Fast Forward »

2015 Employer Mandate: Pay or Play?

UnitedHealthcare®

Employer Mandate

Beginning Jan. 1, 2015, the Affordable Care Act (ACA) will impose an employer mandate that states that grandfathered and non-grandfathered fully insured and self-funded employers with 50 or more full-time employees and equivalents (FTE) may be subject to a penalty if they do not offer medical coverage that provides minimum essential coverage (MEC), is affordable and meets minimum value (MV) requirements. Note that employers with 50-100 full-time employees and FTEs may be qualified to delay implementation until, 2016 (see below). FTEs are based on a combination of hours worked by average count part-time employees (those who work fewer than 30 hours per week) in the prior calendar year. Hours worked outside the U.S. by nationals or foreign nationals are not counted.

While voluntary compliance with the mandate is encouraged for 2014, the penalty does not generally go into effect until 2015. Employers with 100 or more full-time employees and full-time equivalents and Employers with 50-99 full-time employees and FTEs who do not qualify for transition relief will need to comply in 2015. Employers with 50-99 full-time employees and full-time equivalents who qualify for transition relief may be able to delay implementation until Jan. 1, 2016, or in some cases the first day of their plan year in 2016.

The employer mandate does **not** apply to small groups with 2-49 employees.

The same IRS aggregation rules under IRC section 414(b), (c), (m) and (o) used by pension plans will be used to determine if subsidiaries and jointly owned companies will be treated as one.

An employer must count full-time equivalents by averaging hours worked by employees, including part-time and seasonal employees. Full-time employees are those who work at least 30 hours per week. For example, two 15-hour-per-week employees equal one full-time equivalent, since decimals are taken into consideration.

Counting employees

Other health reform provisions use different counting methods to calculate the number of employees. For the employer mandate, remember the following:

Counting method to determine if an employee is a full-time employee to whom the mandated offer needs to be made:

- Individuals who work at least 30 hours per week or 130 hours per month
- Employment relationship exists
- Employee is defined by employer and usually receives a W-2 Form.

If the number of employees is around 50 and the employer is unsure of the exact group size, use the following:

Counting method to determine whether an employer is an applicable large employer:

- To be done on a monthly basis and averaged across 12 months
- Full-time employees work at least 30 hours per week; part-time employees work fewer than 30 hours per week
- In the monthly FTE count, include part-time employees who were not full-time employees for any month in the preceding calendar year. An employer is not an applicable large employer (i.e., employing 50 or more full-time employees or FTEs) if, after counting full-time employees and FTEs, the total crosses the 50 threshold only because the employees in excess of 50 were employed during that period of no more than 120 days and met the definition of seasonal workers.
- The count is based on the actual aggregate hours of service of employees in the prior calendar year
- Calculate the total hours of service (but not more than 120 hours of service for any employee) for all part-time employees for the month and divide that number by 120. Fractions are taken into account until all 12-month full-time employees and FTEs are added and divided by 12, at which point any fraction or decimal is discounted but may be rounded to the nearest hundredth.

Health benefits plan requirements

Grandfathered and non-grandfathered fully insured and self-funded employers with 50 or more full-time employees (including FTEs) must satisfy the following requirements:

Provide minimum essential coverage (MEC)

MEC must be offered in the small or large group health insurance market and be a group health plan under ERISA. The following plan types alone will not constitute MEC: disability, accident, critical illness and indemnity.

Be affordable to the employee

The required share of the employee's premium for self-only coverage must not exceed 9.5 percent of an employee's household income. Under the employer mandate rules, employers can use one of three safe harbor tests to determine affordability.

Satisfy the minimum value requirement

The health plan must pay at least 60 percent or more of the plan's total allowed benefit costs anticipated for a standard population.

Offer health insurance coverage to dependent children up to the age of 26

- Coverage does not have to be offered to spouses, foster children or stepchildren.
- A child who is not a U.S. citizen or national is excluded from the definition of dependent unless that child is a resident of a country contiguous to the United States or is within the exception for adopted children provided by applicable law.
- The requirement to cover eligible dependents will not apply to an applicable employer in 2015 so long as the employer is taking steps to arrange for health benefit coverage to begin in 2016.

Employers should be able to avoid potential employer mandate penalties if they offer a plan that meets the above requirements.

Penalties

The ACA does not explicitly mandate that all employers have to offer medical coverage. However, under the reform law, there are two potential penalties if the mandated offer is not made to full-time employees and their eligible dependents.

Keep in mind that an employer may continue to offer several plan design options to its employees (so long as such plan designs are otherwise compliant with ACA requirements). To avoid the possibility of penalties, only one of those plans needs to meet the requirements of the employer mandate (MEC, MV and affordability) – not all of the plans offered – as long as that plan meets the requirements and is offered to substantially all, which could be defined as 70 percent of the full-time employees (and eligible dependents) in 2015, and 95 percent of the full-time employees (and eligible dependents) in 2016 and beyond. The penalties are calculated as follows:

Penalty A[1]: Employers not offering medical coverage that provides MEC or any health insurance coverage

If an employer does not offer any medical coverage or medical coverage that provides MEC to at least 70 percent of their full-time employees, and one or more full-time employee or eligible dependent(s) qualifies for a premium tax credit or cost-sharing reduction through a public insurance Exchange, also called a Health Insurance Marketplace, the employer could be subject to a penalty. The annual penalty is $2,000[2] per year, per full-time employee. When calculating the penalty during 2015, the first 80 full-time employees are subtracted from the payment calculation. After 2015, only the first 30 full-time employees will be subtracted from the payment calculations. **This penalty is assessed per full-time employee for each month** an employer does not offer MEC to its employees.

Penalty B[1]: Employers offering unaffordable coverage

If an employer offers medical coverage or medical coverage that provides MEC but the full-time employee's contribution is deemed unaffordable, for even just one employee, and/or does not meet MV according to the employer mandate requirements, full-time employees may obtain health insurance through a public insurance Exchange and qualify for a premium credit or cost-sharing reduction. The annual penalty of $3,000[2] per year, per full-time employee would apply if an employee applied to a public insurance Exchange and was deemed eligible for a subsidy. **This penalty is assessed per full-time employee who receives a premium tax credit or cost-sharing reduction for each month** the employee qualifies for such assistance and for which the employer receives a Section 1411 Certification.

If employees receive a subsidy

If employees enroll in the public insurance Exchange and qualify for a premium tax credit or cost-sharing reduction, the employer will be notified by the IRS via a Section 1411 Certification. The employer will have an opportunity to respond before any penalty is assessed or payment is required. The contact for a given calendar year will not happen until after employees' individual tax returns are due for that year claiming premium tax credits and after the due date for employers to file the information returns identifying their full-time employees and describing the coverage that was offered (if any).

! Employees will generally not be eligible for public insurance Exchange subsidies if the employer offers coverage that meets the requirements of the mandate for minimum essential coverage, minimum value and affordability.

1 The ACA has not assigned titles to either penalty. The titles "Penalty A" and "Penalty B" are being used for explanation only. The penalty amounts listed are annual amounts if the employer is non-compliant, but will be assessed on a pro-rated basis for each month the employer is non-compliant.

2 The penalties are estimates based on the 2014 implementation. Although delayed, the penalties are still to be adjusted annually, so these amounts are estimates based upon 2014 numbers.

Pay or Play? More than just comparing costs

Deciding whether or not to provide health benefit coverage isn't easy. The decision will involve more than just weighing the penalties against the costs of providing health benefit coverage. Here are four important things employers may want to think about before discontinuing health benefit coverage:

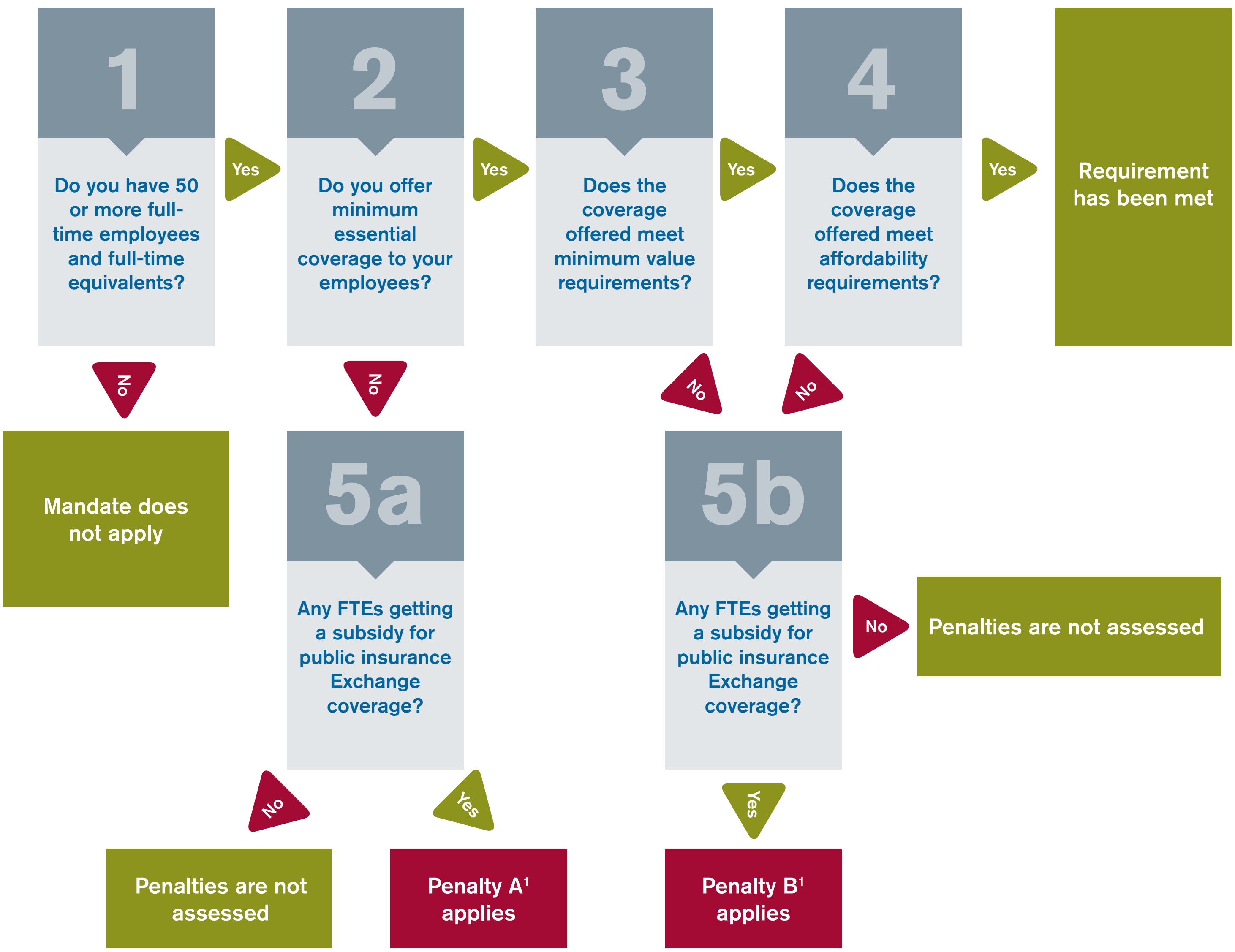
- If an employer chooses to pay the penalty and discontinue health benefit coverage, the penalty is not a deductible expense.
- Expenses paid for health benefit coverage are deductible.
- If other employers in the same industry continue to offer coverage, will it put employers who don't at a disadvantage for recruiting qualified workers?
- For 2015, under the *de minimus* test, applicable large employers are able to avoid the application of the potentially more costly penalty of $2,000[2] per full-time employee so long as MEC is offered by the employer to at least 70 percent of their full-time employees (and eligible dependents) for 2015, and 95 percent of their full-time employees (and eligible dependents) for 2016, and beyond.

[2] The penalties are estimates based on the 2014 implementation. Although delayed, the penalties are still to be adjusted annually, so these amounts are estimates based upon 2014 numbers.

Five key questions for employers

To help employers evaluate whether or not penalties may apply to their business, there are five key questions to answer. These questions are based on the employer mandate generally, and do not take into account different transition rules that may be available to employers.

The following diagram illustrates how employers' answers to the five questions may affect the outcome of penalty assessments.



[1] The ACA has not assigned titles to either penalty. The titles "Penalty A" and "Penalty B" are being used for explanation only. The penalty amounts listed are annual amounts if the employer is non-compliant, but will be assessed on a pro-rated basis for each month the employer is non-compliant.

Penalty[2] calculation example

The following example shows a scenario-based calculation including the financial impact of discontinuing coverage in 2015:

Employer Statistics

- Full-time and equivalents: 200
- Employee salary range: $30,000 to $70,000
- Lowest paid monthly wage: $2,500
- Employer offers minimum essential coverage
- Coverage is at least 60 percent minimum value
- Current employer total premium per employee per year: $5,760
- Current employee (employee-only coverage) monthly contribution: $300

To meet the affordability requirements of the employer mandate:

$2,500 x 9.5% = $237.50

Maximum monthly employee contribution to meet affordability requirements

$237.50 x 12 = $2,850

Maximum annual employee contribution to meet affordability requirements

Amounts paid today by employee and employer:

$3,600

Current employee-only annual contribution (not considering employer mandate $300 x 12)

$1,512

Current employer annual premium (pre-tax)

Annual employer premium per employee: $2,160 (less 30% tax assumption of $648)

Decision: Discontinue health benefit coverage.

- Net cost to discontinue coverage and pay the penalty: $2,000 x 120 employees[3] = $240,000
- Penalty to not provide health care coverage is paid after tax, so the balance sheet impact is $1,714 per employee.[4]

Result: All employees are without employer-sponsored coverage. Employer loses the difference between the pre-tax premium ($1,512) and the after-tax penalty ($1,714), which is: $202 x 200 employees =

$40,400 total loss

2 The penalties are estimates based on the 2014 implementation. Although delayed, the penalties are still to be adjusted annually, so these amounts are estimates based upon 2014 numbers.

3 In 2015, the first 80 employees are not included in the penalty calculation. Starting in 2016, only the first 30 full-time employees will be subtracted.

4 $240,000/.7 = $342,857/200 employees = $1,714 per employee

Advantages of continuing to provide health coverage

After looking at the penalty calculation example, employers may determine that there are enough advantages in continuing to provide medical coverage. The penalty cannot be used as a tax deduction and creates more expenses. There are other long-term advantages to consider when continuing to provide health coverage:

No need to worry if your health benefits meet ACA requirements

It's business as usual – no need to figure out plan choices or whether they comply with ACA mandates. Some UnitedHealthcare fully insured standard group health plans will automatically include MEC and minimum value. All customized and non-standard plans would need to go through one of the three testing methods.

Employee health and well-being

If employers don't provide medical coverage, they will not know if an employee has obtained medical coverage elsewhere. With no coverage, it may adversely affect the employee's overall health and consequently his or her performance in the workplace.

More flexibility and more plan choices

There are different plans designs that can allow employers to choose different options to create a plan that fits their budget and their employees' needs.

Employee retention

Employers may have a competitive advantage over other employers by offering better/lower-cost health benefit coverage than other employers.

Contribution costs

Even though it is likely that costs to provide medical coverage will rise, an employer may be able to offset those costs by sharing some of the adjustment with the employee contribution.

Advocacy programs

Member advocacy programs such as NurseLine℠, Employee Assistance Program (EAP) and Care24® outreach to help keep employees healthy – both physically and mentally.

Trusted source

Your broker and UnitedHealthcare representative are always there to provide guidance and answer questions.

After weighing some of the other factors, you may determine that continuing to provide medical coverage provides several advantages for employers and employees alike over discontinuing medical coverage.

Offer a variety of plan options

Under the employer mandate, employers need only offer one plan that meets the MEC requirement as well as the minimum value and affordability requirements in their plan portfolio.

To avoid potential penalties, this plan must be offered to all full-time employees (and their eligible dependents). In addition to providing richer plans to employees, employers may offer a leaner (less than 60 percent minimum value) plan, too. Offering a variety of plan options provides a competitive advantage for employers. For small groups, offering a variety of plans might not be an option at all, given the other ACA requirements they need to meet (refer to the table on page 11 entitled, Employer mandate and other ACA requirements).

If the leaner plan is an ERISA group health plan, it must satisfy the ERISA rules for group health plans, including 2014 ACA benefit changes and federal coverage mandates. Excepted benefits would not have to follow these requirements. Fully insured employers must follow state benefit mandates. Leaner plans present the following advantages:

- Employer cost is lower
- Lower employee contribution encourages employees to choose benefit coverage
- So long as leaner plans are offered in combination with a plan that meets the mandated benefit offering, employers should not be subject to the employer mandate penalties because they are offering one plan that provides MEC and meets both minimum value and affordability requirements through their employer-sponsored coverage.

Checklist for employers

You've just read a lot of information and can see there are many options to think about. Here is a checklist that may help guide you as to what steps are next:

- ☐ Understand both employee counting methods and determination of which employees are full-time employees related to the employer mandate
- ☐ Know how to determine employer size
- ☐ Calculate the number of eligible full-time and full-time equivalent employees
- ☐ Become familiar with the differences between minimum essential coverage, minimum value, essential health benefits and the mandate's definition of affordable care
- ☐ **Check your health plan offerings:**
  - ☐ Does the plan offer minimum essential coverage?
  - ☐ Is the plan affordable as defined by the employer mandate?
  - ☐ Does at least one plan you offer provide at least 60 percent minimum value?
- ☐ Remember that you need offer only one plan that meets minimum value – other plan offerings can include richer and leaner benefits
- ☐ Review and answer the five key questions for employers
- ☐ Analyze options carefully if paying the penalty is a serious consideration. It may not be in the best interest of your business for a variety of reasons.

Employer mandate overview 2014 to 2016

The table below describes the employer mandate penalties, by applicable employer group size, from 2014 through 2016.

<table>
<tr><th></th><th>2014</th><th colspan="2">2015</th><th>2016</th></tr>
<tr><td>Groups 1–49</td><td>N/A</td><td colspan="2">N/A</td><td>N/A</td></tr>
<tr><td>Groups 50–99</td><td>Penalties delayed</td><td colspan="2">▪ Penalties A[1] and B[1] delayed to 2016 for employers who don't provide MEC, so long as employer meets maintenance effort requirements with respect to workforce and health coverage
▪ Employer reporting goes into effect for entire 2015 calendar year</td><td>▪ Non-calendar year plans that qualify for transition rules must comply with MEC, MV and affordability requirements on first day of their 2016 plan year</td></tr>
<tr><td rowspan="2">Groups 100+</td><td rowspan="2">Penalties delayed</td><td>▪ Penalty A will not apply in 2015 for large employers who offer MEC to at least 70% of full-time employees, FTEs and eligible dependents
▪ Penalty A modified applies to number of full-time employees over 80 for 2015 plan year only</td><td>▪ Penalty B still in force if plan does not meet MV and affordability requirements (≤ 9.5% of employee income)</td><td>▪ Penalty A applies to number of full-time employees over 30 for 2016 plan year
▪ Employer mandate fully implemented–offer of coverage required for 95% of full-time employees in 2016</td></tr>
<tr><td colspan="2">▪ Dependents was clarified not to include foster children or stepchildren
▪ Employer reporting goes into effect for entire 2015 calendar year
▪ Calendar year plans must comply with 2015 requirements on Jan. 1, 2015
▪ Non-calendar year plans that qualify for transition rules must comply with MEC, MV and affordability requirements on the first day of the 2015 plan year</td><td></td></tr>
</table>

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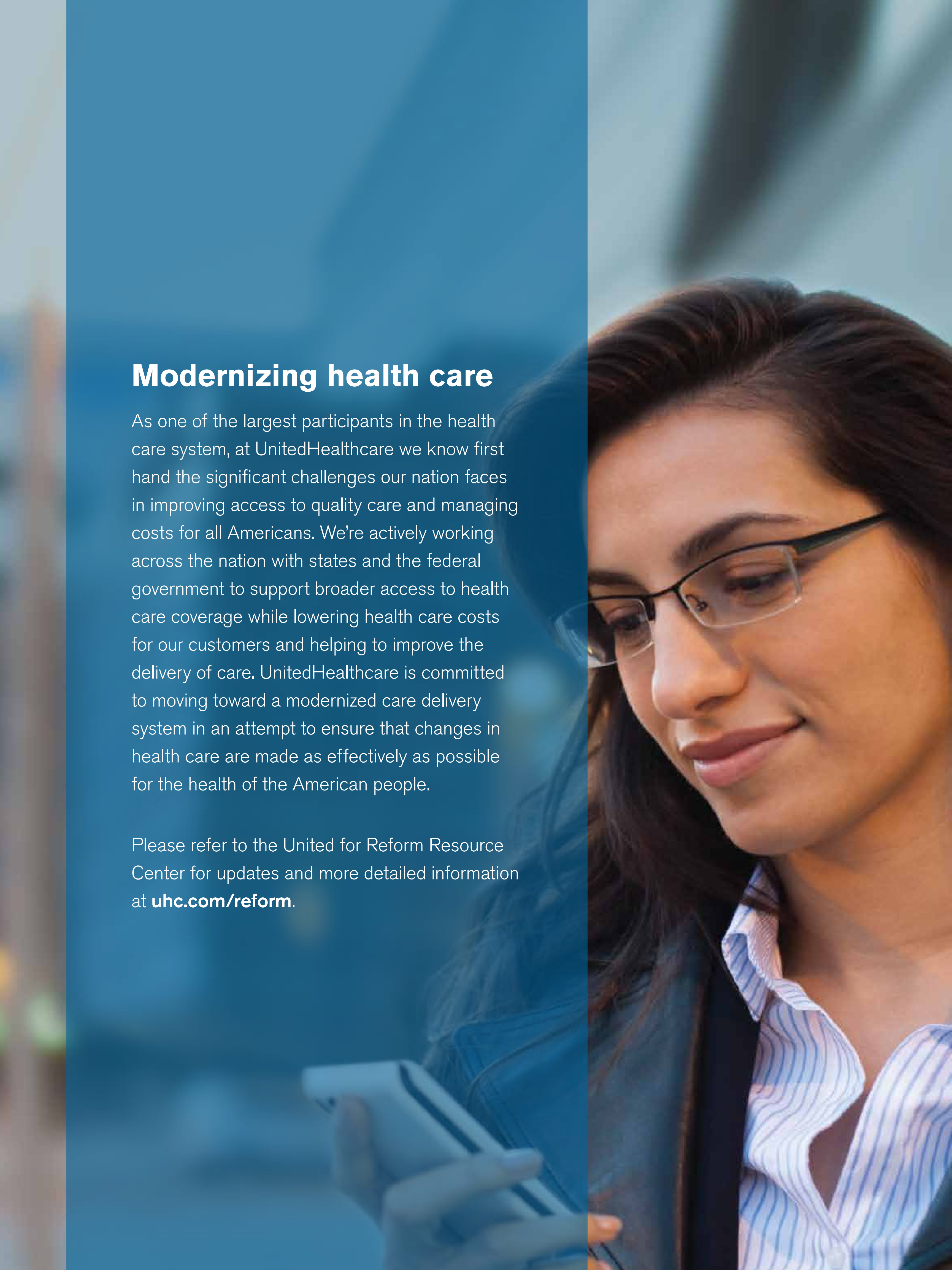
Employer mandate and other ACA requirements

The following table provides a summary by group size (based on state's definition) of the employer mandate and some other ACA provisions.

	Small Group	Large Group Fully Insured (100+)	Self-funded
Employer Mandate	No (2-49) Yes (50+)	Yes	No (2-49) Yes (50+)
Essential Health Benefits (EHB)[5]	Yes	No (Lifetime and annual dollar limits for EHB must be removed)	No (Lifetime and annual dollar limits for EHB must be removed)
Metallic Plans[5]	Yes	No	No
Deductible Caps[5]	Yes	No	No
Out-of-Pocket Maximum and Accumulators[5]	Yes	Yes	Yes
Adjusted Community Rating[5]	Yes	No	No
Removal of Pre-Existing Conditions	Yes	Yes	Yes
Guaranteed Issue and Renewability[5]	Yes	Yes	No
Taxes and Fees	Yes	Yes	Yes (Insurer fee does not apply)
Clinical Trials[5]	Yes	Yes	Yes

[5]Grandfathered plans not required to provide.



Modernizing health care

As one of the largest participants in the health care system, at UnitedHealthcare we know first hand the significant challenges our nation faces in improving access to quality care and managing costs for all Americans. We're actively working across the nation with states and the federal government to support broader access to health care coverage while lowering health care costs for our customers and helping to improve the delivery of care. UnitedHealthcare is committed to moving toward a modernized care delivery system in an attempt to ensure that changes in health care are made as effectively as possible for the health of the American people.

Please refer to the United for Reform Resource Center for updates and more detailed information at **uhc.com/reform**.

To learn more and stay current with the latest information, use **uhc.com/reform** as your reliable resource.

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