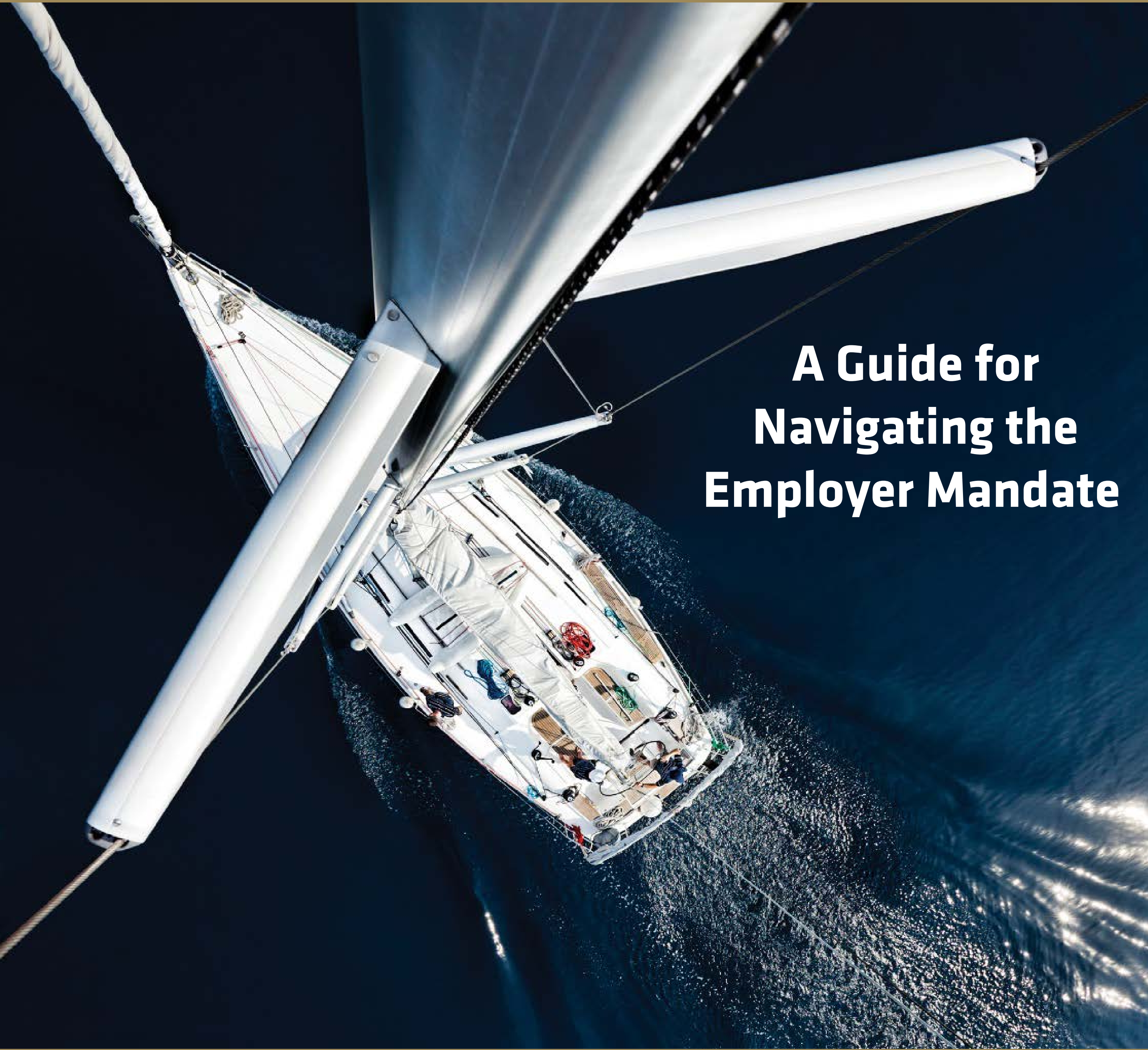

A Guide for Navigating the Employer Mandate

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The Employer Mandate

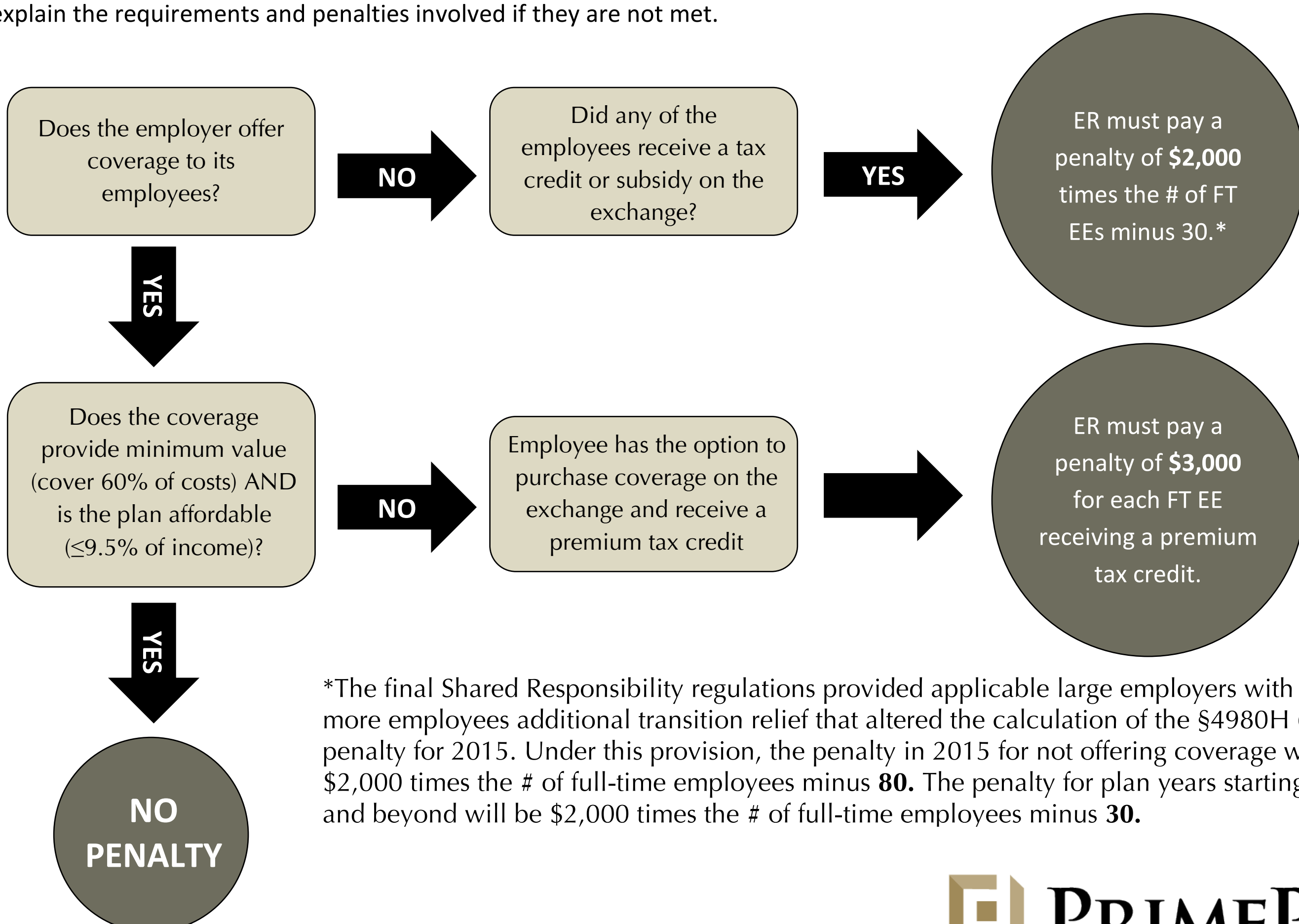
PPACA does not explicitly mandate an employer to offer their employees health coverage; however, employers with over 50 full-time equivalent workers may be subject to employer mandate penalties, if they do not offer their employees affordable coverage that provides minimum value. Although certain elements within the employer mandate are currently in effect, the potential penalties will not become fully effective until 2016. The final IRS regulations have delayed the penalties for employers with 50-99 employees until 2016, if it is determined that the employer did not reduce the workforce to stay below the 100 employee threshold and they maintained the same health coverage as February 9, 2014. For the 2015 plan year, employers with 100 or more full time equivalent employees will not receive a penalty, if they offer coverage to at least 70% of their employees and their dependents up to age 26.

The chart below will further illustrate how the employer mandate will be applied to employers.

Employer Size	Plan Year – 2015	Plan Year – 2016 & Beyond
1-49 full-time equivalent employees	Employer Mandate does not apply	Employer Mandate does not apply
50-99 full-time equivalent employees	No penalties under Employer Mandate if no reduction in workforce to stay below 100 ee threshold; Must maintain coverage	Employer Mandate is in effect
100 or more full-time equivalent employees	No penalties if employer offers coverage to 70% of full-time employees and dependents up to age 26	Employer Mandate is in effect

Coverage Requirements

The employer mandate requires applicable large employers to offer coverage that is affordable and provides minimum value. The chart below will help explain the requirements and penalties involved if they are not met.



*The final Shared Responsibility regulations provided applicable large employers with 100 or more employees additional transition relief that altered the calculation of the §4980H (a) penalty for 2015. Under this provision, the penalty in 2015 for not offering coverage will be $2,000 times the # of full-time employees minus **80.** The penalty for plan years starting in 2016 and beyond will be $2,000 times the # of full-time employees minus **30.**

Potential Employer Penalties under PPACA

Overview

PPACA does not explicitly mandate an employer to offer their employees health coverage; however, employers with over 50 full-time equivalent workers may be subject to employer mandate penalties if they do not offer their employees affordable coverage. This presents two major problems for employers: 1) how does an employer calculate their number of full time equivalent employees in order to determine their status as a large employer under PPACA? 2) how does an employer calculate the potential penalties associated with offering and not offering coverage?

Calculating Full-Time Equivalent Employees (FTEs)

Follow the steps in the example below to calculate an employer's total number of FTEs and determine their large employer status under PPACA. If the total number of FTEs is 50 or more, the employer will be considered an applicable large employer under PPACA.

Step 1: Determine the number of full-time employees that work 30+ hours per week per month during the measurement period
Step 2: Determine the total part-time and seasonal hours worked per week per month during the previous year and divide by 120
Step 3: Add up the subtotals in steps 1 and 2 then divide by 12 to determine the FTE

The following calculation shows how to determine your FTE for any given month. The calculation must be performed for each month to determine your FTE for the year/administrative period:

# of Full Time Employees +(# of Part Time Hours per week per month / 120) = Full Time Equivalent Employees
Example:
40 FT Employees + (1667 Total PT Hours Monthly / 120) = 13.8 (round down to 13), → 40+13 = **53 FTEs**

*Each month may vary so you will need to calculate each month's FTE's individually to determine FTE for the Standard Measurement Period

Potential Penalties

If Employer Offers Coverage

The chart below shows an example of how much an employee can make per month for an employer's health benefits to be unaffordable, using the following information:

- Monthly premium for employee only coverage†: $600.00
- What the employer contributes to coverage: $300.00
- What the employee contributes to coverage: $300.00
- (EE Monthly Contribution/9.5%) = Unaffordable Threshold

Unaffordable	Up to $3,158 per month ($37,895/yr)	EE in this category will receive a subsidy & ER will pay a $3,000 penalty

*EE contributions exceeding 9.5% of employee income result in an unaffordable plan under PPACA

†Calculated by taking the least expensive single rate from all plan options

Note: Employers should be aware that if specific plan attributes – contribution amount, lower EE wages, premium rate increases etc. – it could result in more employees moving into the unaffordable category.

If Employer Does Not Offer Coverage

A large employer will be subject to a penalty if a premium credit for an exchange plan is given to any of its FT employees. This regulation is extremely important for large employers when determining their potential penalties for not offering coverage. The two scenarios below illustrate if/how large employers will be penalized.

Scenario 1: A large employer chooses not to offer its employees coverage, and one or more FT EEs are given premium credits to purchase coverage on the exchange.

Result: The large employer **under 100 EEs** would use the following calculation to assess their annual penalty:
2015 - No Penalty will be assessed to employer
2016 - (# of FT Employees – 30) x $2,000 = Annual Penalty

Result: The large employer **over 100 EEs** would use the following calculation to assess their annual penalty:
2015 - (# of FT Employees – 80) x $2,000 = Annual Penalty
2016 - (# of FT Employees – 30) x $2,000 = Annual Penalty

Scenario 2: A large employer chooses not to offer its employees coverage, but none of the full time employees are given premium credits for the exchange.

Result: The large employer is not assessed a penalty

Large Employer Case Study

Company Name: Pay or Play, Inc.
Number of FT Employees: 85FT employees (30+ hours or more)
Number of Variable Hour Employees: 30 VHE (average 20 hours per week)

Scenario

Pay or Play Inc. is in the process of evaluating all their available options as it relates to managing their group health coverage. Benny Benefits, the owner of Pay or Play, Inc., has determined that the following questions need to be answered to discover his coverage options.

1) Is Pay or Play Inc. considered a large employer under PPACA?
2) Is Pay or Play, Inc. subject to any penalties for not offering coverage?
3) What are the potential penalties to Pay or Play, Inc. for not offering a MV Plan option or offering unaffordable coverage?

Large Employer Status: To determine if Pay or Play, Inc. is a large employer as defined under PPACA, Benny Benefits will need to figure out the total number of full-time equivalent workers that he employs. He will use the following equation to calculate his FTEs:

# of Full Time Employees +(# of Part Time Hours per week per month / 120) = Full Time Equivalent Employees
Example:
40 FT Employees + (1667 Total PT Hours Monthly / 120) = 13.8 (round down to 13), → 40+13 = **53 FTEs**

*Each month may vary so you will need to calculate each month's FTE's individually to determine FTE during the Standard Measurement Period

**If Benny employs more than 50 FTEs on average during the months in the SMP, Pay or Play, Inc. will be considered a large employer

Pay or Play, Inc. Benefits

- Pay or Play, Inc. pays for 70% of the premium for all tiers for employees working 30 or more hours per week
- 60 employees with single* coverage costs Pay or Play, Inc. - $235,200
- 25 employees with family* coverage costs Pay or Play, Inc. - $271,250
- Total costs to provide coverage for their FT employees - $506,450

*Single and Family costs are derived from the 2012 Kaiser Family Foundation Employer Benefit Survey. The average single rate is $5,600 and the average family rate is $15,500.

Potential Penalties

If Pay or Play, Inc. Offers Coverage

Pay or Play, Inc. must offer a plan that covers at least 60% of covered health expenses (minimum value) AND ensure that each employee does not pay more than 9.5% of their W-2 income or face another penalty. The penalty is $3,000 annually for EACH FT employee receiving a premium tax credit. The maximum penalty is $2,000 times the number of FT employees minus *30. (Minus 80 in 2015 ONLY for 100+ EEs)

Example to help determine the Unaffordable Threshold

Single: A single employee pays $1,680 annually or $140 monthly for premiums.
140/9.5% = $1,473.68
$17,684 annual wages - $8.50/hour
{2013 FPL at 100%/$11,490; 400%/$45,960}

Family: A family employee pays $4,650 annually or $387.50 monthly for premiums.
387.50/9.5% = $4,078.95
$60,947 annual wages - $29.30/hour
{2013 FPL at 100%/$23,550; 400%/$94,200}

If Pay or Play, Inc. Does Not Offer Coverage

Pay or Play, Inc. will be subject to a penalty if a premium credit for an exchange plan is given to any of its full time employees. This regulation is extremely important for large employers when determining their potential penalties for not offering coverage. The equation below shows what this penalty would be for Pay or Play, Inc.

Pay or Play, Inc. chooses not to offer its employees coverage, and one or more full time employees are given premium credits to purchase coverage on the exchange.
Result:
(# of FT Employees – 30) x $2,000 = Annual Penalty
(85 FT Employees – 30) x $2,000 = Annual Penalty
55 FT Employees x $2,000 = **$110,000 Annual Penalty**

*The final Shared Responsibility regulations provided applicable large employers with 100 or more employees additional transition relief that altered the calculation of the §4980H (a) penalty for 2015. Under this provision, the penalty in 2015 for not offering coverage will be $2,000 times the # of full-time employees **minus 80**. The penalty for plan years starting in 2016 and beyond will be $2,000 times the # of full-time employees minus 30.

Large Employer Mandate – Measurement Periods Defined

Why Do We Need to Understand Measurement Periods?

In order to determine "full-time" status for ongoing employees – those who have been employed by their employer for at least one complete Standard Measurement Period (SMP) – employers must establish and identify the measurement and stability period they will use to determine their employees' "full-time" status. This is a critical component of determining the impact of Variable Hour Employees on a group's Large Employer status under PPACA's Pay or Play mandate.

Key Terms:

- **FULL-TIME EMPLOYEE –** An employee who is reasonably expected to average at least 30 hours per week at the time of hire. Full-time employees must be offered group health coverage within the first 90 days of the hire date.
- **VARIABLE HOUR EMPLOYEE –** An employee whom the employer cannot reasonably determine to work at least 30 hours per week at the time of hire. An employer may use the Initial Measurement Period to determine the actual number of hours that a newly hired variable hour employee averaged per week during this period. Note: If the employee is determined to have averaged at least 30 hours per week during the Initial Measurement Period or the Standard Measurement Period, the employer must offer the employee minimum essential health coverage during the Stability Period or they will have to pay a penalty.

Initial Measurement Period

A designated period of time between 3-12 months where the employer determines whether the newly-hired variable hour employee is "full-time". The employer must determine whether or not the employee worked an average of 30 hours a week during this period.

Standard Measurement Period

Must be at least 3-12 consecutive months in length. The employer may choose the months in which to start and end the Standard Measurement Period, provided that the determination is made on a uniform basis for all employees in the same category.

Administrative Period

The period of time, no longer than 90 days, where employers have the option to delay the stability period in an effort to determine which ongoing employees are eligible for coverage and to notify and enroll employees.

Stability Period

Must be at least 6 consecutive months in length and no shorter than the Standard Measurement Period. During the Stability Period the employer must offer affordable minimum essential coverage to all full-time employees. If the employer fails to comply with these regulations they will be assessed a penalty.

Case Study: Measurement Periods Under Health Care Reform

As described in the Broker Concierge Brief ***Large Employer Mandate – Measurement Periods Defined***, there are specific measurement periods which must be considered for employers to establish and identify Variable Hour Employees (VHE), as well as determine their status as a 'Large Employer' under PPACA. This determination is understandably confusing. To help your understanding of Measurement Periods, please find the case study scenario below along with the accompanying Measurement Period Timeline on the reverse page.

Scenario

- ABC Company offers health plan coverage only to full-time employees and their dependents
- ABC Company has chosen a 12-month ***standard measurement period*** for ongoing employees starting April 15
- ABC Company has chosen 12-month ***stability period*** associated with that standard measurement period starting July 1
- The ***administrative period*** is from April 15 through June 30 of each calendar year
    - During the administrative period ABC Company continues to offer coverage to employees who qualified for coverage based upon working on average at least 30 hours per week during the prior standard measurement period

Employee Example

- ABC Company hires employee John Smith as a Variable Hour Employee on September 1, 2015
- John Smith's ***initial measurement period*** runs from September 1, 2015, through August 31st, 2016
- John Smith works on average of 30 hours per week during this initial measurement period
- Meanwhile, John Smith's hours are collected as part of ABC Company's ***standard measurement period***, starting April 15th
- Even though ABC Company chose an administrative period of 76 days, John Smith's measurement period can last no longer than 30 days given that the combination of the initial measurement period and administrative period cannot last beyond the final day of the first calendar month beginning on or after the one-year anniversary of John Smith's start date.
    - As such, John Smith's ***administrative period*** lasts from August 31st, 2016 to October 1st, 2016
- ABC Company offers coverage to John Smith for a ***stability period*** that runs from October 1, 2016 through September 30, 2017.

Conclusion

- John Smith works an average of 30 hours per week during his ***initial measurement period***
- Accordingly, from John Smith's start date through September 30, 2017, ABC Company is not subject to any payment under **§ 4980H** with respect to John Smith, because ABC Company complies with the standards for the initial measurement period and stability periods for a new variable hour employee.
- ABC Company also complies with **PHS Act § 2708**. ABC Company must test John Smith again based on the period from April 15, 2015 through April 14, 2016 (ABC Company's first standard measurement period that begins after John Smith's start date).

Measurement Period Timeline on reverse…

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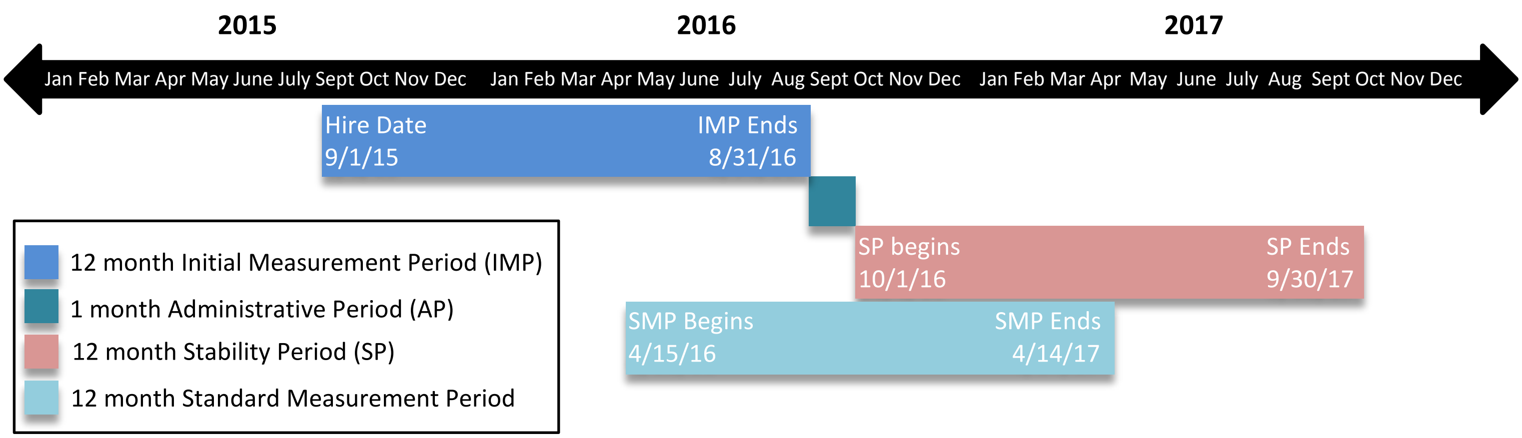
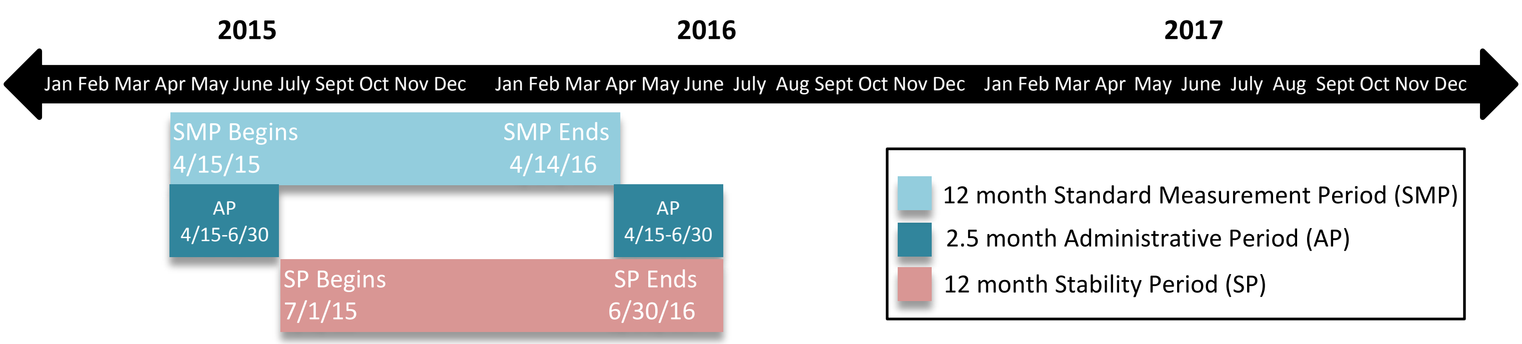
John Smith – Newly Hired Variable Hour Employee (VHE)



Scenario

- Variable Hour Employee hired on 9/1/15
- Employer elects IMP of 9/1/15 – 8/31/16
- Employer elects SMP of 4/15/16 – 4/14/17
- Employer elects AP of 9/1/16 – 9/30/16
- SP must begin 10/1/16 and runs until 9/30/17
- Employees hours are included in SMP starting 4/15/16

Current Employees



Scenario

- Ongoing employees begin SMP & AP on 4/15/15
- Employer elects 12 month SMP: 4/15/15- 4/14/16
- Employer elects AP of 4/15/15 – 6/30/15
- SP must begin on 7/1/15 and run until 6/30/16
- AP for 2015 starts 4/15/16 and runs until 6/30/16

Premium Tax Credit Under PPACA

Overview

In 2014 individuals who purchase coverage through a health insurance exchange may be eligible for financial assistance in the form of Premium Tax Credits. So, how do you know if you are eligible and what assistance is available?

Eligible:

- If your household income is between 100% and 400% of the Federal Poverty Level (FPL) and you purchase coverage through an exchange, you will be eligible for a tax credit.
- For 2014 approximately $46,680 for individual and $95,400 for family of 4.

Not Eligible:

- If you are eligible for public coverage (Medicaid, CHIP, Medicare, etc.), you will not be eligible for premium assistance.
- If your family income is less than 100% of the FPL in states without expanded Medicaid coverage, you will not be eligible for exchange subsidies
- If you are offered health coverage through your employer you will not be eligible for premium tax credits **UNLESS** your contribution towards the expense of the premium for your employer-sponsored health plan exceeds 9.5% of household income or if your employer plan does not have an actuarial value of at least 60%. If your employer violates either of these provisions, you **WILL** be eligible for a premium tax credit.

Available Tax Credit

The amount of tax credit that is available for someone who is eligible is based on the premium for the second lowest cost silver plan *(see definition below)* in the exchange. The amount of tax credit that an eligible person can receive varies with income. *(See chart below)*
Note: The example below uses the 2014 FPL, which is $11,670 for an individual and $23,850 for a family of four.

Silver Plan: A plan that has an actuarial value of 70%, meaning that the insurance company pays 70% of covered healthcare expenses and the remaining 30% is paid out of pocket.

Income Level	Premium as a Percent of Income
100 - 132.9% FPL	2% of income
133-149.9% FPL	3% of income
150-199.9% FPL	4% of income
200-249.9% FPL	6% of income
250-299.9% FPL	8.05% of income
300-400% FPL	9.5% of income

How Tax Credits Work

- Mark is a 43 year old who has an income in 2014 of $27,925 (250% of poverty)
- Mark goes out to an exchange and pays $5,975 for the second lowest cost silver plan in his area
- Since Mark's income falls in the 250-300% FPL range, he would not be required to pay more than 8.05% of income, or $2,248, to enroll in the second lowest cost silver plan
- Therefore, the tax credit available to Mark would be $3,727 (Premium minus limit required to pay for 2nd lowest silver plan; lesser of the premium for the month or the difference of the 2nd lowest cost silver plan less the premium cap)