HEALTH CARE REFORM SERIES

Employer shared responsibility

What is it?

Sometimes called the "free rider assessment" and "pay or play penalty," employer shared responsibility is a provision under the Affordable Care Act (ACA) requiring large employers to offer health coverage to their employees or face financial penalties.

What does it mean for you?

The impact of employer shared responsibility depends on what size employer you are and how many employees you have. Each year, employers will determine whether they are considered an applicable large employer (ALE), based on the number of full-time equivalent employees they had during the previous year.

EMPLOYER GROUP	IMPACT
Small employers with fewer than 50 full-time equivalent employees	Not applicable to employer groups with fewer than 50 full-time employees (working 30 or more hours per week) or 50 full-time employee equivalents.
Large employers with more than 50 full-time equivalent employees	These employers must offer coverage that meets "minimum value" and is "affordable" to at least 95 percent of their full-time employees and dependents to avoid penalty.

Measurement periods

Once an employer has determined that it is an ALE they must determine which employees are full-time for purposes of offering coverage. Final rules outline the use of measurement periods to help with this process.

- A standard measurement period is used to determine full-time status for ongoing employees, and can be between three and 12 months in length. This measurement period should be the same for all employees in a particular category.
- For new employees that the employer reasonably expects to work full-time, coverage must be offered at or before the end of employee's initial full three calendar months of employment.
- An initial measurement period is used for new seasonal or variable hour employees and will generally begin on the first day of employment and ends between three to 12 months later, depending on what the employer sets as the duration of this period.
- Full-time status eligibility remains in place during a stability period which follows the measurement period and must be at least six months and no shorter than the measurement period.
- Optional administrative periods of up to 90 days can be used between the measurement and stability periods.

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Q&As

How do I know if my benefits are sufficient?

Employers must offer affordable health coverage and provide a minimum level of coverage to full-time employees in order to avoid penalty. An employer may be responsible for an employer shared responsibility payment if at least one of their full-time employees receives a premium tax credit for purchasing individual coverage in a public exchange. Premium tax credits for exchange purchases would be received because an employer's coverage was either unaffordable to the employee or didn't provide minimum value.

How do I know if my benefits are considered "affordable"?

If an employee's premium for single coverage would cost more than 9.5 percent (indexed for future years) of their annual household income, the coverage isn't considered affordable. For employers offering more than one plan, the lowest-cost option that meets minimum value, can be used to determine affordability.

Since employees' household incomes aren't typically known by an employer, three safe harbors were included in the final regulations, including allowing employers to refer to the wages an employee received that year.

How do I know if my coverage provides minimum value?

The IRS and Department of Health and Human Services have developed a minimum value calculator for employers where they can enter information about their health plan, including deductible and copay amounts. At least 60 percent of the total allowed cost of benefits that are expected to be incurred under the plan must be covered in order to meet minimum value standards.

What's the penalty if I choose not to offer coverage at all?

If an employer does not offer coverage, the employer could owe a payment equal to the number of full-time employees employed for the year, minus 30, multiplied by $2,000 (indexed for future years), if at least one full-time employee receives a premium tax credit for the purchase of an individual policy on their state's exchange.

The IRS will contact employers that may be liable for a payment.

What if I offer coverage, but it doesn't meet the affordability standard?

If an employer offers coverage that meets minimum value, but isn't affordable, the penalty is $3,000 (indexed for future years) for each person receiving a premium tax credit. So if that employer has two employees receiving a premium tax credit, the employer would owe an employer shared responsibility payment of $6,000. However, this amount will never be more than the penalty that would apply if the employer offered no coverage.

What is the definition of a seasonal employee?

Final regulations define seasonal employees as employees in positions for which the customary annual employment is six months or less. More information can be found at **irs.gov**.

MORE INFORMATION

To learn more, visit **healthpartners.com/employer**.

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