



HEALTH CARE BULLETIN

HIGHLIGHTS

- New Jersey became the second state to enact its own individual mandate penalty.
- Beginning in 2019, New Jersey residents will be penalized for failing to obtain health coverage.
- New Jersey also established a reinsurance program to reimburse carriers in the state for certain claims costs.

IMPORTANT DATES

May 30, 2018

New Jersey enacted two new laws designed to stabilize and reduce individual health insurance premiums.

January 1, 2019

The state's individual mandate takes effect.

NEW JERSEY ENACTS STATE INDIVIDUAL MANDATE AND REINSURANCE PROGRAM

OVERVIEW

On May 30, 2018, New Jersey Gov. Phil Murphy signed two bills into law that are designed to stabilize and reduce health insurance premiums in the individual market.

- ✓ The [New Jersey Health Insurance Market Preservation Act](#) is a **state individual mandate**, requiring individuals in New Jersey to maintain acceptable health coverage or pay a penalty, effective in 2019.
- ✓ The [New Jersey Health Insurance Premium Security Act](#) establishes a **health insurance reinsurance plan** in the state. New Jersey intends to seek federal funding for this program through a Section 1332 State Innovation Waiver made available under the Affordable Care Act (ACA).

ACTION STEPS

These new laws are among the first state laws passed in response to changes made to the federal ACA. New Jersey is only the second state to enact its own health insurance individual mandate. Individuals in New Jersey should ensure that they are in compliance with the state individual mandate beginning in 2019.

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State Individual Mandate

Effective beginning in 2019, the New Jersey Health Insurance Market Preservation Act imposes a state individual mandate that largely mirrors the ACA's federal individual mandate requirement. The ACA's individual mandate penalty has been effectively eliminated beginning in 2019.

New Jersey's individual mandate **requires most individuals in the state (and their family members) to be covered under minimum essential coverage for each month of the year**, beginning in 2019. Individuals that don't obtain acceptable health insurance coverage will be penalized.

Notably, the new law provides that the state individual mandate penalty will not be enforced for any tax year in which the ACA's federal premium tax credits become unavailable.

Minimum Essential Coverage

For purposes of the New Jersey individual mandate, the term "minimum essential coverage" (MEC) has the same definition as under the ACA.

The state individual mandate penalty will be calculated as the greater of the flat dollar amount (\$695) or the percentage of income amount (2.5 percent).

MEC includes coverage under:

- ✓ A **government-sponsored program**, such as coverage under the Medicare or Medicaid programs, the Children's Health Insurance Program (CHIP), TRICARE and certain types of veterans' health coverage;
- ✓ An **eligible employer-sponsored plan** (including a self-funded plan, COBRA and retiree coverage), defined as any plan offered by an employer to an employee which is a governmental plan or a plan or coverage offered in the small or large group market within a state;
- ✓ A **health plan purchased in the individual market**; or
- ✓ A **grandfathered health plan**.

Health coverage provided under a multiple employer welfare arrangement (MEWA) does not qualify as MEC unless it complies with specific New Jersey state law requirements for these types of plans.

The Penalty Amount

New Jersey's individual mandate penalty is calculated in the same manner as the ACA's individual mandate. The penalty is the *greater of two amounts*—the flat dollar amount (**\$695**) or the percentage of income amount (**2.5 percent of income**). For purposes of calculating the penalty, income is the taxpayer's household income minus any exemption (or exemptions, for a married couple) and standard deductions.

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Families will pay half the penalty amount for children, up to a family cap of three times the annual flat dollar amount. Also, the penalty is capped at the New Jersey state average of the annual bronze plan premium.

Affected Individuals

The requirement to maintain MEC applies to individuals of all ages (including children), unless that individual falls within a specific exception or is exempt. An individual is treated as having coverage for a month if he or she has coverage for any one day of that month.

The following categories of individuals are exempt from the New Jersey individual mandate penalty:

- ✓ Individuals who cannot afford coverage;
- ✓ Taxpayers with income below the New Jersey tax filing threshold;
- ✓ Nonresident taxpayers;
- ✓ Religious conscience objectors;
- ✓ Members of a health care sharing ministry;
- ✓ Incarcerated individuals;
- ✓ Individuals not lawfully present in the United States; and
- ✓ Individuals who experience a hardship.

An individual who is eligible for an exemption for any one day of a month is treated as exempt for the entire month.

Reporting Requirement

To help administer the individual mandate penalty, the New Jersey Health Insurance Market Preservation Act imposes a reporting requirement on every entity that provides MEC to an individual during a calendar year, similar to the ACA's reporting requirement under Internal Revenue Code Section 6055. This reporting requirement applies to:

- ✓ Employers or other sponsors of employment-based health plans, for employment-based MEC;
- ✓ The New Jersey Department of Human Services, for the NJ FamilyCare Program; and
- ✓ Carriers licensed or otherwise authorized to offer health coverage, for coverage they provide that is not described above.

Under this reporting requirement, entities that provide MEC will be required to **provide the following information to covered individuals and the New Jersey state treasurer:**

- ✓ The name, address and Social Security number (SSN) or taxpayer identification number (TIN) of the primary insured, and the name and SSN or TIN of each other individual covered under the policy;
- ✓ The dates during which that individual was covered under MEC during the calendar year; and
- ✓ Any other information the state treasurer may require.



Enforcement

In November of each year, the New Jersey state treasurer will send a notification to each taxpayer who files a gross income tax return indicating whether the taxpayer or one of the taxpayer's dependents is not enrolled in MEC as required. That notification will contain information on the services available to obtain coverage, including through the state's federally-facilitated Exchange.

The New Jersey state individual mandate penalty will generally be assessed and collected in the same manner as New Jersey state taxes.

State Reinsurance Program

The New Jersey Health Insurance Premium Security Act establishes a health insurance reinsurance plan in the state, called the **Health Insurance Premium Security Plan**. The state program is intended to stabilize or reduce premiums in the individual health insurance market. The program essentially replaces the ACA's federal reinsurance program, which expired in 2017 and is no longer operational.

New Jersey intends to apply for federal funding through a Section 1332 State Innovation Waiver to implement the state reinsurance program. These waivers are intended to allow states the flexibility to pursue innovative strategies for providing their residents with access to high-quality, affordable health insurance, while retaining the basic protections of the ACA.

The state reinsurance program will allow carriers in the state to apply for reimbursement of a portion of their claims costs for the year.

The Health Insurance Premium Security Plan will allow carriers in the state to apply for reinsurance payments as reimbursement of a portion of their claims costs for the year. Each reinsurance payment is calculated based on an eligible carrier's incurred claims costs for an individual enrollee's covered benefits during the year. Any reinsurance payments will be paid to carriers by Aug. 15 of the following year.