

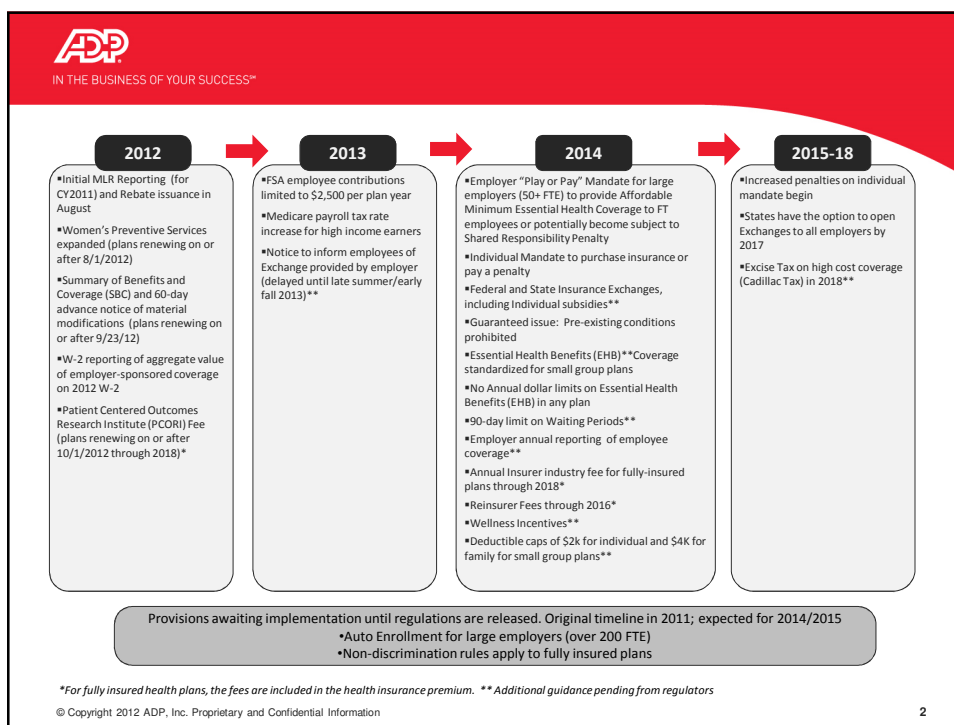
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ADP RESOURCE®
Health Care Reform

**Overview of the Affordable Care Act (ACA)
How ADP Resource Can Help**

February 2013

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2012	2013	2014	2015-18
<ul style="list-style-type: none"> Initial MLR Reporting (for CY2011) and Rebate issuance in August Women's Preventive Services expanded (plans renewing on or after 8/1/2012) Summary of Benefits and Coverage (SBC) and 60-day advance notice of material modifications (plans renewing on or after 9/23/12) W-2 reporting of aggregate value of employer-sponsored coverage on 2012 W-2 Patient Centered Outcomes Research Institute (PCORI) Fee (plans renewing on or after 10/1/2012 through 2018)* 	<ul style="list-style-type: none"> FSA employee contributions limited to \$2,500 per plan year Medicare payroll tax rate increase for high income earners Notice to inform employees of Exchange provided by employer (delayed until late summer/early fall 2013)** 	<ul style="list-style-type: none"> Employer "Play or Pay" Mandate for large employers (50+ FTE) to provide Affordable Minimum Essential Health Coverage to FT employees or potentially become subject to Shared Responsibility Penalty Individual Mandate to purchase insurance or pay a penalty Federal and State Insurance Exchanges, including Individual subsidies** Guaranteed issue: Pre-existing conditions prohibited Essential Health Benefits (EHB)** Coverage standardized for small group plans No Annual dollar limits on Essential Health Benefits (EHB) in any plan 90-day limit on Waiting Periods** Employer annual reporting of employee coverage** Annual Insurer industry fee for fully-insured plans through 2018* Reinsurer Fees through 2016* Wellness Incentives** Deductible caps of \$2k for individual and \$4K for family for small group plans** 	<ul style="list-style-type: none"> Increased penalties on individual mandate begin States have the option to open Exchanges to all employers by 2017 Excise Tax on high cost coverage (Cadillac Tax) in 2018**


Provisions awaiting implementation until regulations are released. Original timeline in 2011; expected for 2014/2015

- Auto Enrollment for large employers (over 200 FTE)
- Non-discrimination rules apply to fully insured plans

*For fully insured health plans, the fees are included in the health insurance premium. ** Additional guidance pending from regulators

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Key ACA Provisions 2012-2013

Clients are impacted by ACA differently depending on their size and whether they offer health benefits to their employees.

- Medical Loss Ratio Rebate
- Form W-2 Reporting value of employer provided coverage
- Summary of Benefits & Coverage (SBC)
- Medicare Tax on Higher Income Earners
- Health FSA \$2,500 Limit
- Employer Notification to Employees on Health Insurance Exchanges

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ACA 2014 Provisions



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The Individual Mandate

- The SCOTUS ruled that the Individual Mandate is constitutional within the Taxing and Spending powers
- Beginning January 1, 2014, individuals are required to maintain “minimum essential coverage”
 - Employer-sponsored health insurance (ESHI)
 - Government programs (Medicaid, Medicare, CHIPRA)
 - State or Federal Exchange
- **Who is exempt from Individual Mandate?**
 - Regulation limits who would qualify for exemption, such as certain religious affiliations, Native American tribes, undocumented immigrants and incarcerated individuals

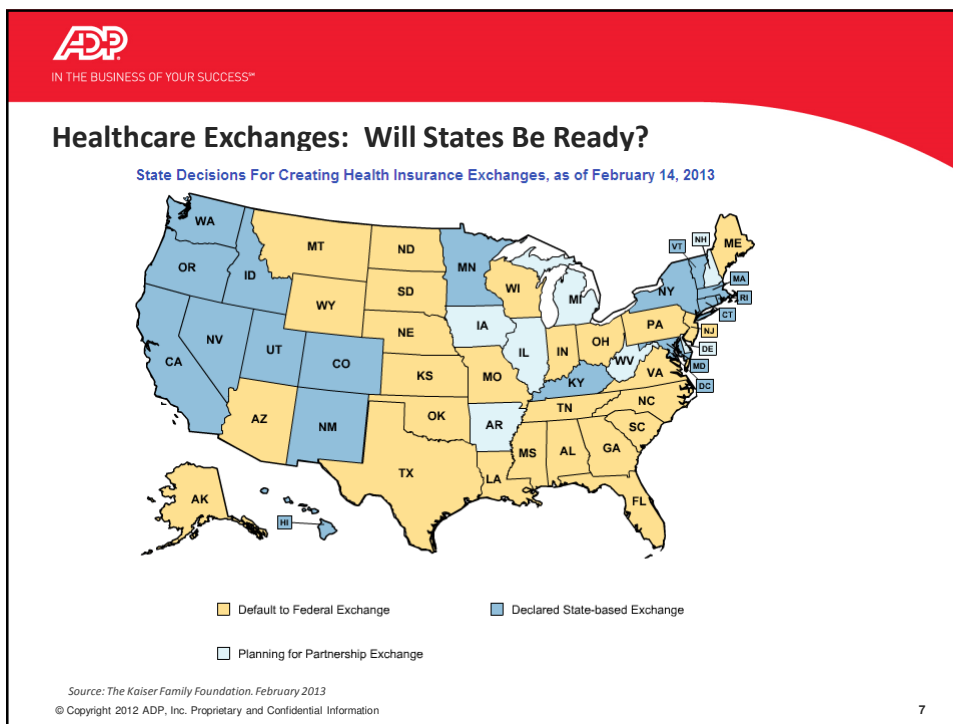
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Insurance Exchanges

- States have the option of establishing The American Health Benefit Exchange.
 - Health and Human Services (HHS) deadline to the states to submit their Exchange blueprint was December 14th.
 - If a State opts not to establish Exchange, individuals from that state would have access to the federal Exchange
- Exchanges are required to offer four levels of coverage
 - Each level of coverage is referenced by its **Actuarial Value (AV)** of the coverage. The AV is calculated as the percentage of total average cost that a plan will cover.
 - The AV of coverage is identified by “Metal” levels
 - Bronze (60% AV) – this is **minimum essential coverage** requirement
 - Silver (70% AV), Gold (80% AV) and Platinum (90% AV)
 - Catastrophic coverage may be available through Exchanges for qualifying individuals (the “young invincibles” under age 30 where affordable coverage is not available or due to hardship)



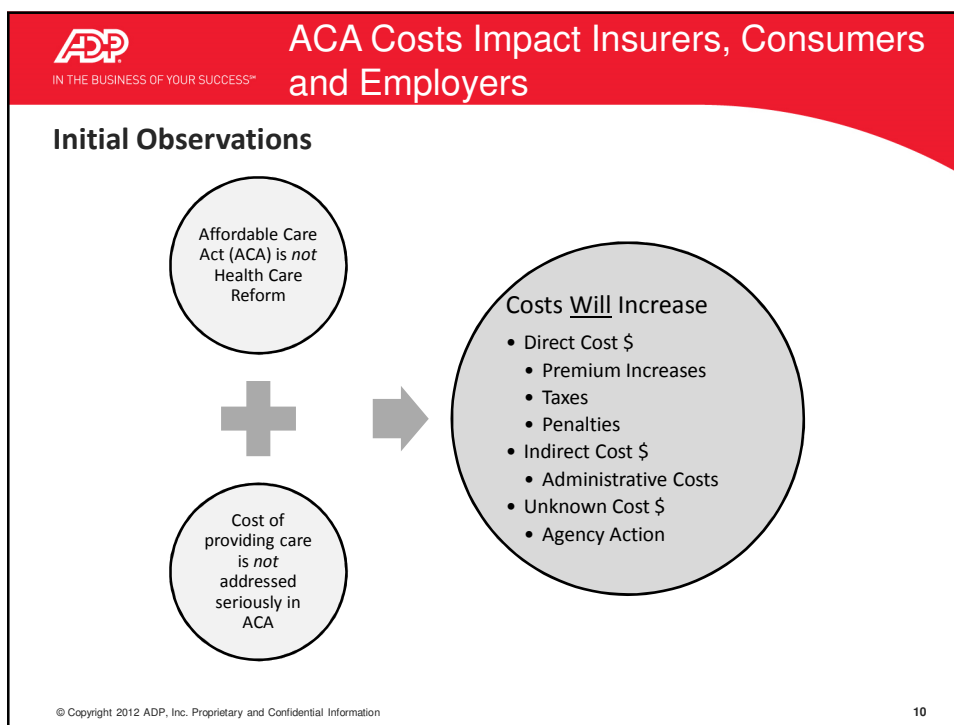
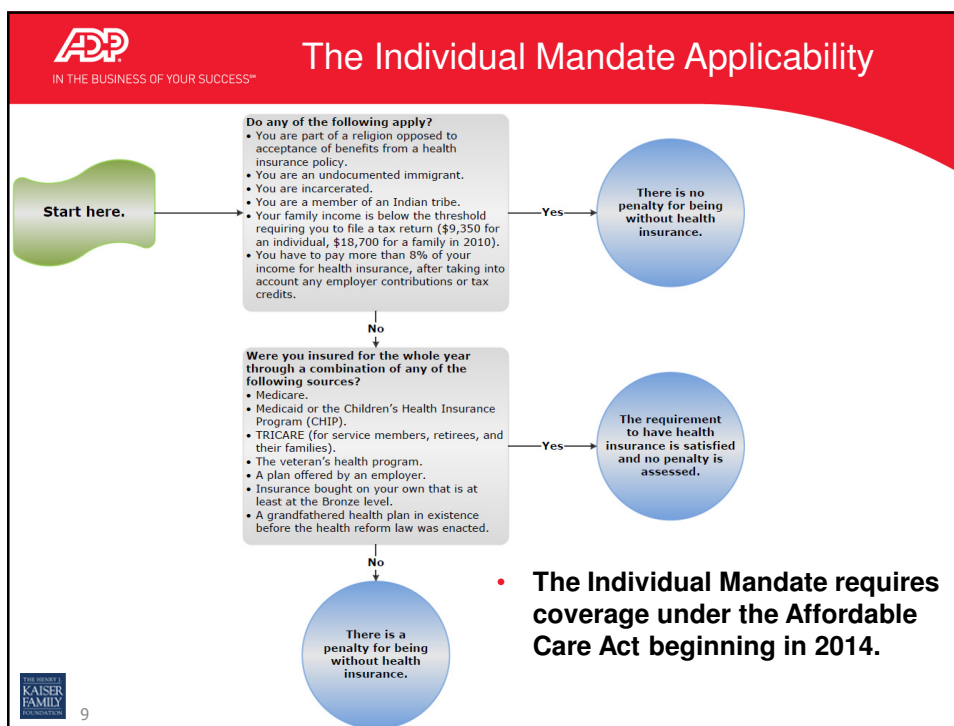
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Individual Mandate Penalties

Beginning in 2014, the Individual Mandate applies a penalty to those individuals required to be insured. The applicable penalty is the greater of the one represented.

Year	Penalty
2014	<ul style="list-style-type: none"> • \$95 per adult, per year • \$285 per family, per year • Or, 1% of Individual's HHI*
2015	<ul style="list-style-type: none"> • \$325 per adult, per year • \$975 per family, per year • Or, 2% of Individual's HHI*
2016	<ul style="list-style-type: none"> • \$695 per adult, per year • \$2,085 per family, per year • Or, 2.5% of Individual's HHI*

* Based on HHI that exceeds the applicable filing threshold for the applicable tax year. The applicable filing threshold is inclusive of personal exemptions and standard deductions.



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ACA Impacts Insurer Premium Taxes & Fees by ~4%

Provision	Description	Effective Date	Fee	Who's Impacted?
<ul style="list-style-type: none"> PCORI Fee (Patient-Centered Outcomes Research Institute Fee) 	<ul style="list-style-type: none"> Will be used to help fund clinical outcomes effectiveness research 	<ul style="list-style-type: none"> 10/1/2012 (Temporary, through 2018) 	<ul style="list-style-type: none"> \$1 PMPY in Year 1 \$2 PMPY in Year 2 	<ul style="list-style-type: none"> Fully Insured and Self Funded; Group / Individual segments
<ul style="list-style-type: none"> Health Insurer Fee (Federal guidance pending) 	<ul style="list-style-type: none"> Charged to all insurers, based on market share, to fund health insurance exchange subsidies 	<ul style="list-style-type: none"> 1/1/2014 (Permanent Fee) 	<ul style="list-style-type: none"> Industry fee of \$88 in 2014, increasing to \$14.3B in 2018, and each year thereafter at the rate of premium growth. 	<ul style="list-style-type: none"> Fully Insured; Group / Individual segments
<ul style="list-style-type: none"> Reinsurance Fee (federal and state notices of payment rules pending) 	<ul style="list-style-type: none"> Transitional fees to stabilize individual market (e.g. high-risk pool) 	<ul style="list-style-type: none"> 1/1/2014 (Temporary, through 2016) 	<ul style="list-style-type: none"> Industry target of \$25B through 2016. 	<ul style="list-style-type: none"> Fully Insured and Self Funded; Group segment
<ul style="list-style-type: none"> Excise Tax on High Value Plan (Cadillac Tax - federal guidance pending) 	<ul style="list-style-type: none"> Imposes and excise tax on insurers and employers who offer rich benefit coverage 	<ul style="list-style-type: none"> 1/1/2018 (Permanent Tax) 	<ul style="list-style-type: none"> Plans that cost more than \$10,200 (single) or \$27,500 (family) are subject to a 40% excise tax on the amount above the limits, indexed by cost of living in subsequent years 	<ul style="list-style-type: none"> Fully Insured and Self Funded; Group segment

Premiums expected to increase 2-3% going forward just on Health Insurer Fee alone, reported by NFIB.

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ACA Employer Mandate Provision

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Employer “Play or Pay” Mandate

- In 2014, the play-or-pay mandate requires employers of 50 full time employees or more (including full time equivalents) to offer quality, affordable health insurance coverage to substantially all of its full time employees (those working on average at least 30 hours per week) and their families or potentially be subject to a penalty

Failure to offer such affordable coverage potentially subjects the employer to taxes for a given month—if: = Full time employee + Receives a subsidy in + A State exchange

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Employer Play or Pay Mandate - Key Terms

Large Employer	<ul style="list-style-type: none"> An employer that has 50 or more full-time employees (including Full-Time Equivalents) during the preceding calendar year.
Full-Time Employee	<ul style="list-style-type: none"> Full-time employee is one who averages at least 30 hours a week or 130 hours in a calendar month. A Full-Time Equivalent (FTE) is derived from all part-time and seasonal employees that work less than 30 hours/wk or 130 hours/month
Minimum Value	<ul style="list-style-type: none"> Employers must provide a health plan with at least a 60% Minimum Value. This is the health plan's Actuarial Value, meaning that it pays at least 60% of the total cost that the plan would cover. Example: the "Bronze" metal
Affordable Coverage	<ul style="list-style-type: none"> Employer-sponsored health coverage is considered "affordable" when employee's contribution for health coverage is not more than 9.5% of their annual household income Employer Safe Harbor provision outlines three options

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Determining Employee Full-Time Status

- IRS Proposed Regulations provide guidance on how to calculate hours to determine the number of full-time equivalent (FTE) employees
- Hours of service include both paid hours of work and non-work hours (vacation, holiday, sick leave, etc.)
- For salaried (non-hourly) employees, hours of service may be calculated as:
 - Actual hours worked
 - “Days-worked” equivalency of 8 hours for each day that employee would be credited with at least 1 hour
 - “Weeks-worked” equivalency of 40 hours for each week that employee would be credited with at least 1 hour
- Hourly employees should be calculated based upon actual hours worked
- Proposed Regulation of 1/2/2013 includes special provisions to address determination of average number of EEs for the year, including that if an employer does not track hours for a part time salaried employee they would be counted as one FTE; also, a partner in a partnership (or member in an LLC taxed as a partnership), a sole proprietor, and a 2% or more s-corp shareholder are not treated as “employee” (pending further clarification on SEI interpretation)

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Calculation to Determining Large Employer Status

- Only applicable large employers are subject to shared responsibility penalty
- Employers must count both full-time and full-time equivalent (FTE) employees to determine status
- An employer with a final average of **50 or more FTEs** is an “applicable large employer”
- Calculation is based on information from previous calendar year

FT Employees:
30+ hrs/wk OR
130 hrs/month

+

FTEs:
All non-FT hours (up to
120 per employee) for
month divided by 120

=

Monthly
FT

Jan

Feb

Mar

Apr

May

Jun

Jul

Aug

Sep

Oct

Nov

Dec

÷12=

AVG
of FT
Employees

The IRS Proposed Regulations issued in January 2013 include a “transitional rule” which permits employers to utilize a look back period in 2013 of 6 consecutive months instead of the full calendar year to determine if they are an “applicable large employer” for 2014



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Exception For Certain Seasonal Employees

- **General Rule:** Seasonal employees are included in the calculation to determine whether an employer is an “applicable large employer”
- **Definition of Seasonal Employee:** A “seasonal worker” is a worker who performs labor or services on a seasonal basis. This includes:
 - a worker whose employment is generally performed at *certain seasons or during certain periods of the year*, which employment, by its nature, may not be continuous or carried on throughout the year; and
 - retail workers employed exclusively during holiday seasons.
- **Limited Exception:** An employer is permitted to exclude seasonal employees from the calculation if:
 - the employer’s monthly FTE calculation exceeds 50 for 120 days or fewer during the calendar year; **and**
 - the employees in excess of 50 during that period of no more than 120 days were seasonal employees.



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Employer Pay or Pay Mandate: Control Group Defined

- All counting done on a “controlled group” basis
- EIN is irrelevant
- Controlled group exists if the businesses have one of the following relationships:
 - Parent-subsiidiary
 - “Normal” rule is 80% ownership
 - Brother-sister
 - Same five or fewer owners own collectively or individually 80% or more with effective control of 50% or more
 - Combination of the above
- Also, “affiliated service groups”

Control Group Definition is complex—Clients should consult with their counsel or tax advisor

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Employer Penalty Applies If ...

Any Full-Time Employee of a Large Employer Receives Subsidized Coverage through Exchange

Employer Does Not Offer Coverage or Does Not Offer to Substantially All (95% rule) of its FT Employees*

•Annual penalty of \$2,000 multiplied by all full-time employees (minus first 30 full-time employees)

Employer Coverage Is Not Affordable**

•Annual penalty is the *lesser of* \$2,000 multiplied by all full-time employees (minus first 30), **or** \$3,000 for each full time employee who receives a subsidy through an Exchange

**New! Jan 2 proposed regulations include a new 95% Rule for purposes of determining applicable penalty.*

** Employer provides affordable coverage when the premium for the single coverage under the employer's lowest cost Minimum Value plan does not exceed 9.5% of household income (however, employer will not be penalized if an Affordability Safe Harbor is met)

Any assessable penalty payment to an employer is not tax deductible.

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Affordability Safe Harbors

The IRS Proposed Regulations issued in January, 2013 contain three affordability safe harbor alternatives for determining whether coverage offered is “affordable” for purposes of the Shared Responsibility provisions:

- **Form W-2 safe harbor.** Coverage will be considered affordable if the employee’s contribution for the calendar year for the employer’s lowest cost self-only coverage offered does not exceed 9.5% of the employee’s Form W-2 wages for the calendar year. Application of this safe harbor is determined after the end of the calendar year. To qualify for this safe harbor, the employee’s required contribution must remain a consistent amount or percentage of his or her wages during the calendar year (or, for fiscal year plans, within the portion of each plan year during the calendar year).
- **Rate of pay safe harbor.** Coverage will be considered affordable if the employee’s required monthly contribution for the employer’s lowest cost self-only coverage offered does not exceed 9.5% of: (1) for salaried employees, the employee’s monthly salary; or, (2) for hourly employees, an amount equal to 130 hours multiplied by the employee’s hourly rate of pay as of the first day of the plan year. An employer may not use this safe harbor if it has reduced the wages of its employees during the year.
- **Federal poverty line safe harbor.** Coverage will be considered affordable if the employee’s required monthly premium for the employer’s lowest cost self-only coverage offered does not exceed 9.5% of 1/12th of that year’s Federal poverty line for a single individual in the state in which the individual is employed.

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90 Day Waiting Period Requirement

Applies to any Employer offering Health Coverage

- Effective first day of plan year on or after January 1, 2014
- Guidance Released August 31, 2012 is effective through 2014
- 90 days means 90 days within the first day they are eligible
- If employees can elect within 90 days but fail to elect within 90 days it is not a violation
- Employer may use a reasonable period to determine eligibility if (a) period is not designed to avoid the 90 day period, (b) individual becomes eligible within 90 days of being assessed eligible or, if earlier, within 13 months of start date (plus the days to the first day of the next calendar month if the employee's start date is the middle of the month)

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Safe Harbor for Variable Employees

- **A Variable Employee:** On start date, it cannot be determined whether employee is expected to work on average at least 30 hours per week
- **Initial Measurement Period:** Between 3 and 12 months
 - Assess average during Initial Measurement Period
 - Assessment is then used for **Stability Period** that is the same as for ongoing employees
- **Use of Administrative Period:** can use an “administrative period” but total can not exceed 13 months (plus the remainder of the month if anniversary falls in middle of month)
- *Transitional relief in proposed regulations for employers that decide to utilize the safe harbor method for determining the full-time status of variable employees, application of a shorter measurement period is permitted for 2014.*
 - Ex: CY Plan – Measurement Period between April through Oct. 2013 (six months), followed by an Admin Period ending December 2013.

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Additional Transitional Relief Included in 1/2/2013 Proposed Regulations:

- For employers that decide to utilize the safe harbor method for determining the full-time status of variable employees, application of a shorter measurement period is permitted for 2014.
- If an employer does not currently offer dependent coverage, it will not be liable for any failure to offer dependent coverage in 2014 if it takes steps during 2014 to offer such coverage.
- An employer that provides coverage through a fiscal year plan as of December 27, 2012 is provided with transitional relief for employees who would be eligible for coverage (under the eligibility terms in effect on December 27, 2012) as of the first day of the plan year which begins in 2014, provided that the employee is offered affordable, minimum value coverage no later than the first day of the plan year which begins in 2014.
- An employer that maintains a fiscal year cafeteria plan is permitted to modify the plan to permit an employee to prospectively revoke, change or commence salary reductions once during the 2013-2014 plan year without having experienced a change in status event.

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Health Care Reform applies mostly to employers of all sizes

Medical Loss Ratio Rebate	Form W-2 Reporting value of employer provided coverage* <small>*Required at 250+ size</small>	Summary of Benefits & Coverage (SBC) AND Health FSA \$2,500 Limit	Shared Responsibility (50+ Only)
Mandated Employer Reporting	Employer Notification to Employees on Health Insurance Exchanges	Non-Discrimination Rules	Medicare Tax on Higher Income Earners...& much more

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The ACA Litigation Minefield

- DOL, IRS and HHS audits will increase
- DOL has already begun audits of grandfathered status under the Act
- DOL efforts focus on increasing employer compliance rather than assessing penalties in early years
- Participant lawsuits may follow as participants seek to enforce benefit mandates



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Thank You for Your Participation

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