

an assumed monthly income amount that is based on an assumed 130 hours of service multiplied by \$7.25 per hour (\$942.50 per calendar month). To satisfy the safe harbor, Employer W would set the employee monthly contribution amount at a rate that does not exceed 9.5 percent of the assumed monthly income of \$942.50. Employer W sets the employee contribution for self-only coverage at \$85 per calendar month for 2016.

(ii) *Conclusion.* Because \$85 is less than 9.5 percent of the employee's assumed monthly income at a \$7.25 rate of pay, the coverage offered is treated as affordable under the rate of pay safe harbor for each calendar month of 2016 (\$85 is 9.01 percent of \$942.50).

Example 5 (Rate of pay safe harbor). (i) *Facts.* Employee E is employed by Employer V from May 1, 2015, through December 31, 2015. Employer V offers Employee E and her dependents minimum essential coverage from May 1, 2015, through December 31, 2015, that provides minimum value. The employee contribution for self-only coverage is \$100 per calendar month. From May 1, 2015, through October 31, 2015, Employee E is paid at a rate of \$10 per hour. From November 1, 2015, through December 31, 2015, Employee E is paid at a rate of \$12 per hour. For purposes of applying the affordability safe harbor for the calendar months May 2015 through October 2015, Employer V may assume that Employee E earned \$1,300 per calendar month (130 hours of service multiplied by \$10 (which is the lower of the employee's hourly rate of pay at the beginning of the coverage period (\$10) and the lowest hourly rate of pay for the calendar month (\$10)). Accordingly, affordability is determined by comparing the assumed income (\$1,300 per month) to the employee contribution (\$100 per calendar month). For the calendar months November 2015 through December 2015, Employer V may assume that Employee E earned \$1,300 per calendar month (130 hours of service multiplied by \$10 (which is the lower of the employee's hourly rate of pay at the beginning of the coverage period (\$10) and the lowest hourly rate of pay for the calendar month (\$12)). Accordingly, affordability is determined by comparing the assumed income (\$1,300 per month) to the employee contribution (\$100 per calendar month).

(ii) *Conclusion.* Because \$100 is less than 9.5 percent of Employee E's assumed monthly income for each calendar month from May 2015 through December 2015, the coverage offered is treated as affordable with respect to Employee E for May 2015 through December 2015 (\$100 is 7.69 percent of \$1,300).

Example 6 (Federal poverty line safe harbor). (i) *Facts.* Employee F is employed by Employer T from January 1, 2015, through December 31, 2015. In addition, Employer T offers Employee F and his dependents minimum essential coverage during that period that provides minimum value. Employer T

uses the look-back measurement method. Under that measurement method as applied by Employer T, Employee F is treated as a full-time employee for the entire calendar year 2015. Employee F is regularly credited with 35 hours of service per week but is credited with only 20 hours of service during the month of March 2015 and only 15 hours of service during the month of August 2015. Assume for this purpose that the federal poverty line for 2015 for an individual is \$11,670. With respect to Employee F, Employer T sets the monthly employee contribution for employee single-only coverage for each calendar month of 2015 at \$92.39 (9.5 percent of \$11,670, divided by 12).

(ii) *Conclusion.* Regardless of Employee F's actual wages for any calendar month in 2015, including the months of March 2015 and August 2015, when Employee F has lower wages because of significantly lower hours of service, the coverage under the plan is treated as affordable with respect to Employee F, because the employee contribution does not exceed 9.5 percent of the federal poverty line.

(f) *Additional guidance.* With respect to assessable payments under section 4980H(b), including the determination of whether an offer of coverage is affordable for purposes of section 4980H, the Commissioner may prescribe additional guidance of general applicability, published in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(b) of this chapter).

(g) *Effective/applicability date.* This section is applicable for periods after December 31, 2014.

[T.D. 9655, 79 FR 8577, Feb. 12, 2014]

§ 54.4980H-6 Administration and procedure.

(a) *In general.* [Reserved]

(b) *Effective/applicability date.* This section is applicable for periods after December 31, 2014.

[T.D. 9655, 79 FR 8577, Feb. 12, 2014]

§ 54.6011-1 General requirement of return, statement, or list.

(a) *Minimum funding standards or excess contributions for self-employed individuals and section 403(b)(7)(A) custodial accounts.* Any employer or individual liable for tax under section 4971, 4972 or 4973(a)(2) (for a custodial account under section 403(b)(7)(A)) shall file an annual return on Form 5330 and shall include therein the information required by such form and the instructions issued with respect thereto.