

Affordable Care Act Enrollment Specifics, Nuts and Bolts

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I. Individuals

A. Individuals can still sign up for insurance until March 31, 2014

Although the Affordable Care Act (“ACA” or “Obamacare”) deadline for obtaining coverage with a January 1, 2014 effective date was December 24, 2013, individuals may still sign up for insurance on the Insurance Exchange or directly from an Insurance Carrier until March 31. The open enrollment period officially ends on this date.

Individuals who purchase insurance by February 15, 2014, will get a coverage start date of March 1, 2014. Those who purchase insurance by March 15, 2014, will have an April 1, 2014, coverage start date. Those who purchase health insurance from March 16, 2014, through March 31, 2014, will have a coverage start date of May 1, 2014.

On October 28, 2013, the Department of Health and Human Services (HHS) released guidance indicating that those who sign up for health insurance by March 31, 2014, will not be subject to a tax penalty.

See <http://www.webcrawler.com/search/web?q=October+28,+2013+HHS+open+enrollment+period>.

After March 31, 2014, individuals may not sign up for qualifying ACA health insurance, unless they experience a “qualifying event” that triggers a special enrollment date, such as a change in jobs, or loss of a job, a move to a new geographic area, marriage, or the adoption or birth of children. For a comprehensive list of qualifying events, contact a licensed insurance broker.

Those who fail to sign up for qualifying ACA health insurance, and do not have a qualifying event that triggers a special enrollment date will not be able to enroll in qualifying ACA health insurance until enrollment re-opens on November 15, 2014.

After March 31, 2014, individuals may be able to purchase short term medical policies directly from an insurance carrier to provide them with health insurance until their qualifying ACA health insurance coverage starts in January, 2015. Such short-term health insurance policies do not qualify as ACA health insurance policies, however, and they do not cover pre-existing conditions.

Individuals who neither purchase ACA qualifying health insurance coverage before March 31, 2014, nor purchase a short-term medical policy, and then experience a health problem, will not be covered. They will have to rely on their own resources to pay for the medical care they may need, or attempt to seek charity assistance, such as that which may be available through the Idaho Medical Indigency Act.

Individuals may purchase ACA qualifying health insurance on the Idaho’s Health Insurance Exchange by visiting www.yourhealthidaho.com, and www.getcoveredidaho.com. “Premium Assistance Tax Credits,” which are available from the Federal government to help subsidize the purchase of health insurance, are currently available only through Insurance Exchanges, as are cost-sharing subsidies, which are available to help qualified individuals pay additional costs of health care services, such as deductibles, coinsurance, and copayments. Individuals may also determine whether they are eligible for Medicaid and the Children’s Health Insurance Program (“CHIP”) through the Insurance Exchanges.

1. How to make sure an individual is signed up

Individuals who are not sure whether they have finished the enrollment process on the Insurance Exchange, can call the insurance company they chose directly, and confirm enrollment and payment of the premium for the first month.

Individuals may also purchase ACA qualifying health insurance directly from an insurance carrier of their choice and avoid using the Insurance Exchange; however, Premium Assistance Tax Credits are currently only available in connection with insurance purchased on the Insurance Exchanges.

There are four health insurance companies from which to choose in Idaho: Blue Cross of Idaho Health Service, Inc., BridgeSpan Health (Regence BlueShield of Idaho’s sister company), PacificSource Health Plans, and Select Health, Inc.

- To apply for health insurance directly from Blue Cross of Idaho, you can visit their shoppers page at www.BCIdaho.com, or call 1-800-365-2345.
- To find out more about BridgeSpan Health (Regence BlueShield of Idaho's sister company), you can visit www.bridgespanhealth.com to review product options or call 1-855-857-9956.
- To find out more about Pacific Source, visit their website at www.PacificSource.com, or call 1-208-333-1559.
- To find out more about Select Health, visit their website at www.SelectHealth.org, or call 1-855-442-0220.

2. Check with an expert for the best deal

Individuals may retain the services of a Licensed Insurance Broker to help them choose the best ACA qualifying health insurance plan, whether directly from an Insurance Exchange or directly from an insurance carrier. Brokers are paid a commission directly by the insurance carrier chosen by the individual. There is no discount for not using a broker. This is an important point, as individuals with the least resources are likely to be the ones who need the services of a licensed insurance broker the most.

For the assistance of a licensed insurance broker, you may go to www.yourhealthidaho.org, and click on the "Find Consumer Connectors" button.

Look for an Agent/Broker who represents all of the above health insurance companies. He or she can give you the most comprehensive advice as to the ramifications of the choices you make when buying health insurance, such as any out-of-state network limitations, and true cost comparisons of the actual benefits provided by each of the insurance policies you are considering.

Also look for a licensed insurance broker with several years of experience, as such brokers have a better breadth of knowledge. You can double check to see how long the licensed insurance broker you select has been licensed by going to the Idaho Department of Insurance Website (www.doi.idaho.gov), and typing the name of the licensed insurance broker into this link: <http://www.doi.idaho.gov/insurance/search.aspx>. This will give you detailed information about the licensed insurance broker, such as when they first got licensed, all of their appointments, and will indicate whether they are certified to sell ACA plans:

Small businesses deciding whether to start or continue offering health insurance should seek the guidance of a Certified Public Accountant to learn what tax credits may be available in connection with providing health insurance to their employees, or what incentives they may be able to offer in lieu of health insurance. For the assistance of a Certified Public Accountant, you may consult the website for the Idaho Society of Certified Public Accountants at www.IDCPA.org.

B. Pre-existing conditions? No problem

Under the ACA, insurance carriers can now only vary premiums on three factors: age, tobacco use, and geographic rating within a state. No other factors can be used to increase premiums, including, pre-existing conditions, health status, claims history, duration of coverage, gender, occupation, or small employer size. (Obviously, the size of your family will affect the total amount you pay for health insurance.)

Individuals cannot be denied coverage because of pre-existing conditions, and insurance carriers cannot drop individuals if they get sick. There are no annual or lifetime coverage maximums. Additionally, older Americans never have to pay more than three times the cost to younger citizens.

This means that individuals with health conditions that have made it difficult or expensive for them to obtain health insurance in the past, may now be able to purchase a much more affordable individual policy. These individuals no longer have to worry about retaining any group employer-sponsored insurance coverage that they may have available to them, for fear that if they lost their group coverage, an individual policy would be too expensive.

C. Dependent coverage available until children are 26

The ACA requires plans and issuers that offer dependent coverage to make that coverage available until an adult child reaches the age of 26. Both married and unmarried children qualify for this coverage. Plans or issuers are not required to provide coverage for children of children receiving extended coverage. They are also not required to provide coverage to the spouses of children receiving extended coverage.

D. No one in Idaho had their policies cancelled for failure to comply

As we heard in the news, millions of Americans on the individual insurance market received notices that their plans were going to be cancelled because of failure to meet the ACA requirements of “Minimum Essential Health Insurance Coverage.”

No one in Idaho got such a notice, because Idaho took a different approach. In Idaho, the Insurance Department decided that no plans were to be cancelled, but plans that lacked the above-mentioned “Minimum Essential Health Benefits” would not be renewed in 2014, and people would be moved to ACA-compliant plans when they renewed in 2014. Plans and carriers in Idaho took the additional step of contacting individuals and informing them that their plans were not going to be renewed, and that if they did not choose a new plan, they would be automatically moved to one that would be comparable to the one that they had, in order to avoid a coverage gap.

On Thursday, November 14, 2013, the President indicated that he would allow insurance companies to continue offering existing individual plans even if they do not meet the standards set by the ACA. Note, however, that certain provisions of the ACA had to be inserted into these plans. Unfortunately, some people who chose to keep these plans are actually paying more for fewer benefits than they would be paying if they had shopped around to compare their existing plan with the other ACA-compliant plans that were available.

Individuals would be well-advised to contact a licensed insurance broker to compare their existing non-conforming insurance plan with the other ACA-conforming plans that are available, in order learn whether they could be better served with another conforming plan that may provide more benefits for the same or less money. Individuals can choose to end their non-conforming policies early, and enroll in an ACA conforming plan by March 31, 2014, which is the end of open enrollment.

Additionally, persons with non-conforming plans who received a termination notice from their insurance carrier may go to the Insurance Exchange or directly to a carrier, and select a catastrophic plan that does conform to the ACA.

Qualifying ACA health insurance plans providing “catastrophic” health insurance coverage are available on the Insurance Exchanges and through health insurance carriers. They are discussed in more detail in Section G, below.

E. Calculate your Tax Credits to decide whether to purchase on an Exchange or directly from an insurance carrier

Premium Assistance Tax Credits are available to help reduce the cost of insurance purchased through an Insurance Exchange. In order to be eligible for such a Premium Assistance Tax Credit:

- An “Applicable Taxpayer” must have a household income that is between 100% and 400% of the Federal Poverty Level for the taxpayer’s family size. This figure is estimated to be \$31,545 to \$98,872 for a family of four in 2014.
- The taxpayer must not have “affordable” or “adequate” Minimum Essential Health Insurance Coverage available through his or her employer or the government. (An employer’s insurance plan does not provide affordable or adequate Minimum Essential Health Insurance Coverage if the required employee contribution exceeds 9.5% of the employee’s household income, or if the plan provides coverage for less than 60% of total allowable costs under the plan.)
- The taxpayer must be enrolled in qualified health insurance through the Insurance Exchange.
- Married taxpayers must file “Married Filing Jointly.”
- The taxpayer cannot be claimed by another taxpayer as a dependent.
- The taxpayer must be a “qualified individual,” which means that the taxpayer must be a U. S. Citizen or national, or an alien lawfully in the U. S., and the taxpayer must not be incarcerated.

Individuals may determine the amount of Premium Tax Credits to which they are entitled, by using the “Subsidy Calculator” provided on the Kaiser Family Foundation website. This tool, which can be found at www.kff.org/interactive/su, illustrates the health insurance premiums and subsidies available to people purchasing insurance on their own in the health insurance

exchanges created by the ACA. A licensed insurance broker can also help individuals perform the necessary calculations. Individuals can also seek this assistance directly from the enrollment departments of insurance carriers providing this service.

Individuals wishing to avail themselves of any Premium Tax Credits to which they may be entitled can then go to an Insurance Exchange to enroll in an insurance plan of their choice. In this situation, individuals report their household income to the Insurance Exchange, and then enroll in one of the plans offered through the Insurance Exchange. The financial information provided to the Insurance Exchange is then used to calculate the individual's required share of premiums for the health plan. (Note that in this situation, the taxpayer is providing an estimated household income for the coming year, because the credit is paid in advance of filing the tax return.) The required share of premiums is then subtracted from the premiums for the second lowest-cost silver plan, adjusted for age, to determine the amount of Premium Assistance Tax credit.

The IRS will pay the Premium Tax Credit directly to the insurance company chosen by the taxpayer. The individual will then pay the amount that is above the Premium Assistance Tax Credit. Persons who fail to pay all or part of the remaining premium are given a mandatory three month grace period prior to being terminated from participation in the plan.

Note that cost-sharing subsidies are only available on Silver plans, whereas Premium Assistance Tax Credits are available on any of the plans available on an Insurance Exchange.

Individuals who (1) do not qualify for any Premium Assistance Tax Credits, or (2) do qualify for such credits, but do not find them to provide sufficient incentive to purchase insurance on an Insurance Exchange, may simply purchase health insurance directly from the health insurance carrier of their choice. The decision to forgo any Premium Tax Credits that an individual may have available to him or her and apply for health insurance directly from a health insurance carrier is entirely a personal decision that centers around the individual's desire to use or avoid using an Insurance Exchange.

In making the decision whether to avail oneself of the services provided in connection with an Insurance Exchange, it is important to note that cost-sharing subsidies are also available at the Exchanges to help qualified individuals pay additional costs of healthcare services, such as deductibles, coinsurance, and copayments. The Insurance Exchanges also determine whether an individual is eligible for Medicaid and the Children's Health Insurance Program ("CHIP"). Additionally, the Insurance Exchanges assist individuals in determining individual and employer penalty calculations. They will also provide certifications for certain penalty exemptions, and will transfer to the Treasury a list of individuals who are issued a certification of an exemption from a penalty. A licensed insurance broker can help shepherd individuals through everything that may be available to them in this regard.

F. Those who cannot afford coverage can seek an exemption or buy a Catastrophic Health Insurance Plan

The ACA provides an exemption for individuals who cannot afford health insurance coverage, because the minimum amount they must pay for the premiums is more than eight percent (8%) of their household income.

Note that when determining household income, a taxpayer's family includes all individuals for whom the taxpayer properly claims a personal exemption deduction. If self-pay only coverage is affordable to an employee, but family coverage is unaffordable, the employee is subject to the Individual Mandate penalty if he or she does not maintain Minimum Essential Health Insurance Coverage. However, any individual who is eligible for employer coverage due to his or her relationship with an employee (i.e. a spouse or child of an employee) is exempt from the penalty if that individual does not maintain Minimum Essential Health Insurance Coverage because family coverage is not affordable.

The question of "affordability" is based on any employer-sponsored coverage that might be available to the individual. Those without insurance coverage available through an employer must calculate the "affordability" of the coverage provided through the Insurance Exchange Bronze plan, minus any Premium Assistance Tax Credit available through the exchange.

An exemption to the Individual Mandate is also available to households that are not required to file tax returns, because the household income is below the minimum threshold for filing a tax return. (In 2013, the filing threshold was \$10,000 for a single person, or a married person filing separately, and \$20,000 for married persons filing jointly.)

As discussed above, health insurance plans providing "catastrophic" health insurance coverage are available on the Insurance Exchanges and through health insurance carriers. These catastrophic health insurance plans have actuarial values that are less than that which will be offered at the Bronze level of coverage, and which may present a viable option for persons unable to otherwise afford any health insurance coverage. These plans have lower premiums, because they will offer less generous coverage, and higher cost-sharing. Such plans are only available to individuals who are under 30 years of age, or individuals who are exempt from the Individual Mandate because they do not have access to affordable coverage, or because they have experienced a hardship. These plans include coverage for "Minimum Essential Health Benefits," as well as coverage for three primary care visits.

G. Special provisions for Native Americans and Alaska Natives

Treaties with the federal government guarantee all Native Americans free health care at federally supported "Indian Health Facilities."

See <http://www.pewstates.org/projects/stateline/headlines/aca-a-hard-sell-for-native-americans-85899511767> As such, the ACA makes a special exemption from the Individual Mandate for Native Americans. The Indian Health Facilities do not offer a wide array of services, however. As such, Native Americans may either pay major medical bills themselves or do without necessary medical treatments. *Id.*

The ACA provides that American Indians and Native Alaskans can sign up at any time. There are no open enrollment deadlines. "Tribal members with incomes below 300 percent of the federal poverty level (\$34,470 for an individual) are exempt from paying deductibles and copays,

so they can purchase the cheapest plans without worrying about out-of-pocket expenses. All tribal members, no matter their income level, are exempt from out-of-pocket payments if they receive services from Indian Health Facilities. And unlike employers, tribes can pay exchange premiums for their members without paying taxes.” *Id.*

II. Small Employers: The abbreviated version

“Small businesses” with fewer than the equivalent of 50 employees are not required to provide coverage or fill out any forms in 2015, or in any year, under the ACA. <http://www.treasury.gov/press-center/press-releases/Pages/jl2290.aspx>.

Employees of small businesses are, however, required to carry Minimum Essential Health Insurance Coverage, per the Individual Mandate.

As discussed above, the ACA makes it possible for individuals to purchase health insurance coverage for themselves and their families at a policy premium that is not affected by the fact that they are not purchasing insurance as part of an employer group. Individuals can also take the health insurance coverage they purchase from Insurance Exchanges with them to a new job at another small business that also does not provide health insurance coverage, if they so wish. This frees up small businesses to consider whether it makes sense for them to continue to offer health insurance coverage to their employees. Rather than continuing to offer health insurance coverage, they could, for example, offer their employees a 401k plan, a pay raise, and/or a bonus.

A good certified public accountant and licensed insurance broker can help a small business and its employees decide whether it would be best for all concerned to (1) continue an existing medical benefits program, (2) institute a new one, or (3) have the employees purchase individual or family health insurance coverage on the Insurance Exchange or directly from a health insurance carrier, and provide some other remuneration in lieu of a health benefits package. Some small businesses may find that all or most of their employees would rather purchase their own health insurance, and receive some other type of remuneration in lieu of the same.

III. Large Employers: The abbreviated version

On Monday, February 10, 2014, the Treasury Department and the Internal Revenue Service issued final regulations implementing the employer shared responsibility provisions of the ACA, also known as the Large Employer Mandate. *See*, <http://www.treasury.gov/press-center/press-releases/Pages/jl2290.aspx> ; *See also* <http://www.accountingtoday.com/news/Treasury-IRS-Issue-Final-Employer-Mandate-Rules-Obamacare-69572-1.html>; http://www.nytimes.com/2014/02/11/us/politics/health-insurance-enforcement-delayed-again-for-some-employers.html?_r=1; http://www.washingtonpost.com/national/health-science/white-house-delays-health-insurance-mandate-for-medium-sized-employers-until-2016/2014/02/10/ade6b344-9279-11e3-84e1-27626c5ef5fb_story.html; http://online.wsj.com/news/articles/SB10001424052702304558804579375213074082656?mod=WSJ_hp_LEFTTopStories&mg=reno64-wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB10001424052702304558804579375213074082656.html%3Fmod%3DWSJ_hp_LEFTTopStories.

The final regulations give businesses with between 50 and 99 employees an extra year to comply with the ACA's requirement to provide coverage to its workers.

Larger employers with 100 or more employees will have to cover 70 percent of their full-time employees next year instead of the 95 percent previously required. Employers in this category that do not meet these standards will make an employer responsibility payment for 2015.

Larger employers with concerns as to whether the insurance plan they offer may not be compliant with the ACA, can reach out to a licensed insurance broker to have their plan evaluated to determine whether it is or is not compliant with the ACA, and they can also double-check directly with their insurance carrier.