

ACA Look-Back Measurement Method

Offers of Coverage and Changes in Status

The ACA requires applicable large employers (ALEs) – those with 50 or more full-time employees (FTEs) and full-time equivalents – to offer affordable minimum value coverage to substantially all FTEs (those working 30 or more hours per week) and their dependents, or risk a penalty. The requirement, known as the employer mandate or employer shared responsibility provision, has been in effect since 2015.

ALEs often use the look-back measurement method to maintain compliance with the employer mandate. However, this method can be a source of confusion when employees experience a change in their employment status (e.g., full-time to part-time or vice versa) as the impact on offers of coverage is not easy to determine. This publication reviews the general rules that dictate when an employer using the look-back measurement method must initiate or maintain an offer of coverage; it identifies the situations in which an offer of coverage may be affected by a change in employment status and provides examples for practical application. It also includes a **Change in Status Scenarios** flowchart (Appendix A).

For further information about determining the full-time status of employees for compliance with the employer mandate, including the special considerations that apply to employees with irregular or seasonal work schedules, see the PPI publications **ACA: Employer Mandate Full-Time Employees** and **ACA: Employer Mandate Look-Back Measurement Periods**.

BACKGROUND: MEASUREMENT METHODS

ALEs can choose to use either the monthly or the look-back measurement method to determine an employee's full-time status for purposes of compliance with the employer mandate. Under the monthly measurement method, each employee's full-time status is determined separately for each calendar month. Meaning, employees who average 30 or more hours per week in a month are provided an offer of coverage for that month. For example, if a full-time employee has a change in employment status and reduces their hours worked, the offer of coverage for that month will be affected if the average number of weekly hours worked for the month drops below 30 hours.

While straightforward, the monthly measurement method can create administrative challenges for employers with variable hour and seasonal employees. Because of this, the IRS allows employers to use the look-back measurement method – the method most commonly used – to determine full-time employee status. Particulars of the look-back measurement method are explained in further detail below.

Importantly, either the monthly or look-back measurement method must apply uniformly for each permissible category of employees. In other words, an ALE cannot apply two different methods to the same category of employees. The regulations identify the following four categories of employees:

- Collectively bargained and non-collectively bargained employees
- Employees covered by different collective bargaining agreements
- Salaried and hourly employees
- Employees whose primary places of employment are in different states



EMPLOYEE STATUS OVERVIEW

Under the look-back measurement method, an ongoing employee's status as full-time or part-time for purposes of receiving an offer of coverage is determined from a prior period, known as the standard measurement period (usually either six or 12 months). If an employee worked 30 or more hours a week on average during the standard measurement period, then that employee is considered a full-time employee and must be offered coverage for the subsequent standard stability period (which generally must be the same length as the measurement period). This status and corresponding offer (or no offer) of coverage then should remain fixed for the entire subsequent standard stability period (usually, the plan year). As with many rules, there are exceptions that may apply; these will largely depend on an employee's status and offer of coverage upon hire, as explained further below.

For employees in their first year of employment, employee status is determined differently. Variable hour, part-time and seasonal employees are placed in an initial measurement period, and will have an initial stability period (both periods are usually either six or 12 months). Thereafter, they will be measured within the standard measurement period and offered coverage (if measured as full-time) during the corresponding standard stability period. In contrast, new hires (who are not variable hour, part-time or seasonal employees) who are reasonably expected to work full-time hours are not placed in an initial waiting period. Instead, they are effectively evaluated monthly until they have completed a full standard measurement period. Thereafter, the employee's status is evaluated based on hours of service credited during each measurement period.

EMPLOYEE STATUS: VARIABLE HOUR EMPLOYEE AT HIRE

A variable hour employee is one whose schedule cannot be definitively known in advance. In other words, the employee's hours are expected to vary such that the employer cannot reasonably determine in advance whether the employee will work 30 or more hours weekly (or 130 or more hours monthly). As mentioned above, a 30 hour work week (or 130 hours per month) on average is the metric used to determine whether an employee must be offered coverage.

Example 1: Julie was hired on September 1 to work approximately 20 hours per week, with additional hours as needed. Does Julie's employer need to provide her an offer of coverage upon hire?

Answer 1: No. Julie will only need an offer of coverage if she measures as full-time during her initial measurement period.

Variable hour employees are initially measured to determine full-time status and, if they measure as full-time they must be provided coverage during the subsequent initial stability period. The initial measurement period may be any length of time from three months to 12 months (with 12 months as the most common and the easiest to administer). The initial stability period must generally be the same length as the initial measurement period and the standard stability period, but it cannot be any shorter than six months. Also, in no case shall a new variable hour employee with full-time hours be offered coverage later than the 13th month after hire.

Example 2: Steve was hired on March 1 to work approximately 25 hours per week, with additional hours as needed. During his initial 12-month measurement period, Steve measured as full-time and therefore received an offer of coverage beginning March 1 the following year. The month after receiving an offer of coverage, Steve had a reduction in hours and is currently working 10 to 15 hours per week. The employer uses a 12-month measurement period and 12-month stability period. Can Steve's employer terminate coverage in light of his change in status?

Answer 2: Steve's offer of coverage should remain through the end of his stability period (i.e., for 12 months following the end of the 12-month measurement period). Because Steve measured an average of 30 hours per week in the measurement period, he should be offered coverage for the entirety of the stability period.

Even if an employee has a change in status and switches to part-time, the employee should continue to be offered coverage for the remainder of the stability period. Moving forward, any future offer of coverage would be determined by the corresponding measurement period. If the employee did not work 30 or more hours during the most recently completed measurement period, the employer at that time is no longer required to continue coverage for the corresponding stability period (and should extend coverage to the employee under COBRA).

Practical Application: Plan Eligibility Terms

While the employer mandate requires in certain circumstances that an employee's offer of coverage must remain through the end of the stability period (as described above), a plan's eligibility terms may state otherwise. For example, it is common to have an "actively at work" provision that requires an employee to work 30 or more hours in order to be eligible for benefits. To avoid potential penalties under the employer mandate, employers should ensure that the plan's eligibility terms align with the ACA requirements.

Example 3: Same facts as Example 2. However, instead of experiencing a reduction in hours in the month after receiving an offer of coverage, Steve was furloughed. Steve remained categorized as an “active employee” during the furlough. Can Steve’s employer terminate coverage in light of his change in status?

Answer 3: Per the ACA, Steve’s offer of coverage should remain through the end of his stability period (i.e., for 12 months following the end of the 12-month measurement period). Because Steve measured as a full-time employee in the measurement period, he should be offered coverage for the entirety of the stability period. However, plan terms should be reviewed to confirm that they permit Steve to remain eligible for coverage during the furlough. If Steve is no longer eligible under the plan and his coverage is terminated during the furlough, his employer may be subject to penalties under the employer mandate.

EXCEPTION: CHANGE IN STATUS DURING INITIAL MEASUREMENT PERIOD

Notably, there is an exception for variable hour employees in their first year of employment. This exception applies if the employment status of a new variable hour employee materially changes before the end of the initial measurement period in such a way that, if the employee had begun employment in the new position or status, the employee reasonably would have been expected to average at least 30 hours of service per week (i.e., the employee would not have been treated as a variable hour employee). In this event, the employer has until the first day of the fourth month following the change in employment status (or, if earlier, the first day of the first month following the end of the initial measurement period – plus any applicable administrative period – if the employee averaged 30 or more hours of service per week during the initial measurement period) to treat the employee as a full-time employee and offer coverage.

Example 4: Michelle was hired on February 15 to work approximately 20 hours per week, with additional hours as needed. On May 1 of the same year Michelle took a full-time position within the company. Must Michelle’s employer now offer her coverage in light of her change in status?

Answer 4: Yes. Michelle must receive an offer of coverage by August 1 of the year in which she was hired (i.e., the first day of the fourth month following the change in status). This is because had Michelle begun employment in the new position, she would have received an offer of coverage accordingly.

EMPLOYEE STATUS: FULL-TIME EMPLOYEE AT HIRE

When an employer utilizes the look-back measurement method, the measurement method applies to all employees — not just variable hour and seasonal employees. In other words, employees hired as full-time also need to be measured. That said, rules regarding employees hired as full-time employees are slightly different. As mentioned, a new hire (who is not a seasonal employee) who is reasonably expected to work full-time hours will be evaluated monthly until they have completed a full standard measurement period. Thereafter, the employee’s status is evaluated based on hours of service credited during each measurement period (even if administratively the employer may not actually be measuring hours, since they already know the employee will be full time).

Example 5: Griffin is hired on June 10 as a full-time employee. He is offered coverage on July 1 of the same year as the plan’s waiting period is defined as the first of the month following date of hire. On August 1 of the same year Griffin switches to a part-time position. Does Griffin’s employer need to offer him coverage for August?

Answer 5: Since Griffin has not yet completed a full standard measurement period, his offer of coverage is determined monthly. Griffin would no longer receive an offer of coverage for August if he averaged less than 30 hours per week during August.

EXCEPTION: ONGOING EMPLOYEE CHANGE IN STATUS

If the employee was hired as a full-time employee and offered coverage immediately (after any compliant waiting period) and continuously, then there is a limited exception that may apply when there is a change in employment status. The exception provides that if an employee completes a standard measurement period and then transfers to a position that would have been considered part-time if the employee had originally been hired into that position, the employer can change the offer of coverage beginning with the first day of the fourth full month after the change in status occurs (i.e., three full calendar months after the change in status). At that time, the employer could switch the employee to the monthly measurement method so that hours worked per month would dictate an offer of coverage each month. And, if the hours worked are less than 30 per week on average, no continued offer of coverage is required (and the employer would offer COBRA at that time).

Importantly, this exception can only be used if both of the following are true:

- The employer has continuously offered minimum-value coverage to the employee starting no later than the first day of the calendar month after the employee's first three calendar months of employment through the calendar month in which the transfer occurs
- The employee actually averages less than 30 hours per week for three full calendar months after the transfer

Example 6: Carson is hired on June 15 as a full-time employee. He is offered coverage August 1 in the same year since the plan's waiting period is defined as the first of the month following 30 days of employment. On January 15 of the following year Carson changes to a part-time position, averaging less than 30 hours per week. Does Carson's employer still need to offer Carson coverage in light of the change in status?

Answer 6: In this scenario, the employer can utilize the limited exception that permits the employer to change Carson's offer of coverage beginning May 1 following the change in status (i.e., the first day of the fourth month after the change in status occurs). This is because Carson was continuously offered coverage and averaged less than 30 hours per week for three full calendar months after the transfer.

Example 7: Same facts from Example 2. Can Steve's employer apply this limited exception to change his offer of coverage during his stability period?

Answer 7: No. Because Steve did not receive an offer of coverage by June 1 following his date of hire (i.e., the first day of the month after his first three calendar months of employment), this exception will not apply.

This limited exception generally will not apply to employees who were hired as variable hour employees because most employers will not have continuously offered coverage to them, as demonstrated in Example 7. The limited exception also does not apply to full-time employees in their first year of hire, since such employees are measured monthly until they have completed a full standard measurement period. Rather, the limited exception only applies to employees who have completed a standard measurement period.

SUMMARY

The ACA employer mandate requires employers that are subject to the provisions of the mandate to offer affordable coverage to their FTEs or pay a tax penalty for their failure to do so. Employers should understand the nuances of the look-back measurement method, particularly as they relate to changes in status, to determine when employees are eligible for an offer of coverage.

RESOURCES

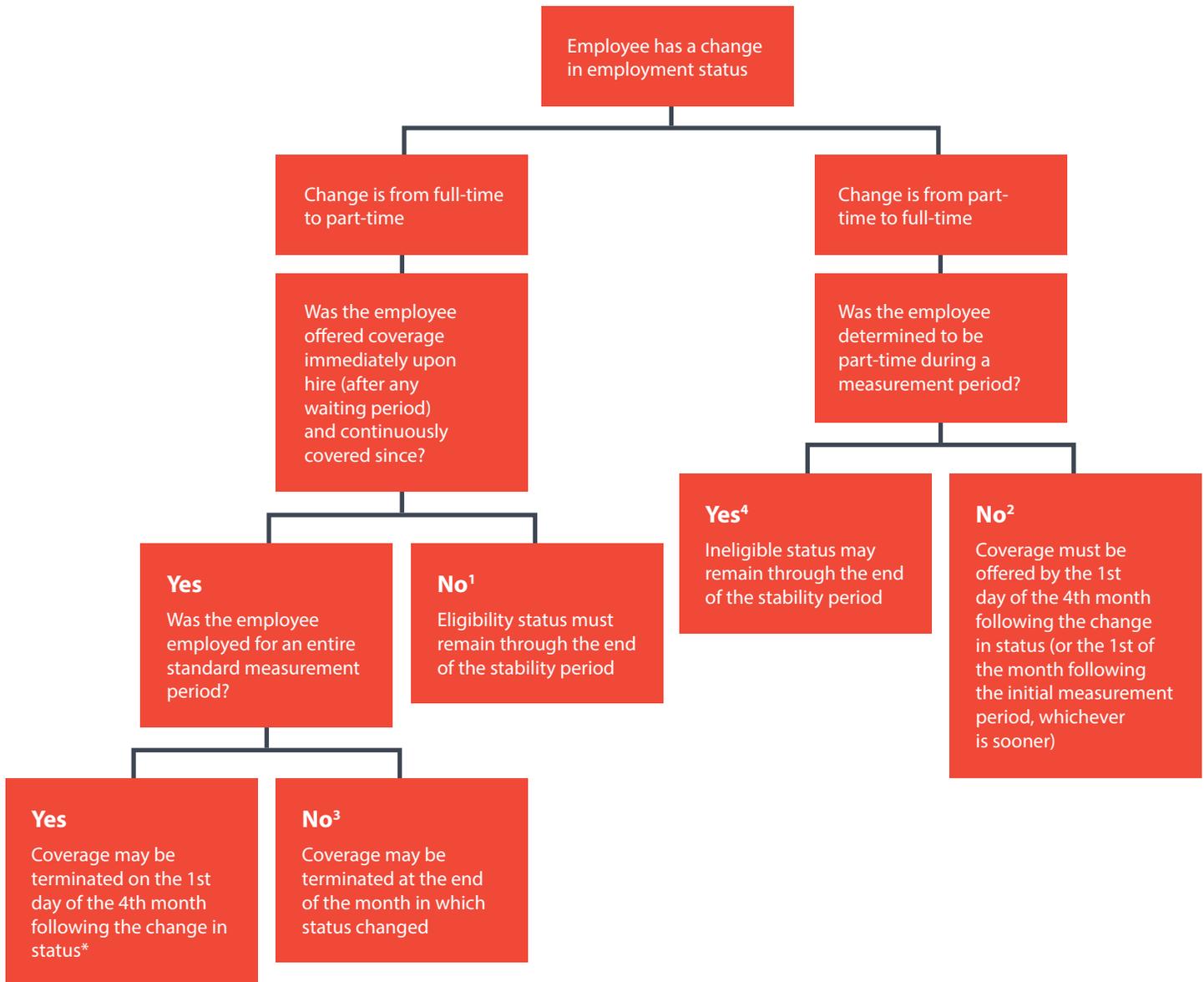
[IRS Notice 2012-58](#)

[Employer Mandate Proposed Guidance](#)

[Final Regulations](#)

APPENDIX A

Change in Status Scenarios



¹Coverage was offered after averaging full-time hours in measurement period.

²Employee is new, determined to be part-time at hire, and still in initial measurement period.

³Employee is new and has not been employed for an entire measurement period.

⁴An employer may choose to effectuate coverage earlier, for example following the normal waiting period or on the first day of the fourth calendar month following the change in status.

*Assuming the employee measured less than 30 hours per week for three months after the change in status and had a continuous offer of coverage no later than the first day of the month after employee's first three calendar months after hire.