



COMPLIANCE SERVICES Alert



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Vermont lays groundwork for individual mandate in 2020

The health reform fight continues its shift to the states, with Vermont becoming the third state to adopt an individual health coverage mandate. In contrast to recent the [New Jersey law](#), the Vermont legislation defers the issue of penalties for not having insurance to a legislative task force, the Individual Mandate Working Group, that is due to make its recommendations to the state legislature by November 2018. Any penalties for not having insurance would apply beginning in calendar year 2020. The law is in response to Congress removing the Affordable Care Act's (ACA) individual mandate penalty beginning in 2019.

Lockton comment: The Vermont individual mandate won't apply next year. However, in conjunction with the open enrollment period for 2019, the law directs state authorities "to engage in coordinated outreach efforts to educate Vermont residents about the importance of health insurance coverage and assist Vermont residents with identifying the coverage options for which they are eligible and with selecting and enrolling in coverage."

Vermont adopts individual mandate

Vermont Gov. Phil Scott recently signed a bill imposing an ACA-like individual health insurance coverage mandate on Vermont taxpayers. The law takes effect beginning in 2020. Vermont thus becomes the third state, after Massachusetts and New Jersey, to impose an individual health insurance coverage mandate, but almost certainly will not be the last state to do so.

The new law is designed to continue to provide an incentive for Vermont's uninsured to obtain health insurance coverage through an employer, an ACA online marketplace, or through the state's Medicaid program (Green Mountain Care). A state-commissioned report indicated premiums in the Vermont individual and small-group markets would increase between 1.6 to 2.4 percent due to the federal repeal of the individual mandate. By reinstating at the state level what Congress effectively rescinded at the federal

level, Vermont lawmakers hope to minimize the potentially adverse impact of Congress's action on the state's individual health insurance market.

The Vermont law imposes the same obligation on state residents that the ACA's individual mandate does (i.e., have at least "minimum essential coverage," or MEC). The yet undetermined penalties for noncompliance would be payable to the state, presumably with individual state income tax return filings.

Lockton comment: It will be interesting to see how effective the mandate is with respect to the cost of insurance. Since MEC can be very limited (offering mainly preventive benefits) and therefore, very inexpensive, it may have a similarly limited impact on the risk pool for major medical plans.

Oddly, the Vermont law provides exceptions for incarcerated individuals and religious conscientious objectors, but not where coverage would have been considered unaffordable under federal standards. The law indicates the working group is to consider whether additional exemptions should be recommended based on religion, affordability, hardship or short gaps in coverage.

The law does not address tax reporting obligations for insurers and employers with self-funded plans. Presumably, Vermont tax authorities would be willing to accept reports like the federal Forms 1095-C and 1095-B, or at least reports with the same information supplied, but the mechanics of how employers will submit those forms remains to be determined.

Employers will need to stay tuned for the recommendations of the working group and how the thorny issues are tackled by the state legislature.

Lockton comment: Vermont has taken a few steps in the past to help promote more universal health insurance coverage. In 2014, it abandoned its attempt for a single-payer system due to cost and legal constraints.

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