

PATIENT PROTECTION AND AFFORDABLE CARE ACT (PPACA) Questions & Answers for Small Business

What does this act require of businesses?

Beginning on January 1, 2014, all individuals must maintain “minimum essential coverage” health insurance through an individual plan or an employer sponsored plan.

Do all businesses have to make health insurance available to their employees?

No. Only businesses that have 50 or more full-time equivalent (FTE) employees face potential penalties for not making a qualified plan available to their employees. “Small” businesses with fewer than 50 employees face no such penalties and have no responsibility to provide health insurance to their employees. However, business owners must comply with the individual mandate to purchase insurance for themselves.

FOR BUSINESSES WITH FEWER THAN 50 EMPLOYEES

I would like to provide insurance to my employees if it is affordable. Will I have access to more affordable health insurance?

The Act requires each state to set up a Health Insurance Marketplace to allow individuals and small businesses to purchase health insurance that complies with the Act. The marketplaces will offer individuals standard health plans and must have insurance available in 5 graded areas: bronze, silver, gold, platinum and catastrophic. The details and cost of the insurance to be available through Pennsylvania’s marketplace is unknown at this point. If Pennsylvania does not have an marketplace developed by January 1, 2014, you may purchase insurance through a default federal marketplace that will be available.

In addition the Act provides very small businesses (those with fewer than 25 employees) federal tax credits if they provide health insurance for their employees. Tax credits became available in 2010 and are available to eligible employers until 2014. Depending on the size and average wages paid by the employer, these tax credits could cover up to 35% of the employer’s premium contribution through 2014. We recommend that you ask your accountant or other tax counsel about these credits.

Who is eligible for the tax credit?

Small employers that provide healthcare coverage are eligible (a “qualified employer”) if:

- They have fewer than 25 full-time equivalent employees (FTEs)* for the tax year
- The average annual wages paid are less than \$50,000** per FTE
- The employer pays at least 50% of the premium cost under a “qualified arrangement”

* FTEs may be calculated in any of three ways to maximize the tax credit. See “How is the number of employees determined for eligibility?” below.

** Wage limits will be indexed to the Consumer Price Index for Urban Consumers (CPI-U) for tax years beginning in 2014.

A “qualified arrangement” means: The employer pays 50% or more of the cost of the employee-only premium for coverage through a state-licensed company for traditional health insurance. This contribution requirement also applies to add-on coverage including vision, dental and other limited scope coverage.

How much is the tax credit?

There is a sliding-scale tax credit of up to 35% of the employer's eligible premium expenses for tax years 2010–2013. Employers with 10 or fewer full-time employees, paying annual average wages of \$25,000 or less, qualify for the maximum credit.

Beginning in tax year 2014, the maximum tax credit increases to 50% of premium expenses and coverage must be purchased from the state Health Insurance Marketplace. This tax credit is available for a total of any two years.¹

How soon can the tax credit be taken?

Eligible small businesses can claim the credit now. The credit may be included in determining estimated tax payments for the year in which the credit applies, following regular estimated tax rules.²

More information on calculating the number of employees and average annual wages for tax credit consideration is available: <http://www.smallbusinessmajority.org/hc-reform-faq/index.php#2b>.

Does the owner of a business count as an employee for purposes of the tax credit if s/he also provides services? Do family members of a business owner who work for the company count as employees?

An owner is not counted if s/he is a sole proprietor, a partner in a partnership, a shareholder owning more than 2% of an S corporation or an owner of more than 5% of other businesses. Family members are not counted if they are children or grandchildren; siblings or step-siblings; parents or grandparents; step-parents; nieces or nephews; aunts or uncles; sons- or daughters-in-law; fathers- or mothers-in-law; or brothers- or sisters-in-law. This means their hours and wages do not apply to the FTE count, the amount of average annual wages or the amount of premium costs paid.³

FOR BUSINESSES WITH MORE THAN 50 EMPLOYEES

I currently offer health insurance; should I worry about anything in the PPACA?

You should first make sure that the health insurance you offer is in compliance with the PPACA minimum coverage standards. If you have 100 or fewer employees, your coverage is “grandfathered” under the Act and will be considered compliant until you make any changes. At that time, new coverage must meet minimum standards. Businesses with more than 100 employees must offer health insurance that meets the minimum value standards of the PPACA.

I do not currently offer health insurance to my employees. What do I need to do?

The Act does not technically require every employer with more than 50 employees to provide employee

1 [Healthcare Reform FAQ](http://www.smallbusinessmajority.org/hc-reform-faq/index.php#2a). 2012. Small Business Majority. 6 Jul. 2012 <<http://www.smallbusinessmajority.org/hc-reform-faq/index.php#2a>>.

2 [Healthcare Reform FAQ](http://www.smallbusinessmajority.org/hc-reform-faq/index.php#2d). 2012. Small Business Majority. 6 Jul. 2012 <<http://www.smallbusinessmajority.org/hc-reform-faq/index.php#2d>>.

3 [Healthcare Reform FAQ](http://www.smallbusinessmajority.org/hc-reform-faq/index.php#3d). 2012. Small Business Majority. 6 Jul. 2012 <<http://www.smallbusinessmajority.org/hc-reform-faq/index.php#3d>>.

health insurance. However, any business that employs 50 more employees is subject to a penalty if at least one full time employee purchases insurance coverage through a state marketplace as an individual and qualifies for federal premium assistance.

For an employer that offers no health insurance, the penalty is \$2000 per full time employee after the first 30 employees. Part time workers are not included in the penalty calculations even if they receive a subsidy.

How are employees counted under the shared responsibility requirement?

A business is defined as “large” if it has at least 50 FTEs, not counting seasonal workers. Full-time employees are those who work 30 hours or more; part-time employees work less than 30 hours per week, figured on a monthly basis. This calculation involves taking the total number of hours worked divided by 120. Also, the first 30 employees are subtracted from the total when calculating the total amount of the assessment.

Example: An employer with 51 employees who doesn't offer health insurance and has one employee who receives an individual tax credit or cost-sharing reductions will be assessed \$42,000 (\$2,000 multiplied by 21).⁴

Can I purchase any health insurance for my employees to comply?

The health insurance provided to employees must pay 60% of the cost of health services (“minimum value”) or the penalty provisions will apply.

Do I need to pay the entire cost of the health insurance in order to comply with the Act?

An employer does not have to pay the entire cost of the health insurance and can have the employees contribute to the cost of their insurance. The employer will be subject to the Act's penalties if the employee contribution exceeds 9.5% of their income.

The penalty in this case would be the lesser of \$3000 per each employee whose copay exceeds the income guidelines above or \$2000 per full time employee after the first 30 employees.

I cannot afford the cost of health insurance for my employees, is there a waiver that would allow me additional time to comply?

At this time the law does not provide for waivers and employers should plan to comply with the Act by January 1, 2014.

Can I buy health insurance for my employees through the state run Health Insurance Marketplace?

States must give individuals and small businesses (fewer than 50 employees) access to the marketplace.

⁴ Healthcare Reform FAQ. 2012. Small Business Majority. 6 Jul. 2012 <<http://www.smallbusinessmajority.org/hc-reform-faq/index.php#5a>>.

They also have the option of giving businesses with fewer than 100 employees access to the marketplace as of January 1, 2014. States must give businesses with fewer than 100 employees access to the marketplace by January 1, 2016. Larger employers are not allowed to purchase insurance through the state Health Insurance Marketplaces until January 1, 2017 at the earliest.

FOR START-UPS AND THE SELF-EMPLOYED

I would like to start a business but don't want to give up my health insurance. What does this Act do for me?

As a self-employed person, you will have access to the Pennsylvania Health Insurance Marketplace, which has not been established yet. The marketplace should offer more health insurance options than most group plans offered by employers. Hopefully the Pennsylvania marketplace will have cheaper rates than the current market, including that of group plans through employers, but the cost structure in the marketplace is still unknown.

Low and middle income individuals and families will have access to premium tax credits and federal cost sharing subsidies to assist in the purchase of insurance as well.

I am self-employed but I don't think that I can afford health insurance for myself at this time. Do I have to pay a penalty?

Generally the Act does require that individuals, including those that are self-employed, purchase health insurance, but there are exemptions from the penalty that apply to the individual mandate, including the self-employed. The exemption that would apply in this case would be the income exemption. There is no penalty assessed if your income level does not require you to file a federal income tax return. In addition if the cost of the lowest cost insurance available to you is more than 8% of your income (taking into account any applicable federal subsidies) then you are exempt from penalty.

Preexisting condition insurance plans

Immediate coverage is available through temporary state-based risk pools (Preexisting Condition Insurance Plans) established July 1, 2010. For further information on these plans, see Preexisting Condition Insurance Plans at <http://www.smallbusinessmajority.org/hc-reform-faq/index.php#6a> (formerly high-risk pools).

Health Insurance Marketplace

Individuals will be able to purchase coverage through the state's Health Insurance Marketplace beginning in 2014. There will be four levels of benefit packages that differ by the percentage of costs the health plan covers, set at 60%, 70%, 80% or 90%. Under the marketplace, plans must accept all applicants; there are limits on out-of-pocket costs (deductibles can't exceed \$2,000 for individuals and \$4,000 for families); and there are no annual limits or lifetime caps on the dollar value of care.

Individuals and families will be eligible for premium and cost-sharing reduction assistance on a sliding scale for those with incomes of up to 400% of the federal poverty level (\$43,000 for an individual and \$88,000 for a family of four).⁵

What are the penalties for those who don't meet the individual responsibility requirement? And are there exceptions?

If you don't meet the individual responsibility requirement, which takes effect in 2014, the following penalties will apply (note that they'll be phased in over a few years): The greater of \$95 or 1% of income in 2014; \$325 or 2% of income in 2015; and \$695 or 2.5% of income when fully implemented. There is a cap equal to the annual premium for the Bronze plan. These are indexed to the Consumer Price Index.⁶

I own a small business and just received a rebate check from my health insurer? Why am I getting this and do I have to pay tax on the rebate?

You are receiving the rebate because of new rules under the PPACA that require Health Insurance Companies to spend a certain percentage of your premium payments on non administrative costs. To the extent that your insurance company spent more than the designated amount, they owe you a refund. Whether or not you owe tax depends on several factors, such as whether you deducted the premium payment on your tax return for the applicable year. The following link: <http://www.irs.gov/newsroom/article/0,,id=256167,00.html> contains helpful explanations. We also recommend that you seek counsel from your tax advisor with questions.

REPORTING REQUIREMENTS

Are there new reporting requirements, such as on the W-2?

Yes. Most employers are required to report the value of the health insurance benefit for each employee on his or her annual W-2 beginning in 2012. This requirement is optional for businesses filing less than 250 W-2 forms.

Reporting the cost of health care coverage on the Form W-2 does not mean that the coverage is taxable. The value of the employer's excludable contribution to health coverage continues to be excludable from an employee's income, and it is not taxable. This reporting is for informational purposes only and will provide employees useful and comparable consumer information on the cost of their health care coverage. For more information on these reporting requirements, visit: <http://www.irs.gov/uac/Form-W-2-Reporting-of-Employer-Sponsored-Health-Coverage>

⁵ [Healthcare Reform FAQ](http://www.smallbusinessmajority.org/hc-reform-faq/index.php#12a). 2012. Small Business Majority. 6 Jul. 2012 <<http://www.smallbusinessmajority.org/hc-reform-faq/index.php#12a>>.

⁶ [Healthcare Reform FAQ](http://www.smallbusinessmajority.org/hc-reform-faq/index.php#12d). 2012. Small Business Majority. 6 Jul. 2012 <<http://www.smallbusinessmajority.org/hc-reform-faq/index.php#12d>>.

ADDITIONAL RESOURCES ON THE PPACA

Small Business Majority - www.smallbusinessmajority.org

U.S. Department of Health & Human Services - www.healthcare.gov

Document updated 1.24.13

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