

Policy 4271: Patient Protection and Affordable Care Act (PPACA)

The Patient Protection and Affordable Care Act (PPACA), requires “large employers”¹ to provide full-time employees the opportunity to enroll in “minimum value”² and “affordable”³ health care coverage as provided in the PPACA statutes and regulations.⁴ The School District is a large employer and is therefore subject to the provisions of PPACA.⁵ To give effect to PPACA with regard to non-certificated employees, the Board of Education of the School District adopts the following policies:

1. Definitions: All terms used herein shall be as defined in PPACA and associated regulations, including the definition of a “full-time employee”⁶ (full-time employees under the terms of PPACA statutes and regulations are referred to herein as “PPACA Full-Time Non-Certificated Employees”).
2. Opportunity to Enroll in “Minimum Value” Health Insurance Coverage – PPACA Full-Time Non-Certificated Employees: In each school fiscal year beginning with the fiscal year from September 1, 2016 and ending August 31, 2017,⁷ and each fiscal year thereafter, the School District shall provide all PPACA Full-Time Non-Certificated Employees the opportunity to enroll⁸ in “minimum value”⁹ self-only and dependent health insurance under the School District’s group health and dental insurance provider for such fiscal year to the extent permitted by such provider.
3. Health Insurance Provider and Plan: The Board of Education, in its sole discretion, shall determine the health insurance provider, plan and level of self-only and dependent health

¹ 26 U.S.C. § 4980H(c)(2)(A) (“The term ‘applicable large employer’ means, with respect to a calendar year, an employer who employed an average of at least 50 full-time employees on business days during the preceding calendar year.”).

² As defined generally in 26 U.S.C. § 36B(c)(2)(C)(ii) and subsequent regulations (“Coverage must provide minimum value . . . an employee shall not be treated as eligible for minimum essential coverage if such coverage consists of an eligible employer-sponsored plan . . . and the plan’s share of the total allowed costs of benefits provided under the plan is less than 60 percent of such costs.”).

³ As defined generally in 26 U.S.C. § 36B(c)(2)(C)(i)(II) (“Coverage shall be affordable . . . the employee’s required contribution . . . with respect to the plan [must not exceed] 9.5 percent of the applicable taxpayer’s household income.”)

⁴ See generally Treas. Reg. § 54.4980H-2(a) (“Section 4980H applies to an applicable large employer and to all of the applicable large employer members that comprise that applicable large employer.”).

⁵ See generally 26 U.S.C. § 4980H (discussing requirements and penalties for applicable large employers).

⁶ Treas. Reg. § 54.4980H-1(a)(18) (defining full-time employee as “an employee who is employed an average of at least 30 hours of service per week with an employer.”).

⁷ The School District intends to utilize the “transition relief” rules, as provided in Commentary to Treas. Reg. § 54.4980H.

⁸ See 26 U.S.C. § 4980H(a)(1) & (b)(1) (“any applicable large employer fails to offer to its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan;” “an applicable large employer offers to its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan . . . for any month”); see also, Treas. Reg. § 54.4980H-4(b) (“Offer of coverage. An applicable large employer member will not be treated as having made an offer of coverage to a full-time employee for a plan year if the employee does not have an effective opportunity to elect to enroll (or decline to enroll) in the coverage no less than once during the plan year. Whether an employee has an effective opportunity is determined based on all the relevant facts and circumstances, including adequacy of notice of the availability of the offer of coverage, the period of time during which acceptance of the offer of coverage may be made, and any other conditions on the offer.”)

⁹ See, Treas. Reg. § 54.4980H-1 (“(24) Minimum value. The term minimum value has the same meaning as provided in section 36B(c)(2)(C)(ii) and any regulations or other administrative guidance thereunder”).

insurance coverage, including benefits and deductible, for each fiscal and plan year. The health insurance plan shall meet all requirements for “minimum essential/value” health insurance coverage as provided in the PPACA statutes and regulations, and other applicable statutes, regulations and rulings.¹⁰ The “Plan Year” shall be from September 1st through the immediately following August 31st.¹¹

4. “Look-Back”, “Administrative” and “Stability” Period: For purposes of determining the PPACA Full-Time Non-Certificated Employee status of the non-certificated employees of the School District under PPACA, the Board of Education establishes the following dates for the “Look-Back”, “Administrative” and “Stability” Periods provided under the PPACA statutes and regulations¹² for each health insurance Plan Year:
 - a. Look-Back Period: August 1st of the calendar year immediately preceding the calendar year in which the first day of the health insurance policy plan year through July 31st immediately following such August 1st consisting of a total period of twelve (12) consecutive months.¹³
 - b. Administrative Period: August 1st through August 31st immediately preceding the first day of the health insurance policy plan year;¹⁴ and,
 - c. Stability Period: September 1st through the immediately following August 31st immediately following such September 1st consisting of a total period of twelve (12) consecutive months.¹⁵

[Example: Look-Back Period = August 1, 2015 to July 31, 2016; Administrative Period = August 1, 2016 to August 31, 2016; and, Stability Period = September 1, 2016 to August 31, 2017]

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¹⁰ In determining the coverage available and offered, the Board shall plan to comply with Treas. Reg. § 54.4980H-5(e)(iii)'s affordability requirements. (“An applicable large employer member satisfies the rate of pay safe harbor with respect to an employee for a calendar month if the employee’s required contribution for the month for the applicable large employer member’s lowest cost self-only coverage that provides minimum value does not exceed 9.5 percent of an amount equal to 130 hours multiplied by the employee’s hourly rate of pay as of the first day of the coverage period (generally the first day of the plan year). For salaried employees, monthly salary is used instead of 130 multiplied by the hourly rate of pay, and, solely for purposes of this paragraph (e)(2)(iii), an applicable large employer member may use any reasonable method for converting payroll periods to monthly salary.”) (emphasis added). See also footnote “p” for full text of “rate of pay” safe harbor provision.

¹¹ Thus, all full-time employees will have the opportunity to enroll in minimum essential coverage from the time the School District will first be subject to the PPACA requirements (under the transition relief rules).

¹² See generally Treas. Reg. § 54.4980H-3 (“Determining full-time employees”).

¹³ In compliance with Treas. Reg. § 54.4980H-3(c)(1) (“Under the look-back measurement method for ongoing employees, an applicable large employer determines each ongoing employee’s full-time status by looking back at the standard measurement period. The applicable large employer member determines the months in which the standard measurement period starts and ends, provided that the determination must be made on a uniform and consistent basis for all employees in the same category.”).

¹⁴ In compliance with Treas. Reg. § 54.4980H-4(v)(A) (Subject to . . . limits . . . an applicable large employer member is permitted to apply an administrative period in connection with an initial measurement period and before the start of the stability period. This administrative period must not exceed 90 days in total.”) and Treas. Reg. § 54.4980H-4(v)(B) (“In addition to the specific limits on the initial measurement period (which must not exceed 12 months) and the administrative period (which must not exceed 90 days), there is a limit on the combined length of the initial measurement period and the administrative period applicable to a new variable hour employee or new seasonal employee. Specifically, the initial measurement period and administrative period together cannot extend beyond the last day of the first calendar month beginning on or after the first anniversary of the employee’s start date.”).

¹⁵ See generally Treas. Reg. §§ 54.4980H-3(c)(3)(ii)&(iii) (“The stability period must be a period of at least six consecutive calendar months that is no shorter in duration than the initial measurement period.” “This stability period for such employees must not be more than one month longer than the initial measurement period and . . . must not exceed the remainder of the standard measurement period (plus any associated administrative period) in which the initial measurement period ends.”)