

Section 1: **PURPOSE**

The City of Manteca (“City”) is considered a “large employer” for the purposes of the Shared Responsibility Provisions (Section 4980H to Title 26 of the United States Code, the Internal Revenue Code) of the Patient Protection and Affordable Care Act (“ACA”). The City is also considered a “large employer” for the purposes of Section 6056 to Title 26 of the United States Code and, therefore, is subject to the reporting requirements referenced therein.

It is the policy of the City to comply with all federal and state laws concerning the ACA. The Internal Revenue Service will assess a penalty on the City if (1) it fails to offer “substantially all” of its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage or offers coverage to “substantially all” of its full-time employees (and their dependents), but that coverage is either “unaffordable” or does not provide “minimum value” and (2) any full-time employee receives a subsidy for coverage through the exchange (“Employer Mandate”). The law applies to the private and public sector which means local governments will be penalized for not adhering to the law.

This Administrative Policy (“Policy”) establishes the “Look Back Measurement Method Safe Harbor” (“Look Back Safe Harbor”) under the ACA. The City establishes this Look Back Safe Harbor for the purposes of identifying “full-time” employees for the IRS reporting requirements related to the Employer Mandate as to all employees. The City establishes this Look Back Safe Harbor for the purpose of determining eligibility for an offer of coverage for unrepresented employees.

Nothing in this Policy shall be construed as the City’s determination for eligibility for health coverage as to any represented employee. Qualification for health coverage for represented employees shall continue to be governed by the terms of any applicable Memorandum of Understanding or other applicable contract.

This Policy also establishes the Affordability Safe Harbors to determine affordability of coverage offered, if any, for the Employer Mandate and reporting requirements.

Section 2: **POLICY**

It is the City’s policy not to discriminate against qualified employees who may be eligible for health insurance coverage under the ACA. The City will provide the following to each employee as required by the law:

Employee Notification. The law requires that employees be informed about the employer’s health coverage and about the exchanges—the marketplaces in each

state where individuals can buy health insurance. Such notification must also include information on how individuals can use the exchanges.

Summary of Benefits and Coverage. The law requires that the City provide a summary of benefits and coverage (“SBC”) each year. The purpose of the SBC, not to be confused with a summary plan description, or SPD, is to make it easy for employees and their family members to compare plans so they can choose among them.

Determine if the Coverage Offered is Affordable. The concept of affordability is based on the cost of the employee’s premium contribution for employee-only coverage under the lowest-cost eligible health plan offered by the employer. The calculation is based upon the employee-only rate regardless of whether the employee chooses family coverage or any other tier of coverage.

In general, affordability is calculated to ensure that the employee’s cost of employee-only coverage offered by the lowest-cost, eligible health plan does not exceed 9.56 percent of the employee’s household income. The affordability percentage shall be adjusted to reflect any legal adjustments to this amount for the applicable calendar year.

Determine if the plans offered meet standards of essential health coverage.

Essential health coverage under the health-reform law includes the following items:

- Ambulatory patient services.
- Emergency services.
- Hospitalization.
- Maternity and newborn care.
- Mental health and substance use disorder services, including behavioral health treatment.
- Prescription drugs.
- Rehabilitative and habilitative services and devices.
- Laboratory services.
- Preventive and wellness services and chronic-disease management.
- Pediatric services, including oral and vision care.

Section 3: **LOOK BACK MEASUREMENT METHOD SAFE HARBOR**

The City adopts the Look Back Safe Harbor in order to determine the Hours of Service of all employees. Hours of Service are measured during the specified measurement period, subject to the rules set forth hereunder. If the employee averages 30 Hours of Service per week over the course of the specified measurement period, the City will report to the IRS the employee’s status as full-time under the ACA for months during the stability period associated with that measurement period, subject to the following rules. If the City reports an employee to the IRS as

full-time for purposes of the Employer Mandate, the employee does not become full-time for any other purpose.

Section 4: HOURS OF SERVICE CALCULATION

“Hours of Service” means each hour for which an employee is paid, or entitled to payment for the performance of duties for the City and each hour for which an employee is paid or entitled to payment for a period of time during which no duties are performed due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence. The term “Hour(s) of Service” does not include any hour of services performed as a bona fide volunteer.

For Employees Paid by the Hour: The City will calculate actual Hours of Service from records of hours and hours for which payment is made or due.

For Employees Not Paid by the Hour: The City will apply one of the following three methods on a reasonable and consistent basis:

- a. calculate actual Hours of Service from records of hours worked and hours for which payment is made or due;
- b. calculate Hours of Service using a days-worked equivalency (8 hours per day for each day employee is credited with an Hour of Service); or
- c. calculate Hours of Service using a weeks-worked equivalency (40 hours per week for each week employee is credited with an Hour of Service).

Bona fide Volunteer: The City is not required to determine Hours of Service for a bona fide volunteer. A bona fide volunteer is an individual whose only compensation from the City is in the form of (a) reimbursement (or reasonable allowance) for reasonable expenses incurred in the performance of volunteer service; or (b) reasonable benefits and nominal fees, customarily paid by similar entities in connection with the performance of services by volunteers.

Section 5: TREATMENT OF ONGOING EMPLOYEES

An ongoing employee is an employee who has been employed for at least one complete standard measurement period. The City establishes the Look-Back Safe Harbor with regard to all ongoing employees as follows:

Standard Measurement Period: January 1 through December 31 (starting January 1, 2013 and continuing each year thereafter)

Administrative Period: January 1 through February 29 (starting January 1, 2014 and continuing each year thereafter)

Stability Period: March 1 through April 30 (starting March 1, 2014 and continuing each year thereafter)

The City will use these periods only for reporting purposes only for all employees regarding 2015 data that must be reported to the IRS in 2016 or, if necessary, determining potential penalties. The City will not use these periods to determine whether a represented employee qualifies for an offer of coverage, as that determination is made in the memorandum of understanding.

If an ongoing employee's employment status changes (from full time to less than full time or vice versa) before the end of a stability period, the change in status will not affect the classification of that employee's status for the remaining portion of the stability period.

Section 6: **NEW EMPLOYEES HIRED AFTER JANUARY 1, 2013**

For an employee hired after January 1, 2013, the City will determine which of the following applies:

A. **New Seasonal Employee.** An employee who is hired into a position for which the customary annual employment is six months or less is a seasonal employee. The City will measure a new seasonal employee's Hours of Service using the initial measurement period indicated in Section 8. The following job titles are examples of positions that may be seasonal:

- Golf Maintenance
- Parks Maintenance
- Aquatics Program
- Summer Camp Program

B. **New Non-Seasonal Employee.** On the start date of a new non-seasonal employee, the City will determine (based on the facts and circumstances at the employee's start date) whether the employee is reasonably expected to be a full-time employee. The City will look at the following factors to determine whether an employee is reasonably expected to be a full-time employee:

- Whether the employee is replacing a full-time employee;
- Extent to which Hours of Service of ongoing employees in the same or comparable positions have varied above and below an average of 30 Hours of Service per week during recent measurement periods;
- Whether the job was advertised or communicated to the employee as requiring an average of 30 or more Hours of Service per week;

- Whether the job was documented (through a contract or job description) as requiring an average of 30 or more Hours of Service per week.

No single factor is determinative.

- C. **New Full Time Employee.** If the City determines (pursuant to Section 6.B.) that the employee is reasonably expected to average at least 30 Hours of Service per week, then the employee will be a full-time employee. The City will measure a new full-time employee's Hours of Service under monthly measurement periods pursuant to Section 7 until the employee becomes an ongoing employee.
- D. **New Part Time Employee.** If the City determines (pursuant to Section 6.B.) that the employee is reasonably expected to average less than 30 Hours of Service per week during the initial measurement period, then the employee will be a part-time employee. The City will measure a new part-time employee's Hours of Service using the initial measurement period indicated in Section 8.
- E. **New Variable Hour Employee.** If the City cannot determine (pursuant to Section 6.B.) whether the employee is reasonably expected to be employed on average at least 30 Hours of Service per week during the initial measurement period because the employee's hours are variable or uncertain, then the employee will be a variable hour employee. The City may not take into account the likelihood that the employee may terminate employment before the end of the initial measurement period. The City will measure a new variable hour employee's Hours of Service using the initial measurement period indicated in Section 8.

Section 7: NEW FULL TIME EMPLOYEES

New full-time employees are measured monthly until they become ongoing employees. The City must calculate actual Hours of Service for each calendar day of the month. If the employee averages at least 130 Hours of Service, the employee will be considered full-time for that month.

Section 8: NEW VARIABLE HOUR, NEW SEASONAL, AND NEW PART-TIME EMPLOYEES

The City establishes the following periods for new variable hour, new seasonal, and new part-time employees:

Initial Measurement Period: Twelve months (beginning on the first of the month following the new employee's start date unless the employee starts on the first day of the month, in which case it begins on the start date).

Administrative period: One month following the initial measurement period.

Stability period: Twelve months following the end of the administrative period unless the new variable hour, part-time or seasonal employee does not measure as a full-time employee during the initial measurement period, then the stability period associated with the initial measurement period must not exceed the remainder of the standard measurement period (plus any associated administrative period).

For represented employees, the City will use these periods only for IRS reporting purposes or, if necessary, determining potential penalties. The City will not use these periods to determine whether a represented employee qualifies for an offer of coverage, as that determination is made in the memorandum of understanding. The City will use these periods for reporting purposes and to determine eligibility for an offer of coverage for all unrepresented employees.

Section 9: **NEW VARIABLE HOUR, PART-TIME OR SEASONAL EMPLOYEE'S CHANGE IN STATUS DURING INITIAL MEASUREMENT PERIOD**

If a new variable hour, part-time, or seasonal employee's position changes during the initial measurement period, and had the employee started his or her employment in that new position, the City would have reasonably expected that new employee to average at least 30 Hours of Service per week, then for purposes of identifying a full-time employee for reporting purposes only, an employee will be considered a full-time employee on the earlier of (1) the first day of the fourth full calendar month following the change in employment status, or (2) the first day of the first month following the end of that employee's initial measurement period (including any associated administrative period) if the employee averaged 30 or more Hours of Service per week during the initial measurement period or earlier if required by law, an applicable Memorandum of Understanding, or policy or procedure.

Section 10: **TRANSITIONING FROM NEW TO ONGOING EMPLOYEE**

The City will measure the hours of a new variable hour, seasonal or part-time employee during the first complete standard measurement period for which he or she is employed. This means that a new variable hour, seasonal or part-time employee's Hours of Service will be measured both under an initial measurement period and, at the same time, be measured under the overlapping standard measurement period.

- A. If an employee's Hours of Service measure as full-time during the initial measurement period, he/she will retain full-time status for the entire associated stability period (even if the employee does not qualify as full-time during the standard measurement period).
- B. If an employee's Hours of Service do not measure as full-time during the initial measurement period, but do measure as full-time during the standard measurement period, the employee must be treated as full-time during the stability period associated with the standard measurement period (even if that stability period starts before the end of the stability period associated with the initial measurement period).

Section 11: BREAKS IN SERVICE

When an employee experiences a break in service 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:

- A. if the employee resumes employment after a period of at least 13 consecutive weeks with less than an Hour of Service; or
- B. if the employee's period of no service (measured in weeks) is at least four consecutive weeks long and exceeds the number of weeks of that employee's period of employment immediately preceding the period of no service (after application of averaging Special Unpaid Leave as set forth in Section 12).

Section 12: SPECIAL UNPAID LEAVE

Special Unpaid Leave is defined only as 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. When an employee takes Special Unpaid Leave, the City will determine the weekly average of Hours of Service by the employee for that portion of the measurement period that is not part of the Special Unpaid Leave ("Average Weekly Hours of Service"). The City will then determine, on a consistent basis, the average Hours of Service for the entire measurement period using one of the following two methods:

- A. exclude the period of Special Unpaid Leave and apply the Average Weekly Hours of Service over the entire measurement period; or
- B. credit the Average Weekly Hours of Service to the period of Special Unpaid Leave.

AFFORDABILITY SAFE HARBORS

The City intends to apply the Rate of Pay Safe Harbor to determine the affordability of the minimum essential coverage that it offers its unrepresented full-time employees. The City intends to apply the Federal Poverty Line Safe Harbor to determine the affordability of the minimum essential coverage that it offers to represented full-time benefited employees. The City in its sole discretion may also apply the Form W-2 Safe Harbor. The percentage calculation for the affordability safe harbors shall be adjusted for the applicable calendar year. For 2016 the percentage shall increase to 9.66%. These affordability safe harbors will be applied on a uniform and consistent basis for all employees in a reasonable category.

Section 13: RATE OF PAY SAFE HARBOR

- A. The City measures whether the employee's required premium contribution for the calendar month to the lowest cost self-only coverage that provides minimum value exceeds 9.56 percent of the monthly wage.
- B. For employees paid by the hour, the monthly wage is equal to 130 hours multiplied by the employee's lowest hourly rate of pay as of the first day of the coverage period or the employee's lowest hourly rate of pay during the calendar month, whichever is lower.
- C. For salaried employees, the monthly wage is the monthly salary as of the first day of the coverage period. However, if the monthly salary is reduced, including due to a reduction in work hours, the safe harbor is not available.
- D. The coverage offered by the City will be deemed affordable if the employee's monthly premium contribution is equal to or less than 9.56 percent of the monthly wage.

Section 14: FORM W-2 SAFE HARBOR

- A. The City measures whether the employee's required premium contribution for the full calendar year for the lowest cost self-only coverage that provides minimum value exceeds 9.56 percent of the Form W-2 wages (as reported in Box 1) for the employee for the calendar year in which coverage is offered.
- B. For an employee who is not offered coverage for an entire calendar year, the City must adjust that employee's Form W-2 wages to reflect the period for which coverage was offered. To adjust wages, the Form W-2 wages are multiplied by a fraction equal to the number of calendar months the City offered coverage over the number of calendar months in the period of employment during the calendar year.

- C. The coverage offered by the City will be deemed affordable if the employee's annual premium contribution is equal to or less than 9.56% of the employee's Form W-2 wages as reported in Box 1 (or as adjusted, for an employee who is not offered coverage or an entire calendar year).

Section 15: FEDERAL POVERTY LINE SAFE HARBOR

- A. The City measures whether the employee's required premium contribution for the calendar month for the lowest cost self-only coverage that provides minimum value exceeds 9.56 percent of an amount determined by dividing the Federal Poverty Line ("FPL") for a single individual for the applicable calendar year by twelve.
- B. The City will use the FPL in effect within six months before the first day of the plan year.
- C. The coverage offered by the City will be deemed affordable if the employee's monthly premium contribution is equal to or less than 9.56 percent of the monthly FPL for a single individual for the applicable calendar year.

REVISIONS/UPDATES

This Administrative Policy and Procedure is subject to change as regulations and guidance are issued relating to the ACA. The Human Resources Director, including his/her designee(s), may amend this Policy at his or her discretion.

Legal Authority

Title 26 United States Code section 4980H, (Internal Revenue Code); Shared Responsibility for Employers Regarding Health Coverage, 26 CFR Parts 1, 54 and 301, 79 Fed. Reg. 8544 (Feb. 12, 2014); Title 26 United States Code section 6056, (Internal Revenue Code); Information Reporting by Applicable Large Employers on Health Insurance Coverage Offered Under Employer Sponsored Plans, 26 CFR Parts 301 and 602, 79 Fed. Reg. 13231 (March 10, 2014).

Revised: January 26, 2016