FIXING THE FAMILY GLITCH

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In October, the White House issued final regulations and a new IRS notice to eliminate the Affordable Care Act's (ACA) "family glitch" at the beginning of 2023

What is the family glitch?

The "glitch" refers to the fact that eligibility for subsidized coverage through the Marketplace for any member of a family (spouse and/or children) is based on whether or not an employee is offered "affordable" coverage by their employer. While simplifying employer compliance issues, this problem gave no relief to many people who were offered employer-sponsored health insurance facing the reality that the cost would be far more than the ACA intended-limiting the cost to 9.5% of their household income (as adjusted annually for inflation).

What has changed?

Beginning in 2023, if the employee's cost for dependent coverage exceeds the ACA's affordability threshold, then the dependents may be eligible for subsidized individual exchange coverage.

Important points to understand:

- The rule does not impact your group plan or employee's coverage, only dependents.

- This change will not affect the coverage affordability requirements for applicable large employers (ALEs) subject to the ACA's employer shared responsibility provisions (the employer mandate).

- ALEs will NOT be required to offer affordable coverage to dependents.

How will the cost be verified?

It is unclear how the IRS and the health insurance exchanges will verify the cost of employer-sponsored dependent coverage or if an employee has affordable employer-sponsored coverage based on their family income. However, the Biden Administration intends to revise the Exchange application on HealthCare.gov before Open Enrollment for the 2023 plan year to include new questions about employer-sponsored coverage for family members.

What employers need to do.

Employers need to be aware of the change to the affordability standard for family coverage, be prepared to communicate with employees about the new rule, and be very clear about the exchange's open enrollment deadline. ALEs, it is more important than ever to offer affordable, minimum-value coverage to your full-time employees. The new regulation means that more employees will seek exchange-based coverage. With more employees participating in the exchange, the likelihood that an ALE will receive a penalty when they fail to offer employees affordable coverage increases. Employers with non-calendar plan years should consider adopting the changes to their Section 125 Cafeteria Plan that this new IRS guidance permits.

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