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Search **GO**

[Home \(/index\)](#) [Plans \(\)](#) [Tools \(\)](#) [News \(/broker-connection\)](#) [Briefing Room \(\)](#)

[About UnitedHealthcare \(\)](#)

Articles

In This Issue

- New Small Business Email Box Announced for Enrollment/Eligibility Forms (articleView-17154)
- myuhc.com Enhances Health Checklist, Average Cost Information (articleView-17152)
- Qualify for United Advantage Rewards Program (articleView-17167)
- 2016-17 Flu Shot Program Now Underway (articleView-17150)

Past Newsletters

- [July 2016](#)
- [June 2016](#)
- [May 2016](#)
- [April 2016](#)
- [March 2016](#)
- [February 2016](#)
- [January 2016](#)
- [December 2015](#)
- [November 2015](#)
- [October 2015](#)
- [September 2015](#)
- [August 2015](#)

Local and Other News

Market/State

Group Size

Category

Last 30 days

Filter

All News

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Employer Marketplace Notice Has Short, 90-Day Appeal Window

August 3, 2016

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Employers may receive notices from the Marketplaces indicating that they may be subject to the shared responsibility payment because an employee requested and received a subsidy. Employers have a short window of 90 days to respond and provide documentation if they wish to appeal information in the notice, so it is important to act quickly.

- The Marketplaces are looking for verification that the employer has met the shared responsibility (employer mandate) requirements under the Affordable Care Act (ACA).
- Employers may appeal the notice if the employee waived affordable minimum value coverage or enrolled in employer-sponsored minimum essential coverage for 2016.
- The appeal may determine that an employee received subsidies through the Marketplace at the same time the employer offered him or her affordable health coverage.
- If the employer is successful, the Marketplace will send a notice encouraging the employee to update the Marketplace application to show that he or she was offered or was enrolled in other qualifying coverage. The notice will also explain that the failure to update the application may result in tax liability.
- **Important:** This appeal will not determine if an employer has to pay the shared responsibility payment. Only the Internal Revenue Service, not the Health Insurance Marketplace or the Marketplace Appeals Center, can determine which employers will have to make the required payment. The employer notice, however, appears to be the first step in that process.
- Learn more about the employer shared responsibility payment on [IRS.gov](http://www.irs.gov/Affordable-Care-Act/Employers/Questions-and-Answers-on-Employer-Shared-Responsibility-Provisions-Under-the-Affordable-Care-Act) (<http://www.irs.gov/Affordable-Care-Act/Employers/Questions-and-Answers-on-Employer-Shared-Responsibility-Provisions-Under-the-Affordable-Care-Act>).

Background

Starting in 2016, under the ACA, certain employers with 50 or more full-time employees or full-time equivalents must offer health insurance coverage to their full-time employees and dependents. The health plan offered must meet minimum standards for coverage, provide minimum value and be affordable. Otherwise the employer may be subject to a penalty.

How to Appeal

The notice outlines the actions and timetable an employer has to respond if they wish to appeal. There is only 90 days from the date of the notice the employer receives from the Marketplace to request an appeal. And, there is only **one** opportunity to appeal.

- The notice will identify the specific employee and include a statement that the employee is enrolled in Marketplace coverage with a subsidy.
- The notice will not contain the employee's personal health information or federal tax information.
- As part of the appeal, the employer can explain why the employee should not have been eligible for subsidies through the Marketplace.


Employers should follow instructions for how to respond or appeal that accompany the notice. Or employers may access the appeal request form or obtain additional information [here](https://www.healthcare.gov/marketplace-appeals/employer-appeals/) (<https://www.healthcare.gov/marketplace-appeals/employer-appeals/>).

([http://www.facebook.com/sharer.php?u=http://broker.uhc.com/articleView-17146&t=Employer Marketplace Notice Has Short, 90-Day Appeal Window](http://www.facebook.com/sharer.php?u=http://broker.uhc.com/articleView-17146&t=Employer+Marketplace+Notice+Has+Short,+90-Day+Appeal+Window)) (<https://twitter.com/share>) ([http://www.linkedin.com/shareArticle?](http://www.linkedin.com/shareArticle)

July 2016 PDL Updates



The following updates will take effect for the OptumRx direct Prescription Drug Lists (PDLs) on July 1, 2016. [Learn more](http://broker.uhc.com/articleView-16779) (<http://broker.uhc.com/articleView-16779>)

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