

**HBX ACA WORKING GROUP CONSENSUS RECOMMENDATION  
DISTRICT OF COLUMBIA INDIVIDUAL RESPONSIBILITY REQUIREMENT  
February 14, 2018**

The federal government repealed the federal individual responsibility payment, effective January 1, 2019, in the Tax Cuts and Jobs Act of 2017. That action puts affordable private and public health care coverage at risk including coverage through state individual and small group insurance markets. It also poses risks to District patients, health care providers, and to the District economy. In response, Mayor Bowser asked the DC Health Benefit Exchange Authority to: *“reconvene the ACA Working Group to recommend actions the District government should take to protect coverage gains and ensure affordable health coverage for individuals and small businesses.”*

The ACA Working Group recommends that the District of Columbia fill the void left by the federal government by enacting an individual responsibility provision requiring District residents to maintain qualifying health coverage or pay a penalty on their District taxes, unless they qualify for an exemption. The ACA Working Group intends that District taxpayers pay no more, and in some cases less, than they would under federal law that applies in 2018. For the 96% of District residents who are insured today, this recommendation presents no change if they remain covered.

The ACA Working Group recommends the District’s individual mandate mirror the federal mandate as of December 15, 2017 with changes to enhance protections for District residents and promote District values. These changes include: ensuring that the DC Healthcare Alliance enrollees are exempt from the mandate; clarifying that the Immigrant Children’s Program meets coverage requirements; protecting against future association health plans that could undermine coverage in the District; exempting low-income individuals and families from the penalty; conducting outreach and education to connect uninsured residents with health coverage options; and preventing District residents from ever facing a double penalty.

Coverage Changes

District residents and businesses will be further protected by clarifying the Immigrant Children’s Program meets the individual mandate and exempting the DC Healthcare Alliance enrollees from the individual mandate.

There is a pending federal regulation to loosen the rules regarding association health plans that could undermine the District’s private health insurance market. The District’s individual mandate will be designed to protect against these risks by excluding from the definition of qualifying coverage future association health plans that may be permitted under these looser rules. However, to prevent disruption of existing coverage, association health plans that meet the requirements in place under federal law as of December 15, 2017 will meet a District mandate.

Exemption Changes

District residents will be further protected by exempting low-income individuals and families, such as those under 200% of the federal poverty level or at Medicaid or other public program eligibility levels.

The District will also better protect residents by clarifying that they will not be penalized for short lapses in coverage of three months or less.

### Outreach and Education Changes

The District will use the tax filing process as an opportunity to conduct outreach and education regarding health coverage options for those that are uninsured.

### Penalty Changes

If the federal government reinstates a federal individual responsibility payment, District residents will not be subject to double penalties.

This policy should be enacted in time to impact premiums for 2019 and become effective January 1, 2019. Implementation of a District penalty should be coupled with significant outreach and education to begin upon enactment. The key to success is maintaining strong DC Health Link partnerships with assisters, brokers, business associations, and carriers and working closely with health care providers, government agencies, elected officials and other stakeholders. Over time, refinements to the District's individual mandate should be considered to maintain its effectiveness.

This recommendation supplements the HBX Executive Board and ACA Working Group November 2017 recommendation for local policy interventions to protect market stability and affordability in the District's health insurance marketplace. This recommendation amends the individual responsibility fallback provision in the previous recommendation [[LINK](#)].