

FREQUENTLY ASKED QUESTIONS ON STUDENT HEALTH INSURANCE AND THE AFFORDABLE CARE ACT

Q 1 Do UT System institutions require that students have health insurance?

A 1 Students enrolled at UT System academic institutions¹ are not required by state law or UT System policy to have health insurance with two exceptions:

- A student enrolled at any UT System Institution and present in the U.S. on a non-immigrant visa tracked by SEVIS (i.e., generally F1, F2, J1 and J2 visas) must maintain health insurance that meets certain minimum requirements. These minimum requirements, which track federal requirements, are set forth in UTS Policy 186, which can be found at <http://www.utsystem.edu/sites/utsfiles/policies/uts/uts186.pdf>
- A student enrolled at The Dell Medical School at UT Austin or the UTRGV Medical School is required to maintain health insurance that meets certain minimum requirements.

All students enrolled at a UT System Health Science Institution² **are** required to maintain health insurance that meets certain minimum requirements.

Q 2 Does UT System offer health insurance to students?

A 2 UT System offers health insurance to all students enrolled at any UT System institution.

UT System sponsors a Student Health Insurance Plan (SHIP) offered by Academic Health Plan, a commercial insurance carrier that is a subsidiary of Blue Cross Blue Shield of Texas. Any student may enroll in the SHIP, and this coverage qualifies as Affordable Care Act (“ACA”)³ compliant *individual* coverage. Individual coverage means the person purchases the coverage directly from an insurance company. A student who enrolls in UT SHIP is responsible for paying the entire cost (commonly referred to as “premiums”) of the insurance premium for the coverage to the carrier.

Graduate students in teaching and research positions (hereafter referred to as graduate student assistants) *who are* employed for twenty hours or more at that institution are eligible to participate in the employee group insurance plan, UT SELECT.⁴ The UT SELECT plan is self-funded by UT System and administered by Blue Cross Blue Shield of Texas. UT SELECT provides

¹ This includes UT Arlington, UT Austin, UT Dallas, UT El Paso, UT Permian Basin, UT Rio Grande Valley, UT San Antonio and UT Tyler.

² UT Health Science Center Houston, UT Health Science Center San Antonio, UT M.D. Anderson Cancer Center, UT Medical Branch at Galveston, UT Health Science Center Southwestern, and UT Health Science Center Tyler.

³ Also known as the Patient Protection and Affordable Care Act, P.L. 111-148, among other things, the ACA requires most U.S. citizens and legal residents to have qualifying health coverage.

⁴ Certain students who are awarded prestigious grants as well as post-doc fellows who do not hold appointments as employees also qualify to participate in the UT SELECT plan. However, they are not considered to be “employees,” and they do not qualify for premium sharing. If they enroll in UT SELECT, these individuals are responsible for paying the entire premium for their coverage.

coverage that qualifies as Affordable Care Act compliant *employee* coverage. Employee coverage means the employer purchases a policy from a carrier or self-funds the coverage directly and pays some or all of the cost of the coverage.

NOTE: The UT student insurance plan and UT SELECT employee plan are two separate kinds of health insurance. They are governed by separate laws, they have different benefits and eligibility requirements, and they are not interchangeable. People often confuse them, especially because at UT System they are both currently offered through arrangements with the same carrier: Blue Cross Blue Shield of Texas.

Q 3 How does UT System fund UT SELECT coverage for UT System graduate student assistants who qualify the student for UT SELECT?

A 3 Chapter 1601 of the Texas Insurance Code and the General Appropriations Act places specific limits on how a System institution can pay for the cost of UT SELECT required coverage for benefits-eligible employees. Those laws permit UT System to use general revenue funds to contribute 100% of the cost of the premium for full-time employees. Full-time employees are defined here as non-graduate student employees who work more than 30 hours per week and are also eligible to participate in the Teachers Retirement System of Texas (TRS).⁵⁶ Chapter 1601 does not distinguish between graduate students who are appointed to work full time and those who are not. However, for purposes of compliance with the Affordable Care Act, graduate assistants are considered full-time if they actually work 30 hours per week or more regardless of the hours they are appointed to work. Part-time employees are defined here as employees who are not classified as graduate student employees, are eligible to participate in TRS, and work between 20 and 29 hours per week.

UT System’s ability to use general revenue funds to pay the cost of premium for UT SELECT coverage for graduate student assistants is limited to 50% of the total cost of the premium—even if the graduate student works more than 30 hours per week. Institutions may contribute money to cover some or all of the cost of the remaining premium, but only if the money is available from a source other than general revenue funds.

Q 4 How does the Affordable Care Act affect UT System students?

A 4 The Affordable Care Act (ACA) includes an “individual mandate” that requires all U.S. citizens and legal residents to have qualifying health coverage. It also requires employers to offer affordable health care coverage to all of their employees who **work** 30 hours or more a week. This coverage must meet the definition of employee coverage. Although the UT student health plan qualifies as ACA compliant *individual* coverage, it is not an *employee* health plan. Therefore,

⁵ Chapter 1601 actually distinguishes between benefits eligible employees who are appointed or expected to work at least 40 hours per week, and those who are appointed or expected to work at least 20 but less than 40 hours per week for determining the percentage of premium that can be paid from general revenue funds. However, for ACA purposes, System defines a “full-time employee” as an individual who is expected to work at least 30 hours per week and a “part-time employee as an individual who is expected to work at least 20 but less than 30 hours per week.

⁶ Chapter 1601 distinguishes between employees who are appointed as faculty and those who are not. This FAQ does not address faculty eligibility for UT System health care coverage.

UT System institutions complies with the ACA employer mandate by offering the UT SELECT option to graduate student assistants, not by offering the UT student health plan.

NOTE: ACA requires employers to count the actual hours worked by the employee to determine if the employee must be offered affordable coverage. This method differs from the eligibility requirements set forth in Texas law, which as explained in A3 above, is based on the number of hours the employee is normally expected to work. The federal government enforces the ACA through tax penalties levied by the Internal Revenue Service (IRS) on individuals and employers who fail to comply with the ACA.

UT System students can meet the individual ACA requirement that they have health coverage in several different ways:

- by enrolling in the UT SHIP
- by purchasing coverage offered to individuals through the public health exchanges (also known as “the marketplace”) established under the ACA
- by enrolling in ACA compliant coverage they are eligible for through their employer, which may include UT System if the student is eligible to enroll in UT SELECT
- by having ACA compliant coverage through a parent or legal guardian’s employer if the student is 26 or younger
- by having ACA compliant coverage through a spouses’ employer.

Q 5 How does the Affordable Care Act affect UT System institutions as employers of UT students?

A 5 The ACA includes an “employer mandate” that applies to all UT System institutions. During 2016, the employer mandate required all System institutions to provide “affordable” employee health care coverage to at least 75% of its full-time employees or employees who are full-time equivalents. The ACA defines affordable coverage as health care coverage that costs no more than 9.5% of the employee’s income reported on the employee’s W2 form for the tax year. The affordability measure changes year to year and is set at 9.5% for FY16, 9.66% for FY17, and 9.6917% for FY18. An institution that fails to offer affordable coverage faces the imposition of monetary penalties.^{7,8} In 2017, the mandate will require each System institution to offer at least 95% of its full-time employees affordable coverage. As noted above, the ACA defines a full-time employee as any individual who *works* thirty or more hours per week and requires employers to count the hours an employee actually works, not the number of hours the employee is normally expected to work.

That means, UT System institutions are required to offer any employee who work more than thirty hours a week, including graduate student assistants coverage that meets the ACA definition of “affordable” and is offered through an employer plan, rather than an individual plan.

⁷ For purposes of this FAQ, the penalty is assumed to be \$3,000 per year per employee who is not offered affordable care.

⁸ The penalty is triggered only if a full-time employee enrolls in individual health coverage through a public health care and receives a premium tax credit or subsidy. If the employer offers the employee affordable, minimum value coverage, the employee is not eligible for a premium tax credit or subsidy under the ACA and won’t trigger this penalty even if they enroll in individual coverage through a public health care exchange.

As noted in A3, UT System institutions *can* use available general revenue funds to cover the cost of employees who are non-graduate students to ensure that UT SELECT coverage is “affordable” as that term is defined under the ACA regardless of the employee’s income.

However, as also noted in A3, UT System institutions will not be able to use general revenue funds to lower the contribution that graduate student assistants will be required to contribute to the cost of UT SELECT coverage to less than 9.5% of a graduate student assistant’s wages, but can use institutional funds to reduce the cost of UT SELECT to less than 9.5% of a graduate student assistant’s wages (9.66% effective 9/1/16). Again, as noted in A3, “institutions can contribute money to cover some or all of the cost of the remaining premium, but only if the money is available from a source other than general revenue funds.”

Q 6 Why can’t UT System institutions comply with the ACA employer mandate by having graduate student assistants enroll in the UT SHIP?

A 6 This suggestion has been raised by associations representing U.S. colleges and universities as a better approach given the relationship that many colleges and universities have with graduate students who provide research and teaching services. However, the IRS has issued guidance and has recently confirmed that:

- All employed students, other than students who are employed through a federal or state work study program, are considered to be “employees” for purposes of the ACA.
- Colleges and universities must identify all student, other than students employed in a federal or state work study program, who meets the IRS common law employee test as an employee of the college or university. The college or university must offer those student employees affordable coverage through the college or university’s employee health plan. Any graduate assistant working for one of our System’s institutions would likely be deemed to be a common law employee. (NOTE: This is true even though most students who provide research or teaching services to a university or college are deemed not to be employees under the IRS test for determining whether the student is considered an employee for FICA tax purposes.) A college or university cannot satisfy the employer mandate by offering the student employee coverage under a student health plan. This is because, as noted in A2, under the ACA, a student health plan is considered to be an individual policy, rather than an employee health plan.
- A college or university could be subject to a penalty of \$36,000 per student if it offers a student who qualifies as an employee under the ACA any kind of an incentive designed to encourage the employee to enroll in an individual health plan, which includes a student health plan offered by the college or university, as a substitute for offering the student employee ACA compliant coverage through an employee health plan. The IRS has provided guidance that recognizes that these new requirements represent a challenge to many colleges and universities, which have traditionally not classified graduate student assistants as employees and/or not tracked the actual hours worked by these employees. The guidance clarifies that the IRS will not begin imposing these penalties on colleges and universities that offer stipends or other incentives to get graduate student employees to enroll in the school’s student health plan or another individual health plans until the next plan year that begins after January 1, 2017, which for UT is September 1, 2017.

- System institutions that currently offer stipends to graduate student employees as a means of encouraging these employees to enroll in the SHIP have time to create a new ACA compliant strategy. However, the guidance does not relieve System institutions of the requirement to offer “affordable” employee health plan coverage to at least 75% of its full-time employees (or employees who are full-time equivalents), including graduate assistants who work thirty hours or more, during 2016; beginning in 2017, at least 95% of such employees must be covered.

NOTE: Graduate student assistants who qualify for UT SELECT as described here can choose to opt out—through no encouragement by the university—of the UT SELECT plan and enroll in the SHIP plan. However, institutions may **NOT** encourage, incentivize, or coerce graduate student assistants to do so. This prohibition applies to individual faculty members and staff at the institution who supervise a graduate student assistant. In addition, a graduate student assistant’s hours or other employment conditions cannot be based on whether the student has elected to enroll in UT SELECT or the UT related SHIP.

Q 7 What options are left for UT System institutions that employ graduate student assistants who qualify for UT SELECT?

A 7 Because each UT System institution is considered to be a separate employer for purposes of ACA, each graduate school should consult with its institution’s Chief Human Resources Officer to determine a strategy for addressing these ACA requirements that best suits its particular employment practices and available resources.

Possible alternatives include:

- Taking measures to ensure that the hours *worked* by any graduate assistant never exceed more than 29 hours per week and this
- Utilizing non-appropriated funds to make UT SELECT premium contributions toward coverage provided to each graduate student assistant that will result in bringing the total cost of the UT SELECT premium to its graduate student employees to below 9.5% of the employee’s total wages (see [Policy 142](#) of the Office of Employee Benefits Administrative Manual for more information on this topic)
- Ensuring that the total number of employees who are eligible for ACA compliant health coverage, including graduate student assistants, but who are not offered ACA compliant and affordable employee health insurance is limited to 5% or less of the institution’s total full-time equivalent benefits eligible workforce

Q 8 What happens to students who are enrolled in the System SHIP or the System employee group health plan (i.e., UT SELECT) who become ill and have to withdraw from school and/or take unpaid FMLA leave from their student employment?

A 8 An individual must be enrolled at a System institution as a student to qualify for UT SHIP health coverage. However, a student who is enrolled in the SHIP and subsequently experiences an illness or other event that requires withdrawal from the institution can continue his or her SHIP coverage until the end of the semester in which the premium is paid. All students enrolled in

the SHIP may purchase up to six months of coverage following the paid coverage period in which they are taking leave (period paid + up to six months). All students enrolled at any UT System Institution and present in the U.S. on a non-immigrant visa tracked by SEVIS and certain medical students) may continue coverage for up to one year as long as UT continues to report the student as being in the program for that year. This continuation of coverage accommodates the state and federal insurance requirements for these particular international and medical students. Because any student is eligible to enroll in the System SHIP regardless of employment status with the institution, loss of *employment* with the System institution or taking FMLA paid or unpaid leave from *employment* at the institution does not affect a student's coverage under the System SHIP.

Eligibility for System's employee group health plan (i.e., UT SELECT) is governed by Texas state law, TIC 1601. An individual is not eligible to participate in UT SELECT unless he or she is actively employed by a System institution or on paid leave, such as sick leave or annual leave or unpaid FMLA leave.

Any employee who takes unpaid FMLA leave remains eligible for premium sharing, regardless of the length of the FMLA period. Such an employee may elect to continue any coverage for which s/he receives 100% Premium Sharing. However, in order to retain any coverages for which the employee is responsible for payment of part or all of the premium, the employee can continue such coverage while on leave without pay (due to FMLA leave) only if s/he makes arrangements prior to the leave to pay the required out-of-pocket premium portion for all coverages.

An employee who takes unpaid leave that is not covered by the FMLA can continue to participate in the UT SELECT plan while on unpaid leave, but is not eligible for premium sharing from the institution during that period. These employees must also pay the entire cost of the premium for their coverage during the time they are on unpaid leave. Once the employee returns from unpaid leave status, s/he again becomes eligible for premium sharing from the institution.

An employee who terminates employment, for any reason, including illness, remains covered by UT SELECT as an employee through the last day of the month in which his/her employment terminates. The individual is then eligible to enroll in continuation coverage through UT SELECT COBRA coverage for up to eighteen (18) months. The individual is responsible for paying the total premium for the coverage plus a small administrative fee. The individual is not eligible to receive premium sharing.

More information about coverage available to employees, including student employees, who are on unpaid FMLA leave and other types of unpaid leave is available at <http://www.utsystem.edu/sites/utsfiles/documents/employee-benefits/140-funding-group-insurance-coverage/140funding201509.pdf> beginning at page 140.5.

More information about COBRA coverage is available at <http://www.utsystem.edu/documents/docs/employee-benefits/250-cobra-participants>

Final thoughts

UT System is continuing to monitor guidance issued by the IRS and other federal agencies charged with enforcement of the ACA and is committed to keeping UT System institutions informed about new guidance and strategies for meeting the challenge presented by the ACA.

System institutions benefits and student affairs officers may contact Laura Chambers or Sarah Pekar of the Office of Employee Benefits at UT System with questions about this FAQ, how to calculate potential penalties associated with the ACA, or any other additional assistance at 512-499-4616. The Office of Employee Benefits works very closely with each institution's Office of Human Resources and hosts an ongoing ACA workgroup as well as an ACA SharePoint site. If you wish to be added to the workgroup or have access to the SharePoint site, please contact Laura or Sarah.

The purpose of the table below is to categorize and describe the groups eligible for various health insurance plans as described in the document above.

Category as defined in State Law	Who can enroll	In what plan can group enroll?	Percent Out of Pocket Expense for Premium	Percent Institutional Coverage for Premium	Source of Institutional Funds for Premium	Meets ACA Employer Mandate as Affordable
All Students enrolled	Any student enrolled at the institution.	Student Health Insurance Plan (SHIP)	100%	0%	Not applicable	Not applicable
Graduate Students Employed in Teaching/Research Positions	A graduate student who is employed in a teaching or research position that requires the employee to be enrolled at the institution.	UT Select	Depends on <i>actual hours worked</i> . <i>If employee never works more than 29 hours, 50%</i> <i>If employee works more than 30 hours, 0%</i>	Depends on <i>actual hours worked</i> . <i>If employee never works more than 29 hours, 50%</i> <i>If employee works 30 or more hours, 100%</i>	General Revenue funding as permitted by state law up to 50%, all other premium must come from some other source	Yes, if contribution of student-employee is less than 9.5% of wages earned. (9.66% effective 9/1/16)
Full-Time Employee	Employees who are eligible for Teachers Retirement System (TRS) eligible positions and are appointed to work 40 hours per week.	UT Select	0%	100%	General Revenue funding as permitted by state law	Yes
Part-Time Employee (Non-Student)	An employee, who is eligible for Teachers Retirement System (TRS) eligible positions and is appointed to work 20-39 hours per week who is not classified as a graduate student employed in a teaching or research position.	UT Select	50%	50%	General Revenue funding as permitted by state law	Yes, if contribution of employee is less than 9.5% of wages earned. (9.66% effective 9/1/16)
Part-Time Employee (NOT TRS eligible)	An employee who is not appointed in a TRS position and who is not expected to work 30+ hours per week, but after measuring work hours they have in fact worked 30+ hours per week for a period of 90 or more days. This is a very unique category of employees who meet ACA eligibility but do not meet eligibility for UT SELECT or the Student Health Plan.	Stand-Alone BCBS plan available through HR office for ACA compliance.	Depends on funding provided by institution.	Depends on funding provided by institution.	Funds other than General Revenue Funds	Yes, if institution funds premium so employee contribution is less than 9.5% of wages earned. (9.66% effective 9/1/16)

Post-Doctoral Fellows and Non-Employee Students who receive prestigious awards or appointments	Post-Doctoral Fellows and Non-Employee Students who receive prestigious awards or appointments	UT Select	100%	0%	Not applicable.	Not applicable because these individuals are not considered employees.
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