**How the Affordable Care Act Affects Medical Support Orders in Oklahoma**
**Frequently Asked Questions**
**Spring, 2014**[1]

## General

### 1. Did Oklahoma expand Medicaid?

No, Oklahoma did not expand Medicaid.

### 2. Who is required to have health insurance?

As of 2014, you will be required to have health insurance **UNLESS:**

- You are part of a religion opposed to acceptance of benefits from a health insurance policy.
- You are a member of an Indian tribe.
- You are incarcerated.
- You are an undocumented immigrant.
- Your income is below $9,350 (individual) or $18,700 (family).
- Your health insurance would cost more than **8%** of your income, after taking into account any employer contributions or tax credits.
- You would have been eligible for Medicaid (<138% **Federal Poverty Level, FPL** but your state opted against expansion).

**Source:** Oklahoma Policy Institute and Kaiser Family Foundation—*Note: The ACA expands Medicaid to up to 133% and also includes a 5% FPL income disregard, effectively expanding eligibility to 138% FPL. ACA § 2002(a), adding 42 U.S.C. § 1396a(e)(14)(l).*

### 3. What are Health Insurance Exchanges?

The **federal health insurance exchange** is an online marketplace for individuals and small groups to compare and purchase private insurance. In Oklahoma, the federal health insurance exchanges are the only way for individuals to access refundable premium assistance tax subsidies. Oklahoma does not have its own health insurance exchange. As a result, Oklahoma applicants will need to go to enroll in a federal health insurance exchange at: **healthcare.gov**.

**Source:** Oklahoma Policy Institute

[1] Prepared by Child Support Services, a division of Oklahoma DHS. Primary researcher, Policy Analyst, Lindsey Workman, OU CPM. If you have any questions, please email: *OCSS.POLICY.UNIT@OKDHS.ORG

**4. What is the Federal Poverty Level (FPL) and how do I determine what my percent is based on my income?**

Here's a chart that explains where an individual falls within the FPL. If the income amount is more or household size is larger than the numbers listed below, go to the U.S. Department of Health and Human Services website to determine your FPL.

| | **2014 Annual Income** | | | | | |
|---|---|---|---|---|---|---|
| **FY 2014: Household Size** | **FPL 100%** | **FPL 138%** | **FPL 200%** | **FPL 250%** | **FPL 300%** | **FPL 400%** |
| 1 | $11, 670 | $16, 105 | $23, 340 | $29, 175 | $35,010 | $46,680 |
| 2 | $15, 730 | $21,707 | $31, 460 | $39, 325 | $47,190 | $62,920 |
| 3 | $19, 790 | $27, 310 | $39, 580 | $49, 475 | $59,370 | $79,160 |
| 4 | $23, 850 | $32, 913 | $47, 700 | $59, 625 | $71,550 | $95,400 |
| 5 | $27,910 | $38, 516 | $55, 820 | $69, 775 | $83,730 | $111,640 |

**Source:** U.S. Department of Health and Human Services website, available at: http://aspe.hhs.gov/poverty/14poverty.cfm

**5. If a customer doesn't obtain public or private health coverage but is required to by federal law, what are the federal tax penalties?**

The **individual shared responsibility provision**, also referred to as a federal tax penalty applies to individuals of all ages, including children. The adult or married couple who can claim a child or another individual as a dependent for federal income tax purposes is responsible for making the payment if the dependent does not have coverage or an exemption.

In 2014, the annual penalty is $95 per adult, $47.50 per child, up to $285 for a family, or 1% of the family income, whichever is greater. The penalties are applied by the Internal Revenue Service (IRS) and increase every year until 2016.

**Source:** Internal Revenue Service (IRS) and Oklahoma Policy Institute

**6. What types of Federal tax subsidies are there?**

There are two different types of **federal tax subsidies—advance premium tax credits and cost sharing reductions**. You can use the *Subsidy Calculator Tool:* http://kff.org/interactive/subsidy-calculator/ to get an estimate of how much tax subsidies will reduce an individual's health insurance premium and whether he/she qualifies for one.

**A. Advance Premium Tax Credits (APTC)** are available to subsidize medical premiums through the marketplace.

- The tax credit may be paid in advance by the federal government directly to the plans on a monthly basis beginning at the time of enrollment.

- Applicants must choose to have this tax credit paid in advance at the time they submit their application or they may pay the full cost of their premium and receive the tax credit as a refund after they file their federal taxes.
- Eligibility is based on the previous year's income tax returns. When income changes from the previous year, the tax credit will be reconciled and either an additional credit will be included in their tax refund or they will be liable for an overpayment.

- Subsidies are based on household size and **Modified Adjusted Gross Income (MAGI)**. MAGI includes: adjusted gross income, foreign income, tax exempt interest, and non-taxable Social Security Benefits.
- Federal Tax subsidies are available to households with MAGI between 100% and 400% of the FPL who are not eligible for Medicaid and do not have access to affordable employer-sponsored health coverage.
- Regardless of which plan an individual enrolls in, APTC are based on the Silver Level Plan in the federal health insurance exchange.

**B. Cost Sharing Reductions (CSR)** are subsidies paid directly to the plan.

- Available to people with income between 100% and 250% of FPL.
- No reconciliation at the end of the tax year.
- You may receive both a CSR and an APTC if your income falls between 100% and 250% of FPL

**Source:** Kaiser Family Foundation and "Child Support Guidelines and the ACA: Doing the Math" presentation at the 2014 NCSEA Policy Forum

**7. Who qualifies for federal tax subsidies?**

Oklahoma residents who don't have access to employer-sponsored benefits and whose household income is between 100%-400% of the FPL will qualify for tax subsidies. However, in Oklahoma, an adult without dependent children with income between 37% and 99.9% of the FPL will be unable to enroll in SoonerCare and will not qualify for federal tax subsidies. In 2014, 37% FPL for an individual is approximately $4,318 and 99.9% is $11,669.

In addition, to be eligible for the premium tax credits, individuals must not be eligible for public coverage, such as SoonerCare, Medicare, or military coverage and must not have access to health insurance through an employer. You may obtain coverage using the Federal health insurance marketplace and qualify for a federal tax subsidy if the employer plan is unaffordable because the employee share of the premium exceeds 9.5% of the employee's income the employer plan doesn't provide a minimum level of coverage.

**Source:** Oklahoma Policy Institute, Kaiser Family Foundation, and U.S. Department of Health and Human Services

**8. Eligibility for premium tax credits is based on household income. Who is considered a member of the household?**

A **household**, for purposes of determining eligibility for premium tax credits, includes any individuals for whom a taxpayer claims a personal exemption on the federal tax form. That includes yourself, your spouse, and dependents. Dependents include children who meet certain requirements:

- U.S. citizen or resident of the U.S, Mexico or Canada.
- Live with you for more than half the year.
- Under age 19 at the end of the year (or under age 24 if a full-time student); a child is considered to live with the taxpayer while he or she is temporarily away from home due to education, illness, business, vacation, or military service.
- Doesn't provide more than 50% of his or her own support.

Other individuals who can count as dependents include relatives, in-laws or full-time members of your household who are:

- U.S. citizen or resident of the U.S, Mexico or Canada.
- Receive more than 50% of their support from you.
- Are related to you or live in your home all year.
- Make less than $3,900 (in 2013), generally excluding Social Security.

A household can include individuals even if they are ineligible for tax credits (for example, individuals who are not lawfully present). Your household size can change during a year due to family changes, including the birth or adoption of a child, a child moving out of the house, and divorce or legal separation. When such changes take place you should report them to the Federal Marketplace as they may affect your eligibility for subsidies. Family changes also can trigger a special enrollment opportunity when you can change health plans, even outside of the regular Open Enrollment period.

Note that the definition of household for determining eligibility for premium tax credits sometimes differs from the definition of household for determining Medicaid eligibility.

**Source:** Kaiser Family Foundation

**9. I'm raising my grandchild and claim her as a dependent. If I apply for Federal tax subsidies, will we be considered a household of two?**

Yes, you will be considered as a household of two for both SoonerCare and premium tax credits. However, your grandchild will be considered as her own household for SoonerCare and your income will not count in determining her eligibility for these programs. Assuming she does not have her own income she will likely be eligible for SoonerCare and not eligible for premium tax credits for coverage in the marketplace. You could of course purchase coverage for her in the marketplace, but you would not be eligible for a premium tax credit to help pay for her plan. Whether you could include her on your policy would depend on what insurers offer in the federal marketplace.

**Source:** Kaiser Family Foundation

**10. If one person in the household has employer-sponsored health insurance, are other eligible members in the household required to enroll in their plan to avoid the tax penalty?**

If the employee's required contribution for **employer-sponsored,** also known as insurance provided by the employer, for self-only insurance is affordable under the 9.5 % test, the employee's family members will not qualify for federal tax subsidies. The federal health insurance exchanges will not look at the cost of family coverage and assess whether family coverage is affordable.

However, there are different measures of affordability for family members. One relates to eligibility for the federal tax subsidies or PATCs and one relates to the individual mandate exemption. A family member of an employee who has affordable employer-sponsored health insurance is exempt from the individual mandate penalty when the required contribution for family coverage exceeds 8% of household income. This means that family members who do not qualify for the tax credit (because employee-only coverage is affordable) would at least qualify for an exemption from the individual mandate penalty if the cost of family coverage made it unaffordable.

| Is Employer-Sponsored Coverage Unaffordable? | Test for Determining an Individual's Eligibility for the Premium Assistance Tax Credit | Test for Determining an Individual's Exemption from the Individual Mandate Penalty |
|---|---|---|
| Employees | Employee's required contribution for employee-only coverage exceeds 9.5% of household income. | Employee's required contribution for employee-only coverage exceeds 8% of household income. |
| Family Members | Same as the above test for employee-only coverage. | Employee's required contribution for family coverage exceeds 8% of household income |

**Source:** Segal Consulting, available at: http://www.segalco.com/publications-and-resources/multiemployer-publications/capital-checkup/archives/?id=2321

**11. My family and I are offered health benefits through my job, but we can't afford to enroll. My employer pays 100% of the premium for workers, but contributes nothing toward the cost of adding my wife and kids. Can we try to find a better deal in the federal marketplace?**

You can always shop for coverage on the federal marketplace, but your family members won't be eligible for tax credits to help pay the premium. When people are eligible for employer-sponsored coverage, they can only qualify for federal marketplace premium tax credits if the employer-sponsored coverage is unaffordable. The way this is calculated, coverage is unaffordable only if your cost for coverage for a single person under the employer plan is more than 9.5% of your income. So although you may feel your family coverage is unaffordable in practical terms, it is considered technically affordable.

If your family members end up uninsured because family coverage is unaffordable, they will not have to pay a tax penalty under the "individual mandate."

**Source:** Kaiser Family Foundation

**12. What sources may provide "Minimum Essential Coverage" to satisfy the federal requirement to have health insurance?**

Most people with health coverage today have a plan that may count as **minimum essential coverage**. The federal marketplace will sell different types of private health insurance plans— Bronze, Silver, Gold. These health plans must include the following to meet **minimum essential coverage**:

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

The following *sources* of health coverage may count as minimum essential coverage:

- Employer-sponsored group health plans
- Union plans
- COBRA coverage
- Retiree health plans
- Non-group health insurance that you buy on your own, for example, through the health insurance Marketplace
- Student health insurance plans
- Grandfathered health plans
- Medicare
- Medicaid (SoonerCare)
- TRICARE (military health coverage)
- Veterans' health care programs
- Peace Corps Volunteer plans

Be aware that outside of the federal marketplace, other policies for sale may look like health insurance (such as short term individual policies, policies that only cover cancer, or school polices that only cover catastrophic sports injuries). These kinds of products are sometimes referred to as "excepted benefits." They do not count as "Minimum Essential Coverage."

**Source:** Kaiser Family Foundation and Oklahoma Policy Institute

**13. Federal marketplace plans are labeled "Bronze," "Silver," "Gold," and "Platinum." What does that mean?**

Plans in the federal marketplace are separated into categories — Bronze, Silver, Gold, or Platinum — based on the amount of **cost sharing** they require. Cost sharing refers to health plan deductibles, co-pays and co-insurance. For most covered services, you will have to pay (or share) some of the cost, at least until you reach the annual out of pocket limit on cost sharing. The exception is for preventive health services, which health plans must cover entirely.

In the federal marketplace, Bronze plans will have the highest deductibles and other cost sharing. Silver plans will require somewhat lower cost sharing. Gold plans will have even lower cost sharing. And Platinum plans will have the lowest deductibles, co-pays and other cost sharing. In general, plans with lower cost sharing will have higher premiums, and vice versa.

**Source:** Kaiser Family Foundation

**14. Do all plans on the federal health insurance exchanges meet Oklahoma standards for health insurance coverage**?

Yes, all plans available through the federal health insurance exchange include coverage for both routine and major medical expenses in compliance with Oklahoma Insurance Department rules per OAC 365: 10-5-5.

**Source:** Oklahoma Policy institute, OAC 340: 25-5-168, and OAC 365: 10-5-5

Assuming you are eligible for a federal tax subsidy, like the premium tax credits, the amount of your credit will be calculated based on how you file your taxes. If for example, you each claim one of your children, you each will be considered as a household of two. The income of each household would be evaluated separately to calculate eligibility for and the amount of premium tax credits and cost-sharing reductions.  Using a different example, if you claim both children as dependents on your tax return, then you and your children will be considered a household of 3, your income will be the basis for determining subsidy eligibility for the three of you. Your partner will be a household of one and his/her eligibility for premium tax credits will be determined separately.

As for the type of coverage your family can purchase, that may vary based on the federal marketplace rules where you live. For example, some insurers may offer family coverage only to married couples. If you buy one policy for the entire family, all the tax credits you are eligible for can be used to reduce the premium for that policy. If you buy separate policies, you can allocate the premium tax credits across two plans.

**Source:** Kaiser Family Foundation

**16. My kids are eligible for SoonerCare. Can I enroll them in the federal marketplace health plan and get premium tax credits/ federal tax subsidies for them instead?**

You can add your children to your federal marketplace plan, but because they are eligible for SoonerCare, they are not eligible for premium tax credits. As a result, you would pay 100% of the premium.

**Source:** Kaiser Family Foundation

**Child Support Related**

**17. I'm divorced and receive child support payments from my ex-husband. Do I count that in determining eligibility for federal tax subsidies?**

No, child support payments you receive are not counted.

**Source:** Kaiser Family Foundation

**18. Who is responsible for the federal tax penalty if my child does not have health insurance?**

The adult or married couple who can claim a child or another individual as a dependent for federal income tax purposes is responsible for making the payment if the dependent does not have coverage or an exemption. In cases where parents are divorced or never-married, the parent that claims the child as a tax dependent would be responsible for the penalty.

**Source:** IRS and Kaiser Family Foundation

**19. Can a noncustodial parent (NCP) claim a child as a tax dependent?**

Yes, if the custodial parent (CP) signs IRS Form: 8332 releasing his/her claim to exemption. However, an NCP claiming the child's exemption is liable for the tax penalty if the child is uninsured, unless otherwise exempt from the tax penalty.

**Source:** IRS Form: 8332 and "Child Support Guidelines and the ACA: Doing the Math" presentation at the 2014 NCSEA Policy Forum

**20. What happens when the NCP, who is ordered to provide health insurance for the child, does not do so?**

The parent who claims the child as a dependent for federal income tax purposes will be responsible for providing that child's health insurance, if not, that person will be required to pay the federal tax penalty.

If the CP is claiming the child on the CP's tax return, the CP is responsible for ensuring the child has minimum essential coverage even though a NCP is legally responsible for the child's health insurance under a divorce or separation agreement or order. However, a CP in this situation may qualify for a hardship exemption if the child is not eligible for SoonerCare. The CP will have to submit a hardship application (OMB Form: 0938-1198) and should not have to pay a tax penalty for the uninsured child if the following occurred: (1) the CP expected to claim the child as a dependent; (2) the child was denied SoonerCare; and (3) another person is required by court to provide medical support for that child.

**Source:** OMB Form: 0938-1198, IRS Form: 8332, IRS: "Questions and Answers on the Individual Shared Responsibility Provision," and "Child Support Guidelines and the ACA: Doing the Math" presentation at the 2014 NCSEA Policy Forum

**21. What can the CP do if the NCP fails to comply with the medical support order and the CP wants to avoid tax penalties for failing to provide healthcare coverage for the child per the federal health insurance mandate?**

If the NCP does not provide health insurance for the child although he/she is ordered to, the CP should file a hardship exemption. The hardship exemption will prevent the CP from paying any federal tax penalties. For further information, see OMB Form: 0938-1198 and IRS Form: 8332

**22. Both the CP and NCP have access to employer-sponsored healthcare, thereby making them (CP and NCP) ineligible for the federal marketplace health insurance exchanges. Although their insurance premium is 9.5% of their gross income, covering family members is cost prohibitive. CP is the primary custodian and no parenting time adjustments apply. Both NCP and CP are denied SoonerCare for the child. Can CP or NCP go to the federal marketplace to purchase child-only health insurance?**

Yes, but they may not qualify for a federal tax subsidy. Coverage is unaffordable only if the cost for coverage for a single person under the employer plan is more than 9.5% of the household income. Although adding a child to the coverage may be unaffordable in practical terms, it is technically affordable. Under the Oklahoma child support guidelines, the parent is only required to obtain coverage for the child under the employer-sponsored plan if the pro-rated cost for the child is 5% or less. If the parent ordered to obtain health coverage for the child can do so through the federal marketplace at a cost of 5% or less of the gross income, enrollment in such a plan would qualify under the medical support order.

**Source:** Kaiser Family Foundation

**23. CP's self-only employer-sponsored insurance premium is 9.5% or less of his/her gross income, but adding a child makes it cost prohibitive. The child is ineligible for SoonerCare based on either parent's income. NCP does not have access to employer-sponsored healthcare. How do you obtain insurance for the child?**

The NCP and CP should be required to shop for insurance in the federal marketplace for available coverage options and prices and that information should be considered when entering a medical support order. CP would be ineligible for any federal tax subsidies if he/she had to purchase health insurance in the Federal marketplace for the child. If purchasing health insurance for the child is more than 8% of the family income, CP would not be required to pay a federal tax penalty for the uninsured. However, the NCP could be eligible for federal tax subsidies if he/she is between 100%-400% of the FPL.

**24. How do the federal tax subsidies affect the child support calculation of the cost of coverage for the parent providing insurance?**

For purposes of calculating child support, the actual premium cost for insuring the child paid by the parent providing insurance should be used. If the parent providing the insurance chooses to receive a monthly federal tax subsidy, use the reduced premium amount in the child support guidelines computation. If the parent providing the insurance chooses to receive the federal tax subsidy as an annual tax credit rather than as a monthly premium reduction, the actual premium cost used in the child support guidelines should be adjusted under 43 O.S. § 118F(H)(5). An offset against past-due support or an adjustment to future current support should occur each year after the parent has filed his or her tax return.

**Source:** 43 O.S. § 118F

**Resources**

**1. Federal Marketplace:** http://heathcare.gov

**2. Internal Revenue Service:** http://IRS.gov

**3. Internal Revenue Service—"Questions and Answers on the Individual Shared Responsibility Provision:"** http://www.irs.gov/uac/Questions-and-Answers-on-the-Individual-Shared-Responsibility-Provision

**4. The Kaiser Family Foundation:** http://kff.org

**5. Kaiser Family Foundation—"Heath Reform FAQ's:"** http://kff.org/health-reform/faq/health-reform-frequently-asked-questions/

**6. Oklahoma Policy Institute:** http://okpolicy.org/

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