



Affordable Care Act (ACA) Procedural Guidance

Purpose

The Universities of Wisconsin adopted the following procedural guidance to remain compliant with the Affordable Care Act (ACA) and Chapter 40 of the Wisconsin state statutes.

The ACA requires the Universities of Wisconsin to offer health insurance to all employees, including temporary and student employees, who are “full-time employees” or potentially face an Employer Shared Responsibility penalty. Under the ACA, a “full-time employee” works an average of 30 or more hours per week or 130 hours per month (not including work study hours). The ACA’s definition of who is to be considered as a full-time employee differs from that found under Wisconsin state statute. In addition, under the ACA, the Universities of Wisconsin is a single legal entity with regard to Employer Shared Responsibility penalties and reporting under Sections 6055 and 6056 of the Internal Revenue Code. To limit potential penalties under the ACA, it is necessary to implement policies and procedures across the Universities of Wisconsin that provide a uniform set of standards for employees who are full-time employees under the ACA but not classified as benefits eligible under Wisconsin law and/or employees who are paid on a non-hourly basis.

This document summarizes and gives guidance on these policies and procedures.

Background

The ACA is the health care reform legislation signed into law by President Obama in March 2010. Many of the key provisions of the law were designed to extend health insurance coverage to the uninsured, improve the quality and affordability of health insurance, and reduce health care costs. The law was designed to phase in requirements to accomplish these goals and two of the major requirements that became effective beginning in 2015 are the Employer Shared Responsibility Mandate and Sections 6055 and 6056 reporting. These provisions of the law require applicable large employers (i.e., those with 50 or more full-time and full-time equivalent employees) to offer affordable, minimum essential health care coverage to at least 95% of their full-time employees (as defined by the ACA) and to report the offerings and results to the IRS to confirm compliance. Section 6055 of the law requires providers of health care coverage to report to the IRS the type of coverage and to whom it was provided. Section 6056 requires employers to report to the IRS the type of coverage offered to their ACA defined, full-time employees. These mandates require action on the part of reporting employers in order to be compliant and avoid penalties.

Penalties:

If the Universities of Wisconsin does not offer coverage or offers coverage to fewer than 95% of its full-time employees (and their dependents), it will owe an Employer Shared Responsibility payment equal to the number of full-time employees the employer employed for the year (minus up to 30) multiplied by \$2,970 (for 2024 and indexed annually), as long as at least one full-time employee goes to the Marketplace and receives a premium tax credit. For the Universities of Wisconsin, this penalty is estimated to be approximately \$75M.

If the Universities of Wisconsin offers coverage to at least 95% of its full-time employees (and their dependents) but has one or more full-time employees go to the Marketplace and receive a premium tax credit, the payment is computed separately for each month. The amount of the payment for the month equals the number of full-time employees who receive a premium tax credit for that month multiplied by 1/12 of \$4,460 (for 2024 and indexed annually).



The Employer Shared Responsibility payment penalty will be increased over time. Penalties reference: www.irs.gov/Affordable-Care-Act/Employers/Questions-and-Answers-on-Employer-Shared-Responsibility-Provisions-Under-the-Affordable-Care-Act.

For an employee to be eligible for a premium tax credit while enrolled in Marketplace coverage, the lowest cost coverage available through the Universities of Wisconsin must either be unaffordable or not provide minimum value. Minimum value is a reference to providing at least 60% of the overall costs of benefits offered under the plan (i.e., the plan is at least as “rich” as a Bronze Level plan offered through the Marketplace). The lowest cost coverage offered by the Universities of Wisconsin has been determined to provide minimum value. Employees who are benefits eligible will not trigger penalties for the Universities of Wisconsin unless that coverage is unaffordable; however, employees who are not benefits eligible may trigger a penalty if those employees are considered full-time under the ACA.

Employment Categories as Defined by the ACA

The Federal ACA regulations categorize employees into the following groups:

Full-time:

Employees hired into a position with a known expectation of working **at least** 30 hours per week (130 hours/month). Under the ACA, full-time employees are benefit eligible upon hire and must be offered coverage no later than the 1st of the fourth month of employment. Full-time employees are subject to standard measurement periods to determine future eligibility.

Part-time:

Employees hired into a position with a known expectation of working **less than** 30 hours per week (130 hours/month). Part-time employees are not considered benefit eligible upon hire under the ACA and are subject to standard measurement periods to determine future eligibility.

Seasonal:

Employees hired into a position for which the “customary” annual employment is six months or less. Customary means that, by the nature of the position, an employee typically works for a period of six months or less, and that period should begin each calendar year in approximately the same part of the year, such as summer or winter. The job that is being performed must be a job that, due to the nature of the work (and NOT business needs), cannot be performed at any other point during the year.

It is advised that institutions share job descriptions of those positions they believe to be “Seasonal” in nature with Universities of Wisconsin Office of Human Resources so that the positions can be evaluated by Universities of Wisconsin Office of General Counsel (OGC) to determine if, indeed, they are truly “Seasonal” as defined by the ACA. An exception is made for positions that have an annual employment period of six months or less AND occurs during the summer break (May to August) or winter break (December to January) -- a compliance review is not required for these positions.

Employees who are truly “Seasonal” in nature (as defined by ACA) are not benefit eligible under the ACA. However, if the employee has other employment within the Universities of Wisconsin that causes them to average 30 or more hours per week in total during the standard measurement period, then they will be considered benefit eligible under the ACA for the corresponding stability period.



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Variable Hour:

An employee is a variable hour employee if, based on the facts and circumstances at the date the employee begins providing services to the employer (the start date), it cannot be determined that the employee is reasonably expected to work on average at least 30 hours per week.

To determine benefits eligibility under the ACA, a 12-month initial measurement period is used. After the initial measurement period, variable hour employees are subject to the standard measurement periods to determine future eligibility.

The employment categories outlined are for ACA compliance purposes and, as such, do not necessarily represent employment categories or benefit eligibility under Universities of Wisconsin System policies.

Universities of Wisconsin Benefit Eligibility

If an employee is eligible for the Wisconsin Retirement System (WRS), they are eligible for the WRS Benefit Package. If an employee (excluding University Staff) is not eligible for WRS, they may be eligible for the Graduate Assistant/Short-Term Benefit Package.

WRS Eligibility Requirements

1. Must be in a Faculty, Academic Staff, Limited appointment, OT1, or a University Staff appointment; and
2. Be expected to work for one full year (for annual employees - 365 days, for academic year employees - 2 full semesters with an expectation to return for a third semester); and
3. Expected to meet threshold of hours worked - 2/3 of full time for newly eligible employees (evaluate on 1/3 of full-time criteria if WRS Creditable Service prior to July 1, 2011).

Employee Type	No WRS Prior to July 1, 2011 (2/3 of full time for 1 year)		WRS prior to July 1, 2011 (1/3 of full time for 1 year)	
	Hours	FTE%	Hours	FTE%
Faculty / Academic Staff / Limited Appointees (12-month, A-basis) (Excludes Executives)	880	42%	440	21%
Faculty / Academic Staff / Limited Appointees (9-month, C-basis)	880	56%	440	28%
University Staff and Executives (General/Executive/Protective)	1200	58%	600	29%

Note: The WRS eligibility criteria must be met independently at each state agency or local government employer. All Universities of Wisconsin Institutions are considered one employer under the WRS.

WRS Enrollment Opportunities (WRS Benefit Package eligibility)

Several opportunities exist in statute for an employee to be eligible for participation in the WRS. The various opportunities for the eligibility criteria to be met are:

- When initially employed – Hire or transfer into eligible classification.
- When expectations change – Contract changes for eligible classifications.
- Lookback – 1 year review to see if hours worked meets criteria once duration is met.



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Graduate Assistant / Short-Term Academic Staff Benefit Package Eligibility Requirements

If an individual is **not** eligible for the WRS, they may be eligible for the Graduate Assistant/Short-Term Academic Staff Benefit Package.

- Student Assistants = Research Assistant, Fellow, Advanced Opportunity Fellow, Scholar, Trainee, Teaching Assistant, Project Assistant or Program Assistant
- Employees-in-Training = Grad Intern/Trainee, Postdoc Fellow, Postdoc Trainee, Postgrad Trainee (1-7), Intern (non-physician), Research Intern or Research Associate

Benefit Program	Employee Type	12 Month	9 Month
Graduate Assistant	Student Assistants and Employees-in-Training	33% for at least 6 months	33% for at least one semester
Short-Term Academic Staff	Academic Staff, Limited, OT1	21% for at least 6 months	28% for at least one semester

University Staff employees and rehired annuitants are not eligible to participate in Graduate Assistant/Short-Term Academic Staff Benefit Package.

Student Help

Student Help employees are not eligible for health insurance through employment per Chapter 40 of the state statutes.

Universities of Wisconsin Employment Categories and Procedures for Each

Benefits eligibility at Universities of Wisconsin does not always correspond with that required by the ACA. This is because many of the positions creating issues were never intended to be regular, full-time positions. To help the Universities of Wisconsin minimize risk, policies, procedures, and guidelines have been put into place and are as follows.

Faculty, Academic Staff & Limited Appointees (FA/AS/LI)

For purposes of determining employee status under the ACA, employees in this category are allocated hours based on their FTE percentage in HRS, except for lump sum employees (FTE of .025%). For example, someone with an FTE of 75% would be considered to work 30 hours per week.

Faculty, Academic Staff & Limited Appointees (FA/AS/LI) Employees Paid via Lump Sum

Institutions are asked to convert lump sums to hourly or salaried with an FTE. When this is not possible, employees in this category will need to track all hours worked for the lump sum appointment in Time & Labor. Pay code ACAHW has been set up for this purpose. Use of the code will not impact an employee’s pay as it is strictly used for purposes of reporting hours under the ACA. For more information on how to track hours in Time & Labor, see the “Lump Sum Payments: Tracking Hours in Time & Labor (TL)” section of this document.

If hours are not tracked in Time & Labor, the employee will be credited with a “days worked equivalency” of 8 hours for each day of the appointment. In cases where the employee is working more than 8 hours per day on a regular basis, this method of crediting 8 hours/day is *strictly prohibited* under the ACA as it will substantially understate actual hours worked. In cases such as these, actual hours worked **MUST** be recorded.



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University Staff

University Staff must report hours for payroll purposes. The same hours that are reported for payroll are also used to determine employee status under the ACA. Benefits eligibility under the WRS is more generous than what is required by the ACA except for University Staff-Temporary employees.

University Staff-Temporary

University Staff-Temporary employees are only eligible for health benefits under the WRS if they have multiple positions or become eligible via WRS look back.

For purposes of ACA, University Staff-Temporary employees are often considered “Variable Hour”.

Some University Staff-Temporary positions may also be considered “Seasonal” and, therefore, would not be considered full-time employees under the ACA. To determine if a position is truly “Seasonal”, the job description should be sent to Universities of Wisconsin Office of Human Resources so that input from Universities of Wisconsin Office of General Counsel (OGC) can be obtained. It is important to note that if the employee also works other positions within the Universities of Wisconsin, the hours worked as a “Seasonal” University Staff-Temporary employee combined with all other hours worked in the Universities of Wisconsin, cannot average 30 hours or more per week or the employee would still be deemed to be a full-time employee under the ACA.

Institutions must monitor employees’ hours worked to ensure they don’t become full-time employees under ACA (see Reporting & Monitoring of Hours Worked section).

Graduate Assistants: Short-Term Academic Staff, Student Assistants and Employees-in-Training

Individuals falling into this category are treated the same as Faculty, Academic Staff, Limited Appointees. Review the “Faculty, Academic Staff & Limited Appointees” section as well as “FA/AS/LI Employees Paid via Lump Sum” section for procedural guidance.

Student Help Employees

Under [Wis. Stat. §40.02\(25\)\(b\)](#), student help employees are not eligible for employer-sponsored health insurance coverage through the Universities of Wisconsin. The ACA, however, does not provide an exception for student help, so policies and procedures have been drafted to attempt to comply with both the ACA and state statute. [UW System Administrative Policy 1237 \(formerly GEN 20\) Student Employment](#) was created for this reason. The policy limits the number of hours a student help employee can work in a week to 25 when classes are in session.

This policy leaves room for exceptions with the approval of the Institutional HR Director; however, it is important to use caution as it could ultimately cause your employee to average 30 or more hours per week in the measurement period, and therefore be considered a full-time employee under the ACA. Use the [Hours Worked Per Month Illustration](#) to help visualize the impact of allowing policy exceptions. “Resident Assistants/Resident Advisors/Resident Counselors” have been temporarily exempted from this policy due to the on-call nature of their positions.



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Although the policy does not specifically address a cap on hours worked during academic breaks, best practice is to limit hours during breaks to 40 hours per week or less for a maximum of 12 weeks. This is because, if the student works more than 40 hours per week, that may reduce the number of hours they can work over the course of the rest of the year, to make certain they don't go over 1,559 in any given measurement period. The 12-week limit is in place to ensure that these employees are not viewed as full-time under the ACA.

To make sure the student understands the limitation on hours under [UW System Administrative Policy 1237 \(formerly GEN 20\) Student Employment](#), an acknowledgement form must be signed by the student at the start of their employment. The [Agreement and Verification of Hours of Work for Student Employment](#) form has been created for this purpose by the Universities of Wisconsin Office of General Counsel (OGC).

Seasonal Student Help Employees:

Some Student Help positions may also be considered "Seasonal" and not considered full-time employees under the ACA, therefore, not subject to the guidelines set forth above. To determine if a position is truly seasonal, the job description should be sent to the Universities of Wisconsin Office of Human Resources so that input from Universities of Wisconsin Office of General Counsel (OGC) can be obtained. It is important to note that if the employee works other positions within the Universities of Wisconsin, the hours worked as a "Seasonal" Student Help employee combined with all other hours worked in the Universities of Wisconsin, cannot average 30 hours or more per week or the employee would be deemed a full-time employee under the ACA.

Tracking Time for Student Help:

Student help employees are often considered to be "Variable Hour" employees and paid one of two ways - hourly or via lump sum. If the student is paid hourly, the same hours that are tracked for purposes of payroll (except for work study hours) are also used for purposes of determining employee status under the ACA. For cases in which lump sums cannot be avoided, students will be required to track their hours in Time & Labor using pay code ACAHW. This code is only used for purposes of tracking hours under the ACA and, as such, will not have any impact on the student's pay. For more information on how to track hours in Time & Labor, see the "Lump Sum Payments: Tracking Hours in Time & Labor (TL)" section of this document.

If hours are not tracked in Time & Labor, the employee will be credited with a "days worked equivalency" of 8 hours for each day of the appointment. In cases where the employee is working more than 8 hours per day on a regular basis, this method of crediting 8 hours per day is strictly prohibited under the ACA as it will substantially understate actual hours worked. In cases such as these, actual hours worked MUST be recorded.

Resident Assistants/Resident Advisors/Resident Counselors

This group of employees has been provided a temporary exemption under [UW System Administrative Policy 1237 \(formerly GEN 20\) Student Employment](#). This group of student help employees will be given a separate job code and institutions will be responsible for tracking their hours of service.

Things to Consider/Do When Hiring

Since the Employer Shared Responsibility provision of the ACA went into effect, there are additional steps that need to be taken, and items to be considered when hiring for a position.

1. If the position is meant to be a “Variable Hour” position under the ACA, make sure the position is not posted outlining full-time expectations. (i.e., M-F, 7:30 a.m. – 3:30 p.m.)
2. If hiring for a position that you think may be an issue under the ACA, whether from an hours reporting standpoint or a benefits eligibility standpoint, work with the supervisor to simplify and/or more accurately report hours or determine what could be done with the position itself to potentially get the employee under the WRS. If it is not possible to get them under the WRS, then discuss how you will work to make sure they don’t become an eligible full-time employee (i.e., working 30 or more hours per week) under the ACA.
3. Make sure University Staff-Temporary employees, student help employees, and employees paid via lump sum who are otherwise not offered health insurance through the Universities of Wisconsin know what is expected of them as it pertains to ACA compliance upon hire (i.e., communication of other positions held within the Universities of Wisconsin, limiting hours, recording hours worked, etc.). Supervisors must also be well informed.

The [ACA Hiring Decisions Tree](#) is helpful in providing insight as to why the ACA needs to be taken into consideration well before a hire is made.

Lump Sum Payments: Tracking Hours in Time & Labor

As part of the changes due to implementation of the ACA, employees paid via lump sum must record actual hours worked. Changes were made to the HRS Time and Labor module to assist with this tracking.

Time & Labor Module:

A time reporting code (TRC) of ACAHW is set up for employees, who are being paid via lump sum, to record hours worked. Active employees will be automatically set-up to use the MyUW portal; however, depending upon the institution’s preference, hours can also be entered by the Payroll Coordinator. If an employee is paid a lump sum in addition to regular hours worked, the TRC will be available to differentiate the hours.

Hours entered using TRC do not need to be approved and will not process through payroll, therefore streamlining the entry procedure and preventing duplicate payments. As with TL setup currently, the TL Security page will need to be created if the employee will be entering their time through the MyUW portal. Supervisors may also be added to the TL Security page to allow for review of hours worked. Queries/reports will be available to audit time entered using the TRC reporting code.

Timesheet Setup:

Employees being paid via lump sum, who record hours, need to be set up in Time & Labor. Once the appointment is entered, the timesheet is created and the MyUW portal will be provisioned automatically. The Payroll Coordinator will need to create the TL Security page. This includes both new hire lump sum appointments and appointments that had not been paid in the past year, therefore, were not setup initially.



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Measurement and Stability Periods Under the ACA

A measurement period is a period of time used to determine employees’ employment status under the ACA based on the average number of hours worked. The status earned during a particular measurement period will result in consideration as either full-time or not full-time (for purposes of the ACA only) during the corresponding stability period.

There are two types of measurement periods: initial and standard. All employees may be subject to the “standard measurement period” while only some are subject to an “initial measurement period” upon hire.

The standard measurement period runs from October to September. The exact dates vary slightly from year to year. The initial measurement period varies based on the employee’s hire date.

See the ["ACA Measurement and Stability Periods Illustration"](#) or the ["Hours worked per Month Illustration"](#) on the Administrator ACA web page for examples of measurement periods.

Leave of Absence/Breaks in Employment

There are specific rules that must be followed when calculating hours for employees who are or were on a leave of absence or experienced a break in service. Unless the break in service was not a protected leave either less than 4 weeks in length or greater than 26 weeks in length, then the leave/break cannot be factored into the calculation or disadvantage the employee in any way. Review the chart below and the [ACA Measurement Periods and Breaks in Service Decision Tree](#) for more information.

Length of Break in Service	Impact on Measurement/Stability Period
Less than 4 consecutive weeks	Continue existing measurement & stability periods; zero hours will be considered during break to determine average hours.
Break is at least 4 but less than 26 consecutive weeks ¹	Continue existing measurement & stability periods; exclude the break period in averaging hours. Use the average for the entire measurement period.
26 ¹ or more consecutive weeks	Consider as rehire; begin a new initial measurement period.
Active employees in the leave statuses below should not have time counted against them during the measurement period; instances where these leaves apply will have the break periods excluded when calculating average hours:	
<ul style="list-style-type: none"> • FMLA leave • Military leave • Jury Duty • Educational breaks when not scheduled to work (e.g., summer months for 9-month term employees) 	

¹ If break period is greater than prior employment, then employee may be considered a rehire and subject to a new initial measurement period.

Reporting & Monitoring Hours Worked

There will be some individuals who are not benefits eligible that could become ACA full-time employees if not carefully monitored. Institutions are supplied with a variety of reports (listed below) that can be used to monitor their employees’ hours so that they don’t become full-time employees under the ACA. See the Running the Affordable Care Act (ACA) Reports in HRS ([KB 65060](#)) for directions on how to run the reports. If you don’t have access to the reports, the security role to have access to run ACA reports is UW_UNV_BN_ACA_REPORT. Reference Request HRS Security Roles in HRS ([KB 44549](#)) for instructions on how to request this security role.



Since the Universities of Wisconsin is considered one legal entity, these reports will take into account hours worked at all Universities of Wisconsin institutions.

- Missing ACAHW Hours (UW_ACAHWREQ) - Lump sum payments with no ACAHW hours reported where Days-Worked Equivalency method is being used
- Unmatched ACAHW Hours (UW_ACAHWNUSE) - Time entered in Time & Labor using ACAHW time reporting code with no corresponding lump sum payment
- ACA Hours Report (UW_ACAHRSRPT) - Summary report showing all hours (regular, work study, ACAHW, and Days-Worked Equivalency)
- ACA Full-Time Trending Report (UW_ACA_TREND) - Identify borderline full-time eligible employees whose current total hours and expected hours are equal to or greater than 120 hours
- Not Affordable Full-Time Employees (UW_ACANAFTRP) - Employees by month that were ACA full time and not offered coverage or the coverage was not affordable
- Measurement Period Report (UW_ACA_MPRPT) – Best run for a single employee. Does not break down by campus

Definitions:

ACA Time Reporting Code (TRC): Tracks actual hours worked, which count towards ACA eligibility. For salaried (exempt) employees, these hours are used for ACA hours' tracking only and do not affect pay.

Affordable Care Act (ACA): One of the most common terms used to refer to two separate pieces of legislation signed into law by President Barack Obama on March 23, 2010. The two pieces of legislation were the Patient Protection and Affordable Care Act (PPACA) and the Health Care and Education Reconciliation Act of 2010.

Applicable Large Employer (ALE): Employers subject to Employer Shared Responsibility provisions of the ACA.

Benefits Eligible: Employees eligible for the Wisconsin Retirement System (WRS) Benefit Package or the Graduate/Short-Term Benefit Package based on their employment at the Universities of Wisconsin. See more on benefits eligibility at www.wisconsin.edu/ohrwd/benefits/general-employee-info/

Form 1095-A: The Health Insurance Marketplace statement for employees that purchased health coverage through the "Marketplace," the web-based insurance market that the federal government and states set up under the ACA.

Form 1095-B: A statement from the health insurance company verifying an employee, their covered spouse, and dependents had insurance coverage that met the requirements of the ACA during the prior year. This form applies when coverage was fully insured with an insurance carrier.

Form 1095-C: A statement from an employer providing details about employer-sponsored health insurance coverage. This form is used to report information related to the employer responsibility provisions of the ACA to the IRS and to furnish information to taxpayers about the coverage they have been offered by their employer. Individuals that purchased health insurance coverage through the Health Insurance Marketplace, also called the Exchange, will use the information found on this form to determine if they are eligible for a premium tax credit.

Individual Mandate: The Affordable Care Act (ACA) requires nearly everyone to have health insurance that meets minimum standards. The Individual Mandate is in effect for 2018 but was repealed as of January 1, 2019.

Initial Measurement Period: See "Measurement Period" below.



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Measurement Period: For ongoing employees, the standard measurement period runs from October to September. The exact dates vary slightly from year to year. Newly hired employees who, upon hire, are not determined to be full-time under the ACA also have a 12-month initial measurement period and must be tracked in both periods until they are blended into the standard measurement period. Each measurement period has its own separate 12-month stability period. The stability periods, much like the measurement periods, overlap.

- **Initial Measurement Period:**
A 12-month period starting the first of the month following a variable hour or seasonal employee's date of hire in which all hours of service are averaged to determine the employee's full-time or part-time status under ACA for the corresponding 12-month stability period.
- **Standard Measurement Period:**
The 12-month period in which the hours of on-going employees are averaged to determine their full-time or part-time status under the ACA for the corresponding 12-month stability period. This period runs from October to September. The exact dates vary slightly from year to year.

Minimum Essential Coverage (MEC): MEC is generally any type of employer-sponsored health coverage, certain types of governmental coverage such as Medicare or Medicaid, and other types of health coverage specifically identified by the Department of Health and Human Services.

Minimum Value: Minimum value is provided by the plan if it pays for at least 60% of the costs of benefits and provides inpatient hospitalization services and physician services.

Stability Period: The 12-month period following a measurement period in which an employee's status as full-time or non-full-time under ACA is effectively "locked in."

Standard Measurement Period: See "Measurement Period" above.