

# HEALTH CARE REFORM POLICY DOCUMENTATION

## PERSONAL EXEMPTION VERIFICATION

<b>This policy applies to:</b>	<input type="checkbox"/> MAGI Medicaid	<input type="checkbox"/> Cost Sharing Reductions
	<input type="checkbox"/> Non-MAGI Medicaid	<input type="checkbox"/> Qualified Health Plans (QHP)
	<input type="checkbox"/> Advanced Premium Tax Credits	<input checked="" type="checkbox"/> Individual Insurance Requirement Exemption
<b>Does this document reflect a change in policy?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No	

<b>Document Scope:</b>	This document describes the requirements for an individual to be exempt from the ACA individual mandate to maintain health insurance.
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DEFINITIONS		
Term	Definition	Comments

'AS IS' POLICY ASSESSMENT OF CURRENT POLICY	
Current Citations <i>List citation and link to underlying authority or embedded PDF</i>	Plain Language Synopsis of Citations
Current Policy	
None	
<b>References:</b> <i>Include links to HCPM sections, DHS web, bulletins or other relevant documentation of current policy.</i>	

'TO BE' POLICY ASSESSMENT UNDER ACA	
ACA Citations <i>List citation and link to underlying authority or embedded PDF</i>	Plain Language Synopsis of Citations
<a href="#">ACA § 1501/IRC 26 USC § 5000A(d)</a>	Under the ACA, applicable individuals must maintain health insurance. An applicable individual is an individual other than the following: <ul style="list-style-type: none"> <li>• A person eligible for a religious exemption under 1311(d)(4)(H) of the ACA which certifies that such an individual is:                             <ul style="list-style-type: none"> <li>○ A member of a recognized sect under <a href="#">1402(g)(1)</a> (explained below) and adheres to the teachings of such sect</li> </ul> </li> <li>• A person who is a member of a health care sharing ministry; a health care sharing ministry is defined as an organization:                             <ul style="list-style-type: none"> <li>○ Described in 501(c)(3) of the IRS code and is exempt from taxation under 501(a)</li> <li>○ In which members share a common set of ethical beliefs and share health care expenses</li> <li>○ In which members remain members after they develop a medical condition</li> <li>○ Which has been in continuous existence since 12/31/1999 and medical expenses of its member have been continuously shared since at least that time</li> </ul> </li> </ul>

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	<ul style="list-style-type: none"> <li>○ Which conducts an annual audit performed by an independent certified public accountant</li> <li>• Those not lawfully present</li> <li>• Those who are incarcerated</li> </ul> <p>Certain applicable individuals may receive an exemption from the individual mandate. The following individuals are exempted from the mandate:</p> <ul style="list-style-type: none"> <li>• Those who cannot afford coverage</li> <li>• Taxpayers with income below the filing threshold</li> <li>• Tribal members</li> <li>• Individuals with short coverage gaps; individuals can be without coverage for up to one three month period per year. If the period lasts longer than three months, no exemption is available for any of the months.</li> <li>• An individual deemed by the Secretary of HHS under 1311(d)(4)(H) to have suffered a hardship</li> </ul>
<p><a href="#">26 USC § 1402(g)(1)</a></p>	<p>(g) Members of certain religious faiths</p> <p>(1) Exemption</p> <p>Any individual may file an application (in such form and manner, and with such official, as may be prescribed by regulations under this chapter) for an exemption from the tax imposed by this chapter if he is a member of a recognized religious sect or division thereof and is an adherent of established tenets or teachings of such sect or division by reason of which he is conscientiously opposed to acceptance of the benefits of any private or public insurance which makes payments in the event of death, disability, old-age, or retirement or makes payments toward the cost of, or provides services for, medical care (including the benefits of any insurance system established by the Social Security Act). Such exemption may be granted only if the application contains or is accompanied by—</p> <p>(A) such evidence of such individual’s membership in, and adherence to the tenets or teachings of, the sect or division thereof as the Secretary may require for purposes of determining such individual’s compliance with the preceding sentence, and</p> <p>(B) his waiver of all benefits and other payments under titles II and XVIII of the Social Security Act on the basis of his wages and self-employment income as well as all such benefits and other payments to him on the basis of the wages and self-employment income of any other person, and only if the Commissioner of Social Security finds that—</p> <p>(C) such sect or division thereof has the established tenets or teachings referred to in the preceding sentence,</p> <p>(D) it is the practice, and has been for a period of time which he deems to be substantial, for members of such sect or division thereof to make provision for their dependent members which in his judgment is reasonable in view of their general level of living, and</p> <p>(E) such sect or division thereof has been in existence at all times since December 31, 1950.</p> <p>An exemption may not be granted to any individual if any benefit or other payment referred to in subparagraph (B) became payable (or, but for section 203 or 222(b) of the Social Security Act, would have become payable) at or before the time of the filing of such waiver.</p> <p>(2) Period for which exemption effective</p> <p>An exemption granted to any individual pursuant to this subsection shall apply with respect to all taxable years beginning after December 31, 1950, except that such exemption shall not apply for any taxable year—</p> <p>(A) beginning (i) before the taxable year in which such individual first met the requirements of the first sentence of paragraph (1), or (ii) before the time as of</p>

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	<p>which the Commissioner of Social Security finds that the sect or division thereof of which such individual is a member met the requirements of subparagraphs (C) and (D), or          (B) ending (i) after the time such individual ceases to meet the requirements of the first sentence of paragraph (1), or (ii) after the time as of which the Commissioner of Social Security finds that the sect or division thereof of which he is a member ceases to meet the requirements of subparagraph (C) or (D).          (3) Subsection to apply to certain church employees          This subsection shall apply with respect to services which are described in subparagraph (B) of section 3121 (b)(8) (and are not described in subparagraph (A) of such section).</p>
<a href="#">ACA § 1311(d)(4)(H)</a> <a href="#">45 CFR § 155.200(b)</a>	<p>The Exchange is responsible for determining and granting exemptions to the personal responsibility requirement</p>
<p>Exchange Final Rule, Vol. 77, No. 59, p. 18312, B. Structure of the Final Rule</p> <p>p.18324 a. Functions of an Exchange (§ 155.200)</p>	<p>Subjects included in the Affordable Care Act to be addressed in separate rulemaking include but are not limited to: (1) Standards outlining the Exchange process for issuing certificates of exemption from the individual responsibility policy and payment under section 1411(a)(4)...</p> <p>Comment: Numerous commenters recommended standards related to the certificates of exemption described in § 155.200 (b) of the proposed rule.</p> <p>Response: As noted in the preamble to the proposed rule, we intend to address certificates of exemption and implementation section 1311(d)(4)(H) and 1411 of the Affordable Care Act through future rulemaking.</p>
<b>'To Be' Policy</b>	
<b>MAGI</b>	n/a
<b>Non-MAGI</b> (Applies Across Medicaid)	n/a
<b>Advanced Premium Tax Credits</b>	n/a
<b>Cost Sharing Reductions</b>	n/a
<b>Qualified Health Plans</b>	n/a
<b>Individual Insurance Requirement Exemption</b>	<p>Note: CMS is planning to issue additional rules regarding the Exchange process for issuing certificates of exemption. There remain many unknowns regarding the level of verifications needed in order to qualify for an exemption, how the process will work, and when/how the Certificates of Exemption will be issued.</p> <p>Beginning January 1, 2014, the Affordable Care Act (ACA) mandates most individuals to maintain minimum essential coverage (MEC) for themselves and their dependents. Individuals may obtain MEC from a government-sponsored program, an eligible employer-sponsored plan, a qualified health plan (QHP) purchased through the Exchanges, a grandfathered health plan, or other coverage such as a state health benefits risk pool. Individuals who fail to retain health insurance for themselves and their dependents will be subject to tax penalties for every month they do not have coverage.</p> <p>The following groups may be exempt from the individual insurance requirement:</p> <ul style="list-style-type: none"> <li>• Members of certain religious groups</li> <li>• Members of health care sharing ministries</li> <li>• Noncitizens not lawfully present in the U.S.</li> </ul>

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- Incarcerated individuals
- Individuals who cannot afford coverage
- Individuals who face hardships
- Individuals with incomes below the Internal Revenue Service (IRS) tax filing threshold
- Members of American Indian tribes
- Individuals with short coverage gaps

### Verification Requirements for Individual Insurance Requirement Exemption

The Exchange will be responsible for determining and granting an exception to the individual insurance requirement. Individuals who do not have MEC must utilize the Exchange to apply for Insurance Affordability Programs, enroll in a Qualified Health Plan without financial assistance, or to apply for an exemption from the individual insurance requirement. Individuals who do not maintain MEC or meet an exemption will be subject to tax penalties.

The Exchange must first provide the option to request an exemption prior to completion of the streamlined application. For individuals who are determined to be exempt, the Exchange will issue a certificate of exemption and will likely be required to notify the IRS when an exception to the mandate is granted. This will likely be done electronically through the Federal Data Hub. If the person indicates he or she is requesting an exemption, an acceptable exemption reason must be provided and supporting documentation may be required.

See also the [Additional ACA Verification Beyond MAGI](#) and [Overview – Individual Mandate](#) documents.

In order to qualify for the individual insurance requirement exemption, individuals must meet one of the following exemption reasons and must submit necessary verification.

### Exemption Reasons

#### 1. Members of Certain Religious Groups

Individuals are exempt from the individual insurance requirement if they are a member of a recognized religious sect or divinity described in [Section 1402 \(g\) \(1\) of IRS Tax Code](#).

Required Verification: Individuals seeking an exemption under IRC §1402 from certain taxes due to membership in religious groups must file an application with the IRS. A possible verification item for purposes of the exemption from the individual mandate may be a copy of the approved application from the IRS or electronic verification through the Federal Data Hub, if available.

#### 2. Members of health care sharing ministries

Members of health care sharing ministries are exempt from the individual mandate. A health care sharing ministry is defined in IRS code 501(c)(3) as an organization whose:

- Members share a common set of ethical beliefs, share health care expenses and remain members after they develop a medical condition;
- Has been in continuous existence since prior to December 31, 1999 and the medical expenses of members have been continuously shared since at least that time; and
- Conducts an annual audit performed by an independent certified public accountant.

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Required Verification: Self-attestation that the individual is a member of a 501(c)(3) organization will likely be sufficient. The 501(c)(3) status of the ministry can be verified online using the [IRS Exempt Organization Select Check](#). In order to verify status individuals will need to provide the ministry's EIN as that is the best way to search.

### 3. **Noncitizens who are not lawfully present**

Noncitizens who are not lawfully present in the United States are exempt from minimum essential coverage requirements.

Required Verification: Accept self-attestation

### 4. **Incarcerated Individuals**

Incarcerated individuals are not eligible to enroll in a qualified health plan through the Exchange and are exempt from the individual mandate during the months they are in jail.

Required Verification: Accept self-attestation

### 5. **Individuals who cannot afford coverage.**

For individuals who are offered eligible employer-sponsored coverage, health coverage is unaffordable, if for any month, an individual's required contribution exceeds 9.5 percent of their household income for the taxable year. If the cost of self-only coverage is affordable but family coverage is not, the individual is subject to penalty but their dependents will not incur penalties.

For individuals with access to coverage only through the Exchange, coverage is unaffordable if the required contribution of "the lowest cost bronze level plan, minus any potential premium subsidies, exceeds 8 percent of the taxpayer's household income".

Required Verification: Verification of income and the monthly contribution amount will be needed for any plan available through an employer. If no plan is available through the employer, the Exchange will compare against the cost of a bronze plan reduced by available APTC. Additional guidance is needed about this exemption. This may require a separate eligibility determination which could be done prior to applying for IAPs or during the process.

### 6. **Individuals who face hardships**

Under [Section 1311 \(d\) \(4\) \(H\) of the ACA and IRS Tax Code 5000A \(5\)](#), an individual may be determined by the Secretary of Health and Human Services (HHS) to have suffered a hardship that affects their ability to obtain coverage. This definition of hardship is not yet provided.

Required Verification: A copy of the HHS hardship determination obtained electronically through the Federal Data Hub (?). Awaiting additional CMS guidance on this exemption.

### 7. **Individuals with incomes below the Internal Revenue Service (IRS) tax filing threshold**

An individual whose household income is under the tax filing threshold will be exempt from having to purchase coverage.

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	<p>Required Verification: Self-attestation that income is expected to be below the filing threshold is likely sufficient. Could also use Federal Data Hub to access previous year's taxes to determine if the person's claim is consistent with taxes.</p> <p><b>8. Members of American Indian Tribes</b></p> <p>Members of American Indian Tribes are exempt as long as they remain members of the tribe.</p> <p>Required Verification: Verify tribal status via documentation or any electronic source established by HHS.</p> <p><b>9. Individuals with short coverage gaps</b></p> <p>Individuals can be without coverage for less than three continuous months per year. If the period lasts longer than three months, no exemption is available for any of the months.</p> <p>Required Verification: Absent electronic data exchanges, clients could be required to submit certificates of coverage demonstrating the period of non-coverage was 3 months or less. Alternately, self-attestation may be acceptable.</p>
<b>How will the 'to be' policy affect or apply to:</b>	
<b>New applicants</b>	People who do not have employer-sponsored insurance, regardless of whether they are claiming an exemption, will use the Exchange to do one of the following: apply for Insurance Affordability Programs, enroll in a QHP, or seek an exemption from the individual insurance requirement. The streamlined application will likely need to first ask what the person is applying for including IAPs and the exemption. If the person indicates they are requesting an exemption, they will need to choose from an acceptable exemption reason and may be required to provide supporting documentation as described in the "to be" section above. CMS guidance regarding the process for claiming an exemption and level of detail of verification required is needed to further develop this policy.
<b>Current Enrollees</b>	Current enrollees who close from an IAP must cooperate with the individual insurance requirement by enrolling in minimum essential coverage or meeting an exemption from the mandate, or may face a tax penalty. The closing notice will need to include language explaining the individual insurance requirement.
<b>Application Process</b>	See new applicants
<b>Eligibility Begin Date</b>	n/a
<b>Renewals</b>	If a person gains an exemption, they will have the option to opt out of coverage at any time, but will need to provide the reason for the exemption and supporting documentation. The exchange will grant the exemption.
<b>Verification Requirements</b>	See Individual Insurance Requirement Exemption "to be"
<b>Social Security Number</b>	n/a
<b>Citizenship Status</b>	n/a
<b>Immigration Status</b>	Noncitizens who are not lawfully present are exempt from the individual insurance requirement.
<b>Insurance, TPL &amp; Benefit Recovery</b>	n/a
<b>State Residency</b>	n/a
<b>Household Composition</b>	n/a
<b>Income and Asset Guidelines</b>	Individuals with income below the tax filing threshold are exempt from the individual insurance requirement.
<b>Income and Asset</b>	n/a

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<b>Deeming</b>	
<b>Income Calculation</b>	n/a
<b>Spenddowns and Obligations</b>	n/a
<b>Premiums</b>	n/a
<b>Covered Services</b>	n/a
<b>Service Delivery</b>	n/a
<b>End of Eligibility</b>	When a Medicaid or APTC enrollee becomes ineligible and claims an exemption, may need to provide verification of exemption reason. Coordination between granting the exemption and program closure will be necessary.
<b>Other Requirements</b>	n/a
<b>Relationship to Other Programs, Groups or Bases</b>	n/a
<b>Other Reference Material</b> <i>Include links to flowcharts, tables, issue briefs, etc.</i>	
	<a href="#">Mandate Flowchart</a> <a href="#">AP-Certification Periods</a> <a href="#">OT-Individual Mandate</a>

<b>Change in State Law Needed?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Detail of State Law Change</b>	
<b>Federal Compliance Considerations?</b>	<input type="checkbox"/> State Plan Option <input type="checkbox"/> Waiver <input type="checkbox"/> Other <input checked="" type="checkbox"/> None
<b>Detail of Federal Compliance Considerations</b>	