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Background

Large employers may be subject to the employer penalty under the Affordable Care Act if they do not offer affordable, minimum value coverage to all full-time employees and at least one full-time employee receives a subsidy in the Exchange. The Federal Poverty Line ("FPL") is relevant to this penalty in two ways:

- 1. Affordability Safe Harbor:** For affordability purposes, a large employer satisfies the FPL safe harbor with respect to an employee for a calendar month if the employee's required contribution for the large employer's lowest cost self-only coverage that provides minimum value does not exceed 9.5% (as indexed) of a monthly amount determined as the FPL for a single individual for the applicable calendar year, divided by 12.
- 2. Subsidy Eligibility:** An individual is only eligible for a subsidy in the Exchange if he or she is within 100-400% of the FPL and is not offered affordable, minimum value group coverage.

Indexed Amounts

The following are the 2016 HHS poverty guidelines:

2016 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA	
Persons in family/household	Poverty guideline
1	\$11,880
2	\$16,020
3	\$20,160
4	\$24,300
5	\$28,440
6	\$32,580
7	\$36,730
8	\$40,890

For families/households with more than 8 persons, add \$4,160 for each additional person.

2016 POVERTY GUIDELINES FOR ALASKA	
Persons in family/household	Poverty guideline
1	\$14,840
2	\$20,020
3	\$25,200
4	\$30,380
5	\$35,560
6	\$40,740
7	\$45,920
8	\$51,120

For families/households with more than 8 persons, add \$5,200 for each additional person.

2016 POVERTY GUIDELINES FOR HAWAII	
Persons in family/household	Poverty guideline
1	\$13,670
2	\$18,430
3	\$23,190
4	\$27,950
5	\$32,710
6	\$37,470
7	\$42,230
8	\$47,010

For families/households with more than 8 persons, add \$4,780 for each additional person.

Affordability Safe Harbor and Subsidy Eligibility 2016 Results

So as to provide employers with adequate time to establish premium amounts in advance of the plan's open enrollment period, a plan can use any of the poverty guidelines in effect within 6 months before the first day of the plan year. These new thresholds were announced in January 2016.

Based on 2016 levels:

- For affordability safe harbor purposes, the applicable FPL is the FPL for the state in which the employee is employed. The FPL is \$11,880 for a single individual for every state (and Washington D.C.) except Alaska or Hawaii. So, if the employee's required contribution for the calendar month for the lowest cost self-only coverage that provides minimum value is \$95.63 (9.66% of \$11,880/12) or less, the employer meets the FPL safe harbor.
- For subsidy eligibility purposes, the applicable FPL is the FPL for the state in which the employee resides. 100 – 400% of the FPL is \$11,880 - \$47,520 for a single individual and \$24,300 - \$97,200 for a family of four for every state (and Washington D.C.), except Alaska or Hawaii.