ACA SHARED RESPONSIBILITY PROVISIONS IN-DEPTH

The Affordable Care Act's (ACA) shared responsibility provisions fall on two groups: individuals and employers.

INDIVIDUAL SHARED RESPONSIBILITY PROVISION

Overview

The Individual Shared Responsibility provision of the Affordable Care Act (ACA) (aka Individual Mandate), requires most U.S. residents to obtain health insurance that meets minimum essential coverage (MEC) guidelines or pay a penalty, beginning in 2014.

Individuals Subject to the Mandate

With some exceptions, individuals will be required to maintain minimum essential coverage for themselves and their dependents, per federal income tax guidelines. Certain individuals and their dependents are exempt from the individual mandate, including:

- Undocumented immigrants;
- Those for whom coverage is unaffordable (i.e., premiums exceed 8% of household income);
- Those who are very low income (i.e., household income is below the minimum threshold for filing a tax return);
- Those with a short coverage gap (i.e. without coverage for less than three consecutive months during the year, which may only be claimed once in a year);
- Jail and prison inmates;
- Those experiencing certain hardships (e.g., natural disaster, or significant , unexpected increase in essential expenses if the expense of complying with ACA would have caused deprivation of food, shelter, clothing or other necessities);
- Native Americans eligible for care through the Indian Health Care service; and
- Those with religious exemptions.

Complying with the Mandate

Non-exempt individuals may choose to comply by participating in a health insurance plan that meets minimum essential coverage (MEC) guidelines or pay a penalty. Qualifying MEC is broadly defined and includes:

- Employer-sponsored coverage (including COBRA coverage and retiree coverage)
- Coverage purchased in the individual market, including a qualified health plan offered through Covered California
- Medicare Part A coverage and Medicare Advantage plans
- Most Medicaid coverage
- Children's Health Insurance Program (CHIP) coverage
- Certain types of veterans health coverage administered by the Veterans Administration
- TRICARE
- Coverage provided to Peace Corps volunteers
- Coverage under the Nonappropriated Fund Health Benefit Program
- Refugee Medical Assistance supported by the Administration for Children and Families
- Self-funded health coverage offered to students by universities for plan or policy years that begin on or before Dec. 31, 2014 (for later plan or policy years, sponsors of these programs may apply to HHS to be recognized as minimum essential coverage)
- State high risk pools for plan or policy years that begin on or before Dec. 31, 2014 (for later plan or policy years, sponsors of these program may apply to HHS to be recognized as minimum essential coverage)

The individual shared responsibility provision goes into effect in 2014. An individual will not have to account for coverage or exemptions or to make any payments until the individual files their 2014 federal income tax return in 2015. Information is forthcoming via the IRS regarding how the income tax return will take account of coverage and exemptions. Insurers will be required to provide everyone that they cover each year with information that will help them demonstrate they had coverage beginning with the 2015 tax year.

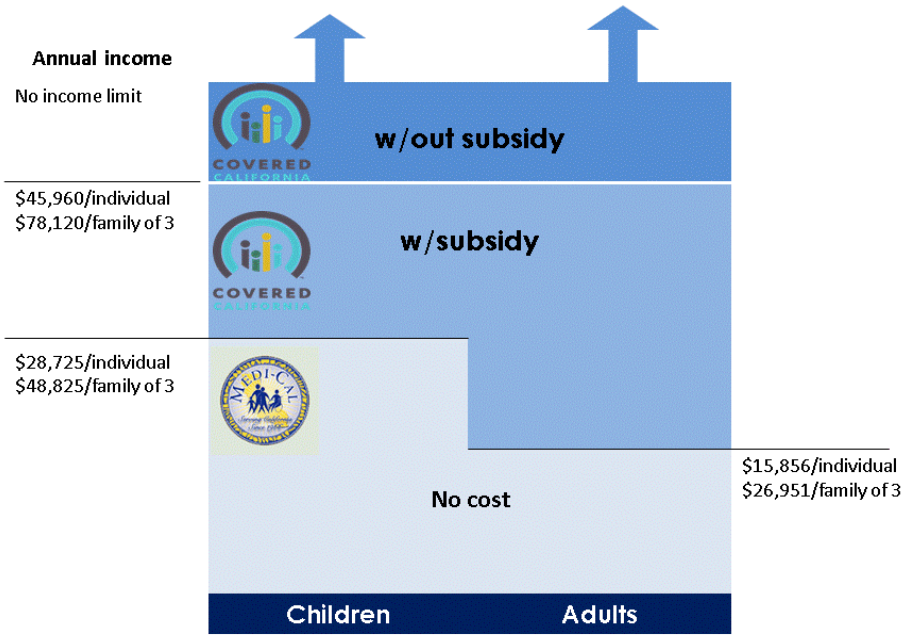
Excepted benefit plans, which offer only limited benefits (e.g., vision, dental, hospital, accident, Medicaid covering only certain benefits such as family planning, workers' compensation, or disability policies), do not qualify as minimum essential coverage, and, if this is the only coverage an individual obtains, would leave the individual subject to penalty.

Potential Financial Assistance for Low Income Individuals

ACA provides financial assistance to non-exempt individuals to help them meet the individual mandate. As of 2014, the lowest income California adults with incomes up to 133% FPL ($15,856 for a single individual; $26,951 for a family of three) will be

eligible for Medi-Cal (California's Medicaid program). Medi-Cal was previously available only to low-income children, seniors, people with disabilities, and families. California adopted the ACA option to extend Medi-Cal to all non-exempt adults.

Also effective beginning in 2014, those with incomes above the Medi-Cal threshold up to 400% FPL ($45,960/individual; $78,120/family of three) will be eligible on a sliding scale basis for subsidies to help pay for the premiums and cost-sharing requirements of health plans offered through Covered California. While these subsidies do not cover the entire cost of health care faced by individuals and families, they help to defray the costs of purchasing insurance. The chart below shows the expanded health insurance eligibility options for low-income individuals.



In its first week, Covered California received nearly one million hits to its website and fielded 59,000 calls, and determined 28,699 individuals eligible for health care coverage. As information regarding location of eligibility and enrollment and uptake rate become available, these data can be used to further inform projections of insured/uninsured in our area.

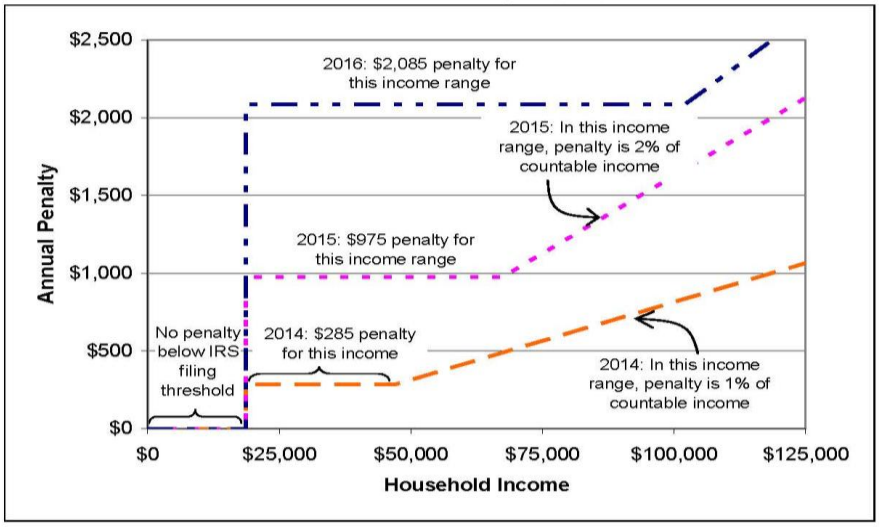
Penalties for Noncompliance

Penalties for not complying with individual mandate will be assessed on individuals through their income tax returns. The annual penalties are as follows:

YEAR	PENALTY		
	Flat Rate		Percentage of Family Income[1]
2014	$95/adult $47.50/child $285 maximum/family	OR	1%
2015	$325/adult $162.50/child $975 maximum/family		2%
2016	$695/adult $347.50/child $2,085 maximum/family		2.5%
After 2016	Increases annually by cost of living		2.5%

The following chart from the Congressional Research Service shows how the penalties for noncompliance with the individual mandate would affect a family of four with incomes up to $125,000 (530% of FPL).

Figure A-3. Illustrative Individual Mandate Penalties for a Family of Four, 2014-2016, with Household Income up to $125,000



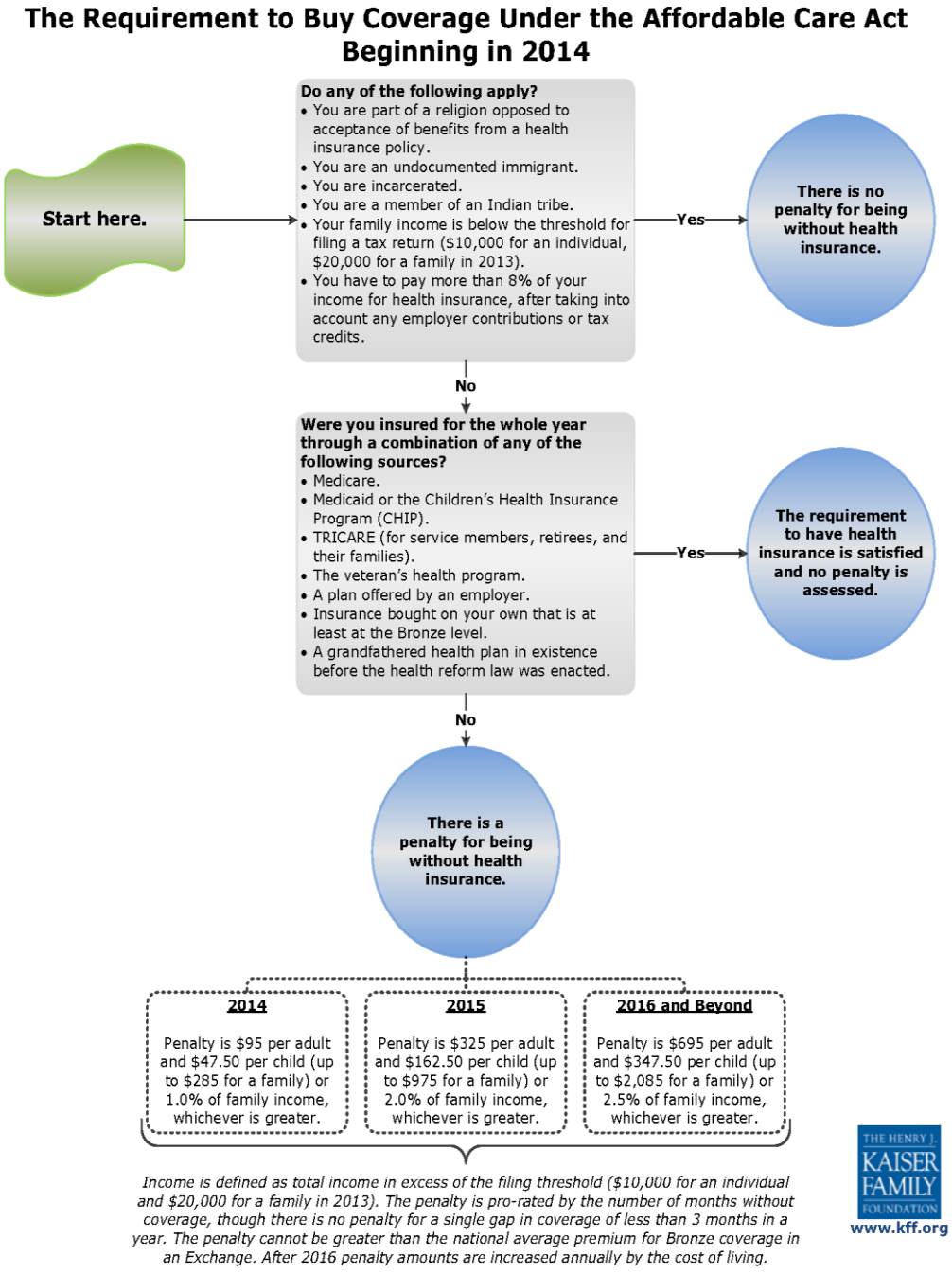
Source: CRS.

Notes: For this figure, the 2010 filing threshold was used, which was $18,700 for a married couple under age 65 filing jointly, but will likely be higher when implemented (thus exempting people with slightly higher income) than shown here. This example assumes that the family includes two dependent children under the age of 18.

[1] Family income is defined as total income in excess of the filing threshold ($10,000 for an individual and $20,000 for a family in 2013.

The penalty is pro-rated by the number of months without coverage, though there is no penalty for a single gap in coverage of less than three months in a year. The penalty cannot be greater than the national average premium for Bronze coverage in the exchange.

The chart below, from the Kaiser Family Foundation, depicts the individual shared responsibility provisions of the ACA.



EMPLOYER SHARED RESPONSIBILITY PROVISION

Overview

The ACA does not explicitly mandate that employers offer their employees acceptable health insurance. However, it does provide tax benefits for certain small businesses that offer affordable health insurance coverage and imposes penalties on certain "large employers" that do not offer affordable health insurance coverage.

Determining Employer Size

The ACA counts full-time equivalent employees (FTEs) to determine business size. FTEs are calculated as follows:

- Full-time employees (working at least 30 hours per week in any month): Counted as one FTE.
- Part-time employees: Calculated by taking the hours worked by all part-time employees in a month and dividing that amount by 120.
- Seasonal: Not counted in the calculation for those working up to 120 days in a year.

As an example, consider a business with 35 full-time employees (those who work 30 or more hours). Assume the firm also has 20 part-time employees who each work 24 hours per week (96 hours in a month). These part-time employees' hours would be treated as equivalent to 16 full-time employees for the month, based on the following calculation: 20 employees x 96 hours/120 = 1920/120 = 16.

Thus, in this example, the firm would be considered a "large employer," based on a total FTE count of 51—that is, 35 full-time employees plus 16 FTEs based on the number of part-time hours worked.

Small Employer Provisions

Beginning in 2014, small businesses, defined as those with fewer than 50 full-time equivalent employees (FTEs), are eligible to purchase small group health plans through Covered California's Small Business Health Options Program (SHOP).

Certain small businesses that purchase this coverage through SHOP will be eligible for a federal health care tax credit if they have fewer than 25 full-time-equivalent employees for the tax year, pay employees an average of less than $50,000 per year, and contribute at least 50 percent of their employees' premium cost.

Employers with 10 or fewer full-time-equivalent employees with wages averaging $25,000 or less per year are eligible for the maximum amount of tax credits. The tax credit employers receive will depend on a number of factors, including the

number of full-time-equivalent employees and the amount the employer contributes toward insurance premiums. The table below provides an overview:

Small Business Tax Credits on Covered California				
Business Type	**Business Size**	**Average FTE Salary**	**Tax Credit**	
			2013	**2014**
For-profit	<10 FTE	<$25,000	35% of employer premium expenses	50% of employer premium expenses
For-profit	< 25 FTE	< $50,000	Sliding scale, up to 35% of employer premium expenses	Sliding scale, up to 50% of employer premium expenses
Non-profit or Tax-Exempt	<10 FTE	< $25,000	25% of employer premium expenses	35% of employer premium expenses
Non-profit or Tax-Exempt	<25 FTE	< $50,000	Sliding scale, up to 25% of employer premium expenses	Sliding scale, up to 35% of employer premium expenses

Tax credits are available for tax year 2013 and become more generous starting in 2014. Tax credits are available for a total of two consecutive years.

SHOP health plans will be sold through licensed agents who are trained and certified by Covered California.

Large Employer Provisions

Large employers are defined as those with at least 50 FTEs. Beginning in 2015, a large employer may be subject to a penalty if it does not offer affordable health insurance to its employees and one or more of its full-time employees obtains a premium tax credit through Covered California. (An individual may be eligible for a premium tax credit if his or her income is below 400 percent of the federal poverty level and the individual's employer either does not offer health coverage, or offers insurance that is not affordable.) The ACA's guidelines for what qualifies as affordable insurance are as follows:

- The offered coverage must provide minimum value, meaning that the plan covers at least 60% of the beneficiary's health-related expenses.
- The employee's annual premiums for self-only coverage may not exceed 9.5% of the employee's household income

If a large employer offers no coverage, then the penalty is equal to $2,000 multiplied by the number of full-time employees beyond the first 30.

As an example, consider the large employer with the 51 FTEs, calculated in the example above. This employer had 35 full-time employees and 20 part-time. If this employer did not offer coverage, the penalty calculation would be as follows: 35 full-time employees – first 30 full-time employees x $2,000 = 5 x $2,000 = $10,000.

If a large employer offers unaffordable coverage then the penalty is the lesser of:

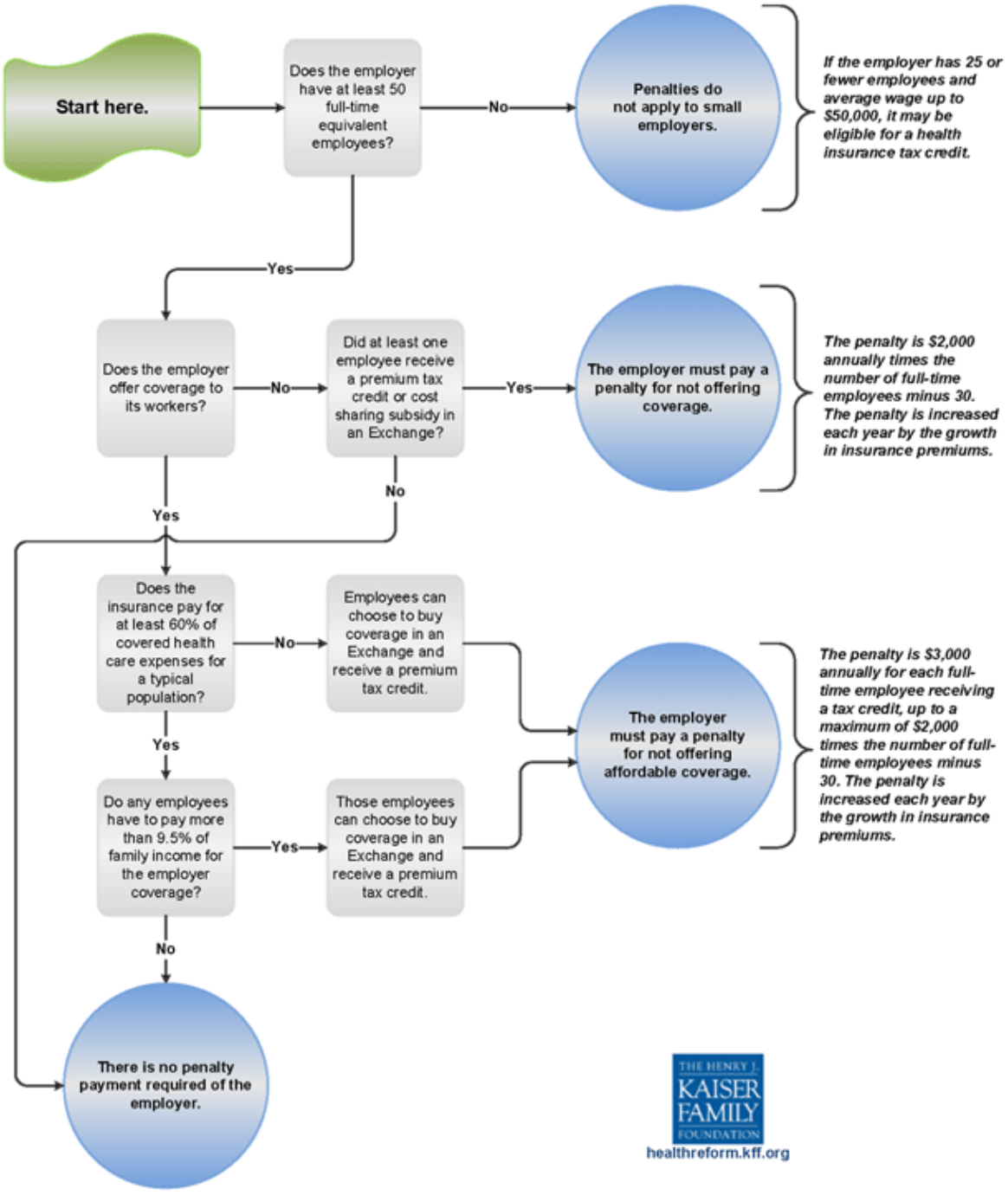
- $3,000 multiplied by the number of full-time employees receiving a subsidy, OR
- $2,000 multiplied by the number of full-time employees beyond the first 30.

For this example, consider again the same 51 FTE employer with 35 full-time employees and 20 part-time employees. Assume for this example that three full-time employees received a subsidy on Covered California. This employer would be subject to a $9,000 penalty, which is the lesser of the following two calculations:

- 3 full-time employees receiving a subsidy x $3,000 = $9,000.
- 35 full-time employees – first 30 full-time employees x $2,000 = 5 x $2,000 = $10,000.

The chart on the next page, from the Kaiser Family Foundation, depicts the penalties for employer noncompliance.

Penalties for Employers Not Offering Affordable Coverage Under the Affordable Care Act



Duty to Notify

All employers subject to the Fair Labor Standards Act (which prescribes standards for the basic minimum wage and overtime pay and affects most private and public employment) also have a duty to notify their employees about health insurance options available under the ACA, though there is no fine or penalty for noncompliance. These notices must be provided by October 1, 2013 and must:

- Provide a description of services provided by Covered California and Covered California contact information;
- Inform employees they could be eligible for federal tax credits if they purchase an insurance plan through the exchange; and
- Inform employees that if they purchase insurance through the exchange, they could lose the employer contribution to any health plan offered by the employer.

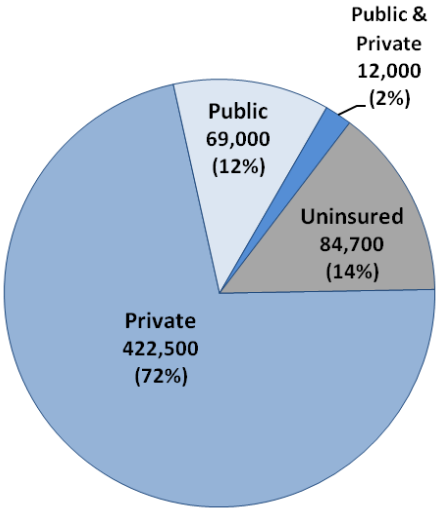
INSURANCE AND EMPLOYMENT STATUS IN SF

Unless otherwise stated the data below represent San Franciscans ages 18-64 only. This age group represents those most likely to be uninsured and also those most likely to benefit under the provision of the ACA. The source of the citywide data is the U.S. Census Bureau's 2011 American Community Survey, which estimated approximately 588,200 San Franciscans ages 18-64, representing 73% of the total San Francisco population.

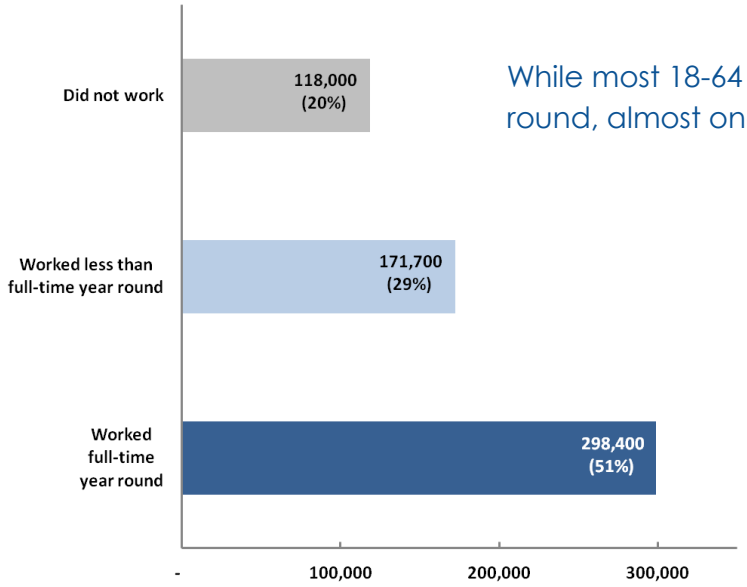
Current Status

Insurance

Currently, the majority (72%) of San Franciscans have private health insurance, and 14% (~84,700) are uninsured.



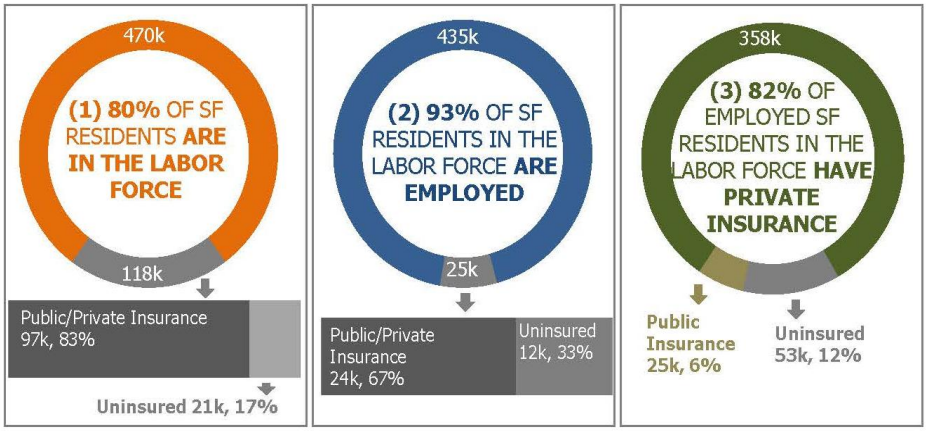
Full-time v. Part-time Employment



While most 18-64 year olds work full-time year round, almost one third work part-time.

Employment and Insurance Status

Among those who are in the labor force, the large majority are employed and, among the employed, most have private health insurance. Rates of uninsurance are highest among the unemployed.



Health Insurance Transitions Post ACA Implementation

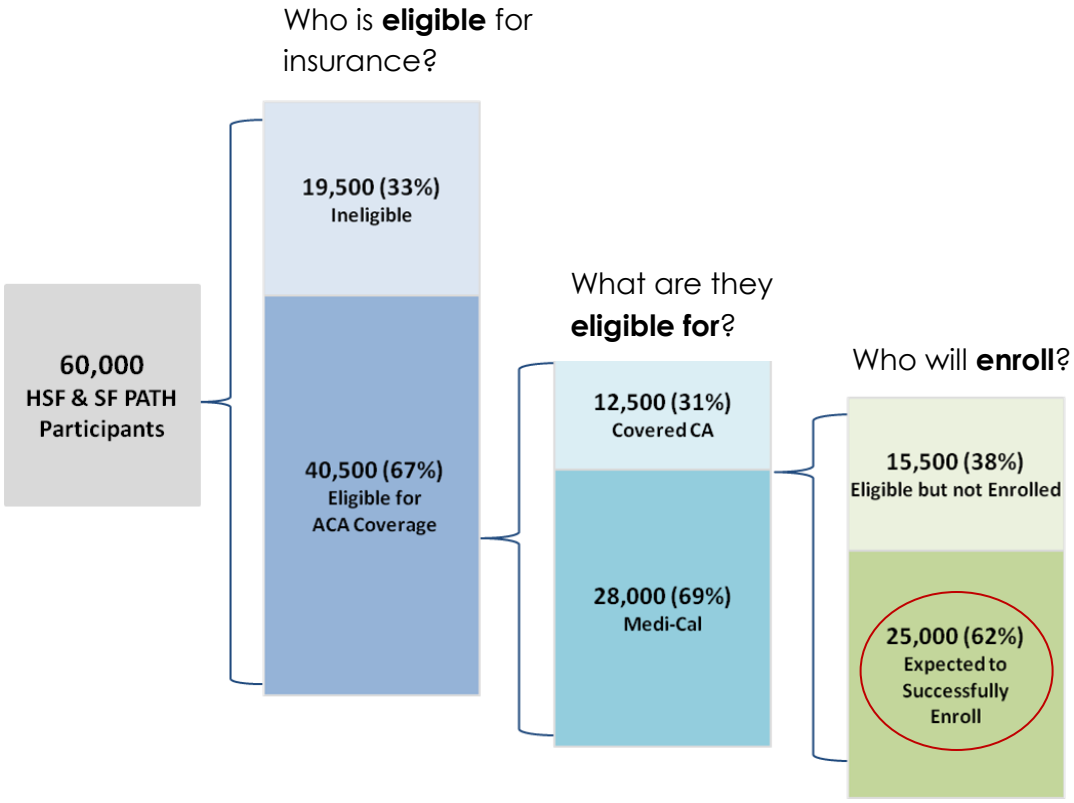
Of the 84,700 uninsured, 60,000 (71%) are enrolled in coordinated health access programs for the uninsured operated by the Department of Public Health (DPH). DPH's health access programs – Healthy San Francisco and SF PATH – provide a comprehensive array of health care services for low-income, uninsured San

Franciscans. The participation of nearly three quarters of San Francisco's uninsured in these programs provides DPH with a significant amount of information about the impact of the ACA in San Francisco.

Transitions among Healthy San Francisco & SF PATH Participants

As of January 1st, 2014, 40,500 (67)% of the 60,000 uninsured San Franciscans enrolled in Healthy San Francisco and SF PATH will be eligible for ACA coverage. Of this population, 25,000 participants are expected to successfully enroll in coverage.

Expected Transitions among
Healthy San Francisco (HSF)/SF PATH Participants



Transitions among Uninsured not Enrolled in Healthy San Francisco or SF PATH

Among San Francisco's total uninsured are 24,700 persons not enrolled in Healthy San Francisco or SF PATH. As this group is not in the system, little is known about its health care related behavior. Based on demographic data on San Francisco from the American Community Survey, this population is more likely than the insured population to work part-time and earn less than $50,000 per year. Income data further indicates that 42 percent of this group is likely to qualify for Medi-Cal under

the ACA, although it is difficult to distinguish the newly eligible from those who were eligible before the ACA but did not enroll. Another 39 percent is likely to be eligible for subsidized coverage on the Exchange. However, these estimates do not reflect other ACA eligibility criteria, such as citizenship status.

Residually Uninsured

The ACA does not extend insurance to everyone. Not everyone will not be eligible for new options available under the ACA (e.g., the undocumented) and some will be eligible but will not enroll for any number of reasons (e.g., coverage is unaffordable, they are unaware of their options, cultural or linguistic barriers, they choose the penalty over the coverage).

As a result of its experience with the Healthy San Francisco Program, DPH identified the following populations as having large number of uninsured people who would be most in need of intensive outreach and education to successfully convince them to enroll in an insurance plan:

- Residents of San Francisco's Southeast sector;
- Latino adults in the Mission District and other bordering communities with a high concentration of Latino families;
- Asian Americans, with a primary focus on Chinese Americans and Samoan and Pacific Islander communities;
- Small businesses, including sole proprietors and employees of small businesses (those with under 20 employees) in the manufacturing, retail, and service industries; and
- Young people who are 18 – 34 years old.

The following table illustrates the total number of all San Franciscans remaining potentially uninsured after full ACA implementation (likely 2019), using the current number of uninsured and different insurance uptake scenarios among eligible populations. The applied uptake rates come from the UC Berkeley CalSIM model, and reflect a number of factors including income, eligibility for Medi-Cal or subsidies, and whether or not the person has had previous offers of insurance. Generally, uptake rates decrease as income increases and with previous decisions not to enroll in coverage. For example, those who are eligible for exchange subsidies (133-400% of FPL) are more likely to enroll than those who do not (400% FPL +). The small range of the residually uninsured estimates (from 58-63%) reflects the large number of persons estimated to be ineligible for ACA coverage, as well as the fact that a majority of the eligible are expected to qualify for Medi-Cal or exchange subsidies.

Total Residually Uninsured Estimates			
	Insurance Uptake Scenario Among Non-HSF Uninsured Population		
Healthy San Francisco Uninsured + non-Healthy San Francisco Uninsured	**Low**	**Mid**	**High**
Total Eligible for ACA	58,722	58,722	58,722
Eligible--Expected to Enroll	31,395	33,607	35,362
Eligible--Likely not to Enroll	27,327	25,115	23,360
Total Ineligible	25,975	25,975	25,975
# of all San Franciscans Residually Uninsured (Ineligible + Eligible Likely not to Enroll)	**53,302**	**51,090**	**49,335**
Residually Uninsured as % of Total Uninsured	**63%**	**60%**	**58%**
Residually Uninsured as % of San Francisco Population aged 18-64	**9.1%**	**8.7%**	**8.4%**

FOR CONSIDERATION/DISCUSSION

Populations Not Covered by ACA

ACA represents comprehensive reform and will expand health insurance to millions of Americans, yet some populations are not included in the health insurance expansions offered under the ACA. These populations include:

- Individuals exempt from the individual mandate, including undocumented immigrants;
- Individuals working fewer than 30 hours per week for a single employer;
- Small business employees; and
- Working individuals earning low wages for whom even the established affordability thresholds are high.

Hard to Reach Populations

Several populations within San Francisco are more likely to be uninsured and hard to reach. These are the 15,500 current Healthy San Francisco enrollees who are expected not to transition to health insurance even though they are eligible and the 24,700 uninsured that not currently enrolled in these programs. Among the barriers to enrollment these populations may face is affordability, which will be discussed in a future UHC meeting.

In San Francisco, these populations include:

- Residents of the Southeast sector;

- Latino adults;
- Asian Americans;
- Employees of certain industries or sectors that may have a higher number of undocumented or part-time employees.
- Small business owners; and
- Young people ages 18 – 34.

Residually Uninsured

The estimate and make-up of the residually uninsured (both those who are ineligible for insurance and those who are eligible but do not enroll) is important to understand as local programs may transform to fit the needs of this population. An additional factor in this conversation is the city's obligation under Section 17000 of the California Health & Welfare Code Section 17000, which requires that "[e]very county and every city and county shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions." This has been interpreted to apply to essential health services, which in San Francisco have been provided by the Department of Public Health in several ways, including charity care, sliding fee scale for health care services, and Healthy San Francisco.