



# New Kent County Group Medical Plan Look-Back Measurement Method

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# **POLICY FOR IDENTIFYING FULL-TIME AND ELIGIBLE EMPLOYEES**

New Kent County's Policy for Identifying Full-Time Employees Under Code §4980H and Eligible Employees Under the Group Health Plan

## **1. Preliminary Matters**

### **1.1 Purpose**

The Plan Sponsor is adopting this Policy for purposes of identifying Full-Time Employees with respect to Code §4980H and for purposes of identifying Eligible Employees with respect to the Group Health Plan (Plan).

### **1.2 Relationship Between Full-Time Status and Eligibility**

All Employees who are determined to be Full-Time Employees with respect to a given period of time are Eligible Employees under the Plan during that period of time.

### **1.3 Modification**

This Policy is established as a part of the Plan and may be modified or amended in the same manner as the Plan.

## **2. Plan Sponsor Elections**

### **2.1 Election to Use Look-Back Measurement**

The Plan Sponsor elects to use the Look-Back Measurement Method with respect to all Employees for purposes of identifying those Employees who are Full-Time Employees, which also identifies those Employees who are Eligible Employees.

### **2.2 Election of Standard Measurement Period**

The Standard Measurement Period is a 12-month period beginning April 1 each year and ending the following March 31.

### **2.3 Election of Standard Stability Period**

The Standard Stability Period is the 12-month period beginning July 1 each year and ending the following June 30. The same Standard Stability Period applies with respect to Employees who are determined to be Full-Time Employees during the Standard Measurement Period and Employees who are determined not to be Full-Time Employees during the Standard Measurement Period.

### **2.4 Election of Standard Administrative Period**

The Standard Administrative Period is the 61-day period beginning on April 1 each year and ending the following June 1.

### **2.5 Election of Initial Measurement Period**

With respect to a New Employee who is a Part-Time Employee, Variable-Hour Employee, or Seasonal Employee, the Initial Measurement Period is the 12-month period beginning on the first day of the calendar month following the Employee's Start Date.

## **2.6 Election of Initial Stability Period**

With respect to a New Employee who is a Part-Time Employee, Variable-Hour Employee, or Seasonal Employee, except as provided in Section 3.2(b)(4), the Initial Stability Period is the 12-month period beginning on the first day of the second calendar month after the end of the Initial Measurement Period.

## **2.7 Election of Initial Administrative Period**

With respect to a New Employee who is a Part-Time Employee, Seasonal Employee, or Variable-Hour Employee, the Initial Administrative Period means all periods of time between the Employee's Start Date and the beginning of the Employee's Initial Stability Period other than the Employee's Initial Measurement Period.

## **2.8 Election to Apply Rule on Midyear Change to Part-Time Status**

The special rule in Treas. Reg. §54.4980H-3(f)(2) regarding certain Full-Time Employees changing employment status in the middle of a stability period applies. Therefore, in the case of a Full-Time Employee to whom this section applies, the Employee ceases to be a Full-Time Employee on the last day of the third calendar month after the change in employment status described in this section. This section applies to a Full-Time Employee if:

- (a) The Employer has offered the Employee minimum value coverage continuously during the period beginning on the first day of the calendar month following the Employee's initial three full calendar months of employment and ending on the last day of the calendar month in which the change in employment status described in this section occurs;
- (b) The Employee has a change in employment status to a position or status in which the Employee would not have reasonably been expected to be a Full-Time Employee if the Employee had begun employment in that position or status; and
- (c) The Employee actually is credited with less than 130 Hours of Service for each of the three full calendar months following such change in employment status.

## **2.9 Taking Special Unpaid Leave Into Account**

For purposes of determining an Employee's average Hours of Service during a Measurement Period, the average Hours of Service for that Measurement Period are determined by computing the average after excluding any periods of Special Unpaid Leave during that Measurement Period and by using that average as the average for the entire Measurement Period.

## **3. Identification of Full-Time Employees and Eligible Employees**

### **3.1 Ongoing Employees**

- (a) *Employees Determined to Be Full-Time.* An Ongoing Employee who is determined to be a Full-Time Employee during a Standard Measurement Period will be considered a Full-Time Employee, and thus an Eligible Employee, for each calendar month during the Standard Stability Period associated with that Standard Measurement Period, except to the extent the special rule in Treas. Reg. §54.4980H-3(f)(2) applies (see Section 2.8 of this Policy).

(b) *Employees Determined Not to Be Full-Time.* An Ongoing Employee who is determined not to be a Full-Time Employee during a Standard Measurement Period will not be considered a Full-Time Employee, and thus not an Eligible Employee, for any calendar month during the Standard Stability Period associated with that Standard Measurement Period.

### 3.2 New Employees

(a) *New Full-Time Employees.* A New Employee who is reasonably expected at his or her Start Date to be a Full-Time Employee (and is not a Seasonal Employee) is considered a Full-Time Employee, and thus an Eligible Employee, beginning on the Employee's Start Date.

(1) *Factors for Determining Full-Time Status.* Although no single factor is determinative, the following factors may be relevant in determining whether a New Employee who is not a Seasonal Employee is reasonably expected at his or her Start Date to be a Full-Time Employee:

(A) Whether the Employee is replacing an Employee who was (or was not) a Full-Time Employee.

(B) The extent to which Hours of Service of Ongoing Employees in the same or comparable positions have varied above and below an average of 30 Hours of Service per week during recent Measurement Periods.

(C) Whether the job was advertised or otherwise communicated to the Employee or otherwise documented (for example, through a contract or job description) as requiring hours of service that would average 30 or more Hours of Service per week or less than 30 Hours of Service per week.

(2) *Transition to Ongoing Employee.* Once a New Employee who is a Full-Time Employee has been employed for an entire Standard Measurement Period, the Employee becomes an Ongoing Employee, and the Employee's status as a Full-Time Employee and as an Eligible Employee is governed by the provisions of this Policy regarding Ongoing Employees.

(b) *New Non-Full-Time Employees.* A New Employee who is a Part-Time Employee, Seasonal Employee, or Variable-Hour Employee is not initially considered a Full-Time Employee and will have Hours of Service measured over an Initial Measurement Period and be treated as follows:

(1) *Full-Time After Initial Measurement Period.* If a New Employee who is a Part-Time Employee, Seasonal Employee, or Variable-Hour Employee is determined to be a Full-Time Employee during the Employee's Initial Measurement Period based on the Hours of Service credited during the Initial Measurement Period, the Employee will be considered a Full-Time Employee, and thus an Eligible Employee, for each calendar month during the Employee's Initial Stability Period.

(2) *Not Full-Time After Initial Measurement Period.* If a New Employee who is a Part-Time Employee, Seasonal Employee, or Variable-Hour Employee is determined not to be a Full-Time Employee during the Employee's Initial Measurement Period based on the Hours of

Service credited during the Initial Measurement Period, the Employee will not be considered a Full-Time Employee, and thus not an Eligible Employee, during the Employee's Initial Stability Period, except to the extent provided under the provisions of this policy regarding Ongoing Employees.

(3) *Change in Status During the Initial Measurement Period.* Notwithstanding the foregoing, if a New Employee who is a Part-Time Employee, Seasonal Employee, or Variable-Hour Employee experiences a change in employment status before the end of the Employee's Initial Measurement Period such that if the Employee had begun employment in that new status the Employee would have reasonably been expected to be a Full-Time Employee (and not a Seasonal Employee or Variable-Hour Employee), the Employee will be considered a Full-Time Employee, and thus an Eligible Employee, beginning on the first day of the calendar month after the change in the Employee's employment status or, if earlier, at the beginning of the Employee's Initial Stability Period, if the Employee is determined to be a Full-Time Employee during the Employee's Initial Measurement Period.

(4) *Transition to Ongoing Employee.* Once a New Employee who is a Part-Time Employee, Seasonal Employee, or Variable-Hour Employee has been employed for an entire Standard Measurement Period, the Employee becomes an Ongoing Employee, and the Employee's status as a Full-Time Employee, and thus as an Eligible Employee, is governed by the provisions of this Policy regarding Ongoing Employees, but subject to the following:

(A) *Full-Time During the Initial Measurement Period but Not the First Standard Measurement Period.* If the Employee is determined not to be a Full-Time Employee for the Standard Measurement Period that overlaps or immediately follows the Employee's Initial Measurement Period, the Employee will continue to be considered a Full-Time Employee, and thus an Eligible Employee, for each calendar month during the Initial Stability Period, if the Employee was determined to be a Full-Time Employee during the Employee's Initial Measurement Period.

(B) *Full-Time During the First Standard Measurement Period but Not During the Initial Measurement Period.* If the Employee is determined to be a Full-Time Employee for the Standard Measurement Period that overlaps or immediately follows the Employee's Initial Measurement Period, the Employee will be considered a Full-Time Employee, and thus an Eligible Employee, for each calendar month during the entire Standard Stability Period associated with the Employee's first Standard Measurement Period, even though that Standard Stability Period may overlap an Initial Stability Period associated with an Initial Measurement Period during which the Employee was determined not to be a Full-Time Employee.

(C) *Full-Time During Both the Initial Measurement Period and the First Standard Measurement Period.* If the Employee is considered a Full-Time Employee, and thus an Eligible Employee, during both the Employee's Initial Stability Period and the Employee's first Standard Stability Period, the Employee will be considered a Full-Time Employee, and thus an Eligible Employee, during any period between the end of the Initial Stability Period and the beginning of the Employee's first Standard Stability Period.

### **3.3 Rehired Employees**

An Employee who is terminated and rehired will be treated as a New Employee upon rehire only if the Employee was not credited with an Hour of Service with the Employer or any member of the

Controlled or Affiliated Group for a period of at least 13 consecutive weeks immediately preceding the date of rehire or, if less, a period of consecutive weeks that exceeds the greater of (a) four weeks, or (b) the number of weeks of the Employee's immediately preceding Period of Employment. For purposes of applying these rehire rules, the duration of the Period of Employment immediately preceding a period during which an Employee was not credited with any Hours of Service is determined after application to that Period of Employment of the rules on Special Unpaid Leave, if and to the extent those rules are applicable.

#### **4. Definitions and Interpretation**

##### **4.1 Definitions**

For purposes of this Policy, the following terms have the following meanings:

- (a) "**Administrative Period**" means a Standard Administrative Period or an Initial Administrative Period.
- (b) "**Code**" means the Internal Revenue Code of 1986, as amended.
- (c) "**Controlled or Affiliated Group**" means the group of organizations consisting of the Plan Sponsor and any other organization that is part of a controlled group or affiliated service group with the Plan Sponsor within the meaning of Code §414(b), (c), (m), or (o).
- (d) "**Eligible Employee**" has the meaning set forth in the Plan.
- (e) "**Employee**" has the meaning set forth in the Plan.
- (f) "**Employer**" means the Plan Sponsor and any other member of the Controlled or Affiliated Group that has adopted this Plan for the benefit of the Employer's employees.
- (g) "**Full-Time Employee**" means an Employee of the Employer who is credited with an average of at least 30 Hours of Service per week during a Measurement Period. For this purpose, 130 Hours of Service in a calendar month is treated as the monthly equivalent of at least 30 Hours of Service per week.
- (h) "**Hour of Service**" means (1) each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer, and (2) each hour for which an Employee is paid, or entitled to payment, by the Employer for a period of time during which no duties are performed due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty, or leave of absence (as defined in 29 CFR §2530.200b-2(a)).
  - (1) The term "Hour of Service" does not include any hour for services to the extent the compensation for those services constitutes income from sources without the United States, within the meaning of Code §§861 through 863 and the regulations thereunder.
  - (2) An Hour of Service for one organization is treated as an Hour of Service for all other organizations that are part of the same Controlled or Affiliated Group for all periods during which those organizations are part of the same Controlled or Affiliated Group.

(3) Hours of Service for all Employees are credited using actual Hours of Service from records of hours worked and hours for which payment is made or due.

(i) "**Initial Administrative Period**" means, with respect to a New Employee that is a Part-Time Employee, Seasonal Employee, or Variable-Hour Employee, the period described in Section 2.7 of this Policy.

(j) "**Initial Measurement Period**" means, with respect to a New Employee that is a Part-Time Employee, Seasonal Employee, or Variable-Hour Employee, the period described in Section 2.5 of this Policy.

(k) "**Initial Stability Period**" means, with respect to a New Employee that is a Part-Time Employee, Seasonal Employee, or Variable-Hour Employee, the period described in Section 2.6 of this Policy.

(l) "**Look-Back Measurement Method**" means the method of identifying full-time employees for purposes of Code §4980H that is described in Treas. Reg. §54.4980H-3(d), as amended or supplemented.

(m) "**Measurement Period**" means an Initial Measurement Period or a Standard Measurement Period.

(n) "**New Employee**" means an Employee who has been employed for less than one complete Standard Measurement Period.

(o) "**Ongoing Employee**" means an Employee who has been employed for at least one complete Standard Measurement Period.

(p) "**Part-Time Employee**" means a New Employee whom the Employer reasonably expects to be employed on average less than 30 Hours of Service per week during the Employee's Initial Measurement Period, based on the facts and circumstances at the Employee's Start Date. Although no single factor is determinative, the following factors may be relevant in determining whether a New Employee is a Part-Time Employee:

(1) Whether the Employee is replacing an Employee who was (or was not) a Full-Time Employee.

(2) The extent to which Hours of Service of Ongoing Employees in the same or comparable positions have varied above and below an average of 30 hours of service per week during recent Measurement Periods.

(3) Whether the job was advertised or otherwise communicated to the new hire or otherwise documented (for example, through a contract or job description) as requiring hours of service that would average 30 (or more) Hours of Service per week or less than 30 Hours of Service per week.

The anticipated length of the Employee's Period of Employment shall not be considered.

(q) "**Period of Employment**" means the period of time beginning on the first date for which an Employee is credited with an Hour of Service for an Employer or any member of the Controlled or Affiliated Group and ending on the last date on which the Employee is credited with an Hour of Service for that Employer or any member of the Controlled or Affiliated Group, both dates inclusive. An Employee may have one or more Periods of Employment with the same Employer.

(r) "**Plan**" means the XYZ Group Health Plan.

(s) "**Plan Sponsor**" means the XYZ Company.

(t) "**Policy**" means this "Policy for Identifying Full-Time Employees Under Code §4980H and for Identifying Eligible Employees Under the XYZ Group Health Plan," as amended and in effect from time to time.

(u) "**Seasonal Employee**" means a New Employee who is hired into a position for which the customary annual employment is six months or less, occurring at approximately the same time each year.

(v) "**Special Unpaid Leave**" means unpaid leave that is subject to FMLA, subject to USERRA, or on account of jury duty.

(w) "**Stability Period**" means either a Standard Stability Period or an Initial Stability Period.

(x) "**Standard Administrative Period**" means the period described in Section 2.4 of this Policy.

(y) "**Standard Measurement Period**" means the period described in Section 2.2 of this Policy.

(z) "**Standard Stability Period**" means the period described in Section 2.3 of this Policy.

(aa) "**Start Date**" means the first date on which an Employee is credited with an Hour of Service with the Employer or a member of the Controlled or Affiliated Group.

(bb) "**Variable-Hour Employee**" means a New Employee if, based on the facts and circumstances at the Employee's Start Date, the Employer cannot determine whether the Employee is reasonably expected to be employed on average at least 30 Hours of Service per week during the Initial Measurement Period because the Employee's hours are variable or otherwise uncertain. For purposes of determining whether an Employee is a Variable-Hour Employee, the Employer may not take into account the likelihood that the Employee may terminate employment before the end of the Initial Measurement Period. Although no single factor is determinative, the following factors may be relevant in determining whether a New Employee is a Variable-Hour Employee:

(1) Whether the Employee is replacing an Employee who was a Full-Time Employee or a Variable-Hour Employee.

(2) The extent to which the Hours of Service of employees in the same or comparable positions

have actually varied above and below an average of 30 hours of service per week during recent Measurement Periods.

(3) Whether the job was advertised or otherwise communicated to the new Employee or otherwise documented (for example, through a contract or job description) as requiring hours of service that would average at least 30 hours of service per week, average less than 30 hours of service per week, or might vary above and below an average of 30 hours of service per week.

#### **4.2 Terms Defined in the Plan**

Capitalized terms not specifically defined in this Policy have the meanings set forth in the Plan.

#### **4.3 Interpretation of Terms**

Whenever the context may require, (a) any pronoun used in this policy includes the corresponding masculine, feminine, or neuter forms, and (b) the singular form of nouns, pronouns, and verbs includes the plural and vice versa.

## **NEW HIRES**

### New Kent County Medical Plan Eligibility for New Hires Effective July 1, 2021

As a result of Sec. 4980H Employer Shared Responsibility rules enacted by the Patient Protection and Affordable Care Act, New Kent County is adopting a Look-Back Measurement Method with respect to Part Time and Seasonal Employees in order to determine Full-Time Employee status and medical plan eligibility. Effective July 1, 2021, employees hired in part-time and seasonal positions will be eligible for coverage in the New Kent County medical plan under the following terms:

You will be eligible to enroll in medical benefits after averaging 30 or more hours of service per week over a 12-month Initial Measurement Period that commences the first of the month following your date of hire, as determined by New Kent County during a one-month Initial Administrative Period that immediately follows.

Thereafter, you will continue to be eligible for medical benefits if you average 30 or more hours of service per week during a 12-month Standard Measurement Period for benefits effective during the New Kent County Plan Year, which runs from July 1<sup>st</sup> through June 30<sup>th</sup> each year.

Please contact Karen Wiscott, Director of Human Resources at [kmwiscott@newkent-va.us](mailto:kmwiscott@newkent-va.us) or (804) 966-8512 with any questions.

## SUMMARY OF MATERIAL MODIFICATIONS

Effective July 1, 2021, the Eligibility section of the New Kent County Group Medical Plan is hereby amended as follows:

Full-time Employees who are expected to work 30 or more hours per week are eligible for coverage immediately, subject to the established waiting period.

Variable Hour Employees and Seasonal Employees will be eligible for coverage after averaging 30 or more hours of service per week over a [12]-month Initial Measurement Period that commences the first of the month following the date of hire, as determined by the Plan Administrator during a one-month Initial Administrative Period that immediately follows. Thereafter, Variable Hour Employees and Seasonal Employees will continue to be eligible for coverage if they average 30 or more hours of service per week during a [12]-month Standard Measurement Period for benefits effective during the Standard Measurement Period, which runs from [April 1st through March 31st] each year.

The Definitions section is hereby amended to add the following terms:

Seasonal Employee. "Seasonal Employee" is an employee who is hired into a position for which the customary annual employment is six months or less.

Variable Hour Employee. "Variable Hour Employee" is an employee for whom, based on the facts and circumstances at the employee's start date, the employer cannot determine whether the employee is reasonably expected to be employed on average at least 30 hours of service per week during the Initial Measurement Period because the employee's hours are variable or otherwise uncertain.

All other provisions of the Summary Plan Description remain as stated. This Summary of Material Modifications (SMM) shall supersede the provisions of the Summary Plan Description to the extent those provisions are inconsistent with the provisions of this SMM. The above SMM is effective July 1, 2021.