

# Legislative Brief

## HCR - ACA Small Group Market

October 2015

### Applicable to Employers with 50-99 Employees: Small Group Definition Not Required to Change for 2016

#### SUMMARY:

**THIS GUIDANCE IS RELEVANT TO EMPLOYERS WITH 50-100 EMPLOYEES: The PACE Act repeals requirements under the Affordable Care Act that employers employing 50-100 employees would have been required to implement effective January 1, 2016.**

- Effective January 1, 2016, a significant change to the small group market was expected to occur — the Affordable Care Act (ACA) required the definition of a “small employer” to be expanded to include those employers that employed an average of between 1 and 100 employees, which was likely to result in state small group markets to be expanded to certain larger businesses.
- On October 7, 2015, President Obama signed the **PACE Act** into law to **repeal this requirement**.
- The **PACE Act** defines small groups as those with up to 50 full-time equivalents; however, states now have some flexibility to set their own definition of small group as long as the definition is no less than 50 and no more than 100.

On Oct. 7, 2015, President Obama signed the [Protecting Affordable Coverage for Employees \(PACE\) Act](#) into law. **The PACE Act repeals the Affordable Care Act (ACA) requirement that the small group market in every state be expanded to include businesses with 51-100 employees.**

#### Small Group Market Expansion

Most states have historically defined “small employers” as those with 50 or fewer employees for purposes of defining their small group health insurance market. Effective for 2016 plan years, the ACA expanded the definition of a “small employer” to include those that employed an average of between **one and 100 employees**. The PACE Act eliminates the ACA’s new definition and, instead, gives states the option of expanding their small group markets to include businesses with up to 100 employees.

#### Impact on Employers

The expansion of the small group market was expected to have a significant effect on mid-size businesses. These businesses would have been required to buy coverage for employees in the small group market, which is more heavily regulated than the large group market. Plans in the small group market must comply with a number of ACA requirements that do not apply in the large group market (e.g., premium rating restrictions and the essential health benefits (EHB) requirement). This change was expected to increase premiums costs for employers and employees and reduce flexibility in plan design due to added small group market requirements.

#### Group Size in Michigan

Michigan defines employers with 1-50 eligible employees as small for 2015.; employers with 51 or more eligible employees are large for 2015. An “eligible employee” is a full-time employee who works 30 or more hours a week for a given employer. Companies that are affiliated companies or that are eligible to file a combined tax return for state taxation purposes are considered 1 employer. Effective January 1, 2016, group size will be determined by counting the number of full-time employees and the number of full-time equivalents by utilizing the process for determining group size under the ACA shared responsibility rules. Although the PACE Act repealed the above ACA small group requirement, Michigan likely will keep the definition of a small group as an employer with 50 or fewer FTEs beginning in 2016.

Health Care Reform—the Affordable Care Act (ACA)—has many complex requirements for employers and health plans. Please contact Kapnick Insurance Group with any questions about how you can prepare for any of the health care reform requirements. This Kapnick Insurance Group Update is not intended to be exhaustive nor should any discussion or opinions be construed as legal or tax advice. The information contained in this communication is intended to provide general information regarding health care reform and related topics, and is based on general information available at the time it was prepared. Readers should contact their own tax and/or legal counsel for advice that is appropriate to their specific circumstances. This information cannot be used by any taxpayer to avoid tax penalties.

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