

HEALTH CARE REFORM POLICY DOCUMENTATION

INDIVIDUAL MANDATE OVERVIEW

This policy applies to:	<input type="checkbox"/> MAGI Medicaid	<input type="checkbox"/> Cost Sharing Reductions
	<input type="checkbox"/> Non-MAGI Medicaid	<input type="checkbox"/> Qualified Health Plans (QHP)
	<input type="checkbox"/> Advanced Premium Tax Credits	<input checked="" type="checkbox"/> Individual Insurance Requirement Exemption
Does this document reflect a change in policy?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Overview

[§26 U.S.C. Section 5000A](#) requires that beginning January 1, 2014, an applicable individual must ensure that he/she and any tax dependents have [minimum essential coverage](#) every month. Taxpayers are liable for penalties if they fail to meet this requirement for one or more months. An applicable individual is anyone who does not meet one of the exemptions listed below. An applicable individual can be a tax dependent of another applicable individual, and if so, the taxpayer who claims the dependent is liable for the other applicable individual. Tax dependent is defined in regulations as an individual for whom another individual claims a deduction for personal exemption under section 151 of the Internal Revenue Code.

Exemptions from the individual mandate

The following individuals are not regarded as applicable individuals for the purposes of applying the individual mandate.

1. Individuals eligible for a religious exemption under 1311(d)(4)(H) of the ACA which certifies the individual is:
 - A member of a recognized sect under [1402\(g\)\(1\)](#) and adheres to the teachings of such sect
2. Individuals who are a member of a health care sharing ministry; defined as an organization:
 - Described in 501(c)(3) of the IRS code and is exempt from taxation under 501(a)
 - In which members share a common set of ethical beliefs and share health care expenses
 - In which members remain members after they develop a medical condition
 - Which has been in continuous existence since 12/31/1999 and medical expenses of its member have been continuously shared since at least that time
 - Which conducts an annual audit performed by an independent certified public accountant
3. Individuals not lawfully present
4. Individuals who are incarcerated (except those awaiting the disposition of charges)

Penalty Exemptions

The following applicable individuals are exempt from the individual mandate to have minimum essential coverage:

1. Individuals who cannot afford coverage (required contribution exceeds 8 percent of gross yearly income)
2. Individuals who have household income below the tax filing threshold for the taxpayer
3. Individuals who are a member of an Indian tribe as defined in section 45A(c)(6)
4. Individuals with short coverage gaps; individuals can be without coverage for up to one three month period per year. If the period lasts longer than three months, no exemption is available for any of the months.
5. Individuals deemed by the Secretary of HHS to have suffered a hardship with respect to the capability to obtain coverage under a QHP under 1311(d)(4)(H)

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Certification of Exemption:

An Exchange must certify an exemption from the individual requirement or the penalty if:

- There is no affordable qualified health plan available through the Exchange; or
- There is no affordable coverage available through the individual's employer; or
- The individual is otherwise exempt from the individual mandate or the penalty

Processes for the issuance of exemption certifications will be addressed in future regulations (Ex Final Rule 155.200).

Penalty Amount:

The amount of the penalty is based on the cost of an average bronze-level qualified health plan offered through the exchange, or is calculated using a formula outlined below and in [§26 U.S.C. Section 5000A](#). The penalty is included in the tax return filed for the tax year that includes any months in which the applicable individual, or the tax dependent of an applicable individual, did not have [Minimum Essential Coverage](#).

The amount of the penalty imposed on any taxpayer household for any taxable year with respect to failures described in subsection (b)(1) of 26 U.S.C. 5000A shall be equal to the lesser of:

(A) an amount equal to the national average premium for a bronze-level qualified health plan that provides coverage for the applicable family size involved, and is offered through the Exchange, or

(B) the greater amount derived from one of the two monthly penalty formulas below:

Monthly penalty amounts:

The monthly penalty amount is equal to 1/12 of the of the following annual amounts:

- A flat-dollar amount
 - \$95 for 2014
 - \$325 for 2015
 - \$695 for 2016 (indexed for inflation thereafter)
- A fixed percentage of the amount that an individual's household income exceeds their tax filing threshold
 - 1% for 2014
 - 2% for 2015
 - 2.5% for 2016 and thereafter

The flat-dollar amount applies to each non-covered applicable individual in the taxpayer's household. The flat-dollar penalty for a household is determined by multiplying the total number of months without coverage by the one twelfth of the annual amount, and then summing together the penalties for each applicable household member. The calculation by this method, however, is limited to an amount equal to three times the annual amount for any one household. If the penalty, summed together for all household members, exceeds this limit, the fixed percentage calculation must be used.

Special rule for individuals under age 18:

If an applicable individual has not attained the age of 18 by the first day of a non-covered month, the penalty amount for that month, with respect to such individual, shall be equal to one-half of the dollar amounts indicated above.

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Payment of penalty:

Any penalty imposed by this section with respect to any month shall be included with a taxpayer's return under chapter 1 for the taxable year which includes such month.

If an individual with respect to whom a penalty is imposed is a dependent (as defined by section 152) of another taxpayer for the other taxpayer's taxable year, such other taxpayer (not the dependent) shall be liable for the penalty.

If an individual files a joint return for the taxable year including such [penalty] month, the individual and the spouse of the individual shall be jointly liable for the penalty.

Other Reference Material

Include links to flowcharts, tables, issue briefs, etc.

[Mandate Flowchart](#)

[26 U.S.C. Section 5000A- IRS](#) MAINTENANCE OF MINIMUM ESSENTIAL COVERAGE

Change in State Law Needed?

Yes No

Detail of State Law Change

Legislation authorizing Exchange.

Federal Compliance Considerations?

State Plan Option Waiver Other

Detail of Federal Compliance Considerations