

NM HIX Legislative Work Group

Questions & Answers

1. Is New Mexico going to have a Health Insurance Exchange (HIX)?

Governor Martinez has directed HSD/Office of Health Care Reform to initiate and support efforts to establish a state-based HIX as soon as prudently possible.

2. Will small employers be penalized for not offering their employees insurance?

No. Employers with 50 or fewer employees are exempt from the penalty and are not required to provide health insurance to their employees.

3. How much will the penalty be for small employers who do not comply with ACA provisions and offer insurance to their employees? How much will the penalty be for individuals who do not sign up for insurance?

Category	Penalty for Non-compliance with the Mandate ¹
Small Employers	No penalty
Large Employers not offering health coverage	\$2,000 annually per full-time employee over 30 employees (there is no penalty on the first 30 full-time employees); the penalty is assessed on a monthly basis
Large Employers who offer health coverage, but the coverage does not meet “minimum essential coverage” for all employees	The lesser of: <ul style="list-style-type: none"> • \$2,000 per full-time employee over 30 employees, OR • \$3,000 per full-time employee who is eligible for a federal subsidy or premium tax credit
Individuals, 2014	The greater of \$95 or 1% of income
Individuals, 2015	The greater of \$325 or 2% of income
Individuals, 2016	The greater of \$695 or 2.5% of income
Dependent children	Half the cost of the individual penalty
Families	Sum of the Individual and Dependent penalties (depending on how many persons in the family); max penalty is 300% of the individual flat fee

¹26 U.S.C. §4980H; 26 U.S.C. §5000A

4. What will be the amount of tax credit a small business may receive?

Starting in 2010, small business employers may be eligible for a tax credit. The credit will cover up to a certain percentage of the employer’s contributions to health insurance. It is applied in a tiered fashion, depending on the following requirements:

- Employer must cover at least 50% of the cost of single health care coverage for each employee
- Employer must have fewer than 25 full time equivalent (FTE) employees
- Average wage for these employees must be less than \$50,000 per year

Year	Premium Tax Credit (Covers a % of Employer’s Contributions to Health Insurance Premiums)	
	Small For-Profit Employers	Small Tax-Exempt Employers
2010 - 2013	35% max	25% max
2014 +	50% max	35% max

5. How is the tax credit applied to small nonprofit employers?

For nonprofit (tax-exempt) organizations, the credit will be in the form of a reduction in income and Medicare tax the employer is required to withhold from employees’ wages and the employer share of Medicare tax on employees’ wages (with the credit thus limited by these amounts). For all other qualifying employers, it will be in the form of a general business credit.²

6. What will be the amount of premium subsidy an Individual may receive?

The premium assistance subsidy reduces the amount that an individual or family pays for health insurance coverage by providing a tax credit. These subsidies are only available through the Exchange. Subsidies are determined on a sliding scale, based on income, so that individuals at the lower end of the income scale get the most help. The subsidy is based on the premium for a benchmark plan (the second lowest cost silver plan available in an Exchange). An individual or family who wants a more expensive or higher tier plan (i.e., gold or platinum) must pay the difference.

²Summary of Small Business Health Insurance Tax Credit Under PPACA (P.L. 111-148)” Congressional Research Service. 7-5700, R41158. April 5, 2010.

Premium Limits for Consumers Based on Income

Family size	Federal Poverty Level Annual*	100% FPL 2% of income	133% FPL 2% of income	150 FPL 4.0% of income	200% FPL 6.3% of income	300% FPL 9.5% of income	400% FPL 9.5% of income
1	\$11,170	\$19	\$25	\$55	\$114	\$259	\$345
2	\$15,130	\$26	\$34	\$75	\$154	\$349	\$466
3	\$19,090	\$32	\$42	\$94	\$195	\$440	\$587
4	\$23,050	\$38	\$51	\$115	\$235	\$531	\$708

*U.S. Department of Health and Human Services

7. What about Cost-sharing Assistance Subsidies?

The Exchange will have a cap on the total out-of-pocket spending, including deductibles, co-pays and co-insurance. These limits are based on the out-of-pocket limits that apply to high-deductible plans used with Health Savings Accounts (HSAs). People with incomes under 400 percent FPL will get subsidies to lower those caps based on their income.

Out-of-Pocket Spending Limits for Consumers Based on Income

Income	Out-of-Pocket Limit
100 - 200% FPL	\$1,983/individual; \$3,967/family
200 - 300% FPL	\$2,975/individual; \$5,950/family
300 - 400% FPL	\$3,967/individual; \$7,933/family
Above 400% FPL	\$5,950/individual; \$11,500/family

8. What is the duration of the Small Business and Individual Tax Credits?

The individual tax credits have no expiration. The small business tax credits are available from 2010 – 2013, and for any two consecutive years starting in 2014.³

³26 U.S.C. §45R; PPACA §1421

9. What will happen to employers with large seasonal employee flux?

The definition of a “large employer” is one who averages more than 50 full-time equivalent employees in the calendar year. Seasonal employees who work for less than 120 days per year (for that employer) are not counted in the full-time employee calculation.⁴ Because seasonal employees are not counted, large employers are not penalized for not offering health insurance coverage to seasonal employees.

Small employers who have an influx of employees, seasonal or not, will still be able to participate in the Exchange. If a small employer who is participating in the Exchange ceases to be “small” due to an increase in the number of employees, the employer may continue to participate in the Exchange, until such time that it chooses not to.⁵

10. Will there be loss of jobs through brokers’ and agents’ being replaced by web brokers and the exchange?

The Exchange will not eliminate the need for agents and brokers. They will continue to work with businesses and individuals as they always have, and will be given the additional opportunity to work with consumers through the Exchange. One of the goals of the Exchange is to provide affordable coverage to a greater number of people, decreasing the uninsured population. With a greater number of people obtaining health insurance, there will be an increased need for the services of agents and brokers. While the Exchange *does* make it possible to purchase health insurance without an agent or broker, the desire and need for agents and brokers will still exist. For example, the Utah Exchange has been in operation since 2009, and over 95% of the participating businesses continue (and prefer) to use an agent or broker when enrolling through the Exchange. Agents and brokers will not be *competing* with the Exchange, but rather, working *with* the Exchange.

11. Has an actuarial analysis been performed on the health plans, as structured in the Affordable Care Act (ACA), including the impact of a bronze plan?

Due to various complexities and future uncertainties, an actuarial analysis that estimates the monetary values or costs of health plans in New Mexico, including a bronze plan, has not yet been performed.

At the national level, the Kaiser Family Foundation initiated a study in 2011 to estimate the deductibles and coinsurance that would meet the health plan thresholds defined in the ACA.⁶

Because of the inherent uncertainties in actuarial analysis, three firms were commissioned to perform these estimates. While the table below does not reflect estimates of premium prices, it does give estimates of possible cost sharing designs. However, because New Mexico has a

⁴26 U.S.C. §4980H (2011)

⁵“Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers; Final Rule and Interim Final Rule.”45 CFR Parts 155, 156, and 157. (March 27, 2012), §155.710(d), p. 18465.

⁶“What the Actuarial Values in the Affordable Care Act Mean.” Kaiser Family Foundation. Publication #8177, April 2011.

higher number of state mandated benefits than the average state, the figures below may be underestimated.

			Actuarial Research Corporation		Aon Hewitt		Towers Watson	
Metal Tier	Actuarial Value	Out-of-Pocket Max	Deductible	Coinsurance	Deductible	Coinsurance	Deductible	Coinsurance
Bronze	60%	\$6,350	\$6,350	0%	\$4,350	20%	\$2,750	30%
Silver	70%	\$6,350	\$4,200	20%	\$2,050	20%	\$1,850	20%

Amounts shown for out-of-pocket maximum and deductibles are per person; figures for families would be double these amounts. One of the assumptions for these estimates is that a single adult premium is \$4,922.

For the full report, go to <http://www.kff.org/healthreform/upload/8177.pdf>.

12. Why has HSD/OHCR determined to focus on the establishment of the small business exchange (SHOP) first?

Establishment of an American Health Benefits Exchanges (AHBE), which will serve the individual market, is planned. However, for the AHBE to be ready by the 2014 deadline there must also be a number of federal functions that must be operational and available. To date, HHS has missed more than half of their deadlines; the critical Advance Premium Tax Credits & Cost Sharing Reductions federal service is not in development and the Federal Data HUB is behind schedule. In addition, HHS has yet to promulgate most of the rules and regulations that pertain to the AHBE, including rules and standards that must be administered by states.

HHS has issued relatively fewer rules and regulations for the small group exchanges (SHOP). Thus, states have more flexibility with their SHOP development and can be more responsive to the needs of small employers and their employees within the state, regardless of HHS' progress. This is significant because our preliminary figures indicate that 59% of New Mexico's uninsured households have at least one full-time employee in the home; another 16% have at least one part-time worker in the home. That suggests that 75% of the state's uninsured, in many cases, have access to small group insurance (which is guaranteed issue and group rated, and, incidentally, allows those workers access to the pre-tax advantage.) So even if the Feds aren't ready with their part, New Mexico could still have the SHOP exchange up and running by January 1, 2014.

13. What is the status of New Mexico's Level 1 Establishment Grant?

New Mexico is pursuing a request for an extension of the \$34.2 million grant given to New Mexico for purposes of establishing the Exchange. To date, a very small percentage of the funds have been spent.

14. What is the status of that IT RFP?

An RFP is being finalized and should be put on the street by the end of the November.