THE ADVISOR

National Marketing Group Services, Inc.

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ACA's Affordability Contribution Rate Significantly Decreases for 2023

Affordability & Minimum Value

In general, under the pay or play provisions an applicable large employer (ALE) may either offer affordable minimum essential coverage that provides minimum value to its full-time employees (and their dependents) or potentially owe a penalty payment to the IRS. For this purpose, a dependent is an employee's child (including a child who has been legally adopted or placed for adoption) and who has not reached the age of 26. Spouses are not considered dependents and neither are stepchildren or foster children.

Affordable Coverage

Coverage is generally affordable for plan years beginning in 2022 if an employee's required contribution for self-only coverage does not exceed 9.61% of his or her household income for the taxable year (decreased from 9.83% for 2021). For plan years beginning in 2023, this percentage significantly decreases to 9.12%. This is the most substantial decrease in this percentage since these rules were implemented, and is the lowest that this percentage has ever been set, at 0.38% below the statutory affordability percentage of 9.5%. As a result, many employers may have to significantly lower their employee contributions for 2023 to meet the adjusted percentage.

If an employer offers multiple healthcare coverage options, the affordability test applies to the lowest-cost self-only option available to the employee that also meets the minimum value requirement.

Affordability Safe Harbors

Because ALEs are not likely to know their employees' household incomes, ALEs can take advantage of one or more of three optional affordability safe harbors. If an ALE meets the requirements of any of these safe harbors, the offer of coverage will be deemed affordable for purposes of pay or play.

The three affordability safe harbors that can be used instead of household income in making the affordability determination are:

- Form W-2 Wages Safe Harbor. This is generally based on the amount of wages paid to the employee that are reported in Box 1.
- Rate of Pay Safe Harbor. This is generally 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).
- Federal Poverty Line Safe Harbor. This generally treats coverage as affordable if the employee contribution for the year does not exceed a certain percentage of the federal poverty line for a single individual for the applicable calendar year.

Note that an ALE may use one or more of the safe harbors above only if the ALE offers its full-time employees and their dependents the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan that provides minimum value for the self-only coverage offered to the employee.

In addition, an employer may choose to use one or more of the safe harbors for all of its employees or for any reasonable category of employees, provided it does so on a uniform and consistent basis for all employees in a category.

Determining the Employee Required Contribution Amount

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.

Note on Opt-Out Arrangements: The IRS has stated that until final regulations on opt-out arrangements are applicable, employers can rely on the opt-out arrangement guidance provided in IRS Notice 2015-87 and a subsequent proposed rule. That guidance generally provides that, for purposes of pay or play, employers are only required to increase an employee's required contribution by the amount of an unconditional opt-out arrangement adopted after Dec. 16, 2015. An unconditional opt-out arrangement provides payments conditioned solely on an employee declining employer-sponsored coverage and not on an employee satisfying any other meaningful requirement related to the provision of health care to employees, such as a requirement to provide proof of other coverage.

In addition, the employee required contribution may not be the same amount as the premium the employee pays for coverage if, for example:

- The employee chooses to enroll in more expensive coverage such as family coverage; or
- The employer, in addition to or in conjunction with the coverage, offers other arrangements that could affect the employee's cost of coverage, including certain HRA contributions, wellness program incentives, flex credits, and opt-out payments.

Minimum Value

A health plan provides minimum value if both of the following apply:

- The plan covers at least 60% of the total allowed cost of benefits that are expected to be incurred under the plan; and
- The plan provides substantial coverage of inpatient hospitalization services and

physician services.

- IRS Minimum Value and Affordability Webpage

Additional Information

- Affordability Calculator
- Department of Health and Human Services Minimum Value Calculator
- IRS Minimum Value and Affordability Webpage

Should you have additional questions or need assistance, please contact **NMGS** at 305 592-9926 or by email customerservice@mynmgs.com

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