

FAQ FOR EMPLOYERS

How Certain Affordable Care Act Provisions Affect Employers Contributing to the Line Construction Benefit Fund

October 2015

Dear Contributing Employer:

The Line Construction Benefit Fund (LINECO) is a **multiemployer plan**, and certain special rules apply with respect to its participating employers under the Affordable Care Act (ACA). As a courtesy to its contributing employers, LINECO is issuing this FAQ to explain how LINECO believes participating employers can best comply with certain ACA requirements, **in particular the new reporting requirements**.

This FAQ is informational only, and is based on our interpretation of the Affordable Care Act's regulations and guidance related to multiemployer plans. It is not legal advice. You should rely on the interpretation of your own advisors if it differs from ours.

In this FAQ, "Fund" means the Line Construction Benefit Fund.

I. GENERAL QUESTIONS REGARDING THE ACA AND MULTIEMPLOYER PLANS

1. Which employers are subject to the employer mandate penalties?

"Applicable large employers" are subject to ACA's employer mandate. In general, an employer is considered an "applicable large employer" for a calendar year if it employed an average of at least 50 full-time employees during the preceding calendar year. A "full-time employee" is a person who, for a calendar month, is employed an average of at least 30 hours per week with that employer. 130 hours in a calendar month is considered equivalent to 30 hours per week. The hours worked by all non-full-time employees each month are added together and divided by 120 to determine full-time equivalents (FTEs). The resulting FTE total is added to the number of actual full-time employees for the purpose of determining whether an employer is an applicable large employer. Note that although the hours worked by part-time employees are counted in this manner to determine whether the employer is "large," the ACA does not require employers, even applicable large employers, to provide those part-time employees with health care coverage.

The federal government has issued several rules and notices, and has developed various calculation methods, to determine which employers are "large," and which employees are "full-time." You are strongly encouraged to seek legal counsel for further information.

There is a one-year transition rule under which employers with 50-99 full-time employees will not be subject to the penalties until 2016. They are, however, still subject to the reporting requirements for 2015.

2. What are the special rules for multiemployer plans?

Under an interim rule still in effect, applicable large employers who offer health coverage to employees through a multiemployer plan under the terms of a collective bargaining agreement or participation agreement have satisfied their requirement to provide health coverage to those employees, provided that the multiemployer plan's coverage:

- Provides minimum value coverage;
- Is offered to dependents (defined as children under age 26); and
- Is affordable.

3. Does the benefit plan provided by LINECO meet the ACA's minimum value requirements?

Yes. The benefit plan provided by LINECO for active employees provides minimum value. This means the percentage expected to be paid by LINECO (not the participant) is in the aggregate at least 60% of the participant's health care costs.

4. Does the benefit plan provided by LINECO meet the ACA's dependent coverage requirements?

Yes. Dependent coverage is automatically provided to any employee (participant) who is eligible due to satisfaction of the Plan's eligibility requirements.

A "dependent" is the employee's legal spouse or a child. A covered "child" is a natural or adopted child, a step-child or foster child. Children can remain covered until the employee's coverage terminates, or until the end of the month in which the child's 26th birthday occurs, whichever occurs first.

LINECO only provides family coverage. It does not offer tiered coverage, i.e., employee-only, employee + one, family, etc. All family members who meet LINECO's definition of "dependent" are automatically covered, without the need for enrollment, for all periods in which the employee is covered. There is no enrollment process allowing employees to choose which dependents they want to cover.

5. Is the benefit plan provided by LINECO affordable for the employee?

For the purpose of the ACA's employer mandate, "affordable" means that the employee pays less than 9.56% of his household income or greater for the health coverage.

LINECO does not require the employee to pay any portion of the cost of coverage, although it does allow employees who are underemployed or unemployed to make self-payments to continue their coverage (similar to Fund-subsidized COBRA coverage). Because no employee share is withheld by the employer, the answer is "yes," LINECO's coverage is affordable.

If, however, an employer (not LINECO) requires some or all of its employees to pay a portion of the cost of their health care coverage, then the employer—not LINECO—will have to determine whether the coverage is affordable. LINECO does not have the information necessary to determine affordability. The employer can determine affordability using one of the affordability safe harbors in the ACA regulations. The safe harbors are summarized in Q&A 19 on an IRS FAQ posted at: <http://www.irs.gov/Affordable-Care-Act/Employers/Questions-and-Answers-on-Employer-Shared-Responsibility-Provisions-Under-the-Affordable-Care-Act>.

6. Do LINECO's eligibility requirements comply with the waiting period rules?

Yes.

In general, the ACA prohibits waiting periods of longer than 90 days. An additional 30-day orientation period is also permitted. These rules make sense for single-employer plans, but they are problematic for multiemployer plans like this one whose participants may work for more than one signatory employer, and whose work periods are variable and seasonal. The federal regulators understand that the 90-day waiting period may be inappropriate for multiemployer plans, and have therefore issued guidance stating that a multiemployer plan that has an eligibility provision designed to accommodate a unique operating structure will be considered in compliance with the waiting period rules. Since LINECO's eligibility rules are designed to accommodate a unique operating structure, its eligibility rules comply with ACA's waiting period requirements.

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II. QUESTIONS RELATED TO 1095 REPORTING (Also called Section 6056 Reporting)

7. What are ACA's reporting requirements for the 2015 tax year?

Applicable large employers (50 or more full-time employees) are required under ACA Section 6056 to report on the health coverage they offer to their full-time employees starting with the 2015 tax year. Similarly, health plans will be required under ACA Section 6055 to report on the actual months of coverage during the year. Both employers and plans will report on whether or not the coverage they provides meets certain standards. For more information, please go to <http://www.irs.gov/Affordable-Care-Act/Affordable-Care-Act-Tax-Provisions>.

The following table provides a brief summary of the reporting requirements.

ACA Reporting Requirements in Brief

	Applicable large employer (50+ FT employees)	Health plan, including a multiemployer plan
This IRS form is used as a cover page, aggregating the individual information forms sent to IRS.	Form 1094-C	Form 1094-B
This is the form with individual employee details, specific to each employee. It is sent to IRS and given to each employee.	Form 1095-C One form for each employee who was either: 1) a full-time employee for any month during the reporting year, or 2) for whom you made a contribution to this or another multiemployer plan (even if not full-time)	Form 1095-B One form per health plan participant (includes family)
Due dates for calendar year 2015 reporting period	<ul style="list-style-type: none"> • February 1, 2016 to supply form to employee (1/31/16 is a Sunday) • February 28, 2016 to file with IRS on paper • March 31, 2016 to file with IRS electronically • Electronic filing is required if employer files 250 or more returns 	
Due dates for future years	<ul style="list-style-type: none"> • January 31 to employees (unless 1/31 is a weekend or holiday) • February 28 to IRS if paper filing • March 31 to IRS if filing electronically 	

It is very important that employers read the IRS's instructions for filling out these forms. The instructions are detailed and complicated, and require careful review. Draft instructions for the 2015 reporting year were published August 6, 2015 and should be available on the IRS website.

The two principal forms (1095-C for the employer and 1095-B for the health plan) are more easily understood if you keep in mind the basic enforcement mechanism of ACA. The "employer mandate" penalizes large employers who do not meet the ACA requirements for offering health coverage to full-time employees. The "individual mandate" penalizes an individual who has been offered health coverage but has not enrolled for it. Form 1095-C, filed by the employer, provides the IRS with information about the full-time employees who have and have not been offered health coverage. Form 1095-B, filed by the health plan, provides the IRS with information about employees who have or have not obtained health plan coverage. In other words, these forms allow the IRS to determine whether an employer or individual penalty must be assessed. Keep in mind that, subject to the qualifications explained in Q&A No. 2 above, an employer who contributes to a multiemployer plan is treated as having offered coverage to each employee on whose behalf the employer contributes to the multiemployer plan, for each month for which a contribution is paid. The criterion is not whether the employee is eligible for coverage; it is simply whether a contribution of any required amount was paid for that month. It also does not matter how the contribution obligation is determined (that is, whether it is based on months, weeks or hours of work).

8. Which employers have to file 1095-C forms?

“Applicable large employers” are subject to the reporting requirements for the 2015 tax year. In general, an employer is considered an applicable large employer for a calendar year if it employed an average of at least 50 full-time employees during the preceding calendar year.

9. How does an employer complete the 1095-C forms for its employees in LINECO?

The following explains how we believe employers should complete the 1095-Cs for their employees for whom they contributed to LINECO for 2015 work, based upon the IRS' draft instructions issued August 6, 2015:

Form 1095-C Walkthrough for Employers (For Their Employees in Multiemployer Plans)

Part I	Lines 1-6	Employee's name, SSN and address. SSN can be truncated to last 4 digits on the employee's copy, but not on the IRS copy.
	Lines 7-13	Employer's name, EIN and address, telephone number
Part II	Line 14	Enter code 1H for each month for which you entered either code 2E or code 2A on line 16.
	Line 15	You may leave line 15 blank if you entered code 1H on line 14 . (If you were required to enter either code 1B, 1C, 1D or 1E for a month due to coverage offered in a plan other than a multiemployer plan, you will need to follow the IRS' instructions regarding the completion of Line 15.)
	Lines 16	<ul style="list-style-type: none">• Enter code 2E for each month for which the employee performed any work which required you to contribute to this Fund. “Month” refers to the month the work was performed, not the month in which the contribution was paid.• Enter code 2A if the employee was not employed on any day during the month.• A different code will need to be entered for employees for whom you were not required to contribute to this Plan in a month. For details, see the instructions to Form 1095-C.• There needs to be a code for all 12 months (or the “all 12 months” box can be used) even if the individual was not employed all 12 months. Only one code can be entered per month. Use the “All 12 months” box if the same entry applies to all 12 months.
Part III	Lines 17+	Leave blank. Part III does not apply to multiemployer plans such as this Plan.

10. Do LINECO and its contributing employers need to work collaboratively or share information to complete their 1095 forms?

No. Based on the draft 1095-C instructions issued August 6, 2015, it appears that employers and health plans are not required to complete forms collaboratively. Each will complete its own form (“C” forms for employers and “B” forms for health plans). There is no need to work together or share information.

LINECO will not be providing employers with the months of coverage for each employee because employers do not need this information. See Q&A No. 11 for more information.

11. Will LINECO complete 1095-C forms on behalf of its contributing employers?

No. We believe employers have enough information to complete their own 1095-C forms.

12. Will LINECO be providing employers with information about the employee's premium cost for the lowest-cost health plan?

No, because it is not applicable. This is a multiemployer plan, and employers and employees do not pay premiums. Instead, they contribute based on work hours, depending on the terms of the employer's collective bargaining agreement or participation agreement. An applicable large employer who makes contributions to a multiemployer plan under the terms of those agreements is not subject to the ACA employer mandate penalties for that employee. (Also see Q&A No. 5 above for information about the Plan's affordability.)

13. Because of administrative lag months, won't the employer's 1095-C and LINECO's 1095-B forms show different months of coverage?

Yes. Employers report on months of work. LINECO will report on months of coverage. The IRS should be aware that these months will not correspond when the health plan is a multiemployer plan with an administrative lag period. ("Lag period" refers to arrangements in which work in one period provides health coverage in a later period.)

14. Are there special multiemployer plan rules for the transmittal Form 1094-C?

No. Employers contributing to multiemployer plans complete the aggregate transmittal forms the same way other applicable large employers do.

Note that if you have 50-99 full-time employees you will not be subject to the employer mandate penalties for 2015. You should, therefore, indicate this by checking Box C, "Section 4980H Transition Relief" in line 22 of Form 1094-C. You are still required to comply with the 1094/1095 reporting requirements for 2015.

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Best regards,

Line Construction Benefit Fund