



## Monthly Newsletter

by JA Counter

October 2017

### Medicare Part D Notice Due Before Oct. 15

In preparation for the Medicare fall open enrollment period, employers sponsoring **group health plans that include prescription drug coverage** are required to notify all Medicare-



eligible individuals whether such coverage is "creditable" (i.e., that the coverage is expected to pay, on average, as much as the standard Medicare prescription drug coverage).

#### Written Disclosure Requirement

A written disclosure notice must be provided annually, **prior to October 15**, and at various other times as required under the law, to the following individuals:

- Medicare-eligible active working individuals and their dependents;
- Medicare-eligible COBRA individuals and their dependents;
- Medicare-eligible disabled individuals covered under an employer's prescription drug plan; and
- Any retirees and their dependents.

[Model notices](#) are available from the Centers for Medicare & Medicaid Services (CMS).

### **Online Disclosure Requirement**

Additionally, employers are required to complete an [online disclosure](#) to CMS to report the creditable coverage status of their prescription drug plans. This disclosure is also required annually, **no later than 60 days from the beginning of a plan year**, and at certain [other times](#).

Visit our section on [Medicare](#) for more information about how the law affects employer-provided group health plans.

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## **'Pay or Play' Coverage Penalties Remain in Effect**

Despite recent attempts in Congress to "repeal and replace" the Affordable Care Act (ACA) and President Trump's executive order calling for executive agencies to minimize the ACA's regulatory burden, **penalties**



**for failing to comply with the ACA's employer shared responsibility ("pay or play") provisions remain in effect.**

In general, an [applicable large employer](#) (ALE)—generally one with **at least 50 full-time employees**, including full-time equivalent employees (FTEs)—will owe a "pay or play" coverage penalty for calendar year 2017 under either of these scenarios:

- The ALE **does not** offer coverage to **at least 95% of its full-time**

**employees (and their dependents)**, and at least one full-time employee receives a premium tax credit to purchase individual coverage through the Health Insurance Marketplace. Under this scenario, the ALE will generally owe a penalty of **\$2,260 per full-time employee**.

- The ALE **offers** coverage to **at least 95% of its full-time employees (and their dependents)**, but at least one full-time employee receives a premium tax credit to purchase individual coverage through the Health Insurance Marketplace because he or she was not offered coverage that was [affordable or provided minimum value](#), as defined by federal regulations. Under this scenario, the ALE will generally owe a penalty of **\$3,390 for each full-time employee that received a premium tax credit**.

Employers seeking more information on "pay or play" compliance should read the Internal Revenue Service's recently updated [Q&As](#).

For more information on ACA compliance, check out our [Health Care Reform](#) section.

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## IRS Warns of New Phishing Scam

The IRS has issued an urgent warning about a new email phishing scam that uses **IRS and FBI emblems** to entice users into clicking a link to download a fake FBI questionnaire. The link downloads ransomware, which prevents users from accessing data from their



devices unless they pay the scammers.

The IRS advises victims of the scheme **not to pay the ransom**, as hackers often fail to provide access to the data that is held "hostage" even after being paid. According to the agency, people with a tax issue will not get their first contact from the IRS with a threatening email or phone call, nor does the IRS use email, text messages, or social media to discuss personal tax issues.

The IRS advises victims to immediately report any ransomware attempt or attack to the FBI at the Internet Crime Complaint Center, [IC3.gov](https://www.ic3.gov), and forward any IRS-themed scams to [phishing@irs.gov](mailto:phishing@irs.gov).

To read the IRS warning in its entirety, and to see a sample phishing email, [click here](#).

Check out our [Employee Records and Files](#) section for more on how to protect confidential employee information.

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# Upcoming EEO-1 Report Will Not Require Pay Data Collection

The U.S. Equal Employment Opportunity Commission (EEOC) has announced that the upcoming EEO-1 reporting form **will not** contain pay data collection information.



## EEO-1 Report Change Halted

In July of 2016, the EEOC changed the EEO-1 reporting form requirements, so that private employers with **100 or more employees** and certain federal contractors would have been required to report **aggregate W-2 income** by sex, race, ethnicity, and job group. On August 29, 2017, this change was [halted](#) by the U.S. Office of Management and Budget (OMB). Instead, **employers should plan to comply with the March 2018 EEO-1 reporting deadline by using the previously approved EEO-1 form.**

## Background

The EEO-1 report is a compliance survey report mandated by federal law. It generally must be filed by:

- Private employers with **100 or more employees** (or fewer than 100 employees if the company is owned by or corporately affiliated with another company and the entire enterprise employs a total of 100 or more employees); and
- Federal contractors (private employers) subject to [Executive Order 11246](#) who have **50 or more employees** and:
  - Are prime contractors or first-tier subcontractors, and have

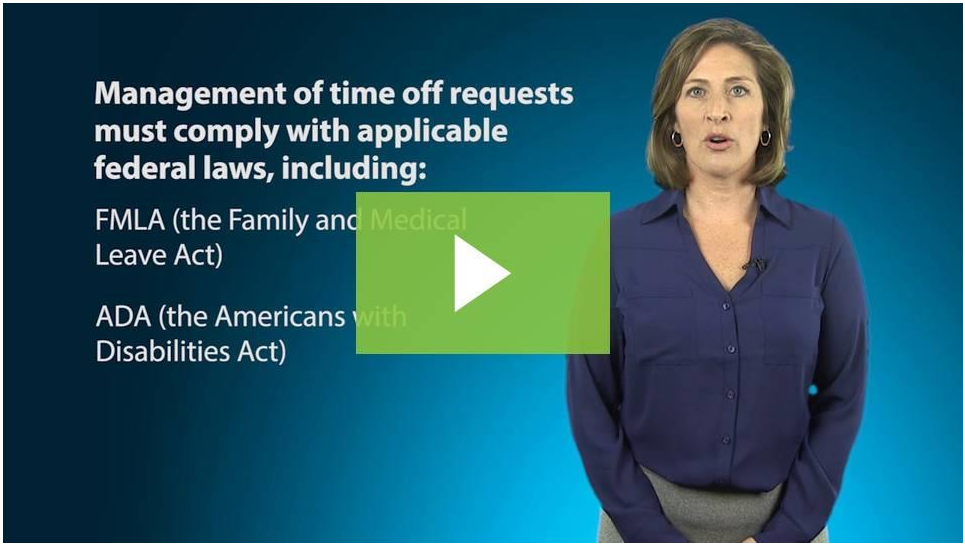
- a contract, subcontract, or purchase order amounting to \$50,000 or more; or
- Serve as a depository of government funds in any amount; or
- Are a financial institution which is an issuing and paying agent for U.S. Savings Bonds and Notes.

Check out our [EEO-1 Annual Reporting](#) section for more information on the EEO-1 Report.

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## **How to Deny a Time-Off Request**

Whether paid or unpaid, time off is an important respite that allows your employees to take vacations, attend to personal or family business, or simply rest and recharge. However, managers and employees alike must recognize that not every request for time off can be approved. Learn how to handle situations in which you must deny an employee's time-off request in the video below.



Check out our section on the federal [Family and Medical Leave Act](#) (FMLA) to learn more about federal leave requirements.

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**Newsletter provided by:**

JA Counter

1477 South Knowles Avenue, New Richmond, WI 54017

715-246-3811 / 800-334-9252

[dhenke@jacounter.com](mailto:dhenke@jacounter.com)

[www.jacounter.com](http://www.jacounter.com)

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