Affordable Care Act

Alabama Association of School Business Officials

September 16, 2014

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- **Employer Notice of State Insurance Exchanges and Premium Tax Credits**

  - New hires must receive the notice at the time of hire regardless of full time, part time, temporary or PEEHIP-insured status.

  - A uniform sample Notice and the accompanying Cover Sheet was provided by the State Department of Education to the school systems.

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➢Employer Shared Responsibility Penalties :

1. **4980H(a) Penalty**
   - Applies to large employers who fail to offer minimum essential coverage (MEC) to its **full time employees*** and their dependents.

   - Penalty calculated using the total number of full time employees employed during the year (minus 80) multiplied by $2,000. *30*

     ❖**To avoid this penalty, an employer must offer MEC to at least 70% of its full time employees* (and their dependents).** *95%*

       - **PEEHIP offers MEC which meets the MV rule.**

***ACA full time – employee averages 30 or more service hours a week or 130 per month, but some may not be eligible for PEEHIP.**

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- **Employer Shared Responsibility Penalties :**

2. **4980H(b) Penalty**

- Penalty calculated as the number of full time employees* who enroll in Exchange coverage and receive a premium tax credit multiplied by $3,000 (indexed annually).

***ACA full time – employee averages 30 or more service hours a week or 130 hours per month.**

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- **Employer Shared Responsibility Penalties :**

2. **4980H(b) Penalty**

This penalty (initially $3000) will be unavoidable in certain situations:

- **For <u>each</u> full time employee* not eligible for PEEHIP who qualifies and obtains subsidized exchange coverage.**

- **For <u>each</u> full time employee* <u>eligible</u> for PEEHIP who qualifies and obtains subsidized exchange coverage (this may be a rare occurrence because of PEEHIP's premium discounts).**

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- **Employer Shared Responsibility Penalties :**

  - **How can employers avoid the "A Penalty"?**
    - Make sure your **full time employees*** not eligible for PEEHIP coverage represent **less than 30%** of your total **full time employees***.
  - **How can you determine the %?**
    - Use the equation:

full time employees* not eligible for PEEHIP

#**full time employees** * (eligible and not eligible for PEEHIP)

This penalty is avoidable but employers MUST take appropriate steps NOW to ensure that at least 70% of full time employees* are offered PEEHIP. coverage.

Some employees eligible for PEEHIP coverage (such as bus drivers) may not meet the ACA definition of **full time employee**.

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➢ **Employer Shared Responsibility Penalties :**

PEEHIP will not be changing its eligibility policies. Full time employees and permanent part time employees are eligible for coverage with PEEHIP.

- **Full time Employees:** A full-time employee is any person employed on a full time basis in any public institution of education within the state of Alabama. These institutions must provide instruction for any combination of grades K through 14 exclusively, under the auspices of the State Board of Education.

- **Permanent Part Time Employees:** An eligible permanent part time employee is not a substitute or a transient employee. A permanent part time employee is eligible for PEEHIP if he or she agrees to payroll deduction for a pro rata portion of the premium cost for a full time employee. The portion is based on the percentage of time the permanent part time worker is employed.

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- **Employer Shared Responsibility Penalties :**

Under current PEEHIP policy, the following employees are not eligible to participate in PEEHIP:

- A seasonal, transient, intermittent or adjunct employee who is hired on an occasional or as needed basis.
- An adjunct instructor who is hired on a quarter-to-quarter or semester-to-semester basis and/or only teaches when a given class is in demand.
- Board attorneys and local school board members if they are not permanent employees of the institution.
- Contracted employees who may be on the payroll but are not actively employed by the school system.
- Extended day workers hired on an hourly or as needed basis.

Test of Full Time Employees for Compliance with Penalty Provisions of the Affordable Care Act

Results of Monthly Monitoring for the ACA Compliance

Test for the Two Month Period January and February, 2014

The formula for this test:

non-PEEHIP employees working 30 or more (average) hours a week A

Full-time with PEEHIP B minus bus drivers/aides C plus non-PEEHIP working 30 or more (average) hours a week A

A

B minus C plus A equals _______ %

A Step 1: Enter the number of **non-PEEHIP employees** working an average of 30 or more hours per week for the 2 months.

B Step 2: Enter the number of full time employees covered (or offered) PEEHIP coverage.

C Step 3: Enter the number of employees from Step 2 that do not work 30 or more hours per week. (bus drivers, etc.)

The test for the two month period of January and February, 2014 reveals that the percentage of full time employees (as defined by the Affordable Care Act) that are not eligible for PEEHIP coverage

is _______ %.

Begin Date: January 5, 2014

End Date: March 1, 2014

Payroll Officer:

CSFO:

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- **How will an employer know that it owes an Employer Shared Responsibility payment?**

    - IRS will send certification that one or more employees have received a premium tax credit.
    - IRS will inform them of potential liability.
    - IRS will provide an opportunity to respond before penalty is assessed.
    - IRS notification will occur after the filing due date for individual tax return and after the employer due date for filing that identifies full-time employees and coverage offered (if any).

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IRS Section 6056 Reporting*

- FORMS
  - Form 1094-C
    - Transmittal of Employer Level Data
  - Form 1095-C
    - Employee Statement
  - Due Dates
    - Furnished to Employee by January 31
    - Filed with the IRS by February 28 or March 31 (if filed electronically)

***For the entire 2015 calendar year.**

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- Are bus drivers and aides that are full-time for PEEHIP coverage but work less than 30 hours per week treated as a **full time employee** for the calculation of the ACA penalty?
  - **No.**
- Are substitutes that are retirees with PEEHIP coverage treated by ACA regulations as employees with PEEHIP coverage?
  - **No.** Retired employees are not entered in the Employer Portal and are not offered coverage as an active employee. Doing so would suspend their retirement benefits.

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- Look-back Measurement Period: A period of time to determine if an employee is full-time (paid for service that <u>averages</u> 30 hours or more per week or 130 hours per month.) *i.e., calendar year.* For an **ongoing employee** this is the Standard Measurement Period and for a **new employee** this is the Initial Measurement Period.
- **Alabama school boards should use a calendar year as the Standard Measurement Period for ongoing employees and a 12 month period for new employees.**
- **Ongoing Employee**: An employee who has been employed for at least one complete standard measurement period.
- **New Employees**: An employee who has been employed for less than one complete standard measurement period.

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- **Stability period**: The period of time following the measurement period during which the employer must treat an employee as full-time if the employee was determined to be full-time during the measurement period. Even if the employee is working less than full-time during the stability period, the employee is treated as working full-time until the end of the stability period, if still employed.
- If an ongoing employee (start date before January 2, 2014 for this first standard measurement period) averages 30 hours or more per week from January 1, 2014 through December 31, 2014 and is still employed in 2015, then the employee is treated as a full-time employee for the entire 2015 calendar year. If the employee averages **less** than 30 hours per week in 2015, the employee is treated as **not** full time for the entire 2016 calendar year, if still employed.

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- If a **new** employee with a start date after January 1, 2014 for this first standard measurement period, averages 30 hours or more per week from January 1, 2014 through December 31, 2014 and is still employed in 2015, then the employee is **not** treated as a full-time employee for the 2015 calendar year. At least not until the new employee's 12 month employment anniversary ends, because:

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if the **<u>new</u>** employee averages 30 hours or more per week during the 12 month initial measurement period after the employee's start date (or the first day of the first month after the start date), then the employee is treated as a full-time employee for the following 12 months. (Even if the new employee does not average 30 hours or more per week during that stability period.) After the end of the 12 months following the initial measurement period for the **<u>new</u>** employee ends, then the employee is treated as an ongoing employee and the average weekly hours are measured on the calendar year standard measurement period.

- Employee begins August 12, 2014:

  Initial Measurement Period - September 1, 2014 to August 31, 2015.

  Standard Measurement Period – January 1, 2015 to December 31, 2015.

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- Employee begins August 12, 2014:

Initial Measurement Period - September 1, 2014 to August 31, 2015.

If full time during this measurement period then treated as full time until August 31, 2016. If not full time during this Initial Measurement Period then look at the hours worked during the

Standard Measurement Period – January 1, 2015 to December 31, 2015.

So the new employee's hours are measured on both measurement periods.

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- Since an *employment break period* for educational employees is a period of at least four consecutive weeks (summer break for substitutes), we can include the weeks of the other break periods in calculating the average weekly hours. We only have to exclude the weeks of summer break in calculating the average working hours for substitutes during the measurement period.

- If an employee is not paid (such as termination, resignation or unpaid leave) for at least **26 consecutive weeks** (excluding summer break) when the employee returns to work the employee is treated as a new employee.

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Questions?