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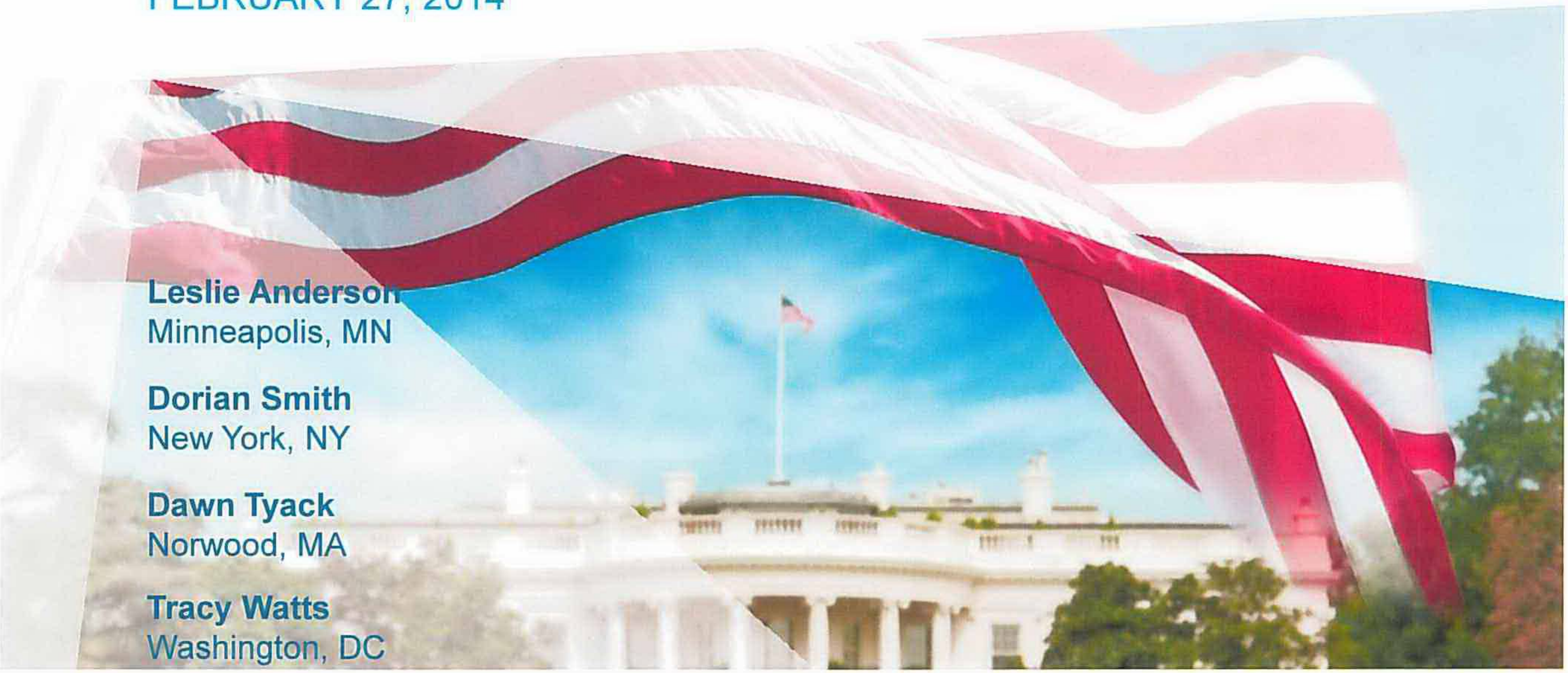
EMPLOYER SHARED RESPONSIBILITY: RECENT CHANGES AND TRACKING FULL-TIME STATUS

FEBRUARY 27, 2014



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Employer Shared Responsibility
How the Payment Will Work in 2015

1. Did you average 100 or more full-time and full-time equivalent employees in 2014?

   (Aggregate controlled group members)

No → You will not be subject to a shared responsibility payment.

Yes ↓

2. Do you offer a health plan to substantially all (70%) full-time employees (FTEs) and their dependent children (not spouses/domestic partners)?

   (Disaggregate controlled group members)

No ↓

You will pay:

$2,120* x (total # FTEs – first 80 FTEs)

Applies if at least one FTE receives tax-subsidized benefits for exchange coverage.

$2,120*

Non-offering Employer Payment

Yes →

3. Does the health plan offered to FTEs satisfy standards for both:
   (1) affordability (employee-only contribution for plan ≤ 9.5% of an employer affordability safe harbor or employee's household income), and
   (2) minimum value (60%)?

No ↓

You will pay the lesser of:

$3,180* x FTEs receiving tax-subsidized benefits for exchange coverage

or

$2,120* x (total # FTEs – first 80 FTEs)

$3,180*

Offering Employer Payment

Yes →

4. Do you have any FTEs to whom you do not offer a health plan?

No → You will not be subject to a shared responsibility payment.

Yes → You will pay the lesser of (see box 3 payment)

Notes

- Box 1: Beginning in 2016, applies to employers with 50 or more full-time and full-time equivalents. Employers must meet certain rules to use 100 (vs. 50) count for 2015.
- Box 2: Beginning in 2016, the percentage increases to 95%.
- Non-offering employer payment: Beginning in 2016, the total number of FTEs will be reduced by 30, not 80.

* Includes 2015 HHS-projected premium inflation adjustment. Payments will increase annually to reflect the projected average national increase in health insurance premiums.

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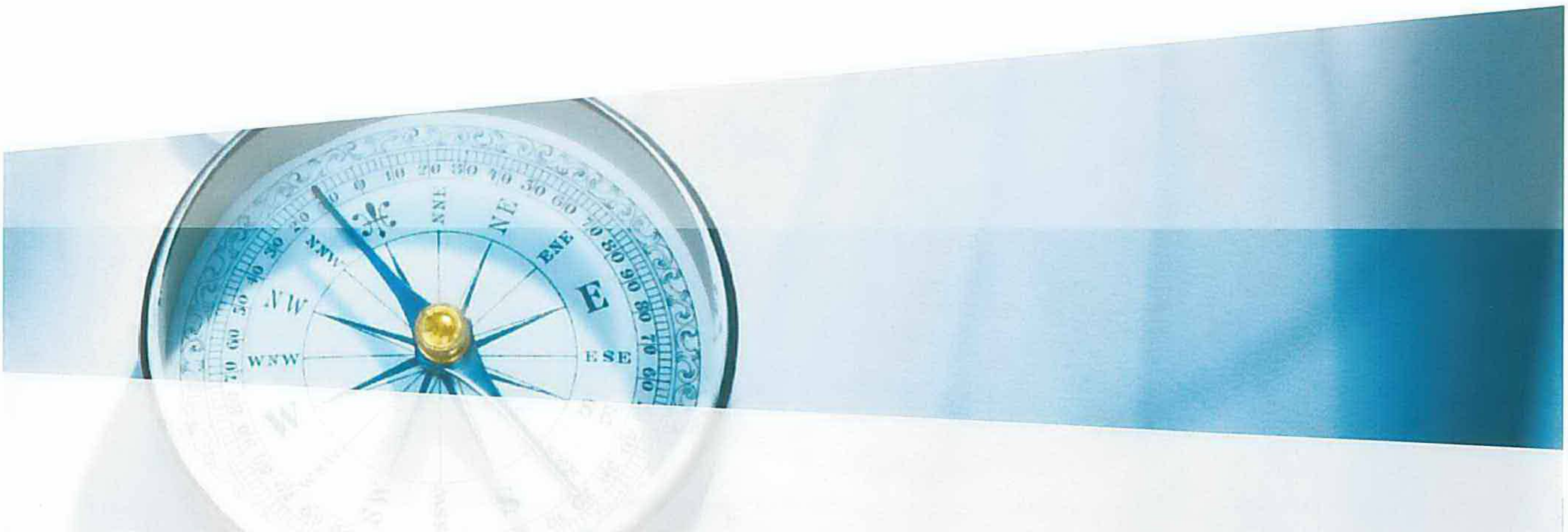
WHICH EMPLOYERS ARE SUBJECT TO THE RULES?



Which Employers Are Subject to the Rules?

Starting January 1, 2016

1. Did you average **50** or more full-time and full-time equivalent employees in 2014?

   (Aggregate controlled group members)

No → You will not be subject to a shared responsibility payment.

- Applies to for-profit, nonprofit, church, or government entity.
- Aggregate controlled group members when counting FTEs.

What's New for 2015

1. Did you average **100** or more full-time and full-time equivalent employees in 2014?

   (Aggregate controlled group members)

No → You will not be subject to a shared responsibility payment.

- If employer can certify it maintains:
  - The size of its workforce and aggregate hours of service during 2014.
  - Any previously offered health coverage through 2015.
- For 2015 only, count employees over six (not 12) month period during 2014.

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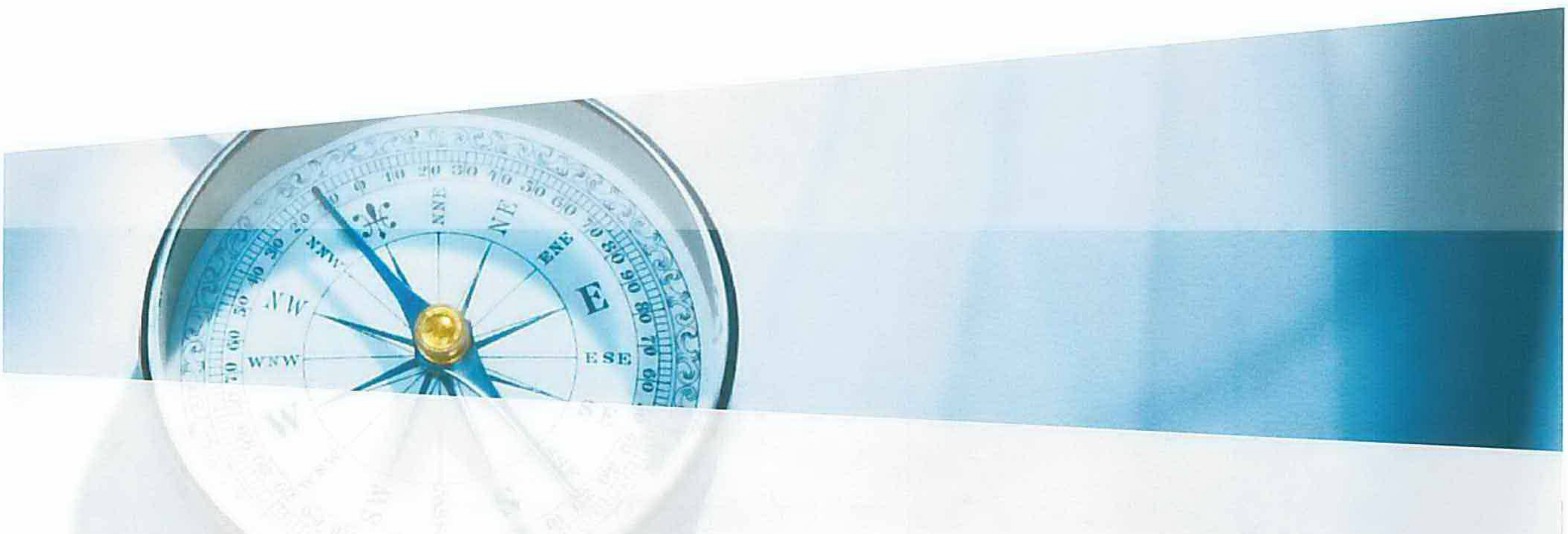
CALCULATING SHARED RESPONSIBILITY PAYMENTS



Non-offering Employer Payment
2016 and Beyond

1. Did you average **50** or more full-time and full-time equivalent employees in 2014?

   (Aggregate controlled group members)

Yes

2. Do you offer a health plan to substantially all **(95%)** full-time employees (FTEs) and their dependent children (not spouses/domestic partners)?

   (Disaggregate controlled group members)

No

You will pay:

$2,120 x (total # FTEs – first **30** FTEs)

Applies if at least one FTE receives tax-subsidized benefits for exchange coverage.

$2,120

Non-offering Employer Payment

- Payments due for not offering coverage to “substantially all” full-time employees and their dependents.
  - Dependents include children, not spouses or domestic partners.
  - Children include biological and adopted, not step- or foster children.
- Calculate separately for each controlled group member.

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Non-offering Employer Payment
For 2015 Only

1. Did you average **100** or more full-time and full-time equivalent employees in 2014?

   (Aggregate controlled group members)

Yes

2. Do you offer a health plan to substantially all **(70%)** full-time employees (FTEs) and their **dependent children** (not spouses/domestic partners)?

   (Disaggregate controlled group members)

No

You will pay:

\$2,120 x (total # FTEs – first **80** FTEs)

Applies if at least one FTE receives tax-subsidized benefits for exchange coverage.

\$2,120

Non-offering Employer Payment

What's New

- For 2015, substantially all means 70% of full-time employees (95% thereafter).
- For 2015, can disregard first 80 full-time employees when calculating payment.
- Children include biological and adopted children, not step- or foster children.
- Dependent coverage transitional relief for 2015.
- Monthly payment amounts indexed – HHS proposed 6% increase for 2015.

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Offering Employer Payment

Don't forget about the offering employer payment.

3. Does the health plan offered to FTEs satisfy standards for both:
(1) **affordability** (employee-only contribution for plan ≤ 9.5% of an employer affordability safe harbor or employee's household income), and
(2) **minimum value** (60%)?

Yes →

4. **Do you have any FTEs to whom you do not offer a health plan?**

No →

You will not be subject to a shared responsibility payment.

No (from 3) / **Yes** (from 4) ↓

You will pay the lesser of:

$3,180 x FTEs receiving tax-subsidized benefits for exchange coverage

OR

$2,120 x (total # FTEs – first 80 FTEs)

$3,180

Offering Employer Payment

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Offering Employer Payment
Minimum Value

3. Does the health plan offered to FTEs satisfy standards for both:
(1) affordability (employee-only contribution for plan ≤ 9.5% of an employer affordability safe harbor or employee's household income), and (2) **minimum value** (60%)?

No ↓

You will pay the lesser of:

$3,180 x FTEs receiving tax-subsidized benefits for exchange coverage

OR

$2,120 x (total # FTEs – first 80 FTEs)

$3,180

Offering Employer Payment

- New rules refer to same three methods for determining minimum value outlined in early guidance:
  - HHS minimum value calculator.
  - Proposed safe harbor plans (can't be relied on yet).
  - Actuarial certification for non-standard plan designs.

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Offering Employer Payment
Affordability

3. Does the health plan offered to FTEs satisfy standards for both:
(1) **affordability** (employee-only contribution for plan ≤ 9.5% of an employer affordability safe harbor or employee's household income), and
(2) minimum value (60%)?

No

You will pay the lesser of:

$3,180 x FTEs receiving tax-subsidized benefits for exchange coverage

or

$2,120 x (total # FTEs – first 80 FTEs)

$3,180
Offering Employer Payment

Affordable if self-only cost doesn't exceed 9.5% of household income. Same three safe harbors apply:

- Federal poverty line (2014 = $11,760 in 48 states; $14,580 in AK; $13,420 in HI).
- W-2 (Box 1).
- Rate-of-pay.

What's New

- Rate-of-pay safe harbor applies on a month-by-month basis.
- Hourly employee: if rate is reduced during the year, reference new, lower rate for each month it's in effect.
- Salaried employee: Can't be used for a month in which pay is reduced below the rate in effect at the start of the year (even if due to a cut in work hours).

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Offering Employer Payment

Don't forget about those FTEs to whom you don't offer coverage.

3. Does the health plan offered to FTEs satisfy standards for both:
   (1) affordability (employee-only contribution for plan ≤ 9.5% of an employer affordability safe harbor or employee's household income), and (2) minimum value (60%)?

Yes

4. Do you have any FTEs to whom you do not offer a health plan?

No

You will not be subject to a shared responsibility payment.

Yes

No

You will pay the lesser of:

$3,180 x FTEs receiving tax-subsidized benefits for exchange coverage

or

$2,120 x (total # FTEs – first 80 FTEs)

$3,180

Offering Employer Payment

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Noncalendar-year Plans Transition Rule

- Potentially eligible:
  - Employer maintained noncalendar-year plan as of December 27, 2012.
  - Plan year was not changed to a later date.
  - Plan offers affordable coverage meeting minimum value as of first plan year beginning in 2015.
- May not have to make shared responsibility payments until plan year beginning in 2015 if one of three complex transition rules met.

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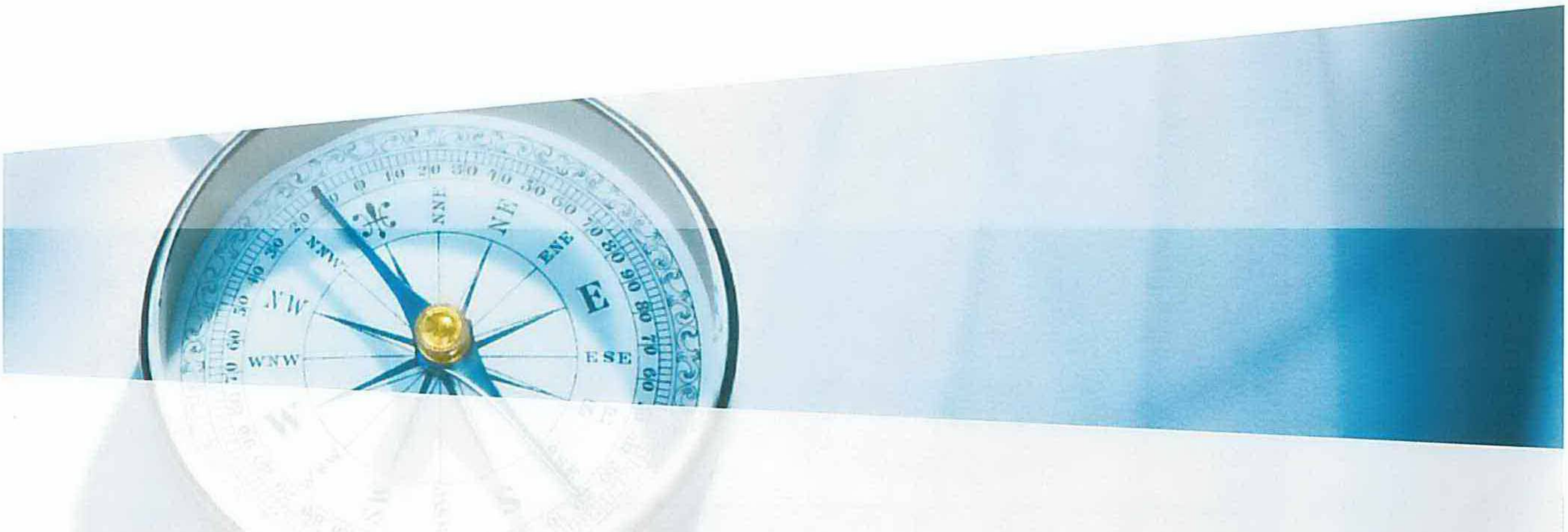
DETERMINING FULL-TIME STATUS



The 30-hour Rule
Two Methods for Determining Full-time Status

- Full-time employees are those working on average at least 30 hours per week in a month.
- Two options to measure who is a full-time employee:
  - Monthly method.
  - Look-back method.
- For both methods, 30-hour per week is converted to 130 hours per month (with some flexibility to use four or five week periods for monthly method and payroll periods for look-back method)
- Must use same method for all employees, except:
  - Salaried/hourly.
  - Collectively bargained/non-collectively bargained, or covered by different CBAs.
  - Different US states.
  - Different members of controlled group may use different methods.

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NEW – The Monthly Method for Determining Full-time Status

- Employers determine whether an employee is full-time in "real time."
  - Count hours of service each month.
- Employer can delay offering coverage under monthly method until first day of month following three month period beginning with the first month the employee is first "otherwise eligible" (subject to conditions of next slide).
    - Rule can only apply once per period of employment.

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Limited Non-assessment Period for Certain Employees

- Refers to periods when employers won't be subject to assessments if certain conditions are met.
- Includes:
  - Monthly method – three month period after employee first becomes benefit eligible.
  - Look-back method – initial measurement period (including associated administrative period) or if expected to be full-time, full calendar months of employment.
- Conditions:
  - Employee must have been otherwise eligible for the coverage during non-assessment period.
  - Must offer minimum essential coverage by first of month following end of applicable period to avoid "non-offering" payment.
  - To avoid "offering" penalty, coverage must have minimum value.

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Limited Non-assessment Period for Certain Employees (cont.)

- Example
  - Harold hired in full-time position June 20, 2016 into benefit eligible category.
  - Coverage is effective first of month following 60 days of employment (Sept. 1).
  - Harold has public exchange subsidy July and Aug.
  - Harold offered MEC only (non-MV coverage) Sept. 1 and he enrolls.
  - Employer offers MEC-only to at least 95% full-time employees.

  - Harold triggers "offering employer" payments for July and Aug.
  - Harold does not trigger "offering employer" payments for Sept. – Dec.

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Special Rules

What's New

- Return from unpaid leave of absence/rehire $\geq$ 13 weeks – treat as new hire.
  - 26 week rule still applies to educational institutions.
- Complex rules on employees moving between monthly measurement and look-back measurement job categories (or vice versa).
- Special rule in some situations for employers using look-back measurement method when full-time employees who always have been treated that way go part-time (lots of requirements apply).
- Employees transferred outside the US can be treated as terminated if:
  - The employee is anticipated to work outside the US for at least 12 months, and
  - If substantially all of the employee's compensation will constitute non-US source income.

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90-Day Waiting Period

- Coverage decisions under employer shared responsibility need to keep 90-day waiting period rules in mind.
- 90-day waiting period applies to everyone offered coverage – not just full-time employees.
  - Violating 90-day waiting period may trigger penalty of $100 a day per affected person.
- New guidance issued February 20, 2014.

What's New

- "Reasonable and bona-fide employment-based orientation period" can precede the 90-day waiting period.
  - Not defined in final rules.
  - Proposed rules suggest up to one month duration and invite comments.

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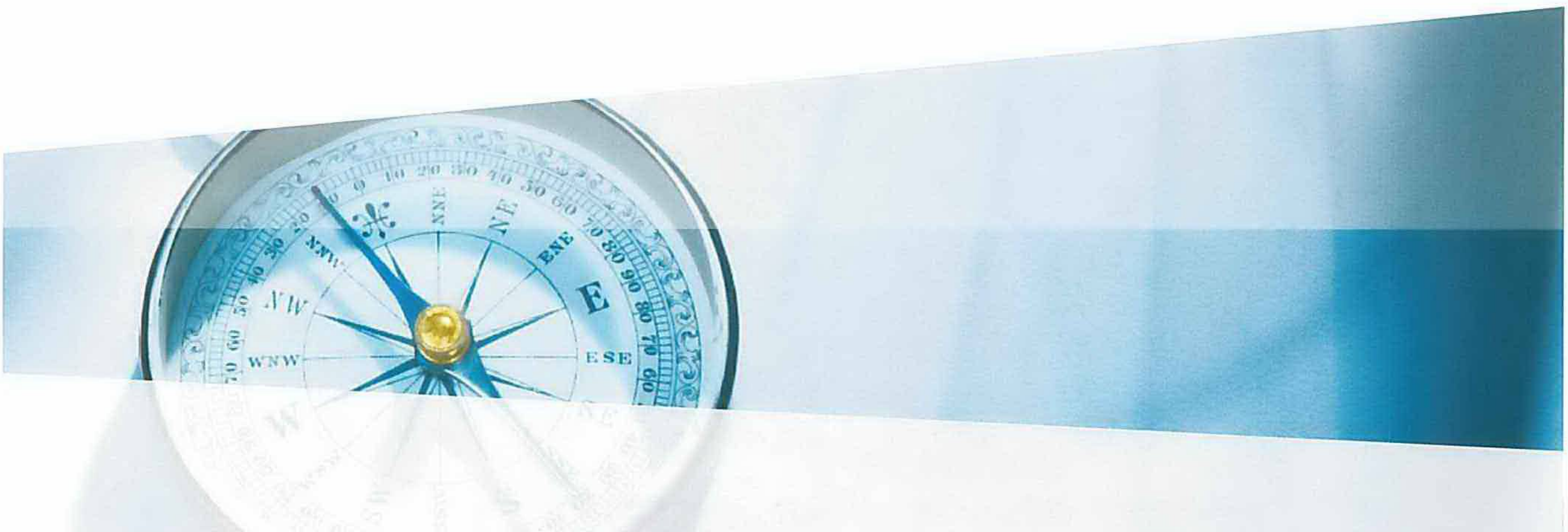
USING THE LOOK-BACK MEASUREMENT METHOD



Look-back Method

- Employer determines a **standard measurement period** (three to 12 months) to look back at actual service hours.
- Employer applies full-time/part-time status to a **stability period** of at least six months (and no shorter than the measurement period). Employees determined to work 30+ hours must be offered coverage.
- Employer can use an **administrative period** (up to 90 days) between the standard measurement period and stability period.

What's New

- Standard look-back measurement period may be shorter than associated 2015 stability period if at least six months long and certain conditions met.
- For example:
  - Measurement period April 15, 2014 to October 15, 2014.
  - Administrative period October 15, 2014 to December 31, 2014.
  - Stability period January 1, 2015 to December 31, 2015.

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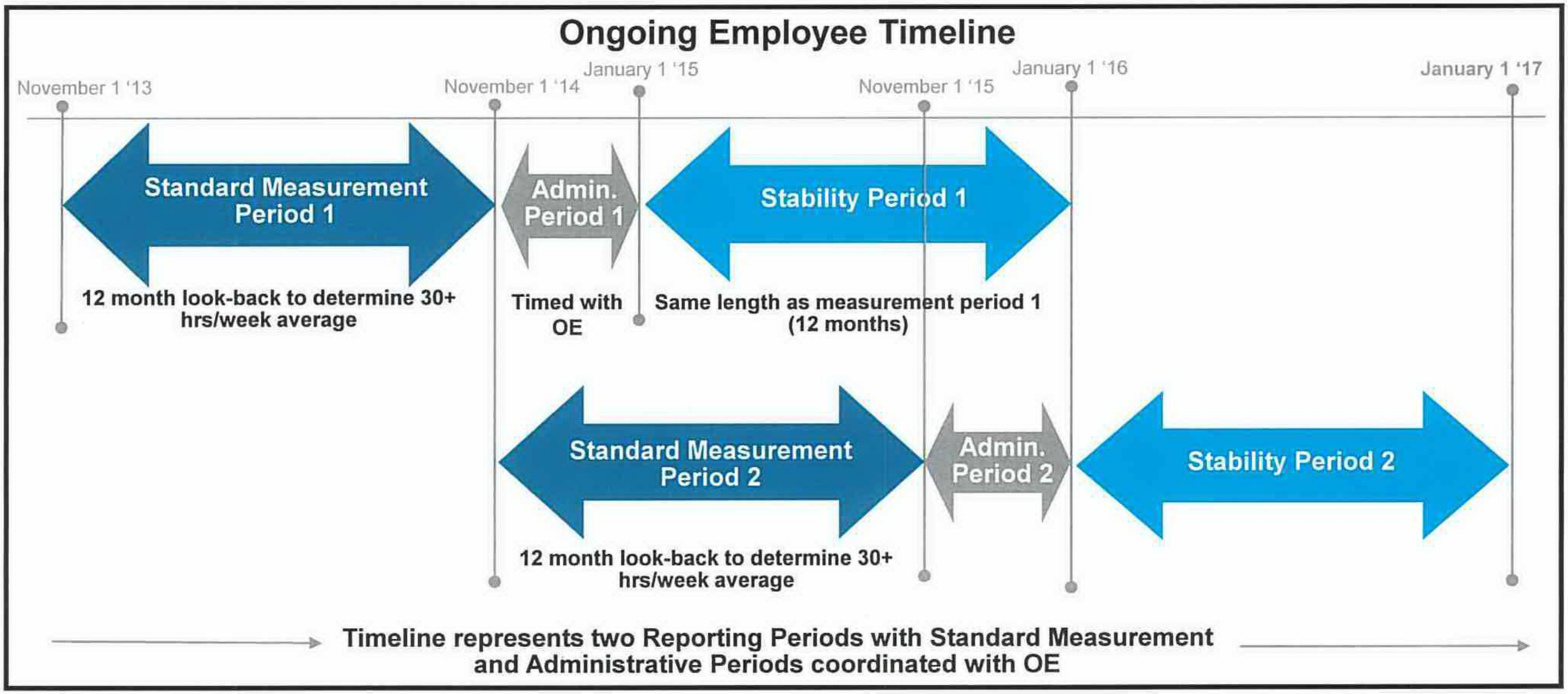
Look-back Method (cont'd)
Illustrative Ongoing Employee Timeline Example (Mercer ESR Clients)



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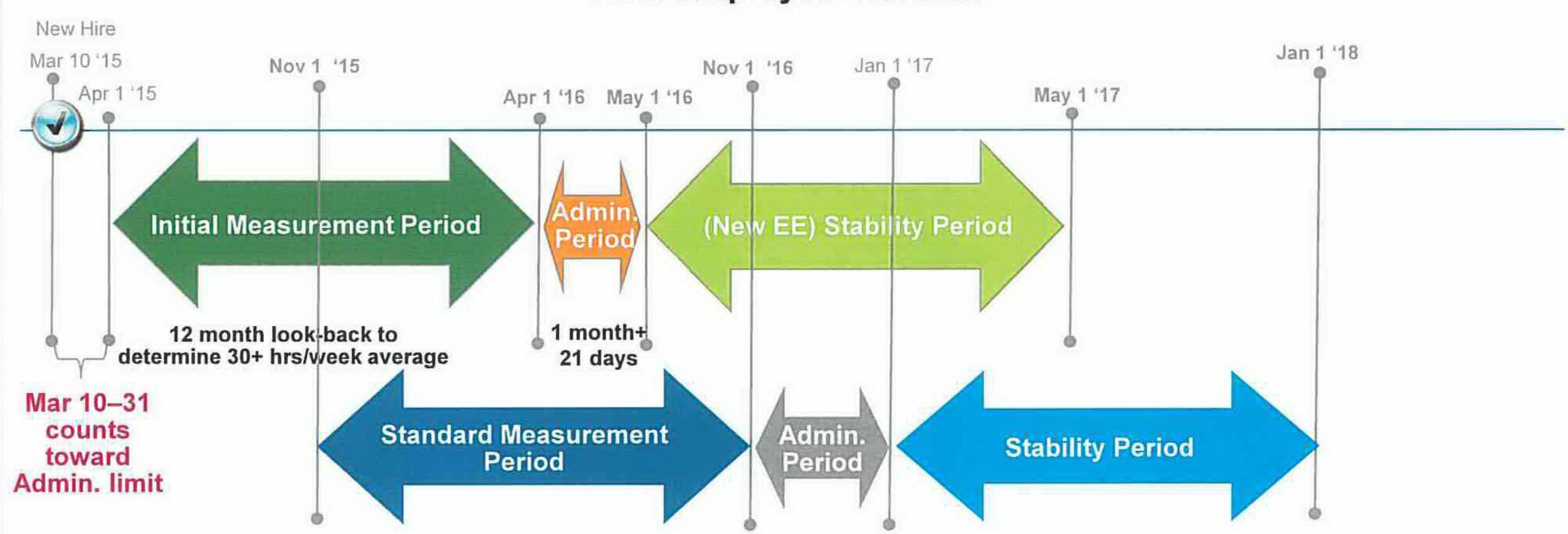
Look-back Method (cont'd)
Illustrative New Employee Timeline Example (Mercer ESR Clients)



Example: New Hire on March 10, 2015 is evaluated during initial measurement period April 1, 2015 - March 31, 2016. FT/PT determination is then applied for the stability period from May 1, 2016 – April 30, 2017.

**** New Hire must be retested during (ONGOING) Standard Measurement Period (Nov 1, 2015 – October 31, 2016) since it is the 1st standard measurement period after the employee's start date**

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Look-back Method (cont'd)

- Employers can require new variable hour or seasonal employees to complete a three- to 12-month initial measurement period before determining the employee's full-time status.

What's New

- Variable hour employee: Can't determine if reasonably expected to work on average 30 hours per week during initial measurement period.
- Seasonal employee: Customary annual employment is typically six months or less and the position begins around the same time each year (e.g., winter or summer).
- New criteria to determine if new-hire is a variable hour employee:
  - Whether replacing full- or part-time employee.
  - Hours worked by comparable positions.
  - Whether advertised or communicated to new hire as more or less than 30 hours per week.

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