COMPLIANCE ALERT

EPIC Insurance Brokers & Consultants

IRS INCREASES 2021 ACA AFFORDABILITY CONTRIBUTION

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QUICK FACTS

- Employers subject to the Affordable Care Act's (ACA) employer shared responsibility rules may be subject to penalties if they offer unaffordable coverage to full-time employees.
- Employees (and family members) who are eligible for coverage under an employer-sponsored plan that is affordable and provides minimum value are not eligible for the premium tax credit the ACA provides for Marketplace coverage.
- For plan years beginning in 2021, an employer's offer of coverage is affordable if an employee's required contribution for self-only coverage does not exceed 9.83% of the employee's household income for the year.
- The different measurements of affordability are summarized and compared in this article.

Overview

The Internal Revenue Service (IRS) recently issued Revenue Procedure 2020-36 to adjust the threshold contribution percentage in 2021 for purposes of determining the affordability of an applicable large employer's (ALE) group health plan under the Affordable Care Act (ACA). For plan years beginning in 2021, the IRS will consider employer-sponsored coverage affordable if an employee's required contribution for self-only coverage does not exceed 9.83% of the employee's household income for the year, for purposes of ACA employer shared responsibility rules and premium tax credit eligibility.

Different affordability measures apply to the employer shared responsibility mandate and the premium tax credit mandate, as described in the chart below.

Employer shared responsibility penalty

Under the ACA's employer shared responsibility provisions, ALEs that do not offer health coverage to their full-time employees (and their children), or that offer coverage that is either unaffordable or does not provide minimum value, may be subject to a penalty. An ALE is an employer with 50 or more full-time employees, or an equivalent combination of full-time and part-time employees.

Employer shared responsibility affordability determination

Affordability of health coverage offered by an ALE is a key point in determining whether the employer may be subject to a play-or-pay penalty. Coverage is considered affordable if an employee's portion of the self-only premium for his or her employer's lowest-cost coverage that provides minimum value does not exceed a specified percent of the employee's household income for the tax year (noted in the below chart). The determination applies regardless of whether the employee is eligible for another level of health plan coverage, such as family coverage. Thus, the cost of family coverage is not taken into account to determine whether an employer's health plan is affordable.

Employers may be largely unaware of the income levels of their employees' family members, so they could find it difficult to assess whether the coverage they offer would be considered affordable. To address this issue, the IRS provides three affordability safe harbors that allow an employer to determine the affordability of its health coverage without knowing an employee's household income, as follows:

- **Form W-2.** Under the Form W-2 safe harbor, an employer compares the cost of self-only health coverage to an employee's wages from that employer that are required to be reported in Box 1 of the employee's Form W-2 to determine whether the cost exceeds the specified percent of income (noted in the below chart).
- **Rate-of-pay.** Under the rate-of-pay safe harbor, affordability is determined by comparing the cost of self-only coverage to an employee's rate of pay. For salaried employees, the employer uses the employee's monthly salary to determine affordability. For hourly employees, the employer would multiply the employee's hourly rate of pay by 130 hours per month and determine affordability based on the resulting monthly wage amount.
- **Federal poverty level (FPL).** The FPL safe harbor measures affordability based on the FPL for a single individual in effect within six months before the first day of the plan year.

Premium tax credit

The ACA created a premium tax credit to help eligible individuals and families purchase health insurance through a Marketplace. By reducing a taxpayer's out-of-pocket premium costs, the credit is designed to make coverage through a Marketplace more affordable. To be eligible for the premium tax credit, a taxpayer:

- must have household income for the year between 100 and 400 percent of FPL for the taxpayer's family size;
- may not be claimed as a tax dependent of another taxpayer; and
- must file a joint return, if married.

In addition, a taxpayer must enroll in one or more qualified health plans through a Marketplace to qualify for premium assistance. Also, the taxpayer cannot be eligible for minimum essential coverage (MEC) such as coverage under a government-sponsored program or an eligible employer-sponsored plan. Employees who may enroll in an employer-sponsored plan, and individuals who may enroll in the plan because of a relationship with an employee, are generally considered eligible for MEC if the plan is affordable and provides minimum value.

Premium tax credit affordability determination

Employees (and their family members) who are eligible for coverage under an employer-sponsored plan that is affordable and provides minimum value are not eligible for the premium tax credit. To determine an employee's eligibility for a tax credit, the ACA provides that employer-sponsored coverage is considered affordable if the employee's cost for self-only coverage does not exceed a specific percentage of the employee's household income for the tax year (noted in the below chart). Also, the affordability determination for families is based on the cost of self-only coverage, not family coverage.

ACA MANDATE	SUMMARY	AFFORDABILITY MEASURE FOR EMPLOYEES	AFFORDABILITY MEASURE FOR FAMILY MEMBERS
Employer Shared Responsibility Penalty	ALEs that do not offer health coverage to their full-time employees (and children), or that offer coverage that is unaffordable or does not provide minimum value, may be subject to a penalty.	Coverage is affordable if the employee portion of the premium for the lowest-cost, self-only coverage that provides minimum value does not exceed 9.5%* (as adjusted) of an employee's W-2 wages, rate-of-pay income or the federal poverty level for a single individual. For 2020, this affordability measure is 9.78%. In 2021, the measure increases to 9.83%.	Coverage is affordable if the employee's self-only coverage cost (under the lowest-cost minimum value plan) does not exceed 9.5%* (as adjusted) of an employee's W-2 wages, rate-of-pay income or the federal poverty level for a single individual. For 2020, this affordability measure is 9.78%. In 2021, the measure increases to 9.83%. The cost of family coverage is not taken into account.
Premium Tax Credit	The premium tax credit helps eligible individuals and families purchase health insurance through an ACA Marketplace. Employees (and their family members) who are eligible for coverage under an employer-sponsored plan that is affordable and provides minimum value are not eligible for the ACA's premium tax credit.	Coverage is affordable if the employee's cost for self-only coverage does not exceed 9.78% in 2020 and 9.83% in 2021.	Coverage is affordable if the employee's cost for self-only coverage does not exceed 9.78% in 2020 and 9.83% in 2021. The cost of family coverage is not taken into account.

Action steps

The updated ACA affordability contribution percentages are effective for tax years and plan years beginning after December 31, 2020. As a result of the increase to ACA affordability contributions percentages, employers may have flexibility to increase employee contributions for health coverage in 2021 to meet the affordability requirements.

EPIC Employee Benefits Compliance Services

For further information on this or any other topics, please contact your EPIC benefits consulting team.