

Foreign Insurance Coverage Fast Facts for Assisters

This Fact Sheet Applies if You:

- Are a Navigator, non-Navigator assistance personnel (“in-person assister”), or certified application counselor (collectively, an assister) in a state with a Federally-facilitated Marketplace or State Partnership Marketplace
- Are assisting consumers who are U.S. citizens living abroad, lawfully present non-U.S. citizens, or foreign persons in the US with a student visa
- Have questions about what qualifies as minimum essential health coverage and who is subject to the individual shared responsibility payment

Foreign Insurance Coverage: Overview

Beginning in 2014, U.S. citizens and nationals are required to have minimum essential health coverage (MEC), qualify for an exemption, or make a shared responsibility payment when they file their Federal income tax returns if they do not have insurance coverage that meets MEC standards. U.S. citizens and nationals who have foreign health coverage may wonder if they are subject to the shared responsibility payment. In general, foreign health coverage (except for coverage through a self-funded foreign group health plan and, under some circumstances, coverage through an insured foreign group health plan) is not currently considered MEC. However, U.S. citizens living abroad are treated as having MEC if certain conditions apply. Additionally, such individuals may qualify for an exemption.

What Assisters Should Know About U.S. Citizens Living Abroad

U.S. citizens who are living and working abroad are exempt from the requirement to have MEC if they meet certain criteria, including:

- Physical Presence Test (PPT): individuals physically present in a foreign country or countries for a minimum of 330 full days in any 12 consecutive months.

- **Bona Fide Resident Test (BFR):** individuals who are bona fide residents of a foreign country for an uninterrupted period of time that includes a full tax year. In general, BFR depends on how long you have lived in a country and the nature of your job.

If U.S. citizens meet either of these requirements, they will not be subject to the shared responsibility payment for failure to maintain MEC. U.S. citizens will indicate their status on Form 8965 when they file their U.S. federal income tax return. If U.S. citizens do not meet either of these requirements, they will need to have maintained MEC, qualify for an exemption, or make a shared responsibility payment when filing a tax return. If consumers have a short term coverage gap of less than three consecutive months, they will be exempt from the shared responsibility payment.

If consumers are former expatriates (person living outside of the U.S.) who moved back to the U.S., assisters should be aware of the consumers' current health coverage status in order to advise them of their next steps. These consumers previously may not have needed to obtain MEC, but now may need to enroll in coverage to avoid the shared responsibility payment. If consumers living in the U.S. are laid off from a foreign job that included foreign group health coverage, they must obtain MEC within three months or they will not qualify for the short coverage gap exemption. Also, as long as consumers have MEC for at least one day in a month, they are treated as having MEC for that month and will not be liable for the shared responsibility payment for that month.

What Assisters Should Know About Lawfully Present Non-U.S. Citizens

Health coverage provided by foreign governments or foreign insurance companies can vary and may not cover health care costs incurred by individuals who are lawfully present in the U.S. since providers in the U.S. may not accept such coverage. Individuals covered under a group health plan provided through insurance regulated by a foreign government will be considered to have MEC if the covered individual is physically absent from the United States for at least 1 day during the month, or if the covered individual is physically present in the United States for a full month and the coverage provides health benefits within the United States while the individual is on expatriate status from their home country. Generally, consumers who are not U.S. citizens but who are lawfully present in the U.S. are subject to the same individual shared responsibility requirements that apply to U.S. citizens.

Foreign students who are covered by their university's self-funded plan are considered to have MEC for plan years that began on or before December 31, 2014. For plan years that began after this date, a student will be treated as having MEC only when the student health plan has been recognized as MEC by the Department of Health and Human Services (HHS). Students should check with their institutions to confirm that their student health plan qualifies as MEC. In general, if a foreign student does not have coverage through a self-funded college or university

plan, and the student is required to file a U.S. federal income tax return, the student must have maintained MEC, qualify for an exemption, or make a shared responsibility payment. Individuals who are nonresident aliens for U.S. tax purposes generally may qualify for an exemption. Foreign students also may be eligible for Marketplace plans and subsidies depending on level of household income.

What Assistors Should Know About the Shared Responsibility Payment Requirement

If consumers do not have MEC for any month in a calendar year for which they do not have an exemption, they will be subject to a shared responsibility payment, which for 2015 is generally equal to the greater of:

- a. Two percent of the consumer's household income that is above the tax filing threshold for the consumer's filing status (e.g., Single or Married Filing Jointly); or
- b. A flat dollar amount of \$325 per person in the individual's household (\$162.50 per child), limited to \$975 per household.

The individual shared responsibility payment cannot exceed the national average premium for a bronze-level qualified health plan that would cover everyone in the individual's household.

Scenarios

1. **Assisting a U.S. Expatriate Returning to the U.S.**: Joe, a 44-year old U.S. citizen, has been living in the Middle East for the last five years as an engineer. He has been purchasing foreign health insurance while he has been in the Middle East. He moved back to the U.S. in December 2014 and will begin a new job that provides group health coverage starting in March 2015. Joe is exempt from needing to have MEC for every month in 2014 because he satisfies the BFR test. Is Joe subject to the individual shared responsibility payment for January and February in 2015?

No. Joe qualifies for the short coverage gap exemption because he was not required to have MEC in December 2014 and his gap in coverage in 2015 is less than three months. Therefore, Joe will not be subject to the shared responsibility payment for January and February.

2. **Assisting Green Card Holder With Approved Foreign Insurance**: Tess, a 25-year old Green Card holder, has been living in the U.S. for three years. She is a citizen of Canada, but only returns home for holidays. Tess has coverage through the Canadian national plan that generally is available to individual Canadian citizens. To comply with the Affordable Care Act, she is planning to enroll in an individual plan offered by a Canadian health insurance company. Will Tess' choice of health coverage satisfy the

requirement to have MEC? Will she be subject to the shared responsibility payment?

Neither the Canadian national health plan, nor a private Canadian health insurance plan automatically qualifies as MEC, and although both can apply to HHS to have their coverage recognized as MEC, we will assume for purposes of this example that neither health plan is recognized as MEC. Therefore, Tess will have to make the shared responsibility payment unless she enrolls in MEC (such as a Marketplace plan) or qualifies for an exemption. Because she is a lawful resident of the U.S., she might qualify for advance payments of the premium tax credit and cost-sharing reductions through the Marketplace, or for Medicaid, depending on her income level.

Additional Resources

For More Information Visit:

- **Internal Revenue Service:** [Individual Responsibility Payment](http://www.irs.gov/uac/Questions-and-Answers-on-the-Individual-Shared-Responsibility-Provision)
Available at: <http://www.irs.gov/uac/Questions-and-Answers-on-the-Individual-Shared-Responsibility-Provision>
- **Internal Revenue Service:** [Minimum Essential Coverage](http://www.irs.gov/uac/ACA-Individual-Shared-Responsibility-Provision-Minimum-Essential-Coverage)
Available at: <http://www.irs.gov/uac/ACA-Individual-Shared-Responsibility-Provision-Minimum-Essential-Coverage>

