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## Employee Benefits – Question of the Month

October 2019

**Q:** We recently received a letter from the IRS assessing penalties against us for failure to offer affordable coverage in 2017. While the penalties were incorrect and we got them reduced, I decided to take a look at the coverage offered so far in 2019 to see if we will have similar problems. I have identified 30 full-time employees to whom we have offered unaffordable coverage.

I am trying to determine the worst-case scenario for financial liability for these folks so we can decide whether to: 1) adjust wages or increase how much we contribute to premiums to make the coverage affordable for 2020; or 2) just leave things as they are and pay any penalties that we may incur. How do I determine our maximum possible penalties for offering unaffordable coverage?

**A:** Ultimately, your potential liability in 2020 will come down to: 1) how many full-time employees are offered unaffordable coverage (or no coverage); 2) how many of those employees go to the Exchange for subsidized coverage; and 3) how long they have such coverage.

For most of our clients, few of their employees enroll in Exchange coverage, and those who do usually do not have such coverage for the full year. Instead:

- Some employees might have enrolled in the coverage offered even though it was “unaffordable.” There is no penalty for them.
- Some might have enrolled in a spouse’s or parent’s plan, and there is no penalty for them either.
- Many may simply go without health insurance (especially now that there is no longer a penalty for individuals who don’t have coverage). Again, no penalty in this situation.

When you remove all those people from the mix, it usually leaves relatively few people who actually obtain subsidized Exchange coverage.

The annual penalty for 2019 is \$3,750 (it increases to \$3,860 in 2020). You would need to calculate a pro rata penalty for each employee based on how many months they received subsidized coverage through the Exchange. You may not have exact numbers, but most of our clients know enough about their workforce to take an educated guess for the purpose of estimating maximum potential penalties.

Feel free to contact me if you have any additional questions at [juliea@millercares.com](mailto:juliea@millercares.com).

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