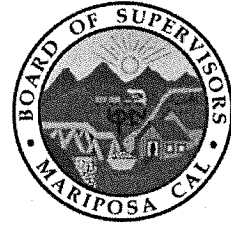




MARIPOSA COUNTY

Auditor · (209)966-7606



RESOLUTION - ACTION REQUESTED 2014-455

MEETING: September 9, 2014
TO: The Board of Supervisors
FROM: Bill Davis, Auditor
RE: Establish Look Back Period for Affordable Care Act

RECOMMENDATION AND JUSTIFICATION:

Adopt a Resolution to establish Look Back Measurement Periods ("SAFE HARBORS") as required by the Patient Protection and Affordable Care Act enacted on March 23, 2010. The Department of Treasury issued proposed regulations regarding Section 4980H, that permit the County to adopt look-back measurement periods ("safe harbors") in order to determine the status of an employee as full-time for purposes of determining and calculating the Assessable Payment (78 Federal Register 218, 243, January 2, 2013).

The Auditor's Office is currently compliant on all document notices to new and existing employees regarding the Affordable Care Act (ACA), including W-2 notification of Health Insurance costs. The establishment of Look Back Measurement Periods becomes necessary due to the enactment of Section 4980H Shared Responsibility for Employers Regarding Health Care Coverage to Title 26 of the United States Code, the Internal Revenue Code (Section 980H).

BACKGROUND AND HISTORY OF BOARD ACTIONS:

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

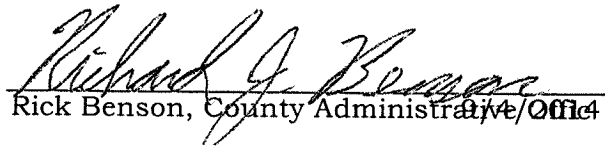
There is no alternative to the recommended action. Negative action would put the County out of compliance with the ACA and could lead to penalties.

ATTACHMENTS:

Board Resolution for Affordable Care Act (DOCX)

CAO RECOMMENDATION

Requested Action Recommended


Rick Benson, County Administrative Office

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Merlin Jones, District II Supervisor

SECONDER: John Carrier, District V Supervisor

AYES: Stetson, Jones, Bibby, Cann, Carrier

Resolution No. 14 – 455

**RESOLUTION OF THE COUNTY OF MARIPOSA REGARDING
AFFORDABLE CARE ACT – LOOK BACK MEASUREMENT PERIODS (“SAFE HARBORS”)**

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

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 980H); and

WHEREAS, Section 4980H imposes an assessable payment on an applicable “large” employer when (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) that is “unaffordable” or does not provide “minimum value” and (2) any “full-time” employee is certified to the employer as having received a subsidy for coverage through the exchange (“Assessable Payment”); and

WHEREAS, the County of Mariposa (“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; and

WHEREAS, the Department of Treasury issued proposed regulations regarding Section 4980H, that permit the County to adopt look-back measurement periods (“safe harbors”) in order to determine the status of an employee as full-time for purposes of determining and calculating the Assessable Payment (78 Federal Register 218, 243, January 2, 2013); and

WHEREAS, the County intends to adopt the provisions of look-back measurement periods in order to determine the full-time status of existing employees (“Standard Measurement Period”) as well as for newly hired employees (“Initial Measurement Period”) for purposes of the Assessable Payment.

NOW THEREFORE, be it resolved by the Board of Supervisors of the County of Mariposa as follows:

- 1) The County establishes the Standard Measurement Period with regard to all ongoing employees as follows:
 - a) The County establishes a Standard Measurement Period of twelve (12) months for ongoing employees.
 - b) This Standard Measurement Period will start each year on October 16th and end the following year on October 15th.
 - c) The Standard Measurement Period will be the period during which an ongoing employee's hours are measured.
 - d) The County will establish an administrative period of seventy-six (76) days, ending on December 31st of each calendar year.
 - e) The administrative period associated with the Standard Measurement Period will start each year on October 16th and end on December 31st.
 - f) The County will establish a twelve (12) month stability period for ongoing employees. The stability period is the time frame for which employees who qualify as “full-time” are to be considered “full-time” for the purpose of being offered health insurance.
 - g) Starting January 1, 2015, the twelve (12) month stability period for ongoing employees will start each year on January 1st and end on December 31st.
 - h) If an ongoing employee's employment status changes (moving from full time to part time, for example) before the end of a stability period, the change in status will not affect the classification of the employee for the remaining portion of the stability period.

- 2) On the start date of a new employee, the 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 seasonal employee, the County will offer minimum essential coverage to that employee before the end of the employee's initial two full calendar months of employment.
- 3) If, based on the facts and circumstances at the start date of a new employee, the County is unable to determine that the employee is reasonably expected to be employed an average of at least thirty (30) hours per week, then the employee is considered a variable hour employee.
- 4) The County establishes the **Initial Measurement Period** with regard to new variable hour employees as follows:
 - a) The County establishes an Initial Measurement Period of twelve (12) months for each new employee.
 - b) The Initial Measurement Period will start the first day of the first calendar month after the employee's start date, unless the start date is the first day of a calendar month in which case the Initial Measurement Period will start on that date.
 - c) The administrative period shall start 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 start date.
 - d) The County establishes a twelve (12) month stability period associated with the Initial Measurement Period. The stability period is the time frame for which employees who qualify as "full-time" are to be considered "full-time" for the purpose of being offered health insurance.
- 5) A new employee will be measured during the first complete Standard Measurement Period for which he/she is employed. This means that a new employee may be tested under an Initial Measurement Period and at the same time be measured under the overlapping Standard Measurement Period.
 - a) If an employee measures as full-time during the Initial Measurement Period, he/she will retain full-time status for the purpose of being offered health insurance, 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 does not measure as full-time during the Initial Measurement Period, but qualifies as full-time during the stability period associated with 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 means coverage must be offered before the end of the stability period associated with the Initial Measurement Period).
- 6) When an employee is rehired after termination within a stability period which they previously qualified for, upon return the employee will retain the status the employee had previously with respect to any measurement period, except that an employee will be treated as a new employee:
 - a) If the employee resumes employment after a period of at least twenty-six (26) consecutive weeks with less than an hour of service; or
 - b) If the period (measured in weeks) during which no services are performed is at least four (4) consecutive weeks long and exceeds the number of weeks of that employee's period of employment immediately preceding the period during which the employee was not credited with any hours of service.
- 7) When an 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, to


September 10, 2014

determine hours of service the County will exclude any periods of special unpaid leave during the measurement period and apply that average for the entire measurement period.

PASSED AND ADOPTED by the Board of Supervisors of Supervisors of the County of Mariposa, State of California, at a regular meeting of said Board, held on the 9th day of September, 2014 by the following vote:

AYES: STETSON, JONES, BIBBY, CANN, CARRIER
NOES: NONE
ABSENT: NONE

COUNTY OF MARIPOSA:



KEVIN CANN, Chairman
Board of Supervisors

DATE: 9-11-14

APPROVED AS FORM:



STEVEN W. DAHLEM
County Counsel

DATE: 9-11-14

ATTEST:



RENE LAROCHE
Clerk of the Board

DATE: 9-11-14