BENEFITS BUZZ

ACA's Pay or Play Affordability Percentage Decreases for 2024

On Aug. 23, 2023, the IRS released the affordability percentage threshold for 2024 plan years under the Affordable Care Act's (ACA) pay or play rules. For plan years beginning in 2024, employer-sponsored coverage will be considered affordable under the ACA's pay or play rules if the employee's required contribution for self-only coverage does not exceed **8.39%** of their household income for the year.

This is a significant decrease from the affordability percentage for 2023 plan years (9.12%) and the lowest this percentage has ever been set since the pay or play rules became effective. Applicable large employers (ALEs) will need to consider this affordability percentage in developing their health plan contribution strategies for the 2024 plan year. ALEs may have to reduce the amount they require employees to contribute in 2024 to meet the lower percentage.

The ACA's pay or play rules require ALEs to offer affordable, minimum-value health coverage to their full-time employees (and dependents) or pay a penalty. For 2024 plan years, an ALE's health coverage will be considered affordable if the employee's required contribution for self-only coverage under the employer's lowest-cost plan does not exceed 8.39% of the employee's household income.

Because an employer generally will not know an employee's household income, the IRS has provided three optional safe harbors that ALEs may use to determine affordability based on information that is available to them: the Form W-2 safe harbor, the rate of pay safe harbor and the federal poverty level safe harbor.

Deadline for Employers to Receive MLR Rebates Is Approaching

Employers with insured group health plans may soon receive a medical loss ratio (MLR) rebate from their health insurance issuers. Issuers who did not meet the applicable MLR percentage for 2022 must provide rebates to plan sponsors by Sept. 30, 2023. These rebates may be in the form of a premium credit or a lump-sum payment.

The MLR rules require issuers to disclose how much they spend on health care and how much they spend on administrative costs, such as salaries and marketing. If an issuer spends less than 80% (85% in the large group market) of premium dollars on medical care and efforts to improve the quality of care, they must refund the portion of premium that exceeded this limit. Issuers who issue rebates must provide plan sponsors and participants with a notice explaining the rebate and how it was calculated.

Employers who receive MLR rebates should consider their options for using the rebate. Any rebate amount that qualifies as a plan asset under ERISA must be used for the **exclusive benefit** of the plan's participants and beneficiaries. In general, employers should use the rebate within **three months** of receiving it to avoid ERISA's trust requirement. In addition, employers who receive MLR rebates should be prepared to answer questions from employees about the rebate and how it is being allocated.

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