



RESOLUTION OF THE GOVERNING BODY OF FENTRESS COUNTY, TENNESSEE

101 Main Street • P.O. Box 1128 • Jamestown, TN 38556

RESOLUTION 2021-04

RESOLUTION OF FENTRESS COUNTY ADOPTING THE LOOK BACK MEASUREMENT SAFE HARBOR UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT

WHEREAS, the Patient Protection and Affordable Care Act ("ACA") was enacted on March 23, 2010;

WHEREAS, ACA added Section 4980H Shared Responsibility for Employers Regarding Health Care Coverage to Title 26 of the United States Code, the Internal Revenue Code (Section 4980H);

WHEREAS, Section 4980H imposes an assessable payment on an applicable large employer when either it fails (1) to offer "substantially all" of its full-time employees (and their dependent children) the opportunity to enroll in minimum essential coverage or (2) offers full-time employees (and their dependents) coverage that is either not affordable or not minimum value coverage and a full-time employee is certified to the employer as having received a subsidy for coverage through the exchange ("Assessable Payment");

WHEREAS, Fentress County is considered an applicable large employer because it employed an average of at least 50 full-time equivalent employees on business days during the preceding calendar year;

WHEREAS, the Department of Treasury issued final regulations regarding Section 4980H, that permit Fentress County to adopt a look-back measurement method safe harbor in order to determine the status of an employee as full-time for purposes of determining and calculating the Assessable Payment 26 CFR Parts 1, 54, and 301, 79 Fed. Reg. 8543 (Feb. 12, 2014); and

WHEREAS, Fentress County intends to adopt the provisions of the look-back measurement method safe harbor in order to determine the full-time status of variable hour employees for purposes of the Assessable Payment;

NOW THEREFORE, be it resolved by the County Commission of Fentress County as follows:

1. That all of the recitals set forth above are true and correct, and the Mayor so finds and determines.
2. Fentress County establishes the look-back measurement method with regard to all ongoing variable hour employees as follows:
 - a. The standard measurement period shall be a 12 month period for ongoing variable hour employees.
 - b. Starting with October 3, 2020, a standard measurement period will begin on October 3rd and end on October 2nd.
 - c. The standard measurement period will be the period during which an ongoing variable hour employee's hours are measured.
 - d. Fentress County will establish an administrative period of 90 days.
 - e. The administrative period shall begin each year on October 3rd and end on December 31st.



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- f. Fentress County will establish a 12-month standard stability period for ongoing variable hour employees.
 - g. The 12-month standard stability period for ongoing variable hour employees will begin each year on January 1st and end on December 31st.
3. On the hire date of a new employee, Fentress County will make a determination as to whether that new employee is reasonably expected to be a full-time employee. If the new employee is reasonably expected to be a full-time employee and is not a variable hour employee, Fentress County will offer minimum essential coverage to that employee in which they have 31 days from hire date to accept.
 4. If, based on the facts and circumstances at the start date of a new employee, Fentress County is unable to determine that the employee is reasonably expected to be employed an average of at least thirty (30) hours per week over the initial measurement period, then the employee is considered a variable hour employee.
 5. Fentress County establishes the look-back measurement method with regard to new variable hour employees as follows:
 - a. Fentress County establishes a 12-month initial measurement period for each new employee.
 - b. The initial measurement period will start the first of the month following the date of hire, unless the hire date is the first of a calendar month in which case the initial measurement period will start on that date.
 - c. The administrative period shall include all periods from hire date to the beginning of the initial measurement period and the day following the last day of the initial measurement period and shall end on the last day of the first calendar month beginning on or after the first anniversary of the employee's hire date.
 - d. Fentress County establishes a 12-month stability period associated with the initial measurement period.
 - e. If the new variable hour employee does not complete the hours to be considered as a full-time employee during the initial measurement period, the stability period associated with the initial measurement period shall not exceed the remainder of the standard measurement period and associated administrative period.
 6. A new variable hour employee will be measured during the first complete standard measurement period for which he/she is employed. This means that a new variable employee may be tested under an initial measurement period and at the same time be measured under the overlapping standard measurement period.
 - a. If a variable hour employee measures as full-time during the initial measurement period, he/she will retain full-time status for the entire associated stability period (even if the variable hour employee does not qualify as full-time during the standard measurement period).



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- b. If a variable hour employee does not complete the hours to be considered as a full-time employee during the initial measurement period but qualifies as a full-time employee during the standard measurement period, the variable hour employee must be treated as full-time during the stability period associated with the standard measurement period (even if that means coverage must be offered before the end of the stability period associated with the initial measurement period).
 7. When a variable hour employee is rehired after termination, upon return the employee will retain the status the employee had previously with respect to any stability period, except that an employee will be treated as a new employee if the employee resumes employment after a period of at least 13 consecutive weeks (26 consecutive weeks for employees of an educational institution) with less than an hour of service.
 8. When a variable hour employee takes special unpaid leave (i.e. unpaid leave under the Family and Medical Leave Act of 1993, unpaid leave under the Uniformed Services Employment and Reemployment Rights Act of 1994, or unpaid leave on account of jury duty), to determine hours of service Fentress County will exclude any periods of special unpaid leave during the measurement period and apply that average for the entire measurement period.
 9. If an ongoing or new variable hour employee is determined to be full-time during the measurement period, coverage will continue during the stability period no matter how many hours the employee completes during the stability period and the employee portion of the premium will be due monthly with a thirty (30) day grace period for payment.
 10. If during any stability period, a variable hour employee fails to pay a premium during the 30-day period, any coverage will be terminated at the beginning of the month in which premiums were not received.
- I, County Executive of Fentress County hereby certify the above and foregoing to be a full, true and correct copy of a resolution adopted by said Executive on the 22nd day of February, 2021.

DATED: This 22nd day of February 2021

Fentress County Executive, Jimmy Johnson

ATTEST:

Fentress County Clerk, Marilyn Stephens



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Micki McDonald

1st District Commissioner Micki McDonald

Kim Davidson

2nd District Commissioner Kim Davidson

Benny Hughes

3rd District Commissioner Benny Hughes

Lester Gooding

4th District Commissioner Lester Gooding

Larry Cooper

5th District Commissioner Larry Cooper

Justin Miller

1st District Commissioner Justin Miller

Rod Williams

2nd District Commissioner Rod Williams

Robert Cooper

3rd District Commissioner Robert Cooper

Leon Stepp

4th District Commissioner Leon Stepp

Julie Matthews

5th District Commissioner Julie Matthews