

This information is current as of its posting date, but ERS cannot guarantee the ongoing accuracy or completeness of the information. You are strongly encouraged to independently determine how, if at all, the Affordable Care Act (ACA) and the Marketplace (also known as the “exchange”) may affect you and your family. ERS does not verify and does not exert editorial control over information on pages you may link to from this page.

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 or graduate student** 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 issued some guidance](#) (*IRS Notice 2012-58*) to help employers determine whether an employee is working full time. As of September 1, 2013, the GBP defines 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](#) made 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 in 2016, all higher education employers will report annually to the IRS on how many FTEs were offered the required minimum level of insurance coverage for the previous calendar year.

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. As of September 1, 2014, 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 (and their children under 26 years of age) or pay a federal [Employer Shared Responsibility Assessment](#) (or "excise tax") *26 U.S.C. §4980H*. Higher education employers could pay excise taxes under at least two scenarios:

- 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.

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 the employee believes it to be “unaffordable?” Will employers have to pay a penalty?

No. The employer’s responsibility is to offer the coverage, but the dependent is not required to enroll.

11. What if a retiree with less than 20 years of service declines individual coverage because the retiree believes it to be “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?

As of 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 required 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 must be notified within 14 days of their start date. ERS has provided benefit coordinators with an overview of GBP benefits and a link to the [model ACA employee notice](#) provided by the Department of Labor.

15. Can an employee switch from the GBP to coverage on the exchange?

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](#).

16. Who will pay the transitional reinsurance fee? Will the agency need to provide separate funding for this?

ERS will pay this fee when it becomes due. We estimated the cost of the fee in our contribution rates.

17. If we have some graduate students at 75% FTE and many others at 50% FTE and all are currently receiving a 50% contribution from our institute of higher education from funds not appropriated from the general revenue fund, can we change our funding strategy to provide 100% contribution to the 75% FTE graduate students and leave the 50% graduate students at a 50% contribution?

Given the applicable laws and rules concerning graduate student coverage in the GBP, the answer is somewhat complicated. Any funding strategy with respect to what the student contributes and what the institution contributes must comply with the statutory and rule requirements. Whether contributing different amounts toward the premium payments of two groups of graduate students working different hours technically complies with these requirements is a question we would suggest you discuss with your legal counsel.

Contributions toward graduate student coverage in the GBP are discussed in Rule 81.5 of the Texas Administrative Code and Chapter 1551 of the Texas Insurance Code. An institution of higher education may contribute part, or all, of the required premium for graduate students whose eligibility is addressed in Section 1551.101(e)(2) only if, among other things, it does so for all such eligible graduate students, as set forth in Rule 81.5(b)(2)(B). If the institution has contributed to any such graduate student's premium payment in connection with coverage during the waiting period established in Section 1551.1055, Rule 81.5(b)(1)(C) requires the institution to do so for all eligible similarly situated graduate students.

Each institution may have a different funding strategy for its graduate students, and should carefully review the applicable statutes and rules with its legal counsel to ensure compliance.

18. Will temporary staff who do not meet eligibility for [TRS](#), but by definition under ACA will need to be provided coverage by the end of 90 days, be eligible for the GBP coverage? For example, will staff hired to work 40 hours per week for 4 months (or called short duration in some of the ACA material) be able to enroll in the GBP?

GBP eligibility rules did not change due to the ACA. Employees must continue to meet GBP eligibility rules to enroll in a GBP health plan.

19. Are we authorized to provide another employer sponsored plan for non-GBP eligible employees?

Employers are free to offer alternative plans to individuals who are not eligible for the GBP, but again, we suggest talking with your legal counsel to determine if this is permitted for your institution. Also, please note that any individual who is eligible for GBP health insurance cannot be offered a plan that is not part of the GBP by an employer participating in the GBP.

20. Will ERS handle any part of the 6055 and 6056 reports? If not, will ERS provide us the information we need such as dependent SSN's?

Section 6055 of the Internal Revenue Code (IRC) requires each provider of minimum essential coverage to report to the IRS and furnish related statements to certain individuals. Section 6056 of the IRC requires applicable large employers to file information returns with the IRS and provide statements to their full-time employees about the health insurance coverage offered by the employer. The IRS has published Questions and Answers for the [1095-B](#) and [1095-C](#). The IRS has also published the following forms and instructions:

- <http://www.irs.gov/pub/irs-dft/f1094b--dft.pdf>
- <http://www.irs.gov/pub/irs-dft/f1095b--dft.pdf>
- <http://www.irs.gov/pub/irs-dft/i109495b--dft.pdf>
- <http://www.irs.gov/pub/irs-dft/f1094c--dft.pdf>
- <http://www.irs.gov/pub/irs-dft/f1095c--dft.pdf>
- <http://www.irs.gov/pub/irs-dft/i109495c--dft.pdf>

ERS is researching the reporting requirements for HealthSelect. The HMO plans are expected to report directly to the IRS and CMS is expected to handle the report for the Medicare Advantage programs. You are encouraged to have your legal and finance staffs review the regulations, draft forms and draft instructions to determine how, if at all, these requirements affect your institution. You are also encouraged to coordinate with your payroll entity to ensure you are capable of making any required IRS filings and furnishing any required statements to appropriate individuals.

It appears that ERS will not be able to provide protected health information, which would include names, birthdates and SSN's of participants, including dependents, due to HIPAA restrictions. ERS hopes to update this FAQ as soon as more definitive information is available regarding these reporting requirements.