

Ohio health insurance basics

A closer look at open enrollment for small businesses in 2014

Small businesses have experienced challenges in offering health insurance to employees, caused in large part by rising premium rates but, in some cases, by the inability to obtain coverage. As a result, just 39.5 percent of Ohio businesses with fewer than 50 employees provided health insurance as a benefit in 2012.¹ While the Affordable Care Act generally requires insurers to offer coverage to every small business that applies, the law also includes exceptions that prevent some small employers from obtaining coverage. Minimum participation and contribution requirements are examples of such exceptions.

However, federal regulations create an annual open enrollment period from Nov. 15 to Dec. 15 during which health insurers cannot deny coverage to small businesses that fail to meet minimum participation or contribution requirements, as defined by either the federal government (in the federally facilitated Small Business Health Options Program, or FF-SHOP) or the health insurer (outside of the FF-SHOP).²

In order for small businesses to have the fullest array of choices both inside and outside of the FF-SHOP, they must act during this Nov. 15 to Dec. 15 time frame.

Background

As a result of the ACA and decisions made by Ohio policymakers, there will be two separate health insurance marketplaces offered in Ohio for 2014: a federally facilitated marketplace, or FFM, for individuals and a FF-SHOP marketplace for small employers (limited to businesses with 50 or fewer full-time employees). Purchasing a health plan through the FF-SHOP marketplace provides small businesses with a number of benefits that are not available outside of the marketplace, including:

- A standardized method for comparing health plan price, coverage and quality
- The ability to enroll in certified qualified health plans
- The potential to earn small business health care tax credits

As of Nov. 11, 2013, the FF-SHOP marketplace website is not fully functional. According to CMS director Marilyn Tavenner, it is expected to be functional by the end of November.³ Some basic plan information for the FF-SHOP is available at <https://www.healthcare.gov/find-premium-estimates/>. Ohio FF-SHOP issuers are Anthem Blue Cross and Blue Shield, AultCare, HealthSpan, Kaiser Permanente, Medical Mutual of Ohio and SummaCare.

Who is a small employer?

In Ohio, a small employer for purposes of health coverage is an employer who employs an average of at least one but not more than 50 employees until 2016, at which time the number increases to 100 employees.⁴ Sole proprietors are excluded from this definition. Starting in 2014, only small employers with 50 or fewer full-time employees can enroll in the FF-SHOP. In 2016, the FF-SHOP will expand to small employers with 100 or fewer full-time employees.⁵

What is a Qualified Health Plan?

A qualified health plan, or QHP, is a health plan certified by the marketplace that meets minimum standards of quality, value, and benefit design.

What are the minimum participation and contribution requirements for small groups?

A minimum participation requirement is the minimum number of employees or dependents that a health insurer requires to be enrolled in a health plan in relation to a specified percentage or number of eligible individuals or employees. For example, a minimum participation requirement of 70 percent may mean 70 percent of eligible employees who have not already enrolled in other coverage must enroll.

A minimum employer contribution requirement sets a minimum level an employer must contribute towards its employees' health plan premium.⁶ For example, a minimum contribution requirement of 60 percent means the employer must pay for at least 60 percent of the cost of coverage for employees.

In Ohio, state law allows health insurers offering plans outside of the FF-SHOP to set minimum participation and employer contribution requirements.⁷ As a result, health insurers can deny coverage to businesses that do not meet minimum requirements. These requirements typically vary from one health insurer to another.

However, in a FF-SHOP, the minimum participation rate for employers and across health insurers is uniformly set at 70 percent.⁸ Consequently, in Ohio, minimum participation requirements can vary by health insurer outside of the FF-SHOP marketplace, but are set at 70 percent for small businesses purchasing health plans via the FF-SHOP marketplace.

How is the FF-SHOP marketplace 70 percent minimum participation rate calculated?

The minimum participation rate for the FF-SHOP is calculated by dividing the number of qualified employees accepting coverage under the employer's group health plan by the number of qualified employees offered coverage.⁹ In the FF-SHOP, employees with certain types of alternative coverage are excluded from the 70 percent minimum participation rate calculation.

This includes employees with:

- A group health plan offered by another employer
- A governmental program such as Medicare, Medicaid, or TRICARE¹⁰

Employees with coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA) and employees with individual coverage, including coverage purchased on the individual marketplace, are included in the minimum participation rate calculation.¹¹

For small businesses with worksites in multiple states that establish one FF-SHOP account serving all worksites, employees in all states are considered when calculating a small business' minimum participation rate. Conversely, for small businesses that establish multiple FF-SHOP accounts in each state where their employees have a primary worksite, employees on each employee roster in each state are considered separately when calculating the minimum participation rate.¹²

A small business that originally meets but then falls below the 70 percent minimum participation rate for the FF-SHOP during the plan year will be allowed to continue its coverage for the plan year through the FF-SHOP. Minimum participation rates for the FF-SHOP are reviewed only once a year, either at the time of enrollment or upon renewal.

Annual special enrollment period in the small group market

Starting in 2013, federal regulations provide small businesses with an annual special enrollment period that applies both inside and outside of the FF-SHOP marketplace. During this annual special enrollment period, set from Nov. 15 through Dec. 15 of each year, health insurers cannot deny coverage to a small business that fails to meet a health insurer's minimum participation or contribution requirements.¹³ As a result, small businesses in Ohio are able to enroll in small group coverage issued both inside and outside of the SHOP

What are small business health care tax credits?

Small business health care tax credits have been available since 2010 to small businesses with no more than 25 employees who have average annual wages of \$50,000 or less, and who contribute at least 50 percent toward the health insurance plan premium for their employees. For 2010 through 2013, the tax credit covers up to 35 percent of an eligible, for-profit small employer's contribution to health insurance, and 25 percent of a nonprofit employer's premium contribution. Beginning in 2014, the small business tax credits are increased to up to 50 percent of premium for for-profit businesses and up to 35 percent for eligible non-profits; however, tax credits will only be available to employers who purchase their health plans via the FF-SHOP marketplace.

marketplace during this enrollment period, even if they do not meet a health insurer's minimum group participation or employer contribution requirements.¹⁴

However, as it currently stands under the ACA, a health insurer can choose to non-renew a small business' coverage in the subsequent year if the business does not meet the insurer's minimum group participation and employer contribution requirements.¹⁵ This provision applies regardless of whether the small business originally enrolled during the Nov. 15 to Dec. 15 special enrollment period. The nuances of this law are unclear however, because a small business could potentially reapply and be guaranteed enrollment in coverage again during the special enrollment period.

Additional Resources

- To find an agent or broker:
<http://healthbenefitsohio.com/consumer.php>
- Small Business Majority:
<http://www.smallbusinessmajority.org/>

For the full **Ohio Insurance Basics** publication, please visit <http://bit.ly/Rnhrc>.

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Notes

1. Kaiser Family Foundation State Health Facts

2. 45 CFR § 147.104(b)(1)

3. J.D. Harrison, "Small business healthcare exchange delayed, again," Washington Post, October 30, 2013, accessed Nov. 12, 2013, http://www.washingtonpost.com/business/on-small-business/delayed-again-critical-function-of-health-care-laws-small-business-exchange-pushed-back/2013/10/30/c8a3f414-416e-11e3-a624-41d661b0bb78_story.html

4. 45 CFR § 144.103

5. "Plan Management Toolkit (question 78)," Ohio

Department of Insurance, accessed November 12, 2013,

<https://www.insurance.ohio.gov/Company/Pages/planmanagementtoolkit.aspx>

6. ORC §3924.03(E)(1).

7. ORC §3924.03(E)(1).

8. 45 C.F.R. §155.705(b)(10). There is no minimum contribution rate set for the FF-SHOP marketplace. Additionally, issuers cannot impose minimum contribution rates for groups participating in the FF-SHOP. The 70 percent minimum participation rate for the FF-SHOP does not apply to standalone dental coverage.

9. 45 C.F.R. §155.705(b)(10).

10. See 45 C.F.R. §155.705(b)(10).

11. Frequently Asked Questions (FAQs #3) Release Date: July 30, 2013, RegTap (accessed Nov. 10, 2013).

12. Frequently Asked Questions (FAQs #2) Release Date: July 5, 2013, RegTap (accessed Nov. 10, 2013).

13. 45 CFR §147.104(b)(1).

14. 45 CFR §147.104(b)(1).

15. 45 CFR §147.106.