

# REFORM *Update*

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In Rev. Proc. 2014-37, the Internal Revenue Service recently updated the percentages for determining affordability under health care reform for 2015. Affordability is defined differently under two different provisions of the Affordable Care Act (ACA).

1. **Affordability under the Employer Mandate.** For plan years beginning on or after January 1, 2014, a plan must cost 9.5% or less of the employee's household income to be considered affordable to the employee. In 2015, the employer could potentially suffer a penalty for failing to offer affordable coverage. The percentage is annually indexed. For plan years beginning on or after January 1, 2015 only, a plan must cost 9.56% or less of the employee's household income to be considered affordable.
2. **Affordability under the Individual Mandate.** An individual is exempt from paying the tax penalty for failing to have health coverage if the individual can't find an affordable coverage option. For this purpose, in 2014, an affordable plan is defined as coverage that costs 8% or less of the individual's household income. In 2015, an affordable plan has to cost 8.05% or less of an individual's household income to qualify for the exemption.

Recognizing that employers generally do not have employee household income data, the IRS allows employers to use one of the following safe harbor methods to determine affordability:

- **W-2:** This safe harbor applies based on W-2 wages as of the end of the current year. Affordability is based on earnings reported in Box 1. If the coverage cost is 9.5% or less of the W-2 wages, the plan will be considered affordable.
- **Rate of Pay:** This safe harbor allows affordability to be calculated based on an employee's rate of pay. For salaried employees, affordability is calculated based on monthly salary. For hourly employees, the hourly rate is multiplied by 130 to determine monthly salary. If coverage cost is 9.5% or less of the monthly rate of pay, the plan will be considered affordable.
- **Federal Poverty Limit (FPL):** This safe harbor allows affordability to be calculated based on the FPL. A plan is affordable for all employees if it costs 9.5% or less of the FPL. Employers can rely on the FPL in effect six months prior to the beginning of the plan year for this safe harbor.

Employers should note that the IRS did not update the affordability safe harbor percentage to 9.56%. Therefore, employers using one of the safe harbor methods should continue to use the 9.5% threshold until the IRS issues an update to those regulations. We will keep you posted of any changes.

For more details, you can find the IRS announcement of the changes at <http://www.irs.gov/pub/irs-drop/rp-14-37.pdf>.

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