



# STATE INDIVIDUAL MANDATE REPORTING

**Presented by**  
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**Jennifer Spiegel Berman, JD, MBA, CEO of MZQ Consulting**

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# QUESTIONS?

You may ask your question in the questions box at any time. Any questions that we do not answer during the webinar will be posted on the compliance corner webpage in the coming weeks.

*The information herein should not be construed as legal or tax advice in any way. Regulations, guidance and legal opinions continue to change. The preparer has gathered public information and has attempted to present it in an easily readable and understandable format. Situations vary, technical corrections and future guidance may vary from what is discussed in the presentation.*

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*This presentation is not to be duplicated or distributed.*

# TODAY'S PRESENTERS

## **Jennifer Spiegel Berman, JD, MBA**

- CEO of MZQ Consulting, a company that provides a comprehensive suite of benefits compliance products to employers and brokers, including employer reporting and plan document services.
- Employee benefits attorney specializing in ERISA, COBRA, HIPAA, IRS code, the ACA, and other wellness plan rules and statutes.
- NAHU Roles:
  - Compliance Corner Committee
  - Employer Coverage Working Group
  - Legislative Chair, Maryland Association of Health Underwriters

## **Jessica Fulginiti Waltman**

- Principal of Forward Health Consulting, which provides consultative compliance services, content creation and regulatory support to brokers and benefit-industry clients.
- Twenty-one years experience working with health insurance brokers and state and federal policymakers.
- NAHU Roles:
  - Chair, NAHU Futures Advisory Council
  - NAHU Certification Program Author/Instructor
  - Compliance Corner Committee
  - Legislative Chair, Pennsylvania Association of Health Underwriters

# AGENDA

- Evolution of the Individual Mandate
- The “Problem” of New Jersey Reporting
- What To Do About It

# HOW WE GOT HERE

- The ACA originally included a requirement that most individual maintain health coverage, or pay a tax penalty
- Known as the “individual mandate” this rule applied from 2014-2018
- Efforts to repeal the ACA failed in July 2017
- The Tax Cuts and Jobs Act of 2017 reduced the penalty for individuals failing to maintain coverage to “\$0”

# STATE-INDIVIDUAL MANDATES

State	Effective Year
Massachusetts	2007*
District of Columbia	2019
New Jersey	2019
California	2020
Rhode Island	2020
Vermont	2020

# EMPLOYER OBLIGATIONS IN MASSACHUSETTS



- Only applies to Massachusetts employers with six or more employees
- Massachusetts does not use IRS reporting forms.
- Employers file the Health Insurance Responsibility Disclosure form with through the MassTaxConnect (MTC) web portal.
- The Annual Health Insurance Responsibility Disclosure (HIRD) Form for the last coverage reporting period in MA ( from December 15, 2018 through December 14, 2019) was due no later than December 15, 2019.



# SPOTLIGHT ON NEW JERSEY



# NEW JERSEY REPORTING

600118

**Form 1095-C**  
Department of the Treasury  
Internal Revenue Service

**Employer-Provided Health Insurance Offer and Coverage**  
 ▶ Do not attach to your tax return. Keep for your records.  
 ▶ Go to [www.irs.gov/Form1095C](http://www.irs.gov/Form1095C) for instructions and the latest information.

☐ VOID  
☐ CORRECTED

OMB No. 1545-2251  
**2019**

**Part I Employee**

1 Name of employee (first name, middle initial, last name)

2 Social security number (SSN)

3 Street address (including apartment no.)

4 City or town

5 State or province

6 Country and ZIP or foreign postal code

**Applicable Large Employer Member (Employer)**

7 Name of employer

8 Employer identification number (EIN)

9 Street address (including room or suite no.)

10 Contact telephone number

11 City or town

12 State or province

13 Country and ZIP or foreign postal code

**Part II Employee Offer of Coverage**

14 Offer of Coverage (enter required code)	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
15 Employee Required Contribution (see instructions)	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16 Section 4980H Safe Harbor and Other Relief (enter code, if applicable)													

**Part III Covered Individuals**

If Employer provided self-insured coverage, check the box and enter the information for each individual enrolled in coverage, including the employee. ☐

17	(a) Name of covered individual(s) First name, middle initial, last name	(b) SSN or other TIN	(c) DOB (if SSN or other TIN is not available)	(d) Covered all 12 months	(e) Months of Coverage											
					Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
17				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
18				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
19				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
20				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
21				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
22				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 60705M

Form **1095-C** (2019)

# NEW JERSEY REPORTING

## NJ State Mandate Reporting Requirements Apply To:

- (1) ALEs that employ NJ residents  
&
- (2) All business that sponsor self funded  
plans that cover NJ residents

***But who do  
they REALLY  
apply to?***

# OUT-OF-STATE EMPLOYERS

*"If you are an out-of-state employer who provides health coverage, you must ensure we receive any required 1095 document for **each New Jersey resident** you employ."*

*-State of New Jersey*



# APPLICABLE LARGE EMPLOYERS WITH FULLY-INSURED COVERAGE



- *“Fully insured employers should understand that an employer may share liability if its insurer or multi-employer plan does not file the required 1095 forms on time.”*
  - *State of New Jersey*

# FEDERAL INDIVIDUAL MANDATE REPORTING RELIEF DOES NOT APPLY

*“New Jersey is not following IRS practices on 1095-B forms for the 2019 tax year. The IRS is allowing some filers to notify primary enrollees that a 1095-B form is available if they request it. New Jersey requires that a 1095-B be sent to each primary enrollee.”*

*-State of New Jersey*



**1095 B Forms  
Must Be  
Mailed by  
March 2, 2020**

# SO WHAT'S THE PROBLEM?

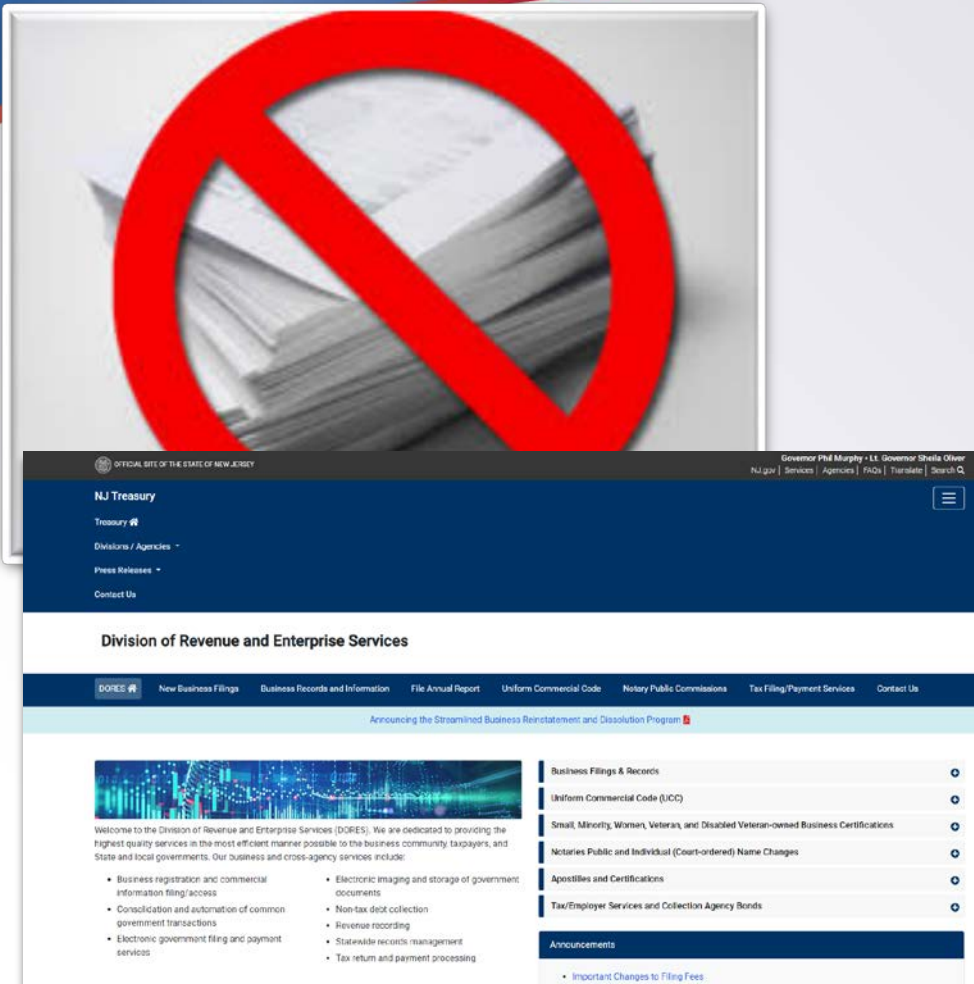
- Not all ACA reporting providers are handling NJ Reporting
- Many employers don't realize this
- They will need to self-report, BUT may not be able to do so independently because it is tricky and time consuming.



What about out-of-state carriers?!



# NJ'S SUBMISSION PROCESS



- No paper filings
- Must be in XML format that complies with the IRS's data schema
- Requires submitter to be credentialed
- State just established a manual, form-by-form XML submission process on 2/11/2020. Limited to up to 50 forms.



# CAN'T WE USE WHAT WE HAVE?!

“Coverage providers can send 1095 files containing data pertaining only to part-year and full-year residents of New Jersey, or, for ease of filing, ***New Jersey will accept the exact same 1095 data files*** sent to the federal Internal Revenue Service, even if the files include data about individuals who are not residents of New Jersey. ***Filers who provide information on non-residents of New Jersey should consult privacy and other laws pertaining to residents of other States before sending any sensitive or personal data to New Jersey.***”

Privacy



# ONLY REPORT NJ EMPLOYEES

- If you have the XML file, parse it to include only NJ state residents
- Most employers don't have the technical capacity to do this alone
- Can't just search by address—need to be able to add and subtract individuals

# WHAT DO I DO?!!



If you think you have clients that will be affected by this mess, don't worry!

Just follow these steps:

1. Prioritize the situation.

2. Assess your client base.

3. Evaluate each client's capabilities.

4. Seek out help if needed.

## STEP #1: PRIORITIZE THE SITUATION

← DON'T →  
DELAY



Mail by: March 2, 2020

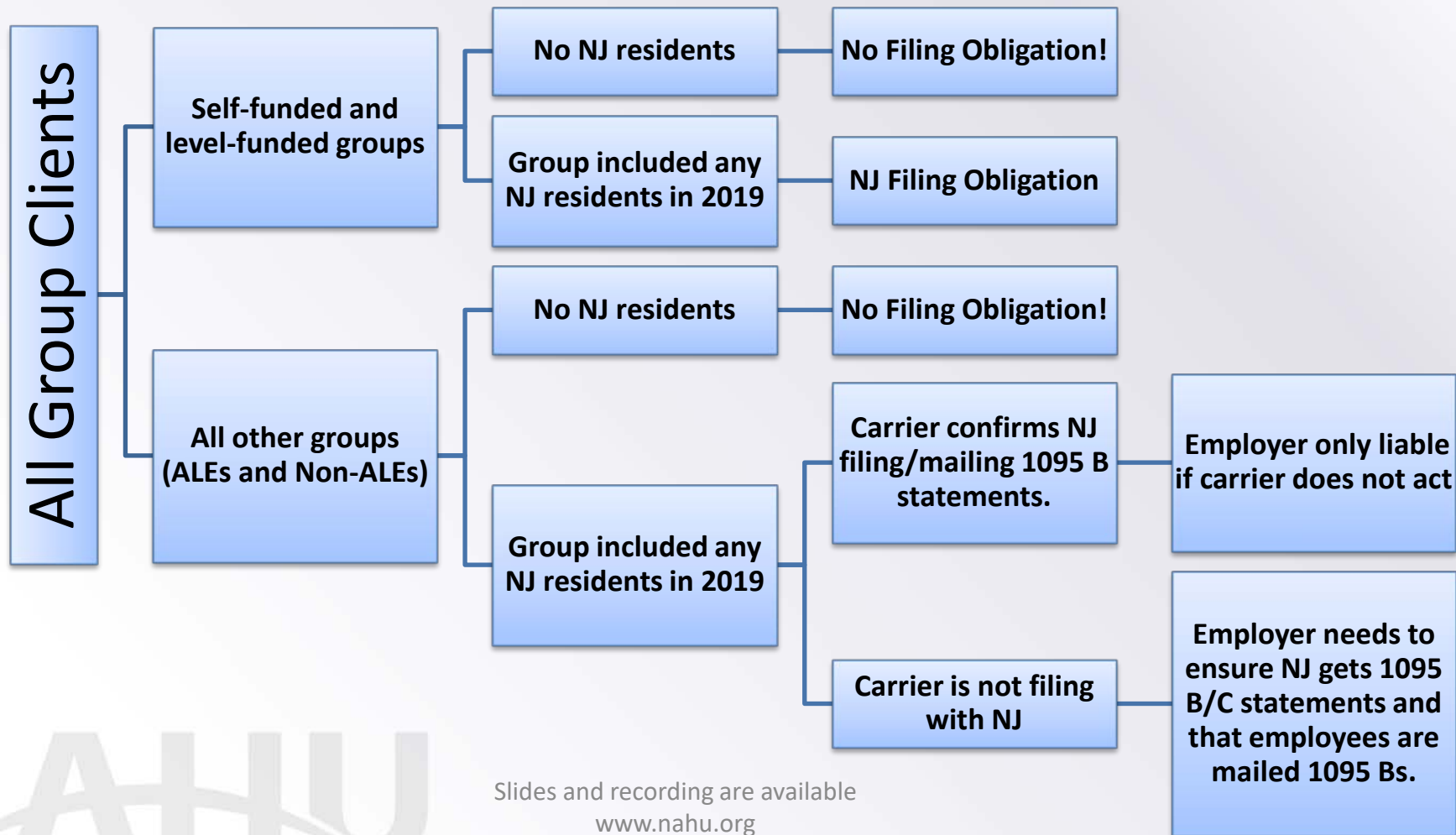
File by: March 31, 2020

## STEP #2: ASSESS YOUR BOOK OF BUSINESS



You are groaning now if you live in New Jersey,  
But, it doesn't matter if you live 3,000 miles from New Jersey...  
you still need to assess if and how this could impact your clients!

# ASSESSMENT PROCESS





## STEP #3: EVALUATE EACH CLIENT'S CAPABILITIES

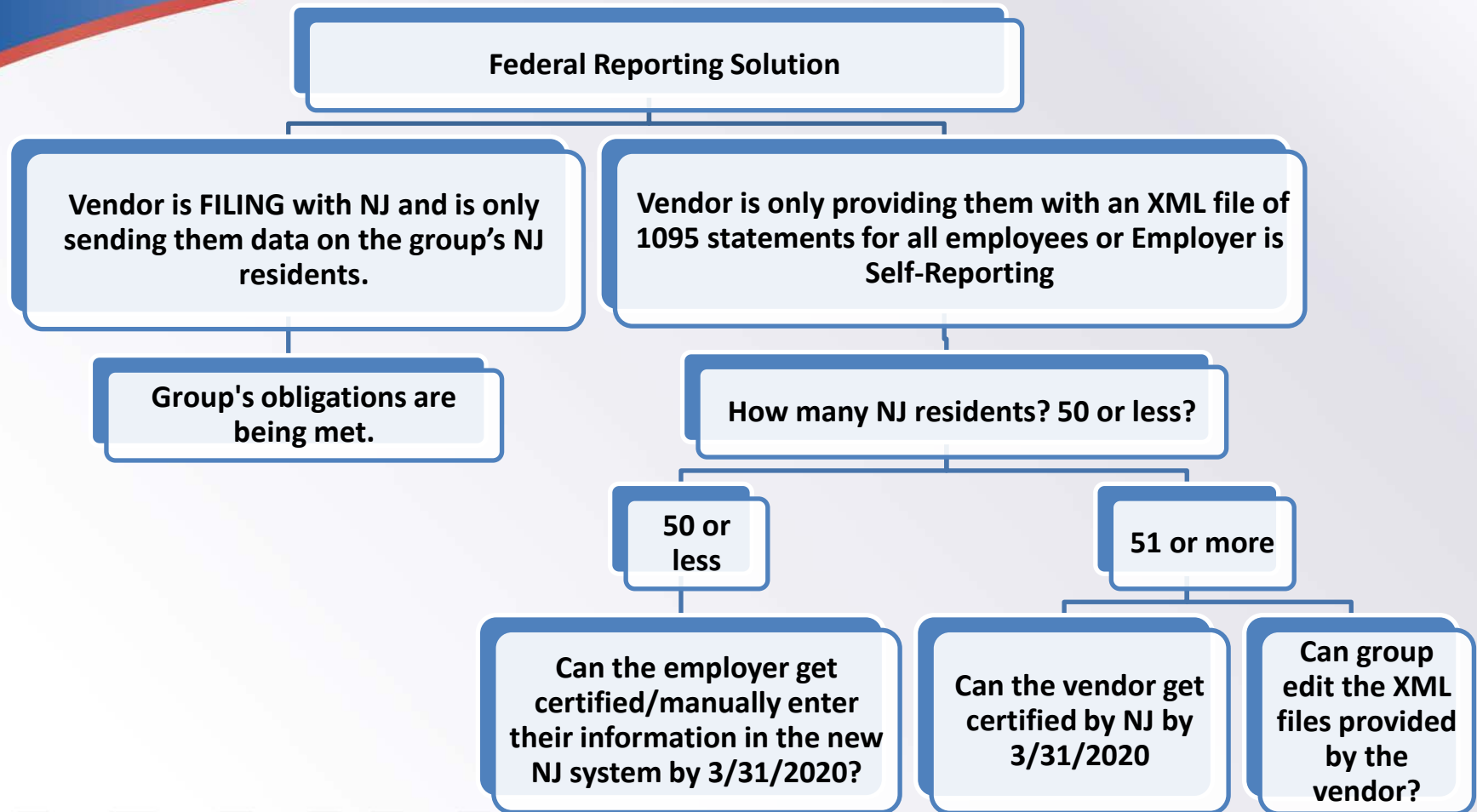
# Time To Evaluate

A close-up photograph of a hand with a finger pointing towards the text, and a yellow pencil held by another hand, positioned as if about to write or draw.

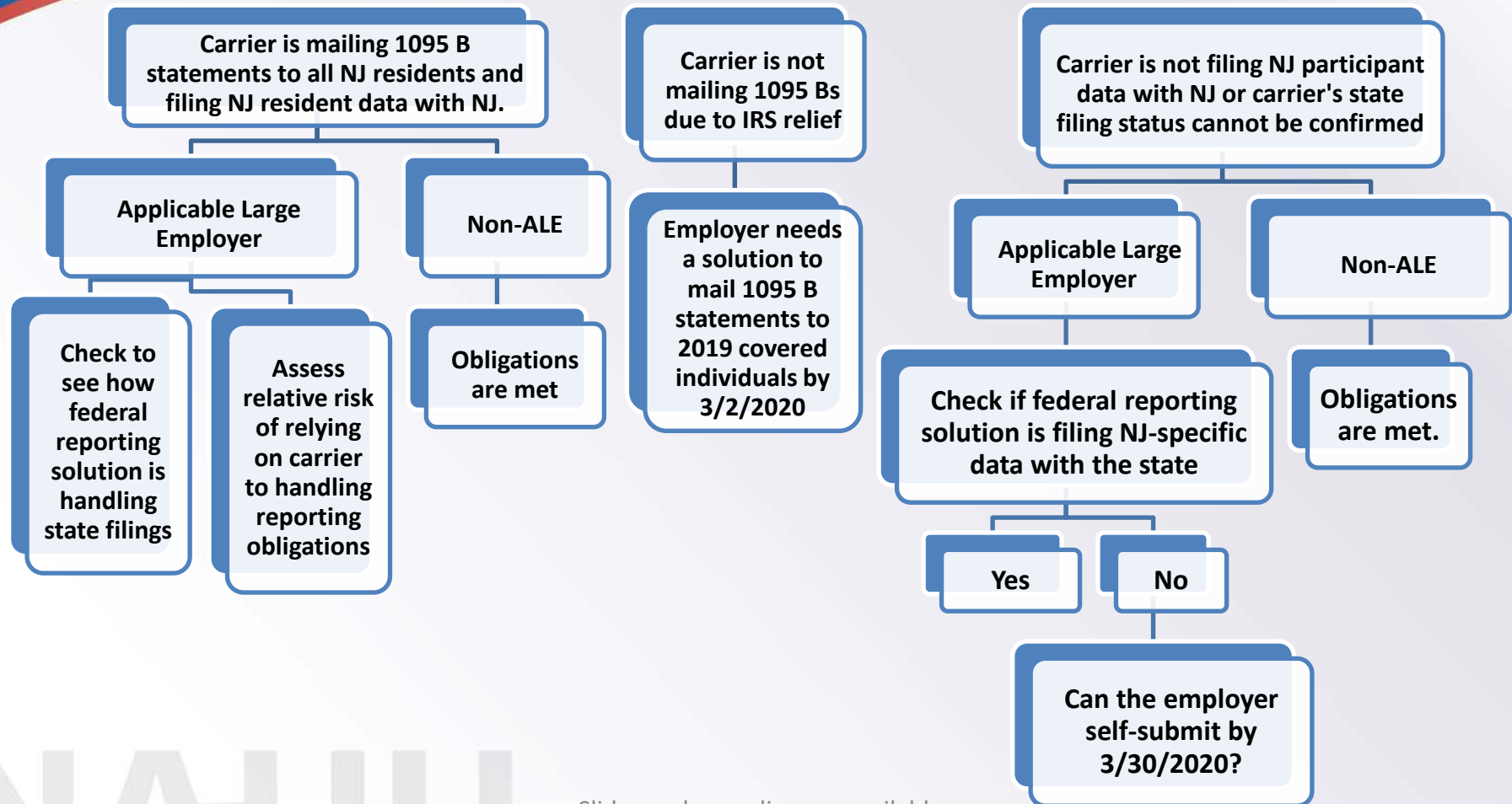
It's also critical to evaluate the capabilities and needs of each affected group.



# EVALUATION PROCESS FOR SELF-FUNDED GROUPS THAT COVER NJ RESIDENTS



# EVALUATION PROCESS FOR FULLY-INSURED GROUPS THAT COVER NJ RESIDENTS



## STEP #4: SEEK ASSISTANCE IF NEEDED

**IT IS**  
 **TO ASK  
FOR  
HELP**

Unfortunately, due to New Jersey's unique data formatting and transmission requirements, many affected business owners will not be able to complete their filings independently.

# SOURCES OF HELP

- Carriers
  - But they can't necessarily help with the employer obligations
- Specialty ACA Reporting Providers

# DISTRICT OF COLUMBIA



Reminder

## 2019 Reporting

**Due by June 30, 2020!**

### Important Considerations:

- Could have identical issues as N.J.
- No Paper Filings
- Hasn't issued guidance since August 2019
- Still finalizing transmission process for employers and reporting vendors



# MORE STATES TO COME FOR 2021

## California!



## And Rhode Island and Vermont Too!



Slides and recording are available  
[www.nahu.org](http://www.nahu.org)

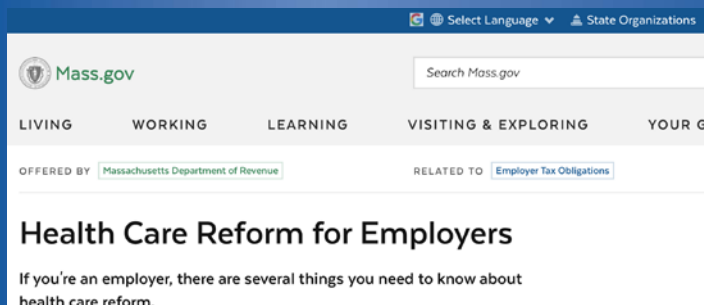
# RESOURCES



<https://nj.gov/treasury/njhealthinsurancemandate/employers.shtml>



<https://mzqconsulting.com/employers-not-prepared-for-new-jersey-reporting-requirements-face-legal-risk/>



<https://www.mass.gov/service-details/health-care-reform-for-employers>



<https://otr.cfo.dc.gov/sites/default/files/dc/sites/otr/publication/attachments/OTR%20Notice%202019%2004.pdf>



# QUESTIONS?

You may ask your question  
in the questions box at any time.  
Any questions that we do not answer  
during the webinar will be posted on the  
compliance corner webpage in the  
coming weeks.



# Share Your Client's Story!



As licensed insurance specialists that helps employers with compliance issues, we are asking if you can forward along any 226-J tax penalty letters your clients may have received. You may remove any identifying information that would be confidential. We hope an influx of these letters to Congress will show what a significant problem this is for the employer community and help solve this issue by passing HR 4070 and S 2366.

Please email [legislative@nahu.org](mailto:legislative@nahu.org) and attach the 226-J Tax letters in your email along with any contact information