Will you owe a penalty under Obamacare?

The federal penalty for being uninsured no longer applies in 2019, but some states are implementing their own coverage mandates

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Key takeaways

- State penalties: Massachusetts, Washington, DC, New Jersey, California, and Rhode Island have penalties.
- There is no longer a federal penalty for being uninsured.
- 4 million tax filers were subject to a penalty for being uninsured in 2016
- Penalties were capped at the national average cost of a bronze plan; states with individual mandate penalties are generally using the state's average bronze plan rate as a maximum penalty.

Federal tax return no longer asks about health coverage, but some state returns include that question and Form 8962 is still applicable if you get a premium subsidy.

No longer a federal penalty, but some states impose a penalty on residents who are uninsured

Although there is no longer an individual mandate penalty – or "Obamacare penalty" – at the federal level, some states have implemented their own individual mandates and associated penalties:

Massachusetts implemented an individual mandate in 2006, and it's remained in effect ever since. The state has not double-penalized people while the federal mandate penalty was in effect, but starting in 2019, the state once again began assessing penalties on people who are uninsured and not exempt. The penalty in Massachusetts is calculated as 50 percent of the cost of the lowest-cost plan that the person could have purchased. There's no penalty if your income is up to 150 percent of the poverty level. If your income is between 150.1 and 300 percent of the poverty level, your penalty is 50 percent of the premium for the lowest-cost ConnectorCare plan, and if your income is over 300 percent of the poverty level, your penalty is 50 percent of the cost of the lowest-cost bronze plan available through the Massachusetts Health Connector. Revenue generated from the penalty is used to help cover the cost of ConnectorCare coverage for people with income under 300 percent of the poverty level.

New Jersey has implemented an individual mandate, effective in 2019, with a penalty modeled on the ACA's penalty. The maximum penalty is based on the average cost of a bronze plan in New Jersey. Revenue generated from the penalty is used to fund the state's new reinsurance program.

The City Council in the **District of Columbia** approved an individual mandate, with a penalty modeled on the ACA's penalty. The measure was signed into law by Mayor Muriel Bowser in September 2018, and took effect in January 2019. The maximum penalty is based on the average cost of a bronze plan in DC. Revenue from the penalty is used for outreach and enrollment assistance, as well as programs that improve the availability and affordability of coverage in the District.

help cover the cost of the state's new premium subsidies, which extend to higher income levels than the ACA's premium subsidies.

Rhode Island has an individual mandate as of 2020, with a penalty modeled on the ACA's penalty. Revenue collected via the penalty is used to fund the state's new reinsurance program.

Vermont enacted legislation to create an individual mandate as of 2020, but lawmakers failed to agree on a penalty for non-compliance, so although the mandate took effect in 2020, it has thus far been essentially toothless (the same as the federal individual mandate, which remains in effect but has no penalty for non-compliance). Vermont could impose a penalty during a future legislative session, but the most recent legislation the state has enacted (H.524/Act63, in June 2019) calls for the state to use the individual mandate information that tax filers report on their tax returns to identify uninsured residents and "provide targeted outreach" to help them obtain affordable health coverage.

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2014-2018: Everything you need to know about the federal individual mandate penalty

Although the ACA included provisions to make it easier to buy health insurance – including Medicaid expansion, premium subsidies, and guaranteed-issue coverage – it also included an individual mandate that requires Americans to purchase health coverage or face a tax penalty, unless they were eligible for an exemption).

The Supreme Court just upheld the ACA. Should marketplace insurance buyers breathe a sigh of relief?

But the GOP tax bill that was signed into law in late 2017 repealed the individual mandate penalty, starting in 2019 (See Part VIII, Section 11081 of the text of the Tax Cuts and Jobs Act). Although the law was enacted in 2017, there was a delay of more than a year before the Obamacare penalty repeal took effect, and people who were uninsured in 2018—after the law was enacted—still had to pay the individual mandate penalty when they filed their tax returns in 2019.

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The individual mandate penalty helped to keep premiums lower than they would otherwise have been. There was no Obamacare penalty back when insurers were allowed to reject applicants with pre-existing conditions, but with coverage now guaranteed-issue, it was important to have a mechanism to ensure that healthy people would remain in the pool of insureds. The individual mandate was part of that, but the ACA's premium subsidies are likely playing an even larger role, as they keep coverage affordable for most middle-class enrollees, regardless of whether they're healthy or not.

The Congressional Budget Office has estimated that premiums in the individual market will generally trend 10 percent higher without the individual mandate penalty than they would have been with the penalty. Unsurprisingly, most of the rate filings for 2019 included a rate increase related to the elimination of the penalty. That is now baked into the standard premiums going forward, so the higher rates apply in future years as well.

before the ACA, and didn't need to worry about the penalty for being uninsured.

It's worth noting that the elimination of the individual mandate penalty is the crux of the Texas v. US (California v. Texas) lawsuit, which seeks to overturn the entire ACA. The case was heard by the Supreme Court in November 2020, and a ruling is expected in the spring or early summer of 2021.

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Uninsured tax filers were more likely to get an exemption than a penalty

Although there were still 33 million uninsured people in the US in 2014, the IRS reported that just 7.9 million tax filers were subject to the penalty in 2014 (out of more than 138 million returns). According to IRS data, 12 million filers qualified for an exemption.

The number of filers subject to the ACA's penalty was lower for 2015 (on returns that were filed in 2016), as overall enrollment in health insurance plans had continued to grow. The IRS reported in January 2017 that 6.5 million 2015 tax returns had included individual shared responsibility payments. But far more people—12.7 million tax filers—claimed an exemption for the 2015 tax year. For 2016, the IRS reported that 10.7 tax filers had claimed exemptions by April 27, 2017, and that only 4 million 2016 tax returns had included a penalty at that point.

A full list of exemptions and how to claim them is available here, including a summary of how the Trump administration made it easier for people to claim hardship exemptions (hardship exemptions continue to be important in 2019 and beyond, as they're necessary for people age 30 and older to be able to purchase catastrophic health insurance plans).

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Most Americans weren't affected by the penalty

As noted above, only 4 million tax returns for 2016 included the ACA's individual mandate penalty (as of late April, 2017; people who got a tax filing extension hadn't yet filed by that point, so the total number of filers who owed a penalty likely ended up higher than 4 million). The vast majority of tax filers had health

Most Americans already get health insurance either from an employer or from the government (Medicaid, Medicare, VA); they didn't need to worry about the penalty because employer-sponsored and government-sponsored health insurance count as minimum essential coverage.

Individual market major medical plans available on or off-exchange are considered minimum essential coverage, and so are grandfathered plans and grandmothered plans. And although health care sharing ministries are not considered minimum essential coverage, people with sharing ministry coverage were eligible for one of the exemptions under the ACA.

Plans that aren't considered major medical coverage are not subject to the ACA's regulations, and do not count as minimum essential coverage, meaning people were subject to the penalty if they relied on something like a short-term plan and were not otherwise exempt from the Obamacare penalty. Things like accident supplements and prescription discount plans may be beneficial, but they do not fulfill the requirement to maintain health insurance.

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How big were the penalties?

The IRS reported that for tax filers subject to the penalty in 2014, the average penalty amount was around $210. That increased substantially for 2015, when the average penalty was around $470. The IRS published preliminary data showing penalty amounts on 2016 tax returns filed by March 2, 2017. At that point, 1.8 million returns had been filed that included a penalty, and the total penalty amount was $1.2 billion — an average of about $667 per filer who owed a penalty.

Although the average penalties are in the hundreds of dollars, the ACA's individual mandate penalty is a progressive tax: if a family earning $500,000 decided not to join the rest of us in the insurance pool, they would have owed a penalty of more than $16,000 for 2018. But to be clear, the vast majority of very high-income families do have health insurance.

Today, the median net family income in the United States is roughly $56,500 (half of U.S. families earn less; half earn more.) For 2018, the penalty for a middle-income family of four earning $60,000 was $2,085 (the flat-rate penalty would have been used, because it was larger than the percentage of income their income.

The penalty could never exceed the national average cost for a bronze plan, though. The penalty caps are readjusted annually to reflect changes in the average cost of a bronze plan:

> The IRS announced in Revenue Procedure 2015-15 that the maximum 2015 penalty was $2,484 for a single individual and $12,420 for a family of five or more (both slightly higher than the maximum penalty amounts for 2014).
>
> For 2016, Revenue Procedure 2016-43 increased the maximum penalty to $2,676 for a single individual, and $13,380 for a family of five or more, if they were uninsured in 2016.
>
> For 2017, Revenue Procedure 2017-48 increased the maximum penalty to $3,264 for a single individual, and $16,320 for a family of five or more. The significant rate increases that we saw for 2017 (roughly 25 percent) mean that the average bronze plan was quite a bit more expensive in 2017 than it was in 2016. And that means that the maximum penalty was also quite a bit higher.
>
> Rates increased considerably again for 2018, although the bulk of the rate increase was on silver plans (due to the elimination of federal reimbursement for cost-sharing reductions). According to Revenue Procedure 2018-43, the national average cost of a bronze plan increased to $3,396 in 2018 for a single individual and $16,980 for a family of five or more. This is the last year that the IRS had to calculate the national average cost of a bronze plan, since the federal individual mandate penalty no longer applies as of 2019. But as noted above, several states have or are implementing individual mandates with maximum penalties based on the average local cost of a bronze plan.

The maximum penalties rarely applied to very many people, since most wealthy households were already insured.

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No longer a question on federal tax return about health coverage (but it's still on some state returns, and Form 8962 is still applicable if you get a premium subsidy)

From 2014 through 2018, the federal Form 1040 included a line where filers had to indicate whether they had health insurance for the full year (see the upper right corner, under the spaces for Social Security numbers).

But state tax returns for DC, Massachusetts, New Jersey, California, and Rhode Island do include a question about health coverage. Maryland's tax return also asks about health insurance coverage, in order to try to connect uninsured residents with affordable coverage. Colorado's tax return will have a similar feature as of early 2022 (but Maryland and Colorado do not penalize residents who don't have health insurance).

In addition, nothing has changed about premium subsidy reconciliation on the federal tax return. People who receive a premium subsidy (or those who enroll through the exchange in a full-price plan but want to claim the subsidy at tax time) will continue to use Form 8962 to reconcile their subsidy. Exchanges, insurers, and employers will continue to use Forms 1095-A, B, and C to report coverage details to enrollees and the IRS.

How the penalty worked

[*Note that in most cases, the states that are implementing their own individual mandates are following this same basic outline in terms of how the penalty works, with the details based on the federal penalty levels that applied in 2018.*] Your individual mandate tax is the **greater** of either 1) a flat-dollar amount based on the number of uninsured people in your household; or 2) a percentage of your income (up to the national average cost of a Bronze plan , as determined by the IRS and adjusted annually to reflect changes in premiums).

This means wealthier households will wind up using the second formula, and may be impacted by the upper cap on the penalty. For example: for 2017, an individual earning less than $37,000 would pay just $695 (flat-dollar calculation) while an individual earning $200,000 would pay a penalty equal to the national average cost of a bronze plan ($3,396 for 2018). This is because 2.5% of his income above the tax filing threshold would work out to about $4,740, which is higher than the national average cost of a bronze plan. The IRS publishes the national average cost of a bronze plan in August each year; that amount is used to calculate penalty amounts when returns are filed the following year.

1) Flat-dollar amount

2) Percentage of

$695 in 2016) plus half that amount for each uninsured child under age 18. Your total household penalty is capped at three times the adult rate, no matter how many children you have.

In 2014, that was $285 ($975 in 2015, and $2085 in 2016). Starting in 2017, the flat-rate penalty is subject to annual adjustment for inflation. But for 2017, the IRS confirmed that there was no inflation adjustment, so the flat-rate penalty continued to be $695 per adult in 2017, with a maximum of $2,085 per family. And for 2018, that was once again the case, as the IRS confirmed that the flat rate penalty would remain unchanged in 2018. After 2018, there is no longer be a penalty imposed by the IRS, although New Jersey, Massachusetts, and DC now impose their own penalties; California and Rhode Island will join them in 2020.

In 2014, the penalty was 1 percent. It rose to 2 percent in 2015, and to 2.5 percent for 2016 and beyond.

The penalty is capped at the average cost of a Bronze plan, which for 2018 was $3,396 for an individual and $16,980 for a family of five or more (those maximum amounts are prorated monthly for tax filers who were uninsured for only part of the year). The percentage of income penalty is calculated based on the household's income above the tax filing threshold.

For most people, "household income" is simply adjusted gross income from Form 1040. But if you have non-taxable Social Security benefits, tax-exempt interest, or foreign earned income and housing expenses for Americans living abroad, you'll need to add those amount to your AGI from your 1040. Be sure to include income from any dependents who are required to file a tax return.

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Jncle Sam 1 year ago

1.8million people paying average of $667.00 comes to the $1.2billion. That comes to a whole $60.00 per uninsured person. I have a hard time believing 20 million people were insured for an entire year for $60.00 each. And if they were, that explains why everyone elses co-pays and premiums were through the roof.
So where did the rest of the money come from and go? How many people were slow to pay there taxes that year to delay the Obamacare penalty? And why were only 20million of 47million insured?
People with no insurance had to pay a penalty, out of their tax return, so other people with no insurance could have insurance. And the people with insurance had their co-pays and premiums hiked to the stars. Let us also not forget how Congressmen gave themselves immunity to these rate hikes and penalties. So to say only 1.4 of the population payed for it, is absolute hogwash.
This is and was a redistribution of funds that belonged to the people. Or as others know it, socialism. How was this even legal? And why does the word Obamacare even still exist? And how can today's youth support this foolish pie in the sky system, that has been failing civilizations since the times of Plato?

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Louise Norris 1 year ago

Reply to *Uncle Sam*

To the best of my knowledge, the IRS did not provide similar reports for the 2017 and 2018 tax years.
To clarify, the penalty does not provide health insurance coverage to the people who are uninsured; they remain uninsured, regardless of whether they're subject to a penalty. The money the IRS collected for the individual mandate penalty was used to provide ACA premium subsidies and to help offset the cost of Medicaid expansion. But it's more complicated than that when we get into the way revenue and spending are handled by the federal government. In other words, money is fungible, as explained here: https://obamacarefacts.com/questions/where-does-tax-penalty-money-go/
The ACA was never going to successfully cover all of the uninsured. https://www.kff.org/uninsured/issue-brief/key-facts-about-the-uninsured-population/ It can't address coverage for undocumented immigrants, which account for several million of the uninsured. And there are also still a few million people living below the poverty level in states that haven't expanded Medicaid – they are ineligible for any assistance at all with their health coverage. The ACA would have covered them with Medicaid, but the Supreme Court later ruled that states didn't have to expand Medicaid, and 14 still have not done so – leaving their poorest residents with no help at all (these people were not subject to penalties for not having coverage, however).
It is simply incorrect to say "Congressmen gave themselves immunity to these rate hikes and penalties." Members of Congress were subject to the penalty if they chose to be uninsured. And members of Congress (and their staff) were the only large group that had to transition to the ACA's exchange system (designed for individuals

insurance exchange, instead of using the FEHBP like other federal employees.

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