



health care reform

What Small Businesses Need to Know



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In March 2010, President Obama signed the Patient Protection and Affordable Care Act (Pub. L. No. 111-148) and the Health Care and Education Affordability Reconciliation Act (Pub. L. No. 111-152) into law (collectively referred to as the “ACA” or “Health Care Reform”). The ACA makes significant changes to the U.S. healthcare system, including new requirements for health plans and employers. Although most of the employer provisions impact businesses with 50 or more full-time and full-time equivalent employees, many small employers have questions about what the law means for them. The following is a summary of some of the major provisions affecting small employers.

Health Insurance Marketplaces

The ACA created the Health Insurance Marketplace (the “Marketplace”) where individuals and small employers can find and compare health plans. There are two components to the Marketplace: one for individuals and their families and one for small businesses (known as the “SHOP” Marketplace).

Notice of Availability of Insurance Marketplace

Employers are required to notify new hires about the availability of the Marketplace within 14 days of hire. The notice must be provided to all employees, regardless of whether you offer health coverage or whether they are eligible for health coverage. The notification must provide the employee with a description of the Marketplace, contact information, and the potential impact on the employee if he or she purchases coverage through a marketplace (e.g. the employee may lose the employer contribution toward health insurance or that they may be eligible for a premium tax credit). The Department of Labor has issued model notices that employers may use.

- **Who:** All employers covered by the Fair Labor Standards Act (virtually all employers).
- **When:** Employers must provide the notice in writing to each new employee at the time of hire.
- **Tip:** Visit the *New Hire Paperwork* section of HR411® to download model notices.

FREQUENTLY ASKED QUESTIONS

Q: IS MY COMPANY REQUIRED TO OFFER HEALTH INSURANCE?

A: Technically, no employer is required to offer health insurance under the ACA. However, beginning January 1, 2015, employers with at least 50 full-time and full-time equivalent (FTE) employees may be subject to a penalty* unless:

- They offer full-time employees the opportunity to enroll in at least “minimum essential coverage”; **AND**
- The coverage, among other things, is affordable (no more than 9.56% (9.66% in 2016) of the employee’s earnings).

* **NOTE:** An employer with at least 50 but fewer than 100 full-time and FTE employees will not be assessed a penalty for 2015 if the employer meets certain conditions set forth in regulations published by the IRS and the Department of Treasury on February 12, 2014.

Penalties apply if:

- An employer with at least 50 full-time and FTE employees fails to do the above; **AND**
- The employee purchases coverage through a marketplace; **AND**
- The employee is eligible for and receives a federal tax credit in order to subsidize the cost of their coverage

Employers with fewer than 50 full-time and FTE employees are not subject to such a penalty regardless of whether they offer health coverage and/or employees purchase coverage through a marketplace.

Summary of Benefits and Coverage

The ACA requires group health plans to provide two new notices to plan participants and beneficiaries: the summary of benefits and coverage (or “SBC”) and uniform glossary of medical and coverage terms (or “glossary”).

The SBC is designed to answer questions about deductibles and out-of-pocket expenses and the costs and limitations associated with various types of medical events. The glossary is a list of terms and definitions commonly used in health insurance coverage, such as “deductible” and “co-payment.”

- **What:** Plan participants and beneficiaries must be provided with the SBC and glossary. There are specific format requirements for these documents. The government has issued templates that can be used.
- **Tip:** Visit the *Forms & Documents* section of HR411® to download template notices.
- **Who:** All group health plans must provide the notices. For self-insured plans, the employer is responsible for preparing the SBC notice. For fully insured plans, the insurance company is responsible.
- **When:** These notices must be furnished during open enrollment and within seven business days of a request.

Q: CAN THE SBC BE INCLUDED IN A HEALTH PLAN'S SUMMARY PLAN DESCRIPTION (SPD)?

A: The SBC may be provided as part of a plan's SPD as long as the SBC is prominently displayed within the SPD (e.g. immediately after the table of contents).

Q: WHERE CAN I FIND THE HEALTH CARE MARKETPLACE THAT OPERATES IN MY AREA?

A: Employers can locate their state's marketplace by going to <http://www.healthcare.gov/>.

Small Business Health Care Tax Credit

While the ACA does not require that small businesses provide group health insurance, it does create incentives for small employers to offer and maintain coverage.

- **What:** Eligible employers can receive a tax credit of up to 50% of their premium expenses if their group health plan meets the “qualifying arrangement” requirements.
- **Who:** To be eligible, the employer must have fewer than 25 full-time and FTE employees for the taxable year with average annual wages of less than \$51,600 per FTE (for the 2015 tax year). Small employers must also purchase health insurance through the Marketplace.
- **When:** The credit may be claimed for tax years 2010 through 2013 and for any two consecutive years after that period.

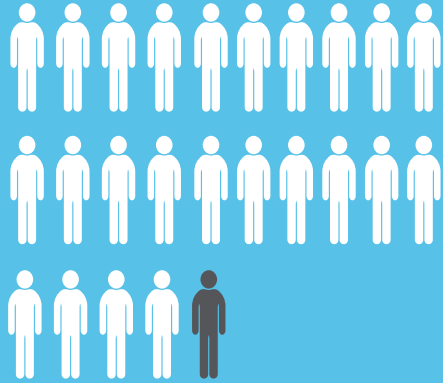
Q: WHAT IS A “QUALIFYING ARRANGEMENT” FOR PURPOSES OF THE HEALTH CARE TAX CREDIT?

A: To meet this requirement, for each employee enrolled in the health plan, the employer must pay the same percentage towards his or her premium expenses. This percentage must be at least 50%.

In **Notice 2010-44** and **Notice 2010-82**, the Internal Revenue Service (IRS) provides detailed guidance to help small employers determine whether they qualify for the credit.

Q: WHAT IS THE “INDIVIDUAL MANDATE?”

A: Beginning January 1, 2014, most individuals are required to maintain minimum essential health coverage for themselves and their dependents or they may have to pay a penalty.



Employers must have fewer than 25 full-time and FTE employees for the taxable year

Average annual wages must be less than

\$51,600

per FTE (for the 2015 tax year)

Eligible employers can receive a

**tax credit
of up to 50%**
of their premium expenses



Breaks for Nursing Mothers

The ACA amended the Fair Labor Standards Act (FLSA) to require breaks for nursing mothers.

- **What:** “Reasonable break time” must be provided for an employee to express breast milk for her nursing child for up to 1 year after the child’s birth. Breaks must be provided each time the employee has a need to express the milk. A place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public must be provided.
- **Who:** Employers with fewer than 50 employees are exempt from the break requirement if it would impose an “undue hardship.”
- **When:** The break requirement became effective March, 23, 2010, the date President Obama signed the ACA into law.

Note: State and/or local laws may offer additional rights and protections for nursing mothers. Check your state law to ensure compliance.

Employers with **fewer than 50 employees** are exempt from the break requirement if it would impose an **“undue hardship.”**



Q: MUST BREAKS FOR NURSING MOTHERS BE PAID?

A: There is no requirement for employers to compensate nursing mothers for breaks taken for the purpose of expressing milk. However, if you already provide paid breaks (e.g. 15-minute rest breaks), an employee who uses that break time to express milk must be compensated in the same way that other employees are compensated for break time.

Q: WHERE CAN I FIND MORE INFORMATION ON HEALTH CARE REFORM?

A: Health care reform requirements are extensive and regulations implementing its various provisions continue to be released. Check HR411 and the [Eye on Washington](#) section of ADP.com for continued updates concerning health care reform. Additionally, [Healthcare.gov](#) provides information for both employers and individuals.

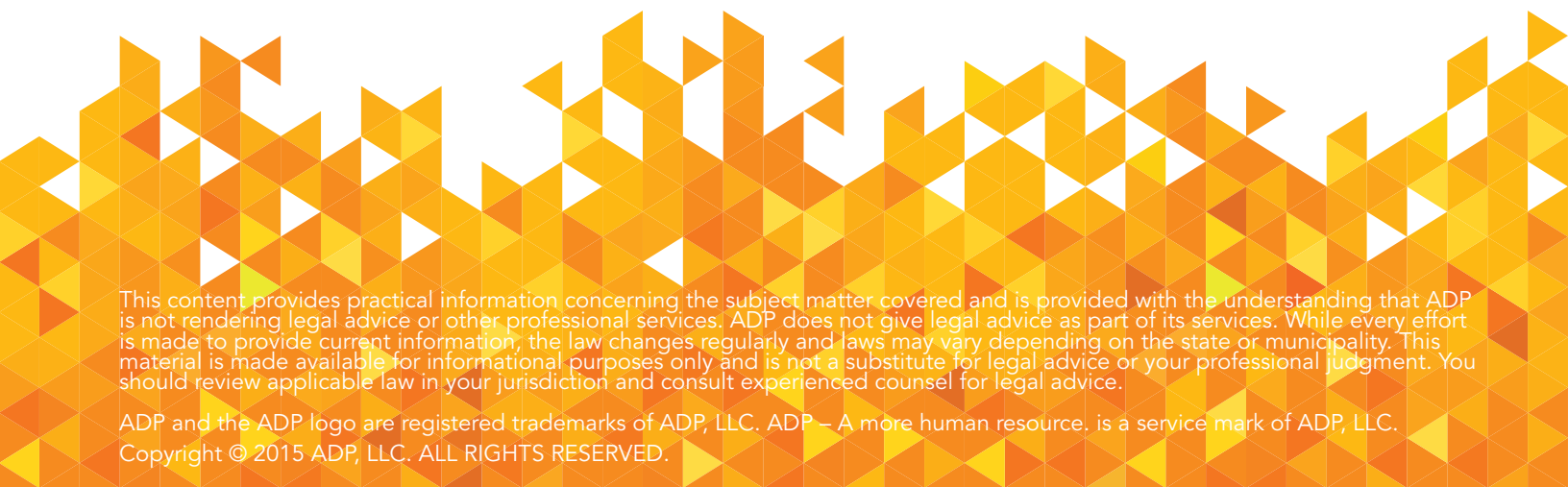


Health Plan Changes

The ACA also imposed a number of requirements on health insurance providers. A summary of changes in effect include, but are not limited to the following:

- Health plans must cover “recommended” preventive services and “routine” immunizations
- Excluding children from coverage because of pre-existing conditions or dropping people from coverage when they get sick is prohibited
- Young adults can stay on their parents’ health plans until age 26
- Employee contributions to health flexible spending accounts (FSAs) are limited to \$2,500
- Medicare beneficiaries are able to get a free annual wellness visit and personalized prevention plan service
- A 90-day limit on waiting periods (state law may further restrict waiting periods)
- An increase in permitted wellness incentives from 20% to 30%
- Guaranteed availability and renewability of insured group health plans
- Complete prohibition on preexisting condition exclusions for enrollees aged 19 or older
- Complete prohibition on annual dollar limits

For more information on how ADP can help you
tackle the challenges of Health Care Reform:
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