

1. **If the employee is no longer with the company, does the employer have to send out the rebate to the terminated employee?** Depending on the method chosen, you have to dispense reimbursement checks to anyone who was enrolled on the plan.
2. **Should surpluses on a level-funded plan align to MLR Rebates with the three ways employers can/should distribute?** No, not necessarily. There is no correlation between the two.
3. **The MLR employee rebate guidelines or similar ones do not apply to surplus refunds that may be received by an employer with favorable claims for a given year under a Level Funded plan, such as Aetna AFA for example, correct?** That is correct. There is no correlation between the two.
4. **Are the MLR rebates issued by checks to the EEs? Is this amount taxable to the EE?** MLR rebates are considered taxable income when they originate from pretax premium payments.
5. **The employer may retain 100% of the AFA refund, correct?** The AFA surplus can be retained by the employer.
6. **If the MLR 2 the Employees is so low that the Employer gives a health bar instead of the \$2 ee rebate- are they supposed to track this and do they have to report this and to whom?** No, this would be classified as a “de minimis” amount and the employer does not have to reimburse \$2.00 rebates.
7. **If an employee was only on the plan for a few months in 2021, how does the rebate get allocated?** The employer can decide to pro-rate or to refund the full amount. That’s an employer decision.
8. **Employers don’t have to offer the carryover option on an FSA, correct?** Correct, the regulation “allows the employer” not “requires the employer” to offer that option.
9. **Do you have the family limit for Medical FSA for 2023 and was there any change to Dependent care FSA contributions?** Health FSA - \$3,050, Dependent Care FSA - \$5,000 (no change).
10. **Are employers going to have to adjust contributions to make coverage affordable for families?** It’s not a requirement. “Affordability” for the purposes of avoiding penalties will still be based on employee-only coverage.
11. **Will employers face penalties for family members going to the exchange and getting a premium tax credit?** No, any penalties incurred as a result of a plan not being “affordable” will stem from the “employee-only” coverage, not the family coverage.
12. **The employer's Affordability Test is still based on the Employee Only medical premium, correct?** That is absolutely correct.
13. **I read where the affordability "fix" has been challenged legally saying that it was not a legislative action, and the President does not have the power to expand ACA coverage. Do you know anything about this?** We’ve seen those challenges and it may make its way through the courts but for now, the regulation is the law of the land.

14. **Will the Employer be penalized if the family premium is not affordable based on 9.12% for 2023 or are the penalties to the Employer only applicable to employee coverage?** Any potential penalties will be based on the “affordability” of employee-only coverage.
15. **Please state what that 9.12 is based on for that EE?** The affordability percentage is determined by the IRS and then is adjusted for inflation each year.
16. **Wouldn't the affordability factor have to consider the family income then?** Yes, family income is the basis for determining whether the family premium is affordable.
17. **Can you give us an example of how to determine if family premium is not affordable.** So, employer contributes 80% to the employee's premium but only contributes 25% to the dependent's premium thus, the balance of that dependent's premium may be “unaffordable” to the employee. Then you use the 9.12% of household income to determine that.
18. **Has anyone had an experience with marketplace dependents were audited and subsidy withdrawn when EE was affordable?** There are documented cases in many states where subsidies were reversed because of inaccurate information.
19. **Should we be concerned that the model Marketplace Notice on the DOL website (OMB No. 1210-0149, expires 6/30/23) still shows the affordability threshold as 9.5% of household income?** No, because it is adjusted for inflation.
20. **Is the new affordability plan year or calendar year.** Calendar year.
21. **Plan renews Dec 1. When would the new 9.12 take effect?** January 1, 2023.
22. **Is ‘affordable’ based off gross or net earnings?** Modified Adjusted Gross Income (MAGI).
23. **How soon is the new QE for an ee to drop coverage for the family glitch effective?** January 1, 2023.
24. **Hello, where can we see the formulas or numbers to determine if a plan is minimum value?** The SBCs can tell you if the plan minimum value requirement of 60% (bronze plan).
25. **How is this impacting carrier underwriting participation requirements? Do you anticipate a change in par requirements or will carrier decline coverage? Is there is a low par due to subsidy change?** As of now, we anticipate participation requirements to stay the same.
26. **Who files for Balance Funded plans?** For level-funded plans, some carriers are handling the responsibility; some are not. Each carrier is different.