



## Next ACA Hurdle...Subsidy Notifications

You feel like you just completed your Section 6055 and 6056 reporting under the ACA and you thought you might have a break to focus on other HR activities. Be warned...the next Affordable Care Act (ACA) compliance hurdle employers face is **managing subsidy notifications and appeals**. According to federal Centers for Medicare and Medicaid Services (CMS), the ACA's federally facilitated marketplace's 2016 Employee Notice Program will begin sending batches of notifications to certain employers whose employees received premium subsidies when purchasing health insurance on the marketplace exchange. Employers should be on the lookout for these notification letters; making this more difficult, is that they might be hard to spot because it's unclear whom they will come from or to whom they will be addressed. They could look like junk mail, and employers don't want them to get thrown away.

Because subsidies, also referred to as **Advanced Premium Tax Credits**, are the trigger for penalties, it's important to be prepared to handle the flood of notifications that the Exchanges are expected to be sent in **June 2016**.

*The ACA and its enabling regulations state that:*

- *Applicable large employers (those with 50 or more full-time employees and equivalents in the prior year's average month) will be exposed to non-deductible taxes for every employee who receives a tax credit subsidy to purchase health care on a public exchange (typically through the Healthcare.gov gateway to federal and state exchanges).*
- *Subsidies are available to low-to-moderate income employees whose employers failed to provide affordable health coverage that meets at least the minimum coverage requirements under the ACA. Affordability generally means that self-only coverage would cost the employee no more than 9.5 percent of his or her W-2 wages."*



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Once the notices are sent, employers will have **only 90 days** to appeal the Exchange's decision to grant the employee a subsidy either by completing an [Employer Appeal Request Form](#) or submitting a letter with the required information to the Department Of Health and Human Services. If the employer doesn't appeal the subsidy certifications that are in that notice within 90 days, the IRS will then assume, because there's been no appeal and no reversal, that those certifications are correct. And if those people have attested to being full-time employees of your organization and were not offered affordable minimal essential coverage, then the IRS is going to contact the employer. It is in this communication that the employer will first learn that it has a big problem on its hands. After that, the employer enters into an IRS administrative process about tax assessments and appeals. In initial information it appears that it might mirror, to some degree, the unemployment appeal process.

To read more about the Notifications, CMS has provided a [Fact Sheet](#). Given the potential consequences of \$270/month penalty, multiplied by each full-time employee who enrolls in a public exchange and qualifies for a tax subsidy, it is important that HR be on the lookout for these certification subsidy notice letters.