

## ***Affordable Care Act - Return Preparer Best Practices*** **Resolving Information Form 1095 Conflicts (revised April 7, 2016)**

### **Resolving conflicting information between Form 1095-A and Form 1095-B:**

An individual who was eligible for minimum essential coverage (other than coverage in the individual market) is generally not eligible for the premium tax credit. As a result, if a client receives a Form 1095-B indicating that the client or any family members were enrolled in minimum essential coverage for one or more months, the client generally is not eligible to claim the premium tax credit for those individuals for those months. However, in certain circumstances an individual who is eligible for – or even enrolled in – other minimal essential coverage may still be eligible for the premium tax credit. Some of these situations are listed below. Accordingly, if a client's Form 1095-B contains information that appears to indicate that the client is not eligible for the premium tax credit, the preparer will need to ask clients about their specific circumstances to determine whether the client is eligible for the premium tax credit.

Examples of situations where a Form 1095-B indicates that an individual was enrolled in other coverage, but the individual may still be eligible for the premium tax credit:

- 1. Reporting errors:** If the issuer has reported information incorrectly on Form 1095-A or 1095-B, the client should contact the issuer of the form and ask for a correction. Because the issuer also reports this information to the IRS, discrepancies should be resolved at the earliest opportunity.
- 2. Same month changes in coverage:** If a client has coverage for at least one day during a month with one provider and switches coverage to another provider that takes effect later in the same month, both providers will report coverage provided during that month. This situation does not affect the client's potential eligibility for the premium tax credit.
- 3. Retroactive eligibility determinations and enrollment:** A client may be retroactively determined to be eligible for and retroactively enrolled in government-sponsored coverage (Medicaid, for example). The client would generally receive a Form 1095-B regarding this government-sponsored coverage showing coverage starting on the date of retroactive enrollment. If the client was enrolled in Marketplace coverage while waiting for their eligibility determination in the government-sponsored coverage, they would generally receive both a Form 1095-A and a Form 1095-B for the overlapping period. Although this may appear to be contradictory information, the client's eligibility for the premium tax credit does not change until the first day of the first calendar month beginning after the date of the approval. See question 5 for the rule that applies to individuals enrolled in both Marketplace coverage and Medicaid for one or more of the same months of the calendar year.
- 4. Eligibility for Medicaid or Medicare while enrolled in Marketplace coverage:** In general, a client is not eligible for the premium tax credit for months in which the client is eligible for government-sponsored health coverage. However, individuals are granted a period of time to apply for and transition to government-sponsored coverage once they become eligible. In particular, any individual who fails by the last day of the third full calendar month following when he or she meets the criteria to enroll in the government-sponsored insurance becomes ineligible for the premium tax credit as of the first day of the fourth calendar month. See question 5 for the rule that applies to individuals enrolled in both Marketplace coverage and Medicaid for one or more of the same months of the calendar year.

**5. Dual enrollment due to determination of Medicaid or CHIP ineligibility:** If a Marketplace makes a determination or assessment that an individual is ineligible for Medicaid or CHIP and eligible for APTC when the individual enrolls in a qualified health plan, the individual is treated as not eligible for Medicaid or CHIP for purposes of the premium tax credit for the duration of the period of coverage under the qualified health plan (generally, the rest of the plan year). Accordingly, if your client was enrolled in both Medicaid coverage and in a qualified health plan for which advance credit payments were made for one or more months of the year following a Marketplace determination or assessment that your client was ineligible for Medicaid, your client can claim the premium tax credit for these months, if the client is otherwise eligible. The Marketplace may periodically check state Medicaid data to identify consumers who may be dual-enrolled, and direct them to return to the Marketplace to discontinue their APTC. If you believe that your client may currently be enrolled in both Medicaid and a qualified health plan with advance credit payments, you should advise your client to contact the Marketplace immediately.

**6. Supplemental private insurance coverage:** Under the health care law, an individual enrolled in supplemental insurance from a private insurance provider (and not provided through an employer), in addition to Marketplace coverage, may still be eligible for the premium tax credit. Therefore, dual coverage in this situation as reflected by a Form 1095-A and a Form 1095-B does not affect the client's eligibility for the premium tax credit.

#### **Resolving reporting conflicts between Form 1095-A and Form 1095-C:**

An individual who had the opportunity to enroll in employer-sponsored coverage that is considered affordable is generally not eligible for the premium tax credit. In 2015, employer-sponsored coverage is considered affordable if self-only coverage would cost the employee no more than 9.56% of household income. Accordingly, if a client receives a Form 1095-C indicating that the client was offered self-only employer-sponsored coverage for no more than 9.56% of household income, anyone in the client's tax family who was offered coverage by the employer generally would not be eligible for the premium tax credit.

However, several exceptions apply. Most importantly, employer-sponsored coverage is not considered affordable if, when your client enrolled in a qualified health plan, they gave accurate information about the availability of employer coverage to the Marketplace, and the Marketplace determined that they were eligible for APTC for the individual's coverage in the qualified health plan. As a result, the return preparer will need to ask clients about their specific circumstances to determine whether clients might still be eligible for the premium tax credit.

- 1. General Rule:** In 2015, employer-sponsored coverage is considered affordable if self-only coverage would cost the employee no more than 9.56% of household income. This may be indicated on the Form 1095-C in two ways. First, if line 14 of the Form 1095-C shows Code 1B, 1C, 1D, or 1E, and the amount entered on line 15 indicates that the employee share of the lowest-cost monthly premium for self-only minimum essential coverage providing minimum value that was offered to the client was less than 9.56% of his or her household income, then the coverage was generally affordable. Second, if line 14 of the Form 1095-C is marked with code 1A, *affordable offer of self-only minimum essential coverage*, coverage is also generally affordable.
- 2. Exception: Employee safe harbor:** Under the employee safe harbor, employer-sponsored coverage is treated as unaffordable for the client if (1) the client provided accurate information to the Marketplace about the cost of employer-sponsored coverage and (2) the Marketplace

determined that the client was eligible for advance payments of the premium tax credit (APTC) because employer-sponsored coverage was unaffordable based on the client's projected household income. Under these circumstances, the client would still be eligible for the premium tax credit if he or she meets the other eligibility criteria even though the employer-sponsored coverage would have been affordable based on the client's actual household income. This is the employee safe harbor described in section 1.36B-2(c)(3)(v)(A)(3) of the Income Tax Regulations. The employee safe harbor does not apply for an individual who, with reckless disregard for the facts, provides incorrect information to a Marketplace concerning the portion of the annual premium for self-only coverage for the employee under the plan.

3. **Exception: Offers of employer-sponsored coverage after Marketplace enrollment:** If an employer extends an offer of affordable coverage after the client had already enrolled in Marketplace coverage, the client generally is eligible for the premium tax credit until the first day of the first full month the employer coverage could have been effective.
4. **Reporting errors:** If information is reported incorrectly on a Form 1095-A or Form 1095-C, the client should contact the issuer of the form and ask for a correction. Because the issuer also reports this information to the IRS, discrepancies should be resolved at the earliest opportunity.

**Q. My client enrolled in a qualified health plan through the Marketplace and provided accurate information to the Marketplace at enrollment about the cost of employer-sponsored coverage. The client's Form 1095-A reflects that the client received the benefit of APTC for one or more months in 2015. The client's Form 1095-C shows Code 1A on line 14, indicating that the employer offered affordable self-only coverage for one or more of the same months of 2015. Should I treat my client as ineligible for the premium tax credit for these months based on the information reported on Form 1095-C?**

**A.** Generally, no. Under the employee safe harbor, if a Marketplace determines that an individual is eligible for APTC when the individual enrolls in a qualified health plan, the individual is still eligible for the premium tax credit if he or she meets the other eligibility criteria even though the employer-sponsored coverage would have been affordable based on the taxpayer's actual household income. The employee safe harbor applies even when Code 1A is reported on Form 1095-C. Thus, under these circumstances, return preparers should not treat the client as ineligible for the premium tax credit based solely on the Form 1095-C. If the Form 1095-A indicates your client received APTC, you must reconcile your client's APTC using Form 8962. The employee safe harbor does not apply for an individual who, with reckless disregard for the facts, provides incorrect information to a Marketplace concerning the portion of the annual premium for self-only coverage for the employee under the plan.

**Q. My client enrolled in a qualified health plan through the Marketplace and provided accurate information to the Marketplace at enrollment about the cost of employer-sponsored coverage. The client's Form 1095-A reflects that the client received the benefit of APTC for one or more months in 2015. The client's Form 1095-C shows Code 1B (or Code 1C, 1D or 1E) on line 14, indicating that the employer offered coverage to my client for one or more of the same months of 2015. The amount entered on line 15 of Form 1095-C indicates that the employee share of the lowest-cost monthly premium for self-only minimum essential coverage providing minimum value that was offered to my client was less than 9.56% of his or her household income. Should I treat my client as ineligible for the premium tax credit for these months based on the information reported on Form 1095-C?**

**A.** Generally, no. Under the employee safe harbor, if a Marketplace determines that an individual is eligible for APTC when the individual enrolls in a qualified health plan, the individual is still eligible for the premium tax credit if he or she meets the other eligibility criteria even though the employer-sponsored coverage would have been affordable based on the taxpayer's actual household income. The employee safe harbor applies even when Codes 1B-1E are reported on Form 1095-C and the amount entered on line 15 is less than 9.56% of household income. Thus, under these circumstances, return preparers should not treat the client as ineligible for the premium tax credit based solely on the Form 1095-C. If the Form 1095-A indicates your client received APTC, you must reconcile your client's APTC using Form 8962. The employee safe harbor does not apply for an individual who, with reckless disregard for the facts, provides incorrect information to a Marketplace concerning the portion of the annual premium for self-only coverage for the employee under the plan.