



**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HUMAN RESOURCE MANAGEMENT**

Group Administrator Memo #16-02

To: TLC Group Benefits Administrators
From: State and Local Health Benefits Programs
Date: August 16, 2016
Re: Correspondence/Notice from Health Insurance Marketplace

A number of TLC groups have reported receiving notices from the Health Insurance Marketplace regarding an employee's application for coverage in a Marketplace plan and determination of that employee's eligibility for a tax credit or cost-sharing reduction in 2016.

The purpose of these notices is to offer employers an opportunity to appeal eligibility for a tax credit or reduction for an employee who may not be eligible to receive it. This could happen if an employee was correctly offered affordable, minimal essential/value coverage through your TLC health benefits plan but erroneously reported that he or she did not receive a valid offer. ***If you determine that the employee named in your correspondence was eligible for and offered affordable, minimum essential/ value coverage in your plan, you should exercise the appeal right.*** Instructions for requesting an appeal are included in the notice. The appeal must be submitted within 90 days of the date of the letter. However, if the employee listed in your letter was not eligible for coverage per ACA requirements, no action on your part is necessary at this time.

Following are possible responses to the three conditions referenced in the notice and are provided to assist you in understanding reasons that the notice may have been generated and, if necessary, to submit an appeal. Our comments are not to be construed as legal or financial advice. As always, you should consult with your advisors for definite answers.

Condition 1: Employee didn't have an offer of health care coverage from (Name of Employer)

Response 1: The Affordable Care Act requires large employers to offer affordable, minimum essential value coverage to all full-time or full-time equivalent/FTE (30 or more hours per week) employees.

- Failure of an employee to accept a valid offer of coverage would not preclude the employee's application for Marketplace coverage but would affect eligibility for a tax credit or other reduction.
- A full-time or FTE employee who was offered but declined coverage would be evidenced by a waive record in our Benefits Eligibility System (BES).
- There are valid reasons why an employee would not be eligible for or offered the (Name of Employer) health benefits plan coverage and could be eligible for a tax credit or reduction in Marketplace coverage (e.g., part-time employees who are not eligible for coverage).

Condition 2: Employee did have an offer of health care coverage, but it wasn't affordable or didn't provide minimum/essential value

Response 2: Although all TLC plans do provide minimum/essential value coverage, the employer is responsible for certifying that they meet the affordability standard.

- If your plan does meet the affordability standard your response would be that the (Name of Employer) health benefits plan coverage has been offered and determined to be affordable and to provide minimum/essential value.
- If your plan does not meet the affordability standard, no response is necessary. IRS will determine if an employer shared responsibility payment is due.

Condition 3: Employee was in a waiting period and unable to enroll in health care coverage

Response 3: Your response could be:

- That there is no waiting period for employees eligible for the (Name of Employer) health benefits plan coverage, or
- If your employee was offered affordable, minimum essential/value coverage after a waiting period, (note the length of the waiting period in your response).

If you need additional information regarding State Health Benefits Program coverage, contact The Local Choice at tlc@dhrm.virginia.gov If you have questions related to employment issues, contact your HR Consultant.