

THE LOCAL CHOICE E-NEWS

Department of State and Local Health Benefits Programs

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Affordable Care Act (ACA) Requirements for Large Employers*

The employer shared responsibility provisions of the ACA require applicable large employers to offer minimum essential coverage that is affordable and provides minimum value to full-time employees and their dependents. Failure to do so can result in an employer being subject to an employer shared responsibility payment to the IRS.

While TLC plans meet the minimum essential coverage and minimum value standards, the annual ACA reporting process identified possible issues related to affordability for some large employers. The Department of Human Resource Management (DHRM) will be notifying individually any large employer whose lowest single employee premium contribution exceeded the federal poverty level (FPL) affordability safe harbor in 2015 and/or for the recent renewal. (Those employers who exceed the FPL safe harbor will be identified on their employees' 1095-C forms.)

The federal poverty level (FPL) safe harbor is one of three safe harbors that can be used to determine affordability and is generally considered to be the lowest threshold of the three standards. The other two are based on an employee's W-2 income or monthly rate of pay. DHRM does not have access to TLC groups' employee wages, so it can only apply the FPL safe harbor to identify possible affordability concerns. This does not mean that your plan is not affordable based on the other safe harbors or on other individual criteria, and some groups may have already resolved this matter.

This correspondence is informational and should not be construed as legal advice. However, going forward, since failing to meet the FPL affordability safe harbor is reflected on employees' 1095-C forms, employers who will not meet this safe harbor may want to consider doing their own ACA reporting for 2016 forward so that they can report other affordability compliance or relevant information. (DHRM is unable to report this on their behalf.)

We would encourage you to seek the advice of your legal counsel if you currently exceed or anticipate exceeding the FPL safe harbor and have not determined that you meet the affordability standard through another safe harbor or will apply other criteria.

For your reference, following are the FPL safe harbors that are currently available. However, these are subject to change, and it will be the employer's responsibility to identify any changes.

Fiscal Year**	FPL Safe Harbor
2015 (7/1/14—6/30/15)	\$92.39
2016 (7/1/15—6/30/16)	\$93.77
2017 (7/1/16—6/30/17)	\$95.63

Following is a link to additional IRS information regarding the employee shared responsibility:

<https://www.irs.gov/Affordable-Care-Act/Employers/Employer-Shared-Responsibility-Provisions>

The Department of Human Resource Management is unable to provide additional information or advice regarding the ACA affordability requirement.

*Applicable large employers have an average of at least 50 full-time employees (including full-time equivalent employees) during the preceding calendar year.

**1095-C forms are based on the calendar year, so the fiscal year FPL safe harbor will change in the middle of the calendar year.

Please do not reply to this e-mail. You may send inquiries to the Office of Health Benefits mailbox at tlc@dhrm.virginia.gov