

State of Vermont as Employer ACA FAQ

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What is Affordable Care Act?

The Affordable Care Act (ACA) is a federal health care reform law. Though there are many parts of the ACA, as an employer, the Department of Human Resources handles the section of the ACA regulations that are part of the Employer Mandate known as the “Employer Shared Responsibility” provision (ESR). The main objective of ESR is to ensure that all “full-time” employees are made an offer of coverage. If not offered coverage, the employer will face an IRS penalty if all three of the following apply:

1. The employee is considered full-time per the ACA, and
2. Coverage is obtained in a health care Marketplace (such as Vermont Health Connect), and
3. The employee is receiving a premium tax subsidy



Who is considered to be a full-time employee?

Full-time by ACA definition is anyone who is in a position designated as Full-time OR a temporary employee who works 1560 hours (on average 30 hours per week), in their initial 12 consecutive months of employment. Based on this definition, temporary employees may be considered ACA Full-time once they have completed 12 months of employment. This measurement restarts if there is a 13 week break in service.

What is the penalty assessed to the State for non-compliance with the ESR provision of the ACA?

The penalty associated with the ESR provision for ACA full-time employees only applies to an employee whose position is not eligible for benefits through State employment (such as a temporary employee), where the employee is working 1560 hours in a 12-consecutive month period, is enrolled in a Marketplace health care plan and is receiving a tax subsidy through the Marketplace. Any department or agency that has an employee who meets all those requirements will have a penalty assessed of approximately \$3,000 (subject to adjustment each year) applied for the corresponding tax filing year in which the employee was considered ACA Full-time. For more information, please see the [Temporary Employee and ACA Guide](#).

Who is responsible to pay ESR penalties?

If a penalty is assessed by the IRS, the penalty will be billed to the department or agency for which the employee worked when he/she reached the 1560-hour threshold. In situations where an employee is working in multiple departments or agencies and who worked ACA full-time from a combination of hours worked in both positions, departments or agencies may generally be required to split the penalty appropriately.

How will I know if an employee, who is working in a position not eligible for State health benefits, is on Marketplace coverage and receiving a tax subsidy?

Departments and agencies may not be aware of an individual's health care enrollment in Marketplace coverage. Due to this, departments and agencies should be prepared for the possibility of receiving a bill on any employee who is working in a position that is not eligible for state health benefits (such as a temporary employee) and who has worked ACA full-time in a 12-consecutive month period.

What triggers a penalty to departments for employees who are ACA full-time and not eligible to enroll in state health care coverage?

A penalty is triggered when an employee meets all the following:

1. State employee benefits are not offered in the position(s) (such as temporary positions)
2. Hours worked meets the definition of ACA full-time (1560 hours in a 12-consecutive month period)
3. Enrollment in Marketplace health coverage (Health Exchange) and,
4. Obtained a tax subsidy for Marketplace health care coverage.



The penalties are based on a tax filing year so bills may not be sent until the IRS has completed processing of the tax year. The exact timing of the issuance of bills has yet to be finalized by the IRS. However, departments and agencies should be prepared to receive a bill on any employee who meets the first two standards listed above.

Does the Health Plan offered by the State of Vermont meet ACA requirements?

The health plans offered by the State of Vermont to employees meets the ACA definition of Minimum Essential Coverage (MEC) and Minimum Value (MV). More information about these requirements can be found at:

<https://www.irs.gov/affordable-care-act/employers/minimum-value-and-affordability>

Health Plan Affordability?

In nearly all instances the State of Vermont Employee Health Plan qualifies as affordable. This means if you are a permanent employee, and you enroll in health insurance through Vermont Health Connect and receive a tax subsidy, you may need to pay the subsidy back later.

What is Marketplace health coverage?

When key parts of the health care law took effect in 2014, a new way to buy health insurance emerged: The Health Insurance Marketplace. The Marketplace is designed to help individuals and families find health insurance to meet health care needs and considered to be affordable. The Marketplace offers health insurance options for individuals looking to obtain health benefits. Individuals may also be eligible for a tax credit that can lower the monthly premium contribution.

Where can I get more information about Marketplace coverage?

The Marketplace can help you evaluate your coverage options, including your eligibility for coverage through the Marketplace and its cost. If you are a Vermont resident, please visit VermontHealthConnect.gov to obtain more information, including an online application for health insurance coverage and contact information. For residents of other states, please visit HealthCare.gov to find a Health Insurance Marketplace in your area.

What is the difference between the state statute limiting temporary employees' hours to 1280 and the ACA hour limit of 1560?

The Vermont State Statute, [3 V.S.A. § 331](#) puts a cap on the number of hours a temporary employee may work in a calendar year. This law states in part;

“It shall be the responsibility of the head of each department to provide to the Department of Human Resources a detailed justification for each waiver to exceed the 1,280-hour limit ...”



There are currently no penalties from the State for departments whose temporary employees exceed the 1280 hours in a calendar year, but they must request a waiver to continue employing individuals past the 1280-hour limit.

The ACA hour limit is a federal regulation that defines ACA full-time as any individual working, on average, 30 hours per week or 1560 in a 12-consecutive month period. Any employee that meets this definition who is working in a position not eligible for state health benefits (such as a temporary employee), who is enrolled in Marketplace coverage and receiving a tax credit, may generate a penalty by the IRS which needs to be paid by the employing department.

As a Department or Agency what should I know to be in compliance with ACA ESR?

Department and agencies should be aware of the following:

1. Temporary employees working 1560 hours in a 12-consecutive month period are considered to be ACA full-time.
2. Departments are responsible to pay penalties associated with ACA ESR.
3. Departments and agencies who are not using VTHR to hire temporary employees should contact DHR Recruitment and complete an MOU.
4. Departments and agencies need to ensure that they are not verbally or in writing, stating that a temporary position is full-time or 40 hours. However, they may state the position is full-time/part year.
5. Information on the Marketplace Exchanges can be found by visiting VermontHealthConnect.gov if a Vermont resident or Healthcare.gov if you are a non-resident.
6. DHR Reporting and Compliance has created queries to assist departments and agencies for monitoring temporary hours and positions for ACA tracking ([ACA Query Guide](#)).
7. DHR Reporting and Compliance can assist you with any further questions concerning ACA by emailing the team at DHR.Reports@vermont.gov

Note: Separate from the ACA ESR requirements, per the State statute regarding a limit of 1280 hours in a calendar year for temporary employees, departments must request a waiver to exceed that limit. This information is reported to the legislature.

As a full-time employee how does ACA ESR affect me?

Employees should be aware of the following:

1. Health care benefits are available to all individuals through the Marketplace.
2. Employees who are working in positions where they are not eligible for State benefits (such as temporary employees) may qualify for a tax subsidy for coverage obtained through the Marketplace.
3. Classified or Exempt employees who enroll in health care benefits through the marketplace and receive a tax subsidy may end up paying those subsidies back at a later date, the State offered health care benefits qualify as affordable for over 99% of state employees.
4. Any individual who worked ACA full-time in any one month will receive a 1095-C whether they are enrolled in State health benefits or not.



5. Penalties assessed to the State by the IRS for employees that are working full-time by ACA definition, not offered employer health benefits, who enrolled in Marketplace coverage, and qualify for a tax subsidy, will be paid by the State of Vermont department in which they were employed to the IRS.
6. Penalties assessed by the IRS for individuals who were uninsured throughout the year, will be paid by the individual.

What is a 1095-C?

Starting with the 2015 IRS tax reporting season, all individuals need to report on health coverage that they have had over the course of the year. Tax penalties may apply to individuals for the months in which the individual was not covered. As your employer we must provide you a form containing your employment information and health insurance enrollment for you and your dependents. This tax form is known as a 1095-C. The 1095-C will be mailed to the employee's mailing address by the end of January. An employee will receive a 1095-C from each employer worked for in the preceding calendar year.

The Form 1095-C, unlike a W-2, **does NOT need to be filed with your taxes**; however, you may need information from the Form 1095-C to complete your income tax return and it should be retained for your reference.

Who will receive a 1095-C?

The form 1095-C contains information that may be required when completing your tax return. All full-time employees who worked full-time at least one month of the year will receive this tax form as well as part time employees who were enrolled in health insurance for the full calendar year. Temporary employees who have worked 1560 hours over a 12-consecutive month period will also receive a 1095-C. For more information about the 1095-C form, please see our [1095-C Example](#).

Definitions

ACA- Affordable Care Act

ESR – Employer Shared Responsibility

Marketplace- Health care Exchanges

ACA Temp Measurement – 1560 hours / 12 consecutive month period

1095-C – Tax form mailed by Jan 31st will be sent to all full-time employees, as well as any part time employees who are enrolled in State health benefits for an entire calendar year.

Helpful Links

VermontHealthConnect.gov

HealthCare.gov

[Temp 1280 Statute](#)

[Temp Guide](#)

[ACA Query Guide](#)



[ACA State of Vermont Employer Compliance
1095-C Tax Form Sample](#)

IRS Links

[ACA Tax Provisions for Individuals & Families](#)

[Understanding Form 1095-C](#)

[ACA Tax Provisions Questions & Answers](#)