



ObamaCare and its Mandates Fact Sheet

ObamaCare ([Patient Protection and Affordable Care Act - ObamaCare](#))

- Signed into law by President Barack Obama on March 23, 2010
- Planned Parenthood takes credit for helping to shape the Act ([Planned Parenthood Annual Report](#))

HHS Mandate

- Finalized on February 10, 2012 by HHS Secretary Kathleen Sebelius requiring "preventive services" for women that must be included without co-pays or deductibles in nearly every health insurance plan in the country ([Women's Preventive Services Guidelines](#) and [HHS Mandate](#))
- Provides "free" coverage for early-abortion pills, contraceptives, sterilizations, and "education and counseling" about choosing and using those things ([Women's Preventive Services Guidelines](#) and [HHS Mandate](#) Pg. 2)
- While these items are "free", nearly all other medications (heart pills, insulin, etc.) still cost the same
- Planned Parenthood executives helped to craft the mandate and applauded its provisions ([Institute of Medicine](#), [AUL HRSA Guidelines](#) Note ii, [Victory for Women's Health](#))
- This coverage must be provided at the beginning of a company's fiscal year that starts on or after August 1, 2012. ([HHS Mandate](#) Pg. 2)

Employer Mandate

- Requires that, beginning in 2014, large employers provide their employees with ObamaCare-compliant insurance plans or pay a heavy fine ([26 U.S.C. § 4980H](#) Pg. 1; [ObamaCare](#) Sec. 1562(f), Pg. 152), and employers of any size who provide their employees with insurance must offer only ObamaCare-compliant plans or face similarly burdensome fines and lawsuits ([26 USC § 4980D](#) Pg. 1; [ObamaCare](#) Sec. 1562(e)-(f), Pg. 152; [29 U.S.C. § 1132](#) Pg. 1; [ObamaCare](#) Sec. 1562(e)-(f), Pg. 152) (see Fines below)
- Religious organizations are not exempt unless they meet very strict and narrow parameters that include only some churches and religious orders (see Exemptions below) ([HHS Mandate](#) Pg. 2)
- The Employer Mandate will still require organizations to exclusively provide ObamaCare-compliant plans to employees, even if the Individual Mandate is ruled unconstitutional, because the mandates are independent unless the Supreme Court decides they must be struck down together

Individual Mandate ([ObamaCare](#) Sec. 5000A(a), Pg. 126)

- Was upheld by the Supreme Court as a tax on June 28, 2012
- Requires that, beginning in 2014, nearly all Americans purchase ObamaCare-compliant insurance plans or pay a heavy fine (see Fines below) ([ObamaCare](#) amend. to Sec. 5000A(c)(1) & (2), Pg. 791)
- Individuals who are forced to purchase insurance plans through State Exchanges (see below) in order to be compliant with the Individual Mandate, in many cases, will be purchasing plans that impose the Abortion Premium Mandate (see below)
- The Individual Mandate requires people to pay for what the HHS mandate covers (because the HHS Mandate applies to all plans) and also requires all individuals in certain plans to pay the Abortion Premium



Abortion Premium Mandate

- Is concealed in the Individual Mandate and requires all persons enrolled in insurance plans in State Exchanges (see below) that include elective abortion coverage to pay a separate premium straight from their paychecks to fund all types of elective abortion ([ObamaCare Sec. 1303\(b\)\(1\) & \(2\)](#), Pg. 779–80)
- ObamaCare says this separate premium will not cost less than \$1 per month per enrollee, but does not say how much more it could cost ([ObamaCare Sec. 1303 \(D\) \(ii\) \(III\)](#), Pg. 780)
- This separate charge will go directly into an abortion-on-demand fund established by ObamaCare to cover all types of elective abortions - surgical, chemical, late term, etc. ([ObamaCare Sec. 1303 \(C\) \(ii\)](#), Pg. 780)
- Because this premium is taken directly from a paycheck and put directly into an abortion-on-demand fund, bypassing the tax process, it attempts to circumvent federal laws that prohibit taxpayer funding of abortion (see Consolidated Appropriations Act of 2012, [Pub. L. No. 112-74](#), div. F, tit. V., § 506(b), 125 Stat 786, Pg. 1111)
- Elective abortions of all types (surgical, chemical, late term, etc.) will be covered similarly to medical procedures, which may have a co-pay or may be subsidized completely
- The U.S. Department of Labor reports that there are approximately 154,000,000 people in the U.S. labor force. If only half of plans include the Abortion Premium, at only \$1 per month, the yearly income into this fund would be \$924,000,000. ([Bureau of Labor Statistics May 2012](#) Pg. 5)
- On average, an abortion costs \$450. At the above rate, this fund could completely subsidize 2 million abortions per year. Currently, there are 1.2 million abortions per year in the U.S. ([Guttmacher Abortion Costs](#), [Guttmacher Abortion Statistics](#))

Secrecy Clause

- While many of the ObamaCare-compliant insurance plans include coverage an abortion premium, not all do. ([ObamaCare Sec. 1303\(b\)\(1\)\(A\)\(i\)](#), Pg. 779)
- But insurance companies are not allowed to communicate in advance to employees which plans include this abortion premium. It may “only” be disclosed in the fine print of the “summary of benefits and coverage explanation, at the time of enrollment.” ([ObamaCare Sec. 1303\(b\)\(3\)\(A\)](#), Pg. 781)
- The employee will discover that their plan contains an abortion premium either by seeking it out in the fine print once they have enrolled, or noticing the separate surcharge taken from their paycheck. ([ObamaCare Sec. 1303\(b\)\(1\) & \(2\)](#), Pg. 780)

Automatic Enrollment of Minors in HHS Mandate

- Children/Dependents (ages 0 – 26), as “beneficiaries,” are “automatically” and mandatorily enrolled into the HHS Mandate coverage ([77 Fed. Reg. at 16505](#) Pg. 3; [76 Fed. Reg. at 46624](#) Pg. 4)
- Children will receive coverage of free contraception counseling and education, contraception, sterilization and early-abortion pills as stated in the HHS Mandate (see above) ([Women’s Preventive Services Guidelines](#))
- Healthcare service providers are not required to inform parents of services provided to their children because of Privacy Provisions ([HIPAA 164.502](#) Pg. 17 and [164.510](#) Pg. 25-26)
- While the law requires that children/dependents receive total coverage for contraception, abortion pills and sterilizations, it does not require that they receive any coverage for live birth. ([Title 29: Labor Part 1604—Guidelines On Discrimination Because Of Sex](#))
- In February, 2012 the Obama Administration said that for religious organizations, the coverage would only go to employees and their dependents “who desire it” ([77 Fed. Reg. at 8728](#) Pg. 4)



In March the administration changed their position and announced that this coverage would automatically go to all employees and their children ([77 Fed. Reg. at 16505](#) Pg. 3)

- Planned Parenthood’s research institute specifically advocated for contraception counseling, contraception, and abortion pills to be covered in insurance *totally free*, as the HHS Mandate directs, so that children could get it confidentially, without parents receiving a bill for a co-pay or an Explanation of Benefits ([Guttmacher: Unintended Consequences](#))

Subsidies

- ObamaCare subsidizes health plans in State Exchanges purchased by families (of four) who make \$92,000 per year or less, or 400% or less of the poverty level ([Reconciliation Act](#) Pg. 3)
- All aspects of the plan are subsidized with taxpayer dollars, necessarily including elective abortions (for plans that include it), abortion pills, contraception, sterilization, etc. ([NRL News Today](#))
- The Abortion Premium Mandate (see above) is simply an accounting designation created to give the impression that abortions are not subsidized with taxpayer dollars
- The ObamaCare subsidization of exchange plans which cover abortion violates existing federal law known as the Hyde Amendment, which specifically prohibits federal funding for any part of a health insurance package that covers elective abortions (see Consolidated Appropriations Act of 2012, [Pub. L. No. 112-74](#), div. F, tit. V., § 506(b), 125 Stat 786, Pg. 1111)

Fines and Lawsuits

- Employees who refuse coverage will be fined the greater of either the cost of the plan (average cost of the bronze level plan) or 1% of their salary the first year, 2% the second year, and 2.5% each year after that ([ObamaCare](#) amendment to Sec. 5000A(c)(1) & (2), Pg. 791)
- Fines to employees will be included in their tax returns ([ObamaCare](#) Sec. 5000A(b)(2), Pg. 126)
- Employers who offer insurance plans that are not HHS Mandate-compliant by covering early-abortion pills will be fined \$100 per employee per day ([26 USC § 4980D](#) Pg. 1; [ObamaCare](#) Sec. 1562(e)-(f), Pg. 152 ; [42 U.S.C. § 300gg-13](#))
- Employers who offer insurance plans not compliant with the HHS Mandate may be sued by the U.S. Department of Labor and by its plan participants, forcing the employer to offer the coverage by court order ([29 U.S.C. § 1132](#) Pg. 1; [ObamaCare](#) Sec. 1562(e)-(f), Pg. 152)
- Employers who have over 50 employees and drop insurance coverage altogether to avoid facilitating the HHS Mandate will be fined approximately \$2,000 per employee per year ([26 U.S.C. § 4980H](#) Pg. 1; [ObamaCare](#) Sec. 1562(f), Pg. 152)

Commerce Clause ([U. S. Constitution](#) Art. I Sec. 8 Clause 3, Pg. 3)

- Proponents of ObamaCare claim that the Commerce Clause, which gives the federal government the power to regulate interstate commerce, authorizes the Act.
- Opponents of ObamaCare argue that it exceeds the constitutional limits of the Commerce Clause, which only authorizes Congress to regulate interstate commercial activity which is already taking place. Not purchasing health insurance is avoiding commercial activity, not engaging in it. If not doing something can be regulated under the Commerce Clause, that would open the door for the government to force the purchase of anything, or mandate any type of “health care” – e.g., everyone must purchase a gym membership, buy health food, buy American cars, etc.
- Forced purchase is typically called “coercion” rather than “commerce”



Spending Clause ([U. S. Constitution](#) Art. I Sec. 8 Clause 1, Pg. 2)

- The Supreme Court will rule on whether Congress exceeded its enumerated powers under the Spending Clause by placing heavy regulations on states that receive Medicaid funding
- Opponents of ObamaCare urge that it does not meet the constitutional requirements of the Spending Clause because it mandates a massive increase of health care bureaucracy without providing an adequate means of paying for it
- This additional bureaucracy and expense is particularly evident in the requirement of the creation of State Exchanges (see below)

State Exchanges

- ObamaCare requires states to set up “exchanges” by January 1, 2014 – government-operated health insurance markets, if they want to receive federal subsidies ([ObamaCare](#) Sec. 1321 (b), Pg. 68)
- Families (of 4) who earn \$92,000 or less will receive federal tax credits which subsidize their plan if they purchase from a State Exchange ([Reconciliation Act](#) Sec. 1001(a), Pg. 3)
- States are therefore incentivized to create these approved exchanges or forgo receiving federal subsidization for their citizen’s health care
- If a State does not establish an approved exchange, the federal government has the option of setting up an exchange in that state which will most likely provide for abortion even in states where abortion coverage is illegal. ([ObamaCare](#) Sec. 1321 (b) & (c), Pg. 68)
- ObamaCare sets as the default that State Exchanges will cover abortion even in states where abortion coverage is illegal. It gives the State the option to pass a law to opt out of the coverage, and it also details how that law can be terminated or repealed. ([ObamaCare](#) Sec. 1303 (a)(1) and (2), Pg. 779)

Exemptions for Religious Organizations to the HHS Mandate ([Group Health Plans Final Regulation](#))

- The HHS Mandate only allows an organization to be exempt if it meets all of the following (1) has the inculcation of religious values as its purpose; (2) primarily employs persons who share its religious tenets; (3) primarily serves persons who share its religious tenets; and (4) is a church, religious order, or integrated auxiliary thereof under specific sections of the Internal Revenue Code ([HHS Mandate](#) Pg. 2)
- Any religious organization that is not formally a church, congregation or religious order is deemed not religious at all under this exemption. ([HHS Mandate](#) Pg. 2)
- Any religious school or charity that serves people of other faiths is not exempt because it does not meet the requirements (a Christian soup kitchen, a Catholic school, etc.) Even some churches are not exempt if they are too focused on serving people besides themselves. ([HHS Mandate](#) Pg. 2)
- Any organization must refuse to significantly hire people of other beliefs to meet this exemption. This invites government bureaucrats to become entangled in religious matters by deciding whether employees are sufficiently aligned with a religious organization’s tenets. For example, it is unclear whether the exemption would apply to a denominational organization that hires Christians of other denominations. ([HHS Mandate](#) Pg. 2, 4)
- The president finalized this rule “without change.” His public suggestions of a “compromise” do not change this rule, do not propose to rescind the narrow definition of religious entity, and would still require religious groups and businesses to directly provide access to objectionable coverage. ([HHS Mandate](#) Pg. 1, 5, 6)