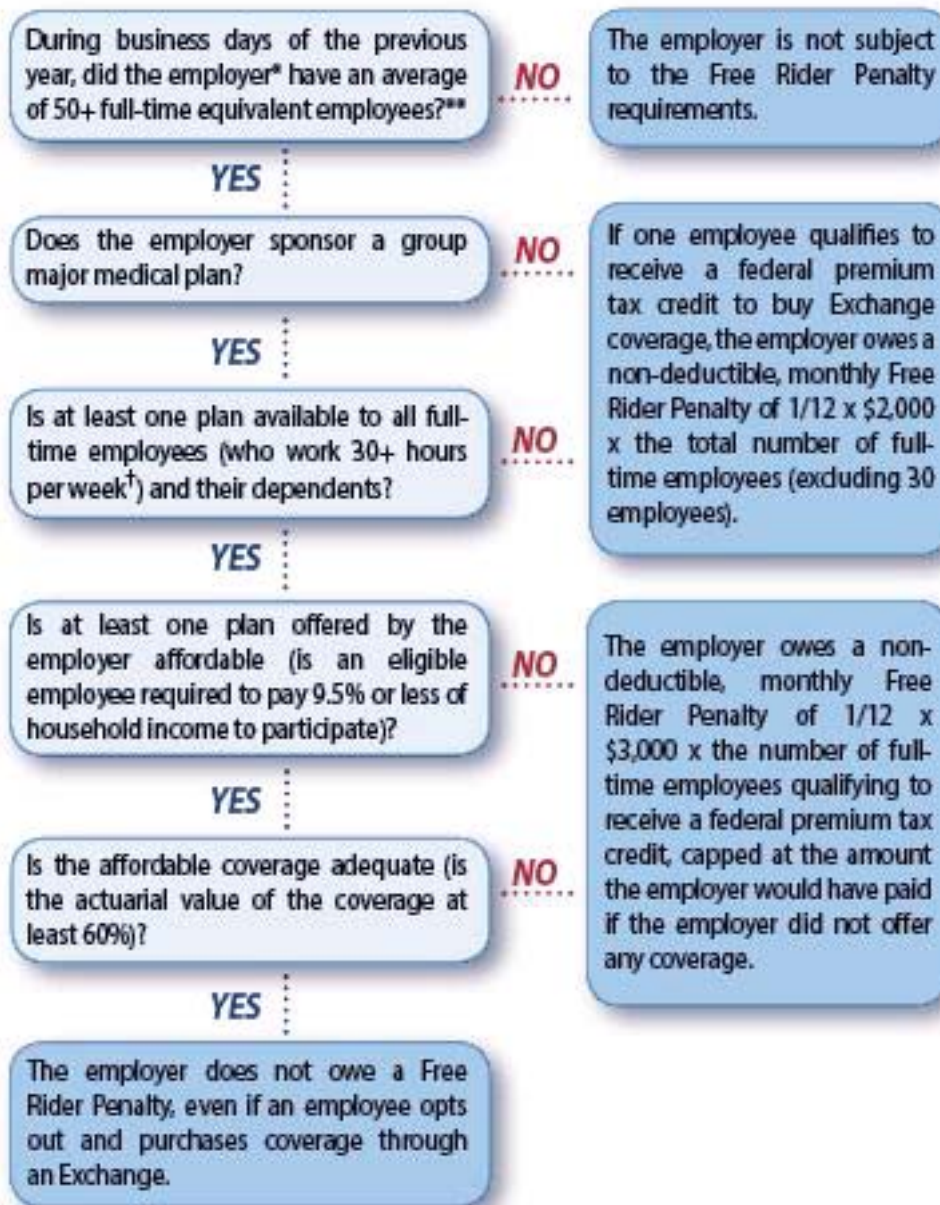


# Let American Fidelity Be Your Health Care Reform Resource!

## Employer Responsibility Associated with the Free Rider Penalty

Effective January 1, 2014, an employer with 50+ full-time equivalent employees that does not offer health coverage to full-time employees (working 30+ hours per week) and their dependent children up to age 26, or offers coverage that is “unaffordable” (the premium contribution to receive health coverage from the employer costs the employee more than 9.5% of household income) or “inadequate” (the coverage has an actuarial value of less than 60%), and has at least one employee who qualifies to receive a federal premium tax credit to purchase Health Insurance Exchange coverage, must pay a Free Rider Penalty.

### Are you likely to be impacted by the Free Rider Penalty?



**\* Large Employers** - The entire controlled group is taken into account when determining whether an employer is a “large employer” subject to the Free Rider Penalty.

**\*\*Calculating the Number of Full-Time Equivalent Employees** - As a general rule, the number of fulltime equivalent employees for a given month is determined by adding:

- The number of full-time employees working 30+ hours per week, and
- The hours worked by part-time employees (up to 120 hours per employee) during the month divided by 120.

Seasonal workers may be excluded from the calculation.

**+ Determining Whether an Employee Works Full-Time** - In general, full-time status is determined for each month, and an employee who averages 30+ hours of service per week (or 130 hours per month) is considered a full-time employee. Employers may use an optional look back period (of between 3 and 12 calendar months) to determine whether an employee who works variable hours averaged 30+ hours of service per week. Additional information about how to utilize the look back safe harbor is available at [HCReducation.com](http://HCReducation.com).

Proposed IRS regulations provide special rules to determine full-time status for educational institutions by providing an averaging method for employment breaks for employees who work full-time only during the active portions of the academic year. In effect, this means that school districts must credit all employees with hours as if they had worked during the period when school is not in session.

**++ Determining Whether Coverage is Affordable** - American Fidelity offers a calculator on our Health Care Reform website to help you determine the employee salary levels that may be impacted by the Free Rider Penalty. Use our online calculator to help assess whether your coverage will be considered unaffordable for any of your full-time employees.

### **Designing a Strategy to Avoid Paying a Free Rider Penalty**

If you choose to continue sponsoring a major medical plan and hope to not pay any Free Rider Penalties, there are many things to consider about your plans and workforce. The following are a few examples:

- Do you have 50+ full-time equivalent employees?
- Do you need to restructure major medical plan eligibility to ensure all employees working 30+ hours per week (and their dependent children) are eligible for major medical coverage?
- Would it be beneficial to consider restructuring work policies to ensure part-time employees (who are not eligible for major medical coverage) do not work 30 or more hours per week?
- Will coverage potentially be considered unaffordable for any of your employees?
- Would it be beneficial to restructure major medical plan contributions to ensure Self-only coverage for at least one benefit plan option will be affordable for all full-time employees?

Please note that these are not all of the important considerations for an employer, but rather simply a few related to the Free Rider Penalty. Employers need to understand and consider all of the new requirements imposed by Health Care Reform. For example, the Plan Design Mandates impose requirements on waiting periods, dependent eligibility, and benefits that must be covered by the plan.

We know it’s challenging for employers to understand the new requirements, figure out how to comply, and keep up with the changing rules. Let American Fidelity help you stay compliant. To learn more, please visit our website at [www.HCReducation.com](http://www.HCReducation.com) and join the conversation at <http://benefitsblog.americanfidelity.com>.

#### *Caution:*

*This is only a high level summary that reflects our current understanding of select portions of the law, often in the absence of regulations. All of the interpretations contained herein are subject to change as the appropriate agencies publish additional guidance. The most up-to-date summary of these rules is available on our website at [HCReducation.com](http://HCReducation.com). American Fidelity does not provide tax or legal advice – as such, we suggest that employers and individuals consult with their legal counsel and/or tax advisors about how Health Care Reform may impact them.*