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Exchange Health Insurance Subsidies

The Affordable Care Act (ACA) called for the creation of state-based competitive marketplaces, known as **Affordable Health Insurance Exchanges** (Exchanges), for individuals and small businesses to purchase private health insurance. According to the Department of Health and Human Services (HHS), the Exchanges allow for direct comparisons of private health insurance options on the basis of price, quality and other factors, and coordinate eligibility for premium tax credits and other affordability programs.

The ACA created health insurance subsidies—in the form of **premium tax credits** and **cost-sharing reductions**—to help eligible individuals and families purchase health insurance through an Exchange, beginning in 2014. By reducing a taxpayer's out-of-pocket costs, the subsidies are designed to make Exchange coverage more affordable.

LINKS AND RESOURCES

- IRS final regulations on the premium tax credit (May 23, 2012)
- Separate IRS final regulations on eligibility for victims of domestic abuse and spousal abandonment (July 28, 2014)
- IRS final regulations providing a special rule for individuals who are eligible for COBRA coverage (Dec. 12, 2015)
- Additional IRS final rule on the premium tax credit (July 24, 2017)
- White House announcement that it will no longer reimburse insurers for cost-sharing reductions (Oct. 12, 2017)

HIGHLIGHTS

PREMIUM TAX CREDITS

- Premium tax credits are available for people with somewhat higher incomes (up to 400 percent of the federal poverty level, or FPL).
- The credits reduce out-of-pocket premium costs for the taxpayer.

COST-SHARING REDUCTIONS

- Reduced cost-sharing is available for individuals with lower incomes. **These subsidies are still available, but are no longer reimbursed by the federal government.**
- Cost-sharing reductions allow individuals to enroll in plans with higher actuarial values and have the plan, on average, pay a greater share of covered benefits.
- Coverage for these individuals will have lower out-of-pocket costs at the point of service (such as lower deductibles and copayments).

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EXCHANGE HEALTH INSURANCE SUBSIDIES

There are two federal health insurance subsidies available with respect to coverage through an Exchange—premium tax credits and cost-sharing reductions. **These subsidies vary in amount based on the taxpayer's household income, and reduce out-of-pocket health insurance costs for the insured.**

2 TYPES OF SUBSIDIES

- **Premium tax credits** are available for people with somewhat higher incomes (up to 400 percent of FPL), and reduce **out-of-pocket premium costs** for the taxpayer.
- **Reduced cost-sharing** is available for individuals with lower incomes (up to 250 percent of FPL). Through cost-sharing reductions, these individuals will be eligible to enroll in plans with higher actuarial values and have the plan, on average, pay a greater share of covered benefits. This means that coverage for these individuals will have lower **out-of-pocket costs at the point of service** (for example, lower deductibles and copayments).

On Oct. 12, 2017, the White House announced that it will no longer reimburse insurers for cost-sharing reductions made available to low-income individuals through the Exchanges, effective immediately. However, these subsidies continue to be available, because the ACA still requires insurers to offer reduced cost-sharing to low-income individuals through the Exchanges.

For purposes of determining eligibility for these subsidies, and the amount of any subsidy available, household income is determined using the taxpayer's **federal income tax return for that year**. However, because these subsidies are provided when the individual purchases insurance, the Exchanges will have to determine household income well before the individual files his or her tax return for that year.

At the end of the year, the subsidy amount will be recalculated using the taxpayer's household income as reported on his or her tax return, and any difference in the amounts will be reconciled. If the taxpayer's income has increased from the amount that he or she reported to the Exchange and, as a result, the taxpayer received a larger subsidy than he or she was entitled to, that individual **may have to repay part of his or her subsidy**. This could result in a smaller tax refund or a tax payment due for that individual.

PREMIUM TAX CREDITS

The premium tax credit is a refundable credit that helps eligible individuals and families with low or moderate income afford health insurance purchased through an Exchange. To get this credit, individuals must meet certain eligibility requirements and must file a tax return.

4/13; BR 11/18

Eligibility

To receive the premium tax credit assistance, a taxpayer must enroll in one or more qualified health plans (QHPs) through an Exchange and meet other specific criteria.

To be eligible for a premium tax credit, a taxpayer:

- Must have household income for the year between 100 percent and 400 percent of the federal poverty line (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 (unless the taxpayer meets certain criteria for victims of domestic abuse and spousal abandonment to claim the premium tax credit as married filing separately).

For purposes of the subsidies, "household income" means the sum of **a taxpayer's modified adjusted gross income** plus **the aggregate modified adjusted gross income of all other individuals who**:

- Are included in the taxpayer's family (meaning the individuals for whom a taxpayer properly claims a deduction for a personal exemption for the taxable year); and
- Are required to file a tax return for the taxable year.

In addition, to be eligible for the tax credit, the taxpayer **cannot be eligible for minimum essential coverage** (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 minimum essential coverage if the plan is **affordable** and provides **minimum value**.

Possible Impact on Employers: Employees who are eligible for minimum essential coverage (that is affordable and provides minimum value) through an employer-sponsored plan are not eligible for the premium tax credit. This is significant because the ACA's employer shared responsibility penalty for applicable large employers is triggered when a full-time employee receives a premium tax credit for coverage under an Exchange. An employee who is not eligible for a tax credit may still be eligible to enroll in a QHP through an Exchange. However, this would not result in a penalty for the employer.

Also, for purposes of the premium assistance, the requirements of affordability and minimum value do not apply if an employee actually enrolls in any employer-sponsored minimum essential coverage, including coverage provided through a cafeteria plan, a health FSA or an HRA, but only if the coverage does not consist solely of excepted benefits.

If an employee enrolls in any employer-sponsored minimum essential coverage, the employee is ineligible for the premium assistance.

4/13; BR 11/18

Special Rule for COBRA Enrollees

A special rule applies to individuals eligible for continuation coverage under federal law or state law that provides comparable continuation coverage, such as COBRA. Individuals who are eligible for continuation coverage are treated as being eligible for minimum essential coverage only for months that they are actually enrolled in the coverage.

Affordability Determination

To determine an individual's eligibility for a tax credit, the ACA provides that employer-sponsored coverage is not considered affordable if the employee's cost for self-only coverage exceeds **9.5 percent** of the employee's household income for the tax year. The affordability percentage is subject to annual adjustments for inflation (9.56 percent in 2015, 9.66 percent in 2016, 9.69 percent in 2017, 9.56 percent in 2018 and 9.86 percent in 2019).

The IRS confirmed that for purposes of the employer shared responsibility rules, the affordability determination for families is based on the cost of **self-only coverage**, not family coverage.

Safe Harbor Rules for Employers: Although the ACA measures affordability based on household income, there are three safe harbor approaches for assessing whether an employer's coverage is affordable for purposes of the employer shared responsibility rules for applicable large employers (ALEs). These safe harbors allow an ALE to measure affordability based on the employee's **W-2 wages**, the employee's **rate of pay** or the federal poverty level for a single individual. Premium tax credit eligibility will still be based on household income, but the ALE will not be subject to a penalty for that employee, even if he or she ultimately receives a premium tax credit.

Minimum Value Determination

The ACA provides that a plan fails to provide minimum value (MV) if the plan's share of total allowed costs of benefits provided under the plan is less than **60 percent** of those costs. On Feb. 25, 2013, HHS issued a final rule that outlines the following approaches for determining whether an employer's health coverage provides MV:

Approach 1: Calculator—The MV Calculator allows an employer to enter information about its health plan's benefits, coverage of services and cost-sharing terms to determine whether the plan provides MV.

Approach 2: Checklists—Design-based safe harbors in the form of checklists allow employers to compare their plans' coverage to the checklists. If the employer-sponsored plan's terms are consistent with or more generous than any one of the safe harbor checklists, the plan will be treated as providing MV. This method will not involve calculations and can be completed without an actuary.

Approach 3: Actuarial Certification—An employer-sponsored plan may seek certification by an actuary to determine the plan's MV if the plan contains nonstandard features that preclude the use of the MV Calculator and safe harbor checklists.

4/13; BR 11/18

Effect of Qualifying Small Employer Health Reimbursement Arrangements (QSEHRAs)

New rules enacted under the 21st Century Cures Act allow eligible small employers to provide a QSEHRA a new type of health reimbursement arrangement (HRA)—the QSEHRA—to their eligible employees for plan years beginning on or after Jan. 1, 2017. Under a QSEHRA, an eligible employer can reimburse eligible employees for medical expenses, including premiums for Exchange health insurance. An individual's eligibility for a QSEHRA can affect his or her eligibility for a premium tax credit, as follows:

- If the QSEHRA is considered affordable, no premium tax credit is allowed.
- If the QSEHRA is not considered affordable, the individual may still be eligible for a premium tax credit, but he or she must reduce the monthly premium tax credit (but not below 0) by the monthly permitted benefit amount.

See Pub. 974, Premium Tax Credit, for more information.

Amount of the Premium Tax Credits

The amount of the credit that an individual can receive generally is the difference between the cost of the premium for the "benchmark plan" and the amount the individual should be able to pay for premiums (expected contribution).

- The "**benchmark plan**" is the second lowest cost silver plan in the Exchange and area where the individual is eligible to purchase coverage. A **silver plan** is a plan that provides the essential benefits and has an actuarial value of 70 percent (that is, the plan, on average, pays 70 percent of the cost of covered benefits).
- The "**expected contribution**" is calculated as a specified percentage of the taxpayer's household income for the year, based on the taxpayer's FPL. The percentage increases as income increases, and is adjusted annually after 2014, as follows:

INCOME LEVEL	EXPECTED CONTRIBUTION (PERCENTAGE OF INCOME)					
	2014	2015*	2016*	2017*	2018*	2019*
Up to 133% FPL	2%	2.01%	2.03%	2.04%	2.01%	2.08%
133 – 150% FPL	3 – 4%	3.02 – 4.02%	3.05 – 4.07%	3.06 – 4.08%	3.02 – 4.03%	3.11 – 4.15%
150 – 200% FPL	4 – 6.3%	4.02 – 6.34%	4.07 – 6.41%	4.08 – 6.43%	4.03 – 6.34%	4.15 – 6.54%
200 – 250% FPL	6.3 – 8.05%	6.34 – 8.10%	6.41 – 8.18%	6.43 – 8.21%	6.34 – 8.10%	6.54 – 8.36%
250 – 300% FPL	8.05 – 9.5%	8.10 – 9.56%	8.18 – 9.66%	8.21 – 9.69%	8.10 – 9.56%	8.36 – 9.86%
300 – 400% FPL	9.5%	9.56%	9.66%	9.69%	9.56%	9.86%

**Rev. Proc. 2014-37 indexed the table for 2015. Rev. Proc. 2014-62 indexed the table for 2016. Rev. Proc. 2016-24 indexed the table for 2017. Rev. Proc. 2017-36 indexed the table for 2018. Rev. Proc. 2018-34 indexed the table for 2019.*

4/13; BR 11/18

The ACA also established new eligibility rules for Medicaid, giving states the option of extending Medicaid coverage to most people with incomes under 138 percent of FPL. In states that expand Medicaid, tax credits are available through the Exchange for individuals with incomes between 139 – 400 percent of FPL who do not have access to employer-sponsored or public coverage, as follows:

INCOME LEVEL	TYPE OF COVERAGE	EXPECTED CONTRIBUTION
Up to 138% FPL	Medicaid	No premiums
139 – 150% FPL	Exchange	3 – 4% of income
150 – 200% FPL	Exchange	4 – 6.3% of income
200 – 250% FPL	Exchange	6.3 – 8.05% of income
250 – 300% FPL	Exchange	8.05 – 9.5% of income
300 – 400% FPL	Exchange	9.5% of income

If an individual enrolls in a QHP that is cheaper than the benchmark plan, the actual amount the individual will pay for coverage will be less than the expected contribution. However, an individual that wants to purchase a QHP that is more expensive would have to pay the **full difference** between the cost of the benchmark plan and the plan they wish to purchase.

The credit is capped at the premium for the plan the individual chooses (so that no one receives a credit that is larger than the amount he or she actually pays for his or her plan).

Premium Tax Credit Payments

The premium tax credits are both **refundable** and **advanceable**.

- A **refundable** tax credit is one that is available to an individual even if he or she has no tax liability.
- An **advanceable** tax credit allows an individual to receive assistance at the time that he or she purchases insurance, rather than paying his or her premium out of pocket and waiting to be reimbursed when filing his or her annual income tax return.

Advance payments would be made directly to the insurance company on the family's behalf. At the end of the year, the advance payments are **reconciled** against the amount of the family's actual premium tax credit, as calculated on the family's federal income tax return. Any repayment due from the taxpayer is subject to a cap for taxpayers with incomes under 400 percent of FPL.

COST-SHARING REDUCTIONS

In addition, individuals with household incomes of **up to 250 percent of FPL** may also be eligible for reduced cost-sharing (that is, coverage with lower deductibles and copayments). These cost-sharing reductions are intended to protect lower income individuals from high out-of-pocket costs by ensuring

4/13; BR 11/18

that the plan, on average, pays a greater share of covered benefits. In order to receive the reductions, an individual must enroll through an Exchange in a QHP in the **silver level of coverage**.

HHS publishes the reductions in the maximum annual limitation on cost-sharing for enrollees each year in its Notice of Benefit and Payment Parameters final rule. The following table shows the reduced cost-sharing limits:

INCOME LEVEL	REDUCED MAXIMUM ANNUAL LIMITATION ON COST-SHARING FOR:									
	SELF-ONLY COVERAGE					FAMILY COVERAGE				
	2015	2016	2017	2018	2019	2015	2016	2017	2018	2019
100 – 150% FPL	$2,250	$2,250	$2,350	$2,450	$2,600	$4,500	$4,500	$4,700	$4,900	$5,200
150 – 200% FPL	$2,250	$2,250	$2,350	$2,450	$2,600	$4,500	$4,500	$4,700	$4,900	$5,200
200 – 250% FPL	$5,200	$5,450	$5,700	$5,850	$6,300	$10,400	$10,900	$11,400	$11,700	$12,600

White House Announcement

On Oct. 12, 2017, the White House announced that it **will no longer reimburse insurers for cost-sharing reductions** made available to low-income individuals through the Exchanges, **effective immediately**. Because Congress did not pass an appropriation for this expense, the Trump administration has taken the position that it cannot lawfully make the cost-sharing reduction payments.

Regardless of whether the federal government reimburses insurers for these subsidies, the ACA still requires insurers to offer reduced cost-sharing to low-income individuals through the Exchanges. **As a result, these subsidies continue to be available to consumers.**

APPEAL RIGHTS

Both individuals and employers have the right to appeal an Exchange subsidy eligibility determination. Federally facilitated Exchanges (FFEs) will follow a federal appeals process. State-based Exchanges have the flexibility to implement their own appeals processes in accordance with federal guidelines. For Exchanges that do not establish their own process, HHS will provide an employer appeals process.

For Individuals

Individuals have the right to appeal determinations of their eligibility to purchase health insurance through an Exchange, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions that they are eligible for.

- Under the FFE, individuals will first have the opportunity for a preliminary case review by appeals staff, referred to as "informal resolution." If the individual is satisfied by the outcome of the

4/13; BR 11/18

informal resolution, the decision stands as an official appeal decision. If the individual is dissatisfied with the outcome of the informal resolution, he or she retains the right to a hearing.

- Like the federal appeals process, state-based appeals processes may also include an informal resolution process. However, individuals have the right to escalate their appeals to the federal process managed by HHS if they remain dissatisfied following the state-based appeals process.

For Employers

ALEs may be subject to penalties if they do not offer coverage to full-time employees, or if the health coverage does not meet certain standards. These penalties are triggered when a full-time employee receives a subsidy for purchasing health insurance through an Exchange. When an employee receives a subsidy, the employer will be notified of the determination and their potential liability for an employer shared responsibility penalty. These notifications will be sent to **all employers** with employees who receive a subsidy for Exchange coverage (including ALEs and non-ALEs).

The FFE will include an appeals process for employers that wish to contest an Exchange determination that the employer does not provide minimum essential coverage that meets both minimum value and affordability standards. Through this appeals process, the employer can correct any information the Exchange received from an employee's application regarding the employer's offer of coverage. This appeal is separate from the IRS' process for determining whether an ALE is liable for an employer shared responsibility penalty.

4/13; BR 11/18