



# COVID-19 and 1095-C Reporting

2020 continues to create numerous hurdles and difficulties for employers. One challenge for many employers, one that will carry into 2021, is how to complete the required Forms 1094-C and 1095-C reporting for 2020. This overview outlines some of the common reporting situations employers face due to employee terminations and furloughs. Many variables can impact these situations and therefore impact reporting. We highly recommend employers discuss these complex situations with their legal counsel and tax advisors to determine the correct way to fulfill their 1095-C reporting obligations.

For the scenarios that follow, we will use a fact pattern in which the employees are long-term employees that were offered coverage as of 1/1/2020, the coverage constitutes minimum value for the employee and at least minimum value coverage for the employee's spouse and dependents (if applicable), and the coverage is affordable based on the rate-of-pay safe harbor. Other situations (such as no offer of coverage for the spouse or dependents, conditional offers of coverage for spouses, etc.) may result in different codes for reporting the employer's offer of coverage.

## Terminations

The first set of scenarios are for employers that were forced to terminate employees from employment in 2020.

### For employees that were terminated:

Assuming coverage goes through the end of the month in which the employee is terminated, for the months leading up to and including the month of termination, the employer reports using code 1E on line 14 and code 2C for employees covered under the plan and using code 1E on line 14 and code 2H on line 16 for employees that waived coverage. For the months following termination, the employer reports using code 1H on line 14 and 2A on line 16 (this is true regardless of whether the employee or any of their family members elect COBRA).

- If the coverage does not go through the end of the month in which the employee is terminated, the month of termination is reported using a 1H/2B code-set.

### For employees that were terminated and rehired in 2020:

If an employee is rehired and offered coverage (which we will assume they accept) as of the date of rehire, the code-set will usually be 1H/2B for mid-month plan entry and 1E/2C if they have coverage for the entire month in which they are rehired.

In many instances, the employee may be rehired after 13 weeks. In this case, again assuming they take coverage, the main difference is that for coverage that starts mid-month, the employer reports using code-set 1H/2D because the employee is treated as a new employee and is therefore in a limited non-assessment period.





## Furlough

The second set of scenarios are for employers that were forced to furlough<sup>1</sup> employees in 2020.

**For employees that were in a stability period when they were placed on furlough**, because their eligibility should not have changed due to the furlough, their code-set should look the same before, during, and after their furlough unless the premium charged to the employee is changed in a way that impacts affordability and the amount reported on line 15.

One change may be for employees in a stability period that could not make the required premium payments while on furlough. For those employees, if their coverage was terminated due to nonpayment of premiums, the months after the termination are reported using the affordability safe harbor, which is 2H for the rate-of-pay safe harbor in these examples.

**For employees that were not in a stability period and their coverage was not continued as an active employee during their furlough, resulting in an offer of COBRA:**

If no COBRA is elected, the employer reports the line 14 code that corresponds to the level of coverage the employee had at the time of termination on line 14 (e.g., an employee with self-only coverage would have 1B reported), line 15 is completed to reflect the cost of COBRA coverage, and 2B on line 16 (or the applicable affordability safe harbor if the offer of COBRA coverage is still affordable).

- For these examples, code-set 1E/2C is used for the last month of coverage if coverage goes through the end of the month.

If COBRA is elected, the employer reports the line 14 code that corresponds to the level of coverage that the employee had at the time of termination on line 14 (e.g., an employee with self-only coverage would have 1B reported), line 15 is completed, and 2C on line 16.

- What if the employer subsidized the COBRA coverage for the furloughed employee? The reporting should be the same, with the difference in the cost of COBRA coverage reflected on line 15.

**For employees that were not in a stability period, but their coverage was continued as an active employee with the usual (or greater) employer contribution towards the cost of coverage**

because the furlough did not impact their eligibility, their reporting should look the same before, during, and after their furlough, with the only change being the cost of coverage on line 15 if the employer-provided greater subsidization of the cost of coverage during the furlough.

What if an employee does not pay their share of the premium while on furlough?

- If the employee does not remain covered because they could not make their premium payments, then the employer reports using code 1E on line 14, the cost of coverage on line 15, and code 2H on line 16 for the months that the employee is not covered under the plan.

What if the employer reduced their contributions toward the cost of coverage while the employee was on furlough?

- If the employee remained covered, the only change is the cost of coverage reported on line 15.
- If the employee does not remain covered, either because they dropped coverage under the status change rules or because they could not make their premium payments, the employer reports using code 1E on line 14, the cost of coverage on line 15, and either code 2H if the coverage remains affordable, or 2B if the coverage is not affordable, on line 16.

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<sup>1</sup>Furlough can mean different things in different industries. We use it here to represent an employee that remains employed with the employer while working either reduced hours or no hours at all.

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