

## Fewer Uninsured Face Fines as Health Law's Exemptions Swell

**Almost 90% of Uninsured Won't Pay Penalty Under the Affordable Care Act in 2016**

By Stephanie Armour

Aug. 6, 2014 10:30 p.m. ET

Link: <http://online.wsj.com/articles/fewer-uninsured-face-fines-as-health-laws-exemptions-swell-1407378602>

Almost 90% of the nation's 30 million uninsured won't pay a penalty under the [Affordable Care Act](#) in 2016 because of a growing batch of exemptions to the health-coverage requirement.

The architects of the health law wanted most Americans to carry insurance or pay a penalty. But an analysis by the Congressional Budget Office and the Joint Committee on Taxation said most of the uninsured will qualify for one or more exemptions.



Nathan Maxwell, center, doesn't expect to pay a penalty for lacking insurance because he and his family are in a health-care sharing ministry. Catalin Abagiu for The Wall Street Journal

Daphne Gaines expects to be one of them. She said recently she got an electricity shut-off notice, which is one way Americans can get out of paying a fine. "I don't think I should have to pay any penalty," said Ms. Gaines, 52 years old, of Jasper, Ala., who works part time at a church preschool and a drug-recovery clinic.

The Obama administration has provided 14 ways people can avoid the fine based on hardships, including suffering domestic violence, experiencing substantial property damage from a fire or flood, and having a canceled insurance plan. Those come on top of exemptions carved out under the 2010 law for groups including illegal immigrants, members of Native American tribes and certain religious sects.

Factoring in the new exemptions, the congressional report in June lowered the number of people it expects to pay the fine in 2016 to four million, from its previous projection of six million. Also bringing down the total: At least 21 states have opted not to expand the Medicaid insurance program for lower earners under the health law, and those residents may be exempt from the penalty.

A legal battle over subsidies provided through the federally run insurance exchange could increase the number of Americans entitled to exemptions. In July, a Washington, D.C., appeals court struck down the federal exchange's authority to issue insurance tax credits on the grounds that the health law limits them to state-run exchanges. A Virginia appeals court upheld the subsidies, setting up a legal fight that is likely to go before the Supreme Court.

More than 4 million Americans get subsidies on the federal exchange used by up to 36 states. If the subsidies ultimately are struck down, more people could qualify for hardship exemptions based on their inability to afford coverage.

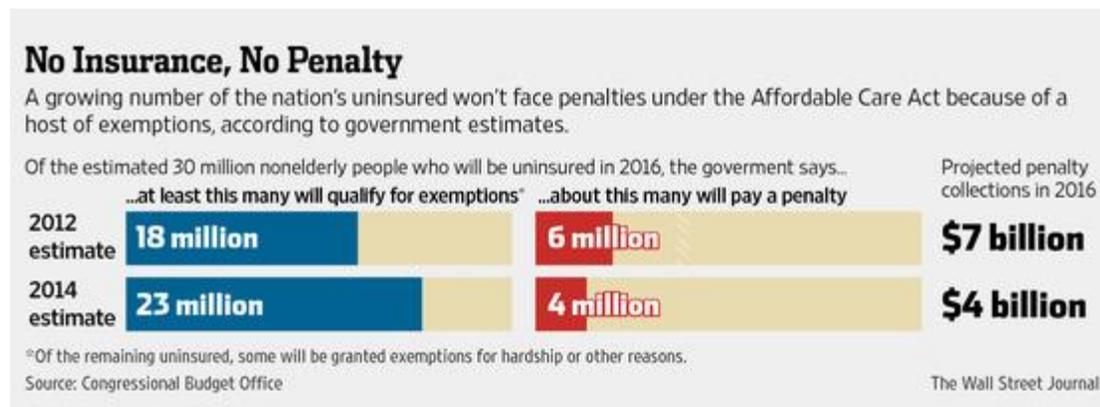
The exemptions are worrying insurers. The penalties were intended as a cudgel to increase the number of people signing up, thereby maximizing the pool of insured. Insurers are concerned that the exemptions could make it easier for younger, healthier people to forgo coverage, leaving the pools overly filled with old people or those with health problems. That, in turn, could cause premiums to rise.

Patrick Getzen, vice president and chief actuary at Blue Cross and Blue Shield of North Carolina, said he saw more "older and sicker people" enrolled in 2014 than projected. He attributed some of that to the weakened mandate. "With a stronger penalty and less broad exemptions, that would be better for the risk pool."

The Obama administration argued before the Supreme Court in 2012 that the individual mandate was an essential component of the law's insurance-market changes, and the court narrowly upheld it on the grounds it is a tax. Now, Republicans who oppose the law say the administration has undermined that requirement with the exemptions and should waive the mandate entirely.

"If your pajamas don't fit well, you don't need health insurance," said Douglas Holtz-Eakin, former director of the Congressional Budget Office and president of the American Action Forum, a conservative think tank. "It basically waives the individual mandate."

The White House referred questions about the exemptions to the Centers for Medicare and Medicaid Services, or CMS, which oversees implementation of the health law. CMS spokesman Aaron Albright said the legislation allows those facing a hardship to apply for an exemption, and their applications are reviewed on a case-by-case basis. "The [Affordable Care Act](#) requires people who can afford insurance to buy it, so that their medical bills are not passed onto the rest of us, which drives up health care costs for everyone," he said.



The idea that Americans carry insurance or pay a penalty has been contentious since its inception. In an early version of the legislation, former Sen. Max Baucus (D., Mont.), then chairman of the Senate Finance Committee, floated a penalty of up to \$3,800 a year for families who went without insurance. Republicans were turning against the requirement as the tea party gained momentum, and Mr. Baucus began whittling the penalty in hopes of gaining their votes.

That didn't happen, but lower penalties stayed in place in the final legislation. The fine for not carrying insurance in 2014 is \$95 per adult, or 1% of family income, whichever is greater. That increases to \$695 per adult, or 2.5% of family income, by 2016. The total family penalty is capped at 300% of \$695—\$2,085 in 2016.

While the health law was being written, President [Barack Obama](#) had pledged that Americans who liked their insurance plans would be able to keep them. But last year millions of people were informed their plans would be discontinued because their policies didn't comply with minimum-benefit requirements.

The resulting furor caused the administration to allow insurers who had planned to discontinue policies to extend them by a year. Some insurers and states, however, decided not to do so.

In an effort to address the problem without disrupting the roll out, the administration said consumers with canceled plans could qualify for a hardship waiver, then could buy minimal coverage initially intended only for individuals under age 30.

That sparked objections from an insurance industry long concerned the mandate was already too weak. "To make these new reforms work, there needs to be broad participation in the system," said Karen Ignagni, president and CEO of American's Health Insurance Plans, the industry's largest trade group.

The exemption was initially for one year. The administration has since extended it for two more years through October 2016.

In December, a hardship application form was released that laid out the 14 exemptions. Among other things, people could avoid the penalty if a close family member had died recently, if they were facing eviction or if they had medical expenses that couldn't be paid in the last 24 months and resulted in substantial debt.

Critics have assailed one exemption for people who "experienced another hardship obtaining health insurance" as too broad. That exemption asks for documentation if possible but doesn't require it.

Damian Trujillo, 33 years old, of Salt Lake City, said he is hoping for an exemption under that category. The rehabilitation-facility caseworker went online during the enrollment period but was ineligible for tax credits, he said, and decided he couldn't afford federal-marketplace coverage.

"I still want to get insurance. I just can't right now," said Mr. Trujillo, who has allergies and asthma.

Nathan Maxwell, 37, also doesn't expect to pay the penalty. He belongs to a health-care sharing ministry, which is exempt under the law.

"You join the program and monthly you're assigned a predetermined share of another member's medical bill," said Mr. Maxwell, founder of ITonRamp, a Christian training resource focused on computer skills and based in Leavenworth, Kan.

His wife recently gave birth prematurely to a boy who spent days in a neonatal intensive-care unit. The medical costs, which he expects could hit \$70,000, will be covered by others in the ministry.

CMS said about 77,000 individuals and families had requested an exemption as of April, the most recent data available. That doesn't capture everyone likely to apply because many exemption requests can only be claimed on tax returns filed next year.

There is pressure to widen exemptions further. Christian Scientists want to avoid the coverage requirement because they generally adhere to spiritual healing.

While the law provides an exemption for religious groups with an objection to programs such as Social Security, that doesn't cover Christian Scientists.

They have launched a lobbying campaign to push for legislation that would grant them a waiver.

After hearing from Christian Scientists, Rep. Aaron Schock, (R., Ill.) introduced a bill to exempt individuals with sincerely held religious beliefs against conventional medical care. The House passed it unanimously in March.

The Senate's proposed version is narrower. In essence, individuals would have to be part of a religious tradition that relies solely on faith healing.

"I don't want to get insurance because I don't use insurance," said Ron Meyer, 24, a Christian Scientist and president of Springboard Media Strategies LLC, a public-relations firm in Herndon, Va. "It is serving two masters if you're paying a medical system for something you don't believe in."

**Write to** Stephanie Armour at [stephanie.armour@wsj.com](mailto:stephanie.armour@wsj.com)