PPACA and Seasonal Employees

Designing and Managing the Determination Process

Summary

Under the Patient Protection and Affordable Care Act (PPACA), organizations that rely on seasonal workers must create a determination process (that is, a standard period of time when the employer determines if a worker is considered full-time under PPACA and thus eligible for insurance coverage) distinct from the process used to evaluate ongoing employees. This paper will examine "Shared Responsibility" guidelines for customizing a seasonal employer's determination process and discuss how a time and attendance system significantly streamlines the process during implementation.

PPACA Shared Responsibility

Signed into law in 2010, the Patient Protection and Affordable Care Act (PPACA) is designed to decrease the number of U.S. workers without access to affordable health care. The impact of PPACA is wide-reaching, affecting insurance providers, large and small organizations, non-profit and for-profit employers, and individuals; however, for the purpose of this paper we will focus on the "Shared Responsibility" provision affecting organizations qualifying as "large employers."

Under PPACA, only organizations that meet large employer criteria are subject to its provisions and penalties. A large employer is defined as one that employs at least 50 full-time or full-time equivalent (FTE) employees during business days of the previous calendar year. Full-time employees are defined as those that work 30 hours per week or provide 130 total hours of service in any given month; FTEs are derived from part-time employees' service hours. But these calculations become understandably more challenging or moot for organizations that employ seasonal help.

IRS Guidelines: Large Employer Qualifications and Seasonal Workers Defined

Under IRS Notice 2012-58, a seasonal employer does not meet the PPACA's large employer definition (and is consequently not subject to its provisions) if it meets the following criteria:

- The organization employs 50 or more full-time employees for 120 days or fewer during the calendar year, and
- Workers in excess of 50 during those 120 or fewer days are considered seasonal workers.

To this end, the Notice defines seasonal workers as those that perform services on a seasonal basis such as retail workers employed only during the holiday season or (including but not limited to) workers covered by the Migrant and Seasonal Agricultural Worker Protection Act 29 CFR 500.20(s)(1). The IRS notes that because there is no strict definition of what constitutes a seasonal employee, organizations are allowed to use a "reasonable, good faith interpretation" through at least 2014.

Safe Harbor Determination Process

For seasonal employers who do meet the PPACA's large employer criteria, the IRS outlines a safe harbor method similar to the determination for new variable-hour employees to determine which seasonal employees qualify for health coverage.

The determination process is made up of three periods:

- An ***initial measurement period***, defined as a "look-back" period used to assess the full-time status of seasonal employees.
- An ***administrative period***, an optional period employers can use to notify and enroll eligible employees for coverage.
- A ***stability period*** during which the employee is treated as a full-time or non-full-time employee according to the findings during the measurement period.

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To determine the status of their seasonal workers, the IRS outlines the following guidelines to help seasonal employers customize their determination process:

Initial Measurement Period	
Length	Between three and 12 months
Objective	Employer measures the hours of service completed by seasonal workers to determine which employees meet the full-time criteria (by working an average of 30 or more hours per week or 130 hours per month).

Administrative Period	
Length	Optional period of no more than 90 days (following the initial measurement period) which includes the time between the seasonal employee's start date and the date when he or she is first offered coverage. Additionally, if the measurement period begins on the first day of the month following the employee's start date, this must factor in to the administrative period's 90-day limit. It is important to note that the combined length of the measurement and administrative periods cannot be longer than the last day of the first calendar month beginning on or after the first anniversary of the employee's start date.
Objective	Employer notifies and enrolls eligible workers in insurance coverage.

Stability Period	
Length	If the employee is determined to be full-time, the stability period must be the same length as the stability period for ongoing employees, which must be at least six months in length and cannot be shorter than the initial measurement period. If the employee is not found to be full-time, the stability period cannot be more than one month longer than the initial measurement period and must not extend past the remainder of the standard measurement period (the measurement period for ongoing workers) plus the administrative period during which the initial period concludes. This is designed to give seasonal employers who prefer a 12-month stability period greater flexibility. Working backward, the employer could designate an initial measurement period of 11 months (with no administrative period), ensuring it will not exceed the "first anniversary" rule mentioned above.
Objective	Employer can treat workers according to their full-time or non-full-time status as determined during the measurement period regardless of hours worked during the stability period.

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Setting the length of the initial measurement period benefits seasonal employers greatly. Under the initial PPACA provision, agricultural workers employed during harvest or retail workers hired for the holiday season might qualify for coverage because the formula would capture the many hours they work but not necessarily reflect the short period of time in which they perform their labor. By choosing a length of time that allows employers to best represent average weekly hours of their seasonal employees they can avoid offering unnecessary coverage, reducing insurance and administrative costs.

Streamlining the Determination Process with a Time and Attendance System

Because tracking and reporting labor hours is critical to correctly determining large employer status and worker insurance eligibility, time and attendance oversight is key. A time and attendance system that automates this process as much as possible will significantly streamline the determination process.

System characteristics seasonal employers will find most useful include:

PPACA-focused features

The best way to ensure PPACA compliance is to employ a time and attendance system with features specifically designed to address PPACA provisions such as:

- ***PPACA selection periods.*** Configurable time periods with assignable PPACA categorizations (*measurement*, *administration* and *stability*) allow employers to preset their system to automate the tracking and reporting of hours during each period.
- ***Hour history summaries.*** Features that will summarize and count hours for full-time and full-time equivalent employees according to the PPACA help organizations quickly and easily determine if they meet either the large employer criteria during a specified time period. Automated full-time and FTE employee counts are particularly significant as they reduce human error and allow for adjustment by time period.
- ***Employee average weekly and monthly hours.*** Organizations that need a deep dive into employee hours will benefit from a summary of average weekly or monthly service hours for the selected time period.
- ***Service hour designations***. According to PPACA, service hours include both worked time and paid non-work time such as vacation, holiday time, sick time, etc. Systems built with these pay designations make assigning and calculating service hours more straightforward.
- ***Initial measurement period alerts.*** Because the initial measurement period is relative to the employee's start date (making it difficult to track with multiple seasonal workers or new hires), an initial measurement period alert automatically notifies managers that the measurement period is ending.

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Reporting functionality

Systems featuring predefined and customized reporting easily deliver automated, accurate summaries of time and attendance data necessary for seasonal employers managing their determination process.

Easy configuration

Updates to an existing time and attendance system, such as adding PPACA-related features, are most easily configured through new software settings applied by the attendance vendor instead of custom programming, saving organizations that employ the system the headache of managing such updates internally.

Web-based service

The best way to ensure trouble-free updates and configuration is to employ a web-based time and attendance service. Not only does this allow for automatic vendor updates, it has the added benefit of not requiring a significant investment in hardware, software or licensing fees. It also increases the flexibility of the system so as an organization grows, the system easily scales to meet the changing needs of the company.

Conclusion

Unlike organizations whose labor force is comprised of ongoing employees, seasonal employers need to think carefully about designing a determination process that best represents the average hours of their seasonal employees. While the IRS lays out helpful guidelines for each period in the process (measurement, administrative and stability), a seasonal employer must still accurately calculate and report workers' hours while managing a timeline based on the start date of each seasonal employee. A time and attendance system is a valuable tool in this process, automating the tracking and reporting of labor data to streamline calculation and ease administrative burdens.

This document simplifies a complex Act as it is understood by Attendance on Demand, Inc. It is not to be taken as legal advice. For further information about PPACA compliance, please contact the U.S. Department of Labor at www.dol.gov or 1-866-4-USA-DOL.

References

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About Attendance on Demand, Inc.

Attendance on Demand employee time and attendance service supports the labor management needs of thousands of companies and more than a half million employees across North America. Launched in 2006, Attendance on Demand is a rapidly deployed, cloud-based solution that minimizes a company's risk and technology investment while providing advanced features for securely managing labor data—calculating pay rules, scheduling employees, budgeting labor, and automating record keeping for labor law compliance. With standard uptime over the industry average of 99.995% and above average customer retention rates, Attendance on Demand removes the worry of maintaining expensive infrastructure. An extensive North American distribution network helps organizations use Attendance on Demand to reduce labor expenses and improve decision making.

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