



NATIONAL RESOURCE CENTER *for*
PARTICIPANT-DIRECTED SERVICES

The ACA and Participant Direction

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**National Resource Center for Participant-Directed
Services**

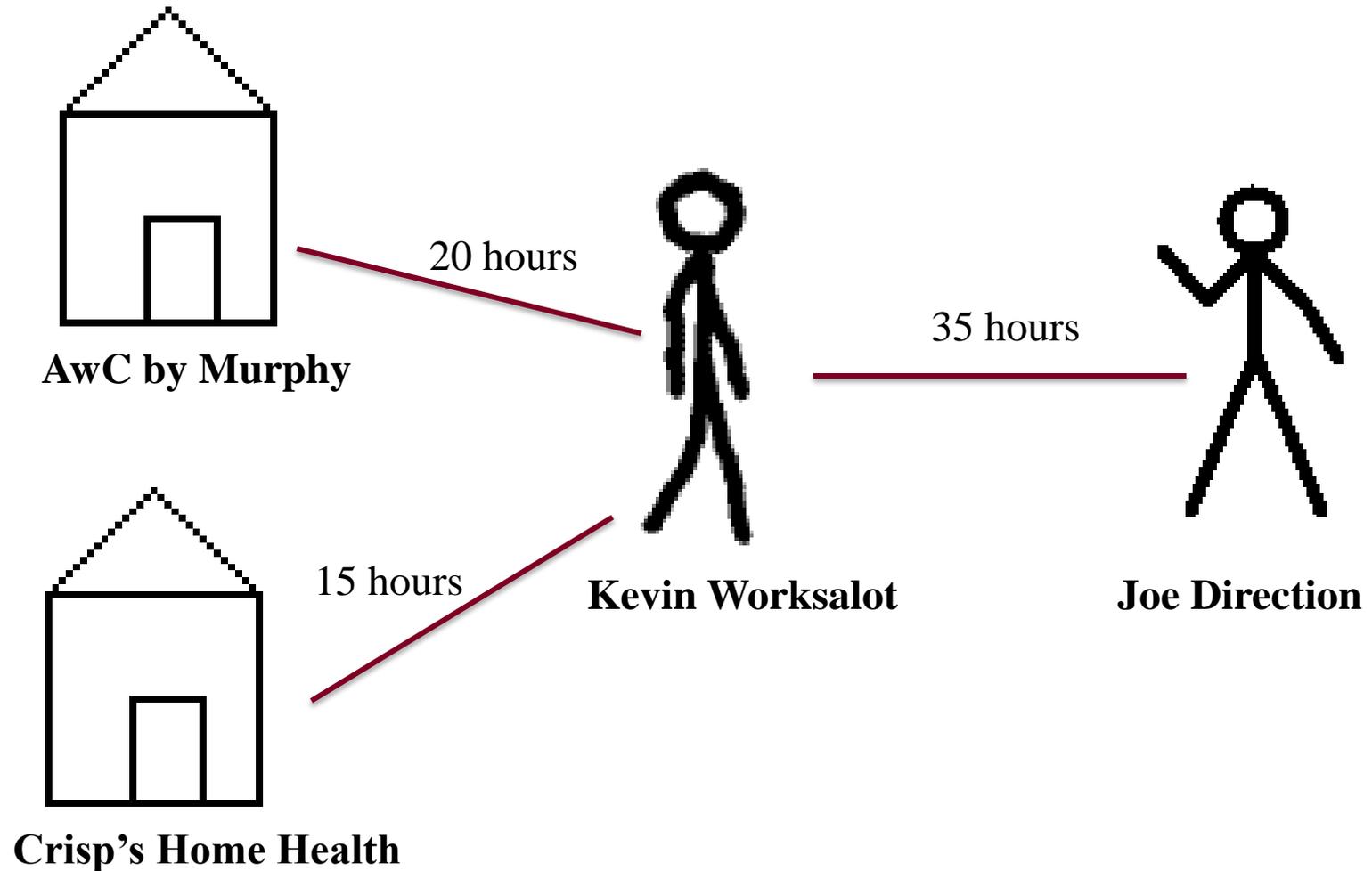
Who is the Employer?

- ❑ **The IRS will use common law rules**
- ❑ **The 50 employee threshold means the mandate:**
 - ❑ Will likely apply in an Agency with Choice scenario
 - ❑ May apply in programs that use a Public Authority to provide services
 - ❑ Probably will not apply in a Fiscal/Employer Agent scenario, so long as the participant is considered the employer (because a single participant would not have 50 employees)

Related Entities and Anti-abuse Rules

- ❑ **Entities that are part of the same control group or affiliated service group are aggregated for the 50-employee test**
 - ❑ However, penalties are calculated separately for each entity
- ❑ **Anti-abuse rules:**
 - ❑ Can't split an employee's hours between different employers to keep the worker part-time for the purpose of avoiding the rules
 - ❑ IRS may scrutinize arrangements where an employee provides services to the same participant through different agencies

Anti-Abuse Example



Agency with Choice Providers

- ❑ **The employer responsibility mandate means that:**
 - ❑ Large employers (50 full-time equivalent employees)
 - ❑ must provide coverage that meets standards for:
 - Affordability (individual cost is <9.5% of household income)
 - Minimum value (pays for at least 60% of typical health expenses)
 - ❑ to:
 - Full-time employees (at least 30 hours of service per week)
 - And their dependents (including children under 26 but not spouses)
 - ❑ or pay a tax penalty

Full-Time Equivalency for Large Employer Status

- ❑ On average at least 50 full-time or full-time equivalent workers during the preceding calendar year
- ❑ Note that the full-time equivalency calculation is only used to determine whether an employer is a large employer, and is not related to the methods for determining the full-time status of workers

Full Time Equivalency Calculations

- ❑ A: Workers who worked 30+ hours per week in a month are full-time.
- ❑ B: Add the hours of service of all workers who were not full-time up to 120 hours per employee, and the total is divided by 120 and rounded down to the nearest whole number.
- ❑ C: Add A and B. If the total figure is at least 50, then the employer is a large employer for the month in question.
- ❑ D: Do the above calculations for 12 months in the year. Add them together and then divide by 12 to get the average monthly employees in a year. If 50 or greater, employer qualifies as a large employer.

Agency with Choice Example

❑ Looking at October 2013

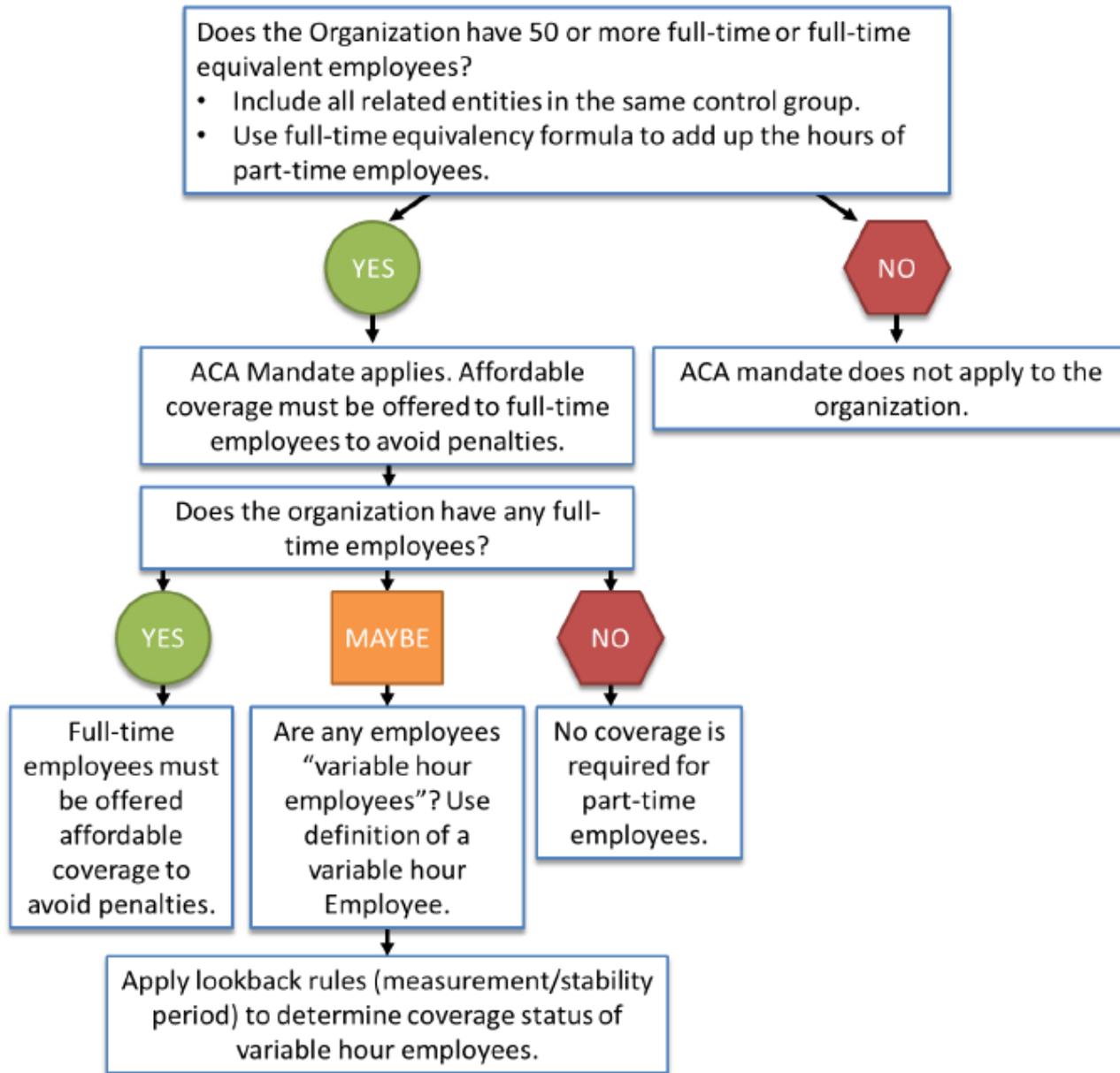
- ❑ A: Agency had 8 employees not providing direct service, but supporting the agency's administration and management. 4 employees working full-time in direct service. Each employee works at least 30 hours per week. $8+4 = 12$ **FT employees**
- ❑ B: Agency has 100 employees serving participants in direct service for variable hours, depending on participant needs. Total hours worked by the 100 employees is 2500 hours. $2500/100 = 25$ FT equivalent employees
- ❑ $8 + 25 = 33$. Agency not considered large employer for the month.
- ❑ Do this for 12 months. Add the months together and divide by 12. If 50 or greater, agency would be large employer under the rules.

Determining Employee Full-Time Status

- ❑ If employer is “large”, obligation to offer insurance extends only to full-time employees
- ❑ An employee is considered full-time if she works on average at least 30 hours a week with respect to any particular month
- ❑ Employers may use 130 hours per month as the monthly equivalent of 30 hours per week for determining full-time status
- ❑ Employees serving participants, likely to be “variable hour employees”

Variable Hour Employees

- ❑ If it is not possible to determine at the beginning of employment if an employee will work more than 30 hours a week or not, the employee is considered a variable hour employee
- ❑ Regulations allow employers to use look-back periods to determine full-time status of variable hour employees



Fiscal/Employer Agents

- ❑ Employer mandate does not apply (<50 employees/participant)
- ❑ Individual penalties for not having health insurance is likely to mean workers will care more about jobs with health insurance
- ❑ For participant-employed jobs to remain attractive, employers may need to
 - ❑ Educate their employees about options to obtain coverage individually
 - ❑ Offer health insurance

ACA Benefits for Employees in an F/EA Model

- ❑ **The ACA offers several benefits for Fiscal/Employer Agent participants and their employees:**
 - ❑ Small Business Health Options Program (SHOP)
 - ❑ Small Business Health Care Tax Credit
 - ❑ Health Insurance Marketplace for Employees
 - ❑ Medicaid expansion

Benefits for Participants/Employers

- ❑ **Small Business Health Options Program (SHOP) Marketplace**
 - ❑ Health insurance marketplace for small employers

- ❑ **Small Business Health Care Tax Credit**
 - ❑ Credit for up to 50% of the employer-paid health insurance premium contribution
 - ❑ Employers must buy coverage through SHOP to qualify
 - ❑ Household employers are eligible
 - ❑ Medicaid recipients – is this even useful?

Benefits for Employees

❑ Health Insurance Marketplace

- ❑ For employees who do not have access to a health insurance plan through their jobs
- ❑ Individuals can compare plans and buy insurance on the Health Insurance Marketplace website*
- ❑ Federal subsidies for those with incomes between 100% and 400% of FPL

❑ Expanded Medicaid eligibility

- ❑ In participating states only
- ❑ Adults with no dependents can now qualify
- ❑ Higher income threshold: <138% of FPL

F/EA: Not Necessarily a Disadvantage for Workers

- ❑ Health insurance not being required in an F/EA model is not necessarily a disadvantage for employees
 - ❑ An employee who is over 100% of the FPL who does not have access to affordable employer-provided insurance can qualify for federal subsidies for purchasing individual insurance
 - ❑ Whereas an employee offered affordable insurance by their employer cannot qualify for subsidies even if the subsidies would have been more advantageous