

# WHAT DOES MY EMPLOYEE COUNT MEAN?

## How to Count Employees in Each of These Scenarios

<b>ACA Employer Size: Am I an Applicable Large Employer (ALE)?</b>	<b>Am I subject to Federal COBRA or Cal-COBRA?</b>	<b>Is Medicare the primary or secondary payer on claims?</b>
<p><b><u>Applicable Large Employers (ALEs) – Subject to ACA Mandate and Reporting Responsibilities</u></b> An employer with an average of 50 or more full-time (FT) plus full-time equivalent (FTE) employees for the 12 months of the prior calendar year is an ALE for the entire following calendar year, even if its size drops below 50 during the year.</p> <p><b><u>Non-ALEs – Not subject to ACA Mandate &amp; Reporting Responsibilities</u></b> An employer with an average of less than 50 FT plus FTE employees for the 12 months of the prior calendar year is not an ALE for the entire following calendar year, even if its size grows to 50 or more during the year.</p> <p><b><u>Employer Size Calculation</u></b> Total the number of FT employees and the number of FTE employees of each of the 12 months of the prior calendar year, then divide by 12 to get average for the year. This is your group size. Note: employees covered by TRICARE or the VA should not be included in this calculation.</p> <p>To calculate FTE count, total your PT employees' hours of service for each month (use a maximum of 120 hours for each PT employee, even if they averaged 121-129 hours of service), and divide each month's total by 120.</p> <p>ACA defines a FT employee as one with an average of 30 hours of service per week <u>or</u> 130 hours of service per month.</p> <p>IRS controlled/aggregated rules apply. If the employer has ownership in multiple businesses that together are 50+ FTE, the IRS may consider the businesses as ONE employer, subject to ACA's Employer Mandate &amp; reporting responsibilities. Check with a trusted tax or legal advisor for help making this determination. See IRC Section 414 (b) (c) (m) &amp; (o).</p>	<p><b><u>Employers subject to Federal COBRA</u></b> Employers that have employed at least 20 employees on 50% or more of the typical working days in the preceding calendar year</p> <p><b><u>Employers subject to Cal-COBRA</u></b> Employers that have employed fewer than 20 employees on 50% or more of the typical working days in the preceding calendar year</p> <p><b><u>Other Information</u></b> The employer remains in the Federal COBRA or Cal-COBRA category for entire calendar year, regardless of increases/decreases in size throughout the year.</p> <p><b><u>Both full-time (FT) &amp; part-time (PT) employees are counted. Each PT employee counts as a fraction of a FT employee. Divide all the PT employees' hours by the number of hours an employee must work to be considered FT to make this determination.</u></b> * FT = 30 hours a week</p> <p>It is important for employers to make an accurate calculation because the law sets a very different admin fee for Federal COBRA &amp; Cal-COBRA.</p> <ul style="list-style-type: none"> <li>• Federal COBRA: 2% monthly admin fee</li> <li>• Cal-COBRA: 10% monthly admin fee</li> </ul> <p><b><u>Be sure to notify your carrier if your status changes</u></b></p> <p>IRS controlled/aggregated rules apply. If the employer has ownership in multiple businesses, the employer's employees across the multiple businesses may be totaled together. Check with a trusted tax or legal advisor for help making this determination. See IRC Section 414 (b) (c) (m) &amp; (o).</p>	<p><b><u>Employers with Medicare as a primary payer on claims for working employees age 65+</u></b> Employers that have employed less than 20 employees for each working day across each of 20+ calendar weeks in the current year <u>or</u> preceding year</p> <p><b><u>Employers with Medicare as a secondary payer on claims for working employees age 65+</u></b> Employers that have employed 20 or more employees for each working day across each of 20+ calendar weeks in the current year <u>or</u> preceding year</p> <p>The 20 weeks do not have to be consecutive.</p> <p>The employer may change from "Medicare Primary" to "Medicare Secondary" (or vice versa) during the year.</p> <p><b><u>Be sure to notify your carrier if your status changes.</u></b></p> <p>IRS controlled/aggregated rules apply. Employer size is based on total number of employees in an organizational structure (parent company, subsidiaries &amp; sibling organizations). If employer has ownership in multiple businesses that together meet this 20+ threshold, it is important to check with a trusted tax or legal advisor to determine whether or not the employer is a controlled group. See IRC Section 414 (b) (c) (m) &amp; (o).</p> <p>It is critical to compute this calculation accurately; employers are receiving IRS-SSA-CMS Data Match Questionnaires, which are used to find out if another entity should be paying primary to Medicare. Carriers also are required to report this information.</p> <p>If the status of an employer changes so that Medicare is in a different payer order, it is important to notify your insurance carrier and your employees with Medicare coverage so they can alert the Medicare Coordination of Benefits (COB) Contractor.</p>

For COBRA counting do not include Partners in a partnership, Independent Contractors and Temp Agency employees and Directors that are not employees too.