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The Individual Mandate for Health Insurance Coverage: In Brief

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Introduction

As of January 1, 2014, most individuals must maintain health insurance coverage or pay a penalty for noncompliance.¹ To comply with this individual mandate, individuals need to maintain minimum essential coverage, which includes most types of public and private health insurance coverage. Some individuals are exempt from the mandate and not subject to its associated penalty.

The individual mandate was established under the Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended). The individual mandate is often described as working in conjunction with other ACA provisions. Under the ACA, a number of market reforms went into effect intending to improve access to private health insurance for sick individuals or those at high risk of becoming ill.² The individual mandate works in tandem with these reforms by encouraging healthy individuals to participate in the market so that insurers' risk pools are not entirely composed of individuals who are at high risk of using health care services.

This report provides an overview of the individual mandate, its associated penalty, and the exemptions from the mandate. It also discusses the ACA reporting requirements designed, in part, to assist individuals in providing evidence of having met the mandate.

Individual Mandate

Individuals are required to maintain *minimum essential coverage* for themselves and their dependents. The types of coverage that are considered minimum essential coverage are listed in Section 5000A of the Internal Revenue Code (IRC) and its implementing regulations.³ Most types of comprehensive coverage are considered minimum essential coverage, including public coverage, such as coverage under programs sponsored by the federal government (e.g., Medicaid, Medicare), as well as private insurance (e.g., employer-sponsored insurance and non-group insurance).⁴

In general, coverage consisting of limited benefits, such as dental-only insurance, is not considered minimum essential coverage.⁵

¹ 26 U.S.C. §5000A.

² The Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended) market reforms include guaranteed issue and renewability, nondiscrimination based on health status, coverage of preexisting health conditions, and rating restrictions. For more information about these and other ACA market reforms, see CRS Report R42069, *Private Health Insurance Market Reforms in the Patient Protection and Affordable Care Act (ACA)*.

³ 26 U.S.C. §5000A(f) and 26 C.F.R. §1.5000A-2.

⁴ The Internal Revenue Service (IRS) has a chart that shows the types of coverage that do and do not qualify as minimum essential coverage at <https://www.irs.gov/Affordable-Care-Act/Individuals-and-Families/ACA-Individual-Shared-Responsibility-Provision-Minimum-Essential-Coverage>.

⁵ See 26 U.S.C. §5000A(f)(3).

The Essential Health Benefits and Minimum Essential Coverage

The essential health benefits and minimum essential coverage are independent concepts that are often conflated.

Section 1302 of the Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended) lists 10 categories from which services and benefits must be included to comprise the essential health benefits. Health plans offered in the non-group and small-group markets must cover the essential health benefits.

Section 5000A of the Internal Revenue Code and its implementing regulations list the types of coverage that are considered minimum essential coverage, but they do not specify how that coverage must be designed (i.e., they do not require that the essential health benefits are covered).

The only way in which minimum essential coverage and the essential health benefits intersect is when a person has a non-group or small-group health plan. In both situations, the person would have a health plan that is considered minimum essential coverage and that also covers the essential health benefits. No other type of coverage that is identified as minimum essential coverage is required to comply with the requirement to cover the essential health benefits.

Penalty

Persons who do not meet the individual mandate, or who have dependents who do not meet the mandate,⁶ may be required to pay a penalty for each month of noncompliance.

Calculating the Penalty

The penalty for noncompliance is calculated as the *greater* of either

- **A percentage of applicable income**, defined as the amount by which an individual's household income⁷ exceeds the applicable tax filing threshold for the tax year;⁸ or
- **A flat dollar amount** assessed on each taxpayer and any dependents.⁹ The dollar amount assessed on a taxpayer is capped at 300% of the annual flat dollar amount. For example, in 2016, the annual dollar amount penalty for a taxpayer and three dependents (all of whom were without coverage for the entire year) is limited to three times \$695, or \$2,085.

As shown in **Table 1**, both the percentage and the flat dollar amount increased between 2014 and 2016, and the dollar amount will be adjusted for inflation thereafter.

⁶ The IRS provides that a taxpayer is liable for an individual mandate penalty for his or her dependents regardless of whether the taxpayer claims a personal exemption for the dependents for the taxable year. *Dependent* is defined in the Internal Revenue Code (IRC) §152 and includes qualifying children and qualifying relatives (see U.S. Department of the Treasury, IRS, "Shared Responsibility Payment for Not Maintaining Minimum Essential Coverage," 78 *Federal Register* 53646, August 30, 2013).

⁷ *Household income* is defined as the modified adjusted gross income (MAGI) of the taxpayer, plus the aggregate MAGI of all other individuals for whom the taxpayer is allowed a deduction for personal exemptions for the taxable year—the taxpayer's spouse and dependents (as defined in IRC §152). For more information, see CRS Report R43861, *The Use of Modified Adjusted Gross Income (MAGI) in Federal Health Programs*.

⁸ The filing threshold comprises the personal exemption amount (doubled for those married filing jointly) plus the standard deduction amount.

⁹ The flat dollar amount is reduced by one-half for dependents under the age of 18.

Table I. Annual Individual Mandate Penalty

Year	Percentage of Applicable Income	Flat Dollar Amount
2014	1.0%	\$95
2015	2.0%	\$325
2016	2.5%	\$695
2017 and Beyond	2.5%	\$695 adjusted for inflation

Source: Internal Revenue Code (IRC) §5000A.

Notes: The table shows the annual penalty, but the penalty is assessed on a monthly basis. The monthly penalty is 1/12 of the annual penalty.

The total monthly penalty is capped. The penalty for a taxpayer and his or her dependents cannot be more than the cost of the national average premium for bronze-level health plans offered through health insurance exchanges (for the relevant family size).¹⁰ For 2015, the average premium was \$207 per individual per month.¹¹ If a taxpayer was liable to pay a penalty for more than one individual, the monthly individual amount (\$207) was multiplied by the number of individuals subject to a penalty, up to a maximum of five individuals. So, for 2015, the maximum cap was \$207 per month for a single taxpayer, \$621 per month for a taxpayer who was liable for penalties for three individuals, and \$1,035 per month for a taxpayer who was liable for penalties for five or more individuals.

Paying the Penalty

Any penalty that taxpayers are required to pay for themselves or their dependents must be included in their federal income tax return for the taxable year. Those individuals who file joint returns are jointly liable for the penalty.

Taxpayers who are required to pay a penalty but fail to do so will receive a notice from the Internal Revenue Service (IRS) stating that they owe the penalty. If the taxpayers still do not pay the penalty, the IRS can attempt to collect the funds by reducing the amount of their tax refund for that year or future years. However, individuals who fail to pay the penalty will not be subject to any criminal prosecution or penalty for such failure. The Secretary of the Treasury cannot file notice of lien or file a levy on any property for a taxpayer who does not pay the penalty.

Exemptions

Some individuals are exempt from the individual mandate or its associated penalty.¹² An individual who obtains an exemption from the mandate is not required to make a penalty payment

¹⁰ Health insurance plans offered in the non-group and small-group markets must have an actuarial value that corresponds to one of four tiers, as designated by a metal. Plans offered in the bronze tier have the lowest actuarial value—60%. For more information, see CRS Report R43854, *Overview of Private Health Insurance Provisions in the Patient Protection and Affordable Care Act (ACA)*.

¹¹ IRS Rev. Proc. 2014-46. As of the date of this report, the IRS has not issued the average premium for 2016.

¹² Certain exemptions are from the individual mandate, whereas other exemptions are not from the mandate but from the penalty. The practical effects are the same whether an individual is exempt from the mandate or the penalty—the individual will not be subject to a penalty for not maintaining minimum essential coverage.

for any month in which he or she qualifies for the exemption. The exemptions are outlined in statute and in regulations (and are summarized in **Table 2**).

In most cases, individuals must either apply for an exemption through a health insurance exchange or claim an exemption on their federal tax return, although individuals who can claim the living abroad exemption do not have to take any action for their exemption.¹³ Individuals whose exemption is granted by an exchange must report the exemption information to the IRS when they file their taxes. Most exemptions are applicable retrospectively and must be recertified annually, but some exemptions, including the religious conscience and Indian tribe exemptions, are eligible for prospective or retrospective applicability and continuous certification.

Individuals who claim hardship or affordability exemptions are eligible to enroll in catastrophic health plans offered in the non-group (or individual) market. Catastrophic plans must cover a comprehensive set of benefits but do not have to comply with the same cost-sharing requirements with which other non-group plans must comply. As a result, these plans typically have lower premiums because they have higher cost sharing. Aside from individuals who claim hardship or affordability exemptions, only individuals who are under the age of 30 are eligible to enroll in catastrophic plans.

Table 2. Exemptions from the ACA’s Individual Mandate and Its Associated Penalty

Exemption	Description
Religious Conscience	To qualify for this exemption, an individual must be a member of a recognized religious sect or division (as described in §1402(g)(1) of the Internal Revenue Code [IRC]) by reason of which he or she is conscientiously opposed to acceptance of the benefits of any private or public insurance that makes payments in the event of death, disability, old age, or retirement or makes payments toward the cost of, or provides services for, medical care (e.g., Medicare). Such sect or division must have been in existence at all times since December 31, 1950. ^a
Hardship	Individuals who have experienced a <i>hardship</i> with respect to obtaining health insurance coverage are exempt. The Secretary of Health and Human Services has the authority to determine the circumstances under which an individual may receive a hardship exemption. ^b
Health Care Sharing Ministry Membership	To qualify for this exemption, an individual must be a member of a health care sharing ministry ^c that (1) has been in existence (and sharing medical expenses) at all times since December 31, 1999, and (2) conducts an annual audit by an independent certified public accountant, available to the public upon request.
Indian Tribe Membership	For purposes of this exemption, the term <i>Indian tribe</i> means any Indian tribe, band, nation, pueblo, or other organized group or community (including any Alaska Native village) or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.
Incarceration	Incarcerated individuals are exempt, except those pending the disposition of charges.
Affordability	Individuals whose required contribution for self-only coverage exceeds a certain percentage of household income are exempt. ^d The percentage was 8.05% for plan years beginning in 2015 and is 8.13% for plan years beginning in 2016.
Unlawful Resident	Individuals who are not lawfully present in the United States are exempt.

¹³ For more information about how to obtain an exemption, see the IRS website, “Individual Shared Responsibility Provision—Exemptions: Claiming and Reporting,” at <https://www.irs.gov/Affordable-Care-Act/Individuals-and-Families/ACA-Individual-Shared-Responsibility-Provision-Exemptions>.

Exemption	Description
Coverage Gap	No penalty will be imposed on those without coverage for less than three months, but this exemption applies only to the first short coverage gap in a calendar year.
Filing Threshold	Individuals whose household income is less than the filing threshold for federal income taxes for the applicable tax year are exempt.
Living Abroad	Qualifying individuals who otherwise would be subject to the mandate but who live abroad for at least 330 days within a 12-month period as well as bona fide residents of any possession of the United States will be considered to have minimum essential coverage and therefore will not be subject to the penalty.

Source: IRC §5000A and implementing regulations.

Notes: For more information about the exemptions and how to obtain them, see Internal Revenue Service, “Individual Shared Responsibility Provision—Exemptions: Claiming or Reporting,” at <https://www.irs.gov/Affordable-Care-Act/Individuals-and-Families/ACA-Individual-Shared-Responsibility-Provision-Exemptions>, and Centers for Medicare & Medicaid Services, “Exemptions from the Requirement to Have Health Insurance,” at <https://www.healthcare.gov/health-coverage-exemptions/exemptions-from-the-fee/>.

- a. There is no list of specific religious groups that qualify for the exemption. For more information, see CRS Report RL34708, *Religious Exemptions for Mandatory Health Care Programs: A Legal Analysis*.
- b. For example, individuals who are homeless and those who have filed for bankruptcy may be eligible for a hardship exemption. For more information about the circumstances that qualify an individual for a hardship exemption, see Healthcare.gov, “Hardship Exemptions, Forms & How to Apply,” at <https://www.healthcare.gov/health-coverage-exemptions/hardship-exemptions/>.
- c. A *health care sharing ministry* is defined as an organization described in IRC §501(c) that is exempt from taxation under IRC §501(a). Members of the ministry share a common set of ethical or religious beliefs and share medical expenses, and they retain membership even after they develop a medical condition. 26 U.S.C. §5000A(d)(2)(B)(ii).
- d. *Required contribution* is defined as (1) in the case of an individual eligible to purchase minimum essential coverage through an employer (other than through an exchange), the portion of the annual premium that is paid by the individual for self-only coverage or (2) for individuals not included above, the annual premium for the lowest-cost bronze plan available in the individual market through the exchange in the state in which an individual resides, reduced by the amount of any premium credit received for the taxable year.

Reporting Requirements

Taxpayers must provide information to the IRS about their compliance with the mandate.¹⁴ When filing their tax returns, they can indicate whether they and their dependents had minimum essential coverage for each month of the year. Taxpayers must report any exemptions they or their dependents were granted by an exchange. Taxpayers also may claim an exemption for themselves or their dependents when filing their taxes. The IRS will assess a penalty on any taxpayer who does not indicate coverage or an exemption for the taxpayer or any dependents.

To verify the coverage information provided by taxpayers, every entity (including employers, insurers, and government programs) that provides minimum essential coverage to any individual must report that information to the IRS and provide a statement to the covered individual.¹⁵ The information the reporting entity is to give to the IRS includes the name, address, and taxpayer identification number of the responsible individual¹⁶ and each other individual covered under the

¹⁴ For more information an individual’s reporting requirements with respect to the individual mandate, see the IRS website, “Individual Shared Responsibility Provision,” at <https://www.irs.gov/Affordable-Care-Act/Individuals-and-Families/Individual-Shared-Responsibility-Provision>.

¹⁵ 26 U.S.C. §6055.

¹⁶ In regulations, the term *responsible individual* includes “a primary insured, employee, former employee, uniformed (continued...)”

policy or program,¹⁷ as well as the months during which, for at least one day, each individual was covered under the policy or program.

The reporting entity also must provide a statement to each responsible individual covered under the policy or program. The statement must include the contact information for the person designated as the reporting entity's contact person; the policy number of the coverage, if any; and the information included in the return to the IRS for the responsible individual and any individuals listed on the return.

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(...continued)

services sponsor, parent, or other related person named on an application who enrolls one or more individuals, including him or herself, in minimum essential coverage.” 26 C.F.R. §1.6055-1(b)(11).

¹⁷ Regulations provide that a reporting entity is required to make a reasonable effort to obtain the taxpayer identification number (TIN) of each individual covered under the plan, but if a TIN is not available, the reporting entity must provide a date of birth for the individual instead.

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