

Employer Marketplace Notice Has Short, 90-Day Appeal Window

Employers may receive a notice from the Health Insurance Marketplace indicating they may need to pay a penalty, called the Employer Shared Responsibility Payment, because an employee requested and received a subsidy for health insurance. As an employer, you only have 90 days to appeal this notice, so you need to act quickly.

Background

Starting in 2016, under the Affordable Care Act (ACA), certain employers with 50 or more full-time employees or full-time equivalents must offer health insurance coverage to their full-time employees and dependents. The health plan offered must meet minimum standards for coverage, provide minimum value, and be affordable. Otherwise, the employer may be subject to the shared responsibility penalty.

What You Need to Know

- The Marketplace is looking for verification that you have met the shared responsibility (employer mandate) requirements under the ACA.
- You may appeal the notice if the employee waived affordable minimum value coverage or enrolled in employer-sponsored minimum essential coverage for 2016.
- Your appeal may indicate that the employee received subsidies through the Marketplace at the same time you offered him or her affordable health coverage.
- If you are successful in your appeal, the Marketplace will send a notice encouraging the employee to update the Marketplace application to show that he or she was offered or was enrolled in other qualifying coverage. The notice will also explain that the failure to update the application may result in tax liability for the employee.
- **Important:** This appeal will not determine if you have to pay the shared responsibility payment. Only the IRS, not the Health Insurance Marketplace or the Marketplace Appeals Center, can determine which employers will have to make the required payment. The employer notice, however, appears to be the first step in that process.
- Learn more about the Employer Shared Responsibility Payment at [IRS.gov](https://www.irs.gov).

How to Appeal

The notice outlines the actions you need to take, as well as the timetable, if you wish to appeal. You have 90 days from the date stated on the notice to request an appeal. And you have only one opportunity to appeal.

- The notice will identify the specific employee and include a statement that the employee is enrolled in Marketplace coverage with a subsidy.
- The notice will not contain the employee's personal health or federal tax information.
- As part of the appeal, you can explain why the employee should not have been eligible for subsidies through the Marketplace.



Follow the instructions for responding or appealing that accompany the notice, or [access the appeal request form and obtain additional information here.](#)

Please reach out to our [benefit support team](#) if you receive a notice and would like our assistance before you submit an appeal.

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