

**Questions and Answers on the
Individual Shared Responsibility Provision
January 30, 2013**

Basic Information

1. What is the individual shared responsibility provision?

Under the Affordable Care Act, 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 minimum essential health 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.

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 goes into effect on January 1, 2014. It applies to each month in the calendar year. The amount of any payment owed takes into account the number of months in a given year an individual is without coverage or an exemption.

4. What counts as minimum essential coverage?

Minimum essential coverage includes at a minimum all of the following:

- Employer-sponsored coverage (including COBRA coverage and retiree coverage)
- Coverage purchased in the individual market
- Medicare coverage (including Medicare Advantage)
- Medicaid coverage
- Children's Health Insurance Program (CHIP) coverage
- Certain types of Veterans health coverage
- TRICARE

Minimum essential coverage does not include specialized coverage, such as coverage only for vision care or dental care, workers' compensation, disability policies, or coverage only for a specific disease or condition.

The Department of Health and Human Services (HHS) has authority to designate additional types of coverage as minimum essential coverage. Information on additional coverage that HHS has proposed to designate as minimum essential coverage, including student health plans and coverage provided by foreign governments is available online.

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

(1) **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.

(2) **Health care sharing ministry:** You are a member of a recognized health care sharing ministry.

(3) **Indian tribes:** You are a member of a federally recognized Indian tribe.

(4) **No filing requirement:** Your household 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).

(5) **Short coverage gap:** You went without coverage for less than three consecutive months during the year. For more information see question 21.

(6) **Hardship:** A Health Insurance Marketplace, also known as an Affordable Insurance Exchange, has certified that you have suffered a hardship that makes you unable to obtain coverage.

(7) **Unaffordable coverage options:** You can't afford coverage because the minimum amount you must pay for the premiums is more than eight percent of your household income.

(8) **Incarceration:** You are in a jail, prison, or similar penal institution or correctional facility after the disposition of charges against you.

(9) **Not lawfully present:** You are neither a U.S. citizen, a U.S. national, nor an alien lawfully present in the U.S.

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

Most individuals in the United States have health coverage today that will count as minimum essential coverage and will not need to do anything more than continue the coverage that they have. 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, Health Insurance Marketplaces (also known as Affordable Insurance Exchanges) will open for every state and the District of Columbia in October of 2013. These Health Insurance Marketplaces will help qualified individuals find minimum essential coverage that fits their budget and potentially financial assistance to help with the costs of coverage beginning in 2014. The Health Insurance Marketplace will also be able to assess whether applicants are eligible for Medicaid or the Children's Health Insurance Program (CHIP). For those who will become eligible for Medicare during 2013, enrolling for Medicare will also ensure that you have minimum essential coverage for 2014.

For those seeking an exemption, a Health Insurance Marketplace will be able to provide certificates of exemption for many of the exemption categories. HHS has proposed regulations on how a Health Insurance Marketplace will go about granting these exemptions. Individuals will also be able to claim 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 are automatically exempt and do not need to take any further action to secure an exemption. See question 20 for further information on exemptions.

For more information about the Health Insurance Marketplace, including how to sign up for email updates and tips on how to prepare for open enrollment in October 2013, visit: <http://www.healthcare.gov/marketplace/index.html>

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

Yes. Treasury and the IRS have proposed regulations on the new individual shared responsibility provision. Comments on the proposed regulations may be submitted by mail, electronically, or by hand-delivery, and are due by May 2, 2013.

Who is Affected?

8. 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 owe a payment.

9. 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. Senior citizens will have minimum essential coverage for every month they are enrolled in Medicare.

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

All citizens 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 US income tax return. The IRS has more information available on when a foreign national becomes a resident alien for federal income tax purposes.

11. Are US citizens living abroad subject to the individual shared responsibility provision?

Yes. However, US citizens who live abroad for a calendar year (or at least 330 days within a 12 month period) are treated as having minimum essential coverage for the year (or period). These are individuals who qualify for an exclusion from income under section 911 of the Code. See Publication 54 for further information on the section 911 exclusion. They need take no further action to comply with the individual shared responsibility provision.

12. 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. They are not required to take any action to comply with the individual shared responsibility provision.

Minimum Essential Coverage

13. 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 4 for information on specialized types of coverage that are not minimum essential coverage.) If an employee enrolls in employer-sponsored coverage for himself and his family, the employee and all of the covered family members have minimum essential coverage.

14. 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 payment when you file.

15. 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.

16. 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.

17. 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.

18. Do I have to be covered for an entire calendar month in order to get credit for 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.

19. 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 21 for more information on the exemption for short coverage gaps.

Exemptions

20. If I think I qualify for an exemption, how do I claim it?

It depends upon which exemption it is.

- The religious conscience exemption and the hardship exemption are available only by going to a Health Insurance Marketplace, also known as an Affordable Insurance Exchange, and applying for an exemption certificate. Information on proposed rules for obtaining this exemption is available online.
- The exemptions for members of Indian tribes, members of health care sharing ministries, and individuals who are incarcerated are available either by going to a

Marketplace or Exchange and applying for an exemption certificate or by claiming the exemption as part of filing a federal income tax return.

- The exemptions for unaffordable coverage, short coverage gaps, and individuals who are not lawfully present in the United States can be claimed only as part of filing a federal income tax return. The exemption for those under the federal income tax return filing threshold is available automatically. No special action is needed.

21. 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 two short coverage gaps during a year, the short coverage gap exemption only applies to the first or earlier gap.

22. 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. Individuals who are not required to file a tax return for a year are automatically exempt from owing a shared responsibility payment for that year and do not need to take any further action to secure an exemption.

Reporting Coverage or Exemptions or Making Payments

23. Will I have to do something on my federal income tax return to show that I had coverage or an exemption?

The individual shared responsibility provision goes into effect in 2014. You will not have to account for coverage or exemptions or to make any payments until you file your 2014 federal income tax return in 2015. Information will be made available later about how the income tax return will take account of coverage and exemptions. Insurers will be required to provide everyone that they cover each year with information that will help them demonstrate they had coverage.

24. What happens if I do not have minimum essential coverage, and I cannot afford to make the payment with 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 payment you owe related to the individual responsibility provision, if you, your spouse or a dependent included on your tax return does not have minimum essential coverage.