



Health Care Practice Tip - March 2021

Tax Tips for Health Advocates – California’s Individual Mandate and Reconciling State Subsidies

Last week both the [federal](#) and [state](#) tax agencies moved the tax filing deadline for this year to Monday, May 17, 2021. This gives Californians a little more time to navigate the first year of this state’s individual mandate and new tax forms.

Starting in January 2020, most Californians are required to have health insurance that meets minimum standards of coverage.[\[1\]](#) This mandate applies to all everyone unless they qualify for an exemption[\[2\]](#); more on that below. For months that a person does not have health coverage and does not have a exemption, they will have to pay a penalty.

Check if you have an exemption before you pay any penalties!

Californians do not need to pay the individual mandate penalty if they meet one of the many exemptions.[\[3\]](#) For the most part, the state exemptions are similar to the federal exemptions.[\[4\]](#) Always apply for the exemption that is simplest to get. The following are some of the most likely exemption reasons.

Income too low to file state taxes: The state filing threshold is \$18,496 for a single person under 65 or \$24,696 for a single person over 65. For married couples it is \$36,996 if both spouses are under 65 years old, and \$49,396 if both are over 65.[\[5\]](#) Anyone whose income is too low to file taxes is exempt from the mandate.

General Hardships:* 2020 was rife with hardships, almost all of which would qualify for an exemption. Hardships are circumstances that prevented the applicant from getting health coverage. That includes natural or human-caused events that caused increased expenses, as well as when the cost of buying health insurance would have caused deprivation of food, shelter, clothing, or other necessities. General hardships include:

- Homelessness
- Domestic violence
- Death of a close family member
- Natural or human-caused disasters, including fires
- Substantial medical debt in the last 24 months
- Had or is facing an eviction or utility shut-off

- Increased expenses or decreased income because of separation, divorce or caring for an ill, disabled, or aging family member
- And other hardships, which are decided on a case-by-case basis.

Certain immigration statuses are exempt.

- Certain immigrants who do not meet the definition of “lawfully present.”^[6] This includes, but is not limited to, undocumented immigrants.
- DACA recipients. For the same reason that DACA recipients cannot be on a Covered California plan,^[7] they are exempt from the California individual mandate.^[8]
- People who have restricted scope Medi-Cal.

Other exemptions include:

- Native Americans who are a member of an Indian tribe^[9] or who qualify for services through an Indian health care provider
- Religious conscience* as described in the federal Tax Code^[10]
- Unaffordable coverage that is more than 8.27% of household income (known as the Affordability Hardship)*
- Incarceration
- Living out of state or abroad

***Where to claim exemptions**

Almost all exemptions can be claimed via the California income tax return via FTB form 3853, the [3853 instructions](#) provide a full list of the exemptions and codes. There are three exemptions that require Covered California approval (those listed above with an *). Click on the links below to apply and see required supporting information.

- [General hardship](#)
- [Affordability Hardship](#)
- [Religious Conscience](#)

If no exemption applies, calculating the penalty amount and using a special enrollment period to get coverage.

If an individual has no exemption that applies to their circumstances, then they will be assessed a penalty for not having minimum essential coverage. The penalty amount is the *higher* of either a flat fee sum for the household or 2.5% of the gross household income minus the tax filing threshold. The flat fee penalties are \$750 for adults and \$375 for children. The FTB has a helpful [example of the penalty math](#) on its website as well as a general [penalty estimator tool](#).

Example:

Sol is filing single and claiming Bao as a child dependent. Sol and Bao did not have health

insurance in 2020 and unfortunately do not qualify for any exemptions. Sol's gross income is \$37,000. Their penalty will be \$1,125 because it is the *higher* of these two options:

- Flat fee would be \$1,125 = \$750 (Sol) + \$375 (Bao)
- Percentage penalty would be \$143.43, using the following method:
 - \$37,000 (Sol's income) – \$31,263 (filing threshold for single + 1 dependent) = \$5,737
 - \$5,737 * 2.5% = \$143.43

How could you help Sol and Bao going forward? Tell them to apply for health insurance ASAP! Their household income is only 212% of the federal poverty level Bao would be eligible for Medi-Cal (TLICP) and Sol would be eligible for an enhanced Silver Covered California plan with APTCs and CSRs.

Subsidy reconciliation for Covered California members

It is important to keep the individual mandate penalty separate from reconciliation for state or federal premium subsidies. The penalty is for folks who did not have coverage; the reconciliation is for repayment or refunds for people who had coverage but did not receive the correct APTC or state subsidy amounts.

New forms for state subsidies; same forms for federal APTCs.

This year is also the first time all Covered California members will get Franchise Tax Board (FTB) form 3895 to show months of coverage and to reconcile state subsidies. All Covered California members will get an FTB 3895 form whether or not they got a state subsidy. This is *in addition* to the IRS Form 1095 series you may be familiar with from years past.[\[11\]](#) Read Covered California's useful "quick guides" on the [1095-A](#) and [FTB 3895](#). Covered California members can access their tax forms by logging into their coveredca.com account.

Both the 1095-A and the FTB 3895 will show months of coverage, and the amount, if any, of premium subsidies paid for each person. If there are any issues with either the 1095-A or the FTB 3895, Covered California members can [file a dispute](#).

Reconciling state subsidies

For folks who received a state subsidy, they must file a state income tax return,[\[12\]](#) just as those who receive a federal premium tax credit (also known as the APTC) are required to file a federal tax return. To reconcile the state subsidies, use state form the [FTB 3849](#) with the California income tax return. Many people will first be reconciling their federal subsidies on their federal tax return,[\[13\]](#) and then reconciling their state subsidies on their state tax return.

Note: The American Rescue Plan contains a provision that forgives amounts owed due to excess *federal* advance premium tax credits received in 2020. The IRS is still determining how to help people who already filed but are no longer required to repay those advance premium tax credits. This does not affect the reconciliation of state subsidies.

TAX HELP

Taxes are complicated and should be handled by experienced tax preparers who are aware of the health implications. Volunteer Income Tax Assistance (VITA) and Tax Counseling for

the Elderly (TCE) provide free help to low-income and elderly individuals. Though many [VITA and TCE](#) locations may be closed during the pandemic. However, there are a limited number of locations around the state that continue to operate either virtually or in-person with an appointment. Find a [VITA/TCE location near you](#). Covered California also has a [more detailed list of tax help resources](#).

For more resources, Covered California has a collection of resources on its toolkit page^[14]: [IRS Form 1095 & Form FTB 3895 Toolkit Certified Enrollers](#). This includes links to notices, job aids, and informational videos.

If you have any questions or issues with exemptions, penalties, or reconciliation, please contact [Cori Racela and Jen Flory](#).

[1] See Western Center's October 2019 [Practice Tip](#) on increased state subsidies, reconciliation, and the individual mandate.

[2] Gov't Code § 100705.

[3] Gov't Code § 100705(c).

[4] For a general refresher on federal exemptions, read Western Center's [practice tip on federal exemptions](#). Note that the federal individual mandate penalty is \$0. Use the Western Center April 2017 practice tip only for reference on certain federal exemptions.

[5] The FTB has a more detailed list of income thresholds for [state tax filing requirements](#).

[6] 45 C.F.R. § 152.2

[7] Although individuals with DACA recipients are considered lawfully present under immigration law, the Obama administration specifically excluded this group from the definition of "lawfully present" for purposes of the Affordable Care Act. For healthcare eligibility purposes, DACA recipients are not considered "lawfully present" for purposes of Covered California and premium tax credit eligibility, but are "lawfully present" for purposes of full-scope Medi-Cal. See 45 C.F.R. § 152.2(8), [MEDIL 14-45](#).

[8] Gov't Code § 100705(c)(4) (those who are not "lawfully present" are exempt from the penalty); § 100805(b) (state subsidy eligibility rules follow the federal APTC eligibility rules (except for income thresholds)).

[9] Gov't Code § 100705(c)(5), incorporating 26 U.S.C. § 45A(c)(6)

[10] See 10 C.C.R. § 6914, which incorporates 26 U.S.C. § 1402(g)(1).

[11] Covered California members get a 1095-A. Medi-Cal recipients, self-employed, and those who had employer-based insurance from smaller get Form 1095-B. People who had insurance from larger employers get Form 1095-C.

[12] Gov't Code § 100810(a)(3).

[13] For a more detailed explanation of reconciling APTCs on a federal tax return, see Western Center's *Getting and Keeping Health Coverage for Low-Income Californians: A Guide for Advocates* [Chapter 4](#), pp. 4.160-161.

[14] For more toolkits for enrollers, navigators, and outreach, see Covered California's [Enrollment Partner Toolkit page](#).

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