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OCTOBER 2020

## ACA Pay or Play Penalties Will Increase for 2021

The IRS recently updated its [frequently asked questions](#) (FAQs) on the pay or play penalties to include increased penalty amounts for the 2021 calendar year. For the 2021 calendar year, the adjusted \$2,000 amount is **\$2,700**, and the adjusted \$3,000 amount is **\$4,060**.

### Pay or Play Penalties

Two separate penalties can apply under the employer shared responsibility rules—the Section 4980H(a) penalty and the Section 4980H(b) penalty.

- The Section 4980H(a) penalty can apply when an ALE does not offer coverage to “substantially all” full-

time employees (and dependents). The annual Section 4980H(a) penalty is calculated as the ALE’s number of full-time employees (minus 30) x \$2,000 (as adjusted).

- The Section 4980H(b) penalty can apply when an ALE does not offer coverage to all full-time employees, or the ALE’s coverage is unaffordable or does not provide minimum value. The annual Section 4980H(b) penalty is calculated as \$3,000 (as adjusted) x the number of the ALE’s full-time employees who receive an Exchange subsidy.

For more information on pay or play penalties, contact us today.

## Medicare Part D Notices Are Due Before Oct. 15, 2020

Each year, Medicare Part D requires group health plan sponsors to disclose to individuals who are eligible for Medicare Part D and to the Centers for Medicare and Medicaid Services (CMS) whether the health plan’s prescription drug coverage is creditable.

Plan sponsors must provide the annual disclosure notice to Medicare-eligible individuals before Oct. 15, 2020—the start date of the annual enrollment period for Medicare Part D. CMS has provided [model disclosure notices](#) for employers to use.

This notice is important because Medicare beneficiaries who are not covered by creditable prescription

drug coverage and do not enroll in Medicare Part D when first eligible will likely pay higher premiums if they enroll at a later date. Although there are no specific penalties associated with this notice requirement, failing to provide the notice may be detrimental to employees.

Employers should confirm whether their health plans’ prescription drug coverage is creditable or non-creditable and prepare to send their Medicare Part D disclosure notices before Oct. 15, 2020. To make the process easier, employers often include Medicare Part D notices in open enrollment packets they send out prior to Oct. 15.

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