The federal Affordable Care Act (ACA) will impact eligibility for the State Employee Health Plan (SEHP). Individuals who are not currently eligible for the SEHP will become eligible if they meet hours worked criteria under the ACA or their positions are deemed ACA-eligible.

Benefits-Eligible vs ACA-Eligible Employees
Q: What does it mean to be benefits-eligible or ACA-eligible?

A: Benefits-eligible employees are eligible for all benefits (mandatory retirement; death and disability; State Employee Health Plan (medical, prescription drug, dental and supplemental vision plans as well as health and dependent flexible spending accounts and a health savings account for Plan C medical plan participants); basic and optional group life insurance). Faculty and staff who are in “regular” positions with FTE greater than or equal to 50% are benefits-eligible. For calendar year 2015, benefits-eligibility will be based on “regular” positions with an FTE greater than or equal to 48%.

ACA-eligible employees are employees in positions that are not benefits-eligible who meet the ACA criteria based on information in this FAQ.

KU Policies for ACA
Q: Does KU have policies addressing ACA?

A: Yes, there are three policies:

1. Employee Eligibility Requirements for the Affordable Care Act: This policy outlines the eligibility requirements of ACA as established by federal and state regulations. ACA-eligibility is determined by “hours worked,” even for salaried employees; therefore, the policy outlines how each category of employees’ work hours will be reported. Part-time salaried employees will be impacted the greatest for time reporting. The “adjunct” provision of the law was utilized to minimize hours reporting requirements for those designated as “instructor of record” or “discussion leader,” e.g. GTAs and part-time faculty or lecturers. For GRAs the policy was shaped to preserve the inexorable link between academic progress with their research and “work” by using percentage of appointment/FTE for hours worked. The policy also outlines supervisory roles for monitoring time worked.

2. Student Employee Eligibility Requirements and Appointment Limits: The threshold for ACA-eligibility for employees is an average of 30 hours weekly over a 12-month measurement period. To balance the necessity for students to make academic progress while managing potential fiscal liabilities with ACA, the policy limits undergraduate student hourly appointments to 20 hours during the academic year and 40 hours in the summer or when class is not in session. Graduate students will be limited with all concurrent appointments to 29 hours during the academic year. However, a dean or vice provost may authorize more hours if deemed appropriate, taking into consideration the potential fiscal liability. GTAs must comply with the provisions of the Memorandum of Agreement with 20 hours during the academic year or up to 30 hours with the approval of a dean. [Please note: For the 2014-15 academic year campus departments will have the discretion to employ undergraduate student hourly employees up to 29 hours a week in non-work study funded student positions and up to 40 hours during breaks and over the summer. If such employment makes the undergraduate student employee ACA-eligible, the department will assume the potential fiscal liability.)

3. Graduate Research Assistants (GRAs) and Affordable Care Act: Because the research performed by GRAs is integral to their graduate degree requirements and cannot be reasonably categorized as “work,” this policy indicates that we will use the GRA’s appointment percent/FTE to credit hours worked for ACA. Although ACA defines eligibility based
on work hours and this approach most reasonably represents the nature of the GRA student/employment relationship.

**Eligible Employees**

**Q: How do I know if I am ACA Eligible?**

**A:** Employees who are *not* benefits-eligible will become eligible for the State Employee Health Plan (SEHP) employee insurance plan (medical, prescription drug, dental and supplemental vision insurance coverage; health and dependent care flexible spending accounts and health savings accounts) if they meet ACA criteria:

- They work an average of 30 hours/week during a 12-month measurement period (or 1,560 hours) *or*
- They work in positions deemed to be ACA eligible *or*
- They meet criteria for staff who are not benefits-eligible (employees who are not students, lecturers or part-time faculty), as determined by the SEHP who work 1,000 hours during a 12-month measurement.

- Hours worked with any state of Kansas agency will be incorporated into the applicable 12-month measurement period for ACA hours and used to determine new employee status.

**Q: Who is responsible for monitoring appointments and hours worked for ACA requirements?**

**A:** Campus units who appoint employees are responsible for ensuring employees do not exceed the maximum appointment levels based on hours worked or FTE, taking into consideration all active University appointments on all University campuses/sites and with all State of Kansas agencies. The Department of Human Resources will utilize software (Equifax) to provide reports to Deans Offices. Additionally, representatives from the Deans’ Offices and the SSCs will have access to Equifax which will track hours during the 12-month measurement period and will provide projections indicating the likelihood that an employee will meet ACA eligibility based on hours worked to date.

**Q: Are individual units responsible for the fringe costs associated with employees who are ACA eligible if the employee elects to participate in the SEHP?**

**A:** Yes, if an ACA-eligible employee elects coverage under the SEHP, the associated employer fringes for those plans will be paid by the unit(s) employing that individual. Fringe Benefit Rates are listed on the Payroll website. If the employee has concurrent appointments and/or shared funding, the fringe amount will be prorated among the employing units/departments.

**Q: If an employee becomes ACA-eligible and elects the SEHP, how long will the employee be eligible to participate in the SEHP?**

**A:** An employee who meets ACA-eligibility during the initial standard measurement period, which runs from 10/15/13 to 10/14/14, will be eligible to elect SEHP coverage that will be effective during the initial stability period which runs from 1/1/15 to 12/31/15. Subsequent standard measurement periods will run from mid-October to mid-October. New hires will have their own individual measurement and stability periods until they are blended into the standard measurement and stability periods.

**Faculty & Lecturers and Graduate Teaching Assistants**

**Q: For employees designated as an Instructor of Record, how will hours be captured for ACA purposes?**

**A:** An Instructor of Record serves as the primary faculty, staff, student or adjunct faculty with overall responsibility for conducting a course to which he/she is assigned, including development of or input for course curricula and syllabus, classroom or lab instruction, grading office hours and participating in faculty meetings. Three hours of work associated with the course will be credited. For example, for a 3 credit hour course, a total of 9 work hours will be reported for ACA.
purposes. This formula takes into account prep time, instruction, grading, office hours and departmental meetings. For more information about Instructor of Records, please see the Employee Eligibility Requirements Policy.

Q: For employees designated as Discussion Leader, how will hours be captured for ACA purposes?

A: A Discussion Leader has the same responsibilities as an Instructor of Record for a non-credit-bearing course or discussion. Work hours credited will be based on this formula: the length of time associated with the discussion sections will be multiplied by 3 and added to the credit hours associated with the lecture. For example, if the discussion section is 3 hours in length, those hours will be multiplied by 3 and added to the lecture credit hours. If the lecture credit hours is 3, then the hours worked would equal 12. For more information about Discussion Leader, please see the Employee Eligibility Requirements Policy.

Q: How will cross-listed courses and variable credit courses be counted in the “adjunct” formula?

A: Cross-listed courses will be counted only once and variable credit courses will use the average of the variable credits.

Q: If the faculty member, lecturer or GTA is not an Instructor of Record or Discussion Leader, how will hours be captured for ACA purposes?

A: Work hours not associated with Instructor of Record or as Discussion Leader must be reported at the end of each work week using the Time Reporting Code of “ACA” in the HR/Pay system.

Q: If an employee is uncertain whether he/she is designated as an Instructor of Record or a Discussion Leader, where can the employee get this information?

A: If the employee is uncertain whether he/she is designated as an Instructor of Record or a Discussion Leader, the employee should check with the school’s graduate advisor, scheduling officer or assistant/associate dean or Chair who handles student affairs within the school.

Graduate Teaching, Graduate Research and Graduate Assistants

Q: What is the maximum FTE appointment a graduate student can hold?

A: Appointments of graduate students to any combination of student job titles during the academic year, when classes are in session, shall not exceed the equivalent of a 72.5% FTE (29 hours weekly). For example, a graduate student with a 50% FTE appointment may work up to 9 hours a week in a student hourly position. Some exceptions to the total graduate student hours worked limit may be granted by a dean or vice provost. In both instances, it is the responsibility of the unit to determine the appropriate number of hours that a graduate student may work. Each unit is responsible for the fiscal liability assumed if the total hours during a measurement period are 30 or more weekly. GTAs must comply with the provisions of the Memorandum of Agreement: 20 hours during the academic year or up to 30 hours with the approval of a dean.

During the summer and when classes are not in session units may determine the appropriate number of hours that can be worked by graduate students, taking into consideration the associated fiscal liability if the average hours worked during a measurement period are 30 or more weekly (or 1560 total hours).

Graduate Research Assistants

Q: If an employee is a GRA, how will hours be captured for ACA purposes?

A: Per KU policy, the FTE appointment percentage will be used to credit hours of service for ACA purposes.
Graduate Assistants
Q: How should Graduate Assistants report their time for ACA purposes?

A: Graduate Assistants should report hours worked at the end of each work week using the Time Reporting Code “ACA” in the HR/Pay system.

Residential Assistants
Q: Are Residential Assistants ACA Eligible? How do they report time for ACA purposes?

A: Residential Graduate Assistants are required to live in Student Housing facilities and they are deemed eligible for the SEHP under the ACA. They do not need to report hours worked. Residential Undergraduate Assistants are required to report hours worked, including all hours during which they are on call, on an hour-for-hour basis at the end of each work week using the Time Reporting Code “ACA” in the HR/Pay system.

International Students
Q: Will hours worked by international students be affected by the ACA requirements?

A: International students are already not allowed to work more than 50% FTE (20 hours/week) during the fall and spring semesters, due to Visa restrictions. For more information on visa-related work restrictions, please contact International Student Services.

Undergraduate Student Hourlies
Q: Is there any change in how our undergraduate student hourlies report time?

A: No; student hourlies will continue reporting actual hours worked in the HR/Pay system.

Work Study Appointments
Q: Do hours worked in a Work Study funded appointment affect hours counted for ACA purposes?

A: Hours worked on positions funded by Work-Study do not count toward eligibility for health insurance coverage under ACA. Work-Study funded employees should be appointed to funding established specifically for that purpose. Students employed in only Work-Study funded positions, without an appointment to another non-Work-Study position, can work up to 30 hours when classes are in session.

Q: Can I combine student Work Study hours with another student appointment and exceed the hours’ limitations (e.g., 20 hours for undergraduates and 29 for graduate students)?

A: Undergraduate students appointed to student hourly job titles during the academic year, when classes are in session, shall not exceed the equivalent of a 50% full-time equivalency (FTE) appointment (20 hours weekly). The 20 hours limitation applies to total hours worked on all combined campus undergraduate student appointments, excluding those funded by Work Study. Therefore, undergraduate students with only Work Study positions can work up to 30 hours during the academic year. Those working any combination of both Work Study and non-Work Study positions cannot exceed 20 hours weekly.

Appointments of graduate students to student hourly appointments or to any combination of student job titles, including appointments funded by Work Study, during the academic year when classes are in session, shall not exceed the equivalent of a 72.5% full-time equivalency (FTE) appointment (29 hours weekly). For example, a graduate student with a 50% full-time equivalent (FTE) appointment may work up to 9 hours a week in a student hourly position. For
exceptions to the 29 hours limitation, see the information above in the Graduate Teaching, Graduate Research and Graduate Assistants section.

**UPS and USS Staff Who Are Not Benefits Eligible**

Q: How do staff who are not benefits-eligible report hours for ACA purposes?

A: Non-exempt (hourly) staff will continue to report hours worked in HR/Pay. Exempt (salaried) staff must begin reporting their actual hours at the end of each work week using the Time Reporting Code “ACA” in the HR/Pay system.

**Other Hours to Report for ACA Purposes**

Q: Are there other hours that need to be reported for ACA purposes?

A: Hours worked during travel for part-time salaried employees, paid leave provided under the provisions of workers’ compensation, paid leave hours for employees eligible for paid leave and FMLA leave without pay, are counted as qualifying toward ACA-eligibility. Employees will be required to notify HR of hours worked for concurrent or previous jobs with any State of Kansas agency within the past 12 month period, since those hours count toward ACA-eligibility.

**Hours Reporting and Impact on Pay**

Q: Will the hours reported for ACA purposes impact the pay I will receive for work performed?

A: If you are a non-exempt (hourly) employee, the hours you report will be used for both pay and ACA purposes. If you are an exempt (salaried) employee and your position requires that you report hours, those hours reported will be used for ACA purposes only and will not impact your pay; your pay will be based on your FTE and compensation rate.

Q: If I have a job that requires that I report hours for ACA purposes, what happens if I fail to report hours or the hours reported are not accurate?

A: Failure by employees to accurately report actual hours worked or falsification of hours worked purposes will be reviewed to determine if there may be grounds for disciplinary action, up to and including termination of employment.

Q: When are FICA (Social Security taxes) withheld from student pay checks?

A: As stated on the Payroll website, FICA (Social Security taxes) are withheld when a student works greater than 75% time (over 30 hours in a work week), or if the student is not enrolled properly, or the student is working in the summer and is not enrolled.

Q: Does the ACA have special provisions for employment break periods for educational organizations?

A: Yes, the ACA provides for special crediting of hours during a break period that is greater than 4 weeks in length (e.g., the summer break period). If the employee is not credited with an hour of service during the break period, the university must either i) determine the average hours of service during the measurement period excluding the employment break period and use that average as the average for the employment break period, or ii) apply the average hours of service credited during the period not including the break in employment to the period that includes the break in employment. Universities are not required to credit an employee in any calendar year with more than 501 hours of service for any employment break period. This rule is not applicable to a faculty or staff member who has been treated as terminated and rehired under the ACA.
Manager/Supervisor ACA Responsibilities

Q: What responsibilities do managers/supervisors have related to ACA?

A: Manager/Supervisor Responsibilities:

- Monitor work in relationship to appointment limits
- Determine internal approval process for granting appointment limit exceptions (deans, vice provosts)
- Clearly identify instructor of record/discussion leader with deans’ offices for GTAs and lecturers/faculty Inform GTAs and lecturers/faculty of instructor of record/discussion leader designation
- Help salaried students understand when ACA time reporting is required
- Terminate student or temporary employment between semesters (if not returning next semester) and for summer if not employed

Hourly employees: supervisors approve hours worked by hourly employees based on the normal procedures for the HR/Pay system. Those hours will be used to determine ACA- eligibility.

Lecturers, Salaried Staff and Other Part-time Faculty That Are Not Benefits-Eligible and Salaried Student Employees:
Supervisors will be provided information to monitor the numbers of hours worked for purposes of determining ACA- eligibility. It is the responsibility of the supervisor to make adjustments to an employee’s work schedule, if appropriate, prior to hours being worked in order to comply with the University policy on appointment percent/FTE. Any resulting financial obligations may be incurred by the unit with the current appointment.

Employment Related Questions

Q: If an employee’s hours are approaching ACA-eligibility, can a department cut back on the hours the employee works?

A: Departments should be monitoring and proactively managing hours worked by employees throughout the year. With the exception of student hourly appointments, work hours reported should be consistent with the employee’s FTE. Hours can be reduced for faculty and staff appointed to temporary positions, student hourly employees, and GAs and GRAs who are appointed in an “employment at will” capacity. Hours worked by GTAs must comply with the Memorandum of Agreement and the Department of Human Resources must be contacted if a department wants to consider changes to a GTAs hours. Hours worked for faculty and staff appointed to regular positions may not be reduced based on ACA-eligibility.

Q. Can a department decline to hire a job candidate because he/she is ACA-eligible, thereby incurring fringe costs to the hiring department?

A: Budgetary constraints are an acceptable reason to decline to hire a job candidate. However, ACA-eligibility with the ensuing costs should not be the sole factor for declining to hire a job candidate. During the interview process a department should inquire as to the hours worked in other campus or state of Kansas jobs to provide an opportunity for the candidate to provide full information.

Q: Can a department terminate an employee because he/she is “trending eligible” for ACA coverage?

A: No. Employees should not be terminated simply because they may soon qualify for ACA medical coverage. Rather, departments should manage work hours and expectations during the Measurement Period if they cannot afford ACA medical coverage costs.
Glossary of Terms

ACA Eligible: Employees who meet the criteria established by the Affordable Care Act and the State of Kansas Health Care Commission are to be offered group health insurance through the State Employee Health Plan.

ACA Time Reporting Code (HR/Pay): tracks actual hours worked, which count towards ACA eligibility. For salaried (exempt) employees, these hours are used for ACA hours’ tracking only and do not impact pay. For hourly (non-exempt employees), these hours are used for both ACA hours’ tracking and to determine pay.

Adjunct: Employees will be deemed “adjunct” for ACA-eligibility purposes if they hold lecturer, GTA, or other faculty appointments that are not benefits-eligible which have been designated as instructor of record or discussion leader.

Benefits Eligible: Employees with appointments in regular positions with 48% or greater FTE who are eligible for the entire benefits package, including health insurance, mandatory retirement, death and disability, etc.

Discussion Leader: Adjuncts who lead discussion sessions associated with a lecture.

Instructor of Record: An instructor of record serves as the primary faculty, staff, student or adjunct faculty with overall responsibility for conducting a course to which he/she is assigned, including development of or input for course curricula and syllabus, classroom or lab instruction, grading, office hours, and participating in faculty meetings.

Under certain conditions, a supervising faculty member may be allocated fractional credit as instructor of record for classes he or she supervises; these conditions include: multiple sections using the same common syllabus developed by the supervising faculty member; common mid-terms and final exams developed, administered, and graded with guidance from the supervising faculty member; and common assignments and grading rubrics developed and administered under the guidance of the supervising faculty member. In such cases, the major “credit” follows the supervised individual who directly interacts with students and the fractional portion assigned to the supervising faculty member is accumulated to make his/her SCH (Student Credit Hours) work load visible, even though he/she does not directly interact with students as the “instructor of record.” Cross-listed courses will be counted only once and variable credit courses will use the average of the variable credits.