



Issued date: 01/25/19

HHS recently announced the 2019 Federal Poverty Level (FPL) guidelines which, among other things, establish the FPL safe harbor for purposes of the Affordable Care Act (ACA) employer mandate. For 2019, the FPL safe harbor is **\$102.62/month** in the lower 48 states, \$128.18/month for Alaska, and \$118.15/month for Hawaii.

As a reminder, a plan can use poverty guidelines in effect within 6 months before the first day of the plan year for purposes of affordability. As the FPL guidelines were announced after the start of the calendar year, plans beginning on January 1, 2019 use \$99.75/month for the lower 48 states (\$124.72 Alaska and \$114.70 Hawaii). The increased threshold applies to plan years beginning on or after February 1, 2019.

Background

Large employers may be subject to the employer penalty under the ACA if they do not offer affordable, minimum value coverage to all full-time employees and at least one full-time employee receives a subsidy in the Marketplace. The FPL is relevant to this penalty in two ways:

1. Affordability Safe Harbor

For affordability purposes, a large employer satisfies the FPL safe harbor with respect to an employee for a calendar month if the employee's required contribution for the large employer's lowest cost self-only coverage that provides minimum value does not exceed 9.5% (indexed at 9.86% for 2019) of a monthly amount determined as the FPL for a single individual for the applicable calendar year, divided by 12.

2. Subsidy Eligibility

An individual is only eligible for a subsidy in the Marketplace if he or she is within 100-400% of the FPL and is not offered affordable, minimum value group coverage.