

for a premium tax credit based on capping an individual's share of the premium at a flat 12 percent of income. The percentages of income are indexed to the excess of premium growth over income growth beginning in 2014 (in order to hold the share of premiums that enrollees at a given poverty level pay the same over time). For purposes of calculating household size, illegal immigrants are not included in FPL. The premium tax credit amount is tied to the cost of the second lowest-cost silver plan in the area where the individual resides (by age according to standard age factors defined by the Secretary of Health and Human Services), and is available for any plan purchased through the Exchange.

A credit-eligible individual enrolled in any exchange offered plan pays the lesser of the applicable percentage of income or the plan premium. If an individual purchases the second lowest cost silver plan in the area where he or she resides, or any less expensive silver or bronze plan, the individual must only pay the applicable percentage of income (e.g., 12 percent for an individual at 300 percent of FPL). If, however, an individual enrolls in a plan that is more expensive than the second lowest cost silver plan the individual is responsible for the applicable percentage of income plus the difference in premium between the second lowest cost silver plan and the premium of the chosen plan.

Employer Offer of Health Insurance Coverage

As a general matter, if an employee is offered employer-provided health insurance coverage, the individual is ineligible for the premium tax credit for health insurance purchased through a state exchange.

If an employee is offered unaffordable coverage by his or her employer or the coverage offered to the employee (and his or her dependent) has an actuarial value of less than 65 percent, or the however, the employee can be eligible for the premium tax credit, but only if the employee declines to enroll in the coverage and purchases coverage through the exchange instead. Unaffordable is defined as coverage with a premium required to be paid by the employee that is ten percent or more of the employee's income, based on the type of coverage applicable (e.g., individual or family coverage). This income limit is indexed to the per capita growth in premiums for the insured market as determined by the Secretary of HHS. If the employee seeks to receive a credit on the basis that an employer offered plan is unaffordable, the employee must seek an affordability waiver from the state exchange and provide information as to family income and the premium of the lowest cost employer option offered to them. The state exchange then provides the waiver to the employee.

For purposes of determining if coverage is unaffordable, required salary reduction contributions are treated as payments required to be made by the employee. However, if an employee is reimbursed by the employer for any portion of the premium for health insurance coverage purchased through the exchange, including any reimbursement through salary reduction contributions under a cafeteria plan, the coverage is employer-provided and the employee is not eligible for premium tax credits. Thus, an individual is not permitted to purchase coverage through the exchange, apply for the premium tax credit, and pay for the individual's portion of the pre-