Indiana Group Counting FAQ

1. **How are employees counted in determining group size for purposes of quoting coverage?**

    A. The number of employees for determining group size shall use PHS Section 2791(d)(5) which states that the term "employee" has the meaning given such term under section 3(6) of Title I of the Employee Retirement Income Security Act (ERISA). As defined by this section of ERISA, the term "employee" means ***any*** individual employed by an employer.

2. **Is an owner counted in determining group size?**

    A. 29 CFR 2510.3-3(c) provides, "An individual and his or her spouse shall not be deemed to be employees with respect to a trade or business, whether incorporated or unincorporated, which is wholly owned by the individual or by the individual and his or her spouse.

3. **How are part time, transitional or seasonal employees counted in determining group size?**

    A. ERISA dictates that the term "employee" means any individual employed by an employer. As such, part time, transitional or seasonal employees must be counted towards the overall group size of an employer.

4. **How will MLR be calculated for small group?**

    A. For small group (1-50 employees) the MLR will remain 80%.

    B. For large group (51-100) the MLR remains 80% for plan years through the end of 2015.

    C. For large groups (51+ employees) the MLR will be 85% starting January 1, 2016.

5. **Is there a difference in counting the number of employees for SHOP participation as opposed to determining group size?**

    A. Eligibility for participation in the SHOP uses a different method: a full time equivalent calculator without inclusion of seasonal employees. For additional information on the calculation of full time equivalents, please visit: https://www.healthcare.gov/shop-calculators-fte/

6. **Can an insurance company write or renew a historical small group non-grandfathered policy to a newly redefined 51+ group employer?**

    A. Employers who employ 51+ employees will need to be issued a large group policy, except that such groups that were covered under the previous small group definition in 2015 may be renewed on a small group policy in through October 1, 2016.

7. **Can a group with 51-100 employees that has been offered a grandmothered or transitional policy continue on that grandmothered or transitional policy in 2016?**

    A. Yes. Those large group policies with 51-100 employees offered grandmothered or transitional policies in 2015 may be renewed until October 1, 2016. Policies renewed after October 1, 2016, must be renewed as a fully compliant ACA large group policy.

8. **Can an insurance company now file new small group rates effective January 1, 2016?**

    A. Federal law does not allow new small group rates to be filed now effective January 1, 2016. Rates can be changed effective April 1, 2016, subject to regular filing and approval deadlines.

9. **Where do I put information for groups in the range of 51-100 in the Supplemental Health Care exhibit for the 2015 and 2016 plan year?**

    A. For 2015, groups 51-100 should be shown in the small group column.

    B. For 2016, groups 51-100 should be shown in the large group column.

10. **Is Bulletin 215 being withdrawn?**

    A. To avoid disruptions that may have occurred with a change in the definition of a small employer, the Department issued Bulletin 215, which allowed for transitional policies of employers with 51-100 employees to continue through October 1, 2016. Because of the PACE act, those policies will now continue to be ACA-compliant policies and will not be considered transitional, except as set out in FAQ #7. For that reason, Bulletin 215 is withdrawn.

11. **Is Bulletin 185 being withdrawn?**

    A. No. The MLR for small group policies 1-100 remains in effect through December 31, 2015.

12. **If I have employees in two different states, how do I determine my group size?**

    A. Group size should be based on the total size of the employer entity filing taxes for federal tax purposes and based on the law of the state of the company's headquarters, regardless of the employees' location.

13. **Does the enactment of the PACE Act affect the counting methodologies to be used by the SHOPs in accordance with Internal Revenue Code section 4980H(c)(2), and for purposes of the medical loss ratio (MLR), risk adjustment, and risk corridors programs?**

    A. No. The requirements regarding the employee counting methodologies for the FF-SHOPs and State-based SHOPs, and for the MLR, risk adjustment, and risk corridors programs remain the same, and are not changed by the PACE Act.