

The Affordable Care Act. Covering Your Ass(ets).

A Guide to Understanding the ACA and
Finding Help to Avoid Penalties



A Publication from



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1) Clear As Mud

When you tell your CFO or CEO that a recent piece of legislation may cost them hundreds of thousands of dollars a month—it is easy to get their attention. The Affordable Care Act is that piece of legislation.

If a CFO overseeing a company of 1,000 employees fails to comply with the Affordable Care Act, he or she could easily be explaining a monthly fine of \$166,664.17 to their Board of Directors. Even the CFO of a smaller company—with 100 employees — that fails to comply may be fined a large **monthly** expense of \$16,666.41 until they are compliant.

With staggering numbers like these, getting your executive's attention is easy. Unfortunately, understanding the Affordable Care Act and your company's responsibility is not so simple.

Like most pieces of legislation, the Affordable Care Act is as clear as mud. Many companies find themselves struggling to understand **if** their company is required to comply, and if so, **how** to make it happen.

2) The History

Let's Go Back to the Beginning to Understand the Affordable Care Act

On March 23, 2010, President Obama signed the health care reform bill, also known as the Affordable Care Act (ACA), into law. The ACA established sweeping changes to the U.S. health care system. ACA's health care reforms, which primarily focuses on reducing the uninsured population and decreasing health care costs, are slowly being implemented over several years.

The ACA began taking effect in 2010, with many large provisions implemented in 2014 and 2015. The ACA will be fully in place by the end of 2018.

A significant and highly feared provision of the ACA is the Employer Mandate. This Health Care Reform provision requires all employers with 50 or more full time equivalent employees to offer a certain level of health insurance coverage. It must be offered at an affordable rate to all full-time employees or the company will face a penalty.

The Employer Mandate is commonly referred to by other names, such as the "Shared Responsibility" provision or the "Play or Pay" provision of the Affordable Care Act. From a large employer's perspective, this is most likely the most expensive, complex and feared aspect of Health Care Reform.

Under the Affordable Care Act, starting in 2015, employers with more than 50 employees must offer a Qualified Health Plan (QHP). This is defined as an insurance plan that is certified by the Health Insurance Marketplace, provides essential health benefits, follows established limits on cost-sharing (like deductibles, co-payments, and out-of-pocket maximum amounts), and meets other requirements.

The **Health Insurance Marketplace, or ObamaCare Marketplace**, is your State's price comparison website for subsidized health insurance. A qualified health plan will have a certification by each Marketplace in which it is sold.

As of January 1, 2016 major penalties will be issued. Penalties will continue to increase until every aspect of ACA compliance is enforced by 2018.

3) Compliance Clarity

Understand Your Compliance Responsibility

So how do you determine if you are one of the employers that must comply?

This question is really simple to answer. How many full-time employees do you have?

- _____ # of employees regularly working 30+ hours/week
- + _____ # of monthly part time hours worked by all part-time employees ÷ 120
- = _____ Total # of full time equivalent employees

If you have **100 + employees**

your monthly penalties began accruing on January 1, 2015. (Ruh Roh!)

Those with 100 or more full-time equivalent employees that do not comply with the Employer Mandate will begin incurring Employer-Mandate penalties every month of the 2015 tax year. These penalties will be paid annually when the employer files its year-end taxes.

If you have **50 – 99 employees**

the date you can potentially begin incurring penalties is January 1, 2016. (Brace yourselves... that date will be here before you know it.)

Mid-sized employers—those employers with 50-99 full-time equivalent employees—can enjoy an additional year of reprieve as long as the company did not reduce workers' hours and workforce to get below the 99 employee threshold or materially reduce its health care plan. To do these types of reduction without being penalized, the company needs a bona fide reason. Mid-sized employers that do not comply with the Employer Mandate will begin incurring Employer Mandate penalties every month of the 2016 tax year. These penalties will be paid annually when the company files its year-end taxes.

If you have **< 50 employees**

you are not subject to the Employer Mandate. (Woot! Woot!)

Small employers (those with less than 50 full-time equivalent employees that are not in an IRS control group with any other employers) are not subject to the Employer Mandate, and will not be penalized for failing to offer health insurance.



Many Companies Wrongfully Assume That because They are Offering Insurance to Their Employees They are Compliant.

Even if you are offering your 100+ employees health insurance, odds are you still may need to change your current modus operandi. Under the Affordable Care Act you are not only expected to offer insurance, you must meet the parameters set forth by the law.

Here's what you need to know and do. **To be compliant your company must offer health insurance that meets these requirements:**

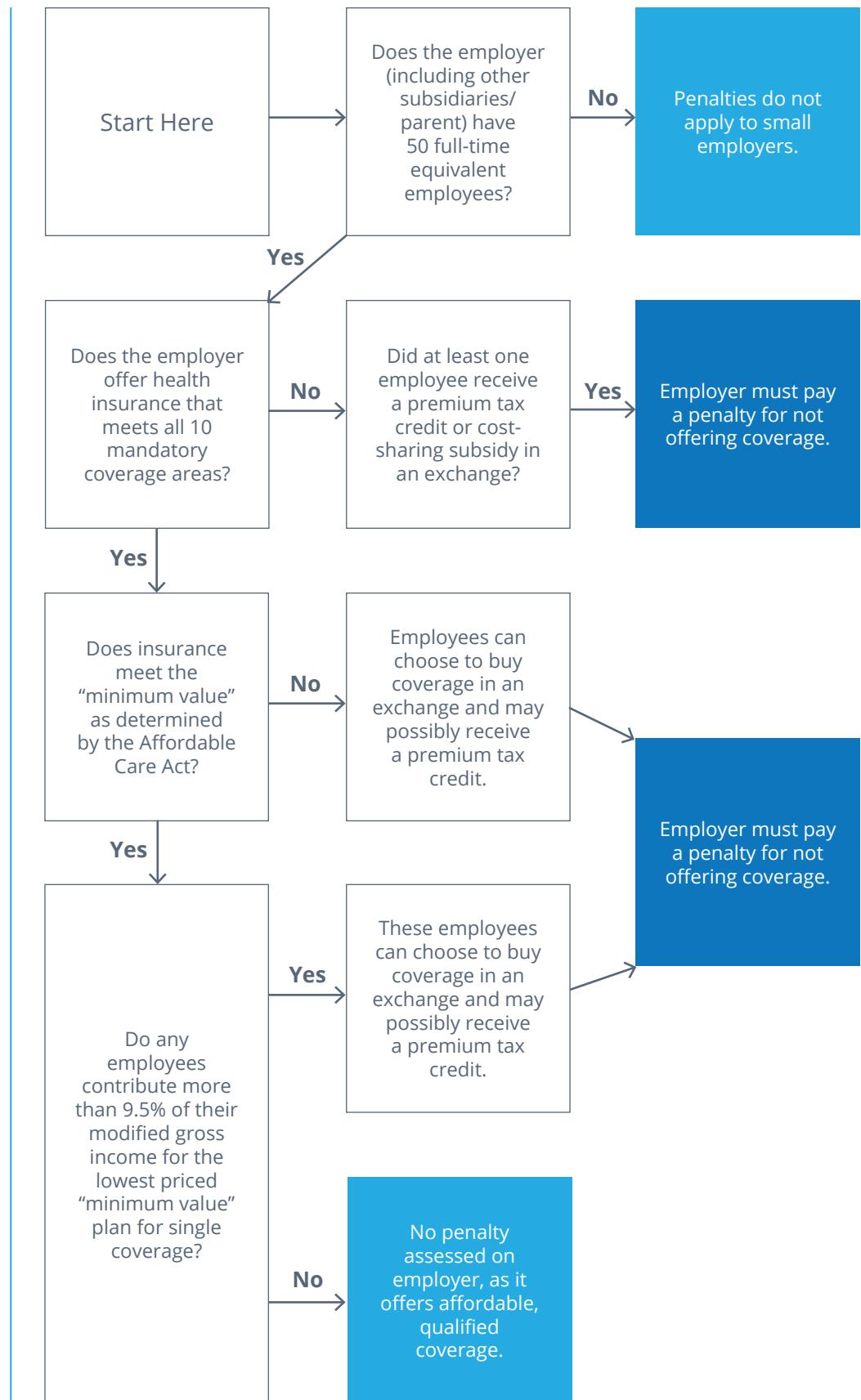
- ✓ All plans must meet a "minimum value" as determined and defined by the Affordable Care Act.
- ✓ Under ObamaCare employer-sponsored coverage must cost no more than 9.5 percent of modified gross income, after the employer's contribution, to be considered affordable.
- ✓ Categorical EHBs (Essential Health Benefits) are 10 different categories of coverage most plans must contain to be certified as a QHP¹ (Qualified Health Plan).

Check out the cheat sheet on the next page to help you understand what your company needs to comply with ACA.

¹ We recommend speaking to your insurance broker to ensure your plan meets this complex list of parameters

The 10 Mandatory Coverage Areas:

- ✓ Ambulatory Patient Services
- ✓ Emergency Services
- ✓ Hospitalization
- ✓ Maternity and Newborn Care
- ✓ Mental Health and Substance Use Disorder
- ✓ Prescription Drugs
- ✓ Rehabilitative and Habilitative Services
- ✓ Laboratory Services
- ✓ Preventative and Wellness Services
- ✓ Pediatric Services, Including Oral and Vision



4) Non-Compliance Woes

There are So Many Companies in the U.S., How will Anyone Know if You're Compliant? Maybe You Can Sneak Under the Radar...

Think again. The government has checks and balances already in place to make sure compliance is achieved by all companies.

In fact, the Employer Mandate penalty is triggered if at least one full-time employee of a covered employer receives a premium tax credit for purchasing individual coverage on one of the State Insurance Exchanges, also called the Health Insurance Marketplace.

Commonly, employees tend to visit an exchange because their employer is not providing the coverage they need. When employees need to use government subsidies—either to cover the cost of the plan or to attain the coverage they need—the government feels they are now picking up your tab. When this is noted, your goose is then cooked, my friend. Then, fines are issued. The government anticipated this occurring and created a clause for it. This is known as the “Shared Responsibility” clause.

What Will it Cost Me if Our Company Does Not Comply?

Let's look at some penalty numbers. (Frankly, you'll see that the US government is not messing around.)

We've already shared that fines began being issued as of January 1, 2015. These penalties will continue to grow until complete compliance mandates are in effect in 2018. The charges are significant.

There are two different types of penalties employers can face: the “A” Penalty and the “B” Penalty. The good news is employers would never be subject to both penalties at the same time.



"A" Penalty

The "A" penalty is assessed if the employer is subject to the Employer Mandate, but fails to offer health insurance to at least 95 percent of its full-time employees; 70 percent in 2015.

The "A" penalty is \$2,000/year for each full-time employee. This excludes the first 80 employees in 2015 and the first 30 employees in 2016. The penalty is calculated monthly, but paid annually.

Employer	Year	Health Plan	Trigger	Penalty
200 full time employees	2015	No plan offered	1 full time employee purchases coverage through the state exchange and receives a federal premium subsidy	\$2,000/full time employee, minus the first 80 full time employees. $200 - 80 = 120$ $120 \times \$2,000 = \$240,000 \text{ penalty}$
500 full time employees	2016	No plan offered	1 full time employee purchases coverage through the state exchange and receives a federal premium subsidy	\$2,000/full time employee, minus the first 30 full time employees. $500 - 30 = 470$ $470 \times \$2,000 = \$940,000 \text{ penalty}$

"B" Penalty

The "B" penalty applies if the employer's health plan fails to meet the minimum value requirement or affordability requirement. This penalty is also triggered when one full-time employee receives a federal premium subsidy when shopping in the Marketplace. This penalty is the lesser of \$3000/employee receiving a subsidy or the "A" Penalty Calculation above. This penalty is also calculated monthly and paid annually.

Employer	Year	Health Plan	Trigger	Penalty
200 full time employees	2015	Offered, but the plan does not meet the "minimum value" requirement.	At least one full time employee purchases coverage through the state exchange and receives a federal premium subsidy (In this example, we will assume 3 employees purchased coverage on the exchange and received a federal premium subsidy.)	The lesser of: \$3,000 per employee receiving a federal premium subsidy $\$3,000 \times 3 = \$9,000 \text{ penalty}$ <u>OR</u> \$2,000/full time employee, minus the first 80 full time employees. $200 - 80 = 120$ $120 \times \$2,000 = \$240,000 \text{ penalty}$

5) Compliance Steps

So, how can we get compliant? Good question. Here are three steps to follow.

Three Steps to Compliance:

Step 1: Make Sure Your Plan Meets the "Minimum Value"

The "minimum value" does not reference the employer contribution, but is instead discussing the design of the plan itself. The plan must offer particular services in order to meet the standard of "minimum value."²



Step 2 : Make Sure Your Plan is "Affordable"

Basically, the plan is "affordable" if the employee does not have to contribute more than 9.5 percent of his or her modified gross income for the lowest priced "minimum value" plan for single coverage. Because the government realizes it is hard for employers to know total modified income, you may use one of the following numbers ("Safe Harbors") as the total from which to calculate 9.5 percent:

9.5 percent of W-2:

Your company will meet the affordability requirement if your employees are not required to contribute more than 9.5 percent of his/her W-2 wages on the premium for single health insurance coverage.³

9.5 percent of Rate of Pay:

Your company will meet the affordability requirement if your employees are not required to contribute more than 9.5 percent of his monthly wages on the premium for single health insurance coverage.

- ✓ For your hourly employees, this is calculated by multiplying the employee's hourly rate by 130 hours.
- ✓ For your salaried employees, you may simply use the employee's regular monthly salary.

² We do not recommend that employers attempt to determine whether their plan meets these requirements. Rather, we recommend asking your health plan broker or carrier to verify that your plan in fact meets the minimum value requirements.

³ This W-2 Wages figure is reduced for salary reductions under a 401(k) plan or cafeteria plan.

9.5 percent of Federal Poverty Level:

Your company will meet the affordability requirement if your employees are not required to contribute more than 9.5 percent of the federal poverty level for the year on the premium for single health insurance coverage. (The current federal poverty level used for this purpose is \$11,670 for a single person, so 9.5% of that is approximately \$1100. Therefore, to meet this safe harbor, your company must ensure your employees are not required to contribute more than approximately \$1100/year for the employee's premium for single health insurance coverage.)

Step 3: Offer the Plan to All Full-Time Employees and Their Dependent Children

The health insurance plan must be offered to all full-time employees regularly working 30 or more hours per week. The health plan must also be offered to the employee's dependent children, although employers do NOT need to contribute to the cost of their care. Your company is not required to extend coverage to spouses or domestic partners to avoid Employer Mandate penalties.

Do you know the guidelines for reporting compliance?

Employers subject to the Employer Mandate must begin reporting for the 2015 tax year.⁴

Employer Mandate penalties begin in 2015 for large employers with 100 or more full-time equivalent employees. Large employers are required, under Section 6056 of the tax code, to complete and submit one Transmittal Form (IRS Form 1094-C) and, for each employee, an Employee Statement (IRS Form 1095-C – top half only).⁵



Regulations provide transitional relief from the Employer Mandate penalties in 2015 for most mid-sized employers. These employers still are required to perform the same employer mandate reporting as an employer with 100+ full time equivalent employees (described above).

⁴ There are no Employer Mandate reporting requirements for small employers not subject to the Employer Mandate.

⁵ It may help you to think of the 1094-C as similar to the W-3 (a transmittal form) and the 1095-C as similar to the W-2 (a separate return for each employee).

6) ACA Technology Help

Employers with self-insured health plans are required to perform both the employer reporting requirements (Section 6056) and the insurer reporting requirements (Section 6055). So employers with a self-insured plan are required to complete both the top and bottom half of the IRS Form 1095-C. (The top half of the form includes the Section 6056 reporting information and the bottom half of the form includes the Section 6055 reporting information.) These employers are also required to complete the transmittal form (IRS Form 1094-C).⁶

Are You Feeling Like You Need a Superhero?

New insurance plans, new budgetary needs, reporting.... it is all so overwhelming.

A Great Insurance Agent + Technology Can Save the Day.

Role of Insurance Agents

Insurance brokers may not wear capes but their intimate knowledge and understanding of the ACA can help protect your organization by ensuring you are offering a compliant plan. From helping to ensure your plan meets quality standards to assisting in the creation of a roll out program, a knowledgeable insurance broker is critical.

A great first step in your compliance journey is to sit down and talk to your insurance agent and understand your custom roadway to compliance.



⁶ This information contained in this Guide is only intended to cover the Section 6056 (employer) reporting requirements, not the Section 6055 (insurer) reporting requirements.

So What ACA Technology is Right for You?

The Role of Technology

Ideal brokers can offer you the insurance you need and the technology to facilitate your ongoing quest for ACA compliance. The reporting and paperwork involved in ACA compliance is significant. However, technology built for this very purpose can assist in making your compliance process more automated and less time consuming. (Technology helps prevent human errors, and can offer reminders and fail safes).

How Technology Helps

By now you know that the paperwork and reporting demands of ACA are quite extensive. You need to leverage technology to play a critical role in managing everything. Technology can undeniably assist in creating fail safes and automation that will facilitate compliance liability.

The organizational compliance picture

Regular and varied hour labor pools have very different needs in terms of what is required for ACA compliance. You need technology management dashboards that provides views of your regular and variable hour labor pools.

Account for compliance on an individual basis

System transparency is critical. Be sure to seek a system that allows labor-pool specific drill downs into employee views.

Be ahead of compliance.

Alert managers when an employee's:

- ✓ status changes to full or part time
- ✓ nears eligibility so they can be prepared
- ✓ work hours get scheduled that **may** make them eligible



And yes, since we are all friends here, we would like to point out that **Smart** Compliance technology does everything for ACA compliance and much more.

The Affordable Care Act is not coming, or something to plan for in the future. **The ACA is already here.** Make sure your company is putting systems in place for compliance. You want to protect your company's profitability and prevent staggering monthly fines.

While ACA compliance seems complex, there is a simple solution – **Smart** Compliance technology can be quickly and easily be implemented, and you can consider your assets, officially covered.

7) Your Next Steps

Next Steps

Speak to your Insurance broker about how **Smart** Suite can help facilitate your ACA compliance. We offer multiple options:

Option 1

Buy either: **Smart** Payroll, **Smart** Time or **Smart** HR. We include our **Smart** Compliance technology at no additional cost.

Option 2

Buy **Smart** Compliance technology, pay one flat fee — per employee per month. You then run a solitary monthly eligibility record to assure you are ACA compliant with the simple click of a button.

