



## Health Care Reform **Bulletin**

# Employer Mandate Transition Relief Extended for 2015

Provided by Parelius Insurance Services

### Quick Facts

- Certain 2014 transition relief is extended, including relief for non-calendar year plans.
- In 2015, employers can determine ALE status using any six consecutive months in 2014.
- For purposes of stability periods beginning in 2015, employers may adopt a six-month transition measurement period to determine full-time employee status.

**Under the final regulations, a package of limited transition rules provided for 2014 under the proposed regulations is extended to 2015.**

The Affordable Care Act (ACA) imposes a penalty on applicable large employers (ALEs) that do not offer affordable, minimum value coverage to full-time employees and their dependents. These penalties are often referred to as the “employer shared responsibility” or “pay or play” penalties.

On Feb. 10, 2014, the U.S. Treasury Department released [final regulations](#) implementing the employer shared responsibility provisions of the ACA. Under the final regulations, a package of limited transition rules provided for 2014 in the proposed regulations is extended to 2015. The final regulations also include a number of new transition rules for employers.

As these limited transition rules take effect, the Treasury and the IRS will consider whether it is necessary to further extend any of them beyond 2015.

### Determining Employer Size for 2015

Applicable large employer status is determined for each calendar year using employee information from the prior calendar year. Specifically, an employer that employed an average of at least 50 full-time employees (including full-time equivalents, or FTEs) on

business days during the preceding calendar year will be an ALE.

The proposed regulations included a special rule for determining applicable large employer status in 2014, which allowed an employer to measure the number of full-time employees using any consecutive six-month period in 2013, rather than using the full 12 months.

The final regulations extend this transition relief to apply for the 2015 calendar year. Under this transition relief, an employer may determine its status as an ALE by reference to a period of at least six consecutive calendar months, as chosen by the employer, during the 2014 calendar year (rather than the entire 2014 calendar year).

The final regulations also include a one-year delay for medium-sized employers that satisfy certain eligibility conditions. In 2015, the ACA's employer shared responsibility provisions will generally apply to larger firms with 100 or more full-time employees. Employers with 50-99 full-time employees will have to comply starting in 2016.

Under the extended transition rule for 2015, employers can determine whether they had at

least 100 full-time and FTE employees in 2014 by reference to a period of at least six consecutive months, instead of the full year.

#### **Non-calendar Year Plans**

Some employers with plan years that do not start on Jan. 1 (known as fiscal year plans) will be able to begin compliance with the employer mandate at the start of their plan years in 2015 rather than on Jan. 1, 2015. Some conditions apply to this relief, but they have been expanded to include more plan sponsors.

#### **Eligible Individuals**

The final regulations provide transition relief with respect to employees who would be eligible for coverage as of the first day of the 2015 plan year under the plan's eligibility terms in effect on Feb. 9, 2014.

If these employees are offered affordable, minimum value coverage no later than the first day of the 2015 plan year, the large employer will not be liable for a penalty with respect to these employees for the months in 2015 before the plan year begins. This relief gives employers with fiscal year plans additional time to make sure their plan's coverage is affordable and provides minimum value.

#### **Other Employees**

The final regulations also provide transition relief for employers with a significant percentage of employees eligible for or covered under a non-calendar year plan as of Dec. 27, 2012. For purposes of this relief, non-calendar year plans that have the same plan year are combined. This relief gives employers with non-calendar year plans additional time to expand their plans' eligibility rules.

To qualify for this relief:

- The non-calendar year plan(s) covered at least one-quarter of the large employer's employees as of any date in the 12 months ending on Feb. 9, 2014; or
- At least one-third of the large employer's employees were offered coverage under

the non-calendar year plan(s) during the most recent open enrollment period before Feb. 9, 2014.

The final regulations also extend this transition relief to employers that have a significant percentage of **full-time employees** eligible for or covered under a non-calendar year plan (or plans) as of Dec. 27, 2012, if:

- The non-calendar year plan(s) covered at least one-third of the large employer's full-time employees as of any date in the 12 months ending on Feb. 9, 2014; or
- At least one-half of the large employer's full-time employees were offered coverage under the non-calendar year plan or plans during the most recent open enrollment period before Feb. 9, 2014.

If either of these transition policies apply, the employer will not be liable for a penalty for months in 2015 before the 2015 plan year begins with respect to employees who are offered affordable, minimum value coverage no later than the first day of the 2015 plan year and who would not have been eligible for coverage under any calendar year group health plan maintained by the employer as of Feb. 9, 2014.

#### **Dependent Coverage**

In order to avoid a potential employer shared responsibility penalty under the ACA, an ALE must offer coverage to its full-time employees and the full-time employees' dependents.

To provide employers sufficient time to expand their health plans to add dependent coverage, the proposed regulations provided that any employer that takes steps during its 2014 plan year toward satisfying the dependent coverage requirement will not be liable for any employer shared responsibility penalty solely on account of a failure to offer coverage to the dependents for that plan year.

Under the final regulations, this relief is extended to plan years that begin in 2015. It



applies to employers for the 2015 plan year with respect to plans under which:

- Dependent coverage is not offered;
- Dependent coverage is offered, but the coverage does not constitute minimum essential coverage; or
- Dependent coverage is offered for some, but not all, dependents.

The relief is not available to the extent that the employer offered dependent coverage during either the 2013 or 2014 plan year. This means that the relief is not available if the employer had offered dependent coverage during either of those plan years and later dropped that offer of coverage.

If coverage was offered to some, but not all, dependents during the 2013 or 2014 plan year, the relief as extended applies only with respect to dependents who were not offered coverage at any time during the 2013 or 2014 plan year.

In addition, the relief is available only if the employer takes steps during the 2014 or 2015 plan year (or both) to extend coverage under the plan to dependents not offered coverage during the 2013 or 2014 plan year (or both).

#### **Measurement and Stability Periods**

Under the ACA, the term “full-time employee” means, with respect to any month, an employee who is employed on average at least 30 hours of service per week with an employer. The proposed regulations included transition relief for purposes of determining full-time employee status in 2014.

The final regulations extend this transition relief to apply, on a one-time basis in 2014 preparing for 2015, for employers using the look-back measurement method to determine full-time status. Thus, for purposes of stability periods beginning in 2015, employers may adopt a transition measurement period that:

- Is shorter than 12 consecutive months, but not less than six consecutive months; 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 Jan. 1, 2015 (90 days being the maximum permissible administrative period).

This transition guidance applies to a stability period beginning in 2015 through the end of that stability period (including any portion of the stability period falling in 2016), and applies to individuals who are employees as of the first day of the transition measurement period. For employees hired during or after the transition measurement period, the general rules for new employees under the look-back measurement method apply.

#### **New Pay or Play Transition Relief for 2015**

The final regulations include a number of new transition rules in 2015.

The first new transition provision applies for employers that offer coverage to most, but not all, full-time employees in 2015. To avoid a payment for failing to offer health coverage in 2015, ALEs will need to offer coverage to 70 percent of their full-time employees.

Under the second new transition provision, employers who are new ALEs will not be subject to penalties for January through March of their first year of applicability, as long as they offer employee coverage that provides minimum value on or before April 1.

Finally, the final regulations provide that if an applicable large employer offers coverage to a full-time employee no later than the first day of the first payroll period that begins in January 2015, the employee will be treated as having been offered coverage for January 2015.

#### **More Information on Large Employer Status**

For more information on the employer shared responsibility regulations, see the most recent [IRS Questions and Answers](#).

*Source: U.S. Treasury Department*

