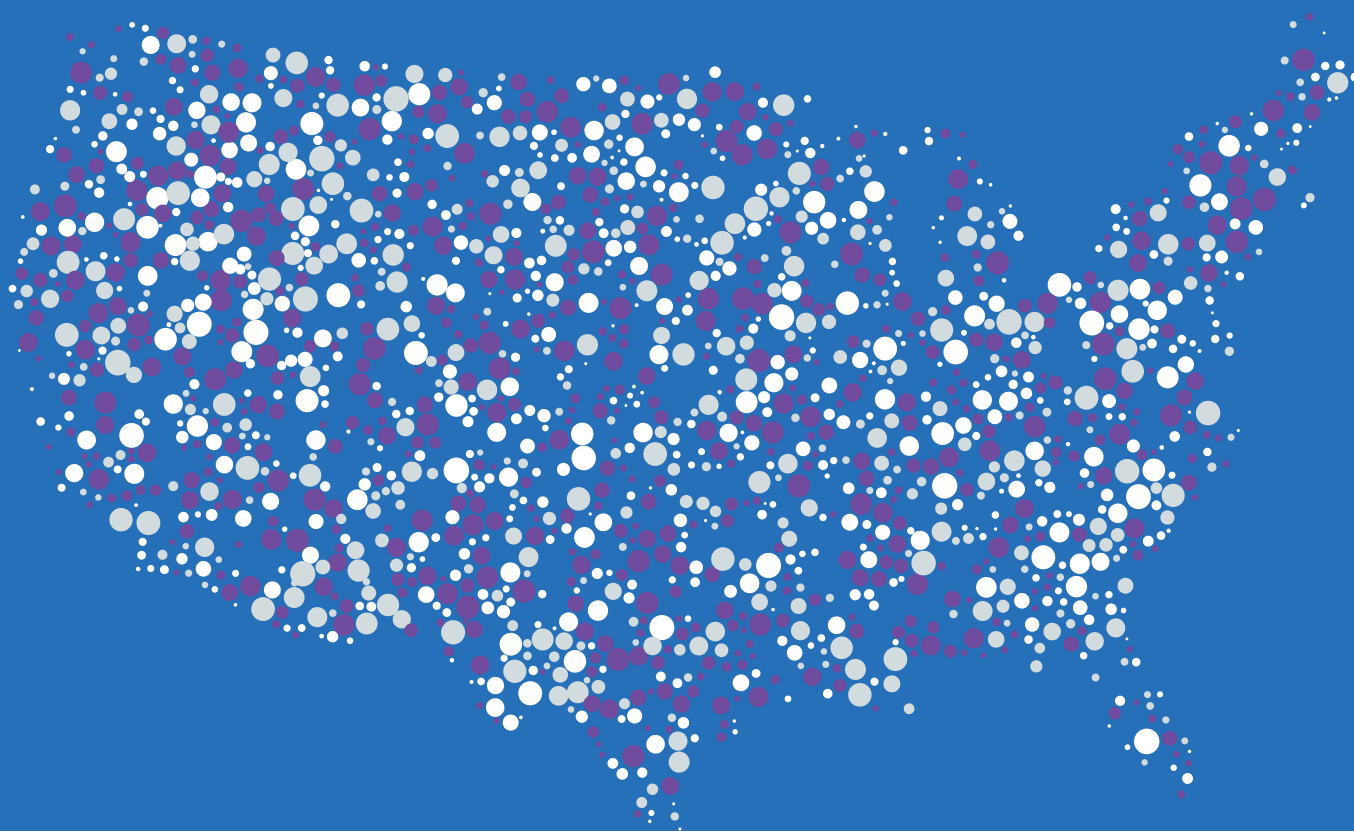
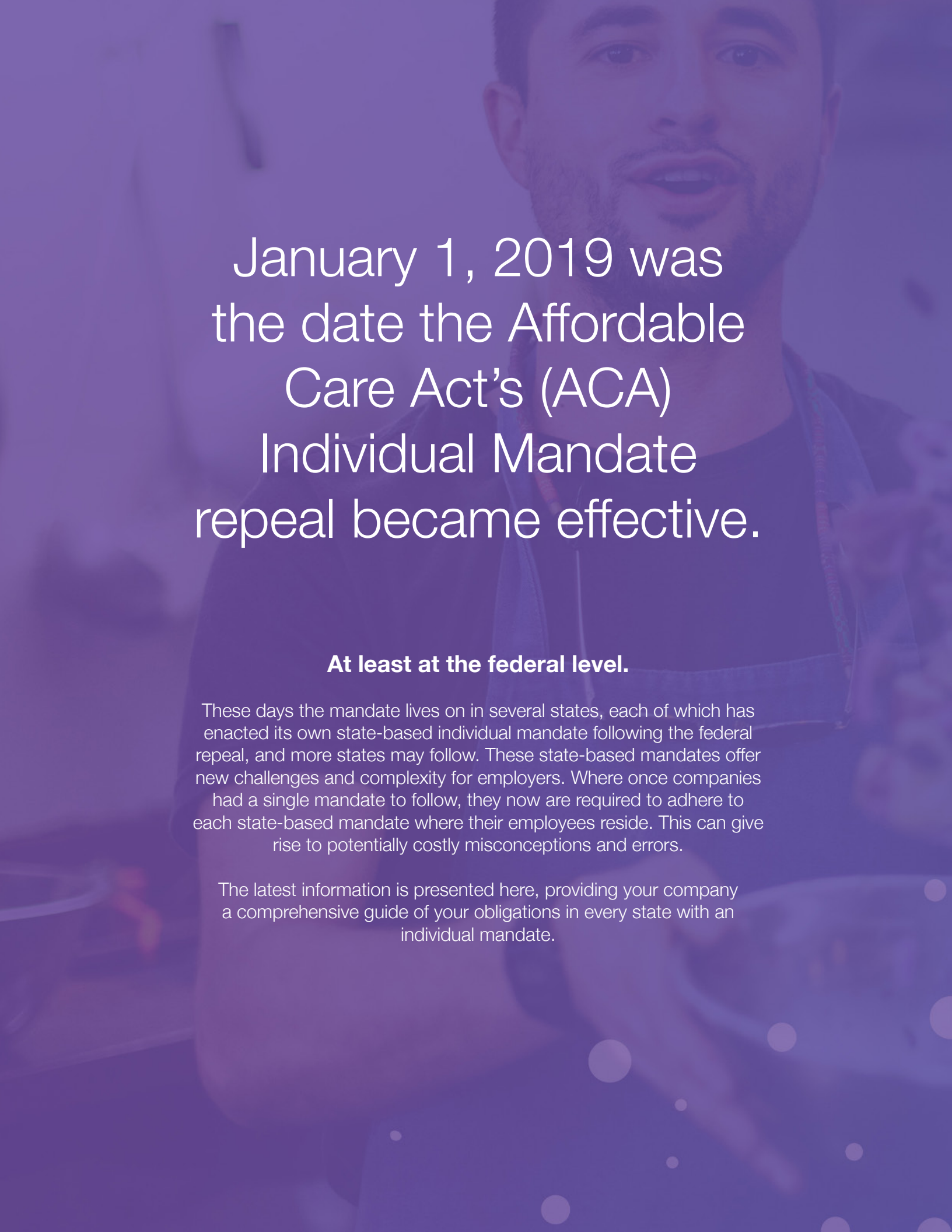




Your state-by-state guide to individual mandate reporting

eBook





January 1, 2019 was the date the Affordable Care Act's (ACA) Individual Mandate repeal became effective.

At least at the federal level.

These days the mandate lives on in several states, each of which has enacted its own state-based individual mandate following the federal repeal, and more states may follow. These state-based mandates offer new challenges and complexity for employers. Where once companies had a single mandate to follow, they now are required to adhere to each state-based mandate where their employees reside. This can give rise to potentially costly misconceptions and errors.

The latest information is presented here, providing your company a comprehensive guide of your obligations in every state with an individual mandate.

States that already have an individual mandate.

01



THE DISTRICT OF COLUMBIA

The District's individual mandate was officially approved in 2018 and enacted in 2019, courtesy of a measure approved by the district council that set aside \$1.1 million to fund the initiative. D.C.'s measure carries an individual penalty for non-compliance.

Understanding nuances of the D.C. mandate

The D.C. mandate is applicable for all D.C. residents. Individuals who work in D.C. but live outside the district are not subject to the mandate. Under the mandate, all D.C. residents must maintain minimum essential coverage or pay a penalty on their D.C. tax returns. In some cases, it may be possible to get an exemption, such as to enroll in a catastrophic plan. D.C.'s definition of minimum essential coverage follows the ACA's, requiring coverage in the essential health services and benefits categories which are: ambulatory patient services, emergency, hospitalization, maternity and newborn care, mental and substance abuse, prescription drugs, rehab services and devices, lab, preventive services and pediatric.

D.C. residents who fail to comply with the mandate may be subject to a penalty amounting to 2.5% of their total household income or a per person fine of \$695 for

adults and \$375.50 for children. The higher penalty in these two scenarios will be assessed. In either case, the maximum penalty equates to the average premium for a bronze level plan in D.C., based on the applicable year.

Understanding employer obligations

Employers providing health coverage to residents in D.C. are required to submit Forms 1094 and 1095-B and Forms 1094 and 1095-C to the D.C. Office of Tax and Revenue (OTR) in a .txt format. Employers are required to submit 1095-B or 1095-C forms by April 30, 2022, including any extensions granted by the IRS. Employers must also provide applicable D.C. residents with furnished written statements of their coverage. This requirement can be considered satisfied if the employer is already providing individuals with a Form 1095-B or Form 1095-C by March 2, 2022.

District of Columbia

Furnishment deadline: March 2, 2022

State filing deadline: May 2, 2022

File format: .txt



NEW JERSEY

During the 2018 legislative session, New Jersey lawmakers passed SB3380 and S1877, implementing the state's individual mandate starting in 2019. The legislation also includes a penalty that follows the ACA's model, assigning fines equivalent with the average cost of a bronze plan in the state.

Taking a deeper look at the New Jersey plan

In many ways, the New Jersey state-based individual mandate represents a direct effort to reimplement the federal mandate after it was made unenforceable. New Jersey carries the same penalty model as the previous ACA version with a minimum penalty of \$695 and a maximum of \$3,492 for an individual taxpayer. Penalties for dependents are determined by a sliding scale based on household size and income. New Jersey caps costs based on the average annual premium for bronze health plans in the state.

What is different with the New Jersey law is where the money goes. Penalty revenue collected is allocated to a reinsurance fund to provide payments back to insurers in order to lower overall healthcare costs.

Understanding employer obligations

New Jersey-based employers who utilized Forms 1095-B and 1095-C to prove coverage under the federal ACA can still use the same forms to prove coverage in New Jersey's state-based individual mandate. However, should the IRS change forms, companies operating in the Garden State may need to adjust the documents they send to the state. All submitted material should be sent electronically, in XML format, to the state's Division of Revenue and Enterprise Services, the same system utilized to process W-2 forms.

New Jersey requires reporting for self-funded and fully insured populations. Employers typically file on behalf of self-funded groups for New Jersey. Employers should consult with their health plan carrier regarding whether state filing will be provided for their fully insured or multi-employer populations.

Employee delivery of Form 1095 is due by March 2, 2022. However, only employers with self-insured plans are required to submit Forms 1095-C and 1094-C to the New Jersey Division of Taxation by March 31, 2022. New Jersey has announced a penalty for employers who fall out of compliance of \$50 per form who is not reported to the state.

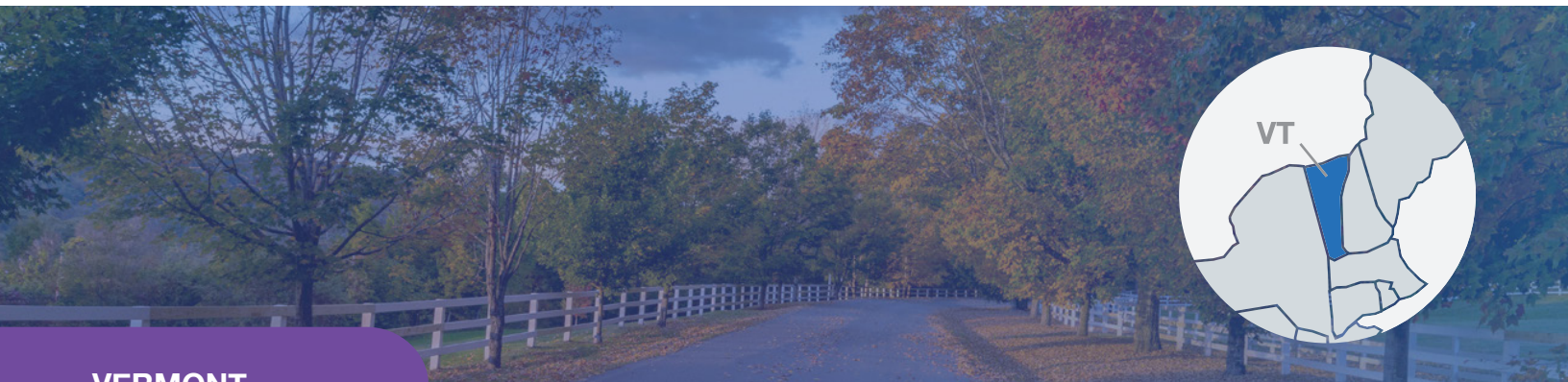
New Jersey

Furnishment deadline: March 2, 2022

State filing deadline: March 31, 2022

File format: XML

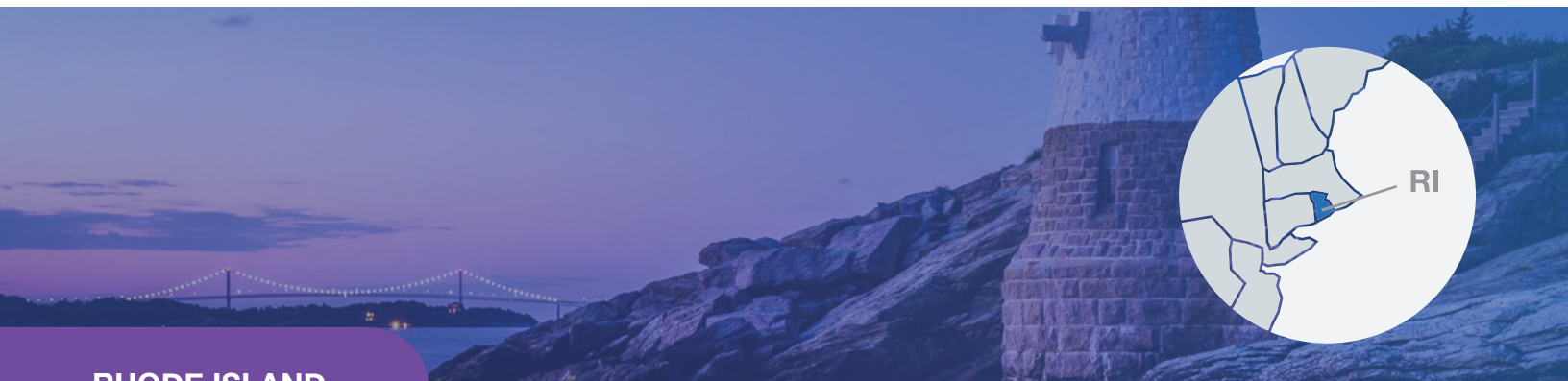
Employer penalty: \$50 per form, \$50,000 annual maximum



VERMONT

The Vermont individual mandate, passed in May 2018, is unique among mandates in that it carries no associated individual penalty. Initial drafts of the bill planned to carry a penalty that closely resembled the original federal penalty. However, subsequent versions of the bill removed specifics surrounding the penalty.

Vermont does not currently require employer reporting, but plans to add the requirement in the event the IRS no longer requires reporting.



RHODE ISLAND

In 2020, Rhode Island initiated its state individual mandate requiring residents to maintain insurance. The Rhode Island plan is a two-pronged approach, including a reinsurance program and an individual mandate. Similar to other states, however, Rhode Island's mandate includes an individual penalty for not having coverage, and the revenue collected from these penalties is utilized to fund the reinsurance program. This, in turn, helps manage premium prices on the individual market to keep healthcare affordable. Penalties mirror those for the now-repealed federal mandate.

Employer reporting began in 2021 for the 2020 tax year. This year, the state indicates that employee delivery of Form 1095 is due by January 31, 2022. State filing of Form 1095 to the Rhode Island Division of Taxation is also due by March 31, 2022.

Employer reporting requirements apply when employees reside in Rhode Island.

Rhode Island

Furnishment deadline: January 31, 2022

State filing deadline: March 31, 2022

File format: XML

Employer penalty: Determined on a case-by-case basis



CALIFORNIA

California is the nation's largest state with an individual mandate, thanks to the passage of bill SB-78 in July of 2019, with the mandate going into effect beginning January 1, 2020.

Understanding the Golden State's mandate

California's mandate carries an individual penalty for not having insurance coverage that mirrors the model of the federal mandate. In addition, the legislation allots for some 850,000 low-income Californians to receive subsidy support to pay their premiums. It may be possible to apply for an exemption for myriad reasons including incarceration, membership in certain religious sects or being a resident of another U.S. state.

California's definition of minimal essential coverage, necessary to meet requirements and avoid penalty, mirrors that of the federal requirement. This means individuals qualify if they are:

- Part of an employee-sponsored health plan that meets or exceeds benefits requirements
- Part of an individual policy that meets or exceeds requirements
- Part of a government-sponsored program such as Medicare, Medicaid or TriCare
- A student in the University of California system

Employer reporting responsibilities in California

To meet requirements in California, employers must submit their ACA reporting forms — or another state-based form — to the state by May 31, 2022 in XML format. Forms must also be distributed to California residents by January 31, 2022. The data required with this form submission is similar to Section 6055 of the ACA.

California also states that certain parts of 1094-C are not required, specifically Parts II, III, and IV, however the same Federal form 1094-C that is submitted to the IRS may be submitted to California.

It's important to note that California's mandate also carries a penalty for employers who fall out of compliance of \$50 per individual who is not reported to the state.

Employer reporting requirements apply when employees/non-employees reside in California. The state requires employers to only file with the state on behalf of self-insured, full-time and part-time enrollees and covered dependents.

California

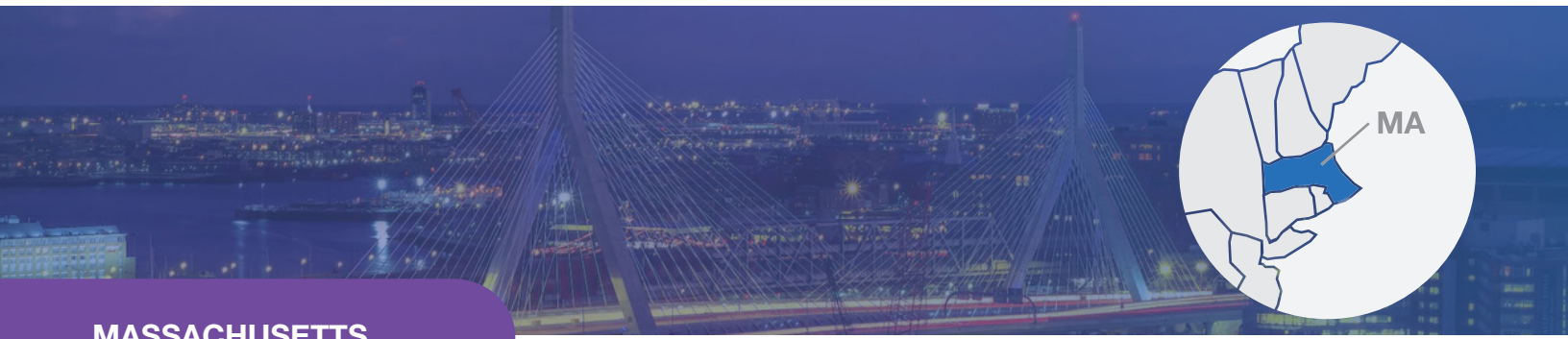
Furnishment deadline: January 31, 2022

State filing deadline: March 31, 2022*

File format: XML

Employer penalty: \$50 per unreported resident

*While the state filing deadline is March 31, 2022, California has indicated that penalties will not be assessed if filing occurs by May 31, 2022.



MASSACHUSETTS

The mandate at a glance

The Massachusetts mandate pre-dates the ACA. The state implemented its mandate back in 2006, and from 2014 to 2018, the Massachusetts penalties were suspended while federal penalties were in effect. But when the federal penalty was reduced to \$0, Massachusetts reinstated its original individual mandate.

How the Massachusetts mandate differs from the federal model

The Massachusetts penalty only applies to adults, while the ACA mandate also included a penalty for uninsured children. Here are some other ways the Massachusetts individual mandate differs from the federal model:

- No exceptions from minimum creditable coverage (MCC) are allowed for grandfathered plans. The MCC is separate from the federal minimum essential coverage (MEC) requirement.
- Enrolling in a student health or public coverage plan automatically satisfies the MCC requirement.
- Affordability exemptions are dependent on income, allowing for those on lower incomes to spend less of their income on health insurance. This figure can also vary depending on household makeup, i.e., single, family, couple, etc.
- Exempted populations under the Massachusetts mandate include persons with religious objections, those with demonstrated financial hardships who have been awarded a Certificate of Exemption, and children and persons who would go without coverage for less than 90 days in a year.
- Penalties are based incrementally on income and age and set against the lowest priced Commonwealth Choice plan.

Meeting Massachusetts employer requirements

To maintain compliance in Massachusetts, all applicable adults must be enrolled in a plan that meets minimum requirements. This is true regardless of the source of the coverage. The plan must also provide some level of coverage for services including emergency services, ambulatory services, diagnostic screening and imaging, prescription drugs, hospitalization, newborn and maternity care, surgical care, mental health and substance abuse support, radiation services and chemotherapy.

- Massachusetts considers 15 or more days of coverage a month for reporting on the MA 1099-HC
- Employee delivery of Form MA 1099-HC by January 31, 2022 is required
- State filing of Form MA 1099-HC to the MA Department of Revenue by January 31, 2022 is required
- Massachusetts requires data to be sent in an XML format (paper submission not allowed)
- Employer penalty: \$50 for each unreported individual, maximum of \$50,000

Employers need to complete the MA Health Insurance Responsibility Disclosure (HIRD) Form. The HIRD form collects employer-level information about employer-sponsored insurance (ESI) offerings in Massachusetts (this version of the HIRD form contains no individual employee information). HIRD reporting is administered by MassHealth and the Department of Revenue (DOR) through the MassTaxConnect web portal. The HIRD form assists MassHealth in identifying its members with access to qualifying ESI who may be eligible for the MassHealth Premium Assistance Program. State law requires every employer in Massachusetts with six or more employees to annually submit a HIRD form. Deadline to submit is typically between Nov. 15 and Dec. 15 each year.

SECTION

02 States considering individual mandates

We do anticipate that more states will follow suit in pursuing ACA state individual mandates. Some states already have proposed legislation. Employers should anticipate some reporting changes at the state level in the coming years.



Finding answers and guidance to your state-based mandate questions

Health e(fx)'s industry-leading compliance solution simplifies managing your ACA expectations as well as those surrounding state individual mandates.

Customized to fit your needs, Health e(fx) goes beyond simple reporting by allowing you to address state compliance issues before they become a problem. Our expertise, combined with a steadfast commitment to our clients' success, results in personalized service, unique value and minimized penalty risk.

Health e(fx) was first to offer expanded reporting functionality that includes form generation and submissions for employers with individuals who reside in California, Rhode Island, Washington D.C. and New Jersey. Health e(fx) continues to add new states that adopt individual coverage mandates as they occur.



Need a better way to manage the complexities of healthcare reform? We can help.

Call us at 888.963.9174

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