



## Maine Municipal Employees Health Trust

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To: Health Trust Participating Employers  
From: Anne Wright, Assistant Director, MMEHT  
Date: April 18, 2014  
Re: The Affordable Care Act and Health Care Reform -  
Who Will Be Subject to the Employer Shared Responsibility - and When?

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*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.*

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For the past few weeks, we've been talking about how to count your employees, and just exactly who you need to count. So, now that you know who to include as an "employee", and you have counted your full-time employees (including full-time equivalents), let's move on to the next step: determining when (or if) you will be subject to the Employer Shared Responsibility provision of the ACA (with its accompanying penalties), and what those penalties might be.

The ACA originally stated that all employers with **50 or more full-time employees** would be subject to this provision effective January 1, 2014. This date was postponed to January 1, 2015. Then, when the final rules were issued in February of this year, the date was postponed yet again for those employers with between 50 and 99 full-time / full-time equivalent employees.

So, although employers with **100 or more eligible full-time / full-time equivalent employees** will be subject to the Employer Shared Responsibility provisions starting **January 1, 2015**, those employers with **50-99 eligible full-time / full-time equivalent employees** will not be subject to this provision of the ACA until **January 1, 2016**. (Just remember - this delay will only apply if the employer does not reduce its workforce between February 9, 2014 and December 31, 2014, in order to take advantage of this delay; that is, to bring itself down to fewer than 100 employees. Employers with 50-99 full-time / full-time equivalent employees will also have to satisfy certain coverage maintenance requirements, and will have to certify that they have met such requirements.)

So - if you are a Large Employer with **100 or more eligible full-time / full-time equivalent employees**, what does being subject to the Employer Shared Responsibility provision mean to you? In very general terms, it means that you may be subject to a penalty if you do not offer coverage that meets certain criteria, to a certain percentage of your eligible full-time employees.

When determining whether or not you (as a Large Employer) will be subject to the penalty, you will first need to answer the following questions:

1. Are you offering **Minimum Essential Coverage** to **substantially all** of your eligible full-time employees (that is, those employees working 30 or more hours per week)?
2. Does the coverage provide **Minimum Value**?
3. Is the coverage **Affordable** for all eligible full-time employees?

Please refer to the January 31, 2014 health care reform update for definitions of **Minimum Essential Coverage**, **Minimum Value**, and **Affordable**. (As noted above, you can find copies of all of these updates on the Health Trust's website, at [www.mmeht.org](http://www.mmeht.org). Click on the link for Health Care Reform.)

With regard to the definition of "**substantially all**", however, the final rules amended this slightly for 2015. Strictly for calendar year 2015, in order to avoid the penalty, the large employer will be required to offer Minimum Essential, Minimum Value, Affordable health insurance coverage to at least **70% of all eligible full-time employees**. Starting in 2016, this requirement applies to **95%** of all eligible full-time employees.

If you are a Large Employer (**100 or more eligible full-time / full-time equivalent employees in 2015; 50 or more eligible full-time / full-time equivalent employees in 2016 and after**) and can answer "yes" to all three of the questions listed above, then you will not be subject to any penalties under the Employer Shared Responsibility provision. This is true even if one or more of your employees purchases coverage through the Health Insurance Marketplace, or Exchange.

If, however, your answer to one or more of the questions listed above is "no", then you may be subject to the penalty - but **only if** one or more of your eligible full-time employees (i.e., an employee working 30 or more hours per week) purchases coverage through the Health Insurance Marketplace or Exchange, **and** receives a premium subsidy to help pay for that coverage. Next week's update will provide a summary of exactly how that penalty will be calculated, using two different scenarios. (Note: This information was provided in an earlier update, dated February 7, but since the final rules changed some of the penalty calculations, we will re-issue that update to reflect the new parameters.)

And remember - if you are a small employer (**fewer than 50 eligible full-time / full-time equivalent employees**), you are not subject to the ACA's Employer Shared Responsibility provisions at all!

*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.*