

# FREQUENTLY ASKED QUESTIONS ABOUT HEALTH CARE REFORM

## TABLE OF CONTENTS

Q 1: When did the ACA take effect? .....	7
Q 2: What changes have taken place? .....	7
Q 3: Where can a person find more information about the ACA, including detailed timeline information? .....	8
Q 4: Do the consumer protections of the ACA apply to all health coverage?.....	8

## **EXCHANGE BASICS** .....

Q 5: What is the [insert name of state health insurance exchange]? (For questions about the [insert name of state SHOP exchange], see Questions 38-41, 44-45, 47-48, 17, 50, 53 and 71-74). .....	9
Q 6: Are there different types of health insurance exchanges?.....	9
Q 7: What is the Multi-State Plan Program?.....	9
Q 8: What is a CO-OP plan? .....	10
Q 9: If consumers live in one state but work in another, to which state’s exchange should they apply? .....	10
Q 10: Who can buy a plan through the [insert name of state exchange]?.....	10
Q 11: When are consumers able to enroll in plans through the [insert name of state exchange]? ...	10
Q 12: What if a consumer wants to enroll or change plans outside of the open enrollment period? ..	10
Q 13: How can a consumer prepare to enroll in a plan through the [insert name of state exchange]?.....	11

## **SHOPPING FOR HEALTH INSURANCE: WHAT IS COVERED?**.....

Q 14: What types of plans are available through the [insert name of state exchange]? .....	11
Q 15: How do the tiers (bronze, silver, gold and platinum) help consumers compare plans? .....	11
Q 16: What is actuarial value? .....	12
Q 17: What services/benefits must plans cover? What are essential health benefits? .....	12
Q 18: What insurance companies will offer coverage through the [Insert name of state exchange]? How can consumers get a list of companies and plans available?.....	12
Q 19: How can a consumer find out the details about what a particular plan covers? .....	13
Q 20: How can consumers compare benefits and understand what a plan covers?.....	13

<b>Q 21: How can consumers see and compare premiums for plans?</b> .....	13
<b>Q 22: Can a person or a health insurance issuer take benefits out of a plan? What if a consumer doesn't need all of the benefits in a plan?</b> .....	13
<b>Q 23: Can consumers' health conditions affect what coverage they are able to get?</b> .....	14
<b>Q 24: Can an insurance company charge tobacco users more than non-tobacco users?</b> .....	14
<b>Q 25: What are preventive benefits and how are they covered?</b> .....	14
<b>Q 26: Are dental or vision benefits available through the [insert name of state exchange]?</b> .....	14
<b>Q 27: How does a consumer find out what drugs a plan covers?</b> .....	15
<b>Q28: What are out-of-network services, and do consumers have any coverage for them?</b> .....	15
<b>Q 29: How do consumers determine if their doctor or dentist is in the network?</b> .....	15
<b>Q 30: Do consumers have access to emergency care out-of-network?</b> .....	15
<b>Q 31: What is a "grandfathered" health plan?</b> .....	16
<b>Q 32: Can consumers keep an existing plan that isn't grandfathered, but which doesn't comply with the ACA reforms (known as transitional plans or "grandmothered" plans)?</b> .....	16

**EMPLOYER-SPONSORED COVERAGE**..... 16

<b>Q 33: Is employer-based coverage required to cover dependents (spouses and children)?</b> .....	16
<b>Q 34: What can a consumer do when employer-based health coverage ends?</b> .....	17
<b>Q 35: Must a consumer exhaust all available COBRA coverage before buying coverage through the exchange with subsidies?</b> .....	17
<b>Q 36: If a consumer has access to employer-based coverage, can an employer make the consumer wait before becoming eligible for benefits?</b> .....	17
<b>Q 37: Can a consumer with access to employer-based coverage get a tax credit to buy a plan through the [insert name of state exchange]?</b> .....	17
<b>Q 38: If a consumer is offered employer-based coverage that would cover a spouse or dependents, can that consumer's spouse or children get a tax credit to buy coverage through the exchange?</b> .....	18
<b>Q 39: If a consumer is offered a qualified small employer health reimbursement arrangement (QSEHRA), can that consumer get a tax credit to buy coverage through the exchange?</b> .....	18
<b>Q 40: What is the [insert name of state SHOP exchange]?</b> .....	18
<b>Q 41: Is there a cost to participate in [insert name of state SHOP exchange]?</b> .....	19
<b>Q 42: Can insurers charge more (or less) for policies sold through [insert name of state SHOP exchange]?</b> .....	19
<b>Q 43: What happens if an employer's staff increases to more than 50 employees after the employer bought coverage through the SHOP?</b> .....	19
<b>Q 44: How are small employers defined?</b> .....	19

<b>Q 45: How do employers with full-time and part-time employees know whether they're required to pay a penalty if they don't offer health insurance to their workers?.....</b>	<b>19</b>
<b>Q 46: Are health insurers required to sell their plans through the federal SHOP exchange? .....</b>	<b>19</b>
<b>Q 47: Are small employers required to buy a health plan for their employees through [insert name of state SHOP exchange]? .....</b>	<b>20</b>
<b>Q 48: Will consumers be better off with individual coverage through the [insert name of state exchange] rather than small employer coverage? .....</b>	<b>20</b>
<b>Q 49: Are there participation rates that insurers can require employers to meet to be eligible to buy small group coverage through the [insert name of state SHOP exchange] or in the market outside the [insert name of state SHOP exchange]? .....</b>	<b>20</b>
<b>Q 50: Can small employers who are the sole employees of their business buy small group coverage either through the [insert name of state SHOP exchange] or the outside market?.....</b>	<b>20</b>
<b>Q 51: How does rating work in the small group market?.....</b>	<b>20</b>
<b>Q 52: Do small employers that don't offer health care insurance coverage to their employees, have to pay a tax penalty? .....</b>	<b>21</b>
<b>Q 53: Do large employers have to offer health care insurance coverage to their employees? What about seasonal employees? .....</b>	<b>21</b>
<b>Q 54: What are the penalties if large employers don't provide coverage? .....</b>	<b>22</b>
<b>Q 55: How do small employers find out if they're eligible for the Small Business Health Care Tax Credit? .....</b>	<b>22</b>
<b>Q 56: What ACA requirements apply to large employers?.....</b>	<b>22</b>
<b>Drafting Note: States with an individual mandate may wish to add a section describing how it applies. ....</b>	<b>Error! Bookmark not defined.</b>
<b>Q 57: What is the individual responsibility requirement, and does it mean consumers must buy coverage through the [insert name of state exchange]? .....</b>	<b>22</b>
<b>Q 58: Without a 2019 tax penalty, is having minimum essential coverage important? .....</b>	<b>23</b>
<b>ENROLLING IN HEALTH CARE COVERAGE: WHERE CAN CONSUMERS GET HELP? .....</b>	<b>23</b>
<b>Q 59: Where do consumers go for help to choose and enroll in a plan? .....</b>	<b>23</b>
<b>Q 60: May consumers directly enroll for coverage through insurers? .....</b>	<b>24</b>
<b>Q 61: How are people who help consumers enroll in health coverage paid? .....</b>	<b>24</b>
<b>Q 62: How can consumers find an insurance agent or broker to help them enroll in a plan?.....</b>	<b>25</b>
<b>Q 63: What are the qualifications required for health insurance agents and brokers to participate in the [insert name of state exchange]? .....</b>	<b>25</b>
<b>Q 64: Where should consumers go with a problem enrolling in a plan through the [insert name of state exchange]?.....</b>	<b>25</b>
<b>Q 65: Do consumers have to re-enroll annually?.....</b>	<b>25</b>

**Q 66: How will insurance agents and brokers be able to help consumers with enrollment through the [insert name of state exchange]?** ..... 26

**Q 67: How will a navigator be able to help consumers with enrollment through the [insert name of state exchange]?** ..... 26

**Q 68: How will the in-person assister or the certified application counselor be able to help consumers with enrollment through the [insert name of state exchange]?**..... 27

**Q 69: Can small employers use licensed insurance agents or brokers to buy health insurance through [insert name of state SHOP exchange]?** ..... 27

**Q 70: Will small employers be able to use navigators to buy health insurance?** ..... 27

**Q 71: How can an insurance agent or broker help a small employer interested in participating in the [insert name of state SHOP exchange]?** ..... 27

**Q 72: What is the benefit of using an insurance agent to enroll in the [insert name of state exchange] or [insert name of state SHOP exchange]?** ..... 27

**Q 73: Will an insurance agent or broker show consumers all of the plan choices available through the [insert name of state exchange]?** ..... 28

**Q 74: Will consumers have to share their personal information, including their tax returns, with an agent or broker, navigator, in-person assistance personnel or certified application counselor?** ..... 28

**Q 75: Will consumers have to share their account username and password with an insurance agent or broker, navigator, in-person assister or certified application counselor?**..... 28

**Q 76: What help should an insurance agent or broker, navigator, in-person assister or certified application counselor give consumers if they or their dependents are eligible for Medicaid or CHIP?** ..... 28

**COSTS AND ASSISTANCE WITH COSTS** ..... 29

**Q 77: Is there cost-sharing for contraceptives?** ..... 29

**Q 78: How much do plans offered through the [insert name of state exchange] cost?** ..... 29

**Q 79: Will plans offered through the [insert name of state exchange] have large out-of-pocket costs?**29

**Q 80: Where can consumers go to learn if they’re eligible for help paying premiums or for Medicaid?** ..... 29

**Q 81: Is there help for consumers who can’t afford coverage?**..... 30

**Q 82: Who’s eligible for premium tax credits and cost-sharing reductions?**..... 30

**Q 83: How do premium tax credits to buy coverage through the [insert name of state exchange] work?** ..... 30

**Q 84: Is an individual who is a victim of domestic abuse and separated (but not divorced) from his or her spouse eligible for subsidies on the exchange?** ..... 31

**Q 85: If a consumer is eligible for subsidy assistance, is there a grace period before a company can terminate the consumer for non-payment of premiums?** ..... 31

**Q 86: What should consumers do if they find themselves enrolled in both Medicaid/CHIP and exchange coverage with premium tax credits? ..... 31**

**QUESTIONS ABOUT OTHER TYPES OF COVERAGE ..... 31**

**Q 87: What is available in the market outside the [insert name of state exchange]? ..... 31**

**Q 88: What are short term plans? ..... 32**

**Q 89: If consumers already have coverage, may they buy separate policies for their children? ..... 32**

**ACA MEDICARE-RELATED QUESTIONS ..... 32**

**Q 90: Who should consumers contact with questions about Medicare, Medicare Supplement insurance or Medicare Advantage plans? ..... 32**

**Q 91: Are people who pay premiums for Medicare Part A able to enroll through the [insert name of exchange]? ..... 32**

**Q 92: Can a person with ESRD (End Stage Renal Disease) enroll in or stay in a QHP *instead* of enrolling in Medicare? ..... 33**

**Q 93: If individuals become eligible for Medicare and are already in a QHP, can they stay in their plan? ..... 33**

**Q 94: Is there anything consumers and their dependents who are already on Medicare and have employer-based coverage need to do because of the ACA? ..... 33**

**Q 95: Is there anything consumers and their dependents who are already on Medicare and have retiree coverage from an employer need to do because of the ACA? ..... 33**

**Q 96: Will consumers with Medicare Supplement insurance be affected by the ACA? ..... 33**

**Q 97: How will consumers’ Medicare prescription drug “donut hole” be affected? ..... 33**

**Q 98: What about LTC insurance policies? ..... 34**

**ACA MEDICAID-RELATED QUESTIONS ..... 34**

**Q 99: Where can consumers find more information about Medicaid? ..... 34**

**Q 100: Has consumers’ eligibility for Medicaid changed under the ACA? ..... 34**

**Q 101: What is the expanded Medicaid eligibility under the ACA? ..... 34**

**Q 102: What is the federal poverty level (FPL), and why is it important in the context of health care coverage? ..... 34**

**Q 103: What benefits will be available for adults newly eligible for Medicaid? ..... 34**

**Q 104: Are undocumented immigrants eligible for Medicaid? ..... 35**

**Q 105: How do consumers apply for Medicaid? ..... 35**

**Q 106: Will consumers still need to submit documents to prove their income? ..... 35**

**COMMON CONCERNS ABOUT HOW THE ACA AFFECTS CONSUMERS ..... 35**

**Q 107: Does the ACA eliminate private health insurance? ..... 35**

**Q 108: Does the ACA include rules about insurance premiums? ..... 35**

**Q 109: Does the ACA address discrimination?..... 36**

**Q 110: What are the income tax implications of the ACA? ..... 36**

**Q 111: Where else can consumers find answers to health insurance questions?..... 36**

**Q 112: What does the health plan “accreditation status” information on the exchange Web page mean? ..... 36**

**Q 113: What does the health plan “consumer experience” information on the [insert name of state exchange] Web page mean?..... 36**

**Q 114: What appeal rights do consumers have? ..... 36**

**Q 115: Where do consumers file a complaint for a product sold through the [insert name of state exchange]? What about plans sold in the market outside the [insert name of state exchange]?..... 37**

**Q 116: If consumers apply for coverage in the market outside the [insert name of state exchange], what are the rules regarding open and special enrollment?..... 37**

**QUESTIONS INVOLVING SPECIAL CIRCUMSTANCES AND POPULATIONS ..... 37**

**Q 117: What is available for consumers with chronic conditions? Does the ACA help them get better coverage?..... 37**

**Q 118: What options are there for consumers with children who aren’t citizens or legal residents?37**

**Q 119: Are immigrants not legally present eligible for coverage through the [insert name of state exchange] or for premium tax credits?..... 38**

**Q 120: Are incarcerated people eligible for coverage through the [insert name of state exchange] or for premium tax credits? ..... 38**

**Q 121: Are tribal members eligible for coverage through the [insert name of state exchange] or for premium tax credits? ..... 38**

**QUESTIONS ABOUT MLR ..... 38**

**Q 122: What is the Medical Loss Ratio (MLR) requirement? ..... 38**

**Q 123: What is an MLR Rebate?..... 38**

**Q 124: How can consumers learn if their insurer paid rebates?..... 38**

**QUESTIONS ABOUT WHETHER A PLAN IS LEGITIMATE..... 38**

**Q 125: Why is this a time to be especially on guard against health insurance fraud?..... 38**

**Q 126: Can consumers get help from their current insurance agent or insurance company to buy health insurance coverage through the [insert name of state exchange]?..... 39**

**Q 127: If consumers don't have a relationship with an insurance agent or company, where should they go for help?..... 39**

**Q 128: If someone comes to consumers' homes, calls consumers out of the blue or sends emails to offer consumers health insurance coverage for a terrific premium, how will consumers know whether the person and the health insurance coverage are legitimate?..... 39**

**PURPOSE**

This document is designed for state insurance departments to use as they give answers to frequently asked questions (FAQ) and guide consumers about their health care choices. This document reflects regulations and guidance received from the federal government as of May 2018 and is subject to change.

**This document isn't intended to be given directly to consumers. States will need to modify this document to include state-specific information and terminology. Content in [brackets] must be edited to provide state-specific information. Drafting notes indicate where states may choose to add additional clarity on state policies.** While some sections may be useful for direct-to-consumer communications, the document's primary purpose is to give insurance department staff accurate and understandable information to use when they respond to consumer questions about healthcare reform.

Note that the federal Affordable Care Act (ACA) and related regulations refer to "exchanges" that operate in the states, while federal guidance documents refer to these exchanges as "marketplaces." This document uses the term "exchanges." However, some states may decide to follow federal guidance and use the term "marketplaces."

Note, also, that states will need to modify this FAQ if the state has combined the exchange for individuals and families with the Small Business Health Options Program (SHOP) exchange.

**HEALTH CARE REFORM OVERVIEW**

Health care has changed in many ways as a result of the passage and implementation of the Patient Protection and Affordable Care Act, Public Law 111-148 (PPACA), and the Health Care and Education Reconciliation Act of 2010, Public Law 111-152). These two laws are collectively known as the ACA.

**Q 1: When did the ACA take effect?**

The ACA was enacted March 23, 2010.

**Q 2: What changes have taken place?**

Several changes took place before Jan. 1, 2014:

- Lifetime and annual dollar limits on essential health benefits (EHB) are not allowed. Annual dollar limits on EHB were also phased out by Jan. 1, 2014.
- Consumers are guaranteed certain appeal rights.

- Nearly all adult children up to age 26 are eligible to remain on a parent’s health insurance policy, regardless of the child’s marital status, financial dependency, enrollment in school or place of residence.
- Insurers must cover certain preventive services without cost sharing. (See Question 25.)
- Medical loss ratio (MLR) standards limit how much of premium dollars insurers can spend on administrative expenses.
- Many insurers must use a standardized Summary of Benefits and Coverage (SBC), which makes it easier to compare plans.
- Small businesses that provide health care for employees can apply for a tax credit.
- Persons with Medicare prescription drug coverage receive a rebate to help cover the cost of the “donut hole.” This “donut hole” will be phased out by 2019.

Several major changes became effective for non-grandfathered individual and small group plans sold or renewed on or after Jan. 1, 2014:

- Plans must include new consumer protections. Health insurers can’t deny or refuse to renew coverage because of a pre-existing medical condition. They also can’t charge a higher premium due to a person’s gender or health condition.
- Insurers must cover routine medical costs if a person participates in a clinical trial for cancer or other life-threatening diseases.
- Many, though not all, insurance plans must cover a minimum set of EHB and can’t put annual dollar limits on these benefits.
- Individuals and families with incomes below 400% of the federal poverty level may qualify for financial assistance when they shop in the health insurance exchanges.
- In the small group market, from the period November 15 to December 15 each year, small employers can purchase coverage for their workers for the following year without having to meet minimum participation or minimum contribution requirements.

**Note:** Plans sold before March 23, 2010, that have had no significant changes are considered “grandfathered” and aren’t required to comply with many of these requirements. (See Question 31 on grandfathering.) Additionally, plans sold before Jan. 1, 2014, may—if allowed by the state—continue to be renewed through policy years beginning on or before Jan. 1, 2019, without coming into compliance with certain reforms. (See Question 32 on transition policy.)

**Q 3: Where can a person find more information about the ACA, including detailed timeline information?**

For more general and detailed information about the ACA and its key provisions, visit the federal government’s website at [www.healthcare.gov](http://www.healthcare.gov), or call 1-800-318-2596 (TTY: 1-855-889-4325).

For information about implementation of the ACA in [insert name of state], contact [insert name of state exchange] at [email address] or [xxx-xxx-xxxx].

There are also several other helpful sites and resources for more information about the ACA, including: Kaiser Family Foundation ([www.kff.org/health-reform/](http://www.kff.org/health-reform/)); Commonwealth Fund (<https://www.commonwealthfund.org/health-care-coverage-and-access>); The Robert Wood Johnson Foundation ([www.rwjf.org](http://www.rwjf.org)); the Georgetown Center on Health Insurance Reforms (<http://chir.georgetown.edu/projects-pubs>); and the Center on Budget and Policy Priorities ([www.healthreformbeyondthebasics.org](http://www.healthreformbeyondthebasics.org)).

**Q 4: Do the consumer protections of the ACA apply to all health coverage?**

No, not all health coverage is required to comply with all of the protections included in the ACA. The ACA largely established new protections in the individual and small group markets, which includes policies sold through the exchanges in every state. Health coverage sold outside of the individual or small group markets, or that is not considered insurance may not be required to comply with some or any of these protections.

Consumers may have questions about several types of coverage other than the qualified health plans sold through exchanges.

- Short-term, limited duration insurance. Several protections applicable in the individual market do not apply; however, state law or regulation may add some protections. Because the ACA does not apply, these plans may:



- deny coverage or increase premium due to health status,
  - exclude essential health benefits,
  - refuse renewal,
  - limit coverage for pre-existing conditions,
  - establish annual or lifetime benefit maximums,
  - have higher deductibles,
  - not establish an out-of-pocket maximum, or
  - exceed medical loss ratio standards without rebating premium.
- Association health plans. Depending on the structure of the association and state law, consumer protections applicable to individual, small group, or large group market plans may apply.
  - Health care sharing ministry. These coverage arrangements are not considered to be insurance, so the requirements and protections described in this FAQ do not apply.
  - Fixed indemnity insurance. The requirements and protections described in this FAQ generally do not apply.

**Drafting note:** States may want to add more details about state-level protections that apply to the coverage types mentioned in the bullets.

## **EXCHANGE BASICS**

**Q 5: What is the [insert name of state health insurance exchange]? (For questions about the [insert name of state SHOP exchange], see Questions 40-44, 46-50, and 69-72).**

The [insert name of state exchange] is the name of [insert name of state]’s health insurance exchange. The ACA created health insurance exchanges as places where individuals, families, and small employers can compare private health insurance plans and shop for coverage. Exchanges also provide access to a tax credit to help lower- and middle-income individuals pay for coverage. (See Questions 81-84.) Through exchanges, individuals may also qualify for help to lower their out-of-pocket costs (deductibles, coinsurance or copayments) when they receive health care services. Insurers may sell plans through the exchange, as well as in the market outside the exchange. Premium tax credits and cost-sharing reductions aren’t available for plans sold outside the exchange.

**Drafting Note:** States that have no market outside the exchange should modify the previous paragraph accordingly. States should note, however, that some individuals such as incarcerated individuals and immigrants not legally present cannot be denied coverage on the basis of health status even though they will not be able to buy coverage through the exchange. (See Questions 118-119.)

To learn more, or to apply for coverage through the [insert name of state exchange], individuals and families should visit the website for the [insert name of state exchange] at [insert link to state exchange website]. For more general information about health insurance exchanges, visit the federal government’s website at <https://www.healthcare.gov/what-is-the-health-insurance-marketplace>.

**Q 6: Are there different types of health insurance exchanges?**

While the basic features of exchanges are the same in all of the states, the ACA allows for differences in *who* operates them. Some exchange operation options include the federal government operating the exchange, the state operating the exchange, and a partnership between the federal and state governments working together to operate the exchange. Please contact [insert state consumer affairs contact information] to learn how your state’s exchange is operated.

**Q 7: What is the Multi-State Plan Program?**

Under the ACA, the Multi-State Plan (MSP) Program is administered by the U.S. Office of Personnel Management (OPM). The MSP Program is designed to increase the plan choices available through the [insert name of state exchange]. MSP options may not be available through the exchange in each state or in every area of the state. OPM, which also administers the program that provides health insurance to federal government employees, retirees and their dependents, contracts with private insurance companies to offer MSP options on the state exchanges. MSP options are generally subject to all state and federal laws and may also be required to comply with more OPM requirements. More information about the MSP Program is available on OPM’s website at <http://www.opm.gov/healthcare-insurance/multi-state-plan-program/>.

**Drafting Note:** States without MSP options can eliminate this question.

**Q 8: What is a CO-OP plan?**

CO-OP stands for Consumer Operated and Oriented Plan, which is a type of health insurer created under the ACA. The ACA gave low interest loans to private organizations to create a new type of nonprofit insurer designed to increase the plan choices available through the state exchanges. Any profits earned by CO-OPs must be applied to either lower premiums or expand benefits for customers. The federal Center for Insurance Information and Insurance Oversight (CCIIO) in the U.S. Department of Health and Human Services (HHS) maintains oversight of the CO-OPs. CO-OPs also must be governed by their members (or customers) and are required to offer plans through their respective states' exchanges.

In [insert name of state], the [insert name of CO-OP] is the CO-OP available through the [insert name of state exchange]. If a CO-OP in the state is no longer available or enrollment has been capped, consumers can explore other coverage options through the exchange during the open enrollment period (or may be eligible for a special enrollment period (SEP) if their CO-OP coverage ends outside of the open enrollment period).

To find out more about the CO-OP program, please visit <http://www.cms.gov/CCIIO/Programs-and-Initiatives/Insurance-Programs/Consumer-Operated-and-Oriented-Plan-Program.html>.

**Drafting Note:** States should modify or eliminate this question if there aren't any CO-OPs in the state, if the CO-OP is no longer available, or enrollment has been capped.

**Q 9: If consumers live in one state but work in another, to which state's exchange should they apply?**

Consumers who don't have access to coverage through their employer (or their spouse's employer) should apply for coverage in the state where they live.

**Q 10: Who can buy a plan through the [insert name of state exchange]?**

In [insert name of state], any individual or family who wants may buy coverage through the [insert name of state exchange]. The only people who can't are those who are not lawfully present in the U.S. (see Questions 118-119), incarcerated individuals (other than pending disposition of charges) (see Question 120), and generally, people on Medicare (see Question 93).

Small employers (employers with fewer than [XX] employees) may buy health insurance for their employees through the [insert name of state SHOP exchange]. (For more information about the [insert name of state SHOP exchange], see Questions 40-44, 46-50, and 69-72).

Drafting note: States should insert the appropriate number in place of XX above, taking into account the specific rules for SHOP participation.

**Q 11: When are consumers able to enroll in plans through the [insert name of state exchange]?**

Consumers may enroll during the annual open enrollment period or when they qualify for a special enrollment period. In [insert name of state], open enrollment in [insert name of state exchange] for 2019 coverage for individuals and families begins [Nov. 1, 2018], and continues through [Dec. 15, 2018].

Coverage effective dates depend on the date of enrollment and are contingent on consumers paying the first month's premium directly to the insurance company. [Enrollment during Open Enrollment becomes effective on January 1, 2019.] Enrollment during a special enrollment period will be effective on either the first day of the following month—if a consumer enrolls by the 15<sup>th</sup> of the month—or the first day of the second following month, if a consumer enrolls after the 15<sup>th</sup> of the month.

During open enrollment, consumers may change plans, change insurance companies, or stay with the plan they have, if it's still available. Current enrollees will also receive a new eligibility determination to determine if they will receive more or less financial help in the form of premium tax credits or cost-sharing reductions. If a consumer does not actively select a new plan and is eligible for auto-renewal, he or she will be automatically re-enrolled into the closest comparable plan for 2019. So, if a consumer wants to make changes to their coverage effective on Jan. 1, he or she must choose a plan by Dec. 15.

**Q 12: What if a consumer wants to enroll or change plans outside of the open enrollment period?**

Consumers may be eligible to enroll in coverage at times other than during the open enrollment period. There are special enrollment periods (SEPs) for individuals or families if they experience certain events. Some examples of events that trigger an SEP include: 1) loss of minimum essential coverage for an individual or their dependent; 2) gaining or becoming a dependent (such as marriage or the birth/adoption of a baby); and 3) being enrolled in a plan through the exchange without tax credits and then becoming newly eligible for tax credits. (See Question 83.) The federal website <https://www.healthcare.gov/coverage-outside-open-enrollment/special-enrollment-period/> lists possible options for consumers to obtain coverage outside an open enrollment period. Consumers generally have 60 days from the date of the event that triggered an SEP to enroll in coverage. Additional information on SEP rules is available at <http://www.healthreformbeyondthebasics.org/wp-content/uploads/2015/06/SEP-Reference-Chart.pdf>.

Consumers can apply for coverage through [insert name of state exchange] any time during the year, regardless of whether it's an enrollment period. The [insert name of state exchange] will process the application and tell the consumer whether or not he or she can enroll or must wait until an enrollment period. Contact the [insert name of state exchange] at [insert website] or [insert phone number] for information about whether a consumer might be eligible to enroll in coverage through the [insert name of state exchange] during an SEP. People who are eligible for Medicaid and the Children's Health Insurance Program (CHIP) can apply and enroll in [insert name of state Medicaid agency] at any time.

### **Q 13: How can a consumer prepare to enroll in a plan through the [insert name of state exchange]?**

The federal website <https://www.healthcare.gov/apply-and-enroll/get-ready-to-apply/> has suggestions for things consumers should be thinking about to prepare to enroll in a plan through the exchange. The [insert name of state department of insurance] website at [insert website] has helpful information for consumers who are thinking about enrolling in a plan through the [insert name of state exchange]. Consumers can also make an appointment with a navigator, certified application counselor, insurance agent or broker, or other assister to help prepare for enrollment and compare plans. To find those that can assist consumers, go to Find Local Help at: <https://localhelp.healthcare.gov/>.

Consumers can start gathering basic information about household income, such as their most recent tax return if they filed one, or other income information. A full list of required documents is available at <https://marketplace.cms.gov/outreach-and-education/marketplace-application-checklist.pdf>. Many people will qualify for financial help to make insurance affordable, and consumers will need income information to find out how much help they are eligible for. Consumers can find more information about how to save money on coverage at <https://www.healthcare.gov/lower-costs/>.

## **SHOPPING FOR HEALTH INSURANCE: WHAT IS COVERED?**

### **Q 14: What types of plans are available through the [insert name of state exchange]?**

Health plans sold through the [insert name of state exchange] are required to meet comprehensive standards for items and services that must be covered. (See Question 17.) To help consumers compare costs, plans available through the [insert name of state exchange] are organized in four tiers, or four levels, that estimate the generosity of the plans' coverage:

- **Bronze level** – The plan must cover about 60% of expected costs across a standard population. This is the lowest level of coverage.
- **Silver level** – The plan must cover about 70% of expected costs across a standard population.
- **Gold level** – The plan must cover about 80% of expected costs across a standard population.
- **Platinum level** – The plan must cover about 90% of expected costs across a standard population. This is the highest level of coverage.

In addition, catastrophic plans cover the same services, but its coverage will be slightly less generous than the bronze level plans. A catastrophic plan may be a less expensive option for those who are eligible.: Only individuals under age 30 and individuals who have a hardship exemption from the individual mandate or cannot afford other coverage are allowed to buy catastrophic plans. If consumers have their plan cancelled and can't afford replacement coverage, they may apply for a hardship exemption and buy a catastrophic plan. Premium tax credits and cost-sharing reductions aren't available for catastrophic plans. Also, catastrophic plans cannot be used with health savings accounts (HSAs).

Stand-alone dental plans are available through the [insert name of state exchange]. (See Question 26.)

### **Q 15: How do the tiers (bronze, silver, gold, and platinum) help consumers compare plans?**

The tiers are a way to categorize plans based on “actuarial value.” Plans within each tier have a similar actuarial value, even if they cover different benefits or have different types of cost-sharing. While all plans in a tier must cover EHB (see Question 17), the details of their coverage (such as how many physical therapy visits are covered or which prescription drugs are covered) may be different. Not all plans in the same tier have the same benefits or cost-sharing requirements. Some plans may offer benefits in addition to the EHB.

The metal levels indicate only the level of cost-sharing required by the plan. They do not provide consumers an indication of the plans’ provider network size, quality, or any other aspect of coverage.

#### **Q 16: What is actuarial value?**

Actuarial value represents how much of a standard population’s medical spending the health insurance plans in a given metal level would cover. Percentages (60% for bronze, 70% for silver, 80% for gold, and 90% for platinum) represent the approximate actuarial value of plans at each level. A higher percentage means the plan covers more of a standard population’s costs (and the population pays less out-of-pocket). A lower percentage means the plan covers less (and the population pays more). The actuarial value calculation focuses mainly on cost-sharing charges so that a bronze plan generally would have higher enrollee cost-sharing amounts compared to a gold plan. There also may be differences in how benefits are covered, such as differences in the prescription drugs that are covered or how many physical therapy visits the plan covers. The law requires all the metal level plans and catastrophic plans to cover a set of EHB.

Actuarial value is calculated for a standard population and doesn’t mean that the plan will pay that percentage of any given person’s actual costs. For instance, a silver tier plan will pay more than 70% of covered medical expenses for some people and less than 70% for other people.

Actuarial value doesn’t give other information about a plan that may be important to a particular person or affect their costs. It doesn’t tell you how broad or narrow a plan’s provider network is, the quality of the provider network, about the plan’s customer service and support, how broad or narrow the drug formulary is, or the premium levels. All of this information is important for consumers to consider when they choose a plan.

See <https://www.healthcare.gov/choose-a-plan/> for more consumer information about choosing a plan.

#### **Q 17: What services/benefits must plans cover? What are essential health benefits?**

Many plans sold in the individual and small group market, including all of those sold through the [insert name of state exchange] and [insert name of state SHOP exchange] must cover, at a minimum, a comprehensive set of benefits known as essential health benefits (EHB). These EHB include the following:

- Ambulatory patient services
- Emergency services
- Hospitalization
- Maternity and newborn care
- Mental health and substance abuse disorder services, including behavioral health treatment
- Prescription drugs
- Rehabilitative and habilitative services and devices
- Laboratory services
- Preventive and wellness services, including chronic disease management
- Pediatric services, including oral and vision care

“Grandfathered,” “transitional,” and “short-term” plans in the individual and small group markets aren’t required to include EHB. For more information on these plans, see Questions 31-32.

For more detailed information about essential health benefits in [insert name of state] and other states, visit <https://www.cms.gov/ccio/resources/data-resources/ehb.html#ehb>.

#### **Q 18: What insurance companies will offer coverage through the [Insert name of state exchange]? How can consumers get a list of companies and plans available?**

There are listings of the health plans available through the [insert name of state exchange] and the [insert name of state SHOP exchange] on their websites: [Insert links to state exchange website and state SHOP exchange website]. People without access to the Internet can call the customer service line for the [insert name of state exchange] at [insert phone number], and for the [insert name of state SHOP exchange] at [insert phone number], or get help from an agent, broker, or other type of assister. (See Question 62.)

**Q 19: How can a consumer find out the details about what a particular plan covers?**

All individual and small group plans offered after Jan. 1, 2014, will cover EHB (see Question 17), except grandfathered, transitional, and short-term plans. (See Questions 31-32 and 88.)

To learn if a specific benefit is covered, and at what level, check a plan’s Summary of Benefits and Coverage (SBC). An SBC is a uniform document that includes details about what a plan does and doesn’t cover. It also includes information about what kinds of costs a consumer can expect to pay out-of-pocket, such as copayments, coinsurance, and deductibles. An insurance company must provide an SBC for all health plans except for short term and limited benefit plans. It gives information in the same way for every plan to make it easier to compare plans. The SBC forms are available on the federal government’s website at [www.healthcare.gov](http://www.healthcare.gov), the [insert name of state exchange] website at [insert link], the insurance company’s website, or from an agent or broker for plans offered in the market outside the exchange.

It should be noted that the SBC provides a summary of the benefits. More detailed information is available through the insurer or an insurance agent or broker, and each SBC must include a link to a copy of the actual individual coverage policy or group certificate of coverage that will provide more detailed information.

The [insert name of state exchange] website at [insert link] includes information about what each plan covers and links to the insurer’s plan brochures.

Consumers can read more about the SBC here:

[www.cms.gov/CCIIO/Programs-and-Initiatives/Consumer-Support-and-Information/Summary-of-Benefits-and-Coverage-and-Uniform-Glossary.html](http://www.cms.gov/CCIIO/Programs-and-Initiatives/Consumer-Support-and-Information/Summary-of-Benefits-and-Coverage-and-Uniform-Glossary.html).

**Q 20: How can consumers compare benefits and understand what a plan covers?**

In addition to getting an SBC (see Question 19), consumers can get information about the health plan options available in their state online at the [insert name of state exchange] website at [insert link], through the [insert name of state exchange]’s toll-free telephone number, or from agents, brokers, navigators or consumer assisters. To find those that can assist you in your area, you can go to “Find Local Help” at <https://localhelp.healthcare.gov/>.

**Q 21: How can consumers see and compare premiums for plans?**

The [insert name of state exchange] is set up to let consumers compare policies on the basis of premiums, provider network, actuarial value, and other factors. In addition to premium costs, consumers should look at all the benefits and cost-sharing provisions when choosing a plan because plans with the lowest premium often have the highest out-of-pocket costs.

Consumers can get information to compare premiums from the [insert name of state exchange] website at [insert link] or call center at [insert phone number]. Also, navigators, certified application counselors, insurance agents or brokers, or other assisters should be able to help consumers compare plans.

**Drafting Note:** States that allow stand-alone vision plans to be sold through the exchange should modify this answer to include stand-alone vision plans.

**Q 22: Can a person or a health insurance issuer take benefits out of a plan? What if a consumer doesn’t need all of the benefits in a plan?**

No. Neither consumers nor health insurance issuers can take benefits out of a plan. At a minimum, every health plan on the [insert name of state exchange] must provide coverage for all of the essential health benefits the ACA requires. (See Question 17.) Even though a person may not need every benefit in a plan, plans must cover all of the essential benefits to share risk across a broad pool of consumers and be sure all benefits are available for everyone. This also helps to protect people from risks they can’t always predict across their lifetimes.

There may be short-term plans or limited benefit plans available, but they do not provide the “minimum essential coverage” required to meet the individual mandate.

**Drafting Note:** States with an individual mandate may want to add: Consumers who don’t have a plan that provides minimum essential coverage may have to pay a penalty when they file their state income taxes. The federal penalty was reduced to \$0 starting with tax year 2019. (See Question 57.)

**Q 23: Can consumers’ health conditions affect what coverage they are able to get?**

No. Under the ACA, health insurance companies no longer can leave coverage out of a plan based on a person’s health condition, a practice that used to be known as a “pre-existing condition exclusion.” Nor can they charge a higher premium because of a person’s health condition. These protections apply whether a person buys an individual market plan through the exchange or outside the exchange; it does not apply to short term or limited benefit plans.

**Q 24: Can an insurance company charge tobacco users more than non-tobacco users?**

Under the ACA, health insurance companies in the individual and small group markets can charge consumers who use tobacco products a higher premium. People who use tobacco may be charged up to [insert state-specific tobacco surcharge – no higher than 50%] more than people who don’t use tobacco. Consumers in group plans may not have to pay this extra charge if they complete a tobacco cessation program and cannot be charged more unless they are provided an opportunity to complete a tobacco cessation program. This does not apply to coverage that is not considered individual coverage, including short-term plans.

**Drafting Note:** States that don’t allow the tobacco surcharge should replace the previous paragraph with the following one: In [insert name of state], health insurance companies can’t charge consumers a higher premium for being a tobacco user.

**Q 25: What are preventive benefits and how are they covered?**

Preventive benefits are designed to keep people healthy by providing screening for early detection of certain health conditions or to help prevent illnesses. The ACA requires that individual market and non-grandfathered group health plans cover many preventive services with no out-of-pocket costs (meaning no deductibles, co-payments and coinsurance) for all new plans sold after Sept. 23, 2010. Some of these covered preventive services are:

- Colorectal cancer screenings, including polyp removal for individuals over age 50
- Immunizations and vaccines for adults and children
- Counseling to help adults stop smoking
- Well-woman check-ups, as well as mammograms and cervical cancer screenings
- Well-baby and well-child exams for children

Unless an insurer doesn’t have an in-network provider to do a particular preventive service, plans can charge for these preventive services when done by an out-of-network provider.

For more detailed information about covered preventive services, visit the federal government’s website at <https://www.healthcare.gov/what-are-my-preventive-care-benefits>.

**Q 26: Are dental or vision benefits available through the [insert name of state exchange]?**

The ACA requires plans sold through the [insert name of state exchange] to include vision coverage for children, so children’s vision benefits are included in plans through the [insert name of state exchange]. Dental benefits are treated differently. The ACA lets insurance companies offer health plans through the [insert name of state exchange] that don’t include children’s dental benefits as long as the [insert name of state exchange] offers a stand-alone dental plan that includes a pediatric dental benefit.

Plans aren’t required to include dental or vision coverage for adults, but a plan can choose to include these benefits as part of its coverage. Check a plan’s SBC to learn if the plan includes dental or vision coverage for adults.

Some insurance companies may offer stand-alone dental plans through the [insert name of state exchange]. Check the [insert name of state exchange] website at [insert link] for more information.

Check the federal website at [www.healthcare.gov](http://www.healthcare.gov) for more information about dental benefits.

**Drafting Note:** States where consumers may buy dental coverage without purchasing health coverage should add a sentence as appropriate to explain.

**Drafting Note:** States that allow people with Medicare to buy dental plans through the exchange should include this information in this answer.

**Drafting Note:** States that allow stand-alone vision plans to be sold through the exchange should modify the answer to this question as appropriate.

**Q 27: How does a consumer find out what drugs a plan covers?**

Health insurers keep lists of which drugs are covered and which are covered at the lowest cost for each of their plans. These lists are called formularies. Drug cost-sharing is often “tiered”—that is, consumers pay less for a generic drug, more for a brand name drug and sometimes even more for a nonpreferred brand name drug. Consumers should review the formularies in any plan they are considering to be sure the plan meets their prescription drug needs and to know what cost-sharing is required for any given drug. For plans that use formularies, the SBC includes an Internet address to obtain information about the plan’s drug coverage. Consumers also can call health insurers for information.

Formulary information is also available on [insert name of state exchange] website. If a consumer enrolls in coverage and needs access to a drug not on the plan’s formulary, the enrollee may be able to use the drug exceptions process to request and gain access to the needed drug.

**Drafting Note:** States should include their rules regarding whether the insurance company can change the formulary or tiering after the consumer has bought the plan.

**Q 28: What are out-of-network services, and do consumers have any coverage for them?**

Services are considered out-of-network if they’re from a doctor, hospital, or other provider that doesn’t have a contractual relationship with a particular health plan. Not all plans cover out-of-network services, but when they do, a consumer’s share of the cost is usually a lot higher than for an in-network service. (See Question 25 regarding preventive services and Question 30 regarding emergency services.) Consumers should find out whether a provider is in-network before they receive services. Consumers also should find out if their regular or desired health care providers are in-network before they buy a plan. Additionally, different plans offered by the same insurer may have different provider networks, so consumers should be careful to look at the network for their specific plan.

Though the ACA limits how much money a person is required to spend each year on his or her family’s health care, health insurers are permitted, although not required by federal law, to count the cost of out-of-network services toward these limits.

A plan’s SBC will include information about coverage for out-of-network services and an Internet address to see the plan’s provider network.

**Q 29: How do consumers determine if their doctor or dentist is in the network?**

The [insert name of state exchange] website (at [insert website]) lets consumers look up whether their doctor is in the plan network. For plans with a provider network, the SBC includes an Internet address to get a list of network providers. Because plan networks may change regularly, consumers also should check with the doctor or dentist before they schedule an appointment to learn if the provider is still in the plan’s network.

**Q 30: Do consumers have access to emergency care out-of-network?**

Yes. The ACA requires many health plans that provide benefits for emergency services to cover them regardless of whether the provider is in or out of the network. Under the ACA, health plans aren’t allowed to charge a higher copayment or coinsurance for out-of-network services received in an emergency. In addition, [insert name of state] prohibits balance billing for emergency care received out-of-network, meaning only in-network rates will apply for all emergency care.

**Drafting Note:** States that allow health care providers to balance bill for emergency care received out-of-network should replace the previous paragraph with the following:

Yes. The ACA requires many health plans that provide benefits for emergency services to cover them whether the provider is in or out of the network. While health plans aren't allowed to charge a higher copayment or coinsurance for out-of-network services received in an emergency, [Insert state name] allows health care providers to bill consumers for the difference between the cost of emergency care received out-of-network and the amount the plan allows. For more information about [insert name of state]'s rules on balance billing, please contact [insert specific state contact information]. Under federal law, to limit amounts of balance billing for out-of-network emergency services, insurers must calculate amounts they pay for such services in such a way that yields the highest payment of the following three amounts:

(A) The amount negotiated with in-network providers for the emergency service furnished, excluding any in-network copayment or coinsurance imposed with respect to the participant, beneficiary, or enrollee

(B) The amount for the emergency service calculated using the same method the plan generally uses to determine payments for out-of-network services (such as the usual, customary, and reasonable amount), excluding any in-network copayment or coinsurance imposed with respect to the participant, beneficiary, or enrollee.

(C) The amount that would be paid under Medicare Parts A or B for the emergency service, excluding any in-network copayment or coinsurance imposed with respect to the participant, beneficiary, or enrollee.

**Q 31: What is a “grandfathered” health plan?**

A grandfathered health plan is a plan that has existed continuously since before March 23, 2010, and that has not made certain significant changes in the plan. Grandfathered plans aren't subject to many of the ACA requirements, such as the requirement that plans cover EHB (see Question 17), but they are considered to provide minimum essential coverage under the ACA. (See Question 57.)

Grandfathered plans that make certain changes, such as major increases in their cost-sharing (such as coinsurance, deductibles, copayments) or eliminating benefits to diagnose or treat a particular condition, may lose grandfathered status and then would have to follow the applicable ACA requirements. Employer-sponsored plans that significantly increase the employee share of the premium also could lose grandfathered status.

In the individual market, a consumer cannot enroll in a grandfathered plan with a new enrollment. However, consumers who are already enrolled in an individual market plan as of March 23, 2010, can renew their coverage in that grandfathered plan.

A plan must indicate in the plan materials if it's a grandfathered plan. Also, consumers can check with their insurance company or employer to determine if their plan is grandfathered.

**Q 32: Can consumers keep an existing plan that isn't grandfathered, but which doesn't comply with the ACA reforms (known as transitional plans or “grandmothered” plans)?**

It depends. In November 2013, CMS announced a transitional policy that would permit insurers, if allowed by the state, to extend policyholders' 2013 coverage for up to several additional years even if the plan did not comply with certain ACA reforms. These transitional plans can no longer be sold to new customers (after Jan. 1, 2014), and aren't eligible for subsidies. Insurers that provide transitional plans will provide notice to affected individuals and small businesses. Check with your insurance carrier to see if it will be renewing these plans and what changes, if any, it will be making to the plans.

**Drafting Note:** States that did not adopt this policy, applied it only in certain markets (i.e., in the small group market but not the individual market), or that have already phased out transition plans would need to edit this answer accordingly or perhaps delete it entirely.

**EMPLOYER-SPONSORED COVERAGE**

**Q 33: Is employer-based coverage required to cover dependents (spouses and children)?**



Under the ACA, if an employer with 50 or more employees doesn't offer coverage that meets minimum standards to employees and their dependents and employees access premium tax credits through the exchange, the employer may have to pay a tax penalty. (See Questions 53-54.) However, for purposes of this penalty, the IRS has interpreted the phrase "and their dependents" to mean children under age 26 but not spouses. For more information, see <https://www.irs.gov/affordable-care-act/employers/employer-shared-responsibility-provisions>. Small employers with fewer than 50 employees that don't offer coverage to employees or their dependents are not subject to any tax penalties, but may qualify for a tax credit if they choose to do so. (See Question 55.)

Also, if employer-based coverage includes children, the ACA requires the employer to let children up to age 26 stay on their parents' policy. Adult children up to age 26 can stay on their parents' policy whether or not they live in their parents' home, are married, or the parents no longer claim them as a dependent on their tax return. The employee can be required to pay for this coverage, however.

**Q 34: What can a consumer do when employer-based health coverage ends?**

Under the Consolidated Omnibus Budget Reconciliation Act (COBRA), a federal health law since 1986, when employees and their dependents lose employer-based coverage, they are still eligible to stay on their employer's group health plan, even though that coverage would otherwise end. COBRA doesn't apply to employers with fewer than 20 employees [insert state mini-COBRA law information if applicable].

However, COBRA coverage can be expensive because the former employer isn't required to pay any part of the premium. Those who have lost employer-based health coverage may be eligible to access advance premium tax credits to buy a more affordable individual or family policy through the [insert name of state exchange] (see Question 82-83) even if the loss of coverage occurs outside of the open enrollment period. Consumers enrolled in COBRA cannot qualify for advance premium tax credits. Dropping COBRA coverage outside of an open enrollment period will not qualify as a special enrollment opportunity.

**Q 35: Must a consumer exhaust all available COBRA coverage before buying coverage through the exchange with subsidies?**

No. COBRA allows group health plan participants and beneficiaries to continue coverage under their group health plan for a limited period of time after certain events cause a loss of coverage, such as voluntary or involuntary job loss, reduction in the number of hours worked, transition between jobs, death, and divorce. If an individual loses eligibility for minimum essential coverage, including employment-based coverage, he or she will be eligible for a special enrollment period (SEP) during which he or she can buy coverage on the [insert name of state exchange] or in the individual market outside of it. At this time, the individual may also apply for advance premium tax credits and cost-sharing reductions through [insert name of state exchange] to see if he or she is eligible to receive them. However, if an individual has already enrolled in COBRA coverage, he or she must wait until the next open enrollment period or until that COBRA coverage has been exhausted before enrolling in an individual market plan.

**Q 36: If a consumer has access to employer-based coverage, can an employer make the consumer wait before becoming eligible for benefits?**

Yes. Employers may require a waiting period before individuals become eligible for benefits. Under the ACA, this waiting period can't be longer than 90 days. Employers also may impose an additional one-month orientation period before the waiting period begins. For more information, consumers should contact their employer's human resources department.

**Q 37: Can a consumer with access to employer-based coverage get a tax credit to buy a plan through the [insert name of state exchange]?**

A consumer who has access to employer-based coverage is free to buy a plan through the [insert name of state exchange], but tax credits to buy the coverage are available only if the employer's plan isn't affordable or doesn't provide minimum value. (See Question 82.) If a consumer has access to employer-sponsored coverage that is affordable and provides minimum value, the consumer will not be able to get tax credits and cost-sharing reductions.

Coverage isn't affordable if the cost of employee-only coverage under the lowest cost employer plan is more than 9.86% of the employee's annual household income in 2019. The plan doesn't provide minimum value if it pays for less than 60% of medical costs that the plan covers, or if it fails to provide substantial coverage of inpatient hospital or physician services. The

HHS and IRS have developed a minimum value calculator at [www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/mv-calculator-final-4-11-2013.xlsm](http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/mv-calculator-final-4-11-2013.xlsm).

Consumers can find out if an employer plan meets minimum value by looking at the SBC or by requesting that the employer fill out an Employer Coverage Tool. This form provides information that will help the consumer answer application questions correctly at the [insert name of state exchange]. The Employer Coverage Tool can be found at <https://www.healthcare.gov/downloads/employer-coverage-tool.pdf>.

There's more information on [insert name of state exchange]'s website and on these IRS websites:

[www.irs.gov/Affordable-Care-Act/Individuals-and-Families/The-Premium-Tax-Credit](http://www.irs.gov/Affordable-Care-Act/Individuals-and-Families/The-Premium-Tax-Credit)

[www.irs.gov/Affordable-Care-Act/Individuals-and-Families/Questions-and-Answers-on-the-Premium-Tax-Credit](http://www.irs.gov/Affordable-Care-Act/Individuals-and-Families/Questions-and-Answers-on-the-Premium-Tax-Credit)

**Q 38: If a consumer is offered employer-based coverage that would cover a spouse or dependents, can that consumer's spouse or children get a tax credit to buy coverage through the exchange?**

It depends on whether the employer-based coverage is affordable and meets minimum value. If the premiums for employee-only coverage in the lowest cost plan are less than 9.86% of household income and the coverage provides minimum value, then no one in the family who is eligible for the plan is eligible for premium tax credits. This may be the case even when it would be unaffordable for a spouse or children to enroll in the plan, based on the cost of family coverage. Depending on state eligibility rules, the children may be eligible for Medicaid or CHIP coverage. (See Question 99.) Contact the [insert name of state exchange] to learn more.

**Q 39: If a consumer is offered a qualified small employer health reimbursement arrangement (QSEHRA), can that consumer get a tax credit to buy coverage through the exchange?**

It depends on the amount of the QSEHRA offered by the employer. Federal law allows small employers to provide their employees with tax-free payments that the employees may use to purchase health coverage. Such arrangements are known as qualified small employer health reimbursement arrangements, or QSEHRAs. If the employer offers enough money through a QSEHRA to make an exchange plan affordable for an employee, the employee is not eligible for a premium tax credit. If the size of the QSEHRA does not make coverage affordable, the employee may still receive a premium tax credit. However, the amount of the tax credit is reduced by the amount of the QSEHRA.

The [state exchange name] may not take a consumer's QSEHRA into account when calculating how much premium tax credit the consumer is eligible for. In that case, the consumer may want to apply less than the full amount of the credit they are awarded when paying for their premiums every month. This can help avoid the need to pay back some of the credit when the consumer files his or her federal income tax return.

**Q 40: What is the [insert name of state SHOP exchange]?**

Under the ACA, states or the federal government may create Small Business Health Options Program (SHOP) exchanges, where small employers who want to offer coverage to their employees can shop for plans. In [insert name of state], the SHOP exchange is called the [insert name of state SHOP exchange]. The SHOP can allow a small employer to offer a range of small group plans to their workers. Eligible employers can apply for the Small Business Health Care Tax Credit if they offer coverage through the SHOP and meet certain other criteria. The SHOP has no minimum contribution requirements for employers, but, some states may impose a contribution requirement in addition to a minimum participation rate. Employers who are interested in applying for the Small Business Health Care Tax Credit, however, must contribute at least 50% to their employees' premium costs in order to be eligible for the credit. Just as with the regular small group market, employers that sign up for coverage during the small group open enrollment period that runs from Nov. 15 to Dec. 15 will face no minimum participation requirements. Coverage would then be effective for workers beginning Jan. 1.

The ACA calls for "employee choice" in the SHOP exchanges. Under this provision, small employers may choose to give their employees a choice of health plans from multiple insurers across all metal levels on the SHOP exchange. In some states, employers may also choose to offer coverage by one insurance company. Whether offering employee choice or not, in most states, employers will work with their SHOP registered agent or broker, or insurance company or companies to obtain application, enrollment and billing information.

There's more information about the [insert name of state SHOP exchange] at [insert link to state SHOP exchange website]. There are resources for information about small employer issues and the ACA on the following websites:

<http://healthcare.gov/small-businesses>

U.S. Department of Labor Patient Protection and Affordable Care Act information

<https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/for-workers-and-families>

Affordable Care Act Tax Provisions

<https://www.irs.gov/affordable-care-act>

**Q 41: Is there a cost to participate in [insert name of state SHOP exchange]?**

There's no fee for small employers or their employees to enroll in SHOP coverage. Some employers may be eligible for the Small Business Health Care Tax Credit, which can be worth up to 50% of the employer's premium contribution.

**Q 42: Can insurers charge more (or less) for policies sold through [insert name of state SHOP exchange]?**

No. Insurers must charge the same for similar plans whether they're sold through the [insert name of state SHOP exchange] or in the market outside of the [insert name of state SHOP exchange].

**Q 43: What happens if an employer's staff increases to more than 50 employees after the employer bought coverage through the SHOP?**

The small employer still will be eligible to buy health insurance through the [insert name of state SHOP exchange] because the employer had 1-50 employees at the time they first bought coverage through [insert name of state SHOP exchange].

**Drafting Note:** States should modify this paragraph in accordance with the state definition of small employer.

**Q 44: How are small employers defined?**

Generally, small employers who are eligible to get coverage in the small group market or in the SHOP are those with 50 or fewer employees, though the definition may vary by state.

**Drafting Note:** States should modify this paragraph in accordance with the state definition of small employer.

**Q 45: How do employers with full-time and part-time employees know whether they're required to pay a penalty if they don't offer health insurance to their workers?**

All employers will want to assess whether they'll be considered to have at least 50 full-time equivalent employees. Penalties will be assessed (starting Jan. 1, 2016), against employers with at least 50 full-time equivalent employees who 1) do not offer health coverage that meets minimum standards, 2) have an employee who gets coverage through the exchange, and 3) have an employee who gets the premium tax credit. (See Questions 53-54.)

Below is a link to the IRS: <https://www.irs.gov/affordable-care-act/employers/employer-shared-responsibility-provisions>

**Q 46: Are health insurers required to sell their plans through the federal SHOP exchange?**

It's expected that only some insurers currently offering small group health insurance plans will choose to sell their plans through [insert name of state SHOP exchange]. If they choose to, they must at least offer one plan in the silver metal tier and one in the gold. (See Question 15.) They may offer plans in the other metal tiers, but they might choose to offer those plans only in the market outside the [insert name of state exchange]. That's another reason to compare exchange plans with those in the market outside the exchange. It's important for small employers to understand all of their options. Small employers may work with SHOP registered agents or brokers for information about the small group insurance options in their state.

**Q 47: Are small employers required to buy a health plan for their employees through [insert name of state SHOP exchange]?**

No. Small employers may buy health insurance for employees through the [insert name of state SHOP exchange] or in the market outside the exchange. However, to be eligible for the Small Business Health Care Tax Credit (see Question 55), in most cases the coverage must be bought through the SHOP exchange. It will be important for small employers to understand and compare all options available to them. State licensed health insurance agents and brokers, including SHOP registered agents and brokers, are available to help small employers compare options and determine which plan best meets their needs.

More information on the Small Business Health Care Tax Credit

<https://www.irs.gov/affordable-care-act/employers/understanding-the-small-business-health-care-tax-credit>

**Drafting Note:** States that require small employers to buy health insurance for their employees through the exchange should modify this answer as appropriate.

**Q 48: Will consumers be better off with individual coverage through the [insert name of state exchange] rather than small employer coverage?**

Maybe. It depends on many variables, such as the employees' out-of-pocket expenses under the small group plan offered, the consumers' personal circumstances, and the premiums of the plans available through the exchange. Employees, their spouses, and dependents offered coverage through an employer are usually not eligible for premium tax credits, so small employer-sponsored coverage could cost less than individual coverage through the federal exchange.

Rates are available for plans offered through the [insert name of state exchange] and for plans in the market outside the [insert name of state exchange] so employers and employees can compare their options.

**Q 49: Are there participation rates that insurers can require employers to meet to be eligible to buy small group coverage through the [insert name of state SHOP exchange] or in the market outside the [insert name of state SHOP exchange]?**

As a result of the ACA, insurers offering coverage in the small group market cannot deny coverage to a small employer based on failure to meet minimum participation requirements, provided that the employer seeks coverage during the small group open enrollment period that runs from Nov. 15 to Dec. 15 each year. Outside of that time period, insurers in the small group market may impose participation requirements through the [insert name of state exchange] or outside the [insert name of state exchange] consistent with [insert name of state] law.

[Insert name of state] law doesn't allow a small employer insurer to impose more stringent requirements than the following:

- [insert participation limits consistent with state law]

**Drafting Note:** States with state-based exchanges may impose minimum participation rates as a condition of participation in a state SHOP exchange. In states with a federally-facilitated exchange, the SHOP has a default minimum participation rate of 70% for qualified health plans (QHPs) and the minimum participation rate will be adjusted higher or lower depending on state law or general insurer practice. For more information, see this link: <https://marketplace.cms.gov/outreach-and-education/shop-minimum-participation-rates.pdf>

**Q 50: Can small employers who are the sole employees of their business buy small group coverage either through the [insert name of state SHOP exchange] or the outside market?**

Neither federal nor state law lets insurers sell small group health insurance plans to self-employed individuals with no common law employees through the SHOP.

Contact the [insert name of state exchange] at [insert link] or [phone number], or a licensed agent or broker for help.

**Q 51: How does rating work in the small group market?**

Under the ACA, there is adjusted community rating in the small group market. This means that the rates each employer pays for health insurance depends on the claims experience of the insurer's entire small group market in [insert name of state], rather than the claims experience of that employer's small group.

The ACA offers states the option to combine the individual and small group markets. By combining the markets, risk gets pooled among a larger number of policyholders. A larger risk pool increases rate stability; however, initially premiums for individuals are likely to be lower on average, while premiums for small employers are likely to be higher.

**Q 52: Do small employers that don't offer health care insurance coverage to their employees, have to pay a tax penalty?**

No. Small employers who want to provide coverage may be eligible for the Small Business Health Care Tax Credit to help make insurance more affordable.

If the employer does offer coverage, however, the coverage must meet the ACA's minimum standards for small group insurance plans, as well as specific requirements that apply to the small group market, such as coverage of EHB and the prohibition on discrimination based on health status.

In [insert name of state], the [insert name of state SHOP exchange] is a place where small employers who want to offer coverage to their employees can shop. There's more information about the [insert name of state SHOP exchange] at [insert link to state SHOP exchange website].

**Q 53: Do large employers have to offer health care insurance coverage to their employees? What about seasonal employees?**

Under the ACA, if a large employer doesn't offer affordable coverage that provides minimum value to full-time employees (and their dependents<sup>1</sup>), and an employee gets a premium tax credit, the employer has to pay a penalty. For employer-based coverage to be considered affordable in 2019, the premiums for the plan's employee-only option must be less than 9.86% of his or her 2019 annual household income.

To offer minimum value, the plan must pay at least 60% of the medical costs for services the plan covers and include substantial coverage of inpatient hospital and physician services. The HHS and IRS have developed a minimum value calculator at [www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/mv-calculator-final-4-11-2013.xlsm](http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/mv-calculator-final-4-11-2013.xlsm).

Large employers for this purpose are employers with 50 or more full-time employees, including full-time equivalent (FTE) employees. Full-time employees are employees with 30 hours or more of service in a week. The number of FTE employees is determined by adding the number of hours of service in a month for all part-time workers and dividing by 120 hours per month.

Penalties were assessed starting Jan. 1, 2016, against employers with 50 FTE employees not offering health coverage if an employee gets the premium tax credit.

Employers with a large seasonal workforce (such as agricultural workers hired for the harvest season or retail clerks hired for the holiday season) are given leeway under the ACA not to count seasonal employees to decide if they meet the definition of a large employer. If the employer has more than 50 full-time or FTE employees during 120 or fewer days per year, the employer doesn't have to count those employees for those months.

For more information, go to the IRS website at <https://www.irs.gov/affordable-care-act/employers/employer-shared-responsibility-provisions>.

This question does not take into account all possible situations. Employers should consult a tax professional for assistance with their particular situation.

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<sup>1</sup> The rules implementing employer shared responsibility provisions have interpreted the phrase "and their dependents" to mean children under age 26, but not spouses. <https://www.irs.gov/affordable-care-act/employers/employer-shared-responsibility-provisions>.

**Q 54: What are the penalties if large employers don't provide coverage?**

Large employers may have to pay a tax penalty if they don't offer affordable coverage that provides minimum value for at least 95% of their full-time employees and their dependents, or all but five full-time employees, whichever is greater, and at least one of their employees gets premium tax credits through the [insert name of state exchange]. The penalty was imposed starting Jan. 1, 2016, for coverage not offered in 2015.

The penalty for a large employer that doesn't offer coverage to full-time employees and their dependents is \$2,320 multiplied by the number of full-time employees, if at least one full-time employee has received a premium tax credit. The first 30 employees are exempted in the count to calculate the penalty.

Similarly, the penalty for a large employer that offers coverage that isn't affordable or doesn't give minimum value is \$3,480 multiplied by the number of full-time employees who receive premium tax credits. (The maximum penalty may not be greater than \$2,320 multiplied by the total number of all full-time employees.)

Medicaid-eligible employees can't get premium tax credits, so employers will not face penalties for employees who receive Medicaid coverage or for employees' children who receive CHIP coverage.

**Q 55: How do small employers find out if they're eligible for the Small Business Health Care Tax Credit?**

Employers who buy coverage for their employees through the [insert name of state SHOP exchange] may be eligible for the Small Business Health Care Tax Credit. To qualify, the employer must: 1) have fewer than 25 full-time equivalent employees; 2) pay employees an average annual wage that's less than \$50,000; and 3) pay at least half of the insurance premiums.

The tax credit operates on a sliding scale, with a maximum credit of 50% of the employer's share of the premium costs and is only available to small employers buying health insurance through [insert name of state SHOP exchange]. The tax credit may be worth up to 50% of an employer's contribution toward employees' premium costs (up to 35% for tax-exempt employers).

Contact the [insert name of state SHOP exchange] at [insert link] or [insert phone number] for more information. A competent tax advisor also should be able to advise a small employer. There's more information on the IRS website at [www.irs.gov/uac/Small-Business-Health-Care-Tax-Credit-Questions-and-Answers:-Calculating-the-Credit](http://www.irs.gov/uac/Small-Business-Health-Care-Tax-Credit-Questions-and-Answers:-Calculating-the-Credit).

**Q 56: What ACA requirements apply to large employers?**

Several ACA requirements apply to non-grandfathered health plans that large employers offer on either an insured or self-insured basis. The requirements include limits on out-of-pocket expenditures and waiting periods, no annual or lifetime dollar limits on coverage of EHB or cost-sharing for preventive services, the requirement that coverage be offered to adult children up to age 26, and the requirement of access to internal and external appeals. Also, as noted in Question 53 and Question 82, large employers are required to offer affordable and adequate coverage, or face a tax penalty.

**ACA REQUIREMENT TO HAVE BASIC HEALTH CARE COVERAGE (INDIVIDUAL MANDATE)**

**Q 57: What is the individual responsibility requirement, and does it mean consumers must buy coverage through the [insert name of state exchange]?**

Under the ACA, consumers and their dependent children are required to have "minimum essential coverage" unless they qualify for an exemption. This requirement is known as "individual shared responsibility" or the "individual mandate." However, beginning in 2019, the penalty for going without coverage is reduced to \$0. Therefore, those without coverage will have to pay out-of-pocket for any health care expenses they incur, but they will not pay an additional tax penalty.

This link to the IRS website has more information: [www.irs.gov/Affordable-Care-Act/Individuals-and-Families/ACA-Individual-Shared-Responsibility-Provision-Minimum-Essential-Coverage](http://www.irs.gov/Affordable-Care-Act/Individuals-and-Families/ACA-Individual-Shared-Responsibility-Provision-Minimum-Essential-Coverage).

Coverage purchased through an exchange counts as minimum essential coverage, and so do other types of coverage. Employer-sponsored coverage, grandfathered plans, Medicare, Medicaid, and CHIP are all minimum essential coverage. Short-term health plans, fixed indemnity insurance, and coverage through a health care sharing ministry are not minimum essential coverage.

Check the website at [www.healthcare.gov/fees/fee-for-not-being-covered/](http://www.healthcare.gov/fees/fee-for-not-being-covered/) for more information.

**Q 58: Without a 2019 tax penalty, is having minimum essential coverage important?**

Those who don't have minimum essential coverage (MEC) or fit within an exemption in 2018 will pay a tax penalty, which is the greater of \$695 per adult, or 2.5% of taxable income above the filing threshold. After 2018, the tax penalty becomes \$0. There's more information on the penalty at [www.healthcare.gov/fees-exemptions/fee-for-not-being-covered/](http://www.healthcare.gov/fees-exemptions/fee-for-not-being-covered/).

In any year, individuals without minimum essential coverage are ineligible for one type of Special Enrollment Period (SEP). Those who are enrolled in MEC that ends are eligible for an SEP that allows them to enroll in individual market coverage, including exchange coverage. Those who are enrolled in coverage that is not MEC do not qualify for this SEP. Therefore, if their coverage ends, they need to wait until the next Open Enrollment Period or until they qualify for another SEP to enroll. Individuals cannot be eligible for premium tax credits until they are enrolled in an exchange plan. More information on SEP rules is available at <http://www.healthreformbeyondthebasics.org/wp-content/uploads/2015/06/SEP-Reference-Chart.pdf>.

And of course, having coverage offers consumers some protection against high health costs, even if there is no tax penalty for going without coverage.

**Drafting Note:** States with their own penalties for lacking MEC should include that information.

**ENROLLING IN HEALTH CARE COVERAGE: WHERE CAN CONSUMERS GET HELP?**

**Q 59: Where do consumers go for help to choose and enroll in a plan?**

Consumers should make a list of questions before they shop for a health plan. Consumers should gather information about household income and set a budget for health insurance. Consumers should find out if they can stay with their current doctors and pharmacy, and understand how insurance works—including understanding deductibles, out-of-pocket maximums, and co-payments.

There are several resources from the Kaiser Family Foundation, *Consumer Reports*, the NAIC, HHS and U.S. Department of Labor (DOL) to help consumers understand how insurance works, the different insurance options, and what to consider when buying coverage.

A standard form called the Summary of Benefits and Coverage, or SBC, and the companion set of uniform definitions, also is available for many health insurance plans. This information can help consumers compare different insurance options. (See Question 19.) Consumers can get the form and definitions through the [insert name of state exchange] at [insert link to state exchange webpage], or ask the plan for it. The [insert name of state exchange] also can direct consumers to more information and resources about the options that are available.

If a consumer is eligible to buy coverage through the [insert name of state exchange], he or she can enroll through the [insert name of state exchange] website at [insert link], by phone at [insert phone number], or in person through [insert links and contact information].

Also, there are four types of individuals trained to help consumers make decisions about health coverage:

**A. Insurance agents or brokers**

Health insurance agents and brokers sell insurance coverage from one or more insurance companies. Health insurance agents and brokers are licensed by [insert name of state] and receive continuing education related to their job. They can help educate consumers about health insurance policies, help consumers apply for coverage, and advise consumers about the type of health insurance coverage that best suits them and their family. Agents and brokers can sell consumers insurance plans in the market outside the exchange, as they always have.

Agents and brokers who want to sell policies through the [insert name of state exchange] have extra training from the HHS or the state-based exchange. They have passed a test at the end of their training to sell insurance policies through the [insert name of state exchange]. [Insert name of state] requires agents and brokers to have extra state-specific training before they sell through the [insert name of state exchange]. A list of agents and brokers authorized to sell through the [insert name of state exchange] is available on the [insert name of state exchange] website at [insert link]. Consumers may want to talk with more than one agent or broker before they decide which plan to buy. (See Question 66.)

**Drafting Note:** States where there may not be a list of agents and brokers on the exchange may want to modify the answer accordingly.

### **B. Navigators**

Navigators are individuals trained to help consumers understand the insurance policies available through the [insert name of state exchange] and answer consumer questions about the [insert name of state exchange]. They also can answer questions about insurance affordability programs, including Medicaid and CHIP. Navigators also can help educate consumers about their health insurance policy options and help them apply for coverage. Navigators get grants from the [insert name of state exchange] to receive training on how to help consumers. After training, they must pass a test and be certified by [insert name of state exchange]. In [insert name of state], navigators also must have extra state-specific training before they can help consumers. Consumers can contact navigators at [insert state contact information]. (See Question 67.)

**Drafting Note:** States where the HHS will be doing training and certification should modify the preceding paragraph accordingly. The HHS will certify navigators in the federally facilitated exchanges.

### **C. In-person assistance personnel**

In-person assistance personnel generally do the same things as navigators. In-person assistance personnel have received and successfully completed comprehensive training. They also can help educate consumers about health insurance policies and help them apply for coverage. [Insert name of state] has set up an in-person assistance program. Consumers can contact in-person assistance personnel at [insert contact information].

**Drafting Note:** States should delete this section if they do not have in-person assistance personnel.

### **D. Certified application counselors**

Certified application counselors provide enrollment assistance to consumers. Certified application counselors receive and successfully complete comprehensive training. They, too, can help educate consumers about health insurance plans and help them complete an application for coverage. In [insert name of state], examples of application counselors include staff at [insert name of local community health centers or hospitals or consumer nonprofit organizations].

**Drafting Note:** States will need to customize this section depending on what type of exchange they have and what kinds of individuals will be assisting consumers. More customization may be necessary if the state has any licensure or certification requirements.

### **Q 60: May consumers directly enroll for coverage through insurers?**

Yes. Consumers may buy coverage directly from an insurance company. However, consumers should make sure that the coverage they buy is offered through the [insert state name of state exchange] and that the insurer has an agreement to do direct enrollment through the [insert name of state exchange] so they can get any tax credits or cost-sharing reductions to which they are entitled.

Consumers enrolling directly through the insurance company portal may not see all plans available through the [insert name of state exchange].

**Drafting Note:** States that do not allow insurers to enroll consumers directly into plans through the exchange should change this answer accordingly.

### **Q 61: How are people who help consumers enroll in health coverage paid?**



Insurance agents and brokers may have an agreement that the insurance company will pay them if they enroll consumers in a health insurance policy consistent with state law. The state-based exchange may set rules about paying health insurance agents and brokers from the exchange or directly from insurance companies. In [insert name of state], the agent or broker will be paid an amount agreed to by the health insurance agent or broker and the company.

In [insert name of state], navigators will get funding from [insert funding source]. They don't get enrollment-based reimbursement from insurance companies and aren't allowed to charge a fee.

In-person assistance personnel will be paid by [insert funding source]. They don't get enrollment-based reimbursement from insurance companies and aren't allowed to charge a fee.

Certified application counselors will not be paid through the [insert name of state exchange]. They don't get enrollment-based reimbursement from insurance companies and aren't allowed to charge a fee. They may, however, receive federal funding through other grant programs, or Medicaid, or from another source.

#### **Q 62: How can consumers find an insurance agent or broker to help them enroll in a plan?**

In [insert state name], the [insert name of state health insurance exchange] website at [insert web address] lists insurance agents and brokers authorized to enroll individuals, families, and small businesses in coverage through the [insert name of state exchange]. Consumers can contact the [insert state Insurance Department] for a list of licensed health insurance agents and brokers in their area. Some agents and brokers don't contract with all health plans, so consumers must make sure they know the full list of plans that are available to them before they ask an agent or broker for help. Also, health insurance agents and brokers may or may not be able to help individuals complete the enrollment process for Medicaid or CHIP after they get an eligibility decision.

**Drafting Note:** States should modify this answer consistent with the information available in the state. In the federally-facilitated exchanges, such a listing will not be available for agents assisting consumers with individual QHPs. It has not been decided whether such a listing will be available for the federally facilitated SHOP exchange.

#### **Q 63: What are the qualifications required for health insurance agents and brokers to participate in the [insert name of state exchange]?**

In [insert name of state], health insurance agents and brokers are regulated by the [insert name of state department of insurance]. Agents and brokers receive training from the [insert name of state exchange or the HHS]. The insurance companies must appoint the insurance agents and brokers who sell their plans through the [insert name of state exchange]. An agent or broker selling plans through the [insert name of state exchange] must provide information on all plans that are offered on the [insert name of state exchange], even if the agent or broker isn't authorized to sell some of those plans.

**Drafting Note:** States that aren't requiring agents and brokers to be appointed to all the insurance companies selling through the exchange or that aren't requiring agents to provide information about all plans available through the exchange should modify the previous paragraph accordingly.

#### **Q 64: Where should consumers go with a problem enrolling in a plan through the [insert name of state exchange]?**

The [insert name of state exchange] should be able to help consumers with any problems. In particular, [insert name of state exchange] operates a call center to help answer consumer questions. The number for the call center is [insert number] and is available on the [insert name of state exchange] website at [insert link]. Insurance agents and brokers, navigators, in-person assistance personnel, and certified application counselors also should be able to help. (See Question 59.) Consumers can also contact the [insert name of state insurance department] at [insert phone number] to file a complaint or report a concern about a negative experience with an insurance company, agent and broker, navigator, in-person assister, or certified application counselor during and after the enrollment process.

#### **Q 65: Do consumers have to re-enroll annually?**

Eligibility for premium assistance and enrollment in a health plan will be decided annually using updated income, family size, and tax information (when authorized). Each year, before the open enrollment period, the [insert name of state exchange] will check income data and send a notice to consumers who are determined eligible for enrollment in a plan through the [insert name of state exchange]. This notice explains the consumer's eligibility for the upcoming year and tells

the consumer to let the [insert name of state exchange] know of any changes. After this, there will be an annual open enrollment period for consumers to change plans or insurance companies if they want to.

All consumers are encouraged to go to the exchange to review all of their options and to update income and other information to ensure the correct subsidy is received. Those enrolled in a plan through the exchange in 2018 who are eligible for auto-renewal and choose not to re-enroll or enroll in a different plan by Dec. 15, 2018, will be automatically re-enrolled in their current or similar plan. For the 2019 coverage year, the key dates are as follows:

- **Nov. 1, 2018:** Open enrollment starts—the first day a consumer can apply for 2019 coverage.
- **Dec. 15, 2018:** The last date to enroll for coverage that starts Jan. 1, 2019. Consumers who miss this deadline can't sign up for a health plan inside or outside the exchange or change plans unless they qualify for a special enrollment period (SEP). (See Question 12.)
- **Dec. 31, 2018:** The date when all 2018 exchange coverage ends, no matter when the consumer enrolled.
- **Jan. 1, 2019:** The date 2019 coverage can start if consumers applied by Dec. 15, 2018, or consumers were automatically enrolled in their 2019 plan or a similar plan.

During the year, consumers with coverage through the [insert name of state exchange] must report certain life changes to the [insert name of state exchange]. Consumers should report changes as soon as possible, especially in the case of changes that qualify a consumer for an SEP. Consumers eligible for an SEP typically have 60 days to enroll in new coverage. (See Question 12.) Changes include changes in income from a new job and getting married or divorced. See [www.healthcare.gov/how-do-i-report-life-changes-to-the-marketplace/](http://www.healthcare.gov/how-do-i-report-life-changes-to-the-marketplace/) for information about reporting life changes.

Consumers who have not requested financial assistance do not need to report changes related to financial assistance eligibility.

**Q 66: How will insurance agents and brokers be able to help consumers with enrollment through the [insert name of state exchange]?**

In [insert name of state], health insurance companies will appoint agents and brokers. Insurance companies will make sure the agent's license is valid and registered with the [insert name of state exchange]. The agent can help consumers log on to the [insert name of state exchange]. Consumers should log into their own [insert name of state exchange] account. The agent or broker can help consumers as needed. The agent or broker will then work with consumers to complete the application. Consumers will be prompted to enter the insurance professional's [insert name of state exchange] user identification number and national producer number on the application to show that the professional helped them.

**Drafting Note:** States should change this answer as appropriate to reflect the process in the state.

**Q 67: How will a navigator be able to help consumers with enrollment through the [insert name of state exchange]?**

In [insert name of state], navigators can help consumers create an account and log on to the [insert name of state exchange]. Consumers should log into their own [insert name of state exchange] account. The navigator can help consumers as needed to complete the application. Consumers may be prompted to enter the navigator's [insert name of state exchange] user identification number on the application to show that the navigator helped them.

The navigator can help consumers to compare health plans and answer questions about health insurance policies in general. The navigator can answer questions from consumers about the differences in health plans and what they might mean for them, but the navigator **CANNOT** recommend or suggest which health plan would be best for consumers and their families. Navigators aren't permitted to collect premium payments on behalf of an insurer or the [insert name of state exchange]. Consumers will be asked to enter the navigator's [insert name of state exchange] user identification number on the enrollment page to show that the navigator helped them.

Navigators **CANNOT** sell, solicit or negotiate a health plan through the [insert name of state exchange]. They **CANNOT** suggest that one plan would be better for the individual than another.

**Drafting Note:** States should change this answer as appropriate to reflect the process in the state.

**Q 68: How will the in-person assister or the certified application counselor be able to help consumers with enrollment through the [insert name of state exchange]?**

In [insert name of state], the in-person assister or certified application counselor can help consumers create an account and log on to the [insert name of state exchange]. Consumers should log in to their own [insert name of state exchange] account. The in-person assister or certified application counselor can help consumers as needed to complete the eligibility application. Consumers may be prompted to enter the in-person assister's or the certified application counselor's [insert name of state exchange] user identification number on the application to show that the assister or counselor helped them.

The in-person assister or certified application counselor can help consumers compare health plans and answer questions about health insurance policies in general. The assister or counselor can answer questions from the consumer about the differences in health plans and what they might mean to them (such as explaining deductibles or out-of-pocket limits), but the assister or counselor **CANNOT** recommend or suggest which health plan would be best for consumers and their families. Consumers will be asked to enter the in-person assister's or certified application counselor's [insert name of state exchange] user identification number on the enrollment page to show that they helped them.

The in-person assister or certified application counselor **CANNOT** sell, solicit, or negotiate a health plan through the [insert name of state exchange]. They **CANNOT** suggest that one plan would be better for the individual than another.

**Drafting Note:** States should change this answer as appropriate to reflect the process in the state.

**Q 69: Can small employers use licensed insurance agents or brokers to buy health insurance through [insert name of state SHOP exchange]?**

Yes. Licensed insurance agents and brokers are available to help small employers compare and determine which health plan best meets their needs, like they do today. This is true whether they're interested in buying coverage in the market outside the [insert name of state SHOP exchange] or through the [insert name of state SHOP exchange].

Licensed insurance agents and brokers will be able to compare plans in the market outside the [insert name of state SHOP exchange] against those offered through the [insert name of state SHOP exchange] to decide where they can buy the plan best for them. Employers may wish to talk with more than one agent or broker before making a decision about which plan to buy.

**Q 70: Will small employers be able to use navigators to buy health insurance?**

Navigators, by law, aren't allowed to sell health insurance unless they have an agent/broker license. Navigators are available to help small employers view plan options displayed on the [insert name of state SHOP exchange] website and can help consumers small employers with enrolling through the SHOP. Navigators can explain the parts of the plans offered through the [insert name of state SHOP exchange] but **CANNOT** legally offer advice as to which plan is a better fit for the small employer. Only a licensed insurance agent or broker is qualified and allowed to offer this service.

**Q 71: How can an insurance agent or broker help a small employer interested in participating in the [insert name of state SHOP exchange]?**

An insurance agent or broker can help any small employer, as has been true in the past. The agent or broker can help the employer decide which health insurance policy would be best for them, enroll employees in the plan, file health insurance claims, and understand the process of enrollment.

In the [insert name of state SHOP exchange], the HHS expects that insurance agents and brokers will be in contact with employers both before and after enrollment, as they will be a primary contact for customer service issues.

**Q 72: What is the benefit of using an insurance agent to enroll in the [insert name of state exchange] or [insert name of state SHOP exchange]?**

Whether consumers are individuals or small group businesses, the insurance agent or broker can work with their needs and requirements. Agents and brokers have a working knowledge of the qualified health plans and their benefits. An agent or broker may help individual consumers or small employers to create an account with the [insert name of state exchange] or [insert name of state SHOP exchange] if needed, but consumers, or a legally authorized representative, must create their own [insert name of state exchange] username and password. Consumers should not share this information with third parties, including insurance agents or brokers.

**Q 73: Will an insurance agent or broker show consumers all of the plan choices available through the [insert name of state exchange]?**

In [insert name of state], agents and brokers aren't required to show consumers all available health plans. If the consumer is using the [insert name of state exchange] website with the help of an agent or broker, all QHP choices will be displayed. If the agent or broker goes through an insurance company portal, all plans available through the [insert name of state exchange] may not be shown, but other plans available in the market outside the exchange—that aren't eligible for the advance premium tax credit—may be shown. Consumers should ask the insurance agent or broker if they're being shown all of the plans available through the [insert name of state exchange] and whether tax credits or cost-sharing reductions apply to the plans they are looking at.

All agents and brokers must follow applicable [insert name of state] laws, regulations, and [insert name of state exchange] requirements, including standards related to relationships or appointments with insurance companies.

[Insert name of state] expects that the insurance agent or broker will tell consumers if the information given is about health plans with which the agent or broker has a business relationship and that consumers can always directly access the [insert name of state exchange] website. They'll find information about other available qualified health plans there. The [insert name of state] expects that insurance agents and brokers will advise consumers to check with the [insert name of state exchange] about available tax credits or cost-sharing reductions.

**Drafting Note:** States should modify this answer if agents and brokers are required to show consumers all options available through the exchange.

**Q 74: Will consumers have to share their personal information, including their tax returns, with an agent or broker, navigator, in-person assistance personnel, or certified application counselor?**

No. A consumer isn't required to share personal information, including tax returns, with an agent or broker, navigator, in-person assistance personnel, or certified application counselor. When consumers complete the application on the [insert name of state exchange] website with the help of an agent or broker, navigator, or assister, they should be able to fill out and submit their eligibility application without the agent, navigator or assister in direct view of the application. While consumers applying for financial assistance are asked to enter income amounts, income figures from the IRS won't be shown during the application process, whether or not the consumer gets help filling out the application or does it independently. In [insert name of state], after completing the registration and training, agents or brokers, navigators, in-person assistance personnel, and certified application counselors must complete and comply with a privacy and security agreement and get a user ID to use with the [insert name of state exchange].

**Q 75: Will consumers have to share their account username and password with an insurance agent or broker, navigator, in-person assister, or certified application counselor?**

No. An agent or broker, navigator, in-person assistance personnel, or certified application counselor shouldn't ask for a consumer's account username and password. If a consumer is asked to share a username or password, he or she should contact the [insert name of state insurance department] at [insert phone number] and discuss this with the consumer assistance representatives.

**Q 76: What help should an insurance agent or broker, navigator, in-person assister, or certified application counselor give consumers if they or their dependents are eligible for Medicaid or CHIP?**

Agents or brokers, navigators, in-person assisters, and certified application counselors will work with all consumers who ask for help with [insert name of state exchange] enrollment, including those eligible for Medicaid or CHIP. The [insert name of state exchange] will send a notice to consumers who are eligible for Medicaid or CHIP. An agent or broker, navigator, in-person assister, or certified application counselor working with these consumers is expected to refer consumers to the [insert name of state agency]. Agent and broker, navigator, in-person assister, and certified application counselor training will include information about where to direct Medicaid- or CHIP-eligible consumers.

Agents and brokers should be able to give consumers a referral to a navigator, in-person assister, certified application counselor, or the [insert name of state Medicaid agency]. Navigators, in-person assisters, and certified application counselors should help all consumers seeking assistance with completing an application through the [insert name of state exchange]. If the [insert name of state exchange] assesses the consumer as Medicaid- or CHIP-eligible, the navigator, in-person assister, or

certified application counselor may refer the consumer to the state Medicaid agency for more information. Navigators, in-person assisters and certified application counselors often are not required to help consumers fill out a state Medicaid application if it is different from the application used by the [insert name of state exchange], but they can refer consumers to appropriate resources in those cases.

**Q 77: May an insurance agent or broker continue to work with consumers once they're enrolled in a plan through the [insert name of state exchange]?**

Insurance agents and brokers may continue to communicate with consumers after they've enrolled in a plan through the [insert name of state exchange], as long as the communications follow any laws and regulations that apply.

The communications also must follow the privacy and security standards the [insert name of state exchange] has adopted (pursuant to 45 C.F.R. §155.260). These standards limit how an agent or broker may use any information gained to provide help and services to qualified consumers.

The HHS expects to issue more rules about privacy and security requirements.

**COSTS AND ASSISTANCE WITH COSTS**

**Q 77: Is there cost-sharing for contraceptives?**

With the exception of health plans sponsored by certain employers that have religious or moral objections to contraception, all plans, including those offered through the [insert state name of state exchange], must cover in-network doctor-prescribed FDA-approved methods of contraception without cost-sharing.

For specific information about a plan's contraceptive coverage, consumers should check the plan's SBC or ask their employer or benefits administrator. There's more information about contraceptive coverage on the federal website at [www.healthcare.gov/coverage/birth-control-benefits/](http://www.healthcare.gov/coverage/birth-control-benefits/) and [www.cms.gov/cciiio/resources/fact-sheets-and-faqs/downloads/aca\\_implementation\\_faqs26.pdf](http://www.cms.gov/cciiio/resources/fact-sheets-and-faqs/downloads/aca_implementation_faqs26.pdf).

**Q 78: How much do plans offered through the [insert name of state exchange] cost?**

There are a variety of plans intended to fit different budgets, both through the [insert name of state exchange] and in the market outside the exchange. Also, many consumers purchasing coverage through [insert name of state exchange] qualify for the premium tax credits (see Questions 82-83), which pay for part of their premium and help lower the cost of coverage. To see specific costs of plans offered through the [insert name of state exchange], go to [insert state exchange webpage], call [insert state exchange telephone number], or talk to a navigator, certified application counselor, in-person assister, insurance agent or broker, or other assister. (See Question 59.)

**Q 79: Do plans offered through the [insert name of state exchange] have large out-of-pocket costs?**

The health insurance plans available through the [insert name of state exchange] feature a variety of out-of-pocket costs for consumers. But, the ACA requires that all non-grandfathered plans (including most plans that people get from an employer) limit consumers' annual out-of-pocket costs for in-network EHB services to no more than \$7,900 for individuals and \$15,800 for families in 2019. These maximum out-of-pocket amounts will go up in future years. However, out-of-network services do not count toward these limits on annual out-of-pocket costs. (See Question 28.) There are separate out-of-pocket maximums for stand-alone dental plans.

Plans are required to cover certain preventive services without cost-sharing. (See Question 25.) Also, consumers whose incomes are below a certain amount may be eligible for a premium tax credit and a Silver plan that features lower cost-sharing and lower out-of-pocket costs (co-payments, coinsurance and deductibles) without paying a higher premium. Check with the [insert name of state exchange] at [insert link] or direct the consumer to an online calculator to estimate whether they may qualify for subsidies: <https://www.kff.org/interactive/subsidy-calculator/>. Navigators, certified application counselors, in-person assisters, agents or brokers, or other assisters should be able to help consumers learn if they qualify. Also, the exchange application tells consumers whether they might be eligible for Medicaid or CHIP programs, which have very limited out-of-pocket costs.

**Q 80: Where can consumers go to learn if they're eligible for help paying premiums or for Medicaid?**

Consumers may apply with the [insert name of state exchange] or the [insert name of state Medicaid agency].

The [insert name of state exchange] determines eligibility for advance payments of premium tax credits and cost-sharing reductions. They also assess Medicaid and CHIP eligibility and make a referral, if appropriate, to the [insert name of state Medicaid agency] for a final determination.

Consumers also may apply directly with the [insert name of state Medicaid agency]. The [insert name of state Medicaid agency] will enroll eligible consumers in Medicaid or CHIP, or send their information to the [insert name of state exchange] to determine their eligibility for advance payments of the premium tax credit and cost-sharing reductions if they aren't eligible for Medicaid or CHIP.

**Drafting Note:** States with a different process will need to modify this answer accordingly.

### **Q 81: Is there help for consumers who can't afford coverage?**

Yes, consumers with low or moderate incomes can qualify for reduced costs, either through Medicaid, CHIP, or exchange coverage, but eligibility rules apply. In [insert name of state], nonelderly adults without minor children don't qualify for Medicaid. Beginning in 2014, some states used federal government funds to expand the program so that Medicaid also would cover adults with an income at or lower than 138% of the federal poverty level. In 2019, that is roughly \$16,700 for a family of one and \$34,600 for a family of four. Consumers should contact the [insert name of state exchange] or the [insert name of state Medicaid agency] directly if they think they might be eligible for Medicaid.

In [insert name of state], children may be able to get coverage through Medicaid or CHIP programs for which their parents aren't eligible. Some families may find it more affordable to enroll their children in Medicaid or CHIP and buy coverage for the parents through the exchange.

**Drafting Note:** States may need to modify the answer to this question depending on the state's decisions regarding Medicaid expansion.

### **Q 82: Who's eligible for premium tax credits and cost-sharing reductions?**

The ACA created premium tax credits and cost-sharing reductions to help cut costs for eligible consumers who buy a plan through the [insert name of state exchange]. (See Question 82.) The amount of the tax credit or cost-sharing reduction depends on family size and income. The amount of the tax credit and cost-sharing reductions varies on a sliding scale: Larger families and families with lower incomes get the most help. Tax credits and cost-sharing reductions aren't available for individuals who are eligible for Medicaid, CHIP, Medicare or qualifying employer-sponsored coverage. More information about tax credits and cost-sharing reductions is available at [www.healthcare.gov](http://www.healthcare.gov).

This link has general information about income levels at which financial help or coverage is available, as well as what counts as income: [www.healthcare.gov/lower-costs/qualifying-for-lower-costs/](http://www.healthcare.gov/lower-costs/qualifying-for-lower-costs/).

### **Q 83: How do premium tax credits to buy coverage through the [insert name of state exchange] work?**

Consumers who qualify for the premium tax credits can either receive them in advance, or they can wait until they file their taxes. The advance payment is sent to the insurance company that offers the plan the consumer has chosen and is used to reduce the monthly insurance premium. Consumers also have the choice to wait to receive their tax credits until they file their taxes. They also can use just part of their estimated tax credit in advance.

Consumers who want to use their tax credit in advance need to be as accurate as possible to estimate how much income they expect to have in the year they get coverage. If they underestimate their income and the tax credit is overestimated, they may have to repay part of their tax credits at tax time.

Consumers need to update the [insert name of state exchange] during the year about any changes in income, family size (like having a baby), employment (like getting a job where health coverage is offered) or becoming eligible for Medicare. The [insert name of state exchange] will change the tax credit amount to reflect the new information. Consumers who forget to update the [insert name of state exchange] about such changes might owe money at tax time or realize they could have been using a larger tax credit amount in advance.

Consumers who don't use the tax credit in advance don't have to tell the [insert name of state exchange] about any changes to their income or employment during the year. They can get the tax credit on their tax returns.

Consumers may go to the [insert name of state exchange] website at [insert link] or call the [insert name of the state exchange] at [insert telephone number] for more information about tax credits. Navigators, certified application counselors, in-person assisters, agents or brokers, or other assisters also are able to give consumers information about the tax credit. There's more information about premium tax credits on the federal website at [www.healthcare.gov](http://www.healthcare.gov).

**Q 84: Is an individual who is a victim of domestic abuse and separated (but not divorced) from his or her spouse eligible for subsidies on the exchange?**

Yes. In general, married couples must file a joint tax return in order to be eligible for a premium tax credit and cost-sharing reductions. For victims of domestic abuse, however, contacting their spouse to file a joint return may present a risk and may be legally prohibited if a restraining order is in place. As a result, married individuals who are victims of domestic abuse may still be eligible for subsidies if they are living separately from their spouse. Consumers in this situation should list "unmarried" on their exchange application and can do that without fear of penalty for misstating their marital status. For more information, see [www.healthcare.gov/income-and-household-information/household-size](http://www.healthcare.gov/income-and-household-information/household-size) or [www.irs.gov](http://www.irs.gov).

**Q 85: If a consumer is eligible for subsidy assistance, is there a grace period before a company can terminate the consumer for non-payment of premiums?**

Yes. The ACA requires insurance companies to give enrollees who receive subsidies a 90-day grace period for non-payment of premiums before the policy can be terminated, provided the enrollee has paid at least one month's premium. Claims must be paid during the first 30 days of the grace period, but the insurer may suspend payments to providers during the remainder of the grace period. In order to keep coverage at the end of the grace period, a consumer's account must be fully paid within 90 days of missing a premium payment. For example, if a consumer misses a payment in July but makes payments in August and September, the consumer will be terminated in October if he or she has not also paid the missing payment from July. And, a company may deny coverage in the next year if the consumer is in the grace period. For example, if the consumer misses a payment in November and December, the consumer may be denied coverage in January if they haven't paid premiums due the year before.

**Drafting Note:** States should review their laws for other grace periods that might otherwise apply.

**Q 86: What should consumers do if they find themselves enrolled in both Medicaid/CHIP and exchange coverage with premium tax credits?**

The [insert name of exchange] conducts periodic data matching to identify individuals enrolled in both Medicaid/CHIP and private insurance with premium tax credits and sends notices to those consumers. Upon receiving the notice, consumers may end their exchange coverage with premium tax credits by contacting the exchange. If a consumer wants to maintain exchange coverage while enrolled in Medicaid, he or she may apply for coverage without financial assistance, during the annual open enrollment period or a special enrollment period (SEP). Consumers whose enrollment status has changed since the data match (either in Medicaid or CHIP or exchange coverage with premium tax credits) should take no further action with the [insert name of state exchange]. Consumers might opt to contact their state Medicaid or CHIP agency to confirm that they are not enrolled. If found to be enrolled in Medicaid or CHIP coverage, they should follow the steps above to end exchange coverage with premium tax credits, if applicable, because consumers determined eligible for Medicaid or CHIP are not eligible for exchange coverage with premium tax credits or cost-sharing reductions.

If consumers are enrolled in exchange coverage with premium tax credits or cost-sharing reductions and are enrolled in Medicaid or CHIP, when the tax filer(s) file their tax return, they will likely have to pay back all or some of the tax credits received for the months following the eligibility determination for Medicaid or CHIP. Consumers who receive the notice but have more recently been denied eligibility for Medicaid or CHIP do not need to take any further action with [insert name of state exchange], but they may wish to contact their state Medicaid or CHIP agency to confirm that they're not enrolled.

**QUESTIONS ABOUT OTHER TYPES OF COVERAGE**

**Q 87: What is available in the market outside the [insert name of state exchange]?**

In [insert state name], health insurance coverage is also available in the market outside the [insert name of state exchange]. However, if consumers want to take advantage of premium tax credits to help pay for part of their premiums or for cost sharing assistance, they must buy coverage through the [insert name of state exchange]. (See Question 82 and Question 83.)

Consumers may buy plans in the market outside the exchange that aren't required to cover the EHB, such as fixed indemnity plans, short-term policies, or insurance coverage and discount plans that include only specialty or ancillary services (for example, hearing, chiropractic, etc.) Note, though, that these policies do not have to comply with ACA reforms such as the prohibition on excluding coverage for pre-existing conditions. (See Question 4.) The NAIC has some resources discussing these types of plans:

[www.insureonline.org/consumer\\_guide\\_cancer.pdf](http://www.insureonline.org/consumer_guide_cancer.pdf)

Contact [insert Department of Insurance contact] or an insurance agent or broker for help.

#### **Q 88: What are short-term plans?**

Under federal law, short-term plans are those with an initial term of no more than 364 days and that include a statement describing potential coverage limitations. Short-term plans may be renewed at the option of the insurer, but the same policy may only be in effect for up to three years in total. Short term plans are not required to comply with many of the consumer protections of the ACA. For instance, they may charge different premiums based on an applicant's health conditions, exclude essential health benefits, and exclude coverage for pre-existing conditions.

**Drafting note:** States with their own regulations on short term plans should add a statement that describes allowable short-term plans, including duration restrictions, rating requirements, or benefit mandates.

#### **Q 89: If consumers already have coverage, may they buy separate policies for their children?**

Consumers who already have coverage for themselves are eligible to buy a policy for a child through the [insert name of state exchange]. The ACA requires that any health plan offered through the exchange also must be offered as a child-only plan at the same tier of coverage. Consumers also may be eligible for tax credits for child-only plans they buy through the [insert name of state exchange]. Visit the [insert name of state exchange] website at [insert website for the state exchange] for more information about child-only plans available through the [insert name of state exchange].

However, children who aren't legal residents of the United States aren't eligible for child-only plans through the [insert name of state exchange]. Consumers may be able to buy a child-only policy in the market outside the [insert name of state exchange], either directly from an insurer or through an agent or broker. For a list of licensed insurers in [insert name of state], visit the [name of state department of insurance] website at [insert website of state dept. of insurance]. A child also may be eligible for Medicaid (contact [insert name of state Medicaid agency] at [insert contact information]) or coverage through [insert state Children's Health Insurance Program (CHIP)]. To learn more about CHIP plans, visit [www.insurekidsnow.gov](http://www.insurekidsnow.gov).

### **ACA MEDICARE-RELATED QUESTIONS**

#### **Q 90: Who should consumers contact with questions about Medicare, Medicare Supplement insurance, or Medicare Advantage plans?**

Medicare coverage, Medicare Supplement insurance (Medigap), and Medicare Advantage plans aren't available through the [insert name of state exchange]. Consumers who are currently enrolled in Medicare may not buy coverage through the exchange. Direct questions involving the ACA and Medicare, Medicare Supplement insurance, or Medicare Advantage Plans to [insert name of State Health Insurance Program (SHIP)] at [insert contact information]. The federal government's Medicare website, [www.medicare.gov](http://www.medicare.gov), also has more information about health reform and Medicare changes.

**Drafting Note:** Some states have enrollees who are on Medicare because of end stage renal disease (ESRD) or some other high-cost medical disorder. In those states, beneficiaries with ESRD may be able to enroll through that state's exchange. Medicare beneficiaries with other high-cost medical disorders in those states may have a limited special right to enroll in a Medicare Advantage plan.

#### **Q 91: Are people who pay premiums for Medicare Part A able to enroll through the [insert name of exchange]?**



If individuals who desire Medicare have to pay the premium for Part A because they aren't entitled to those benefits, they can buy coverage through [insert name of exchange] instead of Medicare, and they may also be eligible for a tax credit. This includes those beneficiaries who only enrolled in Medicare Part B because they couldn't afford the Part A premium. In both cases, these beneficiaries have to disenroll from Medicare Part A, if they have it, and from Medicare Part B, if they have it. There are consequences to substituting a QHP for Medicare. Consumers may pay higher premiums for Medicare if they decide to enroll in the future and may have a gap in benefits. The [insert name of SHIP] at [insert contact information] should be able to give consumers more information about their choices.

**Q 92: Can a person with ESRD (End Stage Renal Disease) enroll in or stay in a QHP *instead of enrolling in Medicare?***

If a consumer with ESRD has not applied for Medicare, she or he can stay in or apply for coverage through the [insert name of exchange]. However, there are consequences to delaying Medicare benefits. Individuals with ESRD may not be eligible for certain Medicare benefits if they enroll in Medicare in the future, may pay a higher premium for late enrollment, or may have a delay in when benefits begin. The [insert name of SHIP] at [insert contact information] should be able to give consumers more information about these complex choices.

**Q 93: If individuals become eligible for Medicare and are already in a QHP, can they stay in their plan?**

If a person stays in a QHP\* and is eligible for or enrolled in Medicare, he or she is no longer eligible to receive any tax credits. If the consumer has been receiving an advance premium tax credit, the consumer must report the change to the [insert name of state exchange] to end the tax credit. If the consumer does not do this, the consumer will be liable to repay the tax credits for which he or she was not eligible.

Although under federal laws the QHP cannot terminate coverage from the same policy to which the individual was enrolled upon becoming eligible for Medicare, a QHP is not designed to coordinate its benefits with Medicare. Both the premium and the benefits of a QHP are designed to provide primary coverage, not supplemental coverage. Depending on state law, a QHP may reduce its benefits to pay covered expenses that remain after Medicare pays, but the premium will stay the same. This may happen even if the individual does not sign up for Part B of Medicare. Consumers are encouraged to enroll in Medicare when they are eligible to do so to avoid premium penalties and delayed benefits later. The [insert name of SHIP] at [insert contact information] should be able to give consumers more information about how and when to enroll in Medicare and any penalties that can apply.

*\*Note that this information (except for the tax credit) applies to individual coverage inside and outside an exchange.*

**Q 94: Is there anything consumers and their dependents who are already on Medicare and have employer-based coverage need to do because of the ACA?**

Generally, there's nothing consumers need to do because of the ACA if they're already on Medicare and have employer-based coverage. If consumers have coverage through an employer and that employer's current benefits pay first and Medicare pays second, the ACA didn't change that.

If the employer changes the benefits that cover consumers or their dependents, then they will send consumers a notice about those changes. Consumers can ask their employer's human resources department how those changes work with Medicare.

The [insert name of SHIP] at [insert contact information] should be able to give consumers more information about how their existing coverage works with Medicare.

**Q 95: Is there anything consumers and their dependents who are already on Medicare and have retiree coverage from an employer need to do because of the ACA?**

The ACA didn't change those benefits. Consumers should contact their employer's human resources department for help. If they need more information about how Medicare and retiree benefits work together, they can contact the SHIP at [insert contact information].

**Q 96: Will consumers with Medicare Supplement insurance be affected by the ACA?**

No. The ACA doesn't change the cost sharing for Medicare supplement policies.

**Q 97: How will consumers' Medicare prescription drug "donut hole" be affected?**

The ACA began closing the “donut hole” in 2011, and it was closed entirely effective for 2019. The donut hole was closed by combining a 50% discount on the cost of brand-name drugs and a gradual increase in the share of prescription drug costs for both generics and brand-name drugs that Medicare pays, until a beneficiary only owes 25% of the total cost. Medicare beneficiaries whose prescription drug costs are greater than the Part D deductible will need to pay only a 25% coinsurance rate (after meeting the plan’s deductible, if any) until their expenditures reach the catastrophic level.

For more information, contact Medicare at [www.medicare.gov](http://www.medicare.gov) or 1-800-MEDICARE or by contacting [insert name of SHIP] at [insert contact information].

**Q 98: What about LTC insurance policies?**

The [insert name of state exchange] doesn’t include LTC insurance policies, and policies sold on the [insert name of state exchange] don’t typically cover LTC services. Insurance agents and brokers still sell LTC insurance outside the exchange. The HHS website <https://longtermcare.acl.gov/> has information about LTC insurance.

**ACA MEDICAID-RELATED QUESTIONS**

**Q 99: Where can consumers find more information about Medicaid?**

Contact the [insert name of state Medicaid agency] at [insert contact information] with any questions or concerns about Medicaid and the ACA. Also, the HHS website has basic information about Medicaid posted at [www.healthcare.gov](http://www.healthcare.gov).

**Q 100: Did consumers’ eligibility for Medicaid changed under the ACA?**

The same categories of consumers continue to be eligible for Medicaid, although the financial methodology has changed. They still need to be part of an eligible group, such as children, pregnant women, parents (or other caretaker relatives), blind, disabled, or elderly, and they still need to meet the financial eligibility test set by [insert name of state]. Contact the [insert state Medicaid agency] at [insert contact information] for more information.

**Drafting Note:** States that have expanded Medicaid should modify this answer as appropriate.

There is more information about who is eligible for Medicaid at this link: <https://www.healthcare.gov/medicaid-chip/>.

**Q 101: What is the expanded Medicaid eligibility under the ACA?**

Adults who weren’t eligible for Medicaid in the past may be eligible under the ACA. [Insert name of state] has decided to expand Medicaid coverage to new groups, now covering [explain new eligibility criteria]. Contact the [insert name of state Medicaid agency] at [insert contact information] for more information.

**Drafting Note:** States that have not expanded Medicaid will need to revise this answer accordingly.

There is more information on who is eligible for Medicaid at this link: <https://www.healthcare.gov/medicaid-chip/>.

**Q 102: What is the federal poverty level (FPL), and why is it important in the context of health care coverage?**

The FPL is how the federal government defines poverty, and it’s used to decide who’s eligible for federal subsidies and entitlement programs. In states that expanded Medicaid, people under 65 with incomes up to 138% of the FPL (or about \$34,640 for a family of four) generally can get Medicaid coverage. People with incomes above this level but less than 400% FPL may be eligible for premium tax credits to help them buy a plan through the [insert name of state exchange]. Cost-sharing reductions are available until a family’s income reaches 250% of the FPL.

**Drafting Note:** States that didn’t expand Medicaid will need to revise the previous paragraph accordingly.

This link has general information about income levels at which financial help or coverage is available, as well as what counts as income: [www.healthcare.gov/lower-costs/qualifying-for-lower-costs/](http://www.healthcare.gov/lower-costs/qualifying-for-lower-costs/).

**Q 103: What benefits will be available for adults newly eligible for Medicaid?**

Each state can define the benefit package for this newly eligible group. The benchmark benefit package needs to at least include the EHB available through the [insert name of state exchanges]. (See Question 17.) Contact the [insert name of state Medicaid agency] at [insert contact information] for more information.

**Q 104: Are undocumented immigrants eligible for Medicaid?**

Undocumented immigrants are not eligible for most categories of Medicaid coverage, but may receive services in emergency circumstances.

**Q 105: How do consumers apply for Medicaid?**

Consumers can apply online through the [insert name of state exchange]. They also can apply by mail, fax or in person. If a consumer applies through the [insert name of state exchange], his or her eligibility for Medicaid also will be assessed, and the consumer's application will be transferred to the [insert name of state Medicaid agency] for final determination. Under the law, there's "no wrong door" to apply for health coverage, whether it's through [insert name of state Medicaid agency], CHIP, or the [insert name of state exchange]. If a consumer isn't eligible for Medicaid, then the consumer's eligibility for coverage through the [insert name of state exchange] and for premium tax credits or cost-sharing reductions will be evaluated.

**Q 106: Will consumers still need to submit documents to prove their income?**

As much as possible, the [insert name of state exchange] uses existing data sources or gets information from various federal and state agencies, such as the IRS, to verify income. The rules are designed to ensure a high degree of program integrity and reduce the amount of paperwork that consumers need to provide.

Some consumers will be asked to provide documents to prove their income. There are separate processes to verify income in order to qualify for Medicaid and CHIP and for premium tax credits and cost-sharing reductions. To verify income for Medicaid, CHIP, premium tax credits, and cost-sharing reductions, [insert name of state exchange] will use data from the IRS, the Social Security Administration (SSA) and other income data sources.

For Medicaid and CHIP, issues that come up about verifying income will be resolved through a process of explanations and documentation. For premium tax credits and cost-sharing reductions, most verification issues will be resolved through a process of explanations and documentation. But, to limit the administrative burden, the [insert name of state exchange] may use a sample-based review in some cases.

**COMMON CONCERNS ABOUT HOW THE ACA AFFECTS CONSUMERS**

**Q 107: Does the ACA eliminate private health insurance?**

No. There is still private health insurance under the ACA. The ACA created health insurance exchanges (see Questions 5-6) where consumers can compare and shop for private insurance plans. The ACA also sets many new federal rules and protections that apply to people in each state who purchase private health insurance. (See Questions 2 and 4.)

**Q 108: Does the ACA include rules about insurance premiums?**

For individual and small group health insurance market plans covered by the ACA's rating rules, premiums may only vary based on an individual's age, the area of the state in which the policy is sold, tobacco use, and family composition. For covered plans, these are the only factors that an insurance company can use when it sets premiums. Covered plans can't refuse to insure or charge higher premiums to consumers with medical problems. The ACA also reduces the difference in premiums covered plans charged for younger and older people and eliminates differences between premiums charged for men and women. These rating rules cover individual and small group health plans offered through the exchanges or outside of them, but do not apply to short-term, limited duration plans.

To help make coverage affordable, many consumers who buy qualified health plans through the individual market exchanges are eligible for premium tax credits. Also, consumers under age 30 or who can't afford coverage may be eligible to buy catastrophic plans, which cost less.

**Drafting Note:** States may want to link to rate submissions and final approvals. States that don't allow the tobacco surcharge or use a different ratio than 1.5:1 should note that health insurance companies are prevented from charging consumers a higher premium for being a tobacco user or limited in the amount of tobacco surcharge that can be applied.

**Q 109: Does the ACA address discrimination?**

ACA explicitly prohibits insurance companies from discriminating on the basis of race, color, national origin, sex, age, or disability. The ACA regulations additionally prohibit discrimination against individuals on the basis of expected length of life, degree of medical dependency, quality of life, other health conditions, sex stereotypes, gender identity, or sexual orientation. These nondiscrimination standards apply to the exchanges and exchange activities, insurers and insurance plans, navigators, certified application counselors, insurance agents or brokers, other assisters, and the EHB, among others.

Also, health insurers must follow any state laws and regulations that apply about marketing and can't use marketing practices or benefit designs that will discourage individuals with significant health needs from enrolling. Health insurers must also provide meaningful access for individuals with limited English proficiency and post taglines in the languages spoken by persons with limited English proficiency. Health insurers cannot require people to join an association to buy a plan.

Insurance companies won't pay for services not covered by a plan, such as care that isn't medically necessary. Consumers have the right to ask their insurance company to reconsider a decision to deny coverage and, after that, consumers have the right to an independent external review of the decision. (See Question 114.)

**Q 110: What are the income tax implications of the ACA?**

The [insert name of department of insurance] does not interpret or enforce obligations under the tax code. Consumers can contact the IRS or their tax advisor for information.

**Q 111: Where else can consumers find answers to health insurance questions?**

[Insert links to State DOI, Exchange, Medicaid, navigator organizations, etc.]

**Q 112: What does the health plan “accreditation status” information on the exchange Web page mean?**

Accreditation is a comprehensive process by private, nonprofit organizations that review how well health plans deliver care and how they work to improve the delivery of care over time. Health plans offered through the [insert name of state exchange] must be certified by a recognized accrediting body, such as URAQ and/or the National Committee for Quality Assurance (NCQA).

Part of the certification requires that the plan is accredited by a recognized accrediting entity within a time frame set by the [insert name of state exchange]. Accreditation ensures that the plans sold on the [insert name of state exchange] meet minimum quality, access, nondiscrimination, and marketing standards in the ACA.

**Q 113: What does the health plan “consumer experience” information on the [insert name of state exchange] Web page mean?**

Consumer experience ratings come from surveys that ask individuals who have coverage through a health insurance plan how they like the plan. These individuals also rate the quality of the medical care they receive and the accessibility of the medical care that they need.

**Q 114: What appeal rights do consumers have?**

Consumers have a right to appeal an unfavorable coverage decision by their health insurance company. Insurance companies must give consumers owning an individual policy a first-level internal appeal, administered by the company, and if the company upholds its initial unfavorable coverage decision, it must provide an external review administered by an independent third party. Consumers in individual policies may also be able to request a *voluntary* second-level internal appeal. However, those two levels of internal appeals must also be done within the time limit imposed by the law for all internal appeal process, whether one- or two-levels. Expedited review for emergency situations is available. For group policies, the insurance company may require two levels of internal appeals before the external review option. For more information about how to appeal a health insurance company's unfavorable decision, the consumer can refer to the notice of

the insurance company's unfavorable coverage decision (often referred to as an Explanation of Benefits, or EOB), plan or policy documents, or contact [insert state insurance department] at [insert telephone number].

Consumers also can file complaints with [insert name of state insurance department] when claims are denied, or when they believe that their health insurance company isn't properly following the legal appeals process. To reach the state insurance department, consumers can contact [insert contact information].

Note that there is a separate appeals process if a consumer is dissatisfied with an eligibility decision made by [insert name of state exchange]. The consumer can contact [insert name of state exchange] for more information.

**Q 115: Where do consumers file a complaint for a product sold through the [insert name of state exchange]? What about plans sold in the market outside the [insert name of state exchange]?**

Consumers should first contact the insurance company with any complaint about benefits or services they're not receiving. If consumers aren't satisfied, they should contact the [insert name of state exchange] for help with questions or complaints.

The [insert state department of insurance] investigates complaints about insurance companies and can either look up consumers' complaints or direct consumers to the right place to file a [insert name of state exchange] related complaint. The [insert state insurance department] is ready to help consumers with any question or complaint they may have about their coverage. To find out more about filing appeals, consumers can contact the [insert state department of insurance] at [insert contact information].

**Q 116: If consumers apply for coverage in the market outside the [insert name of state exchange], what are the rules regarding open and special enrollment?**

In [insert name of state], insurance companies sell policies in the market outside the exchange. Enrollment periods for coverage outside the [insert name of state exchange] generally are the same as enrollment periods through the exchange. (See Question 12.) Contact the [insert name of state department of insurance] at [insert contact information], or an insurance agent or broker, for more information about enrollment.

If someone is not eligible to enroll in health coverage through the [insert name of state exchange] or does not want to enroll in coverage through the [insert name of state exchange], insurers must make policies available in the [insert name of state exchange] available outside the [insert name of state exchange], although the policies aren't required to be marketed as available outside the [insert name of state exchange].

For more information about special enrollment periods (SEPs), see this link: [www.healthreformbeyondthebasics.org/wp-content/uploads/2015/06/SEP-Reference-Chart.pdf](http://www.healthreformbeyondthebasics.org/wp-content/uploads/2015/06/SEP-Reference-Chart.pdf).

## **QUESTIONS INVOLVING SPECIAL CIRCUMSTANCES AND POPULATIONS**

**Q 117: What is available for consumers with chronic conditions? Does the ACA help them get better coverage?**

Yes. All plans subject to the ACA must insure consumers with a chronic or pre-existing medical condition, must cover pre-existing conditions, and can't charge higher premiums because of a health or medical condition. They are also required to offer comprehensive coverage. Discrimination on the basis of age, disability or expected length of life is prohibited. Coverage for these benefits is available from the beginning of the policy coverage period, without a waiting period, even if there was no prior coverage. Many plans include wellness programs to help consumers manage chronic conditions.

**Q 118: What options are there for consumers with children who aren't citizens or legal residents?**

Consumers won't be able to buy a policy through the [insert name of state exchange] for those children who aren't lawfully present, but they may be able to buy a policy directly from an insurance company or through an agent. Insurers that sell policies through the exchange, however, must make those policies available upon request to individuals, including children, who are not eligible to participate in the [insert name of state exchange]. For a list of licensed insurance companies in [insert name of state], visit [insert link]. Lawfully present children also may be eligible for the [insert name of state Medicaid and CHIP]. To learn more about these plans, go to [www.insurekidsnow.gov](http://www.insurekidsnow.gov).

**Q 119: Are immigrants not legally present eligible for coverage through the [insert name of state exchange] or for premium tax credits?**

No. Immigrants not legally present aren't eligible for coverage through the [insert name of state exchange]. They also aren't eligible for advance payment of premium tax credits. Insurers that sell policies through the exchange, however, must make those policies available upon request to individuals, including children, who are not eligible to participate in the [insert name of state exchange].

**Q 120: Are incarcerated people eligible for coverage through the [insert name of state exchange] or for premium tax credits?**

No. Incarcerated people aren't eligible for coverage through the [insert name of state exchange]. They also aren't eligible for advance payments of the premium tax credits. Consumers who are incarcerated pending the disposition of charges still are eligible. Insurers that sell policies through the exchange, however, must make those policies available upon request to individuals, including children, who are not eligible to participate in the [insert name of state exchange].

**Q 121: Are tribal members eligible for coverage through the [insert name of state exchange] or for premium tax credits?**

Yes. Tribal members may buy coverage through the [insert name of state exchange]. Tribal members have access to enrollment continuously. They're also eligible for premium tax credits. And, because of the federal government's special trust responsibility, members of federally recognized Indian tribes are eligible to receive benefits not available to others, such as plans with no cost-sharing, under certain circumstances. For more information, go to [www.healthcare.gov](http://www.healthcare.gov) or the website for the Indian Health Service (IHS) agency within the HHS at [www.ihs.gov/](http://www.ihs.gov/).

**QUESTIONS ABOUT MLR**

**Q 122: What is the Medical Loss Ratio (MLR) requirement?**

The ACA's MLR requirement is that health insurers must spend at least a certain percentage of consumers' premium dollars on direct medical care and health care quality improvement. That limits the amount of premium dollars spent on administrative expenses, such as overhead, marketing, salaries, and profit.

The ACA requires that health insurance companies providing coverage in the large employer market (usually 50 or more employees) must spend at least 85% of premiums on direct medical care and quality improvement activities. Health insurers who provide coverage in the small employer market (usually fewer than 50 employees) and individual market must spend at least 80% of premiums on direct medical care and quality improvement activities, or they have to rebate (refund) the extra premium.

**Q 123: What is an MLR Rebate?**

Under federal law, if a health insurer doesn't meet the MLR target (described in Question 122), that health insurer must give consumers or employers a rebate for the amount of premiums it collected that was greater than the target.

**Q 124: How can consumers learn if their insurer paid rebates?**

Companies that pay rebates send notices to enrollees. The list of the rebates paid can be found at [www.cms.gov/CCIIO/Resources/Data-Resources/mlr.html](http://www.cms.gov/CCIIO/Resources/Data-Resources/mlr.html).

**QUESTIONS ABOUT WHETHER A PLAN IS LEGITIMATE**

**Q 125: Why is this a time to be especially on guard against health insurance fraud?**

Health insurance rules and regulations are constantly changing. Con artists posing as representatives of the federal government or posing as legitimate insurance agents, brokers, or navigators might try to steal consumers' money or identity through various health insurance schemes. For instance, criminals might try to convince consumers to reveal personal information to receive a "national health insurance card" or a new Medicare card under the ACA. Or they might try to sell

consumers health insurance policies that are fake, worthless, or not what they claim to be. These scams are often attempted through automated telephone calls or websites that mimic legitimate sites.

**Q 126: Can consumers get help from their current insurance agent or insurance company to buy health insurance coverage through the [insert name of state exchange]?**

Yes. Working with individuals known personally or known to be working for legitimate organizations is a dependable way to avoid fraud.

**Q 127: If consumers don't have a relationship with an insurance agent or company, where should they go for help?**

When consumers contact the [insert name of state exchange], they'll have the option to contact a navigator specifically trained to help them choose the best health insurance product for their needs.

**Drafting Note:** States without navigators should update this response to provide alternate sources for consumer assistance.

**Q 128: If someone comes to consumers' homes, calls consumers out of the blue, or sends emails to offer consumers health insurance coverage for a terrific premium, how will consumers know whether the person and the health insurance coverage are legitimate?**

Remember this simple formula: **STOP – CALL – CONFIRM.**

**STOP** – Consumers should ask the person for identification and a phone number where they may be reached later. If the person refuses to give this information for any reason, or tries to pressure them into signing any document, consumers should immediately hang up, close their door, or walk away.

Consumers should NOT volunteer their Social Security number (SSN) or a credit/debit card number to anyone unless they personally know the individual. Likewise, they should NOT sign any paperwork or write a check.

**CALL** – Consumers then should contact the [insert name of state department of insurance] or the [insert name of state exchange]. The insurance company or agent or broker, as well as the navigator, must be registered or licensed with the [insert state department of insurance] before they can sell coverage or counsel consumers through the [insert name of state exchange].

**Drafting Note:** States should modify the previous paragraph as necessary to reference the entity charged with registering or licensing navigators.

**CONFIRM** – Consumers should always confirm that the company, agent, or broker offering insurance coverage, or the navigator trying to providing assistance, is authorized to provide information or coverage before they sign any documents or give any personal information.

Remember that if something seems too good to be true, it usually is.