Are individuals and small businesses required to purchase insurance through the state exchange?

No. Exchanges (or marketplaces) are simply an alternative for individuals and small businesses to purchase insurance. Beginning in 2014, Connecticut's state insurance exchanges will serve primarily individuals buying insurance on their own and small businesses with up to 50 employees.

Insurance coverage will still be available in the private insurance marketplace. In fact, the private insurance marketplace, which includes the CBIA Health Connections program -- a private exchange for small business -- is expected to provide a far greater array of choices for consumers.

Individuals whose incomes are below 400% of the federal poverty level and who have not been offered qualifying employer-sponsored coverage may be eligible for a subsidy in the individual exchange.

Does the ACA force employers to provide health benefits?

The ACA does not require employers to provide health benefits. However, it does impose penalties in some cases on federally defined larger employers (those with 50 or more full-time equivalent employees) that do not provide insurance to their workers or that provide coverage that is unaffordable.

What is a full-time equivalent employee (FTE)?

Full-time equivalent employees equal the number of employees who work 30 or more hours per week plus the number of employees on part-time schedules who work on average fewer than 30 hours per week converted to a full-time basis.

Each group should be counted separately, then added together.

See Counting Employees
Which employers might face a penalty?

The ACA’s employer shared responsibility provisions—also known as the employer mandate or “play-or-pay” rules—have caused considerable confusion among business owners, particularly with regard to who is required to offer coverage or face a financial penalty.

If you have fewer than 50 full-time equivalent employees (FTEs), you are exempt from the employer mandate and its associated penalties.

However, if you have 50 or more FTEs, you may be subject to penalties if you fail to offer at least 95% of your full-time eligible employees coverage that meets minimum value and is affordable.

What are the penalties?

Penalties are meted out this way:

- If an employer with 50 or more FTEs fails to offer coverage that meets minimum value to an eligible full-time employee, and that employee obtains coverage through the state exchange and receives a subsidy for the purchase of that coverage, the employer may be subject to a penalty equal to $2,000 times the total of all full-time eligible employees after the first 30 are subtracted.

- If an employer with 50 or more FTEs offers coverage that is unaffordable, and an employee for whom it is unaffordable obtains coverage through the state exchange and receives a subsidy for the purchase of that coverage, the employer may be subject to a penalty equal to the lesser of $3,000 per subsidized employee or $2,000 times the total of all full-time employees after the first 30 are subtracted.

A potential surprise for Connecticut employers is that some who are accustomed to being treated as under-50 companies by state insurance rules may now be considered 50-or-over firms by the new federal rules when it comes to play-or-pay.

For example, a company with 40 full-time employees and 150 part-timers would be considered an under-50 account rated in Connecticut, but it may be treated as a 50-or-over account under the federal rules that determine if the company could be penalized for not offering coverage that’s affordable and meets minimum value.

See Tax Incentives, Penalties, & Calculations
If I don’t offer coverage and none of my employees qualifies for and receives a subsidy through the individual exchange, can I be penalized?

No. You are potentially liable for a penalty only if an employee receives a premium tax credit (subsidy).

What does “minimum value” and “affordability” mean?

To meet minimum value, a health plan’s actuarial value (AV) must be at least 60%. AV is calculated as the percentage of total average costs for covered benefits that a plan will pay. For example, if a plan has an AV of 60%, an average consumer in a standard population could expect to be responsible for 40% of the costs of all benefits covered under the plan.

A health plan offered by employers is considered affordable if the employee’s required contribution toward the cost of coverage is less than 9.5% of his or her household income.

See Minimum Value, Metal Tiers, & Actuarial Value

How does an employer count full-time equivalent employees (FTEs)?

To determine whether your company will be subject to a play-or-pay penalty, you’ll need to get an accurate count of your FTEs. Here’s how:

1. Start by counting your full-time employees and part-time employees. Each group should be counted separately, then added together. (Seasonal employees who work fewer than 120 days during the year should be excluded.)

2. Full-time employees are those working, on average, 30 or more hours per week.

3. Part-time employees are those working fewer than 30 hours per week. Count them by adding the total hours worked by part-time employees on a monthly basis, then dividing that total by 120 to get the number of FTEs represented by the part-time group.

4. Add the number of your part-time FTEs to the number of your full-time employees to get your total FTE count.

See Counting Employees
I have variable-hour employees. How do I determine who is eligible for coverage?

If you employ fewer than 50 FTEs, you will be exempt from the employer mandate and associated penalties. The FTE calculation considers full-time any employee who is scheduled or has worked more than 30 hours per week, averaged over a month.

The ACA allows employers a look-back period of up to 12 months to determine the status of variable-hour employees. Under this safe harbor, the employer must choose a “measurement period” of between three and 12 consecutive months to calculate whether new variable-hour employees work 30 or more hours per week and are later entitled to coverage for a certain period thereafter.

The stability period (the timeframe during which insurance coverage must be provided) for such employees would be the same as for ongoing employees. This period cannot be less than the measurement period.

An administrative period can be slotted between the measurement period and the stability period to allow time to determine who is eligible for coverage as well as notifying and enrolling employees. This period cannot exceed 90 days.

If a worker is determined to be an FTE, then coverage must be provided during the stability period regardless of the number of hours worked during that period. Thus, a qualified FTE during the measurement period who drops to part-time hours during the stability period is still eligible for coverage until the end of the stability period, so selecting the appropriate measurement timeframe is critical.

See IRS Notice 2012-58

If one individual or entity owns two different companies in two different states, and each company has fewer than 50 FTEs at each, how are employee counts calculated?

ACA’s employer mandate rules are based on ownership. This means that if your Connecticut Company A has 40 FTEs and your Georgia Company B has 30 FTEs, the total employee count would be 70 FTEs and, consequently, the company would be subject to the employer mandate (“play-or-pay”) rules and penalties. Also, the ACA requires joint employers to combine their employee counts for purposes of determining large employer status.

See Employer Penalty
Are all small businesses eligible for the small business tax credit?

No. If you opt to buy employee health insurance through a state exchange in 2014, and your business employs fewer than 25 FTEs with average annual wages below $50,000, and you pay at least 50% of the premium cost, you may be able to claim a tax credit for up to 50 percent of your cost. The amount of the credit reduces as you near the 25 FTE and $50,000 average annual wages thresholds.

If a small employer chooses not to offer insurance to their employees, what options do the employees have to purchase insurance?

Like today, employees would have the option to buy an individual insurance policy. A broad array of options will be available through the competitive private marketplace as well as through the state’s individual exchange. Note that individual premium tax credits will be available to persons enrolled through the state’s individual exchange only.

Do ACA rules apply to companies with self-funded plans?

Self-funded plans—those where the employer accepts the risk for the health benefits it provides, rather than buying coverage from an insurance company—are generally exempt from state insurance regulations. The ACA contains many provisions that apply nationally to both self-funded plans and fully insured plans. Some of these provisions include minimum essential coverage, the extension of dependent coverage until age 26, no cost sharing for preventive services, the limit on waiting periods to no more than 90 days, maximum patient out-of-pocket costs, and no lifetime or annual limits on coverage. “Grandfathered” plans are not subject to ACA requirements.

Can employers apply a waiting period before an employee is eligible for health coverage?

Waiting periods of more than 90 calendar days (including weekends and holidays) are banned effective 2014. This ban applies to all plans, including grandfathered plans and self-insured plans, and to all coverage offered, whether employee-only or family. This ban is applicable to all employees who would otherwise be eligible for coverage, including part-time workers who are offered coverage.

The common practice of establishing coverage on the first of the month following a 90-day waiting period will no longer be allowed.

For new variable-hour employees, coverage must begin less than 14 months from the employee’s start date. Cumulative hours-of-service requirements are allowed if they do not exceed 1,200 hours. The 90-day waiting period may begin after the hours-of-service requirement is completed. Hours-of-service requirements must be one-time only and not applied to the same individual each year.
Does the 30 hour work week requirement to be eligible for an employer’s health plan only apply to companies with 50 full-time equivalent employees (FTEs)? Or does the 30 hour requirement also apply to companies under 50?

There is no penalty for companies with fewer than 50 full-time equivalent employees so there would be no reason for them to change their current practice should they wish to keep it in place.

If their circumstances were such that a combination of full-time employees (employees working 30 or more hours) and part-time employees gave them 50 or more FTEs then they could potentially end up with a penalty if they had not offered coverage to those working at least 30 hours and one of their employees who worked 30 hours or more enrolled through the individual exchange and qualified for a federal premium tax credit (a subsidy). Even in this situation it would still be the company's choice as to whether they decided to change their current practice or keep it in place and risk a potential penalty.

Can I provide my employees the required notice about the state exchange before the October 1st deadline?

Yes, you may provide the notice to your employees in advance of the October 1st deadline.

How can I provide the notice of the state exchange?

The guidance issued by the Department of Labor (DOL) indicates that this notice may be provided via first class mail and may be provided electronically.

If you choose to provide the notice electronically you must meet the DOL’s specific requirements. The DOL requires that electronic notices are done in a way that results in actual receipt of the notice, protects confidentiality, and is in the appropriate style that also relays the importance of the information. For example, only employees who have access to electronic documents at all their work locations who have also consented to electronic notice delivery may receive electronic notices. It is important to note that the DOL’s rules are specific and we suggest taking a closer look to see how the rules apply to your particular work environment. The DOL’s electronic disclosure safe harbor rules are available here: 29 CFR 2520.104b-1(c).