



THE AFFORDABLE CARE ACT

What Does it Mean for Your Restaurant?

Even if your business employs primarily part-time staff, don't be fooled, the Affordable Care Act (ACA) may apply to you too.

ACCORDING TO [HEALTHCARE.GOV](https://www.healthcare.gov), THE LAW HAS 3 PRIMARY GOALS:

- 1. Make affordable health insurance available** to more people. The law provides consumers with subsidies ("premium tax credits") that lower costs for households with incomes between 100% and 400% of the federal poverty level.
- 2. Expand the Medicaid program** to cover all adults with income below 138% of the federal poverty level. (Not all states have expanded their Medicaid programs.)
- 3. Support innovative medical care delivery methods** designed to lower the costs of health care generally.



Affordable Healthcare: The Basics

Applicable Large Employers

Applicable Large Employers (ALEs) are responsible to provide health care benefits to their full-time employees. ALEs are described as having 50 (or more) full-time equivalent (FTE) employees working for them.

Employers determine their ALE status each calendar year (looking back one year).

Note: two or more businesses with common ownership will be considered one entity when determining if they are a ALE for ACA purposes. Payments, and penalties are assessed separately.

ALEs must offer affordable health care that meets minimum value to all Full time (FT) and Full time equivalent FTE Employees.

Eligible Employees

Once a company is determined to be a ALE, they are required to provide health benefits to all employees who are full-time (FT) employees or full-time equivalents (FTE).

Benefits offered must be affordable and provide minimum value and be offered to FT/FTE employees and their dependents (26 years and under). Spouses are not required.

BENEFIT AFFORDABILITY

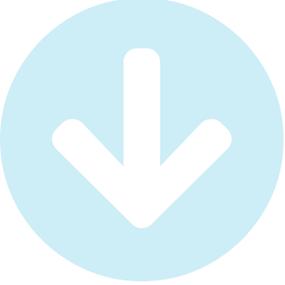
Benefits provided must be considered affordable. Three affordability safe harbor calculations that are acceptable are:

1. W-2 wages safe harbor: based on income in box-1. Can use % of gross.
2. Rate of pay safe harbor: based on employee rate of pay at beginning of coverage period. Not available for tipped employees.
3. Federal poverty line safe harbor: based on federal poverty line, divided by 12.

MINIMUM VALUE:

Covers 60% of the total allowed cost of benefits that are expected to be incurred, and also provide substantial coverage of inpatient hospitalization services and physician services.

Since full-time employees are automatically required to be offered benefits, on the next page you'll find steps to determine if a part-time employee is eligible (i.e. FTE), and time frames required to offer such benefits. ➔



Full Time Equivalent (FTE)

Part-time employees need to be measured to determine whether they are full-time equivalent, and eligible for health benefit.

In assessing the status of part-time employees, an “**initial measurement period**” is used. The initial measurement period must be at least three months, and no longer than one year. It is calculated by taking to total hours worked dividing by number of weeks over the period. If the employee worked on average 30 or more hours per week, they are considered FTE (and eligible).

The “**Initial Stability Period**” is the period in which the employee will be treated as a part-time or FTE, based on the outcome of the initial measurement period. The stability period must be at least 6 months or the length of the initial measurement period (whichever is greater).

The IRS allows for an administration period of no more than 90 days. (i.e. a period which the employee is eligible to be enrolled into a plan) to being enrolled in a plan. This period also includes the date the employee is hired, to the initial measurement date.

The **initial administration** period cannot be greater than 13 months from the date of hire, plus the number of days to reach the next end of month.

EXAMPLE: Hire date is June 15, 2016. The administration period cannot be later than July 31st, 2017

- 13 months (June 15, 2016 to July 15, 2016) PLUS (16 days to end of month)

Also note that the **initial administrative** period includes:

- Period from Date of hire, to measurement period Plus.
- Administrative period after measurement period and before stability period. Cannot be greater than 90 days

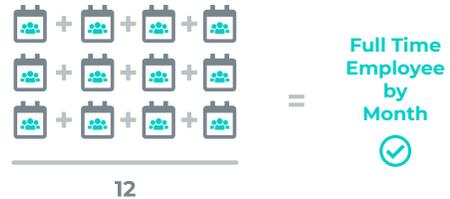
CALCULATION

The calculation is really taking the average number of full-time and full-time equivalent employees during the year.

Full-time Employees

DETERMINE FULL TIME EMPLOYEE BY MONTH

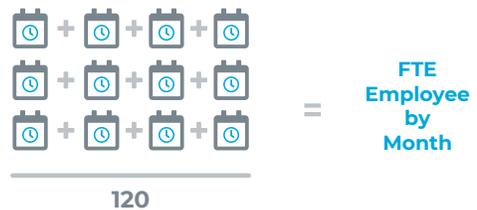
Add the full-time Employees employed each month (i.e. Jan + Feb + Mar... Dec); and simply divide by 12.



Full-Time Equivalent Employees (FTE)

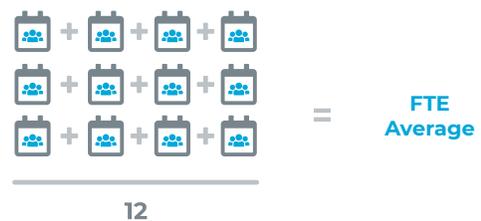
STEP 1: DETERMINE FTE BY MONTH

Take the total hours worked by all part time employees by month; and divide by 120. This will give you a FTE employee by month figure (i.e. Jan, Feb, Mar... Dec).



STEP 2: DETERMINE FTE AVERAGE FOR YEAR

Add the FTE employees by month (i.e. Jan + Feb + Mar... Dec); and divide by 12.



Full-time Employee yearly average

PLUS FTE yearly average

EQUAL the number of full-time employees employed for ALE purposes.



For ongoing measurement purposes, the company must have a “**standard measurement period**” followed by a “**standard stability period**”. Standard measurement periods must be at least three months to one year, and standard stability periods must be at least 6 months or the length of the standard measurement period (greater of).

To prevent gaps in coverage on employees who are previously eligible, ongoing administrative periods will overlap with the stability period.

EXAMPLE:

- 1. **Measurement period:** Always Oct 15 to Oct 14
- 2. **Administrative period:** Always Oct 15 to Dec 31
- 3. **Stability period:** Always Jan 1 to Dec 31

The administrative period will always overlap with the previous stability period. In the example above, the administrative period is less than 90 days.

OVERLAPPING INITIAL AND STANDARD MEASUREMENT PERIODS:

New employees can have overlapping measurement periods as initial measurement periods begin when the new employee is hired, versus a standard period set out by the company.

EXAMPLE:

- Employee is hired: Sept 2
- Initial measurement period: Sept 2 to Sept 1
- Standard measurement period: Oct 15 to Oct 14

RULES

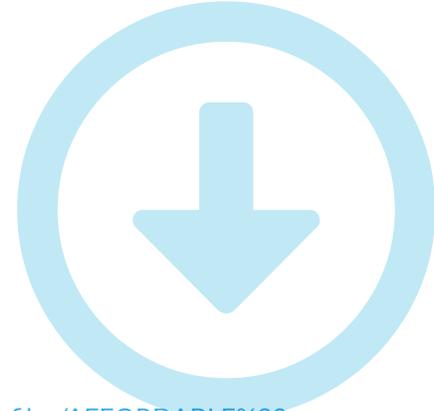
- 1. Employee is **eligible** on initial measurement (Sept 2 to 1) and found **not eligible** on standard measurement (Oct 15 to Oct 14)

In this scenario, the employee must be given opportunity to be in benefits plan for entire initial stability period

- 2. Employee is **not eligible** on initial measurement (Sept 2 to 1) and found **eligible** on standard measurement (Oct 15 to Oct 14)

In this scenario, the employee must be given opportunity to join benefits plan for the standard stability period (i.e. does not have to wait until after the initial stability period)

New employees may have two overlapping measurement periods.



Administrative Period

OTHER NOTES

Penalties are ridiculously punitive, and designed to really fund the subsidies individuals receive from ACA. How penalties are triggered for IRS investigation is when an employee goes to the market, and applies for a subsidy.

The ALE must provide all eligible employees and their dependent (up to 26 years old) with health benefits. If the eligible employee waivers their enrollment to the plan, ALEs must obtain waivers, or risk penalties.

EXAMPLES ARE:

- https://hrserviceinc.com/pdf_files/AFFORDABLE%20CARE%20ACT%20UPDATES.pdf
- https://www11.anthem.com/bydesign/noapplication/f3/s0/t0/pw_a038128.pdf

Company must file the following reports to IRS:

➡ 1095C

Reporting to each employee (like a W2 form). Form used to indicate if employee waived coverage

➡ 1094C

Broker form. One document that gives information on benefits that were provided. i.e. notification to IRS that you are providing benefits.

Forms are normally due January 31st the following year.

RESOURCES

90 DAY WAITING PERIOD

<https://www.irs.gov/pub/irs-drop/n-12-59.pdf>

SAFE HARBOR PERIODS

<https://www.irs.gov/pub/irs-drop/n-12-58.pdf>

MEASUREMENT PERIODS

<https://www.irs.gov/pub/irs-drop/n-12-58.pdf>

PREMIUM PERCENTAGE

<https://www.adp.com/spark/articles/affordability-safe-harbors-which-one-is-best-for-you-10-1292.aspx>

<https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/2018-aca-affordability-safe-harbor-percentage.aspx>