



BENEFIT TECHNOLOGY RESOURCES®

# HR Tech & Compliance Best Practices

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# Today's Presenters



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**How can you remain compliant  
while using technology to  
streamline your processes?**

# 3 Main Categories

**Electronic Distribution**

**Reporting**

**Security**

# Electronic Distribution



# Electronic Distribution for Health and Welfare Plans

## ERISA Includes a Number of “Notice” Requirements

- SPDs
- Plan Amendments
- SARs
- COBRA Notices
- HIPAA Special Enrollment Rights Notice
- Women’s Health and Cancer Rights Act (WHCRA) Notice
- Qualified Medical Child Support Order (QMCSO)

### Raymond Thomas v. CIGNA

An instructive reminder that employers who rely on electronic delivery of plan-related documents must follow some fairly specific rules to make sure their documents are *delivered* and not just *furnished*

# Electronic Distribution for Health and Welfare Plans

## ERISA Permits Electronic Disclosures If Certain Requirements Are Met

### The Basics

Steps taken to furnish documents are calculated to result in actual receipt

- Use return-receipt or notice of undelivered e-mail features
- Conducting periodic reviews or surveys to confirm receipt

Steps taken to safeguard confidentiality of personal information

Electronically delivered documents are prepared in a manner consistent with the style, format and content requirements applicable to the document

A paper version of the electronic document must be available on request (at no charge)

Each time an electronic document is furnished, a notice (electronic or paper) must be provided to each recipient describing the significance of the document

# Electronic Distribution for Health and Welfare Plans

**Once the basic requirements are met, documents may be furnished to two classes of potential recipients:**

1

Participants who have the ability to access documents through employer's electronic information system located where they are reasonably expected to perform duties

Employees working from home or on travel are covered

Distribution through a kiosk in a common area in the workplace does not comply with the requirements

2

Other participants

Retirees and terminated participants with vested benefits, beneficiaries, alternate payees

Must affirmatively consent to receive the documents electronically

Must provide an electronic address

Must reasonably demonstrate their ability to access documents in electronic form



# Electronic Distribution During COVID-19

**EBSA Disaster Relief Notice 2020-01 eases the burden for health and welfare plans (and retirement plans) by clarifying that:**

- Employers will not violate ERISA if they fail to timely furnish a notice, disclosure, or document that must be furnished between March 1, 2020, and 60 days after the announced end of the **COVID-19 National Emergency** (“Outbreak Period”) as long as they act in good faith and furnish the information as soon as reasonably practicable.
- Good faith acts include use of electronic communication with participants who the employer believes have effective access to electronic means of communication, including email, text messages, and websites.

# The Technology Side

Onboarding modules usually include I-9 and eVerify functions, as well as the option to capture electronic consent

Carrier EDI files have to be reviewed periodically

Benefits Administration and Payroll System Integrations must be evaluated based on your integration strategy

COBRA notices for New Hires and Qualified Beneficiaries require two separate files



# Reporting

# ACA Reporting

IRS proposing penalties for late filings, filings with incorrect or missing TINs, or *filings remitted via paper when electronic filing was required* (when submitting 250+ forms)

# ACA Reporting

## Failure to file electronically:

Applies to each form over 250 that was filed by paper instead of electronic

	Tier 1	Tier 2	Tier 3
3 Penalty Tiers	Returns Filed After The Due Date But Within 30 Days	Returns Filed After The Due And After 30 Days, But Before August 1	Returns Filed After August 1

- Generally have 45 days to respond
- Had been focused on 2017 prior to COVID-19

# ACA Reporting

When responding an employer must indicate if it is in full agreement, partial agreement, or total disagreement with the penalty

- If partially agree or totally disagree, employer must submit signed statement explaining why failure was due to reasonable cause and not willful neglect
- Consult with ERISA counsel before responding

TIN Failure	Failure to File Electronically	Tier 1 (Corrected in 30 days)	Tier 2 (Corrected by August 1)	Tier 3 (Corrected after August 1)
\$260.00/form	\$260.00/form	\$50.00/form	\$100.00/form	\$260.00/form

Penalty amounts (2017 shown)

# ACA Reporting

## Tracking

- Tracking full-time employee status
  - Payroll systems
  - Separate tracking system integrated with time or payroll data
- “Proof” of offer of coverage
  - Documentation of an offer of coverage is critical

## Reporting

- Technology only vs. Full service

Tax Year: 2018

- Employee Name (Id)
- Aaron, Henry ( 9805)
- Adams, Amy L ( 1855)
- Anastasio, Trey ( 58)
- Andrews, Julie ( 439)
- Avery, Allen ( 818)
- Baines, Harold ( 835)
- Bartha, Justin ( 0202)
- Bell, Alexander ( 0290)
- Bennett, Andre ( 0339)
- Bowie, David ( 0902)

### Employee Offer and Coverage for Aaron, Henry

If you change the content of this form then the system will not propagate employee and insurance change into the form, and the form content will have to be maintained manually moving forward.

#### Part II Employee Offer and Coverage

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Line 14	1E ▾	1E ▾	1E ▾	1E ▾	1E ▾	1E ▾	1E ▾	1E ▾	1E ▾	1E ▾	1E ▾	1E ▾
Line 15	61.70	72.81	9.45	27.34	4.76	11.82	64.14	0.00	0.00	0.00	0.00	0.00
Line 16	2F ▾	2F ▾	2F ▾	2F ▾	2F ▾	2F ▾	2F ▾	2F ▾	2F ▾	2F ▾	2F ▾	2F ▾

Save Changes Cancel

Form 1095-C [Edit]

Form 1095-C [Edit]

Filter [v] [Minimize]

Refresh

- Affordability
- Audit Report
- Audit Report
- Audit Report
- Audit Report
- Audit Report
- Audit Report
- Audit Report
- Audit Report
- Audit Report
- Audit Report





# Employer Reporting

- EEOC
- Workers Comp
- OSHA
- FMLA
- FFCRA

Reports

Reports Schedules

Categories 274 Reports

+ New Edit Delete Refresh Filter Preview Run Schedule Edit + New Localize

	Name	Description	Category	Topic Name	Topic Type	Last Updated
	Candidates		Recruiting	Candidates	V2	6/16/2014 1:17:43...
	Cumulative Hours		Time & Attendance	Pay	V1	12/9/2013 4:15:56...
	Employee by Goals	Displays the list of goals assigned to the use...	Performance > Goals	Performance Goals	V2	2/22/2018 4:06:55...
	Employee Review Overdue	Displays the list of Employees who have not...	Performance > Reviews	Performance Review	V2	9/1/2016 3:43:36 ...
	Employee Reviews Not Started	Displays the list of employees who have not...	Performance > Reviews	Performance Review	V2	9/1/2016 3:57:36 ...
	Employee-Manager		Human Resources	Employee	V1	3/17/2014 4:45:21...
	Employees with Goals at Risk or Overdue	Displays the list of employees who are At Ri...	Performance > Goals	Performance Goals	V2	2/22/2018 4:06:55...
	Employees with Incomplete Goals	Displays the list of employees who have atle...	Performance > Goals	Performance Goals	V2	2/22/2018 4:06:55...
	Employees with Low Performance Rating	Displays the list of employees who are rated...	Performance > Reviews	Performance review	V2	9/1/2016 3:59:16 ...
	Gross Pay Over 40000	Employees with Gross Pay Over 40,000	Payroll > Payroll Audits	Pay Run - Earnings	V1	8/12/2017 8:32:54...
	Gross Pay Over 5000	Employees receiving gross pay over \$5,000	Payroll > Payroll Audits	Pay Run - Earnings	V1	8/12/2017 8:32:54...
	Job Requisition Status	Job Requisition Status	Recruiting	Job Requisitions	V2	4/4/2017 6:14:40 ...
	MTD Overtime Expense Detail			Employee Pay Summary with Labor ...	V2	2/17/2017 9:46:05...
	OData Employee Demographic Data		Odata	Employee Details - Work	V2	2/17/2017 9:47:39...
	OData Payroll Earning and hours Detail		Odata	Odata Payroll - Earnings and Hours D...	V2	2/17/2017 9:42:24...
	ODATA_FF0			Employee FF0 Odata	V2	3/7/2017 2:55:47 ...
	Pay Report		Time & Attendance > Pay	Pay	V1	10/3/2011 1:16:22...
	Performance Review Trend - Details	Displays the overall performance rating tren...	Performance > Reviews	Performance Review	V2	9/1/2016 4:01:41 ...
	Schedule Efficiency			Scheduled Daily KPI	V2	12/9/2013 4:16:09...
	Time to Fill		Recruiting	Job Requisitions	V2	4/4/2017 6:14:40 ...
	Waived Coverage	Employees that have waived benefits cover...		Benefits Election Changes	V1	5/16/2013 9:25:49...

# Security



# Security & Disclosures

## BEST PRACTICES FOR EMPLOYER'S "HIPAA WORKFORCE"

### **Avoid using email to transmit PHI:**

- ✓ When transmitting e-PHI to a vendor, use a vendor secure website instead of email when possible
- ✓ Upon receipt of an email with PHI from a participant which requires a response that contains PHI, respond by telephone to the extent possible

### *If you must use email to transmit PHI:*

- ✓ do not use identifiers to the extent possible (in the message and the subject line);
- ✓ delete the email chain below your message;
- ✓ use caution regarding recipients (e.g., reply all); and
- ✓ if the email must be sent outside the company, use encryption where possible

# Security & Disclosures

## BEST PRACTICES FOR EMPLOYER'S "HIPAA WORKFORCE"

### **Physical safeguards: a focus when working remotely**

- ✓ Computer screens should be out of sight from others or used with a privacy screen
- ✓ Log-off from your computer when you walk away for any amount of time
- ✓ Never download PHI to your personal computer or send it to your personal email address

# The Technology Side

## Has the vendor completed a SOC audit?

- If the system really matters – you may need professional help



## Multi-Factor Authentication

- More and more vendors are enabling this with the rise of mobile



## Privacy laws

- CCPA
- GDPR



## Key Takeaways

- Document your data integration strategy so nothing falls through the cracks
- Evaluate your systems and data ongoing – trust but verify
- Lean on your advisor and vendor to ensure all necessary disclosure processes are in your HR tech system

# questions?

Reach out to the  
BAN agency that referred  
you to this webinar.

