

Small Group/Large Group Definitions and Differences

The Patient Protection and Affordable Care Act (or health care reform law) established several new standards for private health insurance coverage. As part of these standards, the law established federal definitions of “small employer” and “large employer” for health insurance markets. Previously, states defined these markets.

From now until 2016, states can define the size of small groups:

- Small employer can be *either* 50 and fewer *or* 100 and fewer.

Beginning in 2016, the definitions in the federal health care reform law will apply:

- Small employers are those who had, on average, 1-100 employees in the preceding calendar year and at least one employee on the first day of the plan year. (Note that this means sole proprietors could be considered part of the small group market.)
- Large employers are those who had, on average, 101 or more employees in the preceding calendar year and at least one employee on the first day of the plan year.
- These definitions are based on full-time equivalent calculation that accounts for both full-time and part-time employees. Full-time seasonal employees who work fewer than 120 days during the year are excluded.

On the surface, the inclusion of group size definitions in the federal health care reform law appears to bring more uniformity to health insurance markets. However, the definitions aren't applied consistently throughout the law. For example, the medical loss ratio provision of the health care reform law amended the Public Health Service Act – but it didn't change the existing, conflicting group size definitions in the Public Health Service Act.

In addition, some provisions that set different thresholds consider only full-time employees in the calculation rather than full-time equivalents.

See the following pages for examples of provisions that vary by group size and/or calculation method.

The federal health care reform law defines “small employer” as 1-100 employees and “large employer” as 101+ employees. These definitions use full-time equivalency calculation that accounts for both full-time and part-time employees. However, this definition isn't used consistently for all provisions. Until 2016, states may define small group as fewer than 51.

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Key Provisions that Differ for Small Group and Large Group

Note: This table applies to group sizes as noted in the health care reform law. It does not account for differences in our business decisions for implementation.

Provision	Small Group Applicability	Large Group Applicability	More Details
Small Business Tax Credit <i>Starts 2010</i>	Yes Up to 25 employees with average wages less than \$50,000 Based on full-time equivalency (full-time and part-time)	No	Beginning in 2014, the credit is allowable for only a two-year period and only if coverage is purchased through the exchange.
Minimum Medical Loss Ratio <i>Starts 2011</i>	Yes HHS defined small group as 1 - 100 but permits states to maintain the upper limit at 50 until 2016	Yes HHS defined large group as 101+ but would permit a state to reduce to 51+ until 2016	Minimum medical loss ratio is 80% for small group and 85% for large group. Plans that don't meet these minimums would need to provide rebates.
Small Employer Wellness Grants <i>Starts 2011</i>	Yes Up to 100 employees Based on full-time (25+ hrs/wk) only	No	Grants for health education, screenings and wellness programs available only to eligible employers who implement the programs after March 23, 2010. Funding ends in 2015.
Employer Responsibility ("Play or Pay") <i>Starts 2014</i>	Yes for larger small groups 50 or more employees Based on full-time equivalency (full-time and part-time)	Yes 50 or more employees Based on full-time equivalency (full-time and part-time)	Penalties assessed if: <ul style="list-style-type: none"> • Employer doesn't provide minimum coverage or • Employer offers coverage but actuarial value less than 60% or employee cost is more than 9.5% of household income

Provision	Small Group Applicability	Large Group Applicability	More Details
Essential Health Benefits Package Required <i>Starts 2014</i>	Yes Follows state definition until 2016, then follows health care reform law definition	No	The essential health benefits package will include services such as ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health substance use disorder services, prescription drugs, rehabilitative and habilitative services and devices, preventive and wellness services and pediatric services.
Option to Purchase Through Exchange <i>Starts 2014</i>	Yes Follows state definition until 2016, then follows the health care reform definition	To be determined	States may allow 101+ employers to purchase coverage in exchanges starting in 2017.
Community Rating <i>Starts 2014</i>	Yes Follows state definition until 2016, then follows health care definition	No	Requires issuers to vary premiums based only on self-only or family enrollment, rating area, age and tobacco use.

Questions and Answers

How will you calculate medical loss ratio separately for small and large groups in 2011?

The Affordable Care Act amended the definitions of large and small employer in the Public Health Service Act, defining a small employer as 1-100 employees and a large employer as 101 or more employees. However, the Affordable Care Act also allows states to continue to define an employer with up to 50 employees as a “small employer” until 2016. For states that do so, that definition shall apply to the medical loss ratio reporting and rebate requirements.