



Steven L. Beshear  
Governor

**PERSONNEL CABINET**  
501 High Street, 3<sup>rd</sup> Floor  
Frankfort, Kentucky 40601  
Phone (502) 564-7430  
Fax (502) 564-7603  
www.personnel.ky.gov

Dinah T. Bevington  
Secretary

MEMORANDUM

To: Employers Participating in KEHP

From: Mary Elizabeth Bailey, Commissioner *MEB*  
Dept of Human Resources Administration

Date: October 6, 2015

Subject: Affordable Care Act (ACA)

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As you are probably aware, the Affordable Care Act (ACA) established Employer Shared Responsibility provisions that require the Commonwealth of Kentucky to offer minimum essential health insurance coverage that meets federal standards to all full-time employees and their dependents.

Coverage provided by the Kentucky Employees' Health Plan (KEHP), of which you are a participating agency, is considered minimum essential health insurance coverage that meets the federal standards.

In order to ensure compliance with the Employer Shared Responsibility provisions, the Commonwealth of Kentucky [including all agencies that share the Employer Identification Number (EIN) of the Commonwealth of Kentucky] must do the following: 1) identify all full-time employees and offer those employees and their dependents health insurance coverage, 2) provide health insurance coverage and offer of coverage information to employees, and 3) report health insurance coverage and offer of coverage information to the IRS. The failure to comply with the Employer Shared Responsibility provisions will subject the Commonwealth to penalties imposed by the IRS.

**Identifying Full-Time Employees**

The ACA defines a full-time employee as an individual employed on average at least thirty (30) hours of service per week (or 130 hours of service per month). As you know, the Personnel Cabinet does not retain your agency's time data in KHRIS. On July 2, 2014, the Personnel Cabinet issued a memorandum to outline the process for identifying full-time employees that are benefits eligible under the ACA. Your agency should continue to follow the guidance in the July 2<sup>nd</sup> memorandum to determine which of your employees are eligible for health insurance benefits under the ACA. Additional information will be forthcoming to assist you in complying with this portion of the ACA in the coming months.

## Employer Reporting Requirements

After receiving updated information, the Personnel Cabinet has determined it can assist your agency with this requirement, even though it does not specifically record your agency's time data in KHRIS.

As you may recall, the Personnel Cabinet issued a second memorandum addressing the ACA requirements on December 29, 2014. The memorandum stated that the Personnel Cabinet "cannot report this information on your behalf" because the Personnel Cabinet does not possess your agency's time data information and is not the employer of your agency's employees.

Since the issuance of the December 29<sup>th</sup> memorandum, the IRS has published draft reporting forms, instructions for completing the forms, Frequently Asked Questions, and various guidance regarding the employer reporting requirements. The IRS continues to develop and publish new information regarding the employer's reporting requirements. In fact, the latest forms and instructions were published as recent as September 16, 2015.

After a thorough review of the employer reporting guidance and procedures published by the IRS, the Personnel Cabinet has determined that possession of your agency's employee time data is not necessary in order to report health insurance coverage data to the employee and the IRS. Further, because your agency shares the same EIN as the Commonwealth of Kentucky, it is important that, to the extent possible, there be only one consolidated "employer" report submitted to the IRS.

For the reasons stated above:

- The Personnel Cabinet will be issuing employee health insurance coverage statements to your agency's employees.
- The Personnel Cabinet will be reporting the coverage information to the IRS (see additional information below).
- This will relieve your agency of the burden of issuing the employee statements and reporting to the IRS.
- At this time, the Personnel Cabinet should have all information regarding your employees that is needed to accurately report coverage information to the employee.
- Should additional information be required, the Personnel Cabinet will contact you.

## Information Required from Your Agency to Assist With IRS Reporting

The Personnel Cabinet will be reporting health insurance coverage information to the IRS on Form 1094-C (See Exhibit 1). In order to accurately report information on the form, the Personnel Cabinet will require the following information from you:

1. The number of your full-time employees for each calendar month, January 2015 through December 2015. Do not count any employee in a Limited Non-Assessment Period (i.e. newly hired full-time employees in a waiting period and employees who are not in full-time positions and who are still in their "measurement periods", as more thoroughly explained in the July 2, 2014 memo). This corresponds to Part III, Lines 24 – 35, Column (b) of the Form 1094-C.
2. Total employee count (including full-time, non-full-time, and employees in a Limited Non-Assessment Period) for each calendar month, January 2015 through December 2015. You must use the first day of each month to determine the number of employees per month. This corresponds to Part III, Lines 24 – 35, Column (c) of the Form 1094-C.

Your organization will need to complete the form attached as **Exhibit 2** and submit the form to the Personnel Cabinet on or before December 15, 2015. This form shall be submitted to Sharron Burton, Personnel Cabinet, 501 High Street, 3<sup>rd</sup> Floor, Frankfort, KY 40601.

Employee coverage information for 2015 is reported in early 2016. The IRS has stated that employers that make a good faith effort to comply with the reporting requirements will not be subject to penalties in 2016. We expect the IRS to provide feedback to the Commonwealth after the reports are reviewed to ensure that future reports are in accordance with the IRS requirements and standards. This feedback may result in reporting changes in 2017 for the 2016 health plan year. The Personnel Cabinet will keep you advised should any reporting requirements or processes change in the future.

We apologize for any confusion our prior correspondence may have caused. If you have any questions, feel free to contact me at 502-564-7571 or [marye.bailey@ky.gov](mailto:marye.bailey@ky.gov).

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

Form **1094-C**  
Department of the Treasury  
Internal Revenue Service

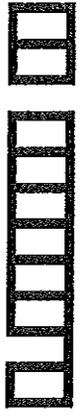
Information about Form 1094-C and its separate instructions is at [www.irs.gov/form1094c](http://www.irs.gov/form1094c)

CORRECTED

**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)			
11 Street address (including room or suite no.)		10 Employer identification number (EIN)	
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	

For Official Use Only



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? . . . . .

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)

PART

**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"/>	

**Part IV Other ALE Members of Aggregated ALE Group**

Enter the names and EINs of Other ALE Members of the Aggregated ALE Group (who were members at any time during the calendar year).

	Name	EIN	Name	EIN
36			51	
37			52	
38			53	
39			54	
40			55	
41			56	
42			57	
43			58	
44			59	
45			60	
46			61	
47			62	
48			63	
49			64	
50			65	

EXHIBIT 2

**FORM 1094-C**  
**AUTHORITATIVE TRANSMITTAL**  
**AGGREGATE EMPLOYEE COUNT INFORMATION**

Entity Name: \_\_\_\_\_

Entity Address: \_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State Zip

Entity Contact Name: \_\_\_\_\_

Entity Contact Telephone No.: \_\_\_\_\_

Entity Contact Email Address: \_\_\_\_\_

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**Part III, Lines 24-25, Column (b)**

Full-time employee count. Enter the number of full-time employees for each month, but do not count any employee in a Limited Non-Assessment Period<sup>1</sup>.

Jan	<input type="text"/>	Apr	<input type="text"/>	July	<input type="text"/>	Oct	<input type="text"/>
Feb	<input type="text"/>	May	<input type="text"/>	Aug	<input type="text"/>	Nov	<input type="text"/>
Mar	<input type="text"/>	June	<input type="text"/>	Sept	<input type="text"/>	Dec	<input type="text"/>

**Part III, Lines 24-25, Column (c)**

Enter the total number of all your employees, including full-time and non-full-time employees and employees in a Limited Non-Assessment Period for each calendar month. You must use the first day of each month to determine the number of employees per month.

Jan	<input type="text"/>	Apr	<input type="text"/>	July	<input type="text"/>	Oct	<input type="text"/>
Feb	<input type="text"/>	May	<input type="text"/>	Aug	<input type="text"/>	Nov	<input type="text"/>
Mar	<input type="text"/>	Jun	<input type="text"/>	Sept	<input type="text"/>	Dec	<input type="text"/>

<sup>1</sup> A Limited Non-Assessment Period generally refers to a period during which the ALE Member will not be subject to an assessable payment under section 4980H(a), and in certain cases section 4980H(b), for a full-time employee, regardless of whether that employee is offered health coverage during the period. An example of a Limited Non-Assessment Period is a waiting period for newly hired employees before they are eligible for benefits under the Look-Back Measurement Method.