

**Cheat Sheet**

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Description automatically generatedWhen employees leave and later return — whether from a termination, rehire, or leave of absence — you must know whether to treat them as a new hire or a continuing employee. This decision affects when (or if) you need to offer medical coverage under ACA rules. Missteps can create gaps in coverage and trigger §4980H penalties.

**ACA Break in Service Rules: Employer Cheat Sheet**

How to handle returning employees and avoid penalties

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**The Basics**

* A break in service = a period with no hours of service (not being paid).
* Applies whether the employee actually terminated or was on an unpaid leave.
* Rules apply to medical coverage only, but many employers apply them across all benefits for consistency.

**General Rule**

* Less than 13 weeks away (26 weeks for schools): *Treat as a continuing employee.*
* 13+ weeks away (26+ for schools): *May treat as a new hire.*

**Rule of Parity**

An alternative for new hires only:

* If the break is at least 4 weeks long, and longer than the time worked before the break, you may treat them as a new hire.

***Example:*** *An employee works 3 weeks, then quits. They’re rehired 6 weeks later. Since the break (6 weeks) is longer than the time they worked before (3 weeks), you can treat them as a new hire.*

**If the Employee is a Continuing Employee (Break <13 weeks, or <26 for schools)**

* If they were enrolled before the break: You must put them back on the plan no later than the **1st of the month after they return.**
* If they previously waived coverage: You don’t have to offer coverage right away. The ACA only requires that you offer it again at the next open enrollment.
* If you use the Look-Back Method:
* If the employee was full-time before the break, they must be treated as full-time through the end of the stability period (even if hours drop).

* For special unpaid leave (FMLA, USERRA, jury duty), you can’t let those absences reduce their average — you must either exclude the leave period or “impute” hours based on their normal schedule.

**New Hires**

If the break is long enough (or meets parity rule) to be a new hire:

* You can apply a new waiting period or initial measurement period.
* Some employers choose to shorten or waive the waiting period for returning staff — if so, make sure plan documents allow it.

**Examples: New Hire vs. Continuing Employee**

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| **Break in Service** | **Situation** | **Outcome** |
| 28 weeks away (monthly method) | Employee terminated and rehired | **New Hire** – break is 13+ weeks (26+ for schools) |
| 5 weeks away | Employee waived coverage during last enrollment | **Continuing Employee** – no coverage until next open enrollment |
| 4 weeks away | Employee rehired part-time | **Continuing Employee** – no coverage required if part-time |
| 6 weeks away (look-back) | Variable-hour employee who was full-time during stability period | **Continuing Employee** – must reinstate coverage for rest of stability period |
| 8 weeks away | Employee on FMLA leave | **Continuing Employee** – coverage must continue or be reinstated; leave hours excluded/imputed in averages |

Break in service rules determine whether a returning employee gets treated as new or continuing — and that directly impacts when you must offer coverage under ACA rules. Follow the 13-week rule (26 for schools), understand the parity exception, and always reinstate coverage on time for continuing employees to avoid costly penalties.

**ACA rules don’t have to be overwhelming.**  
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