



SMALL EMPLOYER

What is the definition of small employer?

The national small group definition was scheduled to expand in 2016 from one to 50 to one to 100 total employees (any person that receives a W-2). However, this rule was repealed early October 2015, leaving the definition of small group as one to 50 total employees, unless a state defines differently. Non-grandfathered, insured, small group health plans must comply with community rating standards and Essential Health Benefits (EHB) rules.

States currently expanding their small group definition to one to 100 total employees: CA, CO, NY and VT.

Expanding the small group definition beyond 50 total employees could present a significant change for insured groups with 51 or more full-time or full-time equivalent (FTE) employees, as these employers are considered "large employers" for most PPACA rules.

Non-grandfathered insured employer groups that fit a state-defined small group size greater than 50 total employees, and whose workforce is comprised of 51 or more full-time or FTE employees will need to comply with both the small group market rules and the employer mandate. Such insured group health plans must comply with minimum value and affordability rules to avoid employer penalties despite higher premiums resulting from the small group rules. Consequently, these affected employers may consider self-insuring their plans.

As an example, if a state expands its small group definition to one to 100 employees, an employer would be subject to both sets of rules if it had 95 total employees, comprised of 65 fulltime employees.

U.S.-issued expatriate plans can continue to define a "small employer" as having one to 50 employees in 2016 and beyond.

Fully insured groups in states that expand the definition may have to comply with both requirements.



* The small group size is set by every state and is determined by number of actual employees (any person that receives a W-2). The definition of an "applicable large employer" for purposes of the employer mandate is set by federal law and is any employer with 50 or more full-time and full-time equivalent employees.