



CASH IN LIEU & OTHER COMPLIANCE CORNER FAQs

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Slides and recording are available
www.nahu.org

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The president of Blue Water Benefits Consulting, Ruthann's career in human resource and employee benefits spans 38 years working from both the consulting side of benefits and the employer's side. As a compensation and benefits manager for a large international employer, she had first-hand experience working with compliance requirements in both the U.S., Canada and several European countries.

Since the passage of the PPACA, Ruthann has also been teaching courses for insurance agents and accountants on the components and impact of healthcare reform. Ruthann speaks throughout the country on the PPACA to employers and has partnered large insurance carriers to consult on healthcare reform. She currently serves on several PPACA advisory groups and is the PPACA compliance consultant to a number of national employer associations.

AGENDA

- CASH IN LIEU
 - Paying for COBRA
 - Medicare Second Payer
- EMPLOYER REPORTING
 - Applicability
 - HRAs
- NEW DEFINITION OF SMALL GROUP
- NON-DISCRIMINATION
- EMPLOYERS PAYING FOR INDIVIDUAL INSURANCE

CASH IN LIEU

One employer strategy for controlling costs has been to adopt an arrangement under which an employee is offered cash as an incentive to waive health care coverage.

This practice is also known as “cash in lieu”



CASH IN LIEU

Cash in lieu arrangements may take several different forms:

- Unrestricted taxable cash
- May require the employee have other group coverage
- In lieu of plan participation the employee receives a contribution to their health FSA.

CASH IN LIEU

Cash in lieu arrangements and affordability:

- Nov 26, 2014 DOT issues final regulations regarding the individual mandate
- Employer contributions to cafeteria plans only considered if:
 - The employee may NOT elect to receive cash
 - The cash in lieu amount may be used to purchase minimum essential coverage
- Adds to the employee's cost of coverage the opt-out amount the employee does not receive in order to receive coverage

CASH IN LIEU

Cash in lieu arrangements and affordability:

- Affects employer shared responsibility
- Affects 1095-C reporting

CASH IN LIEU

Cash in lieu arrangements and affordability:

An example:

- The employer pays \$1,800 cash in lieu if the employee waives health care coverage; and
- The employee contribution to the lowest cost plan at a single tier is \$75 (under the FPL safe harbor for affordability)

In this example, employees' cost of coverage is \$225 per month. The \$75 contribution plus 1/12 of the \$1,800 cash in lieu amount.

CASH IN LIEU

Cash in lieu arrangements and affordability:

An example:

- The employer gives a \$1,800 cash in lieu if the employee waives health care coverage that may **only** go into a Health FSA (assuming the Health FSA is an excepted benefit); and
- The employee contribution to the lowest cost plan at a single tier is \$75 (under the FPL safe harbor for affordability)

In this example, employees' cost of coverage is \$75 per month.

CASH IN LIEU

Cash in lieu arrangements and reporting:

Let's assume in the above examples the employer is using the FPL safe harbor for affordability - Line 16 on Form 1095-C

- Example 1 results in line 16 being left blank exposing the employer to a possible penalty
- Example 2 line 16 would reflect code 2G.

CASH IN LIEU

- MEDICARE SECOND PAYER
- PAYING FOR COBRA
 - Former employees are “stuck” with COBRA rates

REPORTING REQUIREMENTS

Beginning in 2015 large employers have annual reporting requirements concerning whether and what health coverage they offer to their full-time employees.

Form **1095-C** **Employer-Provided Health Insurance Offer and Coverage** ☐ VOID ☐ CORRECTED **2014**
Department of the Treasury Internal Revenue Service OMB No. 1545-0047
Information about Form 1095-C and its separate instructions is at www.irs.gov/1095c.

Part I Employee **Applicable Large Employer Member (Employer)**

1 Name of employee 2 Social security number (SSN) 7 Name of employer 8 Employee identification number (EIN)
3 Street address (including apartment no.) 9 Street address (including room or suite no.) 10 Contact telephone number
4 City or town 5 State or province 6 Country and ZIP or foreign postal code 11 City or town 12 State or province 13 Country and ZIP or foreign postal code

Part II Employee Offer and Coverage

14 Offer of Coverage (enter required code)
15 Employee Share of Lowest Cost Monthly Premium for Self-Only Minimum Value Coverage
16 Applicable Section 4980A-Safe Harbor (enter code, if applicable)

Part III Covered Individuals
If Employer provided self-insured coverage, check the box and enter the information for each covered individual: ☐

(a) Name of covered individual(s)	(b) SSN	(c) COB (if SSN 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"/>	<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"/>	<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"/>	<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"/>	<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"/>	<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"/>	<input type="checkbox"/>

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 832759H Form 1095-C (2014)

EMPLOYER REPORTING REQUIREMENTS

- FORMS 1094-C AND 1095-C
- Applicable to all ALEs
 - Eligibility for mid-size transition does not eliminate the need to report
 - No plan does not eliminate the need to report
 - The time to begin preparing is NOW
- Reporting COBRA
 - Reported differently if a reduction in hours versus separation from service
 - Reported differently if the employees elects COBRA
 - Code 2B line 16 provides employer penalty relief (not a full-time employee)

EMPLOYER REPORTING REQUIREMENTS

- Health Reimbursement Accounts - Draft 2015 instructions for completing reporting requirements include clarifications regarding HRAs.
 - Employers with fully insured group plans who maintain a self-funded HRA must separately report the HRA coverage.
 - Small employers with fully-insured plans that maintain self-funded HRAs will be required to complete forms 1094-B/1095-B
 - ALEs with fully-insured plans that maintain self-funded HRAs will now be required to complete Part III of form 1095-C

SMALL GROUP TO 100

Beginning with the 2016 plan year, under ACA the “small” group definition is up to and (including) 100 full-time employees (FT EEs) and full-time equivalents (FTEs).

SMALL GROUP TO 100

- Market Reforms
 - Covering EHB
 - Metallic levels
- Rating Reforms
- Be Aware - early renewal and transition
- Participation requirements - limited to the annual open enrollment applicable to small group

NON DISCRIMINATION

The Affordable Care Act (ACA) subjects insured group health plans to similar rules as those contained within Internal Revenue Code 105(h) if they discriminate in favor of these persons, except for insured grandfathered plans, for as long as they remain grandfathered. The enforcement of this provision has been delayed.

NON DISCRIMINATION

- Fully-Insured - Delayed the enforcement of this ACA provision in Notice 2011-1 until regulations are released. As of today, the regulations have still not been released.
 - Employers will be given time to comply with the regulations
 - Many employers continue to discriminate
 - Planning should begin.
- Self-funded - Non discrimination is in place.

EMPLOYERS PAYING FOR INDIVIDUAL HEALTH INSURANCE

Employer payment plans are considered to be group health plans subject to the market reforms, including the prohibition on annual limits for essential health benefits and the requirement to provide certain preventive care without cost sharing. Notice 2013-54 clarifies that such arrangements cannot be integrated with individual policies to satisfy the market reforms

Thank You for Attending

Frequently Asked Questions

Have a question on the employer responsibility requirements? Perhaps your burning question is about PPACA's subsidies. Now you can get answers 24 hours a day, seven days a week with NAHU's newest Compliance Corner benefit: Frequently Asked Questions. We've posted dozens of the questions that you've been asking along with the answers legislative@nahu.org

