

Health Care Reform Updates



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'Pay or Play' Delayed Until 2016 for Large Employers With Fewer Than 100 Full-Time Employees

Newly issued [final rules](#) provide guidance for large employers who are subject to the shared responsibility ("pay or play") requirements under Health Care Reform. These employers may be liable for a penalty if they do not offer affordable health insurance that provides a minimum level of coverage to full-time employees (and their dependents), and any full-time employee receives a premium tax credit for purchasing individual coverage on the Health Insurance Marketplace (Exchange).



Affected Employers

The "pay or play" requirements apply only to employers employing at least a certain number of full-time employees (including full-time equivalent employees or FTEs). Employers will determine each year, based on their current number of employees, whether they will be subject to the requirements for the next year.

- **Employers with fewer than 50 full-time employees** (including FTEs) are not penalized for not providing health coverage to employees.
- **Employers with 50 to 99 full-time employees** (including FTEs) are subject to "pay or play," but the requirements will not apply until 2016 for employers who certify that they meet certain eligibility criteria related to workforce size, maintenance of workforce and aggregate hours of service, and maintenance of previously offered health coverage.
- **Employers with 100 or more full-time employees** (including FTEs) are subject to the requirements for 2015 and must offer coverage to at least 70% of full-time employees (and their dependents, unless transition relief applies) to avoid a penalty for failing to offer health coverage, rather than 95% which will begin in 2016. An employer that offers coverage to at least 70% of full-time employees may nevertheless owe a penalty if any full-time employee receives a premium tax credit.

Determining Full-Time Employees

An employee is considered full-time for a calendar month if he or she averages at least 30 hours of service per week (or 130 hours of service in a calendar month). The final rules provide two methods employers may use to determine whether an employee has sufficient hours of service to be a full-time employee:

- One method is the monthly measurement method under which an employer determines each employee's status by counting the employee's hours of service for each month.
- The second method is the look-back measurement method under which an employer may determine the status of an employee during a future "stability period," based upon the hours of service of the employee in a prior "measurement period." (This method may be used only for purposes of determining and computing liability, and not for determining whether the employer is subject to the "pay or play" requirements.)

The final rules describe approaches that can be used for various circumstances, such as for employees who work variable hour schedules, seasonal employees, and employees of educational organizations.

Other Key Highlights

The final rules also extend to 2015 a package of limited transition rules that applied to 2014 under the proposed regulations, including:

- **Employers First Subject to Requirements:** Employers can determine whether they had at least

100 full-time or full-time equivalent employees in the previous year by reference to a period of at least six consecutive months, instead of a full year.

- **Non-Calendar Year Plans:** Employers with plan years that do not start on January 1 will be able to begin compliance at the start of their plan years in 2015 rather than on January 1, 2015, and the conditions for this relief are expanded to include more plan sponsors.
- **Dependent Coverage:** The policy that employers offer coverage to their full-time employees' dependents will generally not apply in 2015 to employers that are taking steps to arrange for such coverage to begin in 2016.
- **Look-Back Measurement Method:** On a one-time basis, in 2014 preparing for 2015, plans may use a measurement period of six months even with respect to a stability period of up to 12 months.

For more information on the "pay or play" requirements, you may review the [Questions and Answers](#) made available by the Internal Revenue Service.

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