2014 Health Care Reform Checklist

Prepare or Pay!!!

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International Foundation
OF EMPLOYEE BENEFIT PLANS
Education | Research | Leadership

2014 Checklist

- ☐ Review Plan Design
- ☐ Budget for Required Fees/Payments
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- ☐ Keep an Eye on Future Requirements

Employer Mandate

Review Plan Design

- ❑ Grandfathered Plans
  - ➢ Make sure your carrier or TPA certifies plans that have retained “grandfathered” status
  - ➢ Include information regarding this status in plan materials provided to employees, such as summary plan descriptions and open enrollment materials
    - ✓ Pre-existing condition language must be removed from plan requirements
    - ✓ Annual limits must be removed from essential benefits
    - ✓ Overall lifetime limits must be removed from all plans
    - ✓ Coverage must be offered to dependent children to age 26, regardless of other coverage being available

Employer Mandate

Review Plan Design

- ❑ Non-Grandfathered Plans
  - Out of Pocket Maximum limits (OOPM) must NOT exceed:
    - ✓ $6,350 single/$12,700 family (Same as HSA out-of-pocket maximums)
    - ✓ OOPM sums all coinsurance and deductibles
    - ✓ OOPM must also include copays for office visits, prescription drugs, etc.
    - ✓ One year "transition relief" for benefits administered by a separate service provider (PBM, carved out benefit)
  - Pre-existing condition language must be removed from plan requirements
  - Annual limits must be removed from essential benefits
  - Overall lifetime limits must be removed all plans

Employer Mandate

Review Plan Design

- ❑ Comprehensive Benefits Package
  - ➢ Small group market plans must cover each of the essential benefit categories listed under ACA (not applicable to grandfathered, self insured plans and large market plans)
- ❑ Wellness Initiatives
  - ➢ Increase in permissible incentives to encourage participation in Wellness programs
    - ✓ 20% to 30% beginning with “2014 plan year”
    - ✓ 50% for smoking cessation incentives
- ❑ Waiting Period
  - ➢ No more than 90 days from date of hire; coverage must start on the 91st day (first of the month following 90 days no longer permissible)

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Employer Mandate

Budget For Required Fees/Payments

- ❑ Reinsurance Fee
  - ➢ Report covered lives by 11/15/14
- ❑ Increased Medicare Tax

  Note for Payroll: 0.9% for individuals whose compensation exceeds $200,000
- ❑ PCORI
  - ➢ Report and Payment Due by 7/31/14

  Note: Required through 2019 plan year
- ❑ Fully insured plans

  Note: Identify premium tax added to premiums
  - ➢ Loss Ratios – If carrier exceeds this ratio, then a refund may need to be distributed to participants

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Employer Mandate

Prepare For Required Administrative Tasks

- ❑ W-2 distributions
  - ➢ Include “value of coverage” provided
    - ✓ If over 250 W-2 forms are distributed
- ❑ Provide Exchange Notice to Employees
  - ➢ Date of distribution not yet provided.
  - ➢ Exchange open enrollment begins 11/15/14
- ❑ Provide SBC to Employees
  - ➢ Distributed by the first day of open enrollment
  - ➢ Distributed to new hires throughout the year
  - ➢ Distributed 60 days in advance of any benefit changes
- ❑ Employer Coverage Tool
  - ➢ Assist employees with completion

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Employer Mandate

Review FSA Design

- ❑ Amend Plan Document to incorporate changes
  - ➢ Contributions limited to $2,500 annually
  - ➢ Carryover of up to $500 permitted
    - ✓ Can be used for expenses incurred in the following plan year
    - ✓ Does not affect the $2,500 annual limit
  - ➢ Grace Period still available
    - ✓ Allows individuals to apply expenses incurred during the first portion of the following plan year to the current plan year's election
  - ➢ Grace Period and Carryover cannot both be utilized
    - ✓ One option or the other (or neither) must be selected.

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Employer Mandate

- Determine Applicable Large Employer status
  - Large Employer Definition / Test
  - Employers with 50 or more Full-Time employees (or the equivalent)

- Full Time Equivalent Calculation ("FTE"), if necessary
  - Part-Time employee's hours are counted to determine whether an employer has at least 50 full-time employee equivalents
    - ✓ Total number of monthly hours work by Part-Time employees, divide by 120 = Full-Time Equivalent Employees
    - ✓ Seasonal employee hours counted unless the "seasonal employee exception" applies (work less than 120 hours or 4 months during a calendar year)
    - ✓ Add this number to total number of existing Full-Time Employees
    - ✓ Transitional Relief; Utilize any consecutive 6 month period

Case Study for Applicable Large Employer

Full Time Employees and FTE's

Facts:
During 2014, Employer N has 20 FT employees each of whom averages 35 hours of service per week for the entire calendar year, plus 40 employees each of whom averages 90 hours of service per month, and no seasonal employees
Result:
Employer N calculates its FTE's for the plan year by taking the total hours of service of the employees who are NOT full-time, aggregates their hours (but no more 120 hours per employee), divides by 120 and adds to the full time employee count. The result is that Employer N has 30 FTE's (40 x 90=3,600/120= 30) plus 20 regular full-time employees for a total of 50 during each month of 2014.
Conclusion:
Employer N is an "applicable large employer" for 2015.

Employer Mandate

- Identify Potential “Mandate” Penalty traps

4980H(a) – Offer of Coverage

- Coverage must be offered to at least 95% of eligible “full-time” employees to meet “offer of coverage” test

4980H(b)- Adequate Coverage

- Plans offered to eligible “full-time” employees must be affordable and meet minimum value

Employer Mandate

Don't PLAY? PAY $2,000 per year per FT EE (Less 30)

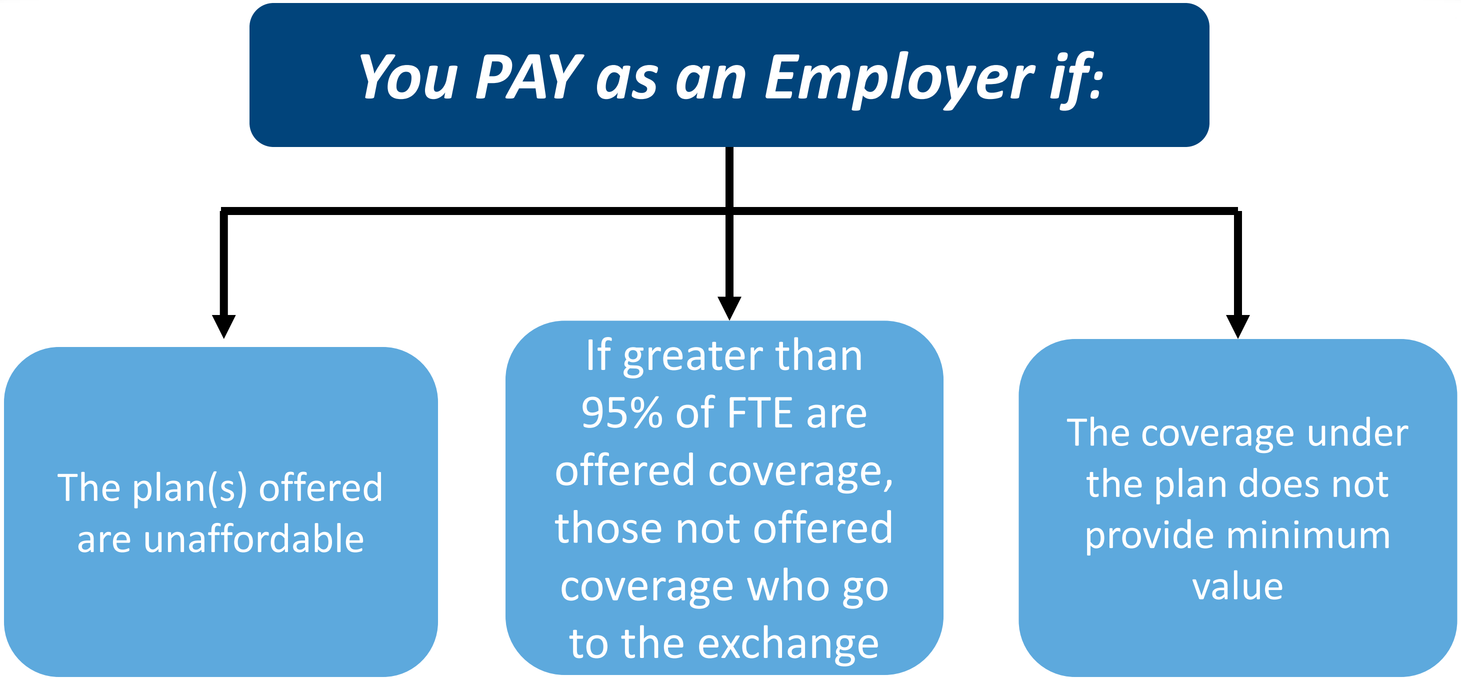
You PAY if as an Employer you:

- DO NOT offer health coverage
- Offer health insurance plan(s) that DO NOT meet minimum essential coverage (MEC)
- Offer qualifying coverage to less than 95% of your full-time employees and at least one full-time employee receives a premium tax credit

Determined on a monthly basis during the employer's "plan year"

Employer Mandate

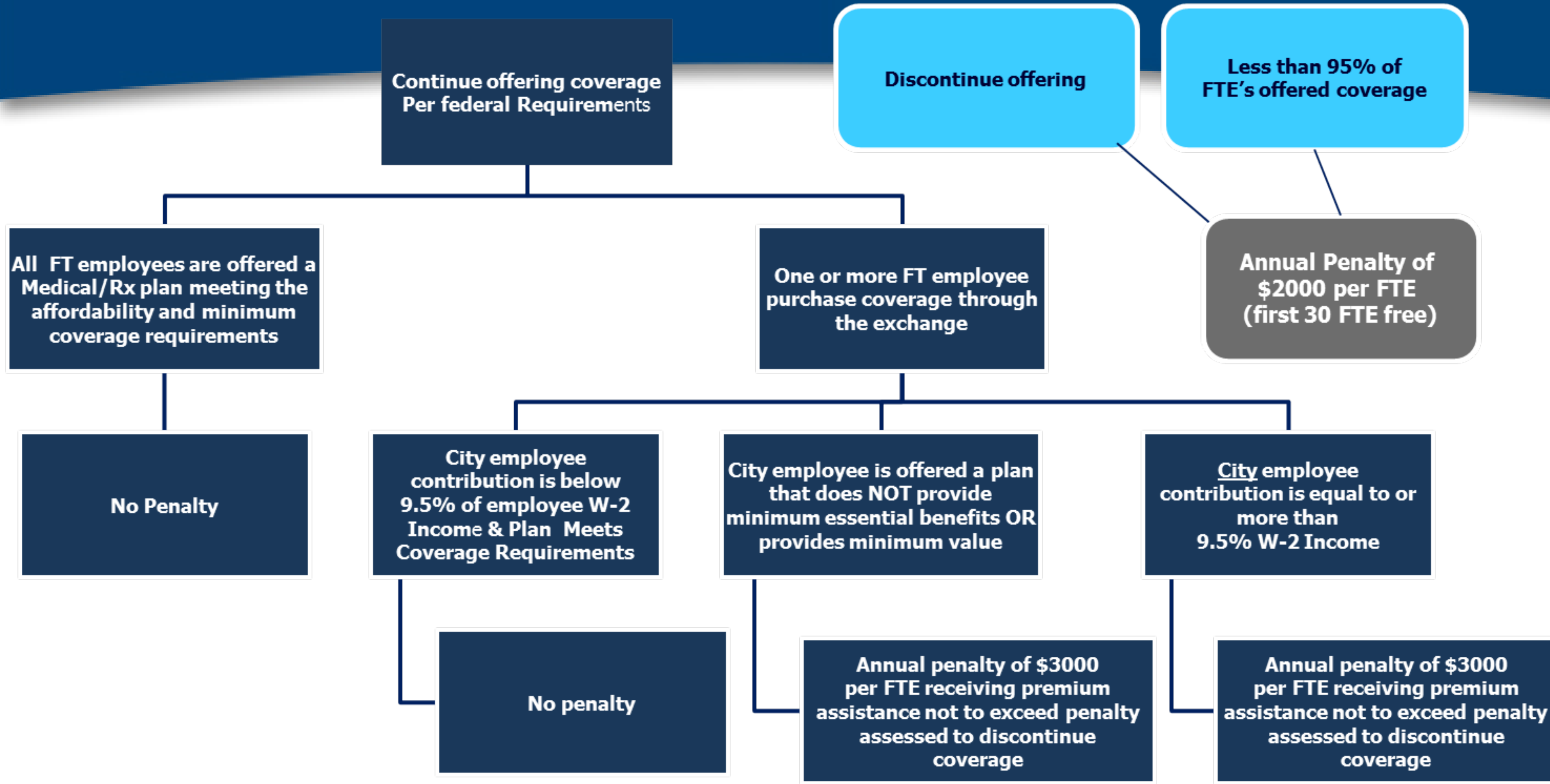
PLAY, but not all the way, then PAY
$3,000 per year; or $250 per month Penalty



In any given month, an employer can never be liable for a penalty under both Sec 4980(H)(a) and (b)

***** The proposed regulations confirm that the offer must be made to the employee and their dependents, not spouses. Dependents are defined as children under age 26.*

Penalty or No Penalty



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Employer Mandate

- Review Affordability of your plans
  - A plan is deemed **“affordable”** if an employer’s required employee contribution for “employee only” coverage DOES NOT exceed 9.5% of that employee’s total wages

IRS Safe Harbor rules permit an employer to make a determination using:

- ✓ The federal taxable wages in Box 1 of the W-2; or
- ✓ A rate of pay calculation using a 130 hours per month (based on rate of pay at the beginning of the year); this creates a uniform calculation in cases where hours may vary on a monthly basis); or
- ✓ The published Federal Poverty Level (FPL) annual income amounts used for certain federal assistance programs such as Medicaid

Employer Mandate

- Review Plans Minimum Value
  - **Plan Actuarial Value – Minimum 60%** value (plan covers at least 60% of the total allowed cost of benefits that are expected to be incurred under the plan)
  - http://www.cms.gov/cciio/resources/regulations-and-guidance/index.html

Case Study for Affordability Test

Rate of Pay Safe Harbor

Facts:

Employee E is employed by ALE V from May 15, 2015 through December 31, 2015.
In addition, V offers E and her dependents **MEC** from August 1, 2015 through December 31, 2015. ALE V offers 2 plans ($300 and $100 employee contribution for self-only coverage). Both meet the **MEV** requirements.

Calculation:

- ✓ Employee’s rate of pay is $10/hr. from May15 through October 31
- ✓ Employee’s rate of pay moves to $12/hr. from Nov. 1 through December 31
- ✓ Employee selects $300 plan
- ✓ Employer may use $100/mo. Contribution amount to determine affordability
- ✓ Employer can assume that Employee earned $1,300/mo. (130 hours of service X lowest rate of pay for the plan year, or $10)

Affordability Calculation”

- ✓ $100 mo./ $1300/mo., or 7.69%, which is less than 9.5%= PASS, the plan is affordable!!!
  - ✓ (If Regulations had required use of plan Employee selected - $300mo./$1300 mo., or 23.0%, which is greater than 9.5%=FAIL)

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Employer Mandate

Determine/Choose Measurement Periods for VHE's

- ❑ Standard Measurement Period
  - ➢ Determine Full-Time status by ***looking back*** at a defined period of three to 12 consecutive months, to determine whether an employee averaged at least 30 hours of service a week or 130 hours/month
- ❑ Initial Measurement Period
  - ➢ For new ***hires NOT reasonably expected to work*** on average more than 30 hours per week at their start date, the employer may make a determination of FT status by using the "safe-harbor look-back" rules tracking hours over an "initial measurement period" of 3 to12 months

Employer Mandate

❑ Determine Administrative Protection Period

- Individuals who were determined to be a Full-Time Employee (FTE) during Stability Period must be offered the opportunity to enroll during an Administrative Protection Period of up to 90 days
- Employers may utilize an Administrative Protection Period after the Initial Measurement Period
  - ✓ Coverage must start before the employee's 13 month anniversary

❑ Determine Stability (or Coverage) Period

- An employee that works the "minimum" average hours must be treated as a Full-Time Employee during the following "Stability Period" (up to 12 months; or shorter, if the Standard Measurement Period was less than 12 months) ***regardless of the actual hours worked during that Stability (Coverage) Period***
- The length of the Stability Period must be at least the length of the Standard Measurement Period but no less than six months

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Employer Mandate

Begin Tracking Employees

- ❑ Begin tracking in 2014 to determine eligibility for 2015 coverage
- ❑ Measurement period of 3-12 months
- ❑ Tracking of all variable hour employees
- ❑ Newly hired employees "not expected to work at least 30 hours per week" must be tracked during initial measurement period
- ❑ Review stipend and contract employees to be certain they should not be tracked and counted toward 95% of eligible employees

Case Study- Measurement Periods

Facts:

1. Betty is hired on May 10, 2014 by the Employer ABC
2. ABC has a group health insurance plan coverage year that runs January to December each year
3. ABC chooses a “standard measurement period” (SMP) of October 15 to October 14 every year to track the hours of “ongoing” variable hour employees
4. ABC allows for an “administrative protection period” of 2 ½ months to compile and review data and to prepare for “open enrollment”; with coverage effective on January 1 of each year
5. ABC chooses an “initial measurement period” (IMP) of 12 months for new hires to coincide with their SMP
6. Betty’s IMP runs from June 1, 2014 to May 31, 2015
7. Betty begins working over 30 hours/week during her IMP; her hours are reduced in Jan., 2014 resulting in her average hours being below 30/week for her 1st SMP starting October 1, 2015

Ongoing Employees

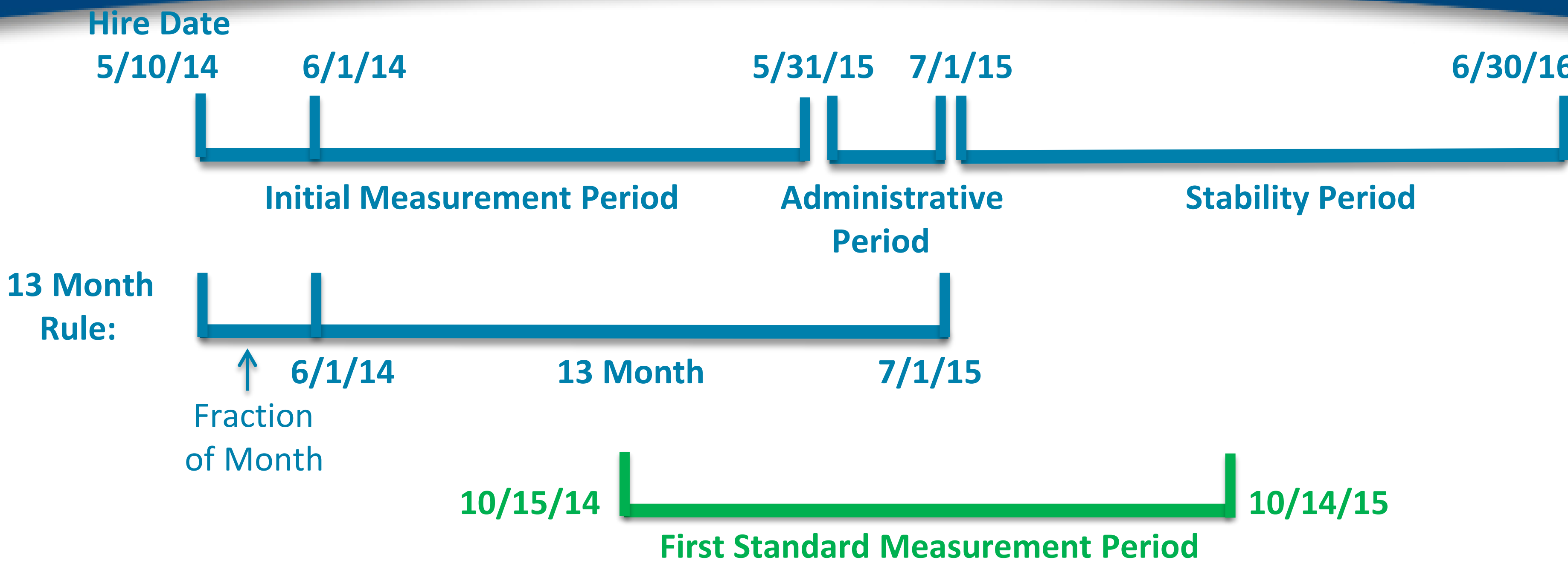
<u>Ongoing Employees</u>

Standard Measurement

New Employees

<u>New Hire</u>

Initial Measurement

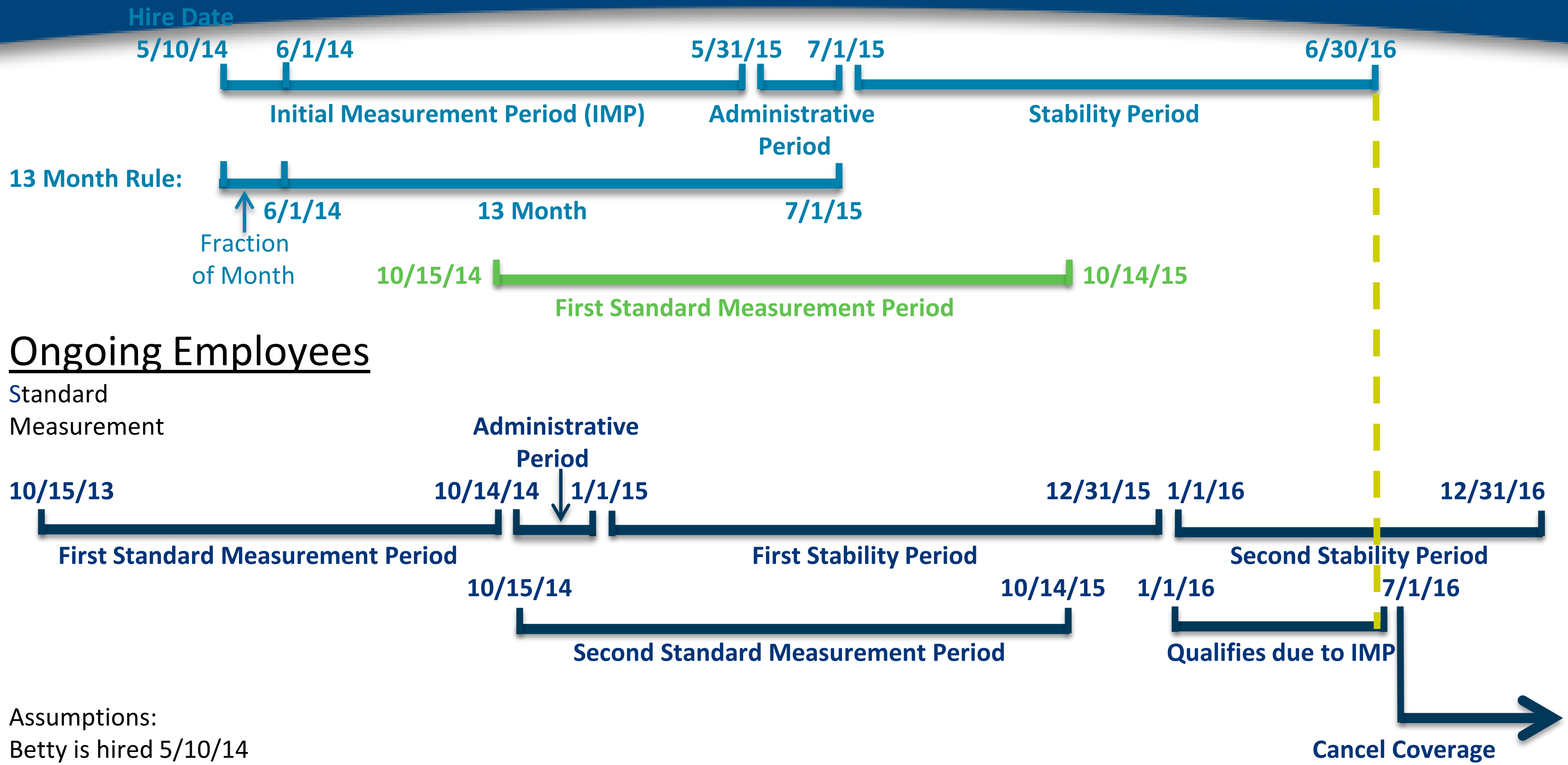


Assumptions:
Betty is hired 5/10/14
Betty works in average 30 hrs/wk during her IMP (6/1/14 – 5/31/15)
Betty works an average 28 hrs/wk during her first SMP (10/15/14 – 10/14/15)

New Hire and Ongoing Employee Timeline

New Hire

Initial
Measurement



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Case Study- Measurement Periods

Employees Rehired After Termination of Employment

Facts:

As of April 1, 2015, Employee A has been an employee of Employer Z (not an educational organization) for 10 years. On that date Employee A terminates employment. On September 1st of that same year Employee A is re-hired and stays employed with Employer Z through December 31, 2015 which is the close of the measurement period used by employer Z.

Rule:

A re-hired employee is treated as a new employee only if the employee did not have an hour of service for a period of at least 26 consecutive weeks immediately preceding their return to work (or apply the alternative "parity rule" for shorter periods of absence).

Result:

Employee A resumes work with employer Z five months after termination and is therefore NOT treated as having been terminated, nor a new hire, and his/her hours of service prior to termination and after re-hire are counted during the current measurement period; the period of zero hours is also counted when calculating "average hours" of service during the measurement period.

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Employer Mandate

- Prepare for Required Reporting
  - Proposed reporting requirements released in September 9, 2013
  - Employers will be required to begin reporting in January 2016 for the 2015 plan year.
  - “W-2 like” form to be provided to employees in January 2016.
  - Reporting to IRS required in February 2016 (March 2016 if electronic)
  - IRS will use data from employer reporting, exchanges & individuals to determine discrepancies and possible audits

Prepare for Required Reporting

Initial Set of Requirements

- ✓ ALE's name, address, employer ID number (controlled group information) and a contact person
- ✓ A certification as to whether the ALE offers FT employees (and dependents) the opportunity to enroll in minimum essential coverage
- ✓ If the employer certifies that they offer FT employees (and dependents) to enroll in MEC enroll, then they must report:
  - The months during the calendar year for which coverage under the plan was available
  - For each FT employee, The name, address, TIN and employee's share of premium for self only coverage providing minimum value during the calendar year and the months during which employee (and any dependents) were covered
- ✓ The total number of FT employees for each month during the calendar year
- ✓ Such other information as the Secretary may require

Employer Mandate

Prepare for Required Reporting

- Certain information may be required by use of an "indicator code"
  - Information on whether minimum value coverage was offered to an employee and dependents, and whether that coverage was also offered to the employee's spouse
  - The total number of employees, by calendar month
  - Whether an employee's effective date of coverage was affected by a waiting period
  - Whether the employer was not conducting business in any given month
  - Whether the employer will no longer be an applicable large employer the following year
  - Whether the employer is a member of a control group or under common ownership, along with the EIN of each employer member of the group

Employer Mandate

Prepare for Required Reporting

- Additional “indicator code” required information
  - The name, address, and identification number of the appropriately designated person reporting on behalf of an employer who is a governmental entity
  - Whether an employer is contributing towards coverage under a multi-employer plan, if that employer is part of a multi-employer plan
  - Including the name, address, and identification of the administrator, of the multi-employer plan, reporting on behalf of the employer
  - Whether MEC was offered to:
    - ✓ The employee only;
    - ✓ The employee and employee’s dependents only;
    - ✓ The employee and spouse only; or
    - ✓ The employee and the employee’s dependents and spouse

Employer Mandate

Prepare for Required Reporting

- ❑ Additional information that may be required by use of an "indicator code"
  - ➢ The reasons that MEC may not have been offered to the employee, because:
    - ✓ The employee was in a waiting period;
    - ✓ The employee was not a full-time employee;
    - ✓ The employee was not employed for that specific month; or
    - ✓ No other code or exception applies
  - ➢ That coverage was offered to the employee, even though the employee was not a full-time employee during that month
  - ➢ That the employer met one of the affordability safe-harbors (i.e., the Form W-2 wages method, Rate of Pay method, or Federal Poverty Level method)

Employer Mandate

Prepare for Required Reporting

- ***Although included in the original statute, the 9/9/13 Proposed Regs clarified that some items will not need to be reported***:
  - Length of waiting period
    - ✓ Employer will need to indicate if an employee's coverage is not effective due to a waiting period
  - Employer's share of the cost of benefits
  - The Employee contribution amount for family, two party or other coverage categories
    - ✓ Only the cost of self-only coverage for the lowest cost option must be reported
  - The months for which an employee's dependent's were covered on the plan
    - ✓ This information is required for MEC reporting (plan sponsors of self-funded plans will need to complete)

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Employer Mandate

Document

- ***Prepare for a Possible Audit***
- ***Decisions made in 2014 could be audited in 2022***
  - Plan Year
  - Initial and Standard Measurement Periods
  - Administrative Protection Period
  - Stability Period
  - Waiting Period
  - Hours of Service method used
  - Affordability Safe Harbor used
  - PCORI and Reinsurance Fee calculation method used (i.e., snapshot method)
  - Responsibility for tracking, filing, paying fees if “common control” situation

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Employer Mandate

Keep an Eye on Future Requirements

- Insured group health plans must comply with non-discrimination requirements
  - Currently delayed
- Large employers (over 200 FTE) must automatically enroll new employees in a health plan and maintain enrollment for current employees
  - Currently delayed
- Cadillac Tax to become effective in 2018
  - 40% excise tax for plans costing over $10,200 for individual coverage and $27,500 for family coverage (indexed to inflation).

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Employer Mandate

What Are Some Of Your Choices

- ❑ Create/Modify Variable-hour employee workplace policies to keep hours worked below 30 hours/week (1,560 hours/year)
- ❑ Establish an alternative plan offering with higher cost sharing and greater out of pocket costs
- ❑ Pay the $3,000/ year penalty (as long as the number of FTE not offered coverage remains below 5% of the FTE total)

What are the Advantages and Disadvantages of each approach??

Employer Mandate

Tracking Tool

- The new Employer recordkeeping and IRS reporting requirements MUST be understood and followed or employers could be subject to significant penalties
- Find an application and service that can be used independently or alongside an existing Payroll application to track and report all information required under PPACA, including:
  - **Tracking hours worked, new hire and ongoing employees determination, breaks in service requirements, per location per entity reporting, employee policy drafting**
  - **Calculate and record for every plan year, employee status, affordability, minimum value and potential penalty scenarios**
  - **Create Form reports to be ready for the first IRS reporting period in 2016 (Sec.6056)**

Employer Mandate

Questions?