

How to Count Employees in Each of These Scenarios

ACA Employer Size: Am I an Applicable Large Employer (ALE)?	Am I subject to Federal COBRA or Cal-COBRA?	Is Medicare the primary or secondary payer on claims?
<p><u>Applicable Large Employers (ALEs) – Subject to ACA Mandate and Reporting Responsibilities</u> 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><u>Non-ALEs – Not subject to ACA Mandate & Reporting Responsibilities</u> 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><u>Employer Size Calculation</u> 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. <i>Reference Word & Brown's exclusive Group Size Calculator for help with this calculation.</i></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. <i>Reference Word & Brown's exclusive FTE Calculator for help with this calculation.</i></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><u>When do I make this employer size calculation?</u> This calculation is made annually on January 1st.</p>	<p><u>Employers subject to Federal COBRA</u> Employers that have employed at least 20 employees on 50% or more of the typical working days in the preceding calendar year</p> <p><u>Employers subject to Cal-COBRA</u> Employers that have employed fewer than 20 employees on 50% or more of the typical working days in the preceding calendar year</p> <p><u>When do I make this employer size calculation?</u> This calculation is made annually on January 1st.</p> <p><u>Other Information</u> 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>Both full-time (FT) & 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.</p> <p><u>Be sure to notify your carrier if your status changes.</u></p> <p>It is important for employers to make an accurate calculation because the law sets a very different admin fee for Federal COBRA & Cal-COBRA.</p> <ul style="list-style-type: none"> Federal COBRA: 2% monthly admin fee Cal-COBRA: 10% monthly admin fee 	<p><u>Employers with Medicare as a <i>primary payer</i> on claims for working employees age 65+</u> 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><u>Employers with Medicare as a <i>secondary payer</i> on claims for working employees age 65+</u> 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><u>Be sure to notify your carrier if your status changes.</u></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> <p><u>When do I make this employer size calculation?</u> This calculation can be made any time throughout the year, so long as the measurement is based on each of 20+ calendar weeks in the current year <u>or</u> preceding year.</p>

IMPORTANT

IRS controlled/aggregated rules apply. If the employer has ownership in multiple businesses, the employees of those businesses could be combined for purposes of determining group size for ACA, COBRA, and Medicare Primary/Secondary Payer status. Employers with common ownership can be combined even if they have separate tax IDs, different locations, different employees, different types of business, etc. Check with a trusted tax or legal advisor for helping making this important determination under IRC Section 414 (b) (c) (m) or (o).