



OEGB Health Care Reform Update

Full-Time Employee Measurement & Reporting Under the Affordable Care Act

A presentation by Towers Watson for OEGB entities

July 21, 2014

Today's speakers



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Today's discussion

- Welcome and Introductions
- Current Landscape of Health Care Reform
- Transition Relief
- Employer Reporting Requirements
- Determining Who is a Large Employer
- Full-Time Determination Measurement Process Overview
- Reference Guides and Examples
- Questions?

Current landscape: Health care reform

- The play or pay rules defining large employers, describing full-time employee measurement and establishing penalties associated with coverage offered to full-time employees were issued as a set of final regulations on February 10, 2014
- The final regulations clarified that the measurement obligation for large employers was greater than the proposed regulations appeared to suggest and clarified a number of other uncertainties found within the proposed regulations
 - There are two measurement methods available: (i) monthly measurement; and (ii) look-back measurement. Employers will generally have to pick one or the other and use it for all employees within the same category of employee.
 - It appears the look-back measurement method will be preferred by most employers as the monthly measurement method presents greater administrative challenges. This presentation will focus on the use of the look-back measurement method.

Note: Employees who were automatically eligible for and offered coverage by an employer without regard to measurement will generally be considered full-time employees for some run-out stability period for play or pay purposes under the Patient Protection and Affordable Care Act (PPACA). This did not appear to be the case under the earlier proposed rules.

Current landscape: Health care reform *(continued)*

- Reporting requirements under new Internal Revenue Code Sections 6055/6056 do exist. The reporting will primarily occur on IRS Forms 1094-C and 1095-C and will require certain information be provided to both the IRS and participants
 - This reporting will occur on a lag basis following the end of a calendar year beginning with the 2015 calendar year although voluntary compliance for 2014 is encouraged. Reporting to participants will be due January 31 (or the next business day). Reporting to the IRS will be due March 31 (or the next business day) for employers who file electronically.
 - The amount and/or level of detail an employer will be required to provide is subject to certain criteria including whether coverage is self-insured or fully insured, and whether coverage is offered to an extremely high percentage of employees. This may also affect whether an employer chooses to conduct measurement for any employees.
 - Insurers will complete IRC Sec 6055 reporting on IRS Forms 1094-B and 1095-B for insured coverage
 - IRS Forms 1094-C and 1095-C do not currently exist and the reporting obligation will not be discussed further in this presentation

Note: These reporting requirements will occur on a calendar year basis without regard to an employer's plan year.

Current landscape: Health care reform *(continued)*

- The play or pay penalties are actually indexed, and it is not clear if the penalties will remain at their \$2,000/\$3,000 levels for 2015. It seems reasonable to believe they will not be changed for their first year of applicability following the government's delay in their application from 2014 to 2015.
- We will keep you informed of developments as they occur

Transition relief

- An employer with a non-calendar year plan in effect prior to December 27, 2012, will not be subject to the play or pay rules prior to the start of their 2015 plan year
- The application of the \$2,000 pay penalty has been relaxed for the 2015 plan year:
 - The threshold that coverage must be offered to at least 95% of all full-time employees to avoid the pay penalty has been reduced to 70%. This reverts to 95% beginning with the 2016 plan year.
 - An employer can subtract the first 80 full-time employees when calculating the penalty for 2015. This reverts to 30 beginning with the 2016 plan year.

Note: This transition relief has no impact on the potential \$3,000 play penalty.

- The obligation to offer coverage to the dependents of full-time employees in order to avoid potential play or pay penalties has been delayed until the 2016 plan year:
 - The definition of dependent now includes only natural and adopted children. The term does not include spouses. The term did include stepchildren and foster children in the proposed regulations, but both stepchildren and foster children have been excluded in the final regulations.
 - This transition relief only applies if the employer plan did not cover dependent children in 2013 and 2014. Most employer plans already cover these dependent children meaning this transition relief will have little impact.

Transition relief *(continued)*

- For the 2015 calendar year, the determination of large employer status will be based upon whether the employer has 100 or more FTEEs. This will revert to 50 or more FTEEs beginning with the 2016 calendar year
- For purposes of applying stability periods during the 2015 plan year, employers may use a transitional measurement period that is less than 12 months and still maintain a 12-month stability period if:
 - The measurement period is at least six consecutive months in length and begins no later than July 1, 2014; and
 - Ends no earlier than 90 days before the first day of the plan year beginning on or after January 1, 2015

Note: The timing requirements mean this will be of little use to many non-calendar year plans. This transition relief is also only really relevant for the purposes of applying stability periods to individuals who do not measure as full time, as it would allow you to apply a stability period longer than the rules would otherwise allow for 2015 for individual who did not measure as full time.

Section 6055/6056 Reporting

Overview of the final rules released in March

- Self-insured employers may report data under both IRC Sec 6055 and IRC Sec 6056 using a single combined form
 - Form 1094-C for transmittal to IRS; Form 1095-C for the employee statement
 - Top half of form: IRC Sec 6056 data
 - Bottom half: IRC Sec 6055 data (not completed by employers with insured plans; insurer will separately provide Form 1094-B and Form 1095-B to IRS and participants)
- General method of reporting
 - Similar to the general method outlined in the proposed regulations
 - Employers are required to report employee-specific information on a monthly basis starting with calendar 2015, regardless of the employer's plan year
- Simplified methods provided for IRC Sec 6056 employer reporting
 - Some employers may qualify for simplified reporting methods

The what, why and when of the new reporting rules

Section 6055 Individual Mandate Reporting	Section 6056 Employer Mandate Reporting
<ul style="list-style-type: none">• What: Insurers, self-insured health plan sponsors and government agencies must report information to the IRS <u>for each individual for whom Minimum Essential Coverage (MEC) was provided</u>. This information must also be provided to each individual.• Why: This reporting requirement supports the IRS enforcement of the individual mandate. Individuals will use to complete personal income tax returns (similar to W-2).• When: Due annually to the IRS by March 31 of the year following the year of coverage (e.g., by 3/31/16 for 2015 reporting year); due to employees by January 31 following the year of coverage for both fiscal and calendar year plans	<ul style="list-style-type: none">• What: Large employers (>50 FTE) must report information to the IRS <u>on health care coverage offered (or not offered) to full-time employees</u>. This information must also be provided to each individual• Why: This reporting requirement supports the IRS enforcement of the employer mandate• When: Due annually to the IRS by March 31 of the year following the year of coverage (e.g., by 3/31/16 for 2015 reporting year); due to employees by January 31 following the year of coverage for both fiscal and calendar year plans

Penalties will apply to health insurance issuers or to self-insured employers that fail to file the information with the IRS or to provide a copy to individuals (e.g., \$100 per return up to \$1.5M per year). Penalties may be reduced or waived if the failure was due to reasonable cause and not to willful neglect.

Section 6055 — Individual mandate

Reporting of minimum essential coverage by any entity providing MEC (IRC Sec 6055)

Purpose of required reporting:

- This regulation describes the required reporting on an individual's minimum essential coverage (MEC), and for which months, for purposes of the penalty attached to the individual mandate
- Report on all employees (FT, PT, LOA, LTD, pre-65 retiree, etc.) and dependents for whom MEC was provided

1. IRS reporting — Indicate that MEC was provided, months it was provided, and who received the coverage

- Name, address, and EIN of the person required to file the return (typically the self insured plan sponsor)
- Name, address and TIN (SSN) of the covered employee
- Name, address, and TIN (SSN) of each covered dependent
 - TINs must be reported for each dependent unless four efforts to procure this information fail
 - DOB can be used instead of TIN if an employer has made a "reasonable effort" to obtain the TIN
- Months of coverage for each covered individual (one day of coverage in a month = one month)

- Due annually to the IRS by March 31 (if filed electronically) of the year following the year of coverage regardless of plan year
- Reporting on Form 1095-C by large employer with self-insured plan
- Reporting on Form 1095-B by insurer for insured plan

2. Employee reporting — Information relevant to all employees (and other enrollees) covered by MEC (sent to the employee)

- All of the information included in the IRS reporting must also be provided to the employee
- Must also provide the contact phone number for the person required to file the return (insurer or self-insured employer)

- Due to employees by January 31 following the year of coverage regardless of year plan
- Electronic distribution of individual statements is permitted, but only if recipient affirmatively consents
- One statement per address is permitted

Section 6056 — Employer mandate

Reporting of health insurance coverage under the employer shared-responsibility provisions by any employer averaging 50 or more full-time equivalent employees (IRC Sec 6056)

Purpose of required reporting:

1. Enforcement of the employer mandate
2. Determine whether the employee is eligible for premium tax credits and cost sharing reductions on exchange coverage (including ultimate eligibility for advance premium tax credit)
3. Support determination of satisfaction of the individual mandate

Final regulations lay out General Reporting Methodology similar to proposed regulations

- Employer files a separate return for each full-time employee and transmits these in the aggregate to the IRS

Every applicable large employer member (ALEM) must file a return with respect to each full-time employee:

- Employer's name, address and EIN
- Name and telephone number of employer's contact person
- Certification as to whether the ALEM offered to its full time employees (and their dependents) the opportunity to enroll in MEC under an eligible employer sponsored plan, by calendar month
- For each full-time employee, the months for which coverage was available
- For each full-time employee, by month, the employee's share of the lowest cost monthly premium for self-only coverage that was of minimum value
- Number of full-time employees for each month during the calendar year
- Name, address, and taxpayer identification number of each full-time employee during the calendar year and the months, if any, during which the employee was covered under the plan

Section 6056 — Employer mandate *(continued)*

Reporting of health insurance coverage under the employer shared responsibility provisions by any employer averaging 50 or more full-time equivalent employees (IRC Sec 6056)

Information will also be requested for the following items using indicator codes on the reports:

- Whether the employer's coverage meets the MV standard
- Whether the employee could enroll a spouse
- Total number of employees by calendar month
- Whether the employee's effective date of coverage was affected by a waiting period
- Whether the employer is a member of a controlled group and if so, the name and EIN of each other member of the group on any day in that reporting year
- Whether MEC was offered to just the employee; just the employee and dependents; just the employee and spouse; or all
- When coverage was not offered to an employee, whether this was because the employee was in a waiting period, was not a full-time employee or was not employed
- Whether coverage was offered to an employee who was not a full-time employee
- Whether the employer met one of the affordability safe harbors with respect to the employee

Reporting must be provided to the IRS and to each of an employer's full-time employees

- IRS reporting on Form 1094-C; employee reporting is on Form 1095-C

Due dates are as follows:

- IRS reporting is due March 31 (if filed electronically) of the year following the year of coverage (the first report will be due no later than March 31, 2016)
- Individual employee reporting is due by January 31 following the year of coverage

Section 6056 — Simplified reporting options

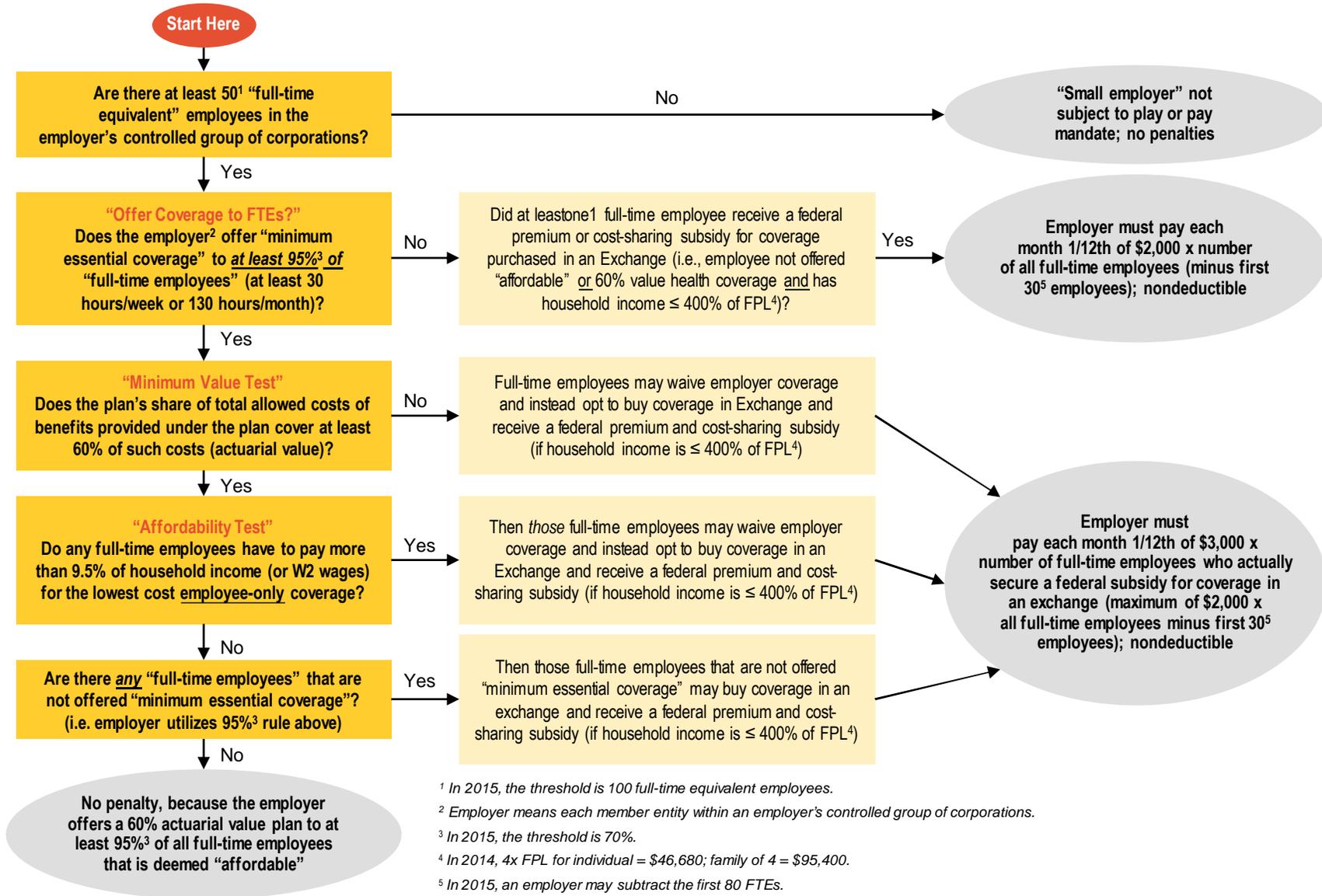
- Qualifying Offer
 - In response to input on the proposed regulations, the final regulations include simplified reporting options for employers that provide a qualifying offer to any of their full-time employees for all 12 months of the year
 - Instead of reporting under the general method for these employees, the employer would only need to report employee name, address and TIN (SSN) along with a code indicating that a qualifying offer was made — still using Forms 1094-C and 1095-C
 - A qualifying offer is an offer of coverage that meets both the minimum value and affordability standards, with affordability based on the FPL method (mainland FPL)
 - The lowest single contribution could not exceed about \$92 per month (using 2014 FPL)
- Qualifying Offer — 95% of FTEs (2015 only)
 - If the employer has made a qualifying offer to at least 95% of its full-time employees (and to their spouses and dependents)
 - In this case, the employer can use the simplified reporting method for its entire workforce, including for any employees who do not receive a qualifying offer for the entire year
 - In lieu of completing Form 1095-C, the employer would provide a standard statement to each full time employee by the following January 31
 - A model standard statement will be available at a later date

Section 6056 — Simplified reporting options *(continued)*

- 98% Offers
 - Certain employers will also have the option to avoid the identification of employees as full time, if the employer certifies that it offered MEC meeting both MV and affordability standards to at least 98% of its entire workforce
 - In this case, affordability can be determined using any of the three available methods: W-2, rate of pay or federal poverty line (FPL)
 - Presumably, employers will still need to complete Forms 1094-C and 1095-C, including the name, address and TIN (SSN) for all employees
 - Example provided in regulations to explain this option
 - Employer has 1,000 employees expected to average at least 27 hours per week
 - Employer does not wish to determine who is full time for PPACA purposes
 - MEC offered to 990 employees (MEC is both MV and affordable)
 - Employer reports under IRC Sec 6056 on all 1,000 employees
 - Employer does not need to distinguish between full-time and non-full-time employees for reporting purposes

Updates to the Health Care Reform Regulations

Health care reform's Play or Pay provision basics



Determining who is a large employer

1. Determine the number of actual full-time employees for each calendar month in the prior year (e.g., January, February, March, etc.)*
2. Determine the impact of part-time employees on the FTEE count for each calendar month in the prior year (e.g., January, February, March, etc.)
 - a. Calculate the total hours of service for each month by part-time employees (*do not include more than 120 hours of service for any employee*)
 - b. Divide the total hours of service from (a) by 120 rounding up or down using normal fraction rules
3. Add the numbers from Steps 1 and 2 for each calendar month in the prior year
4. Add up the 12 monthly totals from Step 3 and divide the sum by 12. This is the FTEE average for the prior year.
5. If the FTEE average from Step 4 is 50 or greater (100 or greater in 2015), the employer is a large employer for the current calendar year

Note: Determination of large employer status is based on the calendar year. Members of a controlled group are aggregated together for the purposes of determining large employer status, although measurement and penalties will generally be determined at the member level. The FTEE calculation is used solely to determine large employer status. Fractional employees are not considered for determining “play or pay” penalties.

* An employer in existence for only part of the prior year will determine its large employer status based on the partial prior year. A new employer may determine its large employer status based upon whether it believes in good faith that it will employ at least 50 FTEEs during the year.

Determining who is a large employer *(continued)*

EXAMPLES	Employer A	Employer B
1 Known full-time employees for month	30	16
2 Hours of service by part-time employees for month (do not count more than 120 hours of service for any single employee)	2,000	6,000
3 Divide #2 above by 120	16.67	50
4 Total FTEEs for month (add 1 and 3)	46.67	66
5 Determine FTEE average for prior year	Perform steps 1 through 4 for each month of the <u>prior</u> calendar year, add the totals and divide by 12	Perform steps 1 through 4 for each month of the <u>prior</u> calendar year, add the totals and divide by 12

If the result in 5 is 50* or greater, the employer is a “large employer” for the current calendar year

*The large employer FTEE threshold is 100 for the 2015 plan year. The threshold reverts to 50 in 2016.

Full-time determination measurement process overview

What are the categories of employees for measurement purposes

Note: Employers may employ different methods of measurement (e.g., including measurement periods that differ either in length or in their starting and ending dates) for the following categories of employees

- Salaried employees and hourly employees
- Employees located in different states (but not within a state)
- Collectively bargained employees and non-collectively bargained employees
- Employees subject to different collectively bargained agreements

In other words, may an employer treat salaried non-collectively bargained employees differently from hourly collectively bargained employees? Yes.

Full-time determination measurement process overview

Employee definitions

- The final regulations provide us with four different definitions of employee for measurement purposes
 - Full-time employee
 - Part-time employee
 - Seasonal employee
 - Variable hour

Full-time determination measurement process overview

Employee definitions *(continued)*

Full-time and part-time employees defined	
<p>Full-Time Employee</p> <p>Definition — “Full-time employee” means an employee who is employed an average of at least 30 hours of service per week with an employer over the course of a measurement period.</p> <ul style="list-style-type: none">• Factors employers may consider when determining whether an employee is full-time include:<ul style="list-style-type: none">• Whether the employee is replacing an employee who was a full-time employee• The extent to which employees in the same or comparable positions are considered full-time employees• Whether the job was advertised, or otherwise communicated or otherwise documented, as requiring hours of service that would average 30 or more hours a week	<p>Part-Time Employee</p> <p>Definition — “Part-time employee” refers to an employee who an employer reasonably expects based on the facts and circumstances to be employed on an average of less than 30 hours of service per week over the course of a measurement period.</p>

Full-time determination measurement process overview

Employee definitions *(continued)*

Seasonal and variable hour employees defined

Seasonal Employee

Definition — “Seasonal employee” means a worker who performs labor or services on a seasonal basis, as defined by the Secretary of Labor.

- A seasonal employee includes one who is in a position for which the customary annual employment period is no more than six months, and the period occurs during the same part of each calendar year (e.g., summer or winter)
- An employee may still be considered a seasonal employee should employment be extended in a particular year beyond its customary duration due to special circumstances (i.e., a ski instructor who customarily works six months each year works an additional month because of an unusually long or heavy snow season)

Variable Hour Employee

Definition — A “variable hour employee” is an employee for whom the employer cannot readily determine is reasonably expected to work on average at least 30 hours per week.

- Factors to consider include:
 - Whether the employee is replacing an employee who was a variable hour employee
 - The extent to which employees in the same or comparable positions are considered variable hour
 - Whether the job was advertised, or otherwise communicated or otherwise documented, as requiring hours of service that would vary above and below an average of 30 hours of service per week

Full-time determination measurement process overview

Ongoing employees

Definition — An “ongoing employee” is an employee who has been employed by a large employer for at least one complete standard measurement period

Standard Measurement Period (SMP)

The measurement period that an employer chooses to apply to ongoing employees.

- The employer may determine the months in which the SMP starts and ends; can range from 3 – 12 months
 - Employer can structure SMP to coincide with a calendar year, a non-calendar plan year, or a different 12-month period (i.e., an annual enrollment event)
- Did you determine the employee is not full-time? Then you are not required to offer benefits during the SP.

Stability Period (SP)

If an employer determines that an employee averaged at least 30 hours per week during the SMP, the employer must treat an employee as a full-time employee during the subsequent SP.

- An employee remains treated as a full-time employee throughout the SP for play or pay purposes without regard to the employee’s actual hours of service during the SP while employed (i.e., treated as a full-time employee during the SP “after the fact”)
- The SP for such an employee would be a period of at least six consecutive calendar months that is no shorter in duration than the SMP and that begins after the SMP (and after any applicable administrative period)

Administrative Period (AP) — The period of time during which the employer performs measurement and determines whether coverage should be offered. The employer is permitted to select an AP of up to 90 days beginning immediately following the end of a measurement period and ending immediately before the start of the corresponding stability period.

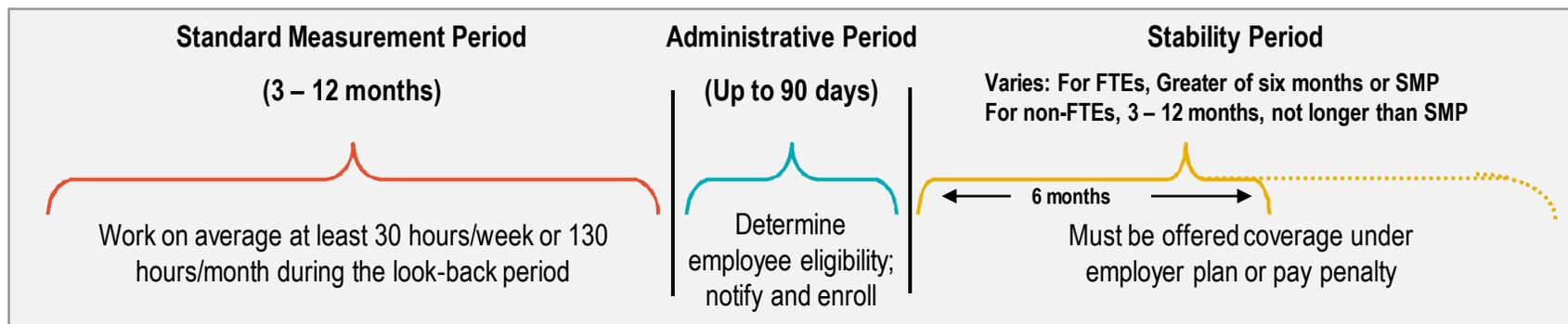
NOTE: The AP cannot exceed 90 days, and nearly all three-month time frames will exceed the maximum period allowed for an AP in any given year.

Full-time determination measurement process overview

Ongoing employees *(continued)*

- Once an employee has met the waiting period (up to 90 days), if any, employers need to determine who is a full-time employee
- Look-back/stability period safe harbor method:
 - SMP (look-back) of 3 – 12 months, as decided by individual employer (fixed period each year)
 - If an employee has worked on average at least 30 hours/week or 130 hours/month during the SMP of 3 – 12 months, he/she must be offered minimum essential coverage under an SP that is the greater of six months or the length of the SMP to avoid potential penalties
 - During the SP, an employee must be offered minimum essential coverage regardless of hours worked during the SP as long as he/she remains an employee
 - If an employee has not worked on average at least 30 hours/week or 130 hours/month during the SMP of 3 – 12 months, he/or she does not have to be offered benefits for the length of the SMP
- Penalties are calculated based on the number of employees with full-time status during a particular month as determined by the look-back method and corresponding SPs

Full-Time Status Determination



Full-time determination measurement process overview

New employees

Initial Measurement Period (IMP)

The period that an employer chooses to apply to new hires. An employee is a new hire if hired after the start of the SMP.

- The employer may determine the months in which the IMP starts and ends; can range from 3 – 12 months
- IMP used to determine whether newly hired variable hour (VH) and seasonal employees (SE) are full-time employees
- The IMP may begin on the date of hire or the first of the following month (the first payroll date that occurs between the date of hire and first of the following month is also possible)

Stability Period (SP)

Period of time lasting 6 – 12 months, but no shorter than the employer's measurement period, during which the employee is either:

- (1) Considered full-time and must be offered minimum essential coverage to avoid penalties, or
 - (2) Is not considered full-time and no coverage must be offered to avoid penalties
- For new variable hour (VH) and seasonal employees (SE), SP must begin after their IMP and any Administrative Period and for those who are determined to be full-time employees, must be the same length as the SP for ongoing employees (OEs)

Administrative Period (AP)

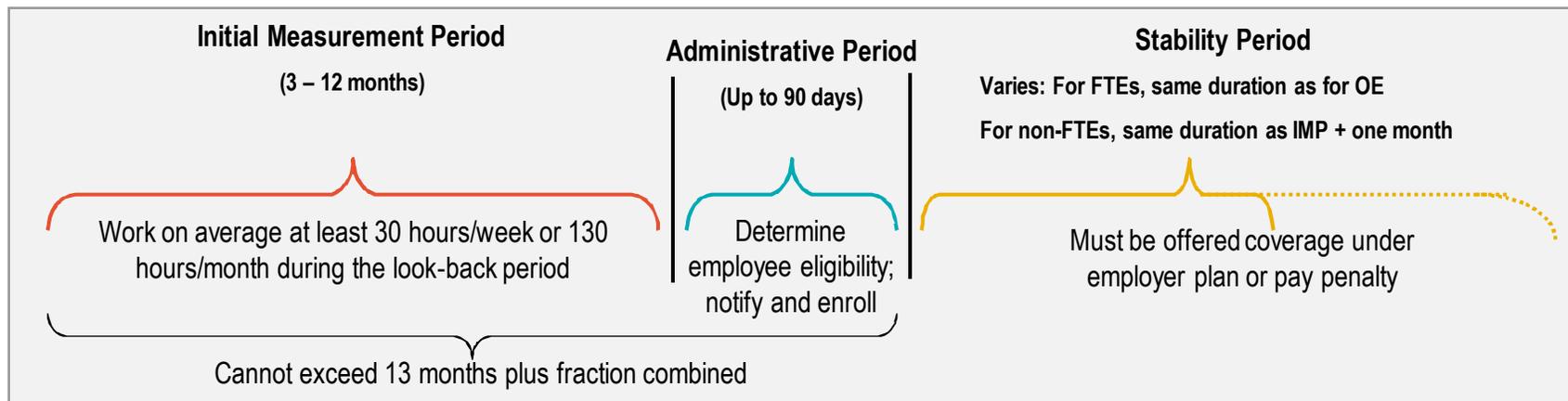
The period of time during which the employer performs measurement and determines whether coverage should be offered. The employer is permitted to select an AP of up to 90 days that may include both a period beginning immediately before and after the end of a measurement period and ending immediately before the start of the corresponding stability period. For new hires, the IMP and the AP *combined* may not extend beyond the last day of the first calendar month beginning on or after the one-year anniversary of the employee's start date (13 months and a fractional month).

Full-time determination measurement process overview

New employees *(continued)*

- Employers may use an IMP of 3 – 12 months and an Administrative Period (AP) of up to 90 days for part-time, variable hour (VH) and seasonal employees (SE) in order to determine full-time status
- But, the IMP and the AP combined may not extend beyond the last day of the first calendar month beginning on or after the one-year anniversary of the employee's start date (13 months and a fractional month). The IMP can begin on the date of hire or the first of the following month (or payroll date that occurs between them)
- The SP — Period of time lasting 6 – 12 months, but no shorter than the employer's measurement period, during which the employee is either: (1) Considered full-time and must be offered benefit coverage to avoid potential penalties, or; (2) Is not considered full-time and no coverage must be offered (i.e., to avoid potential penalties). The SP must begin after their IMP and any AP, and for those who are determined to be full-time employees, must be the same length as the SP for ongoing employees (OEs)
- For those who are not determined to be full-time employees, the SP may be as long as the IMP plus one month, but cannot exceed the remainder of the SMP that includes the last day of the employee's IMP

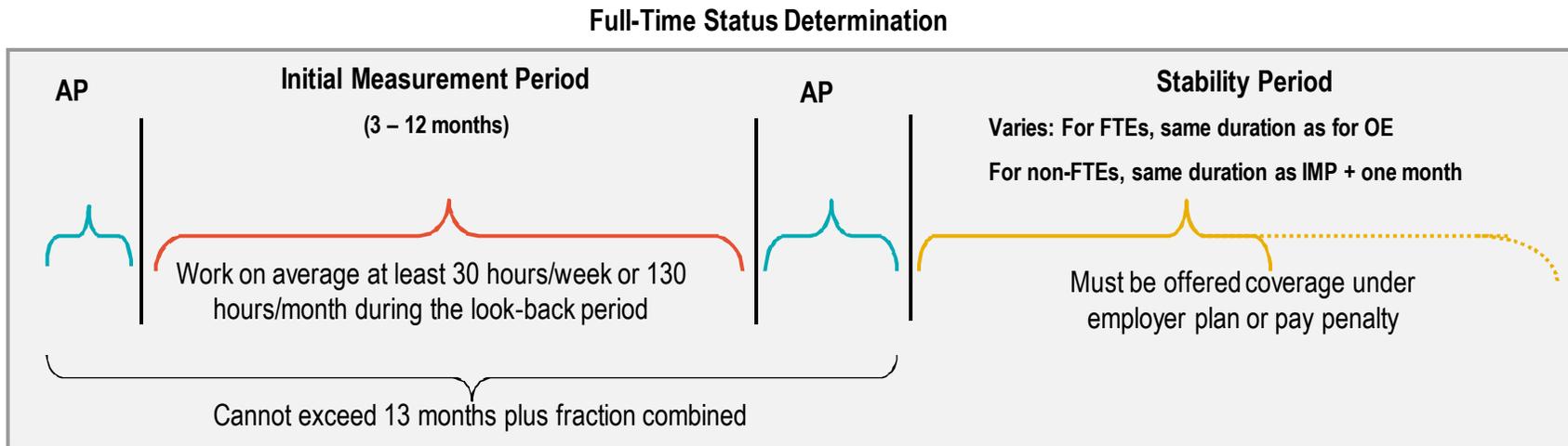
Full-Time Status Determination



Full-time determination measurement process overview

New employees *(continued)*

- If an employer begins the IMP on the first of the following month (or payroll date that occurs between the date of hire and the first of the following month), the full-time status determination will look like this:



Full-time determination measurement process overview

Hours of service and hourly and non-hourly employees

- **Hours of Service** — The final regulations define an hour of service to mean each hour for which an employee is paid, or entitled to payment, for the performance of duties for the employer, and each hour for which an employee is paid, or entitled to payment by the employer, for a period of time during which no duties are performed due to vacation, holiday, illness, incapacity (including disability) or layoff, jury duty, military duty or leave of absence
- **Hourly Employees** — Hours of service are calculated based on the actual hours of services from the record of hours worked and hours for which payment is made (e.g., an employee on leave for three weeks would have to be credited with hours of service as though they had been working during that time frame)
- **Non-Hourly Employees (e.g., salaried)** — Employers have three options:
 1. An employer may calculate the actual hours of service using the same method available to hourly employees
 2. An employer may use a days-worked equivalency crediting the employee with eight hours of service for each day which the employee would be required to be credited with at least one hour of service
 3. An employer may use a weeks-worked equivalency where an employee would be credited with 40 hours of service for each week the employee would be required to be credited with at least one hour of service

Note: An employer cannot use a method that would understate employees' hours and cause them to miss full-time employee status.

Full-time determination measurement process overview

Hours of service and special break periods

- **Special Rule for Three Types of Unpaid Leave** (FMLA, USERRA, jury duty) — Employers have two averaging method options:
 1. **Pro-Ration Method** — An employer can compute the average hours of service for employees after excluding any FMLA, USERRA and/or jury duty leave and use that as the average for the entire measurement period

Note: You reach this result by subtracting the leave period and determining whether the employee averaged at least 30 hours per week/130 hours per month during the remainder of the measurement period
 2. **Averaging Method** — An employer can determine the average weekly hours of service for employees during the portion of the measurement period not including their FMLA, USERRA and/or jury duty leave and credit the employees with their average weekly hours of service during their leave period
- **Special Rule for Educational Organizations** — Educational organizations get a special rule to deal with extended breaks in hours of service (e.g., winter and summer breaks) and may use the pro-ration or averaging methods for these types of breaks in addition to FMLA, USERRA and jury duty. An educational organization is not required to include or exclude more than 501 hours of service under either method

Note: The special rule for educational organizations requires a break of at least four weeks to apply.

Full-time determination measurement process overview

Breaks in service

- **Rehires** — Employees who have separated from service and are rehired may be treated as new employees for measurement purposes if certain conditions are met:
 1. An employee with no hours of service for 13 consecutive weeks = new hire. You can start measurement over and don't have to include prior hours of service.
 - **EXCEPTION:** An educational organization with no hours of service for 26 consecutive weeks = new hire. You can start measurement over and don't have to include prior hours of service.
 2. An employee with a break in service of at least four weeks and the break in service is greater than time worked before the break = new hire. You can start measurement over and don't have to include prior hours of service.
- If (1) and (2) are both false, you need to pick up measurement where you left off and start counting hours of service again
 - If the rehired employees were covered by a stability period and had elected coverage prior to the separation, the employee should be offered coverage again and will resume their previous stability period
 - If the employee had previously declined coverage, the employer does not have to offer coverage again upon resumption of the stability period
- If (1) or (2) are true, the employer may treat the employee as a new hire for measurement purposes and a prior stability period does not continue

Full-time determination measurement process overview

Other measurement issues

- **Uncertain Hours of Service** — The final regulations continue to provide for good faith hours of service determinations for types of employees especially challenging to measure (e.g., travelling salespeople, airline pilots, adjunct faculty)
 - Adjunct faculty members — Until further guidance is issued, employers of adjunct faculty may use the following method of crediting adjunct faculty members with hours of work:
 - Credit the employee with 2.25 hours of service per week for each hour of teaching or classroom time; and
 - One hour of service per week for each additional hour outside the classroom the faculty member spends performing required duties (e.g., required office hours or attendance at faculty meetings)
- **Hours Within a Control Group** — Hours of service performed at two different employers of the same control group must be combined when determining full-time employee status
 - Example — Jane Doe is employed by ABC Company. Jane works part time for two different wholly owned subsidiaries of ABC Company. If both subsidiaries are part of ABC Company's control group, then Jane's hours need to be combined for purposes of the pay or pay provisions
 - The subsidiary with the greater hours of service from the employee in a month will generally be responsible for measurement and penalties
 - In the event of a tie, the subsidiaries may choose which is responsible (the IRS will select if no choice is made)

Full-time determination measurement process overview

Change in status rules

- **FTE based on “look-back”** — An employee determined to be full-time based on the look-back measurement method remains treated as a full-time employee during the entire subsequent stability period without regard to any change in status during the stability period
- **New Hires who transition to full-time during their initial measurement period** — If a new hire transitions to a full-time class of employee during their initial measurement period, he/she must be treated as a full-time employee on the earlier of:
 - The 1st day of the 4th month following the change in employment status; or
 - The 1st day of the 1st month following the end of the initial measurement period if the employee averages more than 30 hours of service per week during the initial measurement period.

Note: While an employer can delay treating the individual as a full-time employee for penalty purposes, we assume many employees will automatically qualify for coverage based on the transition and employers will process them immediately for enrollment.

Full-time determination measurement process overview

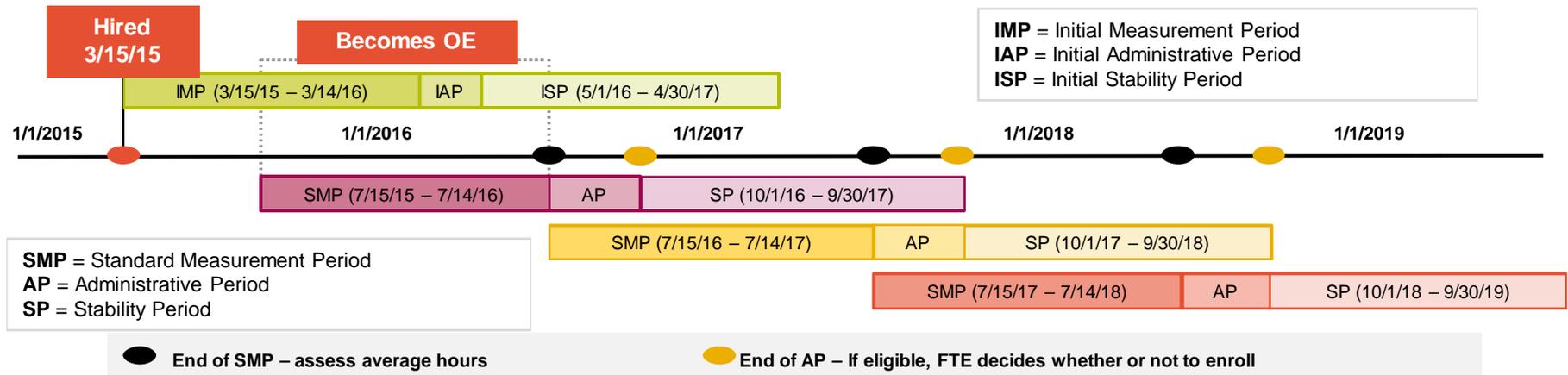
Change in status rules *(continued)*

- **Employees who transition from full-time to part-time** — A special rule can be used when an employee experiences a change in employment status from full-time to part-time:
 - An employer can apply the monthly measurement method to that employee beginning on the 1st day of the 4th month following the employee's change of employment status from full-time to part-time if:
 - The employer has continuously offered coverage to the employee from their date of employment (subject to any waiting period) prior to the transition; and
 - The employee actually averages less than 30 hours of service for the three full calendar months following his/her transition
 - This is the only instance where an employer can use both the look-back and monthly measurement methods for employees within the same employee category
 - This means the employee will be treated as a full-time employee for a minimum run out stability period

Full-time determination measurement process overview

Lifecycle of full-time employee for a non-calendar plan year

Projected SMP cycle of July 15 through July 14



Reference Guides and Examples

Reference guide and examples

New employees — Who do I need to measure?

Use this cheat sheet to report and measure New Employees.

Data Fields	Descriptions
Employee ID	You can use any form of employee ID. You just need to be able to tell your employees apart.
Employee Type	E.g., full-time; already part-time benefits eligible, part-time non-benefits eligible, temporary employees
Employee Category	<p>Salaried Employees: You need to choose one of three methods to calculate hours of service.</p> <p>(1) Count actual hours of service [probably too difficult to use]</p> <p>(2) Days-worked method — credit employee with 8 hours for each business day they're employed during the measurement period; or</p> <p>(3) Weeks-worked method — credit employee with 40 hours per week for each week they're employed during the measurement period. [probably the easiest to use]</p> <p>Hourly Employees: You need to count actual hours of service worked. Remember to include time off for vacation, holiday, sick or illness leave, or disability</p>
FTE Threshold	<p>This will depend on the measurement period you select. You can pick any period from 3 – 12 months, although most employers are choosing 12 months or nine months.</p> <p>12-month measurement period — 1,560 total hours of service [We assume the entities will choose 12 months.]</p> <p>Nine-month measurement period — 1,170 total hours of service</p>
Hire Date	Input the employee's hire date.
Termination Date	Input the employee's termination date. This will be relevant for rehires.
If Rehired	<p>(1) Employee with no hours of service for 13 consecutive weeks (26 for educational organizations) = new hire. You can start over.</p> <p>(2) Employee with a break in service of at least four weeks and the break in service is greater than time worked before the break = new hire. You can start over.</p> <p>If (1) and (2) are both false, pick up measurement where you left off and start counting hours of service again. See Ongoing Employees.</p> <p>If (1) or (2) are true, I may be treated as a new hire.</p>
Break Period Hours	<p>What to do about FMLA, USERRA, jury duty and/or other break periods (other break periods apply onto educational organizations if the break is at least four weeks)? You have two options :</p> <p>(1) You can exclude the break period from measurement and shorten your measurement period to reflect this (i.e., If the break is four months and you are using a 12-month measurement period, you can ignore the break period and measure as if you are using an eight-month measurement period and determine FTE status); or</p> <p>(2) You can include the break period and credit the employees with hours of service based on their average hours of service during the rest of the measurement period (i.e., if I averaged 140 hours per month during the rest of the measurement period, you can credit me with 140 hours per month while on break).</p> <p>An educational organization is not required to exclude or include more than 501 hours during the employment break periods under these methods.</p>
Total Hours of Service	Actual hours worked + paid leave (including PTO, holiday, illness and disability) + unpaid leave if FMLA, military leave or jury duty + Break Period Hours (for educational organizations)
Measurement	Start measurement the first of the month following my Hire Date. Following the 12-month measurement period, you have 1 month to determine if the employee has reached the FTE threshold and should be offered coverage by the Benefit Start Date to avoid penalties.
Benefit Start Date	If an FTE, first of the month following measurement. I will remain eligible for 12 months.

Reference guide and examples

Ongoing employees — Who do I need to measure?

Use this cheat sheet to report and measure Ongoing Employees.

Data Fields	Descriptions
Employee ID	You can use any form of employee ID. You just need to be able to tell your employees apart.
Employee Type	E.g., full-time; already part-time benefits eligible, part-time non-benefits eligible, temporary employees
Employee Category	<p>Salaried Employees: You need to choose one of three methods to calculate hours of service.</p> <ol style="list-style-type: none"> (1) Count actual hours of service [probably too difficult to use] (2) Days-worked method — credit employee with eight hours for each business day they're employed during the measurement period; or (3) Weeks-worked method — credit employee with 40 hours per week for each week they're employed during the measurement period. [probably the easiest to use] <p>Hourly Employees: You need to count actual hours of service worked. Remember to include time off for vacation, holiday, illness leave, or disability</p>
FTE Threshold	<p>This will depend on the measurement period you select. You can pick any period from 3 – 12 months, although most employers are choosing 12 months or nine months.</p> <p>12-month measurement period — 1,560 total hours of service [We assume the entities will choose 12 months from approximately July 15th of the current year through July 14th of the following year.]</p> <p>Nine-month measurement period — 1,170 total hours of service</p>
Hire Date	Input the employee's hire date.
Termination Date	Input the employee's termination date. This will be relevant for rehires.
If Rehired	<ol style="list-style-type: none"> (1) Employee with no hours of service for 13 consecutive weeks (26 for educational organizations) = new hire. You can start over. (2) Employee with a break in service of at least four weeks and the break in service is greater than time worked before the break = new hire. You can start over. <p>If (1) and (2) are both false, pick up measurement where you left off and start counting hours of service again. The employee will resume their prior stability period and should be offered coverage again if the employee had elected coverage prior to their separation.</p> <p>If (1) or (2) are true, I may be treated as a new hire. The prior stability period does not resume.</p>
Break Period Hours	<p>What to do about FMLA, USERRA, jury duty and/or other break periods (other break periods apply onto educational organizations if the break is at least four weeks)? You have two options :</p> <ol style="list-style-type: none"> (1) You can exclude the break period from measurement and shorten your measurement period to reflect this (i.e., if the break is four months and you are using a 12-month measurement period, you can ignore the break period and measure as if you are using an 8-month measurement period and determine FTE status); or (2) You can include the break period and credit the employees with hours of service based on their average hours of service during the rest of the measurement period (i.e., if I averaged 140 hours per month during the rest of the measurement period, you can credit me with 140 hours per month while on break). <p>An educational organization is not required to exclude or include more than 501 hours during the employment break periods under these methods.</p>
Total Hours of Service	Actual hours worked + paid leave (including PTO, holiday, illness and disability) + unpaid leave if FMLA, military leave or jury duty + Break Period Hours (for educational organizations).
Measurement	Following the 12-month measurement period, you have approximately 2.5 months to determine if the employee has reached the FTE threshold and should be offered coverage by the Benefit Start Date to avoid penalties.
Benefit Start Date	The start of the plan year following measurement. I will remain eligible for 12 months.

Reference guide and examples

New employees — Example 1

Data Fields	Descriptions
Employee ID	0010
Employee Type	Substitute Teacher, not automatically eligible
Employee Category	Entity cannot reasonably determine if individual will work an average of 30 hours per week over the course of the measurement period. Hourly Employee subject to Measurement.
Hire Date	October 15, 2014
Job Status Change	One month @ 24 hours per week Five months @ 35 hours per week Three months @ 24 hours per week Three months with no hours of service
Measurement End Date	October 14, 2015
Service Hours	
Data Fields	Descriptions
Hours Worked	1,084 hours (approx. using 4 week month; actual may vary somewhat)
Vacation	0 hours
Holiday	0 hours
Illness	0 hours
Disability	0 hours
Jury Duty	0 hours
Military Leave	0 hours
FMLA	0 hours
Break Period Hours (3 month break)	Pro-rate Method (1) = 120 hours (1,084 hours / 9 months = 120). Averaging Method (2) = 360. We determined the employee averaged 120 hours per month over the other 3 months in the measurement period (1,084 hours / 9 months = 120). The Break Period hours equal 360 (3 x 120 = 360).
FTE Hours Threshold	1,170 hours; over the course of 9 month measurement period. 1,560 hours; over the course of 12 month measurement period.
Total Hours?	This individual has not measured as an FTE based on an average monthly hours of service of 120. 1,444 hours; This individual has not measured as an FTE.
Benefit Start Date	N/A

Reference guide and examples

New employees — Example 2

Data Fields	Descriptions
Employee ID	0020
Employee Type	Temporary Employee, not automatically eligible
Employee Category	Entity cannot reasonably determine if individual will work an average of 30 hours per week over the course of the measurement period. Hourly Employee subject to Measurement.
Hire Date	October 15, 2014
Job Status Change	Six months @ 35 hours per week Two months @ 20 hours per week Three months @ 24 hours per week One month with no hours of service
Measurement End Date	October 14, 2015
Service Hours	
Data Fields	Descriptions
Hours Worked	1,288 hours (approx. using 4 week month; actual may vary somewhat)
Vacation	0 hours
Holiday	0 hours
Illness	0 hours
Disability	0 hours
Jury Duty	0 hours
Military Leave	0 hours
FMLA	0 hours
Break Period Hours (1 month break)	Pro-rate Method (1) = 120 hours (1,288 hours / 11 months = 117). Averaging Method (2) = 117. We determined the employee averaged 117 hours per month over the other month in the measurement period (1,288 hours / 11 months = 117).
FTE Hours Threshold	1,430 hours; prorated over the course of 11 month measurement period. 1,560 hours; over the course of 12 month measurement period.
Total Hours?	This individual has not measured as an FTE based on an average monthly hours of service of 117. 1,405 hours; This individual has not measured as an FTE.
Benefit Start Date	N/A

Reference guide and examples

New employees — Example 3

Data Fields	Descriptions
Employee ID	0030
Employee Type	Coach for Fall/Spring, Position with Uncertain Hours of Service, not automatically eligible
Employee Category	Entity cannot reasonably determine if individual will work an average of 30 hours per week over the course of the measurement period. Hourly Employee subject to Measurement.
Hire Date	January 3, 2014
Job Status Change	400 hours @ Fall Sport 400 hours @ Spring Sport
Measurement End Date	October 14, 2015
Service Hours	
Data Fields	Descriptions
Hours Worked	800 hours (approx. using 4 week month; actual may vary somewhat)
Vacation	0 hours
Holiday	0 hours
Illness	0 hours
Disability	0 hours
Jury Duty	0 hours
Military Leave	0 hours
FMLA	0 hours
Break Period Hours (3 month break)	Pro-rate Method (1) = 800 hours (800 hours / 9 months = 89). Averaging Method (2) = 267. We determined the employee averaged 89 hours per month over the other month in the measurement period (1,067 hours / 12 months = 90).
FTE Hours Threshold	1,170 hours; prorated over the course of 9 month measurement period. 1,560 hours; over the course of 12 month measurement period.
Total Hours?	This individual has not measured as an FTE based on an average monthly hours of service of 89. 1,067 hours; This individual has not measured as an FTE.
Benefit Start Date	N/A

Reference guide and examples

Ongoing employees

Data Fields	Descriptions
Employee ID	You can use any form of employee ID. You just need to be able to tell your employees apart.
Employee Type	e.g., Full-time; Already Part-time benefits eligible, Part-time non-benefits eligible, Temporary employees
Employee Category	<p>Salaried Employees: You need to choose one of three methods to calculate hours of service.</p> <ol style="list-style-type: none"> (1) Count actual hours of service [probably too difficult to use] (2) Days-worked method — credit employee with 8 hours for each business day they're employed during the measurement period; or (3) Weeks-worked method — credit employee with 40 hours per week for each week they're employed during the measurement period. [probably the easiest to use] <p>Hourly Employees: You need to count actual hours of service worked. Remember to include time off for vacation, holiday, illness leave, disability, jury duty, military duty or FMLA.</p>
FTE Threshold	<p>This will depend on the measurement period you select. You can pick any period from 3 – 12 months, although most employers are choosing 12 months or 9 months.</p> <p>12 month measurement period — 1,560 total hours of service [We assume the entities will choose 12 months from approximately July 15th of the current year through July 14th of the following year.]</p> <p>9 month measurement period — 1,170 total hours of service</p>
Hire Date	Input the employee's hire date.
Termination Date	Input the employee's termination date. This will be relevant for rehires.
If Rehired	<ol style="list-style-type: none"> (1) Employee with no hours of service for 26 consecutive weeks = new hire. You can start over. (2) Employee with a break in service of at least 4 weeks and the break in service is greater than time worked before the break = new hire. You can start over. (3) If (1) and (2) are both false, pick up measurement where you left off and start counting hours of service again. <p>If you rehired me into a benefits eligible position, just offer me coverage and you don't need to continue measurement.</p>
Break Period Hours	<p>What to do about Winter and/or Summer break? You have two options:</p> <ol style="list-style-type: none"> (1) You can exclude the break period from measurement and shorten your measurement period to reflect this (i.e., if the break is 4 months and you are using a 12-month measurement period, you can ignore the break and measure as if you are using an 8-month measurement period and determine FTE status); or (2) You can include the break period and credit the employees with hours of service based on their average hours of service during the rest of the year (i.e., if I averaged 140 hours per month during the rest of the year, you can credit me with 140 hours per month while on break). You don't need to credit an employee with more than 501 break period hours.
Total Hours of Service	Actual hours worked + paid leave (including PTO, holiday, illness and disability) + unpaid leave if FMLA, military leave or jury duty + Break Period Hours (if used).
Measurement	Following the 12-month measurement period, you have approximately 2 ½ months to determine if the employee has reached the FTE threshold and should be offered coverage by the Benefit Start Date to avoid penalties.
Benefit Start Date	The start of the plan year following measurement. I will remain eligible for 12 months.

Reference guide and examples

Ongoing employees — Example 1

Data Fields	Descriptions
Employee ID	0040
Employee Type	Part-time Employee, not automatically eligible Also hired to coach football and basketball
Employee Category	Entity cannot reasonably determine if individual will work an average of 30 hours per week over the course of the measurement period. Hourly Employee subject to Measurement.
Hire Date	August 5, 2012
Job Status Change	Nine months @ 27.5 hours per week (regular hours per week) Six months @ 10 hours per week (football and basketball season) Three months with no hours of service
Measurement End Date	June 30, 2015
Service Hours	
Data Fields	Descriptions
Hours Worked	1,230 hours (approx. using 4 week month; actual may vary somewhat)
Vacation	0 hours
Holiday	0 hours
Illness	0 hours
Disability	0 hours
Jury Duty	0 hours
Military Leave	0 hours
FMLA	0 hours
Break Period Hours (3 month break)	Pro-rate Method (1) = 137 hours (1,230 hours / 9 months = 137). Averaging Method (2) = 411. We determined the employee averaged 137 hours per month over the other 3 months in the measurement period (1,230 hours / 9 months = 137). The Break Period hours equal 411 (3 x 137 = 411).
FTE Hours Threshold	1,170 hours; over the course of 9 month measurement period. 1,560 hours; over the course of 12 month measurement period.
Total Hours?	This individual has measured as an FTE based on an average monthly hours of service of 137. 1,641 hours; This individual has measured as an FTE.
Benefit Start Date	October 1, 2015

Reference guide and examples

Ongoing employees — Example 2

Data Fields	Descriptions
Employee ID	0050
Employee Type	Part-time Employee, not automatically eligible Also a coach on an extra-duty contract
Employee Category	Entity cannot reasonably determine if individual will work an average of 30 hours per week over the course of the measurement period. Hourly Employee subject to Measurement.
Hire Date	January 25, 2011
Job Status Change	Nine months @ 24 hours per week (regular hours per week) Coaching hours = 175 hours
Measurement End Date	October 14, 2015
Service Hours	
Data Fields	Descriptions
Hours Worked	1,039 hours (approx. using 4 week month; actual may vary somewhat)
Vacation	0 hours
Holiday	0 hours
Illness	0 hours
Disability	0 hours
Jury Duty	0 hours
Military Leave	0 hours
FMLA	0 hours
Break Period Hours (3 month break)	Prorate Method (1) = 115 hours (1,039 hours / 9 months = 115). Averaging Method (2) = 345. We determined the employee averaged 115 hours per month over the other 3 months in the measurement period (1,039 hours / 9 months = 115). The Break Period hours equal 312 (3 x 115 = 345).
FTE Hours Threshold	1,170 hours; over the course of 9 month measurement period. 1,560 hours; over the course of 12 month measurement period.
Total Hours?	This individual has not measured as an FTE based on an average monthly hours of service of 115. 1,384 hours; This individual has not measured as an FTE.
Benefit Start Date	N/A

Reference guide and examples

Ongoing employees — Example 3

Data Fields	Descriptions
Employee ID	0060
Employee Type	Substitute Teacher, not automatically eligible
Employee Category	Entity cannot reasonably determine if individual will work an average of 30 hours per week over the course of the measurement period. Hourly Employee subject to Measurement.
Hire Date	June 16, 2006
Job Status Change	Four months @ 24 hours per week (Part-time) Four months @ 40 hours per week (Long-Term Substitute) Two months @ 24 hours per week (Part-time) Two months with no hours of service
Measurement End Date	October 14, 2015
Service Hours	
Data Fields	Descriptions
Hours Worked	1,216 hours (approx. using 4 week month; actual may vary somewhat)
Vacation	0 hours
Holiday	40 hours
Illness	0 hours
Disability	0 hours
Jury Duty	0 hours
Military Leave	0 hours
FMLA	0 hours
Break Period Hours (2 month break)	Prorate Method (1) = 120 hours (1,256 hours / 10 months = 126). Averaging Method (2) = 252. We determined the employee averaged 126 hours per month over the other 2 months in the measurement period (1,256 hours / 10 months = 126). The Break Period hours equal 252 (2 x 126 = 252).
FTE Hours Threshold	1,300 hours; over the course of 10 month measurement period. 1,560 hours; over the course of 12 month measurement period.
Total Hours?	This individual has not measured as an FTE based on an average monthly hours of service of 126. 1,508 hours; This individual has not measured as an FTE.
Benefit Start Date	N/A

Reference guide and examples

Ongoing employees — Example 4

Data Fields	Descriptions
Employee ID	0070
Employee Type	Adjunct Faculty
Employee Category	Entity cannot reasonably determine if individual will work an average of 30 hours per week over the course of the measurement period. Hourly Employee subject to Measurement.
Hire Date	June 20, 2009
Job Status Change	12 Credit Hours for 3 quarters 1 hour per week for Faculty Meetings
Measurement End Date	October 14, 2015
Service Hours	
Data Fields	Descriptions
Hours Worked	1,008 hours (approx. using 4 week month; actual may vary somewhat)
Vacation	0 hours
Holiday	40 hours
Illness	0 hours
Disability	0 hours
Jury Duty	0 hours
Military Leave	0 hours
FMLA	0 hours
Break Period Hours (3 month break)	Prorate Method (1) = 116 hours (1,048 hours / 9 months = 116). Averaging Method (2) = 348. We determined the employee averaged 116 hours per month over the other 3 months in the measurement period (1,048 hours / 9 months = 116). The Break Period hours equal 348 (3 x 116 = 348).
FTE Hours Threshold	1,300 hours; over the course of 10 month measurement period. 1,560 hours; over the course of 12 month measurement period.
Total Hours?	This individual has not measured as an FTE based on an average monthly hours of service of 116. 1,396 hours; This individual has not measured as an FTE.
Benefit Start Date	N/A

Questions