

Lutheran Senior Services Benefits Plan

Policy Document for Full-Time Employee Determinations Under the Patient Protection and Affordable Care Act

(Effective January 1, 2018)

Lutheran Senior Services (the “Employer”) sponsors and maintains, or participates in, one or more group medical insurance programs for the benefit of eligible Employees and their eligible dependents. One or more of such programs may condition eligibility of the Employee upon the Employee’s status as a “Full-Time Employee” under the Patient Protection and Affordable Care Act of 2010, as amended (“the ACA”) and Section 4980H of the Internal Revenue Code (“the Code”), and regulations and other guidance issued thereunder (collectively “4980H”).

This Policy is adopted by the Employer to establish general standards and procedures for identifying Full-Time Employees pursuant to 4980H for purposes of determining eligibility for benefits and offers of medical coverage. The Employer may also use this Policy for reporting and disclosure purposes, and/or for other purposes relevant to 4980H. Terms that are capitalized but not defined in this Policy have the same meanings as under 4980H.

1. Designation of Employees

The Employer may designate newly hired Employees (and individuals the Employer may treat as newly-hired Employees under 4980H, such as Employees accruing Hours of Service following certain Breaks in Service) as either:

- Full-Time Employees,
- Part-Time Employees,
- Variable Hour Employees, or
- Seasonal Employees,

as of their respective Start Dates (or may apply other designations effectively accomplishing the same distinctions), applying factors specified in 4980H. The Employer may re-designate or re-classify an Employee as appropriate based on re-assignment of duties, a change in anticipated average Hours of Service, and/or the basis of actual average Hours of Service over specific measurement periods.

2. Tracking Hours of Service

The Employer will determine hourly and non-hourly Employees’ Hours of Service on the basis of actual hours worked and hours for which payment is made or due.

To the extent required by 4980H, Employees will also be credited with Hours of Service for periods of time for which no actual service for the Employer is performed but for which payment is due (e.g., paid time off, vacation, and sick leave).

3. Application of Look-Back Measurement Methods; Determination of Measurement, Administrative and Stability Periods

For purposes of determining an Employee's status as a Full-Time Employee, the Employer will track the Employee's Hours of Service using the Lookback Measurement Method and has designated the following periods for such purpose:

- *Initial Measurement Period:* The period beginning on the Employee's Start Date, and ending after 12 consecutive months.
- *Initial Administrative Period:* The period immediately following the Initial Measurement Period and preceding the Initial Stability Period, which meet the following requirements: (1) the administrative period cannot exceed 90 days total; (2) the administrative period must include any time between an Employee's Start Date and the first day of the Initial Measurement Period; and (3) the administrative period, together with the Initial Measurement Period, cannot extend beyond the last day of the first calendar month beginning on or after the one-year anniversary of the Employee's Start Date. The Employer will apply the Initial Administrative Period on a uniform and consistent basis.
- *Initial Stability Period:* The 12 consecutive months starting on the first day of the second calendar month following the last day of the Employee's Initial Measurement Period.
- *Standard Measurement Period:* The 12-month period immediately preceding each Standard Administrative Period (*e.g.*, **October 5 through October 4**)
- *Standard Administrative Periods:* The period immediately preceding each Standard Stability Period beginning **October 5 and ending December 31**.
- *Standard Stability Period:* The twelve month period beginning **January 1 and ending December 31**.

The Employer will administer application of the Look-Back Measurement Method, in accordance with 4980H. Thus, for example, the Employer may (or will, where such administration is required) do the following as provided by 4980H:

- Transition Employees from status as new Part-Time Employees Variable Hour Employees or Seasonal Employees to "Ongoing Employees" after the Employees are employed through an entire Standard Measurement Period.
- Apply the 13-week (or as applicable, 26-week) Break in Service rule to an Employee's Break in Service during a measurement period.
- Apply rules related to Special Unpaid Leave and, as applicable, Employment Break Periods.
- Continue an Employee's status as a Full-Time Employee (or non-Full-Time Employee) for the period between the end of his or her Initial Stability Period and the first day of his or her first Standard Stability Period.

- Address changes in employment status during an Initial Measurement Period or during a Stability Period.
- Treat an Employee as having terminated employment upon certain transfers to a position where substantially all of the compensation will constitute non-U.S. source income, consistent with the rules related to COBRA payments.
- Administer processes related to nonpayment, late payment or partial payment of premiums.
- Continue eligibility of an otherwise eligible biological or adopted child of an Employee who is an eligible Full-Time Employee to the end of the month in which the child attains age 26 where eligibility may otherwise have terminated, but only to the extent necessary to avoid potential penalties under 4980H.

4. Determinations of Minimum Value and Affordability

If the Employer intends to supply coverage satisfying 4980H(b) of the Code (i.e., Minimum Value and Affordable coverage), it may determine the actuarial value of a health coverage offering in any manner permissible under 4980H.

For purposes of determining the affordability of such coverage offering, with respect to Full-Time Employees, the Employer may utilize one or more “affordability safe harbors” as provided under, and to the extent permitted by, 4980H, and shall otherwise comply with 4980H when including wellness incentives and/or the value of reimbursement programs (such as a health reimbursement arrangement) in determinations of minimum value and affordability.

5. Offers of Coverage

To the extent the Employer intends to treat an Employee as eligible for at least Minimum Essential Coverage on account of the Employee’s status as a Full-Time Employee under 4980H, the Employer intends to make to such an Employee an “offer of coverage,” and where appropriate renew an offer of coverage to the Employee (e.g., upon a Full-Time Employee’s return from a Break in Service under circumstances where the Employee may not be treated as a newly hired employee under 4980H) at the time(s), and in a manner, consistent with 4980H.

6. Modification and Interpretation

This Policy may be modified or amended at any time in the sole discretion of the Employer. The provisions of this Policy reflect merely general operating rules for the administration of the eligibility provisions of the Employer’s group medical insurance program(s), and the Employer may construe and apply this Policy, or any portion of this Policy, in such a manner as to mitigate or avoid potential penalties under 4980H. Nothing in this Policy shall limit the Employer’s ability to treat Employees more favorably than how they would be treated under the minimum requirements of 4980H.

7. Breaks in Service and Rule of Parity

An Employee generally may be treated as a newly hired Employee for purposes of 4980H if he or she incurs a Break in Service (a period of time during which the Employee is credited with

no Hours of Service) of at least 13 consecutive weeks before again being credited with an Hour of Service.

The Rule of Parity is similar, and provides that if an employee experiences a Break in Service of at least four but fewer than 13 consecutive weeks, and the Break in Service exceeds the number of weeks of the Employee's period of employment with the Employer immediately preceding the commencement of his or her Break in Service, the Employer may similarly treat as a newly hired Employee for purposes of 4980H when again credited with an Hour of Service.