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HEALTHCARE REFORM UPDATE 2016-1



IRS Final Rule on Minimum Value

In December 2015, the Internal Revenue Service (IRS) issued a [final rule](#) that clarifies various topics relating to the Patient Protection and Affordable Care Act (ACA) and premium tax credit eligibility provisions. The rule finalizes regulations that were proposed years earlier.

Child Income

The final rule clarified language relating to the calculation of a taxpayer's household income, which includes the modified gross adjusted income of the taxpayer and the members of their family who are required to file an income tax return. The final rule provides that when a parent makes an election, household income includes the child's gross income on the parent's return. Premium tax credit eligibility is based on the child's modified adjusted gross income (MAGI), which might not be the same as the amount reported as gross income.

Wellness Incentives

When calculating affordability of employer coverage when wellness incentives or penalties are offered through a wellness program, the final regulations state that employers must assume each employee fails to satisfy the requirements of the wellness program, unless it is a non-discriminatory wellness program related to tobacco use. For nondiscriminatory tobacco use incentives, the affordability calculation can assume all employees earn the incentive or are not charged the penalty.

HRA Contributions and Flex Credits

Mirroring guidance from IRS [Notice 2015-87](#), the final rule clarifies that health reimbursement arrangement (HRA) contributions by an employer that may be used to pay premiums for an eligible employer sponsored plan are counted toward the employee's required contribution, subsequently reducing the amount required for their contribution.

Similarly, an employer's flex contributions to a cafeteria plan can reduce the amount of the employee portion of the premium so long as the employee may not opt to receive the amount as a taxable benefit, the flex credit may be used to pay for the minimum essential coverage (MEC), and the employee may use the amount only to pay for medical care. If the flex contribution can be used to pay for non-health care benefits (such as dependent care), it could not be used to reduce the amount of the employee premium for affordability purposes. Furthermore, if an employee is provided with a flex contribution that may be used for health expenses, but may be used for non-health benefits, and is designed so an employee who elects the employer health plan must forego any of the flex plan's non-health benefits, those flex benefits may not be used to reduce the employee's premium for affordability purposes.

Continuation Coverage

The final rule also provides guidance on continuation coverage post-employment. Individuals who are offered coverage post-employment (through COBRA or retiree coverage) will not be disqualified from a premium tax credit eligibility unless they enroll in the coverage. If an individual who is still an employee is offered COBRA coverage (typically due to a reduction in hours) that is affordable and minimum value, he or she will not be eligible for premium tax credits.

Mid-month Enrollment

Children who are enrolled mid-month due to birth, adoption, placement by court order, or placement for adoption or foster care, will be treated as being enrolled from the first day of the month for purposes of premium tax credit eligibility.

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Our access to ACA Advisor resources can help you clear up ACA questions and better craft your company's benefit strategy for the future.

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