

August 2023

Employer Contribution Strategies

Presented by Benefit Comply



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Welcome! We will begin at 3:00 ET.

There will be no sound until we begin the webinar.

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Agenda

- Miscellaneous
 - Setting employer contributions for small group age-rated plans
 - Changing employer contributions mid-year
- Opt-out incentives and spousal surcharges
- Nondiscrimination rules
- Affordability
 - Determining the employee contribution
 - How to use employer safe harbors to set affordable coverage
 - Family affordability discussion



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Employer Contribution Considerations

- Are there carrier contribution requirements?
- Is the coverage affordable for employees? For spouses and dependents?
- Will all employees contribute the same amount or percentage? If not, does the contribution structure comply with benefit nondiscrimination rules?
- Will wellness incentives or flex credits affect the cost of coverage?
- Does it make sense to offer an opt-out incentive or impose a spousal surcharge?



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Miscellaneous



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Age-Rated Plans

- The Issue...
 - Small group fully-insured plans are age-rated
 - Employers that move from a traditional rated plan to an age-rated plan often struggle with how to set employee contributions
- Employer Has Choices
 - Employer can charge employee's a % of the age rate
 - Older employees will end up paying more, but the ADEA allows this if all employees pay the same %
 - Employer can charge a flat employee contribution amount
 - Employer will end up contributing more toward older employees' coverage



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Mid-Year Contribution Changes

- Employer is permitted to adjust employee contributions mid-plan year
- §125 rules permit a mid-year election change on account of the employer increasing or decreasing employee contributions
 - Change in cost of coverage does NOT trigger a HIPAA special enrollment right, so it does not require the plan to allow mid-year enrollment



Opt-Out Incentives & Spousal Surcharges

Opt-Out Incentives

Cash or other incentive for those who waive the employer's coverage

- Cash would be taxable
- Health FSA, HRA or HSA contribution is not taxable but complicates things

Compliance Considerations

- Do not condition the incentive on:
 - Enrollment in individual health coverage
 - Enrollment in Medicaid, TRICARE or Medicare
- To ensure the opt-out doesn't impact affordability under §4980H(b), it may need to be offered solely to those who show proof of other group health plan coverage
- Offering it to a particular class of employees could violate benefit nondiscrimination rules if it favors highly compensated or key employees

Spousal Surcharges

- Increased employee contribution for spouses who have access to other group health plan coverage
 - Cannot impose a surcharge on those who are eligible for Medicaid or Medicare
- Sometimes difficult to administer
 - How does employer know spouse is employed and has other coverage?
 - Proof – Rely on attestation or require confirmation from spouse's employer?

Benefit Nondiscrimination Rules



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Benefit Nondiscrimination Rules

- To offer benefits on a **tax-favored basis**, plans must be structured in accordance with benefit nondiscrimination rules
 - Benefit nondiscrimination rules restrict the ability to favor **highly compensated individuals or key employees** on tax-favored basis
 - Monitored and enforced by the IRS
 - Failure risks the highly compensated and key employees being taxed on benefits received under the discriminatory plan



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Affordability

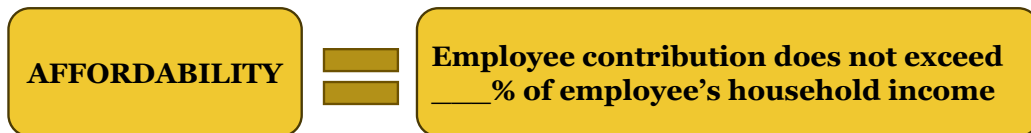


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Coverage Affordability

- Affordability matters for two reasons:
 - Premium tax credit eligibility for coverage through the public Marketplace
 - Applicable large employer (50 or more FTEs) compliance with §4980H(b)



Affordability Percentages	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
	9.56%	9.66%	9.69%	9.56%	9.86%	9.78%	9.83%	9.61%	9.12%	8.39%



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Required Employee Contribution

Determining the
Employee Contribution



- Do Not Affect Affordability
 - HSAs
 - HRAs



- May Affect Affordability
 - Flex credits
 - Opt-out incentives
 - Wellness incentives

Required Employee Contribution

- Flex Credits (or Defined Contribution)
 - Will only decrease employee contribution if restricted to health coverage (e.g., medical, dental, vision, or health FSA)

Example - Employer makes \$300/month available via flex credits and employee's cost for single medical coverage is \$500/month

- If \$300 may be used only for medical, dental or vision premiums, or contributed to a health FSA, required employee contribution is \$200 (\$500 – \$300)
- If employee may use the \$300 toward life, disability, DCAP or taken as cash, required employee contribution is \$500

Required Employee Contribution

- Opt-Out Incentives (or Cash-in-Lieu of Benefits)
 - If available to any employee who waives coverage, incentive must be added to employee contribution
 - If limited to employees who show proof of other non-individual health insurance, it can be ignored

Example – Employee cost for single medical coverage is \$125/month, but there is an opt-out incentive of \$50/month for a waiver of coverage

- If available to all who waive, required employee contribution is \$175 (\$125 + \$50)
 - Transition relief available for opt-out arrangements in place prior to December 2015
- If available only to employees who prove coverage for themselves and family members under another group health plan (e.g., through a spouse), required employee contribution is \$125



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Required Employee Contribution

- Wellness Incentives
 - Employee contribution assumes employee fails to satisfy any wellness requirements UNLESS incentive is tobacco-related

Example – Employee cost for single medical coverage is \$200/month, with a wellness incentive that reduces the cost to \$150/month

- If wellness incentive is not tobacco-related, required employee contribution is \$200 (assuming the employee fails to satisfy the wellness program criteria)
- If wellness incentive is tobacco-related, required employee contribution is \$150 (assuming non-tobacco use)



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Affordability Safe Harbors

- Household Income = Modified Adjusted Gross Income (MAGI)

Employers are unlikely to know an employee's household income

Federal Poverty Level (FPL) Safe Harbor

- Employee's monthly cost does not exceed 9.12% (2023) or 8.39% (2024) of FPL

Rate of Pay Safe Harbor

- Hourly - Employee's monthly cost does not exceed 9.12% (2023) or 8.39% (2024) of hourly rate x 130
- Salaried - Employee's monthly cost does not exceed 9.12% (2023) or 8.39% (2024) of monthly salary

Form W-2 Safe Harbor

- Employee's annual cost does not exceed 9.12% (2023) or 8.39% (2024) of Box 1 wages



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FPL Safe Harbor

- Federal Poverty Level (FPL) Safe Harbor (2023)
 - Calendar year plans:
 - 2023= \$103.28/month or less ($\$13,590 \times 9.12\% / 12$)
 - 2024 = \$97.73/month or less ($\$13,591 \times 8.39\% / 12$)
 - Non-calendar year plans:
 - 2023 - \$110.80/month or less ($\$14,580 \times 9.12\% / 12$)
 - 2024 – TBD (2024 FPL as not been released yet)

****Guidance indicates employers should use FPL amounts in effect within six months before the first day of the plan year. HHS typically updates the FPL amounts in late January*

TIP: First try FPL safe harbor. If that doesn't apply, then consider rate of pay or Form W-2 safe harbors



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Rate of Pay Safe Harbor

- Hourly Employee
 - Hourly rate x 130 x affordability %
 - Use hourly rate as of the first day of the coverage period, unless pay is reduced during the year; if pay is reduced, use the lower amount
- Salaried Employee
 - Monthly salary x affordability %
 - Use monthly salary as of first day of the coverage period; if pay is reduced, safe harbor is not available

Employee Wages	2023 Rate of Pay	2024 Rate of Pay
	<i>Amount that is affordable</i>	
HOURLY		
\$8	\$94.85	\$87.26
\$10	\$118.56	\$109.07
\$12	\$142.27	\$130.88
\$14	\$165.98	\$152.70
\$16	\$189.70	\$174.51
\$18	\$213.41	\$196.33
\$20	\$237.12	\$218.14
SALARIED		
\$1,500	\$136.80	\$125.85
\$2,000	\$182.40	\$167.80
\$2,500	\$228.00	\$209.75
\$3,000	\$273.60	\$251.70



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Form W-2 Safe Harbor

Employee Wages	2023 Form W-2	2024 Form W-2
	<i>Amount that is affordable</i>	
Box 1 Wages		
\$20,000	\$152.00	\$139.83
\$30,000	\$228.00	\$209.75
\$40,000	\$304.00	\$279.67
\$50,000	\$380.00	\$349.58
\$60,000	\$456.00	\$419.50

- Form W-2, Box 1 Wages
 - Include all annual wages/salary, including bonuses, but reduced by pre-tax contributions toward benefits
 - Use Box 1 wages for the year coverage is offered (e.g., 2023 Box 1 wages for affordability of coverage during 2023)
 - Must use a guesstimate at the beginning of the year to set affordable contributions



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Employer Affordability Considerations

Small Employers

- No requirement to offer affordable coverage
- Allow employees and family members to qualify for premium tax credits?

Applicable Large Employers (50 or more FTEs)

- Must offer affordable coverage to avoid potential §4980H(b) penalties
 - Cost of coverage versus penalty risk (approx. \$360/month in 2023)
- Allow employees and family members to qualify for premium tax credits?

Health Plan Family Affordability

The Big Picture

The change in affordability rules for family members, combined with the increased Federal subsidies available for individual coverage, may create a situation where it is better to choose individual health insurance for the employee's family members instead of having them participate in the employer's plan

Premium Tax Credit Affordability

- IRS changed the definition of affordability for qualification for premium tax credits when purchasing individual coverage through the public Exchange

Previous Affordability Rule

- Affordable for employee and all eligible family members if single coverage is affordable
- Employee contribution for employee-only (single) coverage cannot exceed 9.12% (2023) / 8.39% (2024) of household income

Current Affordability Rule

- Affordability for employee based on employee contribution for single coverage (cannot exceed 9.12% (2023) / 8.39% (2024) of household income)
- Affordability for family members based on employee contribution for family coverage (cannot exceed 9.12% (2023) / 8.39% (2024) of household income)



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Family Affordability Example

- Employee's Household Income = \$120,000 (\$10,000/mo.)
- Affordable
 - 2023 = \$912 mo. (9.12% of \$10,000 = \$912)
 - 2024 = \$839 mo. (8.39% of \$10,000 = \$839)

2023
Monthly EE Contribution Single = \$250, Family = \$850
<ul style="list-style-type: none"> • Old Rule - Affordable for employee and all family members • New Rule - Affordable for employee and affordable for family members \$850 is less than \$912

2024
Monthly EE Contribution Single = \$250, Family = \$850
<ul style="list-style-type: none"> • Old Rule - Affordable for employee and all family members • New Rule - Affordable for employee, but not affordable for family members \$850 is greater than \$839

- **Important!**
 - Employers do not have to offer affordable family coverage
 - No employer penalty if family coverage is unaffordable



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Inflation Reduction Act

- Significant Increase in Subsidies Extended Through 2025

Income (% of poverty)	Affordable Care Act (before legislative change)	COVID-19 Relief (2021 – 2022)
Under 100%	Not eligible for subsidies	Not eligible for subsidies**
100% – 138%	2.07%	0.0%
138% – 150%	3.10% – 4.14%	0.0%
150% – 200%	4.14% – 6.52%	0.0% – 2.0%
200% – 250%	6.52% – 8.33%	2.0% – 4.0%
250% – 300%	8.33% – 9.83%	4.0% – 6.0%
300% – 400%	9.83%	6.0% – 8.5%
Over 400%	Not eligible for subsidies	8.5%



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Inflation Reduction Act

Annual Household Income	Family Size	% FPL	Average "Retail" Monthly Prem.	Subsidized Silver Plan Mo. Prem.
\$20,000	1	157%	\$353	\$5
\$20,000	4	76%	Medicaid	Medicaid
\$40,000	1	313%	\$353	\$211
\$40,000	4	153%	\$1,245	\$4
\$60,000	1	470%	\$353	\$353
\$60,000	4	229%	\$1,245	\$158
\$80,000	4	305%	\$1,245	\$409
\$125,000	4	477%	\$1,245	\$885

- Silver Plan Cost (approx. \$3,000 deductible plan - OOP reduced for lower income)



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How Many Employees Could This Impact?

- When is Family Contribution Unaffordable?

Monthly Employee Contribution for Family Coverage	\$500.00	\$750.00	\$1,000.00
Unaffordable for Household Incomes Using 9.12% (2023)	\$65,789.47	\$98,684.21	\$131,578.95
Unaffordable for Household Incomes Using 8.39% (2024)	\$71,513.71	\$107,270.56	\$143,027.41

- Open Enrollment Season - When Might This Matter Most?
 - Many employers have fall open enrollment for a 12/1 or 1/1 plan year
 - Healthcare.gov 2023 open enrollment 11/1/23 – 1/15/24
 - Some state-run Exchanges may have different dates



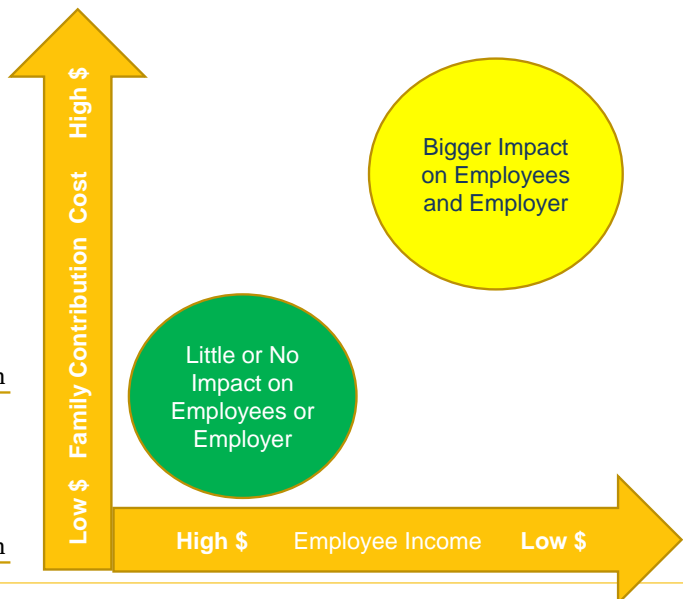
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Employer Strategy

Significant for employers with low and middle-income workers, high family plan cost, and low family participation...

Big Impact Groups with lower average household income and higher than average family contribution

Less Impact Groups with higher average household income and lower than average family contribution



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