EMPLOYER'S PLAYBOOK TO THE

"PLAY OR PAY" RULES OF THE AFFORDABLE CARE ACT

APRIL 2013

INTRODUCTION

This guide condenses hundreds of pages of complex statutes, regulations and other guidance on the employer shared responsibility rules under the Affordable Care Act into a more practical and user-friendly source of information. We refer to it as the "Playbook" since it contains a concise overview of the rules, flowcharts, decision trees, tables, charts and examples.

The Playbook consists of five sections:

- Overview of "Play or Pay" Rules, which summarizes the employers who are subject to the rules, the potential penalties, the employees who must be covered to avoid incurring a penalty, and action items the employer should take.
- When are Penalties Triggered?, which is a flowchart providing a visual guide to help employers determine the circumstances in which a penalty will be triggered and on which employees.
- Periods Within the Lookback Measurement Method, which is a table that provides the purpose and parameters for the measurement, administrative and stability periods that an employer may select in order to identify the employees (existing and newly hired) who must be offered coverage and the period during which coverage must be offered in order to avoid penalties.
- Determining Full-Time Employees to Offer Coverage, which is a decision tree flowchart to help employers identify who must be offered coverage in order to avoid penalties.
- Examples, which illustrate the lookback period allowed to measure the number of full-time employees and the application of the measurement period to determine the period in which coverage must be offered to the full-time employees to avoid penalties.

OVERVIEW OF “PLAY OR PAY” RULES

Beginning January 1, 2014, large employers that fail to offer minimum essential health coverage at an affordable cost to their full-time employees risk a penalty if one or more of those employees receive a Federal subsidy to purchase coverage through an insurance exchange.

Covered Employers

To be considered a large employer there must be an average of at least 50 full-time employees (or an equivalent combination of full-time employees and full-time equivalents) during the preceding calendar year (or during at least six consecutive months in 2013 for the 2014 calendar year). Entities under common ownership are treated as a single employer for purposes of determining whether they meet the “50-employee” threshold.

To determine if the threshold is met, the sum of all full-time employees and full-time equivalents for each calendar month in the preceding year is divided by 12 (or the applicable number of months selected for the 2013 determination). Do not count leased employees, sole proprietors, partners, and 2% S corporation shareholders as employees. If the result is 50 or more, the employer is a large employer, unless the seasonal worker exception applies.

Full-time status is assigned to employees who averaged at least 30 hours of service per week (or at least 130 hours per calendar month). For employees paid on an hourly basis, the employer must calculate their actual hours of service. For non-hourly employees whose hours are not tracked, the employer must count their actual hours or apply an equivalency of eight hours daily or 40 hours weekly.

Full-time equivalents are determined by adding the monthly number of hours of service for all employees who worked less than full-time (but capped at 120 hours for any single employee) and dividing by 120.

OVERVIEW OF "PLAY OR PAY" RULES (CONT.)

Penalties

A large employer must offer minimum essential health care coverage to at least 95% of its full-time employees (and, effective 2015, their dependents) or pay a penalty on all full-time employees (including those who are offered coverage), less 30 if at least one full-time employee receives a federal subsidy to purchase health care coverage through an exchange. The penalty is equal to $166.67 monthly ($2,000 annually) times the number of full-time employees over the 30 threshold.

Nevertheless, a large employer that does offer minimum essential coverage to at least 95% of its full-time employees (and their dependents) may be subject to a lesser penalty if (i) the plan fails to bear at least 60% of the benefits provided under the plan, (ii) the employee's required contribution for the lowest cost self-only coverage exceeds 9.5% of the employee's household income (i.e., is not affordable), or (iii) one or more of the full-time employees were not offered coverage. Under these circumstances, the penalty is only assessed on the number of full-time employees who receive a federal subsidy to purchase health care coverage through an exchange. The amount of the penalty is $250 monthly ($3,000 annually) per full-time employee receiving a subsidy and cannot exceed the amount of the penalty that would apply in the preceding paragraph.

Note, although large employer status is determined on a controlled group basis by aggregating related employers, the liability is calculated separately for each member of the group. Further, the group is only permitted one reduction of 30 full-time employees for purposes of the first penalty; and that reduction must be allocated ratably among the members of the large employer based on each member's number of full-time employees.

OVERVIEW OF "PLAY OR PAY" RULES (CONT.)

Offer of Coverage to Full-Time Employees

The identification of full-time employees that must be offered affordable, minimum essential health care coverage in order to avoid the penalties is challenging because it is dependent on actual hours worked which can vary from week to week. Accordingly, a month-by-month determination of full-time status may result in employees moving in and out of coverage as frequently as monthly. In order to provide stability to the group of employees to which coverage can avoid penalties, the IRS guidance provides methods for determining the full-time status for various types of employees – existing, newly hired, seasonal, rehired, those resuming after a break-in-service, and those with a change in employment status.

An employer may select a defined period of three to 12 months to look back at in order to determine whether the employee performed an average of at least 30 hours of service per week (a "measurement period"). If the employee worked full-time during the measurement period, the employee would be treated as a full-time for any period worked during a subsequent period (a stability period), regardless of the employee's actual hours of service during such period.

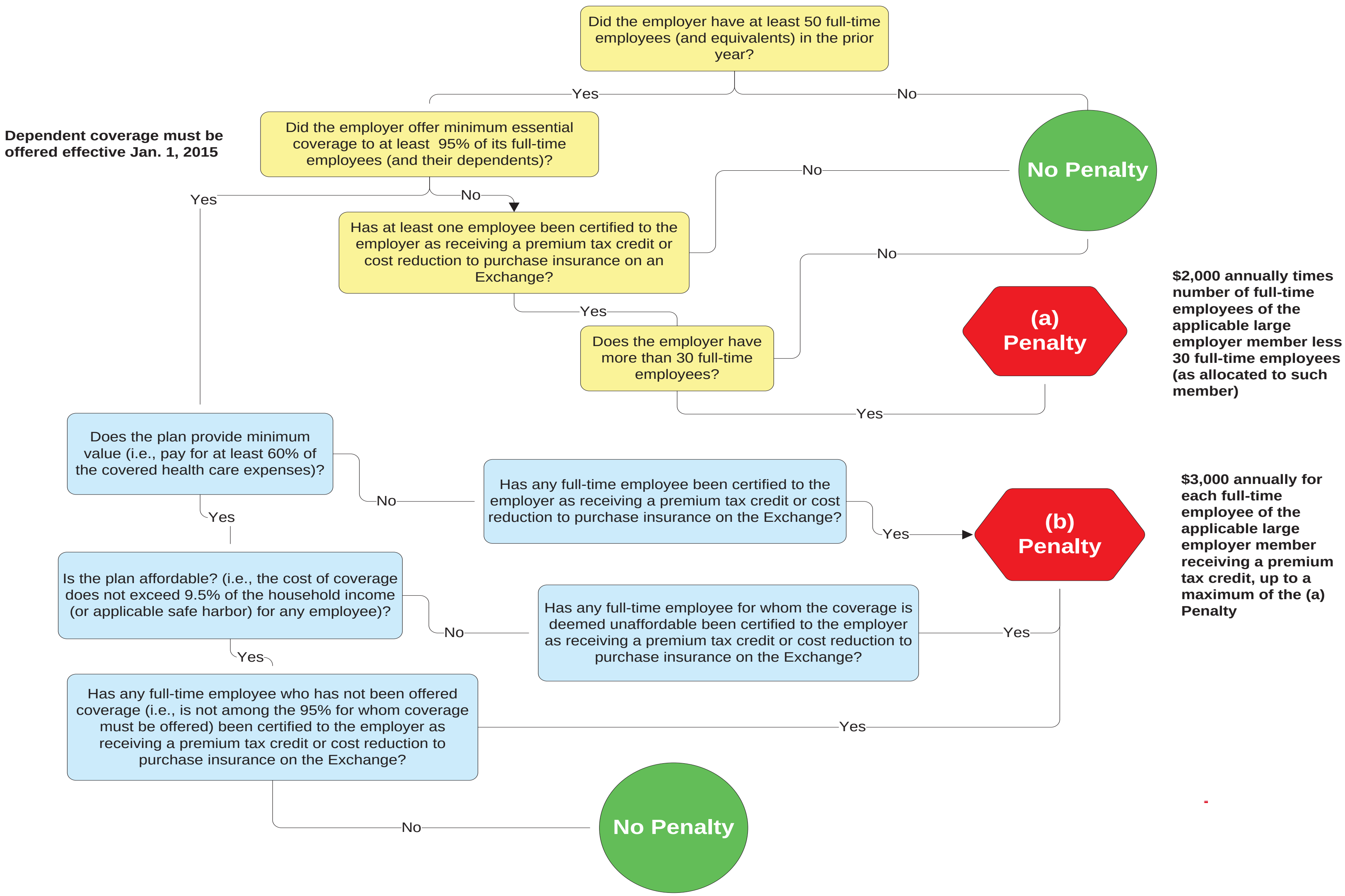
OVERVIEW OF “PLAY OR PAY” RULES (CONT.)

Establish Systems

Employers will have to establish systems to perform the following functions:

- Track the hours of part-time employees,
- Count the number of full-time employees and full-time equivalents monthly,
- Identify other employers whose employees must be included in the 50-employee count,
- For 2013, determine the which months to use in determining the 50-employee count,
- Establish measurement and stability periods to identify ongoing full-time employees to whom coverage should be offered,
- Track each new hire’s initial measurement period, initial stability period, and overlapping standard measurement period until transitioned to an ongoing employee, and
- Assess the affordability of their plans.

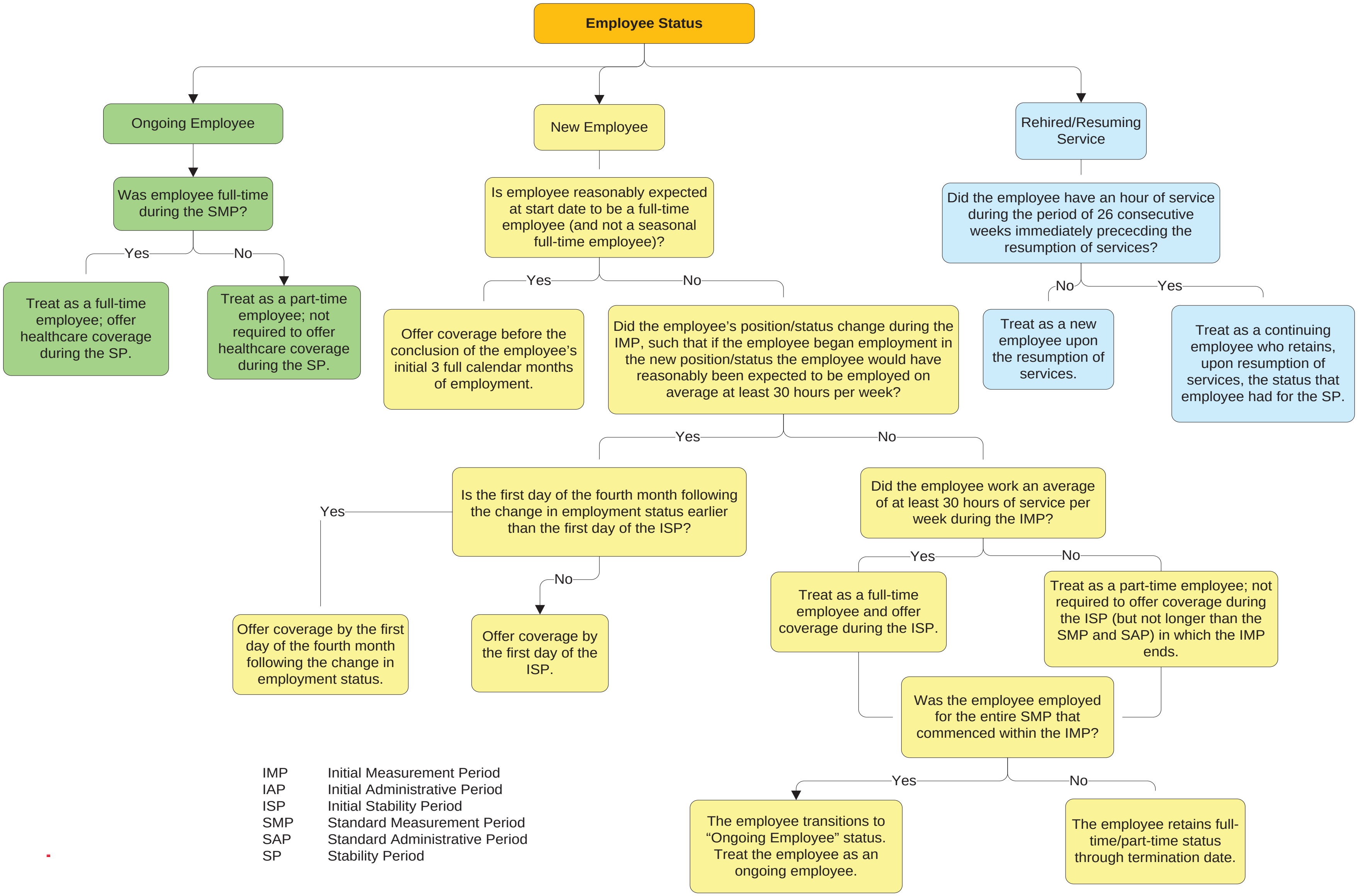
WHEN ARE PENALTIES TRIGGERED?



PERIODS WITHIN THE LOOKBAK MEASUREMENT METHOD

<table>
<tr><th></th><th>IMP
Initial Measurement Period</th><th>IAP
Initial Administrative Period</th><th>ISP
Initial Stability Period</th><th>SMP
Standard Measurement Period</th><th>SAP
Standard Administrative Period</th><th>SP
Stability Period</th></tr>
<tr><td>Purpose</td><td>Determine whether a new variable hour or a new seasonal employee is a full-time employee.</td><td>Optional. At close of IMP, employer may need time to total hours worked, offer employee health coverage (if applicable) and process employee's elections.</td><td>The period in which an employee determined to be a full-time employee based on the IMP must be offered healthcare coverage.</td><td>Determine whether an ongoing employee is a full-time employee.</td><td>Optional. At close of SMP, employer may need time to total hours worked, offer employee health (if applicable) and process employee's elections.</td><td>The period in which an employee determined to be a full-time employee based on the associated SMP must be offered healthcare coverage.</td></tr>
<tr><td rowspan="2">Duration</td><td>Employer elects a period of
• 3 months minimum
• 12 months maximum.</td><td>90 days maximum. Includes period between
• start date and IMP; and
• IMP and ISP.</td><td rowspan="2">• Generally, same length as SP for ongoing employees.
• If employee is not full-time for IMP, then ISP must not be more than one month longer than the IMP and must not exceed the remainder of the SMP (and any SAP) in which the IMP ends.</td><td rowspan="2">Employer elects a period of:
• 3 months minimum
• 12 months maximum.</td><td rowspan="2">90 days maximum.</td><td rowspan="2">• At least 6 consecutive calendar months
• No shorter than the SMP.</td></tr>
<tr><td colspan="2">Combined IMP and IAP cannot extend beyond the last day of the first calendar month beginning on or after the first anniversary of the employee's start date.</td></tr>
<tr><td>Commence</td><td>Employer elects any date from
• Employee's start date; to
• First day of calendar month following employee's start date.</td><td>• Begins immediately after the IMP
• Ends immediately before the ISP.</td><td>Begins immediately after the IMP and any IAP.</td><td>• Employer elects start and end date.
• May exclude the entire payroll period that includes the first day of the SMP; but must include the entire payroll period that includes the last day of the SMP; or
• May include the entire payroll period that includes the first day of the SMP; but must exclude the entire payroll period that includes the last day of the SMP.</td><td>• Begins immediately after the SMP
• Ends immediately before the SP
• May not reduce or lengthen the SMP or SP
• Overlaps with prior SP</td><td>Begins immediately after the SMP and any SAP.</td></tr>
</table>

DETERMINING FULL-TIME EMPLOYEES TO OFFER COVERAGE



IMP	Initial Measurement Period
IAP	Initial Administrative Period
ISP	Initial Stability Period
SMP	Standard Measurement Period
SAP	Standard Administrative Period
SP	Stability Period

LOOKBACK MEASUREMENT PERIOD METHOD

EXAMPLES
(Refer to the Timeline for an Illustration)

The following examples illustrate the lookback measurement methods. In all of the following examples, ABC Company ("ABC") is a large which offers all of its full-time employees and their dependents the opportunity to enroll in minimum essential coverage under ABC's healthcare plan. In examples 1 through 5, Jane is a new variable hour employee hired on June 15, 2015, and ABC has chosen the following periods:

- Initial measurement period: 12 months, beginning on the first of the month following the employee's start date;
- Initial administrative period: one month;
- Initial stability period: 12 months;
- Standard measurement period: 12 months, beginning each October 15;
- Standard administrative period: beginning each October 16 and ending each December 31; and
- Stability period: calendar year.

Example 1 (New variable hour employee determined to be a full-time employee)

Jane's initial measurement period runs from July 1, 2015 to June 30, 2016. Based on time records, Jane averages 30 hours of service per week during this initial measurement period. ABC should offer coverage to Jane for an initial stability period that runs from August 1, 2016 to July 31, 2017 in order to avoid penalty.

Findings: ABC complies with the IRS guidance. The initial measurement period does not exceed 12 months. The initial administrative period does not exceed 90 days (approximately 46 days: 15 days in June, plus 31 days in July). The initial partial month delay, the 12-month initial measurement period and the one-month initial administrative period, taken together, do not extend beyond July 31, 2016, which is the last day of the first month that begins after the first anniversary of Jane's start date.

ABC must test Jane again based on the period from October 15, 2015 through October 14, 2016, which is the first standard measurement period that begins after Jane's start date.

LOOKBACK MEASUREMENT PERIOD METHOD (CONT.)

Example 2 (Continuous full-time employee)

Facts: Same facts as in Example 1; in addition, ABC tests Jane again based on Jane's hours of service from October 15, 2015 through October 14, 2016 (Jane's first standard measurement period that begins after Jane's start date) and determines that Jane has an average of 30 hours of service a week during that period.

Findings: ABC should offer Jane coverage for August 1, 2017 through December 31, 2017 (the remainder of the stability period associated with the October 15, 2015 through October 14, 2016 standard measurement period) in order to avoid penalty. Note, Jane already has an offer of coverage for the period of August 1, 2016 through July 31, 2017 because that period is the initial stability period associated with the initial measurement period, during which Jane was determined to be a full-time employee.

Example 3 (New variable employee determined not to be a full-time employee)

Same facts as in Example 2, except that Jane averages 27 hours of service per week during her initial measurement period that runs from July 1, 2015 to June 30, 2016.

Findings: ABC treats Jane as a part-time employee and does not offer health coverage for the period August 1, 2016 through December 31, 2016. Since Jane is determined to be a part-time employee during the initial measurement period, Jane's initial stability period cannot extend beyond the end of the standard measurement period (and any associated administrative period) in which the initial measurement period ends. Here, the initial measurement period ends on June 30, 2016. The standard measurement period within which that initial measurement period ends is the October 15, 2015 through October 14, 2016 standard measurement period, plus the associated administrative period from October 16, 2016 through December 31, 2016. Thus, ABC can treat Jane as part-time and not offer health coverage through December 31, 2016 without penalty exposure.

ABC must test Jane again based on the period from October 15, 2015 through October 14, 2016, which is Jane's first standard measurement period that begins after Jane's start date.

LOOKBACK MEASUREMENT PERIOD METHOD (CONT.)

Example 4 (Initially part-time, then becomes a full-time employee)

Facts: Same facts as in Example 3; in addition, ABC tests Jane again based on Jane's hours of service from October 15, 2015 through October 14, 2016 (Jane's first standard measurement period that begins after Jane's start date) and determines that Jane has actually averaged 30 hours of service a week during that period.

Findings: During the October 16, 2016 through December 31, 2016 administrative period, ABC should offer Jane coverage for the stability period commencing January 1, 2017 through December 31, 2017 in order to avoid penalty.

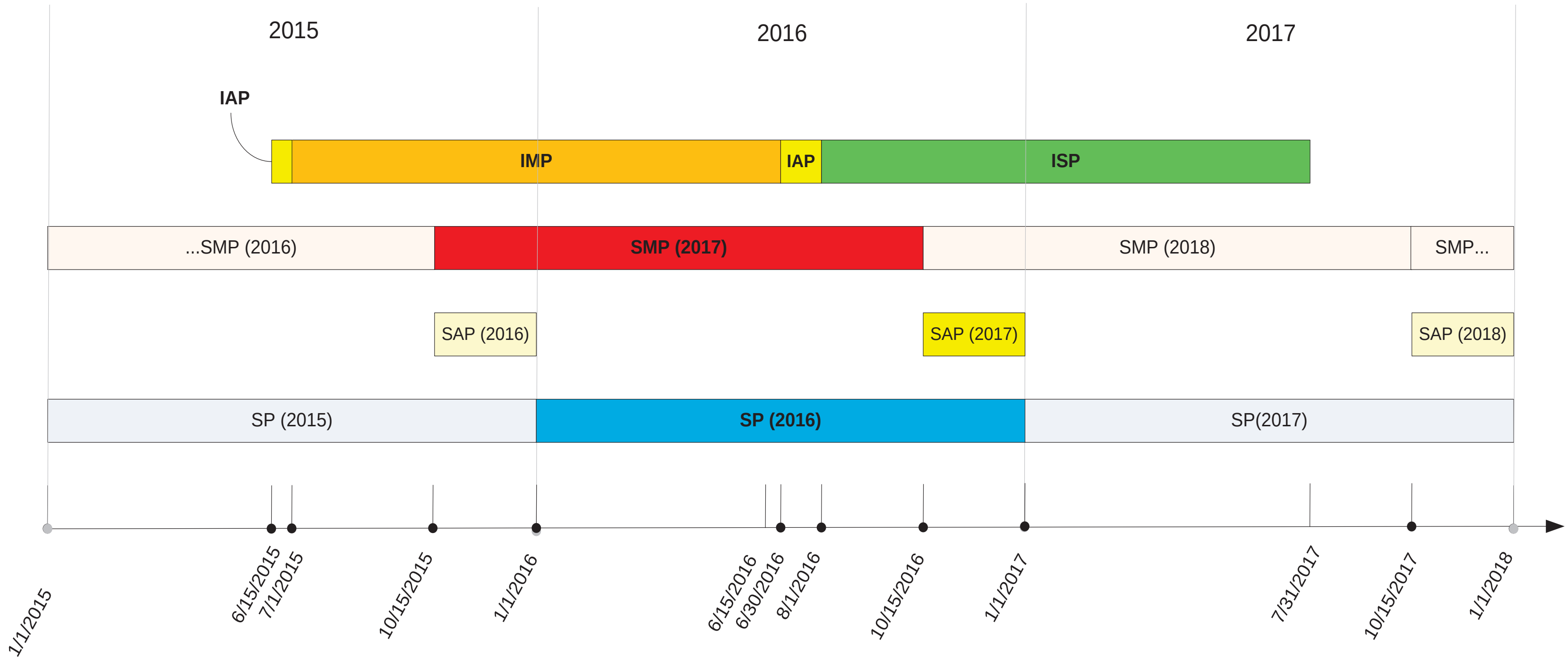
Example 5 (Continuous part-time employee)

Facts: Same facts as in Example 3; in addition, ABC tests Jane again based on Jane's hours of service from October 15, 2015 through October 14, 2016 (Jane's first standard measurement period that begins after Jane's start date) and determines that Jane has an average of 27 hours of service a week during that period.

Findings: During the October 16, 2016 through December 31, 2016 administrative period, ABC does not offer health coverage to Jane coverage for the stability period commencing January 1, 2017 through December 31, 2017 without exposure to penalty.

LOOKBACK MEASUREMENT PERIOD METHOD
FOR DETERMINING FULL-TIME EMPLOYEES

TIMELINE
(Based on Examples)



The lookback measurement periods above are based on the examples. An employer may select the start and duration of the periods within the parameters specified "Periods Within the Lookback Measurement Method" table.

IMP	Initial Measurement Period
IAP	Initial Administrative Period
ISP	Initial Stability Period
SMP	Standard Measurement Period
SAP	Standard Administrative Period
SP	Stability Period

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