

DATE: May 21, 2015
REGARDING: PAI Compliance Alert
ATTENTION: Applicable Large Employers (ALE's)
Sponsoring Self-Funded Health Plans

For calendar year 2015, employers should have the following processes in progress:

Determination of whether they are an Applicable Large Employer (ALE) in 2015 based on employee counts from calendar year 2014;

1. ALE's must review the various measurement/look back provisions & determine which apply to their employees;
2. Track/monitor and calculate employee work-time in order to determine when/if an employee meets the criteria for an offering of coverage;
3. Prepare to report coverage, offered and effective, to the IRS and/or to individual employees for tax year 2015 (reported in 2016); and
4. Collect dependent SSN's, DOB's and names as needed for IRS reporting.

Beginning with calendar year 2015, PAI will provide individualized reporting (present reporting format is a preliminary draft and may change in the interim to better meet requirements) including:

1. Excel spreadsheet format*:
 - a. ReportingYear (YYYY);
 - b. Group (####);
 - c. EmployeeSSN (#####);
 - d. MemberCode (e,s,1,2,3, etc.);
 - e. MemberFirstName;
 - f. MemberLastName;
 - g. MemberSSN;
 - h. MemberDOB (##/##/####); and
 - i. Months of Year and coverage indicator (EX: Jan-Y, Feb-N).

Reporting will be generated as early as December 15th of 2015 and delivered via the secure FTP directory. An email notice will also be sent by email (be sure to keep your PAI Marketing Service Representative informed of any email changes).

*This data and format is a preliminary draft and is change based on reporting requirements.

SUMMARY OF REQUIREMENTS:

For 2015 and after, employers employing at least a certain number of employees (generally 50 full-time employees or a combination of full-time and part-time employees that is equivalent to 50 full-time employees) will be subject to the Employer Shared Responsibility provisions under section 4980H of the Internal Revenue Code (added to the Code by the Affordable Care Act). As defined by the statute, a full-time employee is an individual employed on average at least 30 hours of service per week. An employer that meets the 50 full-time employee threshold is referred to as an applicable large employer.

More information about these provisions is available on the IRS website. Here is a link to their published FAQ's related to these provisions:

<http://www.irs.gov/Affordable-Care-Act/Employers/Questions-and-Answers-on-Employer-Shared-Responsibility-Provisions-Under-the-Affordable-Care-Act>

Under the Employer Shared Responsibility provisions, if these employers do not offer affordable health coverage that provides a minimum level of coverage to their full-time employees (and their dependents), the employer may be subject to an Employer Shared Responsibility payment if at least one of its full-time employees receives a premium tax credit for purchasing individual coverage on one of the new Affordable Insurance Exchanges, also called a Health Insurance Marketplace (Marketplace).

The Employer Shared Responsibility provisions generally are not effective until Jan. 1, 2015, meaning that no Employer Shared Responsibility payments will be assessed for 2014. Employers will use information about the number of employees they employ and their hours of service during 2014 to determine whether they employ enough employees to be an applicable large employer for 2015.

Treasury and the IRS have issued final regulations on the Employer Shared Responsibility provisions. Treasury and the IRS also have issued proposed regulations on the related Information Reporting by Applicable Large Employers on Health Insurance Coverage Offered under Employer-Sponsored Plans.

Employers will determine each year, based on their current number of employees, whether they will be considered an applicable large employer for the next year.

For example: If an employer has at least 50 full-time employees (including full-time equivalents) for 2014, it will be considered an applicable large employer for 2015.

Employers average their number of employees across the months in the year to see whether they will be an applicable large employer for the next year. This

averaging can take account of fluctuations that many employers may experience in their work force across the year. The final regulations provide additional information about how to determine the average number of employees for a year, including information about how to take account of salaried employees who may not clock their hours.

An employer's full-time employee count matters both for the purposes of whether the Employer Shared Responsibility provisions apply to an employer and whether an Employer Shared Responsibility payment is owed by an employer (and the amount of that payment). An employer identifies its full-time employees based on each employee's hours of service.

For purposes of the Employer Shared Responsibility provisions, an employee is a full-time employee for a calendar month if he or she averages at least 30 hours of service per week.

Under the final regulations, for purposes of determining full-time employee status, 130 hours of service in a calendar month is treated as the monthly equivalent of at least 30 hours of service per week.

The final regulations provide two measurement methods for determining whether an employee has sufficient hours of service to be a full-time employee.

1. **The monthly measurement method** under which an employer determines each employee's status as a full-time employee by counting the employee's hours of service for each month.
2. **The look-back measurement method** under which an employer may determine the status of an employee as a full-time employee during a future period (referred to as the *stability period*), based upon the hours of service of the employee in a prior period (referred to as the *measurement period*). The look-back measurement method for identifying full-time employees is available only for the purposes of determining and computing liability for an Employer Shared Responsibility payment, and not for purposes of determining if the employer is an applicable large employer.

The final regulations describe approaches that can be used for various circumstances, such as for employees who work variable hour schedules, seasonal employees, and employees of educational organizations. These methods prescribe minimum standards for the identification of full-time employee status. Employers always may make additional employees eligible for coverage, or otherwise offer coverage more expansively than required.

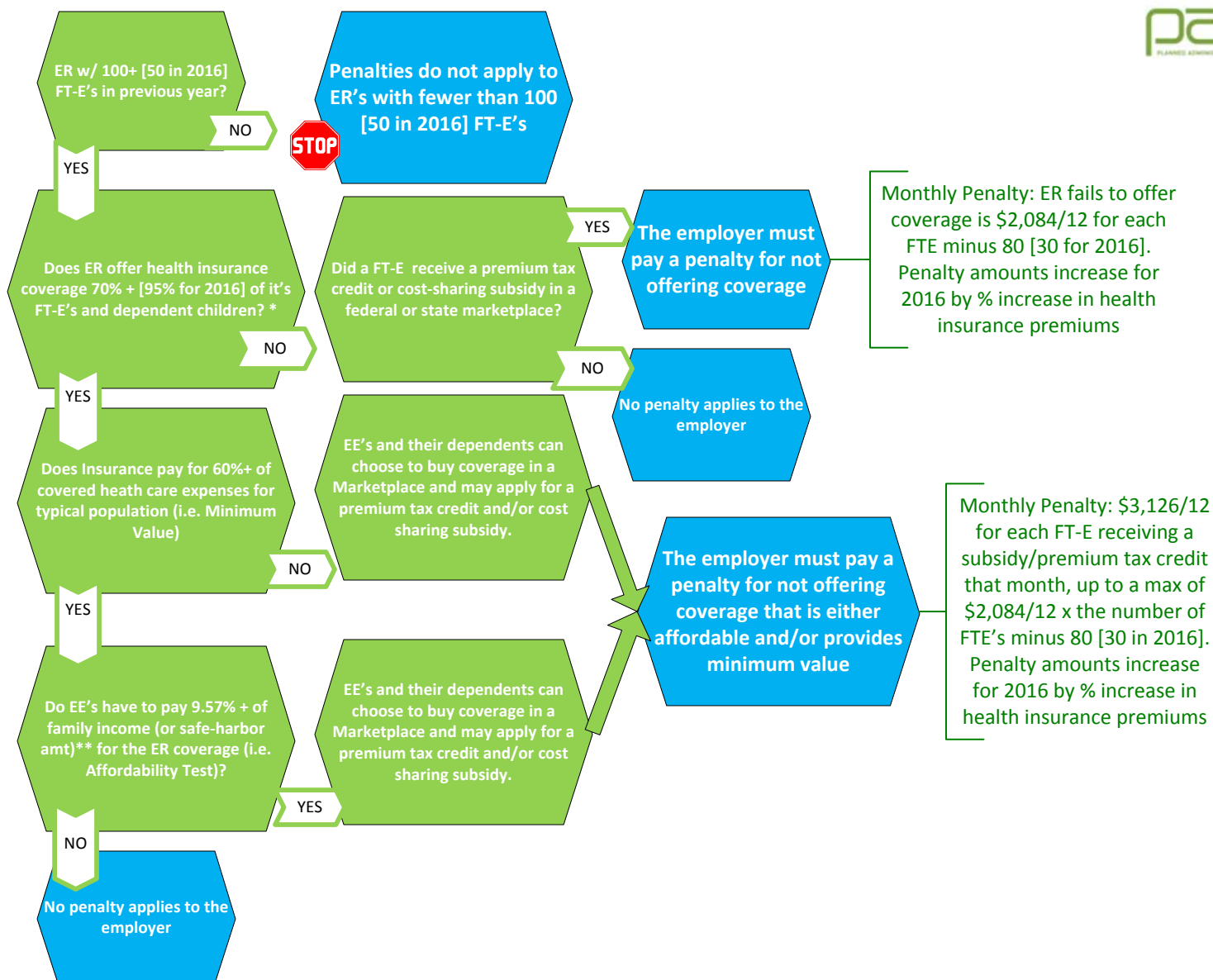
For 2015 and after, an applicable large employer will be liable for an Employer Shared Responsibility payment if:

- a. The employer does not offer health coverage or offers coverage to fewer than 95% of its full-time employees [70% of its employees in 2015] and the dependents of those employees, and at least one of the full-time employees receives a premium tax credit to help pay for coverage on a Marketplace; or
- b. The employer offers health coverage to all or at least 95% [70% of its employees in 2015] of its full-time employees, but at least one full-time employee receives a premium tax credit to help pay for coverage on a Marketplace, which may occur because the employer did not offer coverage to that employee or because the coverage the employer offered that employee was either unaffordable to the employee or did not provide minimum value.

There is transition relief with respect to offers of coverage to dependents for 2015 and relief for certain employers with fewer than 100 full-time employees (including full-time equivalents), 2015 transition relief for all other employers with respect to the percentage of full-time employees to whom coverage must be offered to avoid the payment described above. Additional information about these provisions is available via the link provided above.

Thank you,

PAI's Compliance Team



* A dependent is defined as a child of an employee who is under the age of 26. Employers do not face a penalty under ACA if they do not offer coverage to the spouse of a full-time employee.

** To determine if an ER may be subject to a penalty, they can measure the 9.5% against one of several safe-harbor amounts (the worker's wages, EE's rate of pay at the start of the coverage period or federal poverty level for a single individual). A worker's and the worker's dependents eligibility for premium tax credits or cost sharing subsidies are based on family income, not the safe-harbor amounts.

Key:
 ACA: Affordable Care Act
 EE: Employee(s)
 ER: Employer(s)
 FTE: Full time employee
 FT-E: Full time Equivalent