



Employers Will Begin Receiving Premium Subsidy Award Notices From The Health Care Exchange in 2016

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Beginning in 2016, the Centers for Medicare & Medicaid Services (CMS) will begin its process of verifying the eligibility of recipients who receive the Affordable Care Act's (ACA) advanced premium tax credit to help purchase health insurance on the federal exchange established by the ACA. This process will include a notification to employers that some employees are eligible for advance premium tax credits. Only employers who have employees covered by a federally-run health care exchange will receive the CMS notice; state-based exchanges may issue their own notices. As background, beginning in 2014, individuals are required to report on their tax returns whether they were covered by minimum essential health care coverage or they would face a penalty. To avoid such penalties, the ACA created the health care exchanges to provide health coverage to individuals and made available advanced premium tax credits to make such coverage more affordable for qualifying individuals. The ACA requirement under the employer shared responsibility mandate for large employers to provide coverage or else pay a penalty was delayed until 2015. An employer subject to this mandate is only responsible for a penalty if an employee is eligible for and receives a premium tax credit for exchange health coverage. Currently, large employers are not notified whether their employees are eligible for premium tax credit on the exchange. In a set of recently issued **FAQs** from CMS, employers will begin receiving notices in 2016 from CMS of an employee's certification of eligibility for the tax credit. The employer will have an opportunity to refute the employee's certification

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Practice Areas

Affordable Care Act, HIPAA and COBRA Compliance

Employee Benefits and Executive Compensation



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of eligibility by appealing to CMS. If successful on appeal, CMS will then request that the individual amend his or her application for Marketplace coverage. Although the Internal Revenue Service (IRS) is responsible for the enforcement of the ACA penalties, an employer's pro-active response to CMS' notification may help alleviate unnecessary inquiries of employers by the IRS that were vindicated through the CMS notice program. Employers subject to the ACA employer shared responsibility mandate should continue to examine their offers of health coverage made to their full-time employees and be prepared to respond to any CMS notices received in 2016.