

June 2016

ACA's Affordability Contribution Percentage Increases for 2017

On April 12, 2016, the Internal Revenue Service (IRS) released [new guidance](#) on the percentages used to determine what is considered "affordable" health coverage.

Under the Affordable Care Act (ACA), the affordability of an employer's plan may be assessed for the employer shared responsibility penalty, the individual mandate and the premium tax credit. The affordability test varies for each provision.

For plan years beginning in 2017, the ACA's affordability contribution percentages will be adjusted to the following percentages:

- **9.69 percent** under the employer shared responsibility rules (up from 9.66 percent in 2016). The shared responsibility rules, or pay or play rules, require applicable large employers

(those that employ 50 full-time employees or full-time equivalents) to offer coverage that does not exceed 9.69 percent of an employee's household income for the year.

- **9.69 percent** under the premium tax credit eligibility rules (up from 9.66 percent in 2016). If employees' required contributions exceed 9.69 percent, those employees could be eligible for a premium tax credit through the Marketplace.
- **8.16 percent** under an exemption from the individual mandate (up from 8.13 percent in 2016). Individuals that lack access to affordable, minimum value coverage are exempt from the individual mandate.

Failing to meet any of these requirements could trigger significant financial penalties for your business. Remember that these percentages only apply to self-only coverage, and do not include any additional costs for family coverage.

If you offer multiple health coverage options, the affordability test applies to the lowest-cost option that also satisfies the minimum value requirement set by the ACA.

These new percentages are effective for taxable years and plan years beginning after Dec. 31, 2016.

DID YOU KNOW?

This spring, Exchanges will begin notifying employers that they may be subject to ACA penalties if any of their employees are deemed eligible for health insurance subsidies through an Exchange. Employers who receive these notices will have 90 days to file an appeal if they feel the eligibility determination was made in error.

Information on how to file an appeal request in the federally-facilitated Exchanges, as well as some state-based Exchanges, is available at www.healthcare.gov. Exchanges may require appeals to be filed on paper only, as the requirement for Exchanges to accept appeals online has been delayed.

Updated HIPAA Self-audit Tools

The Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) released an updated audit protocol that health plan sponsors and business associates can use to prepare for Phase 2 of the HIPAA audit program.

The OCR audit protocol is organized around modules, each representing separate elements of privacy, security and breach notification. The protocol identifies approximately 180 areas for potential audit inquiry.

The updated OCR audit protocol identifies "key activities" (HIPAA standards) and provides information on the legal requirements for each standard, as well as potential audit inquiries related to the HIPAA requirements. More information about the audit protocol can be found [here](#).

HIPAA's Security Risk Assessment (SRA) Tool can also be used to perform and document an organization's security risk analysis. The SRA Tool can be downloaded [here](#).

Even if your organization is not selected for a Phase 2 audit, it is important to self-audit your business to ensure compliance, since the OCR will likely continue its enforcement efforts after Phase 2 audits are complete.