

Legal Update

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IRS Proposes Change to Family Coverage Affordability Rules

On April 5, 2022, the IRS released a [proposed rule](#) that would change the existing rules for eligibility for the premium tax credit (PTC). The PTC is available to eligible individuals who purchase health insurance coverage through the Exchange. Individuals who have access to affordable, minimum value employer-sponsored coverage are not eligible for the PTC.

Overview of the Proposed Change

Currently, whether employer-sponsored coverage is considered affordable for family members is determined based on the lowest-cost **self-only coverage** available to the employee. **The cost of family coverage is not currently taken into account.** These rules apply for determining an individual's eligibility for the PTC, and have also been specifically incorporated for use in determining affordability for purposes of the employer shared responsibility rules.

The proposed rule would provide that an employer-sponsored plan is affordable for family members if the **portion of the annual premium the employee must pay for family coverage** (the employee's required contribution) does not exceed 9.61% in 2022) of household income. For this purpose, family coverage means all employer plans that cover any related individual other than the employee. The proposed rule would also add a minimum value rule for family members based on the benefits provided to the family members.

Impact of the Proposed Rule

If this rule is finalized, the change would likely mean that more individuals will be newly eligible for a premium tax credit for coverage purchased through the Exchange. The proposal would not affect affordability for employees. Employees would continue to have an offer of affordable employer coverage if the employee's required contribution for self-only coverage does not exceed 9.5% (as adjusted) of household income. Therefore, an employee's family member may have an offer of employer coverage that is unaffordable even though the employee has an affordable offer of self-only coverage.

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Highlights

- The proposed rule addresses eligibility for the premium tax credit, which is available for Exchange health coverage.
- The rule would provide that affordability of employer-sponsored coverage for family members is determined based on the cost of family coverage.
- This rule is in proposed form and will not take effect unless and until it is finalized.

Coverage would be affordable for family members if the employee's required contribution for family coverage does not exceed 9.61% of household income.