC) to at least []% of your full-time employees (and their dependents) and at least one of your full-time employees was certified as being allowed the PTC; or

ESRP Summary Table

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]

PTC Listing

Form 14765 (April 2017)			Department of the Treasury - Internal Revenue Service Employee Premium Tax Credit (PTC) Listing												
Any month not highlighted is a month that the employee received a PTC and no safe harbor or other relief from the ESRP was applicable. The employee is an assessable full-time employee for that month.															
Employer name SAMPLE										Employer ID number			Tax year 2015		
Employee Name (last, first)	SSN (last 4 digits)	All 12 months Indicator Codes (Form 1095-C, lines 14 and 16 combined)	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Additional Information Attached
Levy, Rachel	1234	1st row- filed	NoPTC	NoPTC	1H/2A	1H/2A	1H/2A	1H/2D	1B/2D	1B/2D	1B/2H	1B/2H	1B/2H	1B/2H	<input type="checkbox"/>
		2nd row- corr													
Slee, Malcolm	5678	1st row- filed	1B/2H	1B/2H	1B/2H	1H/2B	1H/2A	1H/2A	1H/2A	1H/2A	1H/2A	1H/2A	1H/2A	1H/2A	<input type="checkbox"/>
		2nd row- corr													
															<input type="checkbox"/>

Process

- Letter 226J received from IRS
 - Response deadline: 30 days
- Submit Form 14764
 - Agree and pay
 - Contest Penalty
- Letter 227
 - Revised Assessment
 - Opportunity to request conference
- Not an assessment – Notice 220J is
- Request pre-assessment conference or extension

Letter 227

- Intended to close ESR penalty inquiries
- Five letters
 - **Letter 227-J** acknowledges receipt of a signed Form 14764. An ALE uses this form to indicate that it agrees with the penalty amount calculated by the IRS in Letter 226J. Payment of the amount calculated is submitted with Form 14764. No response is required for Letter 227-J after the case will be closed.
 - **Letter 227-K** acknowledges receipt of information provided by the ALE and shows that the employer does not owe a penalty. This letter closes the case and does not require a response.
 - **Letter 227-L** is used when the ESRP (Employer Shared Responsibility Payment) has been revised based on the information submitted by the employer. It includes an updated Form 14765 with revised calculations. The Form 14765 lists an ALE's assessable full-time employees. An ALE receiving this letter can agree with the revised calculations or request a meeting to appeal the amount. **Requires a response**
 - **Letter 227-M** acknowledges the employer's submission but shows that the ESRP did not change. The ALE can agree or request a meeting with the IRS. **Requires a response**
 - **Letter 227-N** reflects the decision reached following an appeals review. The letter will also close the case without further action by the employer.

TAXES

Timelines & Thoughts

Cadillac Tax

- Delayed until January 1, 2022 -- Beware non-calendar year plans
- Notice 2015-16 (2/24/15) and Notice 2015-52 (6/30/15)
- Recap - 40% excise tax on the total cost of employer-sponsored coverage over a threshold amount
- The thresholds will be approx. \$10,800 for self-only and \$29,100 for other than self-only coverage
- Recent CBO estimate projects excise tax revenue at \$91 billion over a decade
- 25% of revenue from tax, 75% from increased income and payroll taxes
- Long ramp or cliff strategy for compliance?

Health Insurance Tax (HIT)

- In force for 2018
- On hiatus for 2019
 - May help mitigate individual mandate penalty repeal
- Ongoing lobbying efforts to repeal this tax and the Cadillac tax

Requirements, Reporting, Risks

QSEHRAs – New HRA/ Tax Plan

- “qualified small employer health reimbursement arrangement” funded solely by an eligible employer without salary reduction
- Eligible employer one who is not an ALE
- Employer cannot offer health coverage at all – includes dental, vision
- Benefit may vary based on price of individual policy based on age of employee and/or family members and number of family members eligible
- Provides payment or reimbursement of eligible employee’s expenses for medical care [Section 213(d)] incurred by the employee and eligible family maximum
- 2018 annual limit \$5,050 for individual employee/ \$10,250 for family members

Eligible Employees

- Plan is subject to nondiscrimination requirements with change from 5 years to employee who hasn't completed 90 days of service
- Must be offered to all eligible employees
 - Full-time
 - Non-seasonal
 - Employed 90 days
- Employee covered on an individual health insurance policy or spouse's group health plan
 - Employer must obtain proof of coverage
 - Maintain records related to ongoing coverage

Employer Reporting, Notice, Etc.

- Report benefit amount on Form W-2 of employee
- Annual notice to all eligible employees
 - Who is eligible for QSEHRA
 - Informs employee to notify Marketplace of QSEHRA benefit
 - Individual health insurance mandate and penalty reminder
 - Deadline: 90 days prior to beginning of calendar year or initiation of plan
- Not subject to ERISA or COBRA
- Subject to PCORI

Strategic Thinking on QSEHRAs

- Talk about it before another broker does – control the conversation
- CPAs may be uninformed and recommending QSEHRAs
- Group policy versus individual policy
 - Group coverage may be better and more economical
- Will you service individual policies for client with QSEHRA?
 - Referral to other broker could risk loss if broker retains client on return to group coverage
- Develop a package of services to retain client relationship if not servicing QSEHRA

Interactions May Cause Concerns

Medicare Secondary Payer

- Employers with 20 or more full-time and part-time employees for each working day in each of 20 or more calendar weeks (not necessarily consecutive) in preceding or current calendar years subject to MSP
- 100+ threshold for MSP due to disability
- ESRD, group plan primary for 1st 30 months
- Once threshold met, group plan becomes primary
- May need to inform carrier so claims paid correctly
- Employer subject to MSP cannot provide inducements to waive employer plan
- Medicare Data Match will recover payments made in error - eventually

Medicare Part D

- Notice of Medicare Part D creditable coverage due annually on October 15
- HDHPs may not be creditable coverage – important to assess and advise employees
- If not creditable and person hasn't purchased Part D, annual penalty for late enrollment

2019 Benefit and Payment Parameters Overview

- Shifting decisions to states
- More flexibility for EHBs in 2020
 - States can choose from one of 50 EHB-benchmark plans used for 2017
 - Replace one or more EHBs with same categories from other states benchmarks
 - Other select sets of benefits
- Eliminates standardized options display in 2019
- Eliminates meaningful difference requirement for QHPs
- Navigators need not have physical presence in state

More from 2019 BPP

- Removes AV levels of coverage for stand-alone dental plans (SADPs) in the exchanges to achieve more flexible plan designs
- No change in SADP annual cost-sharing limit of \$350 for one child and \$700 for 2 or more
- Affordability check when verifiable income is below 100% FPL
- Modifies requirements to check employer coverage rather than sampling after 2019
- Allows exchanges to discontinue APTC if no tax return has been filed
- SEP modest changes
- Exempts prior coverage requirement for SEP if service area had no QHPs through exchange
- Same day or prospective termination dates rather than 14 day notice

More BPP including MLR

- Modifies information needed to get state-requested adjustment to MLR standard in individual market
 - Streamlines process to request adjustment
 - Goal to stabilize markets
- Maintains user fee for FFE at 3.5%
- Increases user fee for SBE-FPs from 2% to 3%
- Direct SHOP enrollment
- Rate review threshold increased from 10% to 15%
- Plans begin filing for 2019 on May 9, 2018
- Open enrollment begins November 1, 2018

SOME OTHER COMPLIANCE THOUGHTS

Tips, Cautions & Be on the Lookout (BOLO)

Compliance Tips

- Update/Prepare plan documents
- Review and support employee classifications and independent contractor classifications
- Memorialize decisions
 - Measurement methods/periods, orientation periods, waiting periods
 - Safe harbors
 - Premium calculations
- Maintain proof of enrollment materials
- Maintain proof of offers of coverage and waivers
- Encourage employers to review benefit strategy – especially contributions and STD & LTD limits
- Identify key personnel to address issues

BOLO Compliance Items

Proposal to change Form 5500 -- target 2019

- End small employer exclusion for filing
- Schedule J added
 - Eligibility for plan – who was coverage offered to
 - Benefits offered
 - Funding of plan
 - Rebates or reimbursements and how used
 - COBRA offers and elections

Mental Health Parity

- Emphasis in part due to opioid crisis
- Concern that compliance is irregular

HIPAA

- Insurers revising BAAs with more stringent requirements

Self-funding for small employers

- Know the rules and over-communicate the risks
- States have been looking at reinsurance levels as a means to temper the market

Thank You! Questions?

Pamela D. Mitroff

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LIVE FROM

NAHU

COMPLIANCE UPDATE – NEW AND ONGOING CONCERNS

Slides and recording are available
<https://nahu.org/resources/publications/webinars>

NAHU Compliance Resources

As new changes come to health reform, let us help you be their resource

Compliance Corner:

- Webcasts
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- Tools
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