

Setting ACA Affordability for Applicable Large Employers (ALEs)

WITH PLAN YEARS BEGINNING IN 2024

A COMPREHENSIVE GUIDE

Calculating the “affordability” of employees’ health plans under the Affordable Care Act (ACA) is arguably one of the most challenging components of compliance for Applicable Large Employers (ALEs). We can help.

ACA for Applicable Large Employers

Applicable Large Employers (ALEs) are employers that average 50 or more Full Time (FT) + Full Time Equivalent (FTE) employees, as of January 1st annually, according to all 12 months of the preceding calendar year. ALEs must comply with the ACA's employer mandate and must report on compliance (or non-compliance) with the employer mandate at the conclusion of each corresponding tax year.

Under the employer mandate, ALEs must offer **affordable** health insurance coverage — that provides Minimum Value (MV) and is at least Minimum Essential Coverage (MEC) — to all FT eligible employees. ALEs must also offer at least MEC to FT employees' dependent children up to age 26. For additional guidance on the ACA's mandate and reporting responsibilities, refer to Word & Brown's exclusive [ACA Quick Reference Guide](#).

Setting "Affordability"

To comply with the ACA's employer mandate, ALEs must evaluate and set the costs of employees' health insurance plans (employee contributions) before offering them coverage. An ALE that does not offer **affordable** coverage in accordance with the mandate can be penalized as much as \$4,460 per FT employee for noncompliance during the 2024 calendar year.

Penalties are imposed upon ALEs whenever any of their eligible FT employees receives a valid Premium Tax Credit (PTC) on a state exchange (Covered California, Nevada Health Link, etc.) to pay for an Individual and Family Plan (IFP) plan's monthly premium.

Note: PTCs are generally only available to Exchange applicants with household incomes between 138% and 400% of the federal poverty line (FPL), who do not have an offer of affordable employer-sponsored coverage that provides minimum value. However, for years 2021-2025, Individual and Family Plan (IFP) premiums are capped at 8.5% of a person's household income – even for individuals with incomes greater than 400% of FPL.

ALEs can only be penalized if they do not offer affordable, ACA-compliant coverage to all FT-eligible employees and their dependents in accordance with the ACA's employer mandate **and** at least one of those FT employees receives a qualified PTC to help pay for individual coverage purchased on a state exchange.

Affordability for individuals purchasing coverage on the ACA state exchanges is based on the individual's household income.

However, employers cannot base affordability on employees' household incomes. First, a person's household income can vary from year to year (family status, other forms of income). Second, employers typically do not know employees' household income amounts, and they are not entitled to this private information. Because of this, the ACA allows ALEs to set premiums according to information they already have. These are called the ACA's affordability "safe harbors" for employers.

Affordability Requirements

Affordability is based on the lowest-cost MEC/MV plan **offered** to the employee – at the “employee only” rate. It is not based on the plan the employee actually enrolls in; it is based on the lowest-cost MEC/MV plan **offered** to the employee by the ALE.

Additional rates for spouse or dependents are not considered in this calculation. A plan is considered affordable if the employee’s contribution, at the “employee only” rate, does not exceed a certain percentage threshold per year, based on any of the three safe harbors.

- **Affordability threshold for plan years beginning in 2024 is 8.39%.**
- **Affordability threshold for plan years beginning in 2023 is 9.12%.**

Affordability is based on plan year, not calendar year. For example, a plan with a 12/1/2023 effective date will use the 9.12% ratio for 12/1/2023 to 11/30/2024. Then on 12/1/2024, the 8.39% ratio will be used through 11/30/2025.

ACA Affordability Safe Harbors for ALEs

The ACA allows employers to base affordability — according to the lowest-cost (after-employer contribution) MEC/MV plan **offered** to employees — on any of the following safe harbors:

- **The employee’s Rate of Pay**
- **The employee’s W-2 Box 1 income** for the corresponding tax/reporting year
- **Federal Poverty Level (FPL)**
 - Employers may use the FPL that was in effect 6 months prior to the first day of the plan year.

An ALE may choose to use any one or more of these safe harbors for employees; however, the same safe harbor must be used for “any reasonable category of employees.” The ACA’s final regulations clarify that reasonable categories include specified job categories, nature of compensation (hourly or salary), geographic location, and similar bona fide business criteria. The regulations further specify that an enumeration of employees by name, for example, is not considered a reasonable category.

When the ALE reports offers of coverage to the IRS, it must tell the IRS which safe harbor it used to determine affordability for each FT-eligible employee. The employer should seek to ensure affordability when setting contributions ahead of the sale or renewal of a group health insurance policy. However, the ALE can use whichever safe harbor it prefers at reporting time. For example, the ALE may initially set contributions for affordability on employees’ rates of pay. However, when the ALE completes its ACA IRS reporting, it can use the W-2 Box 1 Income safe harbor, or the Federal Poverty Level safe harbor. The important caveat, again, is that **employers must use the same safe harbor for all employees within an employee category.**

Word & Brown General Agency has exclusive **ACA Affordability** and **ACA IRS Reporting Calculators** to assist ALEs when calculating affordability based on employees’ rates of pay and/or W-2 Box 1 income. Consult your Word & Brown representative, or refer to the [Word & Brown website](#), for access to these calculators.

Safe Harbor Option 1 – Employees’ Rates of Pay

A plan is affordable under the ACA using this safe harbor, so long as the employee’s premium — on the lowest-cost MEC/MV plan offered, at the employee only rate (after employer contribution) — does not exceed the affordability percentage threshold for the corresponding *plan year* according to rate of pay.

RATE OF PAY SAFE HARBOR – FOR SALARIED EMPLOYEES

For salaried employees, ALEs can use employees’ actual monthly salaries as of the first day of *the coverage period*. Note: this safe harbor is not available to use if the FT employee’s monthly salary is reduced, including a reduction of work hours.

Example: Salaried employee makes \$60,000/year as of the first day of the plan’s coverage period.

- $\$60,000 \div 12 \text{ months} = \$5,000$
- $\$5,000 \times 8.39\% = \419.50
- As long as the employee contribution for the lowest-cost plan MEC/MV offered does not exceed \$419.50 per month for this salaried employee in the 2024 plan year, it is considered affordable for that plan year under this safe harbor.

RATE OF PAY SAFE HARBOR – FOR HOURLY EMPLOYEES

ALEs utilizing this safe harbor for hourly employees must calculate affordability using the employee’s rate of pay at the *beginning of the plan year*. The only time an employer should make an adjustment to this calculation during the plan year is if an employee experiences a *decrease* in pay.

Furthermore, because the ACA considers a FT employee to have 130 hours of service/month, the calculation must be made at 130 hours/month, even if the hourly employee provides more than 130 hours of service per month — which is very common.

Example: Hourly employee earns \$16/hour and normally works 40 hours/week (160-175 hours/month)

- $\$16 \times 130 \text{ hours} = \$2,080$
- $\$2,080 \times 8.39\% = \174.51
- As long as the lowest cost plan offered does not exceed a monthly cost of \$174.51 for this hourly employee in the 2024 plan year, it is considered affordable for that plan year under this safe harbor.
- *Note: The ALE should use the ACA affordability percentage for its corresponding plan year.*
 - *Affordability for plan years beginning in 2024 = 8.39%*
 - *Affordability for plan years beginning in 2023 = 9.12%*

This guide’s appendix contains a Rate of Pay Affordability Chart, which lists affordability calculations using the hourly Rate of Pay Safe Harbor for plan years beginning in 2024. Minimum wage can, and does, differ for employers according to the size of their businesses and where they are located. It’s important for employers to also ensure employees are paid at least minimum wage, according to labor laws in their respective states and/or municipalities.

Safe Harbor Option 2 – Employees’ W-2 Box 1 Incomes

This Safe Harbor option is intended to be utilized only at the end of the calendar/tax year, as a way of evaluating affordability on a “lookback” basis when preparing ACA IRS Forms to the IRS. When setting ACA Affordability on a preemptive basis (before offering plans to employees), ALEs must do so utilizing either the “Rate of Pay” or “Federal Poverty Level” (FPL) safe harbors – both of which are based on the information the ALE has in the present timeframe. The W-2 Box 1 income safe harbor cannot be used at the beginning of a tax year to determine affordability because employees’ future W-2 Box 1 incomes are unknown and are not calculated until the end of the forthcoming calendar year.

For example, when an ALE sets affordability for employees in the 2024 tax year (e.g., on January 1, 2024, for a 1/1 plan), it cannot use employees’ future W-2 Box 1 incomes for 2024 because those incomes are unknown and cannot be calculated until January 2025, when all workdays for the 2024 year are complete and IRS Forms W-2 are generated for each person employed in 2024. However, when the ALE reports on ACA compliance for the 2024 tax year (usually in Q1 2025, after the conclusion of that tax year), employees’ W-2 Box 1 incomes are known and can be used when reporting for that tax year. This is why the W-2 Box 1 Income safe harbor can only be used on a “lookback” basis, when preparing forms to IRS after the conclusion of a tax year.

Many ALEs choose to use W-2 Box 1 incomes to report ACA compliance to the IRS for a few reasons. First, employers typically complete IRS Forms W-2 immediately after the start of a new calendar year in early January, ahead of the annual January 31 due date. Instead of calculating additional income amounts at 130 hours/month for hourly employees to report ACA compliance, ALEs can simply use the numbers they already calculated for IRS Forms W-2, which often include more than 130 hours/month for full-time hourly employees.

When an hourly full-time employee’s rate of pay is decreased, that coverage may no longer be affordable at 130 hours/month under the Rate of Pay affordability safe harbor as initially calculated. However, when evaluated according to actual hours worked/paid as reported on W-2 Box 1, the likelihood of satisfying affordability is often probable and attainable. Note that situations can and do vary among employers. ALEs should always seek the advice of a CPA or legal counsel to ensure full compliance with the law according to their own specific circumstances.

Reminder: ALEs must use the same affordability safe harbor for all similarly situated employees of the same class. This means that an ALE cannot use the Rate of Pay safe harbor for some hourly employees and the W-2 Box 1 Income safe harbor for other similar hourly employees. The same safe harbor must be applied consistently for all similar employees of the same class.

Safe Harbor Option 3 – Federal Poverty Level (FPL)

ALEs utilizing this Safe Harbor can use the Federal Poverty Level (FPL) that is in effect *six months prior to the beginning of their plan year* to set employee contributions in accordance with ACA affordability.

As long as the employee's contribution for the lowest-cost MEC/MV plan, at the employee- only rate, does not exceed the ACA affordability threshold when applied against the FPL (on a monthly basis), the plan is considered affordable. *Note: If the ALE misses the FPL by a few dollars, it does not necessarily mean the coverage is unaffordable; the coverage may be affordable under the "Rate of Pay" or "W-2 Box 1 Income" safe harbors.*

Poverty guidelines are usually released around the end of January annually by the Department of Health and Human Services. Because the FPL guidelines for a year are typically released several weeks into that year, ALEs may use the FPL in place six months before their plan effective date.

Many ALEs prefer to use the FPL safe harbor if they can afford to do so, because it can significantly simplify ACA reporting. When an ALE uses this safe harbor and the offer applies to all months of a calendar year for which a full-time employee is eligible for coverage, and the ALE offers at least MEC to the employee's spouse and dependents (in addition to MEC and minimum value to the employee), it is considered a "qualifying offer." When offering coverage that's considered a "qualified offer," ALEs are not required to enter employees' premium costs on line #15 of IRS Forms 1095-C. They can also bypass entering IRS codes that tell the IRS the safe harbor code used on a month-by-month basis. The ALE will simply put one code on their IRS Forms 1095-C — 1A in line #14 — for each employee whose contribution is a qualifying offer. *Note: Employers must certify their use of "qualifying offer" method by checking Box A on Line 22 of IRS Form 1094-C, in addition to listing Code 1A on IRS Form 1095-C.*

Following is a FPL Safe Harbor chart, which shows affordability for plan years when utilizing this affordability safe harbor method, based on currently available FPL data.

2023 Poverty Guidelines for the Mainland United States For plan years beginning 1/1/2024–6/15/2024				
	Poverty Guideline		Affordability	
Persons in family/household	Annual	Monthly	8.39% – Annual	8.39% – Monthly
1	\$14,580.00	\$1,215.00	\$1,223.26	\$101.93

2024 Poverty Guidelines for the Mainland United States For plan years beginning 7/1/2024–12/15/2024				
	Poverty Guideline		Affordability	
Persons in family/household	Annual	Monthly	8.39% – Annual	8.39% – Monthly
1	\$15,060.00	\$1,255.00	\$1,263.53	\$105.29

Further Help

The Word & Brown General Agency has more than 38 years of experience in the employee benefits industry, working alongside health insurance brokers, their employer clients, and individual clients, providing legendary *Service of Unequalled Excellence*. Word & Brown is passionate about compliance, education, and helping health insurance brokers and their clients excel in all facets of the employee benefits industry.

Word & Brown General Agency hosts an annual ACA IRS reporting series, which is aimed to help employers understand the depths of ACA IRS reporting; this series takes place during the annual ACA IRS reporting season.

In addition to your Word & Brown sales representative and field sales managers, Word & Brown has a compliance team on stand-by, ready to help health insurance brokers address any and all situational compliance needs. The team can be reached via email at ComplianceSupport@wordandbrown.com.

Word & Brown is passionate about, and strongly committed to, ensuring that individuals and families have access to quality health care while experiencing the highest level of customer service. Word & Brown's mission is to provide brokers access to better health insurance choices for their clients through service-based, company-focused relationships and education, backed by technology. Word & Brown is here for you, and is proud to partner with you, and lead you through all aspects of the industry and your business.

To keep up with changing, ongoing employee benefits health insurance compliance items including ACA, ERISA, COBRA, and more, check out the [WBCompliance blog in the Word & Brown Newsroom](#).

The information contained in this guide is not intended as specific legal, medical, financial, or other advice. Every attempt has been made to ensure the accuracy of the information contained herein, according to general information currently available to the public regarding health reform legislation. This information is subject to change based on changes in the law or administration of the law. We suggest employers consult a licensed insurance broker and tax professional to understand the requirements under the law specific to their businesses' individual circumstances and conditions.

Appendix

SETTING ACA AFFORDABILITY USING THE ROP SAFE HARBOR

FOR PLAN YEARS BEGINNING IN 2024

Hourly Rate	Monthly Salary (Hourly Rate x 130 Hours)	Affordability Amount (8.39% of Monthly Salary)
\$12.00	\$1,560.00	\$130.88
\$12.25	\$1,592.50	\$133.61
\$12.50	\$1,625.00	\$136.33
\$12.75	\$1,657.50	\$139.06
\$13.00	\$1,690.00	\$141.79
\$13.25	\$1,722.50	\$144.51
\$13.50	\$1,755.00	\$147.24
\$13.75	\$1,787.50	\$149.97
\$14.00	\$1,820.00	\$152.69
\$14.25	\$1,852.50	\$155.42
\$14.50	\$1,885.00	\$158.15
\$14.75	\$1,917.50	\$160.87
\$15.00	\$1,950.00	\$163.60
\$15.25	\$1,982.50	\$166.33
\$15.50	\$2,015.00	\$169.05
\$15.75	\$2,047.50	\$171.78
\$16.00	\$2,080.00	\$174.51
\$16.25	\$2,112.50	\$177.23
\$16.50	\$2,145.00	\$179.96
\$16.75	\$2,177.50	\$182.69
\$17.00	\$2,210.00	\$185.41
\$17.25	\$2,242.50	\$188.14
\$17.50	\$2,275.00	\$190.87
\$17.75	\$2,307.50	\$193.59
\$18.00	\$2,340.00	\$196.32
\$18.25	\$2,372.50	\$199.05
\$18.50	\$2,405.00	\$201.77
\$18.75	\$2,437.50	\$204.50
\$19.00	\$2,470.00	\$207.23
\$19.25	\$2,502.50	\$209.95
\$19.50	\$2,535.00	\$212.68
\$19.75	\$2,567.50	\$215.41
\$20.00	\$2,600.00	\$218.14
\$20.25	\$2,632.50	\$220.86
\$20.50	\$2,665.00	\$223.59
\$20.75	\$2,697.50	\$226.32
\$21.00	\$2,730.00	\$229.04
\$21.25	\$2,762.50	\$231.77
\$21.50	\$2,795.00	\$234.50
\$21.75	\$2,827.50	\$237.22
\$22.00	\$2,860.00	\$239.95
\$22.25	\$2,892.50	\$242.68
\$22.50	\$2,925.00	\$245.40
\$22.75	\$2,957.50	\$248.13
\$23.00	\$2,990.00	\$250.86
\$23.25	\$3,022.50	\$253.58

Hourly Rate	Monthly Salary (Hourly Rate x 130 Hours)	Affordability Amount (8.39% of Monthly Salary)
\$23.50	\$3,055.00	\$256.31
\$23.75	\$3,087.50	\$259.04
\$24.00	\$3,120.00	\$261.76
\$24.25	\$3,152.50	\$264.49
\$24.50	\$3,185.00	\$267.22
\$24.75	\$3,217.50	\$269.94
\$25.00	\$3,250.00	\$272.67
\$25.25	\$3,282.50	\$275.40
\$25.50	\$3,315.00	\$278.12
\$25.75	\$3,347.50	\$280.85
\$26.00	\$3,380.00	\$283.58
\$26.25	\$3,412.50	\$286.30
\$26.50	\$3,445.00	\$289.03
\$26.75	\$3,477.50	\$291.76
\$27.00	\$3,510.00	\$294.48
\$27.25	\$3,542.50	\$297.21
\$27.50	\$3,575.00	\$299.94
\$27.75	\$3,607.50	\$302.66
\$28.00	\$3,640.00	\$305.39
\$28.25	\$3,672.50	\$308.12
\$28.50	\$3,705.00	\$310.84
\$28.75	\$3,737.50	\$313.57
\$29.00	\$3,770.00	\$316.30
\$29.25	\$3,802.50	\$319.02
\$29.50	\$3,835.00	\$321.75
\$29.75	\$3,867.50	\$324.48
\$30.00	\$3,900.00	\$327.21
\$30.25	\$3,932.50	\$329.93
\$30.50	\$3,965.00	\$332.66
\$30.75	\$3,997.50	\$335.39
\$31.00	\$4,030.00	\$338.11
\$31.25	\$4,062.50	\$340.84
\$31.50	\$4,095.00	\$343.57
\$31.75	\$4,127.50	\$346.29
\$32.00	\$4,160.00	\$349.02
\$32.25	\$4,192.50	\$351.75
\$32.50	\$4,225.00	\$354.47
\$32.75	\$4,257.50	\$357.20
\$33.00	\$4,290.00	\$359.93
\$33.25	\$4,322.50	\$362.65
\$33.50	\$4,355.00	\$365.38
\$33.75	\$4,387.50	\$368.11
\$34.00	\$4,420.00	\$370.83
\$34.25	\$4,452.50	\$373.56
\$34.50	\$4,485.00	\$376.29
\$34.75	\$4,517.50	\$379.01

For instructions on how to apply this safe harbor, please refer to the Employees' Rates of Pay section this guide. Minimum wage can, and does, differ for employers according to the size of their businesses and where they are located. It's important for employers to also ensure employees are paid at least minimum wage, according to labor laws.