(1) Example 1: Basic determination of affordability. For all of 2023, taxpayer C works for an employer, X, that offers its employees and their spouses a health insurance plan under which, to enroll in self-only coverage, C must contribute an amount for 2023 that does not exceed the required contribution percentage of C's 2023 household income. Because C's required contribution for self-only coverage does not exceed the required contribution percentage of C's household income, under paragraph (c)(3)(v)(A)(1) of this section, X's plan is affordable for C, and C is eligible for minimum essential coverage for all months in 2023.

(2) Example 2: Basic determination of affordability for a related individual. (i) The facts are the same as in paragraph (c)(3)(v)(D)(1) of this section (Example 1), except that C is married to J, they file a joint return, and to enroll C and J, X's plan requires C to contribute an amount for coverage for C and J for 2023 that exceeds the required contribution percentage of C's and J's household income. J does not work for an employer that offers employer-sponsored coverage.

(ii) J is a member of C's family as defined in §1.36B-1(d). Because C's required contribution for coverage of C and J exceeds the required contribution percentage of C's and J's household income, under paragraph (c)(3)(v)(A)(2) of this section, X's plan is unaffordable for J. Accordingly, J is not eligible for minimum essential coverage for 2023. However, under paragraph (c)(3)(v)(A)(1) of this section, X's plan is affordable for C, and C is eligible for minimum essential coverage for all months in 2023.

(3) Example 3: Multiple offers of coverage. The facts are the same as in paragraph (c)(3)(v)(D)(2) of this section (Example 2), except that J works all year for an employer that offers employer-sponsored coverage to employees. J's required contribution for the cost of self-only coverage from J's employer does not exceed the required contribution percentage of C's and J's household income. Although the coverage offered by C's employer for C and J is unaffordable for J, the coverage offered by J's employer is affordable for J. Consequently, under paragraphs (c)(3)(v)(A)(1) and (8) of this section, J is eligible for minimum essential coverage for all months in 2023.

(4) Example 4: Cost of covering individuals not part of taxpayer's family. (i) D and E are married, file a joint return, and have two children, F and G, under age 26. F is a dependent of D and E, but G is not. D works all year for an employer that offers employer-sponsored coverage to employees, their spouses, and their children under age 26. E, F, and G do not work for employers offering coverage. D's required contribution for self-only coverage under D's employer's coverage does not exceed the required contribution percentage of D's and E's household income. D's required contribution for coverage of D, E, F, and G exceeds the required contribution percentage of D's and E's household income, but D's required contribution for coverage of D, E, and F does not exceed the required contribution percentage of the household income.

(ii) E and F are members of D's family as defined in §1.36B-1(d). G is not a member of D's family under §1.36B-1(d), because G is not D's dependent. Under paragraph (c)(3)(v)(A)(1) of this section, D's employer's coverage is affordable for D because D's required contribution for self-only coverage does not exceed the required contribution percentage of D's and E's household income. D's employer's coverage also is affordable for E and F, because, under paragraph (c)(3)(v)(A)(2) of this section, D's required contribution for coverage of D, E, and F does not exceed the required contribution percentage of D's and E's household income. Although D's cost to cover

D, E, F, and G exceeds the required contribution percentage of D's and E's household income, under paragraph (c)(3)(v)(A)(2) of this section, the cost to cover G is not considered in determining whether D's employer's coverage is affordable for E and F, regardless of whether G actually enrolls in the plan, because G is not in D's family. D, E, and F are eligible for minimum essential coverage for all months in 2023. Under paragraph (c)(4)(i) of this section, G is considered eligible for the coverage offered by D's employer only if G enrolls in the coverage.

(5) Example 5: More than one family member with an employer offering coverage. (i) K and L are married, file a joint return, and have one dependent child, M. K works all year for an employer that offers coverage to employees, spouses, and children under age 26. L works all year for an employer that offers coverage to employees only. K's required contribution for self-only coverage under K's employer's coverage does not exceed the required contribution percentage of K's and L's household income. Likewise, L's required contribution for self-only coverage under L's employer's coverage does not exceed the required contribution percentage of K's and L's household income. However, K's required contribution for coverage of K, L, and M exceeds the required contribution percentage of K's and L's household income.

(ii) L and M are members of K's family as defined in §1.36B-1(d). Under paragraph (c)(3)(v)(A)(1) of this section, K's employer's coverage is affordable for K because K's required contribution for self-only coverage does not exceed the required contribution percentage of K's and L's household income. Similarly, L's employer's coverage is affordable for L, because L's required contribution for self-only coverage does not exceed the required contribution percentage of K's and L's household income. Thus, K and L are eligible for minimum essential coverage for all months in 2023. However, under paragraph (c)(3)(v)(A)(2) of this section, K's employer's coverage is unaffordable for M, because K's required contribution for coverage of K, L, and M exceeds the required contribution percentage of K's and L's household income. Accordingly, M is not eligible for minimum essential coverage for 2023.

(6) Example 6: Multiple offers of coverage for a related individual. (i) The facts are the same as in paragraph (c)(3)(v)(D)(5) of this section (Example 5), except that L works all year for an employer that offers coverage to employees, spouses, and children under age 26. L's required contribution for coverage of K, L, and M does not exceed the required contribution percentage of K's and L's household income.

(ii) Although M is not eligible for affordable employer coverage under K's employer's coverage, paragraph (c)(3)(v)(A)(8) of this section dictates that L's employer coverage must be evaluated to determine whether L's employer coverage is affordable for M. Under paragraph (c)(3)(v)(A)(2) of this section, L's employer's coverage is affordable for M, because L's required contribution for K, L, and M does not exceed the required contribution percentage of K's and L's household income. Accordingly, M is eligible for minimum essential coverage for all months in 2023.

(7) Example 7: Determination of unaffordability at enrollment. * * *

(8) Example 8: Determination of unaffordability for plan year. The facts are the same as in paragraph (c)(3)(v)(D)(7) of this section (Example 7), except that X's employee health insurance plan year is September 1 to August 31. * * *

(9) Example 9: No affordability information affirmatively provided for annual redetermination. (i) The facts are the same as in paragraph (c)(3)(v)(D)(7) of this section (Example 7), except the Exchange redetermines D's eligibility for advance credit payments for 2015. * * *

* * * * *

(e) * * *

(1) Except as provided in paragraphs (e)(2) through (5) of this section, this section applies to taxable years ending after December 31, 2013.

* * * * *

(5) The first two sentences of paragraph (c)(3)(v)(A)(2), paragraph (c)(3)(v)(A)(8), the second sentence of paragraph (c)(3)(v)(B), paragraphs (c)(3)(v)(D)(1) through (6), and the first sentences of paragraphs (c)(3)(v)(D)(8) and (9) of this section apply to taxable years beginning after December 31, 2022.

Par. 4. Section 1.36B-3 is amended by revising paragraphs (d)(1)(i) and (n)(1) and adding paragraph (n)(3) to read as follows:

**§ 1.36B-3 Computing the premium assistance credit amount.**

* * * * *

(d) * * *

(1) * * *

(i) The premiums for the month, reduced by any amounts that were refunded in the same taxable year as the premium liability is incurred, for one or more qualified health plans in which a taxpayer or a member of the taxpayer's family enrolls (enrollment premiums); or

* * * * *

(n) * * *

(1) Except as provided in paragraphs (n)(2) and (3) of this section, this section applies to taxable years ending after December 31, 2013.

* * * * *

(3) Paragraph (d)(1)(i) of this section applies to taxable years beginning after December 31, 2022.

Par. 5. Section 1.36B-6 is amended by revising paragraphs (a) and (g)(2) to read as follows:

**§ 1.36B-6 Minimum value.**

(a) In general--(1) Employees. An eligible employer-sponsored plan provides minimum value (MV) for an employee of the employer offering the coverage only if--

(i) The plan's MV percentage, as defined in paragraph (c) of this section, is at least 60 percent based on the plan's share of the total allowed costs of benefits provided to the employee; and

(ii) The plan provides substantial coverage of inpatient hospital services and physician services.

(2) Related individuals—(i) In general. An eligible employer-sponsored plan provides MV for an individual who may enroll in the plan because of a relationship to an employee of the employer offering the coverage (a related individual) only if--

(A) The plan's MV percentage, as defined in paragraph (c) of this section, is at least 60 percent based on the plan's share of the total allowed costs of benefits provided to the related individual; and

(B) The plan provides substantial coverage of inpatient hospital services and physician services.

(ii) Plans providing MV to employees. If an eligible employer-sponsored plan provides MV to an employee under paragraph (a)(1) of this section, the plan also provides MV for related individuals if--

(A) The scope of benefits is the same for the employee and related individuals; and

(B) Cost sharing (including deductibles, co-payments, coinsurance, and out-of-pocket maximums) under the plan is the same for the employee and related individuals under the tier of coverage that would, if elected, include the employee and all related individuals (disregarding any differences in deductibles or out-of-pocket maximums that are attributable to a different tier of coverage, such as self plus one versus family coverage).

* * * * *

(g) * * *

(2) Exceptions. (i) Paragraph (a)(1)(ii) of this section applies for plan years beginning after November 3, 2014; and

(ii) Paragraph (a)(2) of this section applies to taxable years beginning after December 31, 2022.

Douglas W. O'Donnell,

Deputy Commissioner for Services and Enforcement.

Approved: October 1, 2022.

Lily Batchelder,

Assistant Secretary of the Treasury (Tax Policy).

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