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Agencies Issue 2027 Notice of Benefit and Payment Parameters Final Rule

Impact on Employer-Sponsored Group Health Plans

On May 15th, 2026, the U.S. Department of Health and Human Services (HHS), through the Centers for Medicare & Medicaid Services (CMS), issued the final [2027 Notice of Benefit and Payment Parameters \(NBPP\)](#), the annual rule that updates policies for federal and state Health Insurance Marketplaces. The 2027 NBPP focuses on Marketplace integrity, enrollment oversight, subsidy administration, and greater insurer flexibility in the individual market. Although the NBPP does not have any direct impact on employer-sponsored group health plans, the final rule does include changes employers should monitor, as shifts in the individual market can affect their employer-sponsored coverage.

Background

As discussed earlier this year in the [ACA Enhanced Subsidies Expire Alert](#), the ACA Marketplace enhanced subsidies first enacted in the 2021 American Rescue Plan Act (ARPA) and later extended through 2025 under the Inflation Reduction Act expired as of December 31, 2025. This expiration of subsidy enhancements not only decreased the amount of subsidies available through the Marketplace but also increased the household income threshold for eligibility, resulting in fewer individuals being eligible for a subsidy.

Further, CMS reported that the average HealthCare.gov premium, after applying tax credits in 2026, was projected to be \$50 per month for the lowest cost plan in 2026 for eligible enrollees. This represented a \$13 increase from 2025.¹

With the increase in plan premium cost coupled with a loss of subsidy eligibility or reduction in subsidy amount, enrollment through Healthcare.gov and the state-run marketplaces declined by 4.9% for 2026, with open enrollment closing with 23.1 million enrollees, the biggest year-to-year drop since the Marketplace was launched.²

¹ See [Plan Year 2026 Marketplace Plans and Prices Fact Sheet | CMS](#).

² [What We Know So Far About 2026 ACA Marketplace Enrollment, Premiums, and Deductibles | KFF](#)

Highlights

Guidance increases Marketplace plan options, enrollment and subsidy oversight

Insurers will have greater flexibility to offer non-standardized and catastrophic-style, lower-premium options for Marketplace coverage effective as of January 1, 2027. Employers may see a decrease in employees' enrollment in employer-sponsored plans due to enrollment in Marketplace coverage.

The Marketplace will increase pre-enrollment premium tax subsidy verification. This increased oversight may reduce erroneous subsidy eligibility determinations and potentially decrease employer mandate penalty assessments.

Employer action items

Employers should keep up to date with Marketplace coverage and subsidy eligibility changes as these factors may impact employer plan enrollment. As a result of these changes, employers may need to:

- Understand employees' ability to make mid-year plan election changes due to Marketplace enrollment;
- Consider new lower-cost plan options to remain competitive; and
- Review offers of coverage and affordability safe harbors to avoid ACA employer shared responsibility penalties.

There is some concern that young and healthy individuals without a perceived need for health insurance coverage will forgo enrollment in higher cost coverage, thus leaving those with higher and more costly claims enrolled in the Marketplace. Such an outcome could result in a Marketplace death spiral, with plan premium costs continuing to increase and enrollment of low-cost claimants to balance and stabilize insurance premium cost continuing to decline.

Many of the changes by CMS in the 2027 NBPP are designed to lessen these concerns.

Key changes in the final 2027 NBPP

Expanded insurer flexibility

CMS relaxed some federal limits on standardized plan designs and permitted broader non-standardized and catastrophic-style, lower-premium options. The goal is to increase affordability, choice, and innovation, but it could make individual market plans more attractive relative to employer offers.

Enhanced pre-enrollment verification and subsidy oversight

CMS strengthened income and eligibility checks tied to Advance Premium Tax Credit (APTC) eligibility to reduce improper payments and improve Marketplace integrity. From an employer's perspective, this may help limit at least some erroneous subsidy determinations that have historically contributed to inaccurate employer shared responsibility penalty assessments and Marketplace subsidy disputes.

Why this matters for employers

Market shifts can change employee behavior

More affordable, varied individual market options may prompt some employees (especially lower-wage, part-time, seasonal, or younger workers) to consider Marketplace coverage instead of employer plans.

An employee's group health plan (GHP) 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 during the middle of the plan year.

One permitted QLE is enrollment in Marketplace coverage. Marketplace enrollment is a recognized QLE to permit an employee to *drop* coverage for themselves (or a family member) under an employer-sponsored GHP due to enrollment in a Marketplace plan (during open enrollment or a special 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, even if Marketplace plan premiums increase.

The Marketplace open enrollment period for 2027 will occur November 1 – January 15, 2027. Marketplace coverage elected during the open enrollment period will be effective as of January 1, 2027 (or February 1 for those enrolling between December 16 and January 15). Employers that have adopted the enrollment in Marketplace coverage QLE should be prepared for a potential increase in employees dropping employer plan coverage due to Marketplace coverage enrollment.

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

Plan competitiveness and contribution strategies

Employers may need to reassess employee contribution levels and dependent coverage to remain competitive. The same concerns regarding young and healthy individuals leaving Marketplace coverage apply to employer-sponsored group health plans. Employers may want to explore more affordable plan options or increased employer contributions to discourage low-claimant employees from leaving the employer-sponsored group health plan to keep plan premium costs down.

Employer Mandate exposure

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)³ – to offer medical coverage that meets affordability and minimum value (MV) standards to full-time employees and their dependent children to avoid penalties under the Internal Revenue Code (IRC). These penalties are triggered when employees receive subsidized coverage through the Marketplace based on their household income and attestation that they were not offered an affordable coverage option through their employer.

While the NBPP and its enhanced pre-enrollment verification will hopefully help reduce the number of erroneous subsidy determinations that have historically contributed to inaccurate employer shared responsibility penalty assessments, this may also lead to greater scrutiny of coverage offered by employer plan sponsors. ALEs may need to reassess their processes for offering medical coverage—to ensure that coverage is being offered to at least 95% of full-time employees and revise employee contribution requirements for lower income workers to satisfy one of the affordability safe harbors to avoid an increased risk of shared responsibility penalties.

Employer action items

Employers should be mindful of the continued evolution of the ACA Marketplace and how its APTC subsidy eligibility might affect their employees. Some considerations for employers include:

- evaluating affordability safe harbors and employee contribution structures;
- monitoring employee interest in Marketplace alternatives;
- assessing dependent coverage competitiveness;
- considering how more flexible, lower-cost individual market options could affect employee expectations.

As the individual market becomes more flexible and potentially more affordable for certain individuals, employers may face increased pressure surrounding affordability, participation, and employee choice. However, enhanced subsidy verification and pre-enrollment eligibility confirmation requirements may help mitigate some employer shared responsibility exposure by reducing improper subsidies.

³ 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)

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