

# PAY OR PLAY

The "Pay or Play" provisions of the Affordable Care Act require employers with 50 or more full-time equivalent employees to offer enrollment for qualified medical benefit plans to employees who work an average of 30 hours per week for a defined Measurement Period. Employers that cannot substantiate their compliance may be liable for substantial penalties.

Empyrean's robust system supports all employer Pay or Play compliance needs - no matter how complex: it allows for employer-defined measurement and stability periods, simultaneously tracks new hire and ongoing qualification status, includes tools to help manage your workforce, and ensures reports that are timely and accurate, helping you manage compliance requirements.

The screenshot shows the MAP - Network Dashboard interface. At the top, it displays the user information: User Id: mjones@empyreanbenefits.com, Name: Mary Jones, Last Login Date: 4/19/2013, Client Id: A, and Client Name: Control Group A. The dashboard includes a navigation menu with options like DASHBOARD, LOAD TIME FILE, LOAD EDF, REPORTS, WORKFORCE REPORT, COMPLIANCE EPISODE, EMPLOYEE COMPLIANCE, and EXCHANGE ELIGIBILITY. The main content area is titled 'COMPLIANCE DASHBOARD' and features a 'Compliance Episode History' table. The table has columns for Name, Type, Hire, Enter, MP Begin, MP End, Eligible, SP End, Avg Hrs, and T1. The data is filtered for the month of December 2014 and employee type. The table lists several employees including Adams, Carson, Franklin, Jones, and Jerncz, with their respective compliance episode details.

Name	Type	Hire	Enter	MP Begin	MP End	Eligible	SP End	Avg Hrs	T1
Adams	Union B	4/17/2013	5/1/2013	5/1/2013	4/30/2014	6/4/2014	5/31/2015	28.5	12
	Overlapping	4/17/2013	5/1/2013	11/1/2012	10/31/2013	1/1/2014	12/31/2014	30.8	6
	Standard	4/17/2013	11/1/13	11/1/13	10/31/2014	1/1/2015	12/31/2015	29	12
Carson	Standard	4/17/2013	11/1/14	11/1/14	10/31/15	1/1/2016	12/31/2016	33.9	1
	New Hire	4/17/2013	5/1/2013	5/1/2013	4/30/2014	6/4/2014	5/31/2015	33.8	12
	Overlapping	4/17/2013	5/1/2013	11/1/2012	10/31/2013	1/1/2014	12/31/2014	33.2	6
Franklin	Standard	4/17/2013	11/1/13	11/1/13	10/31/2014	1/1/2015	12/31/2015	34.5	12
	Standard	4/17/2013	11/1/14	11/1/14	10/31/15	1/1/2016	12/31/2016	39.3	1
	Union A	4/17/2013	5/1/2013	5/1/2013	4/30/2014	6/4/2014	5/31/2015	16.1	12
Jones	New Hire	4/17/2013	5/1/2013	5/1/2013	4/30/2014	6/4/2014	5/31/2015	16.1	12
	Overlapping	4/17/2013	5/1/2013	11/1/2012	10/31/2013	1/1/2014	12/31/2014	18.7	4
	Standard	4/17/2013	11/1/13	11/1/13	10/31/2014	1/1/2015	12/31/2015	16.3	12
Jerncz	Standard	4/17/2013	11/1/14	11/1/14	10/31/15	1/1/2016	12/31/2016	28.2	1
	Union A	4/17/2013	5/1/2013	5/1/2013	4/30/2014	6/4/2014	5/31/2015	26	12
	New Hire	4/17/2013	5/1/2013	5/1/2013	4/30/2014	6/4/2014	5/31/2015	35	6
Jerncz	Overlapping	4/17/2013	5/1/2013	11/1/2012	10/31/2013	1/1/2014	12/31/2014	35	6
	Standard	4/17/2013	11/1/13	11/1/13	10/31/2014	1/1/2015	12/31/2015	17	12
Jerncz	Standard	4/17/2013	11/1/14	11/1/14	10/31/15	1/1/2016	12/31/2016	36.5	1

## BY THE NUMBERS

Nationally, **5 - 10 MILLION** employees will become eligible for health care benefits in 2014, many who are hourly or seasonal employees.

Employers that do not offer coverage to their full-time employees face a penalty of **\$2,000 TIMES** the total number of full-time employees (less 30) if at least one employee receives premium assistance or a tax credit for coverage through an exchange.

If employers do offer coverage to their full-time employees and their dependents but the coverage is unaffordable or does not provide minimum value, the employers face a penalty of **\$3,000 TIMES** the number of full-time employees receiving premium assistance for exchange coverage or a tax credit.

In combination with our traditional BenAdmin eligibility and enrollment services, Empyrean gives employers a choice of three service models:

1. as a H&W administration solution without Pay or Play compliance,
2. as a stand-alone compliance solution without H&W administration services, or 3. as a one-stop-shop for H&W administration with Pay or Play compliance.

**EMPLOYEE-LEVEL REPORTS**

Include current status, end of measurement period determination, and end-of-year determination history

**COMPLIANCE REPORTS**

Includes end of measurement period determination and reports to monitor employee progress through the compliance periods

**EMPLOYER-LEVEL WORKFORCE MANAGEMENT REPORTS**

Include mid-period qualification status and hours worked history

ACA PAY OR PLAY TASKS	TRADITIONAL BENADMIN	COMPLIANCE ENGINE ONLY	BENADMIN & COMPLIANCE
Configure ACA rules	Employer	Empyrean	Empyrean
Configure plans	Employer	Employer	Empyrean
Employee tracking	Employer	Empyrean	Empyrean
ACA Eligibility and compliance testing	Employer	Empyrean	Empyrean
Enrollment management	Empyrean	Employer	Empyrean
Routine reporting	Employer	On line self-service	On line self-service

Employer retains all Pay or Play record keeping, eligibility determination, and reporting

Empyrean provides Pay or Play record keeping, eligibility determination, and reporting

Empyrean provides Pay or Play record keeping, eligibility determination, and reporting

Employer retains offer of coverage, enrollment, and reporting

Empyrean provides offer of coverage, enrollment, and reporting

## FREQUENTLY ASKED QUESTIONS

### ***WHAT TYPES OF EMPLOYERS ARE MOST LIKELY TO BE IMPACTED BY THE PAY OR PLAY?***

Large employers with hourly, part-time, irregular, seasonal or commissioned employees are likely to be most affected by Pay or Play, because historically, these groups were often not eligible for benefits. In addition, employers that do not have systems to track and consolidate hours worked for all employees are potentially at risk of being hit with penalties if they cannot demonstrate that they have met Pay or Play requirements.

\*Note: § 4980H defines an applicable large employer, with respect to a calendar year, as an employer that employed an average of at least 50 FT (full-time) employees on business days during the preceding calendar year. To determine the 50 FT employee threshold, the guidance indicates that an employer would add FT employees plus FTEs (full time equivalents) across the employer's controlled group each month and divide by 12. FTEs for a given month are determined by aggregating the hours of service worked for all non FT employees during the month (up to 120 hours per employee) and dividing by 120.

### ***WILL EMPLOYERS REALLY NEED TO CALCULATE HOURS WORKED FOR EVERY EMPLOYEE?***

Pay or Play obligations trigger on whether the average hours worked for a given employee equals or exceeds 30 hours. Unless your plan design is such that any employee who works less than 30 hours per week is offered coverage, you will need to track and monitor all hours of service for which an employee is paid or due to be paid, especially if that employee is a variable hour or seasonal employee. Even if you primarily have non hourly populations, you may need to track hours using equivalency rules for either days worked or weeks worked if your non hourly populations typically weren't eligible for benefits in the past.

### ***IS CALCULATING AVERAGE HOURS WORKED AS SIMPLE AS IT SOUNDS?***

Yes and No. Mathematically, calculating average hours worked is simple. Unfortunately, Pay or Play is a compliance effort, not a math quiz—which means, there is a lot more to compliance than basic math. Pay or Play, guidance allows employers to adopt a simplified framework for determining if a variable hours employee must be offered affordable medical coverage and how long they must remain eligible for affordable coverage. Detailed proposed regulations define the following components:

- The Measuring Period: the period used to calculate the 30 hour-per-week-average threshold for each variable hour employee
- The Stability Period: the period that an employee must remain in affordable medical coverage if they qualified under the applicable measuring period
- The Administrative Period: the period between the measuring period and the stability period when an employee is offered and enrolls in medical coverage
- Similar periods that apply to new hire variable hour or seasonal employees

In addition, there are complex rules for determining waiting periods, managing breaks in service, applying transition rules for 2014, and ensuring that new hires get assimilated into the ongoing measuring and stability periods.

### ***CAN AN EMPLOYER DECIDE TO HAVE DIFFERENT MEASUREMENT PERIODS (LOOK BACK PERIODS) FOR DIFFERENT GROUPS OF VARIABLE HOUR EMPLOYEES?***

Pay or Play regulations allow an employer to define different measurement periods for the following categories of employees: (1) collectively bargained and non-collectively bargained employees; (2) collectively bargained employees with separate bargaining agreements; (3) salaried and hourly employees; (4) employees whose primary places of employment are in different states. There

## FREQUENTLY ASKED QUESTIONS CONTINUED

may be valid reasons to have different measuring periods for different populations. Employers will want to be sure their systems can handle variations, layers of rules, and account for employees who may switch groups mid-year.

### ***HOW DOES THE MEASURING PERIOD APPLY TO NEW EMPLOYEES?***

Newly hired employees that are expected to work 30 or more hours per week beginning at their hire date must become eligible to be covered by an affordable medical plan no later than 90 days from their hire date. Other new hire employees that work 30 or more hours per week on average must be offered coverage in a Pay or Play qualifying medical plan no later than the first day of the second calendar month beginning on or after the one-year anniversary of the employee's start date. (Example: hire date is 2/18/2014; eligibility for coverage must begin no later than 4/1/2015). But new hires will need to be tracked not just in the measuring period associated with being a new hire. There are transition rules to ensure that new hires are properly calculated in the ongoing population as well which typically means that new hires need to be tracked with two or more different measuring periods simultaneously.

### ***HOW WILL THE EMPLOYER BE EXPECTED TO RESPOND TO INQUIRIES FROM PUBLIC EXCHANGES IF AN EMPLOYEE APPLIES TO THE EXCHANGE FOR SUBSIDIZED COVERAGE?***

To avoid penalties, employers will need to demonstrate to the Exchanges that they have complied with Pay or Play and have offered an affordable, minimum value medical plan with essential benefits for any employee that applies for subsidized medical coverage through the Exchange.

### ***WHAT NEW REPORTING REQUIREMENTS DO EMPLOYERS NEED TO BE CONCERNED WITH?***

Employers need to address several new reporting requirements. Most employers will soon need to send a Notice of Availability of Exchange to all of their employees. In addition, employers who are subject to Pay or Play requirements will need to maintain auditable records to meet the following reporting requirements:

- Annually, report to the Federal Government whether an affordable, minimum value plan with essential benefits was required to be offered to each full-time employee and their dependents; whether such coverage was offered and to whom it was offered, any waiting period associated with that coverage, the contributions the employer made towards that coverage, amongst other reportable items
- Annually, send to each full-time employee a similar notice indicating their eligibility for medical plan enrollment
- On-demand, provide information to an Exchange indicating an employee's eligibility for qualified employer-sponsored medical coverage

### ***WHEN DOES AN EMPLOYER NEED TO START TRACKING HOURS WORKED FOR MY EMPLOYEE POPULATIONS?***

You know the saying, "Objects in the rear view mirror are closer than they seem?" The same is true for the coming Pay or Play obligations. Tracking of employee hours within the employer's measuring periods needs to begin well before January 1, 2014 (for calendar year plans). For example, if an employer is planning on a 12 month measuring period, the proposed regulations recognize that the employer is already behind. Consequently, the guidance allows for a shorter transitional measuring period for stability periods beginning in 2014. But that means an employer would need to start tracking employee hours against that measuring period no later than July 1, 2013 (assuming the employer was not going to use an administrative period of any kind).