



## ***TOBACCO SURCHARGES***

In an attempt to discourage use of tobacco products and cover additional health care costs associated with tobacco use, many employers and insurance companies consider tobacco surcharges. In certain cases, the Affordable Care Act (ACA) allows for tobacco surcharges, which can make health coverage unaffordable for tobacco users. Tobacco surcharges do not help [people quit](#), though they can prevent people from having insurance and accessing care.<sup>1</sup>

### **What Is a Tobacco Surcharge?**

- A tobacco surcharge is a variation in insurance premiums based on a policyholder (or dependent's) tobacco use.
- Tobacco surcharges are sometimes called tobacco premiums, premium incentives or nonsmoker discounts.
- While the ACA prohibits insurers from using health status/ information to set premium rates, it does allow insurers and employers to charge tobacco users up to 50% more in premiums.
- Nine states and D.C. prohibit tobacco surcharges in marketplace plans. Three states have stricter limits on tobacco surcharges than the ACA limit of 50%.<sup>2</sup>
- The proposed rule implementing this provision in the Affordable Care Act requires insurers in the small group market to remove the tobacco surcharge for a tobacco user who agrees to enroll in a program that will help them quit.
- Tobacco surcharges have substantially declined in the small group market. In 2018, just over four percent of small employers used tobacco surcharges.<sup>3</sup>

### **Tobacco Surcharges Can Be Ineffective**

- Punitive measures like tobacco surcharges have not been proven effective in encouraging smokers to quit and reducing tobacco use. Research suggests that even low surcharges can cause tobacco users to opt out of coverage.<sup>4</sup>
- There are other policies that are proven to reduce tobacco use, such as: increasing tobacco taxes, enacting smoke free laws, funding tobacco control programs and making tobacco cessation treatment accessible through health insurance coverage and quitlines.



- Tobacco surcharges can be expensive for people who use tobacco.
  - Tobacco surcharges can result in tobacco users paying thousands of dollars more in health insurance premiums – a study in California showed that an average tobacco user could end up paying 18.7 percent of their annual income in premiums because of the surcharge.<sup>5</sup> High costs may deter tobacco users from purchasing insurance. This can leave tobacco users without coverage for treatments that will help them quit and treatments for potential tobacco-caused illnesses. Their families may also remain uninsured.
  - Marketplace premiums rise faster for tobacco users. Government subsidies to help pay for rising premium costs are not applied to the tobacco surcharge portion. As a result, people impacted by the tobacco surcharge are more affected by rising healthcare costs.<sup>6</sup>
- State legislatures and insurance commissioners have an opportunity to make health insurance more affordable for tobacco users. While the Affordable Care Act allows tobacco surcharges up to 1.5 times the regular premium, states are able to limit these surcharges or prohibit them altogether.
- If an employer or insurer chooses to penalize tobacco users through a tobacco surcharge, it is important that policyholders have access to a comprehensive tobacco cessation benefit that will help them quit. However, research shows that tobacco surcharges do not increase the likelihood of employers' participation in any tobacco cessation programs.<sup>7</sup>

### **Tobacco Surcharges Can Decrease Access to Care**

- States that allow tobacco surcharges have lower enrollment in individual marketplace plans. One study showed that a 10% increase in the amount of a tobacco surcharge decreased enrollment in these plans by nearly nine percent among those who smoke and lack insurance through work or a public program. Tobacco surcharges were a major reason that individuals who use tobacco and could purchase a marketplace plan chose to remain uninsured.<sup>8</sup>
- Tobacco surcharges may contribute to rural health disparities, with decreased enrollment in marketplace plans among those who use tobacco. Tobacco surcharges are also associated with decreased enrollment among those who do not use tobacco. For example, families of those who use tobacco may choose not to enroll in marketplace plans.<sup>9</sup>



## Comprehensive Tobacco Cessation Benefit

### **Tobacco Cessation Benefits Should Include ALL the Following:**

Nicotine Patch	Individual Counseling
Nicotine Gum	Group Counseling
Nicotine Lozenge	Phone Counseling
Nicotine Nasal Spray	
Nicotine Inhaler	
Bupropion	
Varenicline	

Providing a comprehensive tobacco cessation benefit means covering access to all seven Food and Drug Administration-approved medications and three types of counseling recommended by the U.S. Department of Health and Human Services to treat tobacco use and nicotine dependence. Quitting tobacco is extremely hard and everyone responds to treatment differently. It is important that potential quitters have access to all treatments.

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<sup>1</sup> Friedman AS, Schpero WL, Busch SH. Evidence Suggests That The ACA's Tobacco Surcharges Reduced Insurance Take-Up And Did Not Increase Smoking Cessation. *Health Aff (Millwood)*. 2016 Jul 1;35(7):1176-83. doi: 10.1377/hlthaff.2015.1540. PMID: 27385231; PMCID: PMC5589079.

<sup>2</sup> "Can I Be Charged Higher Premiums in the Marketplace If I Smoke?" *Kaiser Family Foundation*, <https://www.kff.org/faqs/faqs-health-insurance-marketplace-and-the-aca/can-i-be-charged-higher-premiums-in-the-marketplace-if-i-smoke/>. Accessed 12 Mar. 2025.

<sup>3</sup> Bains J, Pesko MF, Maclean JC, Cook BL. Health Insurance Surcharges For Tobacco Use Declined Among Small Employers In 2018. *Health Aff (Millwood)*. 2020 May;39(5):871-875. doi: 10.1377/hlthaff.2019.00709. PMID: 32364876.

<sup>4</sup> Kaplan CM, Graetz I, and Waters, TM. Most Exchange Plans Charge Lower Tobacco Surcharges than Allowed, but Many Tobacco Users Lack Affordable Coverage. August 2014. *Health Affairs*. Available at: <https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2013.1338>

<sup>5</sup> Curtis, Rick and Ed Neuschler, Institute for Health Policy Solutions. "Tobacco Rating Issues and Options for California under the ACA." June 2012. Available at: [http://www.ihps.org/pubs/Tobacco\\_Rating\\_Issue\\_Brief\\_21June2012.pdf](http://www.ihps.org/pubs/Tobacco_Rating_Issue_Brief_21June2012.pdf)

<sup>6</sup> Manz KC, Waters TM, Kaplan CM. Marketplace Premiums Rise Faster For Tobacco Users Because Of Subsidy Design. *Health Aff (Millwood)*. 2020 Sep;39(9):1540-1545. doi: 10.1377/hlthaff.2020.00015. PMID: 32897786.

<sup>7</sup> Pesko M, Bains J, Maclean JC, and Le Cook B. Nearly Half of Small Employers Using Tobacco Surcharges Do Not Provide Tobacco Cessation Wellness Programs. March 2018. *Health Affairs*. Available at: <https://www.ncbi.nlm.nih.gov/pubmed/29505370>

<sup>8</sup> Kaplan CM, Kaplan EK. State policies limiting premium surcharges for tobacco and their impact on health insurance enrollment. *Health Serv Res*. 2020 Dec;55(6):983-992. doi: 10.1111/1475-6773.13577. Epub 2020 Oct 27. PMID: 33107609; PMCID: PMC7704470.

<sup>9</sup> Dorilas E, Hill SC, Pesko MF. Tobacco Surcharges Associated With Reduced ACA Marketplace Enrollment. *Health Aff (Millwood)*. 2022 Mar;41(3):398-405. doi: 10.1377/hlthaff.2021.01313. PMID: 35254928.