



Group Benefits Strategies

AFFORDABLE CARE ACT – AFFORDABILITY

When is coverage offered by an employer considered affordable for purposes of the employer shared responsibility provisions?

Employer-provided coverage is considered affordable for an employee if the employee required contribution is no more than 9.5 percent (as adjusted) of that employee's household income.

The employee required contribution is the employee's cost of enrolling in the least expensive coverage offered by the employer that provides minimum value. If an ALE offers multiple health care coverage options, the affordability test for a particular employee applies to the lowest-cost self-only coverage option that provides minimum value and that is available to that employee. The employee required contribution includes amounts paid through salary reduction or otherwise, and takes into account the effects of employer arrangements such as health reimbursement arrangements (HRAs), wellness incentives, flex credits, and opt-out payments.

In addition, because ALEs generally do not know their employees' household incomes, there are three affordability safe harbors employers can take advantage of that are based on information the employer does have available, such as the employee's Form W-2 wages or the employee's rate of pay. If an ALE's offer of coverage is affordable using any of these safe harbors – that is, the employee's required contribution is no more than 9.5 percent (as adjusted) of the baseline in the applicable safe harbor – then, the offer of coverage is deemed affordable for purposes of the employer shared responsibility provisions regardless of whether it was affordable based on the employee's household income (which is the test that applies for purposes of the premium tax credit).

The three affordability safe harbors are -

- (1) the Form W-2 wages safe harbor - The Form W-2 wages safe harbor generally is based on the amount of wages paid to the employee that the employer reports in Box 1 of that employee's Form W-2.
- (2) the rate of pay safe harbor - The rate of pay safe harbor generally is based on the employee's rate of pay at the beginning of the coverage period, with adjustments permitted, for an hourly employee, if the rate of pay is decreased (but not if the rate of pay is increased).
- (3) the federal poverty line safe harbor - The federal poverty line safe harbor generally treats coverage as affordable for a month if the employee required contribution for the month does not exceed 9.5 percent, adjusted annually, of the federal poverty line for a single individual for the applicable calendar year, divided by 12.

An ALE may use one or more of the safe harbors as its option but only if the ALE offers 95 percent of its full-time employees and their dependents the opportunity to enroll in coverage that provides minimum value for the self-only coverage offered to the employee. An ALE may choose to use one safe harbor for all of its employees or to use different safe harbors for employees in different categories, provided that the categories used are reasonable and the employer uses one safe harbor on a uniform and consistent basis for all employees in a particular category. The final regulations provide additional information on these affordability safe harbors.

Above excerpt from the IRS Q & A – found at <https://www.irs.gov/affordable-care-act/employers/questions-and-answers-on-employer-shared-responsibility-provisions-under-the-affordable-care-act>