The Repeal of Enhanced Form 1099 Reporting Requirements and Its Impact on Physician Groups

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Major New Burdens

Briefly, starting in 2012, the new law would have required all businesses, governments, and nonprofits to issue annual Form 1099s to all parties (including, for the first time, corporations) from which they buy either services or tangible goods if they pay those parties $600 or more in a year. As under current law, these forms must also be sent to the Internal Revenue Service (IRS). Expanding the law to cover payments to corporations and also payments for goods, and not just services, was significant. What this means is that if the practice purchased more than $600 in office supplies from a major office supply chain or a computer costing more than $600 from the local “big box” store, a Form 1099 would have been required, whereas that would not have been the case under current law.

This new reporting requirement would have added a massive accounting burden for physician groups. Many smaller physicians groups lack the staff or resources to adequately comply with this requirement. And even larger physician groups would have struggled to meet the paperwork burden that in many cases could multiply by the hundreds. Businesses with several locations would have had to track information on simple things like office supplies purchased at each office.

If you are wondering why an obscure tax form provision like this was buried in a huge healthcare
Once businesses and nonprofits discovered the new Form 1099 requirement, it caused such a firestorm of protest that both houses of Congress were unable to agree on how to make up the shortfall in funds that would be lost from repeal of the Form 1099 requirements. This year, both the Senate and House passed repeals of the Form 1099 requirements. However, their approaches differed.

The Senate finally passed H.R. 4 on April 5, 2011, which approved the same repeal measure as the House had previously approved. The Senate-passed bill, authored by Senator Mike Johanns (R-NE), was identical to legislation passed by the House in March. The bill covers the $20 billion cost of repeal by requiring people making 400% of the federal poverty limit to repay health insurance exchange subsidies if their income increases over the course of a year. The President signed the repeal legislation on April 14, 2011, which was the final stake in the heart of this troublesome legislation.

What Obligations Remain After Repeal?
Despite the repeal of the enhanced Form 1099 requirements, medical practices still need to comply with longstanding current law regarding the issuance of Form 1099. As noted above, the form must be issued by a medical practice to any independent contractor (but not to corporations or tax-exempt organizations) to which the medical practice has paid a total of $600 or more during the year for services (but not merchandise). They must also send a copy of the 1099 form to the IRS.

When a Form 1099 is required, it must show the total amount paid for the calendar year; the name and address of the payee; the tax identification number (TIN) for the payee; contact information for the payer; and the payee’s TIN. So it is critical that medical practices gather all of the foregoing information from every independent contractor from whom they expect to purchase services during the year.

One bit of good news is that payments made by credit or debit card purchases are often exempt from the current law. (For more details, see the instructions to Form 1099-MISC and IRS Revenue Procedure 2004-43.) The rationale behind this exemption is that credit card companies rather than purchasing entities are providing the tracking.

Form 1099 must be issued by January 31 of the following year for payments made the prior year. The penalty for failing to issue Form 1099 and provide the IRS with a copy increases with time and usually ranges from $15 to $50 per form. However, if the IRS can show “intentional disregard” of the filing requirement, the minimum penalty can jump to $100 per form.