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ACA Marketplace Enhanced Subsidies Expire

What Employers Should Know

In November, the longest government shutdown in history came to an end. The main sticking point was whether Congress would take action to extend the enhanced Marketplace insurance "subsidies" (also known as premium tax credits or "PTCs"). Democrats and Republicans could not reach an agreement and the enhanced subsidies expired on December 31, 2025, without the government creating any new benefit to offset costs.

Now, many individuals with Marketplace insurance coverage (including both federal and state Exchanges) face significantly higher health insurance premiums going into 2026. Most individuals who purchase coverage on the Marketplace do not have access to an employer-sponsored group health plan (GHP) because they are part-time employees, work for a small employer, are self-employed, or are unemployed.

In this Alert, we address questions we are receiving from clients across the country related to the enhanced subsidy expiration and provide guidance for employers.

Background

In 2015, the Affordable Care Act's (ACA) employer shared responsibility provision (also known as the "employer mandate" or "pay or play" provision) changed the landscape of employer-provided group health plans for insurance carriers and employers alike.

The employer mandate requires certain employers – known as applicable large employers (ALEs)[1] – to offer medical coverage meeting certain requirements to full-time employees and their dependent children to avoid penalties. The ACA also created premium tax credit (PTC) subsidies to help individuals purchase coverage through the Marketplace. These subsidies are what triggers the employer mandate penalties. However, any employee receiving an offer of affordable, minimum value (MV) coverage[2] from their employer is not eligible for any subsidy in the Marketplace.

[1] An employer with at least 50 full-time and full-time equivalent employees, on average, during the prior calendar year is an ALE for the current calendar year and is therefore subject to the employer shared responsibility mandate. Treas. Reg. § 54.4980H(b)

[2] The ACA has strict guidelines for affordability and MV calculations for employer-sponsored GHP coverage. If you need specifics about whether your plan meets the applicable requirements, please reach out to a member of your MMA account team.

Highlights

Status Quo for ALEs

- The employer mandate remains in place and ALEs risk significant tax penalties if they do not offer affordable, minimum value coverage to full-time employees
- While the amount of the subsidies may be reduced, the Marketplace will continue to issue subsidies in the form of premium tax credits

Midyear Election Changes

There is no Section 125 qualifying life event (QLE) related to the expiration of these enhanced subsidies to allow employees to join an employer's GHP mid-plan year

- Significant cost change QLE only applies to the cost of employer sponsored GHP
- No loss of coverage to trigger other QLE
- Financial hardship is not a recognized QLE

Other Considerations

- Employee participation in the GHP may increase. Small employers and employers with large part-time workforces may be expected to offer coverage for recruitment and retention purposes
- The enhanced subsidies may return at some point, or other consumer-driven options might be added by the federal government to help offset costs

While uncommon, the use of household income for Marketplace subsidy eligibility purposes makes it possible for an individual to qualify for a Marketplace subsidy even though their employer offered coverage that met an affordability safe harbor. The safe harbor prevents a full-time employee from triggering a 4980H(b) penalty against the employer, but it does not prevent a full-time employee from triggering a 4980H(a) penalty (an ALE *must meet* the threshold of offering coverage to *95% of its full-time employees*).

In 2021, the American Rescue Plan Act (ARPA) enhanced the ACA's Marketplace subsidies as a relief measure due to the COVID-19 pandemic. Under the ARPA, these enhanced subsidies were available in 2021 and 2022 only, but the enhancements were later extended through 2025 under the Inflation Reduction Act. The subsidy enhancements both increased the amount of subsidies already available under the Marketplace and made more individuals eligible by increasing the household income threshold for eligibility.

If the enhanced subsidies are no longer available, does this mean that our responsibilities under the employer mandate have changed?

Not really. An ALE is required to offer coverage to at least 95% of its full-time employees (and their dependent children) that meets affordability and MV requirements or risk an IRS tax penalty. These penalties are triggered when an employee receives subsidized coverage through the Marketplace based on their household income and attestation that they were not offered an affordable coverage option through their employer.

The Marketplace subsidies will continue to exist – only the enhancements have expired. The IRS will continue to issue penalty assessments when employees receive Marketplace subsidies. Theoretically, without the enhancements, fewer individuals will be able to (or want to) take advantage of the subsidies. If there are fewer employees triggering employer penalties based on their subsidy eligibility, this could mean that the IRS assesses fewer penalties against ALEs.

However, keep in mind that the original subsidies enacted under the ACA remain available. These subsidies lower monthly Marketplace premium payments for enrollees whose household income is less than 400% of the federal poverty guidelines (about $62,600 for an individual and $128,600 for a family of four). There remains a large population of Americans who may qualify for Marketplace subsidies, and employers have no way of knowing what employees' household income is for purposes of determining whether the loss of enhanced subsidies will change their employee population eligibility. This could also mean a stronger focus (and closer eye) on enforcement efforts on those penalty assessments that are issued.

Can my employee join our employer-sponsored GHP mid-plan year due to the increase in cost at the Marketplace?

Probably not. An employee's election is generally irrevocable for the plan year if the employer allows employees to pay premiums on a pre-tax basis through a Section 125 cafeteria plan. There are multiple permitted qualifying life events (QLEs) that will allow election changes; however, there is no QLE that permits mid-plan year pre-tax enrollment (or changes to existing elections) in the employer sponsored GHP due to the increase in cost at the Marketplace.

We have responded to many versions of this question over the past few months. The most common possibilities that are raised are set forth below, along with an explanation as to why we do not believe any QLE exists:

Potential QLE	Why It Won't Apply
Financial Hardship	Financial hardship is not a recognized QLE.
Voluntary Cancellation of Marketplace Plan	Voluntarily cancellation of a Marketplace plan is not a recognized QLE. If the employee experienced a true loss of coverage – such as if the Marketplace plan were no longer available – this would be a HIPAA special enrollment event and would permit a mid-year enrollment.

Potential QLE	Why It Won't Apply
Significant Cost Change	Section 125 does recognize a "significant cost change" as a QLE; however, this requires a change in cost under the *employer's* GHP. This QLE does not include cost changes under an individual policy. An increase in the cost of a Marketplace plan is not a QLE to allow an employee (or family member) to enroll in the employer-sponsored GHP mid-plan year on a pre-tax basis.
Enrollment in Marketplace coverage	Marketplace enrollment is a recognized QLE to permit an employee to *drop* coverage for themselves (or a family member) from the employer-sponsored GHP during the Marketplace open enrollment period. There is no corresponding QLE to allow an employee to enroll in the employer-sponsored GHP if the employee wants to drop Marketplace coverage.

An employer who allows post-tax contributions to its group health plan would not be subject to the Section 125 rules, but most GHPs do impose restrictions on mid-year elections even when contributions are not made on a pre-tax basis. Employers should check with their carriers to confirm any restrictions that might apply.

What changes should employers make due to the loss of enhanced Marketplace subsidies?

There are no required changes necessary for employers. If an ALE is offering affordable, MV coverage to full-time employees and their dependent children, then those full-time employees will not be eligible for subsidized Marketplace coverage. Further, if an ALE offers coverage to at least 95% of its full-time employees, that ALE has no risk of IRS penalty assessment even if an employee does inadvertently obtain subsidized Marketplace coverage (assuming the coverage is affordable and provides MV). The expiration of the enhanced subsidies may make employer-sponsored coverage more attractive to employees who have enrolled in subsidized Marketplace coverage in the past.

Although there is no penalty exposure for smaller employers, or to larger employers for part-time workers, a compensation package that includes health insurance benefits may become more important to those employees. This may also affect retiree coverage expectations if retirees do not have as many affordable options in the Marketplace.

What will happen next?

The House voted for a three-year extension of the enhanced subsidies on January 8, 2026, with bipartisan support. However, the proposal will likely fail to meet the required 60-vote threshold needed to pass in the Senate. Lawmakers in the Senate are working on a different potential solution to address the increasing Marketplace premiums.

If lawmakers reinstate the enhanced subsidies, we suspect they will also create a special enrollment period for the Marketplace to allow individuals to enroll in coverage outside of the standard open enrollment window. If an employer's cafeteria plan has adopted enrollment in Marketplace coverage as a QLE, this would permit an employee to drop employer sponsored GHP coverage mid-plan year for themselves (or a family member) if enrolling in a Marketplace plan.[3]

It is also possible that the government will continue to explore alternative methods to make Marketplace coverage more affordable with federally-provided consumer-driven benefits.

[3] Note that this generally requires the plan documents to specifically reference this QLE and, in our experience, most plan documents do not.

About the author

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