



MAKING SURE YOU'RE REALLY READY
compliance + costs

BY CHARLIE DEWITT

The clock is ticking. Even after the latest extension, the January 1, 2015, deadline for the Affordable Care Act is approaching fast, and state and local governments are looking for ways to keep costs low while providing continuity of services. Like any other employer, governments have to implement the ACA's provisions or face increased costs and potential penalties for non-compliance. (See "ACA Action Steps for 2014: Another Look at the ACA's Shared Responsibility Provisions" in this issue of *Government Finance Review* for more details.)

An additional concern is that many state and local government organizations erroneously believe that they are ready for the ACA's comprehensive reporting requirements. However, jurisdictions that have manual, paper-based time-tracking processes — and many still do — could be setting themselves up for bigger challenges down the road.

The good news is that organizations still have time to get on track and better prepare themselves for ACA compliance. Developing and implementing effective strategies, while avoiding the challenges associated with manual processes, will also help governments improve their ability to meet the needs of their constituents and communities.

THINK AGAIN

The Affordable Care Act requires organizations with more than 50 full-time equivalent employees to provide affordable health-care insurance to any employee who works 30 or more hours per week or 130 hours per month, or to pay associated fines. Many state and local governments indicate that they are ready to comply with the legislation, but research shows that these organizations may not be as "ready" as they think. According to a July 2013 survey, 89 percent of respondents reported that their current tracking methods showed their employees' part-time or full-time status, as required by the ACA. Similarly, 78 percent said that their systems could effectively report ACA compliance information to the IRS now.¹

So far, so good. But as these same organizations take a closer look at the methods used to collect and calculate ACA compliance data, the outlook becomes a little less rosy. For

example, 77 percent of respondents indicated that they currently use, or plan to use, paper timecards or spreadsheets as the principal tools for calculating their standard measurement periods. Further, 51 percent of respondents reported that they use manual time and attendance systems to track employees' hours and leave time.²

Since this research was conducted before the December 2013 ACA deadline extension, chances are good that many state and local governments are still relying on the same positions and processes they reported earlier in the year. In doing so, these organizations are building long-term strategies upon potentially flawed data, or at least creating future compliance issues that will require significant time and effort to manage.

MORE QUESTIONS THAN ANSWERS

State and government agencies have a number of questions about how they should comply with the ACA:

- What is the best strategy for this organization to use in complying with the ACA?
- Is it in the jurisdiction's best interest to pay fines for non-compliance, or should it provide benefits?
- How can the organization's total exposure be calculated for each scenario?
- Are data and systems adequate to perform accurate "look-back" calculations (to measure hours for existing employees)?
- Can supervisors make sure part-timers don't exceed hourly thresholds for requiring coverage?
- Can the organization produce the amount and kinds of reporting needed to prove compliance?
- Does reclassifying the workforce put the jurisdiction at risk of failing to delivering optimum citizen service?

All industries are currently struggling with ACA compliance and ways to devise the most effective strategies, but state and local government agencies have special concerns. They are already under intense pressure to preserve precious budget dollars and ensure the continuity of services

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and programs. These organizations can also be very complex, with a large number of part-time workers — up to 25-35 percent of the workforce, including seasonal workers, contractors, traditional part-time employees, and specialized workers. Also, since state and local governments include departments like police, fire, and public safety, they can't afford to make mistakes with staffing or scheduling processes. Mismanaging these labor decisions isn't just a matter of affecting bottom-line profits; a wrong decision could have an adverse effect on public safety.

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MANUAL SYSTEMS FALL SHORT

Unfortunately, most traditional approaches and legacy systems simply cannot provide reliable data for creating effective ACA strategies, monitoring and managing them, and then proving ongoing compliance with the ACA. For example, current methods for tracking, managing, and optimizing time and attendance, leave time, and scheduling employees may no

longer be effective, for the reasons listed below.

THE ACA CHECKLIST

The ACA's focus on the part-time workforce creates some essential questions that most state and local government organizations need help answering:

- Which part-timers break the 30-hours-per-week or 130-hours-per-month thresholds?
- What is your ideal full-time/part-time mix?
- Are your health-care benefits affordable (defined as comprising no more than 9.5 percent of the employee's income)?
- How will the organization's part-time workforce be measured and monitored in the future? For example, how will employees be scheduled, and how will managers be alerted when part-time employees are approaching full-time status?
- How are the executive leaders who understand the financial impact of the legislation going to put the power of day-to-day staffing decisions into the hands of the organization's supervisors?
- How will the jurisdictions produce the audit reports required by the Internal Revenue Service, the Department of Labor, and other agencies?

State and local government organizations need irrefutable data in answer to these questions so they can model all relevant scenarios and use these data to create the ACA strategy that is right for their individual organizations.

Too Many Errors. It has been well documented that manual and paper-based time and attendance systems and processes can lead to errors in employee hours and reporting. For example, 12 percent of employees overstate time worked by two hours each month.³ Not only does this result in \$842 million in overpayments by state and local governments per year, but when it comes to ACA compliance, it can mean the difference between success and failure in accurately classifying part-time and full-time employees.

Difficult Look-Back Calculations. Manual and paper-based systems make it difficult, if not downright impossible, to perform look-back calculations. Administrators may have to comb through months of time slips, schedules, and reports in their attempts to determine if the employee meets full-time status.

The Challenge of Determining the Ideal Mix. For state and local governments, determining the ideal mix of employees is a delicate issue. On one hand, full-time employees offer more stability, and their overall labor cost is typically higher. However, part-timers give the organization the greatest financial flexibility. Finding the right mix is critical, but to do that, state and local governments need total visibility — real-time and historical — into which employee is in what role.

Hard-to-Gauge Hour Thresholds. Organizations must be able to quickly determine if part-time employees threaten to break the 30-hours-per-week or 130-hours-per-month thresholds. If this happens, supervisors need to know exactly who these workers are and which groups they fall into so they can make appropriate scheduling decisions.

Determining Affordability. Government organizations will also have to show that their health-care benefits are affordable, with affordability defined as the cost of the benefits comprising no more than 9.5 percent of the employee's income. Calculating this requires the organization to identify, segment, and analyze the part-time workforce. Managers will need access to employees' salary information and will then need to analyze each of the segmented employee groups in a number of ways.

Monitoring the Part-Time Workforce. Finally, public-sector organizations need to proactively monitor their part-timers into the future, usually at first-line supervisory levels. Managers will have to control their scheduling processes and will thus need to have alerts in place to let them know when employees they've designated as part-time are approaching full-time status.

With all of these challenges, state and local government agencies will need to scrutinize their tools, processes, and technologies to maintain tighter controls over their workforce, especially as they relate to ACA compliance.

QUANTIFY, OPTIMIZE, AND EXECUTE

State and local governments can use a "quantify, optimize, and execute" framework to better manage compliance with the ACA while still delivering on their goals for citizen service and programs.

Quantify: Make the Best Employee Decisions. Consider the example of a government agency trying to decide how it should reclassify employees. After calculating its look-back data, it might discover an employee who is classified as full-time but working an average of 27 hours per week. On the other hand, it might also identify a part-time employee who is working very close to 40 hours a week. The organization could reclassify the first employee to part-time status for ACA purposes and reclassify the second employee as full-time and offer him or her health-care benefits. This may seem obvious, but many state and local government agencies don't have the tools in place to provide this level of insight.

Ideally, a tool that allows an easy-to-understand, intuitive view of historical and real-time labor data would provide the best scenario for determining each employee's status during the look-back period. It would also help managers track hours worked during the stability period (the period, of at least six

ACA Stats at a Glance: The Numbers Might Surprise You

Recent research shows that more than half of all state and local government organizations are still using paper timesheets and paper systems to track employees' time. Unfortunately, relying on a potentially flawed process can lead to other challenges. In addition:

- Sixty-one percent of government organizations are still trying to figure out their look-back periods and calculations.
- Forty-seven percent of respondents either don't have or don't know if they have a system or process that allows them to do real-time ACA auditing and reporting.

Source: How Will the Affordable Care Act (ACA) Impact Your Government Agency? Governing Institute, 2013).

months, for which the results of the measurement period will apply) while continually monitoring labor data to adhere to the chosen ACA strategy.

Optimize: Support the Strategy. Once the organization has identified the data, it must make sure it can adhere to the thresholds. For example, how can supervisors monitor the hours of part-time employees to comply with the 30-hour



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threshold? Managers also need to know, for instance, if a part-time employee worked more than 30 hours for the week as a result of a scheduling change. Even if the organization has everything it needs to achieve compliance, it is still up to the managers to make optimum scheduling decisions and monitor time worked on a daily basis.

Execute: Manage in the Moment. Finally, state and local governments need to assess their overall risk models with newly classified groups of employees. For example, what if additional hours are provided to another employee group? Part-time and full-time status must be measured by employees in real time if the organization is to proactively “manage in the moment” and hone in on specific groups or departments as needed. Comprehensive auditing and reporting will provide the IRS with evidence of ACA compliance efforts.

CONCLUSIONS

To develop and execute the most effective ACA strategy, state and local governments should carefully examine any process or system that may inadvertently pose a challenge to the compliance effort. For example, investigating manual time-tracking, scheduling, or reporting processes — and potentially automating these systems — will put a jurisdiction in a better position to meet the ACA’s requirements, while delivering the highest-quality community and citizen services possible. ■

Notes

1. How Will the Affordable Care Act (ACA) Impact Your Government Agency? Governing Institute, 2013.
2. Ibid.
3. Ibid.

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