



Health Care Reform

LEGISLATIVE BRIEF

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FAQs on the Individual Mandate

The Affordable Care Act (ACA) requires most individuals to obtain acceptable health insurance coverage for themselves and their family members or pay a penalty. This rule, which took effect in 2014, is often referred to as the “individual shared responsibility provision” or “individual mandate.” On Jan. 30, 2013, the Internal Revenue Service (IRS) issued a set of [frequently asked questions](#) (FAQs) for individual taxpayers relating to the individual mandate.

These FAQs have been updated for IRS [guidance](#) released on June 26, 2013, providing transition relief for individuals who are eligible to enroll in employer-sponsored coverage with a plan year other than a calendar year (non-calendar year plans). They have also been updated for the Centers for Medicare & Medicaid Services (CMS) [FAQ](#) issued on Oct. 28, 2013, establishing a new hardship exemption for individuals who enroll in an Exchange plan during the initial open enrollment period.

BASIC INFORMATION

1. What is the individual shared responsibility provision?

Under the ACA, the federal government, state governments, insurers, employers and individuals are given shared responsibility to reform and improve the availability, quality and affordability of health insurance coverage in the United States. Starting in 2014, the [individual shared responsibility provision](#) calls for each individual to have qualifying health care coverage (known as minimum essential coverage) for each month, qualify for an exemption or make a payment when filing his or her federal income tax return. The forms for reporting coverage, exemptions or making a payment with the federal income tax return can all be prepared and filed [electronically](#).

2. Who is subject to the individual shared responsibility provision?

The provision applies to individuals of all ages, including children. The adult or married couple who can claim a child or another individual as a dependent for federal income tax purposes is responsible for making the payment if the dependent does not have coverage or an exemption.

3. When does the individual shared responsibility provision go into effect?

The provision went into effect on Jan. 1, 2014. It applies to each month in the calendar year.

4. Is transition relief available in certain circumstances?

Yes. [Notice 2013-42](#), published on June 26, 2013, provides transition relief from the shared responsibility payment for individuals who are eligible to enroll in eligible employer-sponsored health plans with a plan year other than a calendar year (non-calendar year plans) if the plan year begins in 2013 and ends in 2014 (2013-2014 plan year). The transition relief applies to an employee, or an individual having a relationship to the employee. The transition relief began in January 2014 and continues through the month in which the 2013-2014 plan year ends.

In addition, [Notice 2014-10](#), published on Jan. 23, 2014, provides transition relief for individuals covered under certain limited-benefit government-sponsored programs. Coverage under these programs is not minimum essential coverage unless it is designated as such by the Department of Health and Human Services (HHS). Under Notice 2014-10, individuals who have coverage under these government-sponsored programs will not be held liable for the shared responsibility payment for months in 2014 when they have that coverage. The specific government-sponsored



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programs are optional family planning coverage of family services, optional coverage of tuberculosis-related services, coverage of pregnancy-related services, coverage limited to treatment of emergency medical conditions, coverage for medically needy individuals, coverage authorized under section 1115(a)(2) of the Social Security Act, limited-benefit TRICARE coverage of space available care and limited-benefit TRICARE coverage of line of duty care.

5. What counts as minimum essential coverage?

Minimum essential coverage includes the following:

- Employer-sponsored coverage (including self-insured plans, COBRA coverage and retiree coverage);
- Coverage purchased in the individual market (including a qualified health plan offered by an Exchange);
- Medicare Part A coverage and Medicare Advantage plans;
- Most Medicaid coverage;
- Children's Health Insurance Program (CHIP) coverage;
- Certain types of veterans health coverage administered by the Veterans Administration;
- Most types of TRICARE coverage;
- Coverage provided to Peace Corps volunteers;
- Coverage under the Nonappropriated Fund Health Benefit Program
- Refugee Medical Assistance supported by the Administration for Children and Families;
- Self-funded health coverage offered to students by universities for plan or policy years that begin on or before Dec. 31, 2014 (for later plan or policy years, sponsors of these programs may apply to HHS to be recognized as minimum essential coverage);
- State high risk pools for plan or policy years that begin on or before Dec. 31, 2014 (for later plan or policy years, sponsors of these program may apply to HHS to be recognized as minimum essential coverage); and
- Other coverage recognized by the Secretary of HHS as minimum essential coverage.

Minimum essential coverage does not include coverage providing only limited benefits, such as the following:

- Coverage consisting solely of excepted benefits (such as stand-alone vision care or dental care, workers' compensation or accident or disability policies);
- Medicaid providing only family planning services;
- Medicaid providing only tuberculosis-related services; and
- Medicaid providing only coverage limited to treatment of emergency medical conditions.

In addition, the following categories of coverage are generally not minimum essential coverage. However, to the extent that certain programs within these categories provide comprehensive coverage, HHS may recognize these programs as minimum essential coverage in the future. In [Notice 2014-10](#), the IRS announced relief from the shared responsibility payment for months in 2014 in which individuals are covered under any of these programs to the extent that they are not minimum essential coverage. Information will be made available later about how the income tax return will take account of coverage under one of these programs.

- Pregnancy-related Medicaid coverage;

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- Medicaid coverage for the medically needy;
- Section 1115 Medicaid demonstration projects;
- Space available TRICARE coverage for individuals who are not eligible for TRICARE coverage for health care services from private sector providers; and
- Line of duty TRICARE coverage.

6. What are the statutory exemptions from the requirement to obtain minimum essential coverage?

- **Religious conscience**—You are a member of a religious sect that is recognized as conscientiously opposed to accepting any insurance benefits. The Social Security Administration administers the process for recognizing these sects according to the criteria in the law.
- **Health care sharing ministry**—You are a member of a health care sharing ministry.
- **Indian tribes**—You are: (1) a member of a federally [recognized Indian tribe](#); or (2) an individual eligible for services through an Indian care provider.
- **Income below the income tax return filing requirement**—Your income is below the [minimum threshold for filing a tax return](#). The requirement to file a federal tax return depends on your filing status, age and types and amounts of income. To find out if you are required to file a federal tax return, use the IRS [Interactive Tax Assistant](#) (ITA).
- **Short coverage gap**—You went without coverage for less than three consecutive months during the year. For more information, see question 22.
- **Hardship**—You have suffered a [hardship](#) that makes you unable to obtain coverage, as defined in HHS final regulations. See question 21 for more information on claiming hardship exemptions.
- **Affordability**—You can't afford coverage because the minimum amount you must pay for the premiums is more than 8 percent of your household income (adjusted to **8.05 percent** for plan years beginning in 2015, and **8.13 percent** of household income for plan years beginning in 2016).
- **Incarceration**—You are in a jail, prison or similar penal institution or correctional facility after the disposition of charges against you.
- **Not lawfully present**—You are not a [U.S. citizen](#), a [U.S. national](#) or an alien lawfully present in the U.S.

7. What do I need to do if I want to be sure I have minimum essential coverage or an exemption for 2014?

The vast majority of coverage that people have today counts as [minimum essential coverage](#). For those who do not have coverage, who anticipate discontinuing the coverage they have currently or who want to explore whether more affordable options are available, the Exchange is open in every state and the District of Columbia. The Exchange helps individuals compare available coverage options, assess their eligibility for financial assistance and find minimum essential coverage that fits their budget.

For those seeking an [exemption from the individual responsibility provision](#), the Exchange is able to provide certificates of exemption for many of the exemption categories. HHS has issued [final regulations](#) on how the Exchange grants these exemptions. Individuals will also be able to claim certain exemptions for 2014 when they file their federal income tax returns in 2015. Individuals who are not required to file a federal income tax return because their gross income falls below the [return filing threshold](#) do not need to take any further action to secure an exemption. See question 21 for further information on how to claim an exemption. For more information about the Exchange, visit the [Exchange website](#). For more information about financial assistance, see the IRS [Questions and Answers](#) on the premium tax credit.

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8. Is more detailed information available about the individual shared responsibility provision?

Yes. The Treasury and the IRS have issued [final regulations](#) on the new individual shared responsibility provision, and the IRS has created an [individual shared responsibility page](#). In addition, the Treasury and the IRS have issued [proposed regulations](#), which provide guidance on additional issues that were identified in the preamble to the final regulations. Additional information on exemptions and minimum essential coverage is available in [final regulations](#) issued by HHS and in a Shared Responsibility Provision Question and Answer issued by the [Centers for Medicare & Medicaid Services](#) (CMS).

WHO IS AFFECTED?

9. Are children subject to the individual shared responsibility provision?

Yes. Each child must have minimum essential coverage or qualify for an exemption for each month in the calendar year. Otherwise, the adult or married couple who can claim the child as a dependent for federal income tax purposes will generally owe a shared responsibility payment for the child.

10. Are senior citizens subject to the individual shared responsibility provision?

Yes. Senior citizens must have minimum essential coverage or qualify for an exemption for each month in a calendar year. Both Medicare Part A and Medicare Part C (also known as Medicare Advantage) qualify as minimum essential coverage.

11. Are all individuals living in the United States subject to the individual shared responsibility provision?

All U.S. citizens living in the United States are subject to the individual shared responsibility provision, as are all permanent residents and all foreign nationals who are in the United States long enough during a calendar year to qualify as resident aliens for tax purposes. Foreign nationals who live in the United States for a short enough period that they do not become resident aliens for federal income tax purposes are not subject to the individual shared responsibility payment, even though they may have to file a U.S. income tax return. The IRS has more information available on [when a foreign national becomes a resident alien](#) for federal income tax purposes. Individuals who are not U.S. citizens or nationals and are not lawfully present in the United States are exempt from the individual shared responsibility provision. (For this purpose, an immigrant with Deferred Action for Childhood Arrivals (DACA) status is considered not lawfully present and therefore is eligible for this exemption.) An individual may qualify for this exemption even if he or she has a Social Security Number (SSN).

12. Are U.S. citizens living abroad subject to the individual shared responsibility provision?

Yes. However, U.S. citizens who are not physically present in the United States for at least 330 full days within a 12-month period are treated as having minimum essential coverage for that 12-month period. In addition, U.S. citizens who are bona fide residents of a foreign country (or countries) for an entire taxable year are treated as having minimum essential coverage for that year. In general, these are individuals who qualify for a foreign earned income exclusion under section 911 of the Internal Revenue Code. Individuals may qualify for this rule even if they cannot use the exclusion for all of their foreign earned income because, for example, they are employees of the United States. See [Publication 54](#), Tax Guide for U.S. Citizens and Resident Aliens Abroad, for further information on the foreign earned income exclusion. Individuals that qualify for this rule should file [Form 8965](#), *Health Coverage Exemptions*, with their federal income tax returns.

U.S. citizens who meet neither the physical presence nor residency requirements will need to maintain minimum essential coverage, qualify for a coverage exemption or make a shared responsibility payment for each month of the year. For this purpose, minimum essential coverage includes a group health plan provided by an overseas employer. One exemption that may be particularly relevant to U.S. citizens living abroad for a small part of a year is the exemption for a short coverage gap. This exemption provides that no shared responsibility payment will be due for a once-per-year gap in coverage that lasts less than three months.

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13. Are residents of the territories subject to the individual shared responsibility provision?

All bona fide residents of the United States territories are treated by law as having minimum essential coverage. Individuals that qualify for this rule should file [Form 8965, Health Coverage Exemptions](#), with their federal income tax returns.

MINIMUM ESSENTIAL COVERAGE

14. If I receive my coverage from my spouse's employer, will I have minimum essential coverage?

Yes. Employer-sponsored coverage is generally minimum essential coverage. (See question 5 for information on specialized types of coverage that are not minimum essential coverage.) If an employee enrolls in employer-sponsored coverage that provides minimum value for himself or herself and his or her family, the employee and all of the covered family members have minimum essential coverage.

15. Do my spouse and dependent children have to be covered under the same policy or plan that covers me?

No. You, your spouse and your dependent children do not have to be covered under the same policy or plan. However, you, your spouse and each dependent child for whom you may claim a personal exemption on your federal income tax return must have minimum essential coverage or qualify for an exemption, or you will owe a shared responsibility payment when you file a return.

16. My employer tells me that our company's health plan is "grandfathered." Does my employer's plan provide minimum essential coverage?

Yes. Grandfathered group health plans provide minimum essential coverage.

17. I am a retiree and I am too young to be eligible for Medicare. I receive my health coverage through a retiree plan made available by my former employer. Is the retiree plan minimum essential coverage?

Yes. Retiree health plans are generally minimum essential coverage.

18. I work for a local government that provides me with health coverage. Is my coverage minimum essential coverage?

Yes. Employer-sponsored coverage is minimum essential coverage regardless of whether the employer is a governmental, nonprofit or for-profit entity.

19. Do I have to be covered for an entire calendar month to avoid the shared responsibility payment liability for not having minimum essential coverage for that month?

No. You will be treated as having minimum essential coverage for a month as long as you have coverage for at least one day during that month.

20. If I change health coverage during the year and end up with a gap when I am not covered, will I owe a payment?

Individuals are treated as having minimum essential coverage for a calendar month if they have coverage for at least one day during that month. Additionally, as long as the gap in coverage is less than three months, you may qualify for an exemption and not owe a payment. See question 22 for more information on the exemption for a short coverage gap.

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EXEMPTIONS

21. If I think I qualify for a coverage exemption, how do I obtain it?

It depends on the coverage exemption for which you may qualify.

- The religious conscience exemption and most hardship exemptions are available only by going to the Exchange and applying for an exemption certificate. Information on obtaining these exemptions is available in [final rules](#) issued by HHS.
- The exemptions for members of federally recognized Indian tribes, other individuals eligible for services from an Indian health care facility, members of health care sharing ministries and individuals who are incarcerated are available either by going to an Exchange and applying for an exemption certificate or by claiming the exemption as part of filing a federal income tax return.
- The exemptions for individuals who lacked access to affordable coverage, had a short coverage gap, experienced certain hardships, had income below their filing threshold or who were not lawfully present in the United States may be claimed only as part of filing a federal income tax return.

You will claim or report coverage exemptions on [Form 8965](#), *Health Coverage Exemptions*, and file it with your Form 1040, Form 1040A or Form 1040EZ. These forms can all be prepared and filed [electronically](#). See question 25 for more information on Form 8965.

22. What qualifies as a short coverage gap?

In general, a gap in coverage that lasts less than three months qualifies as a short coverage gap. If an individual has more than one short coverage gap during a year, the short coverage gap exemption only applies to the first gap.

23. If my income is so low that I am not required to file a federal income tax return, do I need to do anything special to claim an exemption from the individual shared responsibility provision?

No. If you are not required to file a federal income tax return for a year because your gross income is below your return filing threshold, you are automatically exempt from the shared responsibility provision for that year and do not need to take any further action to secure an exemption. If you are not required to file a tax return for a year but file one anyway, you will be able to claim the exemption on your tax return.

24. If I am exempt from the shared responsibility payment, can I still be eligible for the premium tax credit?

In many cases, yes, but it depends upon the exemption. If you are exempt because you are incarcerated or because you are not lawfully present in the United States, you are not eligible to enroll in a qualified health plan through the Exchange and therefore cannot claim a premium tax credit for your own coverage. However, individuals with other types of exemptions may obtain coverage through the Exchange and claim a premium tax credit if they otherwise qualify for the credit.

REPORTING COVERAGE OR EXEMPTIONS OR MAKING PAYMENTS

25. Does the individual shared responsibility provision affect my 2014 federal tax return?

The [individual shared responsibility provision](#) went into effect for 2014. You will not have to account for coverage or coverage [exemptions](#) or make a [payment](#) until you file your 2014 federal income tax return in 2015. Beginning with the 2015 calendar year, insurers and other coverage providers will be required to provide certain information to everyone they cover during the year. This information will help individuals demonstrate they had coverage during the calendar year. Individuals are not likely to receive this information from their coverage providers for the 2014 calendar year.

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26. How do I report that I had coverage for each month of the year?

If you and all of your dependents had coverage for each month of the tax year, you will indicate this on your 2014 tax return simply by checking a box on your Form 1040, 1040A or 1040EZ.

27. How do I report or claim a coverage exemption on my tax return?

You will have to account for coverage [exemptions](#) when you file your 2014 federal income tax return.

You claim or report coverage exemptions on [Form 8965](#), *Health Coverage Exemptions*, and file it with your Form 1040, Form 1040A or Form 1040EZ. These forms can all be prepared and filed [electronically](#). However, if your gross income is below your applicable minimum threshold for filing a federal income tax return you are exempt from the individual shared responsibility provision and are not required to file a federal income tax return solely to claim the coverage exemption. If you file a return anyway (for example, to claim a refund), you can claim your coverage exemption with your return.

If you are granted a coverage exemption from the Marketplace, they will send you a notice with your unique Exemption Certificate Number or ECN. Keep this notice with other important tax information.

You will enter your ECN in Part I, Marketplace-Granted Coverage Exemptions for Individuals, of Form 8965 in column C.

If the Marketplace hasn't processed your exemption application before you file your tax return, complete Part I of Form 8965 and enter "pending" in Column C for each person listed. If you claim the exemption on your tax return, you do not need an ECN from the Marketplace.

For a coverage exemption that you qualify to claim on your tax return, all you need to do is file Form 8965 with your tax return—you do not need to call the IRS or obtain the exemption in advance.

You will use Part II, Coverage Exemptions for Your Household Claimed on Your Return, of Form 8965 to claim a coverage exemption if your income is below your filing threshold and you choose to file a tax return. If you are not required to file a tax return and don't want to file a return, you do not need to file a return solely to claim this exemption.

Other coverage exemptions may be claimed on your tax return using Part III, Coverage Exemptions for Individuals Claimed on Your Return, of Form 8965. Use a separate line for each individual and exemption type claimed on the return.

See the instructions for [Form 8965](#) for more information.

28. What do I need to do if I am required to make a payment with my tax return?

If you have to make an individual shared responsibility payment, you will use the worksheets located in the instructions to [Form 8965](#), *Health Coverage Exemptions*, to figure the shared responsibility payment amount due. The amount due is reported on line 61 of Form 1040 in the Other Taxes section, and on the corresponding lines on Form 1040A and 1040EZ. You only make a payment for the months you did not have coverage or qualify for a coverage exemption. See question 27 for information on reporting exemptions. See the [instructions for Form 8965](#) for more information.

29. What happens if I owe an individual shared responsibility payment, but I cannot afford to make the payment when filing my tax return?

The IRS routinely works with taxpayers who owe amounts they cannot afford to pay. The law prohibits the IRS from using liens or levies to collect any individual shared responsibility payment. However, if you owe a shared responsibility payment, the IRS may offset that liability against any tax refund that may be due to you.

Source: Internal Revenue Service and the Centers for Medicare & Medicaid Services

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