



# Maine Municipal Employees Health Trust

60 COMMUNITY DRIVE, AUGUSTA, MAINE 04330-9486

(207) 621-2645 [www.mmeht.org](http://www.mmeht.org)

To: Health Trust Participating Employers  
From: Anne Wright, Assistant Director, MMEHT  
Date: January 31, 2014  
Re: The Affordable Care Act and Health Care Reform –  
Who Will Be Subject To The Penalty Under “Play Or Pay”?

---

*Please note: Copies of these Health Care Reform updates may be found on the Health Trust website, at [www.mmeht.org](http://www.mmeht.org). Click on the link for Health Care Reform. Updates are at the bottom of the page; simply click on the link for the update you wish to read.*

---

As outlined in last week’s update, the Employer Shared Responsibility (also known as “Play or Pay”) provision of the Affordable Care Act will go into effect on January 1, 2015. This provision will affect “large employers”, defined by the ACA as those employers with 50 or more full-time employees, including full-time equivalent (FTE) employees.

It is important to note that the Employer Shared Responsibility provision of the ACA **only applies to those applicable large employers** with 50 or more full-time / full-time equivalent employees. So, for example, if a town only has 10 full-time employees (as defined by the law), with no part-time or other employees, this provision will not apply.

Last week’s update explained how an employer can determine whether or not it meets the 50-employee threshold to be considered a large employer. Once that calculation has been made, and the employer has determined that it is indeed a large employer subject to the Employer Shared Responsibility provision of the law, the next questions are: What is the penalty? And when will it apply? We will begin to address these questions today in today’s update.

As described in last week’s update, it is important to remember that although employees working fewer than 30 hours per week are included in the calculation of whether or not an employer is considered to be a “large employer” and thus subject to the Employer Shared Responsibility provision of the ACA, employers will **not** have to offer coverage to these (non-full-time) employees in order to avoid the penalty in 2015.

When determining whether or not it will be subject to the penalty, a large employer will first need to answer the following questions:

1. Am I offering **Minimum Essential Coverage** to **substantially all** of my eligible full-time employees?
2. Does the coverage provide **Minimum Value**?
3. Is the coverage **Affordable**?

The terms Minimum Essential Coverage, Minimum Value, and Affordable are all defined by the ACA, as follows:

**Minimum Essential Coverage** – This includes employer-sponsored health insurance coverage. All of the Health Trust health plans provide Minimum Essential Coverage. In order to meet this requirement of the ACA, the coverage must be offered to **substantially all** (that is, at least 95%) of the employer’s eligible full-time employees (i.e., those working 30 or more hours per week), and their dependent children (to age 26).

**Minimum Value** – The coverage must have an actuarial value of at least 60%. This means that the Plan’s share of the total allowed cost of benefits provided under the plan is at least 60% of the costs. All of the Health Trust health plans provide Minimum Value.

**Affordable** – This will be determined on an employer-by-employer basis. In order to be considered Affordable under the ACA, the amount that the employee is required to pay for his/her contribution for **self-only coverage** cannot exceed 9.5% of household income. The Affordability test is based on the employee’s contribution for self-only coverage, even if the employee covers his or her family. With regard to the calculation of 9.5% of household income, the regulations have provided for several “safe harbors” for calculating Affordability, as described in the document attached to this e-mail (“What Is Affordable Coverage”, dated August 30, 2013).

If a large employer meets **all three criteria** (i.e., offers **Minimum Essential Coverage** to **at least 95%** of eligible full-time employees and their dependent children; the coverage provides **Minimum Value**; and the coverage is **Affordable**), the employer will have met its responsibilities under the Employer Shared Responsibility provision of the ACA, and will not be subject to the penalty. (In this instance, the employer will “play” rather than “pay”.)

If, on the other hand, a large employer **does not meet** all of these criteria, it does **not** automatically mean that the employer will be subject to the penalty. **The penalty will only be triggered if:**

- A large employer does not meet **all** of the criteria listed above (**Minimum Essential Coverage** that provides **Minimum Value** and is **Affordable**); **and**
- At least one of the employer’s eligible full-time employees (i.e., working 30 or more hours per week) enrolls in health insurance coverage **and** receives a premium subsidy through the Health Insurance Marketplace (sometimes also referred to as the Exchange).

How will a large employer know if any of its employees have enrolled in, and received a premium subsidy through, the Health Insurance Marketplace? Even though an employee may choose to enroll in health insurance coverage through the Marketplace, he must meet several criteria in order to be eligible for a subsidy, as follows:

- The employee’s income must be between 100% and 400% of Federal Poverty Level; **and**
- The employee may not be eligible for coverage through a government-sponsored health insurance program such as Medicare, Medicaid (MaineCare) or CHIP (the Children’s Health Insurance Program); **and**
- The employee must not be eligible for employer-sponsored coverage, **or**, if he is eligible, such employer-sponsored coverage is not Affordable or it does not meet Minimum Value (as defined above).

If the employee does not meet **all** of these criteria, he will **not** be eligible for a subsidy through the Marketplace. And if he is not eligible for a subsidy through the Marketplace, the employer will not be subject to a penalty (i.e., the employer will not have to “pay”) under the Employer Shared Responsibility provision of the ACA.

So, to recap: A large employer can avoid the penalty by providing **Minimum Essential, Minimum Value, Affordable** health insurance coverage to at least **95%** of all eligible **full-time employees** (those working 30 or more hours per week). A large employer will only be subject to the penalty **if** at least one full-time employee enrolls in health insurance coverage, **and** receives a premium subsidy, through the Health Insurance Marketplace.

*Please note that the Maine Municipal Association and the Maine Municipal Employees Health Trust are sharing this information to assist you with your compliance planning. We recommend that you contact your legal counsel with specific questions relating to this law.*