Understanding The Affordable Care Act Employer Responsibility Mandate

National Resource Center for
Participant-Directed Services
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Welcome!

- Joint webinar with FMS Members and Program Members
- Over the phone, please press */# to mute/unmute your line
- Following the webinar, you will receive a recording and a written Q&A summary
- Announcement: 2013 National Inventory of Participant-Directed Programs

Presenter Introductions

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The Affordable Care Act Employer Responsibility Mandate

- Promulgated as part of the Patient Protection and Affordable Care Act.
- Requires employers with 50 or more full-time equivalent employees to offer affordable health care coverage to their full-time employees and their dependents, or pay a penalty.
- What is a full-time equivalent employee?
  - The monthly hours of all part time employees are added and divided by 120 to obtain the number of full-time equivalent employees.

Who is the employer?

- The IRS will use common law rules
- The 50 employee threshold means the mandate:
  - Will likely apply in an Agency with Choice scenario.
  - May apply in programs that use a Public Authority to provide services.
  - Probably will not apply in a Fiscal/Employer Agent scenario, so long as the participant is considered the employer (because a single participant would not have 50 employees).

Related entities and anti-abuse rules

- Entities that are part of the same control group or affiliated service group are aggregated for the 50-employee test.
  - However, penalties are calculated separately for each entity.
- Anti-abuse rules:
  - Can't split an employee's hours between different agencies to keep the worker part-time for the purpose of avoiding the rules.
  - IRS may scrutinize arrangements where an employee provides services to the same participant through different agencies.

Who must be offered coverage?

Only full-time employees

- Full-time means 30 or more hours per week (130 per month equivalent may be used).
- Part-time employees do not have to be offered coverage.

And their dependents

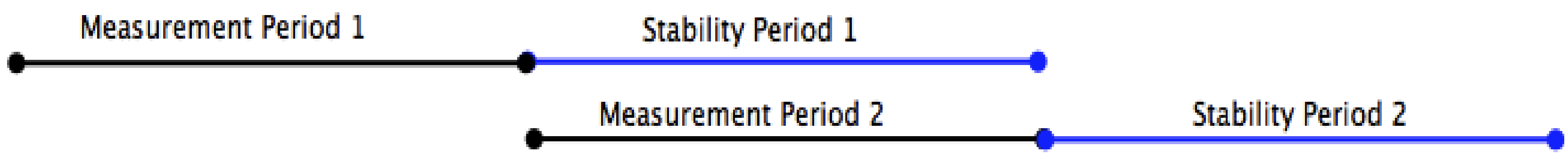
- Includes children under 26.
- Does not include spouses.

90-day waiting period allowed for new employees.

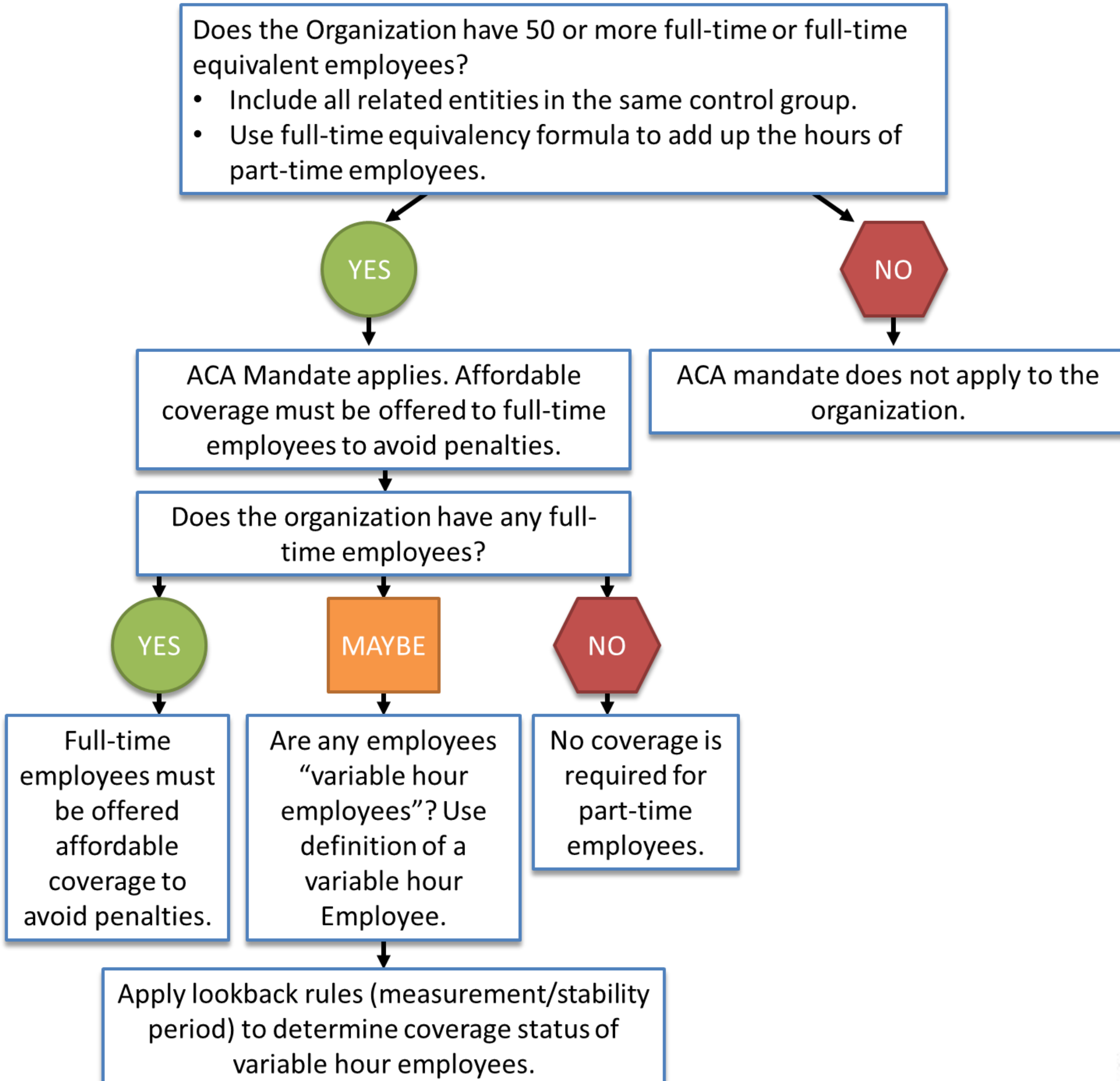
What about employees whose hours vary from month to month?

- Safe-harbor method for determining the full-time status of variable hour employees:
  - Measure an employee's hours during a period of up to 1 year.
  - Full-time status during the next year determined based on the previous year's hours.

How the safe-harbor method works



- Measurement and stability periods overlap.
  - A worker who stays full-time will be continuously covered after the first measurement period.
- Optional administrative period.



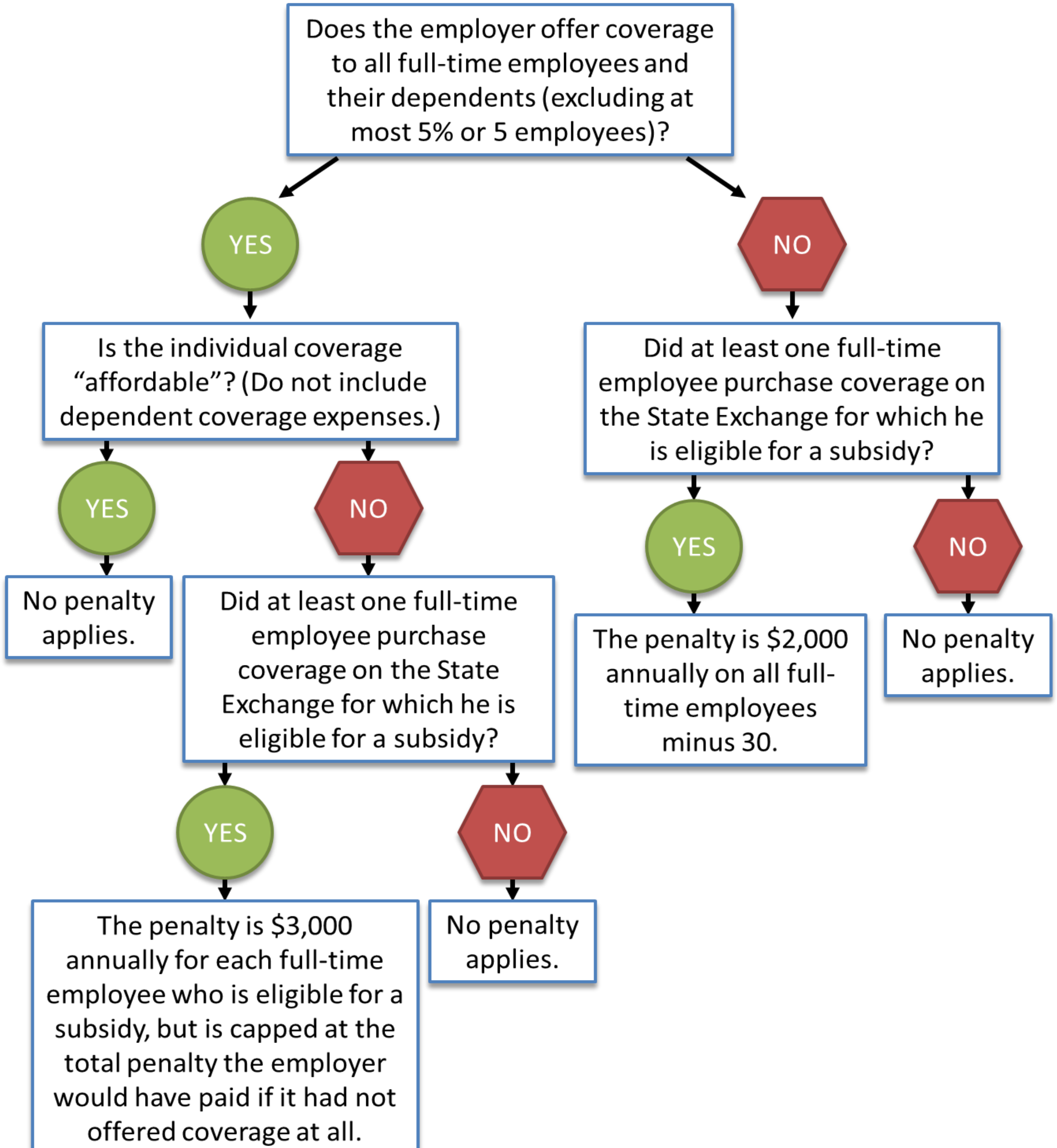
Does the Organization have 50 or more full-time or full-time equivalent employees?
• Include all related entities in the same control group.
• Use full-time equivalency formula to add up the hours of part-time employees.
YES
NO
ACA Mandate applies. Affordable coverage must be offered to full-time employees to avoid penalties.
ACA mandate does not apply to the organization.
Does the organization have any full-time employees?
YES
MAYBE
NO
Full-time employees must be offered affordable coverage to avoid penalties.
Are any employees "variable hour employees"? Use definition of a variable hour Employee.
No coverage is required for part-time employees.
Apply lookback rules (measurement/stability period) to determine coverage status of variable hour employees.

Affordability requirement

- Coverage must be affordable, meaning:
  - the employee's share of the premium for self-only coverage cannot exceed 9.5 percent of the employee's household income, <u>or</u>
  - safe harbor: coverage is deemed affordable if the cost to the employee does not exceed 9.5% of wages from Box 1 of Form W-2, *Wage and Tax Statement*.

Penalties

- If coverage is not offered to all full-time employees:
  - $2,000 per year per employee for all full-time employees, excluding 30 employees.
  - No penalty if only up to 5 or 5% of employees are not offered coverage (to account for administrative errors).
- If coverage is offered but is not affordable:
  - $3,000 per year, but only for those employees for whom coverage is unaffordable.
  - Cannot exceed the total penalty that would have been imposed if no coverage was offered.



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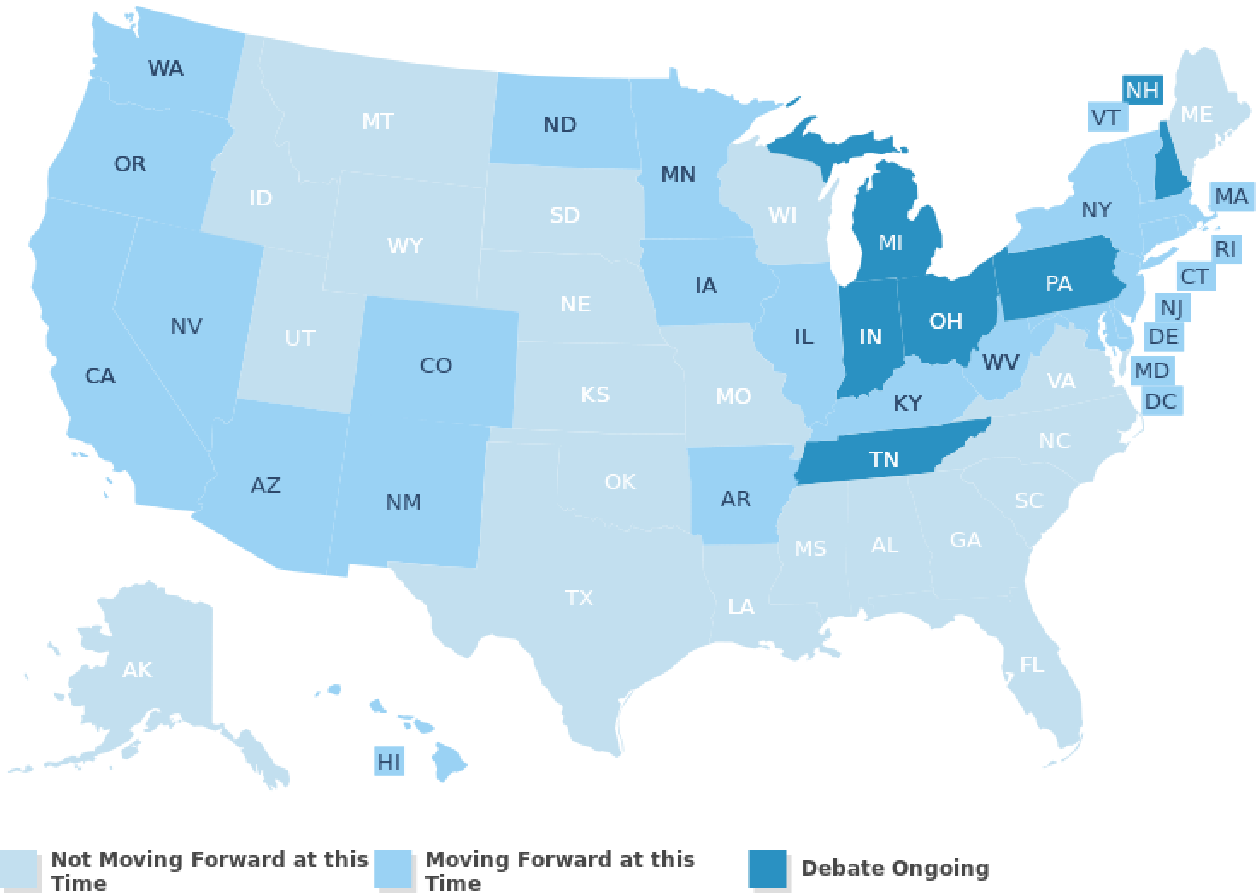
Impact of the Medicaid expansion

- What is the Medicaid expansion?
  - All adults with income <138% of FPL eligible for Medicaid (in participating states).
    - Expanded coverage for single adults.
    - Income threshold raised, increasing the number of eligible persons.
  - No asset test required for eligibility.
- States have the option to adopt or reject the expansion.

Which states will adopt the expansion?



- Source: The Kaiser Family Foundation.
- Current as of July 1, 2013.

Implications for employers

- Employers must nevertheless offer coverage to all full-time employees, unless <u>all</u> employees qualify for Medicaid.
  - Even <u>one</u> non-qualifying employee can trigger the $2,000 per employee penalty for <u>all</u> employees.
- So when does Medicaid reduce penalties?
  - Penalty for unaffordable coverage ($3,000/employee) does not apply with respect to an employee if:
    - The employer offers coverage,
    - The coverage is unaffordable for the employee, and
    - The employee is eligible for Medicaid.

When does the mandate go into effect?

- Employer mandate delayed until 2015.
- No penalties will apply for 2014.
- Delay was announced on the Treasury Blog two weeks ago.
- Official rules to be released shortly. We will keep members updated.

Further research at NRCPDS

- Gathering and analyzing employee data from existing programs.
- Determining the percentage of workers who would typically be eligible for Medicaid expansion.
- Calculating potential penalties under various scenarios.
- Comparing penalty cost with the cost of providing insurance.

Questions/Comments?

Ask your questions or share your comments now via phone or using the Q&A box on your screen