

Affordability and Employer Shared Responsibility

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Affordability

Applicable large employers (ALEs) that offer health coverage to their full-time employees may still be at risk for penalties if they do not offer "minimum essential coverage" (MEC) that is "affordable" and that provides "minimum value" (MV) to their full-time employees (and their dependents).

Coverage is considered "affordable" when the employee's share of the health premium cost for self-only coverage for the lowest cost "minimum essential coverage" option offered to the employee does not exceed a percentage (see below) of the employee's annual household income (HHI). The affordability threshold is indexed to inflation as follows:

For the First Day of the Plan Year In:	Affordability Threshold
2014	9.5%
2015	9.56%
2016	9.66%
2017	9.69%
2018	9.56%
2019	9.86%
2020	9.78%
2021	9.83%
2022	9.61%
2023	9.12%
2024	8.39%

An employer may utilize a employer shared responsibility "safe harbor" method to determine affordability by calculating an employee's contribution for the lowest-cost self only "minimum essential coverage" option offered as compared to:

- The employee's Box 1 Form W-2 reportable wages (the "Form W-2 Wages Safe Harbor");
- The employee's applicable rate of pay (the "Rate of Pay Safe Harbor");* or
- The Federal Poverty Level Safe Harbor**

*Pursuant to IRS guidelines, when utilizing the Rate of Pay Safe Harbor, the applicable monthly rate of pay for an hourly employee is an amount equal to 130 hours multiplied by the lower of:

- o the employee's hourly rate of pay as of the first day of the coverage period (typically the first day of the plan year), or;
- o the employee's lowest hourly rate of pay during the calendar month. For a non-hourly employee, the monthly rate of pay is determined as of the first day of the coverage period.

If the monthly salary for a non-hourly employee is reduced, including due to a reduction in work hours, the Rate of Pay Safe Harbor is not available.

** Federal Poverty Level Safe Harbor is not recommended for ADP TotalSource clients.

An ALE may use a safe harbor 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 and is considered "affordable" under the ACA for the self-only coverage offered to the employee.





Rate of Pay Safe Harbor

Under the Rate of Pay Safe Harbor, health coverage is deemed affordable provided that the employee's monthly required contribution for the employer's lowest cost, self-only minimum essential coverage option does not exceed 9.5 percent ([in 2014, indexed thereafter](#)) of the employee's applicable rate of pay.

Federal Poverty Level

Under the Federal Poverty Level Safe Harbor, health coverage is deemed affordable provided that the employee's required contribution for the calendar year for the employer's lowest cost, self-only minimum essential coverage option does not exceed 9.5 percent ([in 2014, indexed thereafter](#)) of the Federal Poverty Level.



Safe Harbor

Form W-2 Safe Harbor

Under the Form W-2 Safe Harbor, health coverage is deemed affordable provided that the employee's required contribution for the calendar year for the employer's lowest cost, self-only minimum essential coverage option does not exceed 9.5 percent ([in 2014, indexed thereafter](#)) of the employee's Box 1 Form W-2 wages.

"Affordability" Employer Shared Responsibility Risk and Assessment

Applicable large employers (ALE's) that do not offer affordable health coverage to full-time employees are at risk of being subject to an assessable payment for each full-time employee that enrolls in a plan through the Health Insurance Marketplace and receives a federal subsidy/tax credit (or, if lower, the applicable "failure to offer" penalty amount). The assessable payment is assessed on a monthly basis and calculated as 1/12 of the above amount for each month in the calendar year during which a full-time employee receives a premium tax credit due to either being offered health coverage that is unaffordable or not being offered health coverage that provides minimum value.

An affordability assessable payment may be assessed by the IRS for each employee who received an offer of medical coverage where the employee payment was greater than 9.5% ([in 2014, indexed thereafter](#)) of their monthly rate of pay or annual Box 1 W-2 wages for the lowest cost self-only option. An assessable payment may also be assessed by the IRS for any employees that are considered full-time under the Employer Shared Responsibility provisions, but did not receive an offer of coverage that provided minimum value.

Employees that work 130 or more hours, but not offered minimum essential coverage present two potential assessable payments to an employer. If the employer fails to offer health coverage to at least 95 percent of its full-time employees (and their dependents), and at least one full-time employee receives the premium tax credit for purchasing coverage through the Health Insurance Marketplace, the employer does not meet the minimum offering threshold and there is a potential risk for a "failure to offer" assessable payment*. However, if an employer meets the minimum offering threshold, the affordability and minimum value requirements must also be met in order to avoid the affordability assessable payment.

*If the ALE Member offered minimum essential coverage to all but five of its full-time employees and their dependents, and five is greater than 5% of the number of full-time employees of the ALE Member, the ALE Member may be considered as if it offered health coverage to at least 95% of its full-time employees and their dependents (even if it offered health coverage to less than 95% of its full-time employees and their dependents.) For example if the ALE offered coverage to 75 of its 80 full-time employees and their dependents.



Example of Affordability Calculation – Rate of Pay Safe Harbor

- Employee Hourly Rate of Pay: \$12.00
- Employee Monthly Cost for Single Coverage: \$100
- Hourly Rate of Pay * 130 hours = \$1,560
- \$1,560 * 8.39% (2024 affordability threshold) = \$130.88

In this case, \$130.88 is the maximum "affordable" monthly premium that an employee earning \$12.00 per hour could pay. Since this employee's monthly cost of single premium is \$100, and \$100 is less than \$130.88, this employee's monthly premium is considered "affordable" under the ACA's Shared Responsibility Rules.

Example of Affordability Calculation – Form W-2 Safe Harbor

- Employee's Annual Compensation from Box 1 of the employee's Form W-2: \$30,500
- Employee was offered coverage each month during the year.
- Employee's Annual Cost of Single Coverage: \$2,450
- \$30,500 * 8.39% (2024 affordability threshold) = \$2,558.95

In this case, \$2,558.95 is the maximum "affordable" annual premium that an employee earning \$30,500 annually could pay. Since this employee's annual cost of single premium is \$2,450, and \$2,450 is less than \$2,558.95, this employee's monthly premium is considered "affordable" under the ACA's Shared Responsibility Rules.

Elements that Impact the Affordability Calculation

For 2016 and beyond, the IRS has signaled their intent to make modifications to the calculation of the 4890H(b) assessment for some employers. One such change would impact employers who provide opt-out incentives to employees who waive coverage. The other change would impact employers who offer wellness programs and increase premiums for those employees who either do not participate or fail to achieve wellness goals.

Clients who offer Opt-Out incentives to employees who waive coverage and/or offer wellness incentives should contact their HRBP for assistance with their annual filings.

Opt-Out Incentives

Opt-out payments made by employers to employees who decline or waive medical coverage under an employer's group health plan may need to be included in the calculation of affordability. On July 8, 2016, the IRS issued proposed regulations that would require employers to include in their affordability calculations all unconditional opt-out arrangements regardless of when the arrangement was adopted, and all conditional opt-out arrangement which are not deemed "eligible." On December 19, 2016, the IRS published its Final Rule that finalized some rules in the July 8, 2016 proposed regulations, but did not finalize the proposed regulation on opt-out arrangements. Until finalization of the proposed opt-out arrangement regulations, the following treatment of opt-out payments applies.

Conditional Opt-Out Payments

A conditional opt-out payment is an offer of an amount by an employer to an employee that cannot be used to pay for coverage under the employer's health plan, and is available only if the employee declines coverage (including waiving coverage in which the employee would otherwise be enrolled) under the employer's health plan. The value of an opt-out payment that is conditional upon the employee providing some form of substantiation of other coverage (e.g. coverage under spouse's plan) is not included as an employee contribution when calculating affordability.

Unconditional Opt-Out Payments

An unconditional opt-out payment is an arrangement providing for a payment by an employer to an employee conditioned solely on an employee's declining coverage under the employer's health plan and not on an employee satisfying any other meaningful requirement such as a requirement to provide proof of coverage provided by a spouse's employer. If the unconditional opt-out arrangement was adopted after December 16, 2015, the value of that payment is included as an employee contribution when calculating affordability. If the unconditional opt-out arrangement was adopted on or before December 16, 2015, the value of the payment is not included as an employee contribution when calculating affordability.



Wellness Programs

The ACA created incentives and it builds on existing wellness program policies to promote employer wellness programs and encourage opportunities to support healthier workplaces. The IRS has issued regulations that require employers with certain circumstances to factor employee's participation in these programs into the calculation of affordability. The regulations provide that for purposes of determining affordability of employer coverage, employers must assume that each employee fails to satisfy the requirements of a wellness program. The exception is a tobacco cessation program. For these programs an employer may assume that employees satisfy the requirements of a qualifying tobacco cessation program when determining affordability.

So, in cases where an employer increases the premium of individuals who fail to comply with the terms of the wellness program that does not include tobacco cessation, the affordability calculation must assume that employees failed to satisfy the requirement of the program. Examples:

Wellness Program Type	Monthly Single Premium For Employees Who Successfully Program	Monthly Single Premium For Employees Who do Not Successfully Complete Program	Premium Amount For Affordability Calculation
Employee Must Complete Health Questionnaire and Biometric Screen	\$100	\$150	\$150
Employee Must Attest That They Are Non-Smokers	\$100	\$150	\$100

Health Reimbursement Arrangement (HRA)

If an employer's contributions to an HRA (outside of ADP TotalSource) reimburse for qualified medical premiums, the employer contributions to the HRA will be treated as reducing the amount an employee is required to contribute for the lowest-cost, self-only coverage.

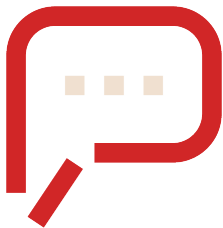
For example, if the employer credits \$1,200 to an employee's HRA for a calendar year and the employer's contribution is treated as reducing the employee's share of the cost of coverage, the employee's required contribution would be reduced by \$100 per month ($\$1,200/12 = \100).

Note: If you have any of the above special circumstances that may impact affordability, please contact your HRBP.

Frequently Asked Questions

What is "Affordability"?

If an employee's share of the premium for employer-provided coverage (self-only option) would cost the employee more than 9.5 percent ([in 2014, indexed thereafter](#)) of the employee's annual household income (HHI), the coverage is not considered affordable for that employee. If an employer offers multiple health care coverage options, the affordability test applies to the lowest-cost option available to the employee that also meets the minimum value requirement.



Why did I receive an IRS Penalty Notice when my plans appear affordable?

The IRS relies on information entered into their system. Mistakes can occur, causing coverage to appear unaffordable. In this case, the IRS may send a penalty notice to the employer. The employer will need to respond with correct information.

Is the 9.5 percent ([in 2014, indexed thereafter](#)) affordability threshold based on the plan and tier of coverage the worksite employee elects?

An employer must offer at least one plan to the worksite employee that meets the minimum value requirement and is affordable in order to avoid a penalty. The 9.5 percent ([in 2014, indexed thereafter](#)) affordability threshold is based on the single-tier premium for the lowest cost health plan offered to the worksite employee that meets the minimum value requirement.

How does an employer know whether the coverage it offers is affordable under the safe harbor provisions?

If an employee's share of the premium for lowest-cost employer-provided coverage that also meets the minimum value requirement would cost the employee no more than 9.5 percent ([in 2014, indexed thereafter](#)) of that employee's applicable Rate of Pay or Form W-2 wages, the coverage meets a affordability safe harbor and the employer will not be penalized if that employee qualifies for a premium tax credit/subsidy through the Health Insurance Marketplace.

What is the potential maximum amount of affordability assessable payment?

Under ACA guidelines, an employer that offers coverage will be imposed if the employer failed to offer coverage. As a result, any affordability assessable payment cannot exceed the applicable Failure to Offer assessable payment amount.