



# Upcoming Affordable Care Act Notices And Deadlines

Insights

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Many Affordable Care Act (ACA) requirements and deadlines are new and difficult to navigate. Below you will find information about Federally Facilitated Marketplace (FFM) Notices, which some employers may receive soon. Additionally, you will find below a reminder about approaching deadlines for health coverage reporting.

## What Is The Federally Facilitated Marketplace's Employer Notice Program?

The ACA requires the FFM to notify employers who have employees that are receiving advance premium tax credits (APTCs). Applicable large employers can be subject to a fee, even if only one of their full-time employees enrolls in a plan through the FFM and receives a tax credit. These FFM Notices will inform employers which of their employees received a tax credit. The first set of these Notices will be sent in spring 2016 and will be based on applications for credits received during the Open Enrollment period.

APTCs are provided to individuals to reduce the costs of health insurance premiums. When individuals apply for coverage through the FFM, they may state – erroneously or not – that their employer did not offer them health coverage, that the offered coverage was not affordable, or that the offered coverage did not provide minimum value.

As a result of these statements, the employee may be eligible for a credit. Based on these applications alone, the FFM will send Notices to employers. Notices will not state that the employer owes an Employer Shared Responsibility Payment because only the Internal Revenue Service (IRS) can assess this fee.

## Why Are We Receiving This Notice And What Should We Do About It?

You should be on the lookout for these Notices for a number of reasons. First, it appears that the FFM will send the Notices, but we do not know what they will look like. Next, the FFM will send the Notices to employers based on the address listed on the relevant employee's application. Thus, the address may not be accurate or it may be addressed to someone who is not typically involved in benefit administration. Finally and most importantly, there is a time-sensitive appeals process.

Because Notices will be sent solely based on employee's application forms, you could receive a Notice even though you offered all eligible employees affordable coverage that meets minimum value standards. If the Notice is erroneous, you should file an appeal. This appeal must be filed within 90 days and can be submitted [online](#) or in the mail.

Even though the IRS is the only entity that can assess an Employer Shared Responsibility Payment, if you can establish with the FFM that you provided the relevant employee the necessary minimum coverage, you can avoid an IRS assessment altogether. Moreover, if your appeal is granted, the FFM will inform the employee receiving APTCs that coverage is available, something the employee may not have been aware of.

If you receive a Notice erroneously, you may want to wait for the FFM to resolve the appeal rather than directly discuss the error with your employee. The ACA has strict anti-retaliation rules, and you should avoid any discussions that could implicate these rules. If you receive a Notice and are uncertain how to proceed, it is recommended that you seek counsel.

Furthermore, if you did not receive a Notice in 2016, you may still receive it in subsequent years. This is the first year that Notices will be issued, and the Center for Medicare and Medicaid Services has indicated that the program will only expand in the future.

### Health Coverage Reporting Deadlines

As an additional reminder, deadlines to file health coverage reports have either passed or are fast approaching. For one, the deadline to provide individuals 1095 Forms passed on March 31, 2016. Additionally, health coverage information must be filed with the IRS soon. Below you will find a chart outlining those deadlines.

	Applicable Large Employers (ALEs)	Self-Insured Employers (Non-ALEs)	Coverage Providers
<b>File 1094-B and 1095-B with the IRS</b>	Not applicable	Paper: May 31 E-File: June 30	Paper: May 31 E-File: June 30
<b>File 1094-C and 1095-C with the IRS</b>	Paper: May 31 E-File: June 30	Not applicable	Not applicable

*Note: if you are filing more than 250 1095 forms, you MUST file electronically.*

With these deadlines approaching, it would be to your benefit to prepare these forms as soon as possible.

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### Service Focus

