Fast Forward
2015 Employer Mandate: Pay or Play?

UnitedHealthcare
Employer Mandate

Beginning Jan. 1, 2015, the Affordable Care Act (ACA) will impose an employer mandate that states that grandfathered and non-grandfathered fully insured and self-funded employers with 50 or more full-time employees and equivalents (FTE) may be subject to a penalty if they do not offer medical coverage that provides minimum essential coverage (MEC), is affordable and meets minimum value requirements. FTEs are based on a combination of hours worked by average count part-time employees (those who work less than 30 hours per week) in the prior calendar year. Hours worked outside the U.S. by nationals or foreign nationals are not counted.

The employer mandate does NOT apply to small groups with two to 49 employees.

The same IRS aggregation rules under IRC section 414(b), (c), (m) and (o) used by pension plans will be used to determine if subsidiaries and jointly owned companies will be treated as one.

An employer must count full-time equivalents by averaging hours worked by employees, including part-time and seasonal employees. Full-time employees are those who work at least 30 hours per week. For example, two 20-hour-per-week employees equal one full-time equivalent.
Counting employees

Other health reform provisions use different counting methods to calculate the number of employees. For the employer mandate, use the following:

**Counting method to determine if an employee is a full-time employee to whom the mandated offer needs to be made:**

- Individuals who work more than 30 hours per week or 130 hours per month
- Employment relationship exists
- Employee is defined by employer and usually receives a W-2 Form.

If the number of employees is around 50 and the employer is unsure of the exact group size, use the following:

**Counting method to determine whether an employer is an applicable large employer:**

- To be done on a monthly basis and averaged across 12 months
- Full-time employees work 30-plus hours per week; part-time employees work less than 30 hours per week
- In the monthly FTE count, include part-time employees who were not full-time employees for any month in the preceding calendar year. An employer is not an applicable large employer (i.e., employing 50 or more full-time employees or FTEs if, after counting full-time employees and FTEs, the total crosses the 50 threshold only because the employees in excess of 50 were employed during that period of no more than 120 days and were seasonal workers.
- The count is based on the actual aggregate hours of service of employees in the prior calendar year
- Calculate the total hours of service (but not more than 120 hours of service for any employee) for all part-time employees for the month and divide that number by 120. Fractions are taken into account until all 12-month full-time employees and FTEs are added and divided by 12, at which point any fraction or decimal is discounted.

Health benefits plan requirements

Grandfathered and non-grandfathered fully insured and self-funded employers with 50 or more FTEs that sponsor a health benefits plan must satisfy the following requirements:

- **Provide minimum essential coverage (MEC)**
  MEC must be offered in the small or large group health insurance market and be a group health plan under ERISA. The following plan types alone will not constitute MEC: disability, accident, critical illness and indemnity.

- **Satisfy the minimum value requirement**
  The health plan must pay at least 60 percent or more of the plan's total allowed benefit costs anticipated for a standard population.

- **Be affordable to the employee**
  The required share of the employee’s premium for self-only coverage must not exceed 9.5 percent of an employee’s household income. Under the employer mandate rules, employers can use one of three safe harbor tests to determine affordability.

- **Offer health insurance coverage to dependent children up to the age of 26**
  - Coverage does not have to be offered to spouses.

Employers should be able to avoid potential employer mandate penalties if they offer a plan that meets the above requirements.
Penalties

The ACA does not explicitly mandate that all employers have to offer medical coverage. However, under the reform law, there are two potential penalties.

Keep in mind that an employer may continue to offer several plan design options to its employees. To avoid the possibility of penalties, only one of those plans needs to meet the requirements of the employer mandate (MEC, minimum value and affordability) – not all of the plans offered – as long as that plan meets the requirements and is offered to all full-time employees and their dependents. The penalties are calculated as follows:

Penalty A*: Employers not offering medical coverage that provides MEC or any health insurance coverage

First, if an employer with 50 or more employees does not provide minimum essential coverage and any of those full-time employees and/or their dependents goes to an Exchange, also called a Health Insurance Marketplace, and qualifies for a premium tax credit or cost-sharing reduction, the employer is subject to a penalty. Refer to example Penalty A.

If an employer does not offer any health benefits coverage or medical coverage that provides MEC and one or more full-time employee or dependent(s) qualifies for a premium tax credit or cost-sharing reduction through the Exchange, the annual penalty is $2,000 per year, per full-time employee. When calculating the penalty, the first 30 full-time employees are subtracted from the payment calculation. This penalty is assessed per full-time employee for each month an employer does not offer coverage, or minimum essential coverage, to its employees.

Penalty B*: Employers offering unaffordable coverage

Second, if the health insurance coverage you offer is unaffordable, or does not meet minimum value according to the employer mandate requirements, for even just one employee, and that employee qualifies for a premium tax credit or cost-sharing reduction through an Exchange, the employer could be subject to a penalty. This second penalty is only calculated on the number of full-time employees and eligible dependents receiving a subsidy. Refer to example Penalty B.

If an employer offers MEC but the full-time employee’s contribution is deemed unaffordable and does not provide minimum value, full-time employees may obtain health insurance through an Exchange and qualify for a premium credit or cost-sharing reduction. The annual penalty of $3,000 per year, per full-time employee would apply if an employee applied to the Exchange and was deemed eligible for a subsidy. This penalty is assessed per full-time employee who receives a premium tax credit or cost-sharing reduction for each month the employee qualifies for such assistance.

If employees receive a subsidy

If employees enroll in the public Exchange and receive a premium tax credit or cost-sharing reduction, the employer will be notified by the IRS. The employer has an opportunity to respond before any penalty is assessed or payment is required. The contact for a given calendar year will not happen until after employees’ individual tax returns are due for that year claiming premium tax credits and after the due date for employers to file the information returns identifying their full-time employees and describing the coverage that was offered (if any).

Employees will generally not be eligible for Exchange subsidies if the employer offers coverage that meets the mandate’s requirements for minimum essential coverage, minimum value and affordability.

* The ACA has not assigned titles to either penalty. The titles “Penalty A” and “Penalty B” are being used for explanation only. The penalty amounts listed are annual amounts if the employer is non-compliant, but will be assessed on a pro-rated basis for each month the employer is non-compliant.
Pay or Play? More than just comparing costs

Deciding whether or not to provide health benefit coverage isn’t easy. The decision will involve more than just weighing the penalties against the costs of providing health benefit coverage. Here are four important things employers may want to think about before discontinuing health benefit coverage:

• If an employer chooses to pay the penalty and discontinue health benefit coverage, the penalty is not a deductible expense.

• Expenses paid for health benefit coverage are deductible.

• If other employers in your industry continue to offer coverage, will it put you at a disadvantage for recruiting qualified workers?

• Under the *de minimus* test, applicable large employers are able to avoid the application of the potentially more costly penalty of $2,000 per full-time employee so long as minimum essential coverage is offered by the employer to at least 95 percent of full-time employees of the applicable large employer.
Five key questions for employers

To help employers evaluate whether or not penalties may apply to their business, there are five key questions to answer.

The following diagram illustrates how employers’ answers to the five questions may affect the outcome of penalty assessments.

1. Do you have 50 or more full-time equivalents?
   - Yes
   - No
   - Mandate does not apply

2. Do you offer minimum essential health coverage to your employees?
   - Yes
   - No
   - 5a
     - Any FTEs getting a subsidy for Exchange coverage?
       - Yes
       - Penalty A applies
       - No
       - Penalties are not assessed
     - No
     - Penalties are not assessed

3. Does the coverage offered meet minimum value requirements?
   - Yes
   - No
   - 5b
     - Any FTEs getting a subsidy for Exchange coverage?
       - Yes
       - Penalty B applies
       - No
       - Penalties are not assessed
     - No
     - Penalties are not assessed

4. Is the coverage offered affordable?
   - Yes
   - No
   - Requirement has been met

5a. Any FTEs getting a subsidy for Exchange coverage?
   - Yes
   - No
   - Penalties are not assessed

5b. Any FTEs getting a subsidy for Exchange coverage?
   - Yes
   - No
   - Penalties are not assessed
Penalty calculation example

The following example shows a scenario-based calculation including the financial impact of discontinuing coverage:

### Employer Statistics
- Full-time and equivalents: 75
- Employee salary range: $30,000 to $70,000
- Lowest paid monthly wage: $2,500
- Employer offers minimum essential coverage
- Coverage is at least 60% minimum value
- Current employer total premium per employee per year: $5,760
- Current employee (employee-only coverage) monthly contribution: $300

### To meet the employer mandate’s affordability requirements:
- Maximum monthly employee contribution to meet affordability requirements: $2,500 x 9.5% = $237.50
- Maximum annual employee contribution to meet affordability requirements: $237.50 x 12 = $2,850

### Amounts paid today by employee and employer:
- Current employee-only annual contribution (not considering employer mandate): $300 x 12 = $3,600
- Annual employer premium per employee (pre-tax): $2,160 (less 30% tax assumption of $648) = $1,512

### Decision:
- **Discontinue health benefit coverage.**
  - Net cost to discontinue coverage and pay the penalty: $2,000 x 45 employees * = $90,000
  - Penalty to not provide health care coverage is paid after tax, so the balance sheet impact is $1,837 per employee.**

### Result:
- All employees are without employer-sponsored coverage.
- Employer loses the difference between the pre-tax premium ($1,512) and the after-tax penalty ($1,837), which is: $325 x 70 employees = $22,750 total loss

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* The first 30 employees are not included in the penalty calculation.
** $90,000/.7 = $128,571/70 employees = $1,837 per employee
Benefits of continuing to provide health coverage

After looking at the penalty calculation example, why would the employer pay a penalty to get nothing? The penalty cannot be used as a tax deduction and creates more expenses. There are long-term benefits to consider when continuing to provide health coverage:

► No need to worry if your health benefits meet ACA requirements
   It’s business as usual – no need to figure out plan choices or whether they comply with ACA mandates. Some UnitedHealthcare fully insured standard group health plans will automatically include MEC and minimum value. All customized and non-standard plans would need to go through one of the three testing methods.

► Employee health and well-being
   If employers don’t provide coverage, they will not know if an employee has obtained health benefits elsewhere. With no coverage, it may adversely affect the employee’s overall health and consequently his or her performance in the workplace.

► More flexibility and more plan choices
   There are different plans designs that can allow employers to choose different options to create a plan that fits an employer’s budget and employees’ needs.

► Employee retention
   Employers may have a competitive advantage over other employers by offering better/lower-cost health benefit coverage than other employers.

► Contribution costs
   Even though it is likely that costs to provide health coverage will rise, an employer may be able to offset those costs by sharing some of the adjustment with the employee contribution.

► Advocacy programs
   Member advocacy programs such as NurseLineSM, Employee Assistance Program (EAP) and Care24® outreach to help keep employees healthy – physically and mentally.

► Trusted source
   Your broker and UnitedHealthcare representative are always there to provide guidance and answer questions.

So, maybe even after weighing some of the other factors, you can see that continuing to provide health benefit coverage provides several advantages for employers and employees alike over discontinuing health benefits coverage.
Offer a variety of plan options

Under the employer mandate, employers need only offer one plan that meets the 60 percent minimum value as well as MEC and affordability requirements in their plan portfolio.

To avoid potential penalties, this plan must be offered to all full-time employees. In addition to providing richer plans to employees, employers may offer a leaner (less than 60 percent minimum value) plan, too. Offering a variety of plan options provides a competitive advantage for employers.

If the leaner plan is an ERISA group health plan, it must satisfy the ERISA rules for group health plans, including 2014 Affordable Care Act (ACA) benefit changes and federal coverage mandates. Excepted benefits would not have to follow these requirements. Fully insured employers must follow state benefit mandates. Leaner plans present the following advantages:

- Employer cost is lower
- Lower employee contribution encourages employees to choose benefit coverage
- So long as leaner plans are offered in combination with a plan that meets the mandated benefit offering, employers should not be subject to the employer mandate penalties because they are offering one plan that provides MEC and meets both minimum value and affordability requirements through their employer-sponsored coverage.

Checklist for employers

You’ve just read a lot of information and can see there are many options to think about. Here is a checklist that may help guide you as to what steps are next:

- Understand both employee counting methods and determination of which employees are full-time employees related to the employer mandate
- Know how to determine employer size
- Calculate the number of eligible full-time and equivalent employees
- Become familiar with the differences between minimum essential coverage, minimum value, essential health benefits and the mandate’s definition of affordable care
- Remember that you need offer only one plan that meets minimum value – other plan offerings can include richer and leaner plans
- Review and answer the five key questions for employers
- Analyze options carefully if paying the penalty is a serious consideration. It may not be in the best interest of your business for a variety of reasons.
- Check your health plan offerings:
  - Does the plan offer minimum essential coverage?
  - Is the plan affordable as defined by the employer mandate?
  - Does at least one plan you offer provide 60 percent minimum value?
Employer mandate and other ACA requirements

The following table provides a summary by group size (based on state’s definition) of the employer mandate and some other ACA provisions.

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*Grandfathered plans not required to provide.
Modernizing health care

As one of the largest participants in the health care system, at UnitedHealthcare we know first hand the significant challenges our nation faces in improving access to quality care and managing costs for all Americans. We’re actively working across the nation with states and the federal government to support broader access to health care coverage while lowering health care costs for our customers and helping to improve the delivery of care. UnitedHealthcare is committed to moving toward a modernized care delivery system in an attempt to ensure that changes in health care are made as effectively as possible for the health of the American people.

Please refer to the United for Reform Resource Center for updates and more detailed information at www.uhc.com/reform.