IRS Releases Pay-or-Play Affordability Percentage for 2027

On July 21, 2026, the IRS released Revenue Procedure 2026-26 to index the contribution percentage in 2027 for determining the affordability of an employer's health plan under the Affordable Care Act (ACA). For plan years beginning in 2027, employer-sponsored coverage will be considered affordable under the ACA's "pay-or-play" rules if the employee's required contribution for self-only coverage does not exceed 10.22% of their household income for the year.

This is an increase from the affordability contribution percentage for 2026 (9.96%) and the highest it has ever been. Applicable large employers (ALEs) will need to consider this affordability percentage in developing their health plan contribution strategies for the 2027 plan year. ALEs may be able to increase employees' health coverage contributions for 2027 while still meeting the adjusted affordability percentage.

As background, the ACA's pay-or-play rules require ALEs to offer affordable, minimum-value health coverage to their full-time employees (and dependents) or risk paying a penalty. The affordability of health coverage is a key point in determining whether an ALE may be subject to a penalty. An ALE's health coverage is considered affordable if the employee's required contribution to the plan does not exceed 9.5% (as adjusted annually) of the employee's household income for the taxable year.

Because an employer generally will not know an employee's household income, the IRS has provided three optional safe harbors that ALEs may use to determine affordability based on information that is available to them: the Form W-2 safe harbor, the rate of pay safe harbor and the federal poverty level safe harbor.

DOL Proposes to Expand Electronic Delivery Options for Group Health Plans

On July 23, 2026, the U.S. Department of Labor (DOL) issued a proposed rule that would establish a new, additional safe harbor for group health plan administrators to use electronic media to furnish plan disclosures required under the Employee Retirement Income Security Act (ERISA). The proposal aims to modernize the delivery of group health plan disclosures to reduce administrative burdens and improve participants' ability to access and understand plan information.

To rely on the safe harbor, plan administrators would be required to:

- Provide an initial notification to each covered individual, identifying the electronic address to be used, explaining how to access covered documents, and describing their right to opt out of electronic delivery and request free paper copies;
- Furnish a notice of internet availability for each covered document informing covered individuals of their paper copy and opt-out rights;
- Establish and maintain a website where covered individuals can access covered documents, taking measures reasonably calculated to ensure the site meets specified standards for timing, presentation and confidentiality; and
- Provide a free paper copy of any covered document promptly upon request.

The proposed safe harbor does not permit email delivery because many ERISA group health plan disclosures contain sensitive information, including protected health information.

Until the rule is finalized, plan administrators should continue to comply with existing disclosure requirements.