



## It Benefits You

### Your Employee Benefits Newsletter

December 2024

#### In This Issue:

Empathy-Driven Accessibility:  
Making the Workplace  
Inclusive for All

What Employers Should Know  
About Seasonal Employment

McGriff ACA Reporting Toolkit:  
2024 1094-C / 1095-C Forms

Don't Forget State Individual  
Mandates and Reporting  
Requirements!

Do I Really Need Employee  
Benefits Counsel?

IRS Expands List of Preventive  
Care Benefits for HDHPs

McGriff Brings You Mineral!

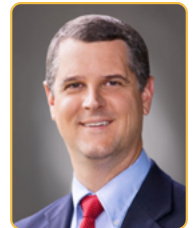
It is often said that the only constant is change itself. December 2024 is no different. The seasons are changing, the calendar is changing, and for many of us, our benefit plans have just changed. Like ours, your organization may be changing too. And everyone knows we've just been through another raucous political season, which always brings change.

This last month of the year is a great time then to take a step back and focus on the things that stay the same. Like your commitment to your employees, our commitment to you, and the expert guidance we provide in this newsletter.

We share an enduring partnership and a mutual desire to create a positive and lasting impact on the physical, mental, and financial wellbeing of the employees and participants we serve.

Thank you for being our constant, steady partner today and in the ever-changing days ahead.

**Brian Patterson**  
McGriff National Leader  
TPA & Specialty Benefit Solutions



December

31

#### Gag Clause Prohibition Compliance Attestation

The Consolidated Appropriations Act of 2021 prohibits plans and issuers from entering into agreements with health care providers, third-party administrators (TPAs) and other service providers that would restrict the plan or issuer from providing, accessing or sharing certain information about provider pricing and quality of care as well as de-identified claims.

Plans and issuers must submit an attestation of compliance with these requirements using the CMS Health Insurance Oversight System (HIOS). This annual requirement, covering the period through the date of the last attestation, must be filed by December 31. We have updated our [McGriff recorded tutorial](#) to assist employer group health plan sponsors if their carrier/TPA is not willing to complete the attestation on their behalf.



## Empathy-Driven Accessibility: Making the Workplace Inclusive for All

When we think about creating a workplace that fosters equality and inclusion and is welcoming to employees with disabilities, we tend to look to the letter of the law: what's the correct verbiage to use in job postings, or the steps required to make reasonable accommodations?

However, what can be far more impactful on accessibility is more nuanced. What are the benefits, policies, culture, and environment that we experience every day? Where might we be limiting our employee's potential, creating contradictions, or missing out on growth opportunities, and where can exercising empathy help identify those barriers?

Here are some examples:

### 1. Your Wellness Program

Working in the wellness field, I have noticed people feel the need to censor their habits around me. Trust me; that's not necessary. We all have our vices and struggle with unsavory habits that we would prefer to keep to ourselves - wellness people included (I am not telling you mine).

The language, imagery, and expectations around wellness programs can portray a lack of inclusivity or fail to acknowledge that disabilities and conditions can happen to people who have "done everything right". Pictures of only fit, young, healthy people or the idea that we need to "keep healthy people healthy" perpetuated in wellness culture can feel binary and unattainable. Anyone, at any time, can become disabled or be diagnosed with a disease, and while we can put up a good fight, we are all still subject to Father Time (who remains undefeated).

Unconsciously facing an expectation to not only achieve but maintain perfect health status can lead to unintended consequences. First, people can resort to self-blame and feel stigmatized if/when they experience any kind of

physical, mental, or emotional health challenge. Second, it can dissuade people from engaging in a program if they don't feel as if the goals are achievable.

Health status is a multi-faceted, changing dynamic that can co-exist in the presence of conditions. Lifestyle is still a very valuable and important component of health and well-being, but sometimes the goal is not perfection, reversal, or cure but improvement, balance, and management.

Let's look at your wellness program: is it allowing people multiple avenues to improve their health, as well as offering accessibility and alternatives? For example, walking challenges can be fun, but it is a good idea to offer additional health challenges (such as reducing screen time, cutting back on sugar, or improving social health) to allow opportunities for people to engage for whom walking might be limited.

It's also good to reward participation vs. the highest number of steps to help people set attainable goals. Instead of gym memberships, consider offering class credits for in-person and virtual classes for people who prefer another setting or have different abilities for physical activity.

### 2. Workplace Environment

Unless you have personal experience, you might not realize how even small things can become inaccessible with a disability. Is your workplace environment supportive of disabilities, or do we sometimes overlook things such as the automatic door being out of order for weeks, scarce on-site food options for someone managing diabetes, or communications not available in multiple formats?

Or, in considering workplace culture and policies, do we allow people to have flexible work solutions (when

*(Continued...)*

possible) that will ultimately make them more comfortable and productive? While we can't always predict and account for every kind of disability and accommodation, we can help build a culture that reflects accessibility and trust, allowing employees to ask for the support they need to perform their best.

### 3. Financial Accessibility

For many people, going to the doctor can mean writing a blank check. While preventive care is covered at 100%, office visits can very quickly result in unexpected charges if there are other services performed or conditions that need to be addressed. Lack of financial means for regular care not only can make people feel powerless but also can decrease their quality of life and have catastrophic consequences.

Incentives for annual physicals and biometrics are well-intentioned but can lead to an open-ended expense, and most importantly, often don't address the "now what?" once someone receives a diagnosis. While it can be an important first step, it can fail as a long-term strategy to address necessary lifestyle and medical interventions. Offering employees the support they need to get necessary care without financial risk can help bridge gaps in access and affordability, ultimately reducing costs.

As the cost of living and medical expenses outpace wages, many employers are looking to provide benefits to supplement their standard medical plan. These options, such as employer-paid virtual primary and mental health care, health coaching, condition management programs, and seed money for health savings accounts, can help reduce barriers and help to solve the "now what?".

### 4. Hiring Practices

A hiring manager went viral when he fired his entire HR team for failing to produce a candidate for an open position. The reason? Artificial intelligence, powered by human error, caused every single resume to be rejected due to missing an incorrect keyword. After months of no interviews, the manager tried submitting his own resume for the role, and to his surprise, he received an immediate automated rejection email.

While this is an extreme example, and other mistakes were made, it is a reminder of the need for human subjectivity to properly evaluate candidates when keywords might not tell the whole story. It would be great if it was possible to "Weird Science" up the perfect candidate with AI, but a perfect candidate does not always make for the perfect employee.

When using screening tools, consider if settings on the filters could inadvertently reduce opportunities for well-qualified candidates with disabilities, socioeconomic challenges, or non-traditional career training. For example, long gaps in work history could be the result of an illness, injury, having children, military service, caregiving, or other life events and should not be considered a disqualifier.

Educational requirements can also be an area to evaluate as a filter, especially for entry-level positions. Many roles do require specific degrees and training, and people should be proud of their academic achievements. Completing a degree program can help candidates stand out. However, fortitude, creativity, and intellectual curiosity can be cultivated through different outlets and be inherently present or absent in people with or without degrees.

Evaluating work experience, aptitude, and other subjective criteria relevant to the role can be more time-consuming but ultimately pays off in retention and performance. It also creates more opportunities for candidates for whom higher education might have been challenging due to factors such as finances, accessibility, or learning disabilities.

There is no perfect solution or formula for every workplace to be mindful of every way to be accessible and equitable. Don't overthink it, nor make it a checklist. Instead, allow yourself to consider the varied backgrounds, disabilities, challenges, and perspectives of employees and view the workplace through those lenses. Fine-tuning that sense of workplace empathy will naturally foster a more responsive and inclusive workplace that encourages employees to reach their full potential.

This article was originally published on HR.com and is reprinted with permission. [Empathy-Driven Accessibility: Making The Workplace Inclusive For All - HR.com](#)

**Katie O'Neill, DC, BS**  
*McGriff Clinical Wellness Practice Director*



## What Employers Should Know About Seasonal Employment

Many organizations rely on seasonal workers to supplement their year-round workforce during peak times such as busy seasons or holidays. While there are similarities, there are also important differences between seasonal and regular employment. Due to these differences, hiring and reliance on seasonal workers can present significant and unexpected challenges for employers.

When utilizing seasonal workers, employers may want to consider the following issues, among others:

- Employment verification
- Worker classification
- Fair employment laws
- Wage and hour requirements
- Child labor laws
- Tax considerations

[Click here to learn more about these legal considerations.](#)

## McGriff Affordable Care Act (ACA) Reporting Toolkit: 2024 1094-C / 1095-C Forms

Each year, Applicable Large Employers and employers sponsoring self-funded medical plans (regardless of size) must complete required Affordable Care Act (ACA) reporting pursuant to Internal Revenue Code Sections 6055 and 6056. McGriff has updated its comprehensive ACA Reporting Toolkit to assist in the many questions that arise for employers when completing these requirements, both when reporting on their own as well as when coordinating with their chosen ACA reporting vendor.

The [2024 McGriff ACA Reporting Toolkit](#) includes:

- a review of the Employer Shared Responsibility mandate;
- a review of the fundamentals of ACA reporting requirements;
- a Step-by-Step guide to completing the IRS 1094-C and 1095-C forms;
- deadlines for IRS filing, as well as furnishing to forms to individuals;
- numerous examples of common scenarios for coding 1095-C forms; and
- an overview of state reporting requirements.

The IRS no longer offers good faith transitional relief for errors in coding these forms; so, it is important for employers to ensure that all codes are accurate and that forms are filed with the IRS and furnished to full-time employees in a timely manner. The McGriff ACA Reporting Toolkit can provide helpful guidance for meeting these requirements.



By **Laura Clayman, JD, SHRM-CP**  
*McGriff EB Compliance Officer*



*Click on the image above  
to access the toolkit.*

## Don't Forget State Individual Mandates and Reporting Requirements!

While individual health insurance is no longer required at the federal level, a number of jurisdictions, including California, Massachusetts, New Jersey, Rhode Island and Washington, D.C., have enacted their own individual mandates requiring residents to maintain qualifying health coverage or face a state tax penalty.

What this means for employers is that, besides any federal reporting obligations you may have under the Affordable Care Act, you may have [state reporting requirements](#) as well:

Jurisdiction		Distribution to Employees	Reporting to the State
<a href="#">California</a>	What:	Federal 1095-B or 1095-C	Federal 1094/1095-B or 1094/1095-C
	When:	January 31, 2025	March 31, 2025 (no penalty through May 31, 2025)
<a href="#">Massachusetts</a>	What:		<a href="#">Health Insurance Responsibility Disclosure</a>
	When:		December 15, 2024
	What:	Form MA 1099-HC	Form MA 1099-HC
	When:	January 31, 2025	January 31, 2025
<a href="#">New Jersey</a>	What:	Federal 1095-B or 1095-C or State NJ-1095	Federal 1095-B or 1095-C or State NJ-1095
	When:	March 3, 2025	March 31, 2025
<a href="#">Rhode Island</a> FAQs	What:	Federal 1095-B or 1095-C	Federal 1095-B or 1095-C or State File
	When:	March 3, 2025	March 31, 2025
<a href="#">Vermont</a>	Individual Mandate but currently no employer state reporting requirement		
<a href="#">District of Columbia</a>	What:	Federal 1095-B or 1095-C	Federal 1094/1095-B or 1094/1095-C
	When:	March 3, 2025	April 30, 2025

Employers should proactively assess whether they have employees residing in a state with an individual mandate and carefully determine whether they have state-specific coverage and reporting obligations.

For fully insured plans, the carrier or insurer will often complete this reporting on behalf of the employer. However, since it is ultimately the employer's responsibility to ensure compliance, employers must confirm the state's specific requirements and the insurer's role well in advance of the filing deadlines. Self-funded employers are generally responsible for their own state reporting; although some Third-Party Administrators (TPAs) may be willing to assist with the process.



By Christy Showalter, JD, MBA  
McGriff EB Compliance Officer



## Do I Really Need Employee Benefits Counsel?

When managing their group health plans, many employers rely on insurance consultants and their account teams to guide them through the complexities of regulatory requirements and best practices. While an employer's insurance broker should provide valuable support and direction, an implicit (or sometimes explicit) question can arise when complex issues are encountered: "Do I really need specialized employee benefits (EB) counsel?"

If the recommendation comes from a trusted advisor, then the answer is yes. Here are a few key reasons why EB counsel can make a significant difference.

### 1. Reliance on Legal Opinion

While specialty advisors who work with insurance consultants can provide important guidance, information and even strategy, they cannot form an attorney-client relationship with brokerage clients (or prospects). This means, among other things, that they cannot issue a legal opinion to those employers engaged with the brokerage firm. Only properly engaged legal counsel can form an attorney-client relationship with the employer and provide a legal opinion. Of course, the assistance of these specialists can possibly reduce amounts an employer need spend on such opinion, but it cannot serve as a substitute for it. If an agency, such as the Department of Labor or the Internal Revenue Service, audits the employer, then the employer will be in the far superior position of being able to point to a legal opinion upon which they based their actions. That can go a very long way toward establishing that they followed a reasonable, considered, and diligent process in making applicable decisions. The same holds true for employers considering an acquisition or sale or looking for an infusion of capital. If the employer's approach to a particular situation comes into question, the employer can again point to its engagement of legal counsel on the point.

### 2. Access to Attorney-Client Privilege

Another one of the primary advantages of engaging EB counsel is access to attorney-client privileged legal advice. This privilege ensures that sensitive communications between a company and its legal advisors remain confidential, which is crucial for addressing complex legal issues. This privilege provides a secure environment for discussing potentially risky legal matters and making informed decisions without exposing the company to unnecessary legal risks that would be otherwise discoverable in the event of litigation.

### 3. Enhanced Risk Management Beyond Day-to-Day Compliance

Insurance consultants and their teammates provide crucial support with regulatory requirements, but sometimes outside counsel is best equipped to fully address the broader strategic risks associated with certain employee benefits decisions. Dedicated EB counsel can help identify and mitigate these risks through a comprehensive legal lens. For example: consider a company contemplating a major acquisition or sale. This situation can significantly alter employee benefits plans, and without EB counsel, the company might face several risks, including:

- **ERISA Compliance:** If the company's benefits plans are not properly integrated post-merger, there could be violations of ERISA stemming from improper updating of plan documents, disclosure and reporting, and failure to ensure continuity of benefits for all eligible employees and participants.

*(Continued...)*

- **COBRA Requirements:** Companies must ensure compliance with COBRA requirements for offering continued coverage to existing COBRA participants and to COBRA-qualified beneficiaries that can result from an acquisition. While there are default rules regarding liability, these can be contractually shifted, but it is necessary to assess these considerations before the deal closes.
- **ACA Obligations:** The ACA imposes specific requirements for health coverage, including timely provision of benefits and accurate reporting. During an acquisition or sale, it is crucial to address potential issues like ensuring no gaps in coverage for employees and compliance with reporting requirements. Additionally, if the transaction results in the buyer becoming an applicable large employer (ALE), it must newly adhere to ACA mandates and reporting obligations to avoid penalties.

#### 4. Customization of Documents and Policies

Group health plans are not one-size-fits-all. Each organization has unique goals, requirements, and challenges. Particularly when an employer has chosen to self-fund their benefits, a myriad of choices and associated risks will follow. A privileged conversation with EB counsel can help plan sponsors better understand those risks and options. This tailored approach ensures that a company's health plans are designed to comply with applicable laws while addressing its goals and individual circumstances.

In conclusion, while insurance consultants and their teammates provide essential services, having dedicated EB counsel provides an extra layer of expertise that is beneficial for managing the complexities of employee benefits. Specialized EB counsel ensures that all aspects of benefits management are thoroughly addressed, from navigating intricate regulatory requirements to tailoring policies for specific organizational needs to ensuring they are covered by guidance upon which they can rely in the event of an audit, acquisition or other scenario in which a position that they have taken is questioned. This comprehensive approach helps mitigate legal risks, ensure compliance, and align benefits strategies with the company's overall objectives.



**By Stephanie Raborn, JD**  
McGriff EB Compliance Officer

## IRS Expands List of Preventive Care Benefits for HDHPs

On Oct. 17, 2024, the IRS issued Notice 2024-75 (the Notice) to expand the list of preventive care benefits permitted to be provided by a high deductible health plan (HDHP) without a deductible (or with a deductible below the minimum deductible) to include:

- Over-the-counter (OTC) oral contraceptives, including OTC birth control pills and emergency contraceptives, for individuals potentially capable of becoming pregnant, regardless of whether they are purchased with a prescription; and
- Male condoms, regardless of whether they are purchased with a prescription and regardless of the gender of the individual covered by the HDHP who purchases them.

The Notice also clarifies that the following items and services qualify as preventive care for HDHP purposes:

- All types of breast cancer screenings, not just mammograms, for individuals who have not been diagnosed with breast cancer;
- Continuous glucose monitors for individuals diagnosed with diabetes; and
- Selected insulin products, regardless of whether they are prescribed to treat an individual diagnosed with diabetes or prescribed for the purpose of preventing the exacerbation of diabetes or the development of a secondary condition.

#### HDHPs and Preventive Care

Individuals must be covered by an HDHP (and have no disqualifying health coverage) to be eligible to contribute to a health savings account (HSA). To qualify as an HDHP,

*(Continued...)*

a health plan cannot pay benefits—except for preventive care benefits—until the required minimum deductible has been satisfied.

An HDHP may apply a low deductible (or no deductible) to its coverage of preventive care without jeopardizing individuals' HSA eligibility. Note that the Affordable Care Act (ACA) requires non-grandfathered health plans to cover specific recommended preventive care services on a "first-dollar basis" (that is, without any copayments, deductibles or other cost sharing). Currently, the ACA's preventive care mandate requires health plans to cover OTC preventive products without cost sharing only when they are prescribed by a health care provider.

## Effective Dates

The Notice's changes for HDHPs have different retroactive effective dates. The IRS' new guidance for OTC oral contraceptives and male condoms is effective for plan years beginning on or after Dec. 30, 2022. Other effective dates include April 12, 2004, for breast cancer screenings; July 17, 2019, for continuous glucose monitors; and plan years beginning after Dec. 31, 2022, for selected insulin products.

*This article is reprinted with permission from Zywave.com.*

## McGriff Brings You Mineral!

Register

December 17 | 12:00 p.m. EST

McGriff is excited to provide our Employee Benefits clients with MINERAL – a robust web-based HR and compliance resource. Through your McGriff relationship, you have access to **Mineral Live**, a team of HR experts standing by to answer your questions or provide advice on virtually every HR or compliance-related issue; **Mineral Comply**, an award-winning online resource center for all of your workforce issues, including a Living Handbook Builder; and **Mineral Learn**, an incredible online training platform with more than 250 web-based courses for your employee training needs.

Join us to learn about these exciting features and many more within your McGriff-provided Mineral account.



McGriff.com

This document is not intended to be taken as advice regarding any individual situation and should not be relied upon as such. Marsh & McLennan Agency LLC shall have no obligation to update this publication and shall have no liability to you or any other party arising out of this publication or any matter contained herein. Any statements concerning actuarial, tax, accounting or legal matters are based solely on our experience as consultants and are not to be relied upon as actuarial, accounting, tax or legal advice, for which you should consult your own professional advisors. Any modeling analytics or projections are subject to inherent uncertainty and the analysis could be materially affected if any underlying assumptions, conditions, information, or factors are inaccurate or incomplete or should change. d/b/a in California as Marsh & McLennan Insurance Agency LLC; CA Insurance Lic: OH18131. Copyright © 2024 Marsh & McLennan Agency LLC. All rights reserved.