

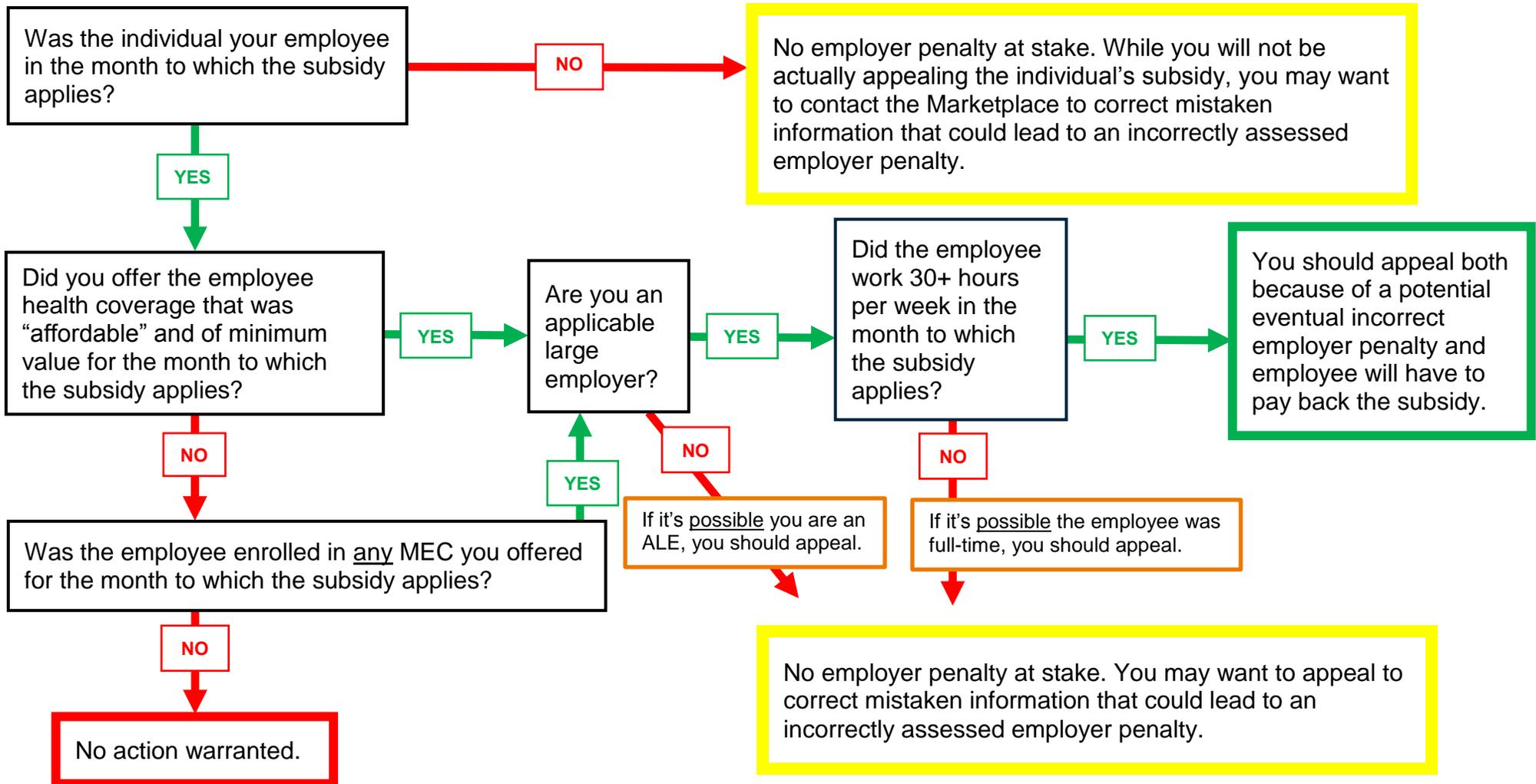
Should an Employer Respond to a Section 1411 Notice of an Employee's Marketplace Subsidy?

This flow chart is to be used by employers that have received a letter from a state or federal Marketplace notifying them that an employee has received a premium subsidy through that Marketplace. While these letters could represent an advance warning that the employer may face a penalty related to this particular employee's Marketplace subsidy in some cases, **a letter from a Marketplace is not a notification that an employer penalty is being assessed.** The IRS will determine whether any particular employee's premium subsidy has actually triggered an employer penalty based on the employer's Form 1095 filing early in the following year.

However, employers do have the ability to appeal a Marketplace's subsidy determination. This flow chart is designed to help employers decide whether it would be prudent to appeal an employee's Marketplace subsidy, either to correct information that could otherwise lead to an incorrect employer penalty in the IRS penalty phase or - because an employee incorrectly given a Marketplace subsidy would eventually have to pay the subsidy dollars back to the Marketplace - to minimize the financial impact on an employee that has received a subsidy in error.

The intent of this analysis is to provide you with general information regarding the status of, and/or potential concerns related to, your current employee benefits issue. It does not necessarily fully address all your specific issues. It should not be construed as, nor is it intended to provide, legal or tax advice. Questions regarding specific issues should be addressed by the client's general counsel, tax advisor, or an attorney who specializes in this practice area.

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