

BENEFITS BUZZ

Federal Guidance on Reproductive Health Care



In the wake of the Supreme Court's [ruling](#) allowing states to regulate abortion, federal agencies have been issuing new guidance focused on reproductive health care.

HIPAA Guidance

New [guidance](#) addresses covered entities' obligation under the HIPAA Privacy Rule to safeguard patients' protected health information (PHI) related to reproductive health care, including abortions. It focuses on health care providers but refers to covered entities, including health plans.

The HIPAA Privacy Rule **permits but does not require** covered entities to disclose PHI without an individual's authorization in situations where the disclosure is required by another law, for law enforcement purposes or to avert a serious threat to health or safety.

According to the Department of Health and Human Services (HHS), in the absence of a court-enforceable mandate, the Privacy Rule does not permit covered entities to report a patient's abortion to law enforcement. It would also be inconsistent with professional ethical standards for a health care provider to disclose PHI to law enforcement regarding an individual's reproductive health care.

Contraceptive Mandate Compliance

Federal agencies also issued a [letter](#) directing group health plan sponsors and issuers to ensure their plans comply with the contraceptive mandate under the Affordable Care Act (ACA) if they do not qualify for an exemption. The letter outlines steps that plans and issuers should take to ensure compliance with these standards and avoid future enforcement actions.

Draft Forms for 2022 ACA Reporting Released

The IRS released draft 2022 forms for reporting under Internal Revenue Code Sections 6055 and 6056. Draft instructions for these forms have not yet been released.

- **2022 draft Forms [1094-B](#) and [1095-B](#)** are drafts of the forms used by providers of minimum essential coverage, including self-insured plan sponsors that are not applicable large employers (ALEs), to report under Section 6055.
- **2022 draft Forms [1094-C](#) and [1095-C](#)** are drafts of forms ALEs use to report under Section 6056 and for combined Section 6055 and 6056 reporting by ALEs who sponsor self-insured plans.

Form 1095-B no longer includes references to the individual mandate penalty in the “Instructions for Recipients” section. No other changes were made to the 2022 draft forms. However, certain changes may be made once the forms are finalized or when draft or final instructions are released.

Reporting Deadlines

Paper IRS returns for 2022 must be filed by **Feb. 28, 2023**, while electronic returns must be filed with the IRS by **March 31, 2023**.

A 2021 proposed rule extended the annual furnishing deadlines under both Sections 6055 and 6056 for an additional 30 days. As a result, individual statements for 2022 must be furnished by **March 2, 2023**. Reporting entities are encouraged to furnish statements as soon as they are able.

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