

ACA OVERVIEW

Provided by Clarke & Company Benefits, LLC

Definitions of “Large Employer” and “Small Employer”

The Affordable Care Act (ACA) imposes different requirements on employers based on whether they qualify as a "large employer" or a "small employer." However, the health care reform law doesn't use a consistent definition for these terms. As a result, an employer may be considered a small employer for one rule but a large employer for another.

This ACA Overview outlines the definitions of “large employer” and “small employer” that apply to key provisions in the ACA affecting employers. It also contains a chart on the ACA requirements that vary based on a group plan's size.

LINKS AND RESOURCES

- On Oct. 7, 2015, President Obama signed into law the [Protecting Affordable Coverage for Employees \(PACE\) Act](#), which repealed the ACA's small group market expansion requirement.
- As a result, states now have the option, but are not required, to expand their small group markets to include businesses with up to 100 employees.
- **The PACE Act does not affect the definitions included in the first chart in this document, including the definition of an applicable large employer for purposes of the ACA's employer shared responsibility rules.**

This ACA Overview is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

HIGHLIGHTS

ACA DEFINITIONS

- The ACA does not use a consistent definition for the terms “large employer” and “small employer.”
- An employer may be considered a small employer for one rule, but a large employer for another.

PACE ACT

- Enacted on Oct. 7, 2015, the PACE Act repealed the ACA's small group market expansion.
- States now have the option, but are not required, to expand their small group markets to include businesses with up to 100 employees.



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ACA PROVISION	APPLICABLE DEFINITIONS	
<p>Health Care Tax Credit</p> <p>Effective for tax years beginning in 2010, the ACA provides a tax credit to certain small employers that provide health care coverage to their employees.</p>	<p>Large employers with 25 or more full-time employees are ineligible for the health care tax credit.</p>	<p>Eligible Small Employer:</p> <ul style="list-style-type: none"> • Must have fewer than 25 full-time employees or a combination of full-time and part-time staff (for example, two half-time employees equal one employee for purposes of the credit); • The average annual wages of employees must be less than \$50,000; and • The employer must pay at least half of the insurance premiums.
<p>Form W-2 Reporting</p> <p>Beginning in the 2012 tax year, large employers are required to report the aggregate cost of employer-sponsored group health plan coverage on their employees' Forms W-2.</p> <p>Small employers may be subject to this reporting in the future. The IRS delayed the reporting requirement for small employers by making it optional for these employers until further guidance is issued.</p>	<p>Large Employer:</p> <p>Must have had to file 250 or more Forms W-2 in the prior calendar year.</p>	<p>Small Employer:</p> <p>Must have had to file fewer than 250 Forms W-2 for the prior calendar year.</p>
<p>Employer Shared Responsibility Rules</p> <p>Beginning in 2015, applicable large employers (ALEs) may be subject to penalties if they do not offer health coverage to their employees, or if their health coverage does not meet certain standards.</p>	<p>Applicable Large Employer:</p> <p>Must employ at least 50 full-time employees, or a combination of full-time and part-time employees that equals at least 50 (for example, 40 full-time employees employed 30 or more hours per week on average plus 20 half-time employees employed 15 hours per week on average are equivalent to 50 full-time employees).</p>	<p>Small employers with fewer than 50 full-time (and full-time equivalent) employees are exempt from the employer shared responsibility rules. Also, ALEs that had fewer than 100 full-time (and full-time equivalent) employees in 2014 generally had an additional year, until 2016, to comply.</p>

REQUIREMENTS THAT VARY BASED ON GROUP SIZE

The ACA also imposes certain plan-related requirements that are based on group size instead of employer size. These requirements vary based on whether the plan is in the large group market or the small group market. The terms “large employer” and “small employer” are defined at the federal level in the ACA. In contrast, “small group market” size and “large group market” size are determined based on state law. This means that different states have different definitions of what qualifies as large group or small group.

The [PACE Act](#) repealed the ACA’s small group market expansion requirement. As a result, states now have the option, but are not required, to expand their small group markets to include businesses with up to 100 employees. **This law does not affect the definitions listed above, including the definition of an applicable large employer for purposes of the ACA’s employer shared responsibility rules.**

The following chart provides an overview of the requirements that vary based on a group plan’s size. To determine the definitions of large group market or small group market that apply in your state, please consult state law.

ACA PROVISION	LARGE GROUP MARKET REQUIREMENTS	SMALL GROUP MARKET REQUIREMENTS
<p>Medical Loss Ratio</p> <p>Beginning on Jan. 1, 2011, health insurance issuers offering must annually report on the share of premium dollars spent on health care and provide consumer rebates for excessive medical loss ratios.</p>	<p>Must spend at least 85 percent of premiums on medical care and health care quality improvement activities.</p>	<p>Must spend at least 80 percent of premiums on medical care and health care quality improvement activities.</p>
<p>Health Insurance Exchanges</p> <p>Beginning in 2014, each state must have a health insurance Exchange where individuals and small businesses can purchase affordable private health insurance coverage.</p> <p>Currently, small employers can offer coverage to their employees through an Exchange. Beginning in 2017, states may allow large employers to obtain coverage through an Exchange.</p>	<p>Large Employer:</p> <ul style="list-style-type: none"> • Must employ an average of at least 51 employees on business days during the preceding calendar year; and • Must employ at least one employee on the first day of the plan year. 	<p>Small Employer:</p> <ul style="list-style-type: none"> • Must employ an average of one to 50 employees on business days during the preceding calendar year; and • Must employ at least one employee on the first day of the plan year.

<p>Special Rule for SHOP Exchanges</p> <p>By 2014, each state Exchange must establish insurance options for small businesses through a Small Business Health Options Program (SHOP).</p>	<p>Large employers with at least 51 employees are ineligible to participate in the SHOP.</p>	<p>Eligible Small Employer for SHOP Participation:</p> <ul style="list-style-type: none"> • Must qualify as a “small employer” for Exchange participation (see above); • Must elect to offer at least all full-time employees coverage in a plan through a SHOP; and • Must either have its primary office in the Exchange service area and offer all its employees coverage through that SHOP, or offer coverage to each eligible employee through the SHOP servicing the employee's primary worksite.
<p>Comprehensive Benefits Coverage</p> <p>Beginning in 2014, the ACA requires non-grandfathered plans in the small group market to offer a comprehensive package of items and services, known as essential health benefits.</p>	<p>Requirement does not apply</p>	<p>Health insurance issuers in the individual and small group markets will be required to cover essential health benefits.</p>
<p>Insurance Market Nondiscrimination Reforms</p> <p>Effective for 2014, the ACA requires health plans and health insurance issuers to comply with a new set of market reforms related to nondiscrimination.</p>	<p>May not:</p> <ul style="list-style-type: none"> • Discriminate against an individual with respect to plan eligibility or coverage based on a health status-related factor; • Impose preexisting condition exclusions on enrollees; • Refuse enrollment to an employer that applies for coverage; or • Refuse to renew coverage at the option of the plan sponsor. 	<p>May not:</p> <ul style="list-style-type: none"> • Charge higher rates due to health status, gender or other factors; • Discriminate with respect to plan eligibility or coverage based on a health status-related factor; • Impose preexisting condition exclusions on enrollees; • Refuse enrollment to an employer or individual that applies for coverage; or • Refuse to renew coverage at the option of the plan sponsor.

<p>Limits on Cost-Sharing</p> <p>Effective for plan years beginning in 2014, non-grandfathered group health plans are subject to limits on out-of-pocket costs. These limits are indexed for subsequent years.</p>	<p>Out-of-pocket expenses may not exceed the amount applicable to coverage related to HSAs (as adjusted each year).</p>	<p>Out-of-pocket expenses may not exceed the amount applicable to coverage related to HSAs (as adjusted each year).</p>
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For more information, please contact Clarke & Company Benefits, LLC.