

Questions about the impact of the ACA on GBP insurance coverage for full-time higher education employees

After a waiting period, higher education employees at public institutions and community colleges (except for the University of Texas and Texas A&M University systems) are eligible for Group Benefits Program (GBP) insurance coverage. The Employees Retirement System of Texas (ERS) administers insurance benefits for eligible higher education employees and their family members. In general, this includes regular employees, graduate students who work at least 20 hours a week, postdoctoral fellows and certain adjunct faculty members. [More eligibility information](#) is available on the ERS website.

1. **How is a GBP-eligible employee defined in state law?** The Texas Insurance Code (TIC) defines eligibility for the GBP. (TIC, §1551.101) As of September 1, 2013, the following employees are eligible for GBP coverage.
 - **Full-time employee (FTE)** “designated by the employer as working 30 or more hours a week.” (TIC, §1551.003(9))
 - **Part-time employee** “designated by the employer as working less than 30 hours a week.” (TIC, §1551.003(11))
 - **Graduate student** who is working at least 20 hours a week and is not eligible to participate in TRS. (TIC §1551.101(e)(2))
 - **Adjunct faculty member** who has taught at least 12 semester hours in the past academic year. (TIC, §1551.1021); and
 - **Postdoctoral fellow** receiving a stipend from a competitive fellowship award (TIC §1551.1022).
2. **Do provisions in the Affordable Care Act (ACA), also known as federal health care reform, change eligibility rules for the GBP?** No. Nothing in the ACA changes GBP eligibility rules. No matter how many hours employees work, they still must meet state eligibility rules to qualify for GBP coverage.
3. **How do higher education employers decide who is full-time and who is part-time?** The IRS recently issued some guidance (*IRS Notice 2012-58*) to help employers determine whether an employee is working full time. On September 1, 2013, the GBP will define a full-time employee as one who works at least 30 hours a week. (TIC, §1551.003(9))

Also on September 1, *HB 2127, 83rd Regular Session* makes adjunct faculty members eligible for GBP coverage when they have taught 12 semester hours for the past academic year. The employer decides how many semester teaching hours are needed to reach full-time employment. ERS cannot decide this for employers. Starting January 1, 2015, all higher education employers will report annually to the IRS on how many FTEs are offered the required minimum level of insurance coverage.

4. **Will the new ACA definition of full-time employee change the insurance contribution?** No, the ACA does not dictate the insurance contribution. The General Appropriations Act sets the FY14-15 employer contribution at 100% for full time and 50% for part time employees. On September 1, 2013, the employer’s contribution is 100% for state and higher-education employees working at least 30 hours a week.

Not all higher education employees receive a state general-revenue (GR) contribution. Adjunct faculty, graduate students and postdoctoral fellows do not receive GR funding for their insurance coverage. Determining the employer contribution level (and funding source) for these employees is the responsibility of the hiring institution. The attached decision tree will help you think through your options.

5. **Will undergraduate student employees who work more than 30 hours a week now qualify for GBP coverage?** GBP eligibility guidelines have not changed. Undergraduate students are not eligible for GBP coverage, even if they are working full time.
6. **Will higher education employers have to pay federal excise taxes?** As of January 1, 2015, the ACA requires higher education employers to provide a minimum level of affordable insurance coverage to full-time employees or pay a federal [Shared Responsibility Assessment](#) (or “excise tax”) *26 U.S.C. §4980H*. Higher education employers could pay excise taxes under at least two scenarios:

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- An employee works 30 hours a week but is not eligible for GBP coverage. In this case, the employer would either pay the excise tax or provide a minimum level of insurance coverage through an alternative source; or
- A full-time employee is eligible for GBP coverage, but the employer contribution is so low that it makes the coverage unaffordable. In this case, the employer could either increase its insurance contribution or pay the excise tax.

This provision of the ACA was recently delayed. Employers do not have to pay any federal excise taxes until January 1, 2015. Paying a tax for one employee could make an employer liable for penalties on other eligible employees.

- 7. What is “affordable” coverage?** The IRS sets the [affordability standard](#) for insurance coverage (IRS 26 *CFR Part 1*). Starting January 1, 2015, the employee’s premium contribution cost for the employer-sponsored health insurance plan (for the employee only, not any other members of his family) may not exceed 9.5% of the employee’s household income for the year.
- 8. Can I provide some alternative (less expensive) coverage options for GBP-eligible employees?** No, state law requires that GBP-eligible employees are automatically enrolled ([TIC §1551.003\(3\)](#)) in a uniform health benefit plan ([TIC §1551.002\(1\)](#)) approved by the ERS Board of Trustees. These eligible employees can waive GBP coverage ([TIC §1551.1045](#)), but the employer cannot offer these employees an alternative plan.
- 9. Can an employer who participates in the GBP offer an alternative plan to employees who are not GBP eligible, but are full time?** Yes, but as stated above, GBP eligible employees must enroll in the GBP, or waive coverage. They cannot enroll in an employer’s alternative plan.
- 10. What if an employee declines dependent coverage because it is “unaffordable?” Will employers have to pay a penalty?** No. The ACA does not require employers to offer dependent coverage.
- 11. What if a retiree with less than 20 years of service declines individual coverage because it is “unaffordable?” Will employers have to pay a penalty?** No. The ACA does not require employers to offer retiree coverage beyond COBRA, or 18 months.
- 12. If an employee waives coverage, who pays the penalty: the employer or the employee?** Starting January 1, 2014, employees who waive GBP coverage will pay a federal penalty unless they buy a minimum level of insurance coverage elsewhere.
- 13. Does GBP coverage meet the minimum coverage requirement under the ACA?** Yes. GBP coverage currently exceeds the minimum coverage requirement under the ACA.
- 14. Who will notify employees of the exchange?** The employer, not ERS, is responsible for notifying all employees and proving that they received the notification. The ACA requires employers to send notice to their employees by October 1, 2013 about their existing coverage and the option to use the federal insurance exchange. Going forward, new employees will have to be notified within 14 days of their start date. If employees decide to waive GBP coverage, they may sign up through the exchange in October for alternative plan coverage starting January 1, 2014. ERS will provide benefit coordinators with an overview of GBP benefits and a link to the [model ACA employee notice](#) provided by the Department of Labor.
- 15. Will the existence of the exchange be considered a Qualifying Life Event (QLE)?** The opening of the exchange will not result in a QLE. Employees who enroll in GBP coverage need to stay enrolled for the entire fiscal year unless they experience one of the [QLEs outlined on the ERS website](#).