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The Health Coverage Tax Credit (HCTC): In Brief

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Summary

The Health Coverage Tax Credit (HCTC) subsidizes most of the cost of qualified health insurance for eligible taxpayers and their family members. Potential eligibility for the HCTC is limited to two groups of taxpayers. One group is comprised of individuals eligible for Trade Adjustment Assistance (TAA) allowances because they experienced qualifying job losses. The other group consists of individuals whose defined-benefit pension plans were taken over by the Pension Benefit Guaranty Corporation (PBGC) because of financial difficulties. HCTC-eligible individuals are allowed to receive the tax credit only if they either could not enroll in certain other health coverage (e.g., Medicaid) or are not eligible for other specified coverage (e.g., Medicare Part A).

To claim the HCTC, eligible taxpayers must have *qualified health insurance* (specific categories of coverage, as specified in statute). Several of those categories, known as *state-qualified health plans*, are available only after being established by state action.

The HCTC is refundable, so eligible taxpayers may receive the full credit amount even if they had little or no federal income tax liability. The credit is also advanceable, so taxpayers may receive the credit on a monthly basis to coincide with the payment of premiums.

The HCTC has a sunset date of January 1, 2020.

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Introduction

Certain workers who have experienced job loss and retirees whose private pension plans were taken over by the Pension Benefit Guaranty Corporation (PBGC) may be eligible for the Health Coverage Tax Credit (HCTC).[1] The tax credit's purpose is to make the purchase of health insurance more affordable for eligible individuals. The HCTC has a sunset date of January 1, 2020.

This report describes the eligibility criteria for the HCTC and the types of health insurance to which the tax credit may be applied. It briefly describes the administration of the HCTC program and receipt of the credit by eligible taxpayers. The report concludes with a summary of the HCTC's statutory history.

General Features of the HCTC

The HCTC covers 72.5% of the premium for certain types of health insurance purchased by an eligible taxpayer. The taxpayer is responsible for covering the remaining 27.5% of the premium. Eligible taxpayers are only allowed to use the HCTC toward the purchase of *qualified health insurance* (described below in the "Qualified Health Insurance" section). The HCTC is refundable, so taxpayers may claim the full credit amount even if they have little or no federal income tax liability. The credit also is advanceable, so taxpayers may receive the credit on a monthly basis to coincide with the payment of premiums.

Eligibility

To claim the HCTC, taxpayers must be in one of two eligibility groups and not enrolled in (or sometimes even eligible for) certain types of health insurance. Other statutory limitations also apply.

The two groups of taxpayers who are eligible to claim the HCTC are

- recipients of certain benefits under the *Trade Adjustment Assistance* (TAA) program and
- individuals between the ages of 55 and 64 who receive payments from the *Pension Benefit Guaranty Corporation* (PBGC).

Group One: Trade Adjustment Assistance Beneficiaries[2]

TAA is a program that provides assistance to workers who lose their jobs due to international trade. To qualify for TAA, a group of workers must petition the U.S. Department of Labor (DOL) to establish that their job loss was attributable to a qualified cause. If a DOL investigation confirms the workers' claim, the workers are certified as eligible for TAA benefits and services.

TAA-certified workers are eligible for the HCTC on the basis of receipt of certain TAA benefits. Specifically, workers are eligible for the HCTC if they receive any of the following:

[1] For background information about the Health Care Tax Credit (HCTC), see Internal Revenue Service (IRS), "Health Coverage Tax Credit," November 9, 2016, https://www.irs.gov/credits-deductions/individuals/hctc..

[2] For more information on the Trade Adjustment Assistance (TAA) program, including more detailed discussion of eligibility and benefits, see CRS Report R44153, *Trade Adjustment Assistance for Workers and the TAA Reauthorization Act of 2015*, by Benjamin Collins.

- **Trade Readjustment Allowance (TRA)**. TRA is a weekly cash payment for workers who are enrolled in TAA-sponsored training and have exhausted their eligibility for unemployment insurance (UI). TRA payments begin the week after a worker exhausts eligibility for UI. Workers may collect a maximum of 130 weeks of UI and TRA combined. Workers are eligible for the HCTC if they are collecting TRA or UI.[3]
- **Reemployment Trade Adjustment Assistance (RTAA)**. RTAA is a wage supplement for workers aged 50 and older who were certified for TAA and subsequently secure qualified employment at a lower wage. RTAA pays 50% percent of the difference in wages for up to two years, up to a maximum total benefit of $10,000.
- **Alternative Trade Adjustment Assistance (ATAA)**. ATAA is a wage-insurance program similar to RTAA. ATAA existed prior to the most recent reauthorization of TAA, and a small number of workers may still be receiving benefits under ATAA.

A worker is eligible for the HCTC on the first day of a month if the worker received an eligible TAA benefit "for any day in that month or the prior month."[4]

Notably, eligibility for the HCTC is limited to individuals who receive TRA, RTAA, or ATAA cash benefits. Workers who are certified as eligible for TAA but receive only other TAA benefits (such as job-search assistance) are not eligible for the HCTC.

Group Two: Pension Benefit Guaranty Corporation

To receive a PBGC benefit, individuals must have worked for a firm whose defined-benefit pension plan was insured and then taken over by the PBGC.[5] The agency assumes control of defined-benefit plans (pension plans that promise to pay a specific monthly benefit at retirement) when it determines that the plans must be terminated to protect the interests of participants (e.g., if benefits that were due could not be paid) or when employers demonstrate that they could not remain in business unless the plan were terminated. The PBGC uses plan assets and its own insurance reserves to pay the pensions (up to a guaranteed amount) to the former workers and their survivors. Individuals who receive PBGC-paid pensions are eligible for the HCTC, provided they are at least 55 years of age but not yet entitled to Medicare (which usually occurs at the age of 65).

Limitations on Eligibility

The HCTC program places several limitations on eligibility, even for those individuals in the two groups described above. Persons enrolled in the following are *not* eligible for the tax credit:

[3] The authorizing statute for the HCTC includes the time period prior to when workers receive Trade Readjustment Allowance (TRA) for HCTC-eligibility purposes. See 26 U.S.C. §35(c)(2)(A).

[4] See "Definition and Special Rules" section on page 1 of instruction for IRS Form 8885.

[5] Background information on the Pension Benefit Guaranty Corporation is available through its website at http://www.pbgc.gov.

- a health plan maintained by the individual's employer or former employer[6] (or by the employer or former employer of the individual's spouse) that pays 50% or more of the total premium;
- Medicare Part B;
- the Federal Employees Health Benefits Program (FEHBP);
- Medicaid; or
- the State Children's Health Insurance Program (CHIP).

Similarly, to be eligible for the HCTC, individuals *may not be eligible* for the following:

- Medicare Part A; or
- coverage provided through the U.S. military health system (e.g., Tricare).

In addition, individuals are not eligible for the HCTC if they are incarcerated or if they may be claimed as a dependent by another taxpayer.

Family Members

An eligible taxpayer may use the HCTC for health insurance that covers his or her spouse and any dependents who may be claimed on his or her tax return. For this purpose, children of divorced or separated parents are treated as dependents of the custodial parent.

Qualifying family members face the same eligibility limitations as eligible taxpayers (i.e., they may not be enrolled in or eligible for the insurance described above). Family members may continue to receive the HCTC for up to two years after any of the following events: the qualified taxpayer becomes eligible for Medicare, the taxpayer and spouse divorce, or the taxpayer dies.

Qualified Health Insurance

An eligible taxpayer is only allowed to claim the HCTC to cover part of the premium for qualified health insurance. Statute limits qualified health insurance to 11 categories of coverage, identified as options (A) through (K). Individuals are not allowed to claim the tax credit for any other type of coverage.

Four of the coverage categories are referred to as *automatically qualified health plans.* Individuals may elect these options without state involvement. These options (identified by their statutory letter designations) are as follows:

A. Coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA; P.L. 99-272).

I. Coverage under a group health plan available through a spouse's employer.

J. Coverage under individual health insurance.[7]

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[6] This includes a plan provided by a former employer in compliance with continuation health coverage requirements established under the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272), or COBRA. For background on COBRA, see U.S. Department of Labor, "FAQs About COBRA Continuation Health Coverage," at http://www.dol.gov/ebsa/faqs/faq-consumer-cobra.html.

[7] HCTC eligible individuals may amend filed tax returns in order to claim the HCTC for individual health insurance coverage. For tax years 2014 and 2015, the HCTC may be claimed for all individual insurance, including coverage through a health insurance exchange. However, exchange coverage may *not* be used to claim the HCTC for 2016 on. IRS, "Health Coverage Tax Credit," November 9, 2016, https://www.irs.gov/credits-deductions/individuals/hctc.

K. Coverage funded by a voluntary employees' beneficiary association (VEBA).[8]

The other seven categories of coverage are known as *state-qualified health plans*. Individuals may choose these options only if their state has established these plans. These options (identified by their statutory letter designations) are as follows:

B. State-based continuation coverage provided under a state law requiring such coverage.

C. Coverage offered through a state high-risk pool (HRP).[9]

D. Coverage under a plan offered for state employees.

E. Coverage under a state-based plan that is comparable to the plan offered to state employees.

F. Coverage through an arrangement entered into by a state and a group health plan, an issuer of health insurance, an administrator, or an employer.

G. Coverage through a state arrangement with a private-sector health care purchasing pool.

H. Coverage under a state-operated plan that does not receive any federal financing.

Coverage under state-qualified health plans is required to provide four consumer protections, specified in statute, to all qualifying individuals. *Qualifying individuals* are defined as HCTC-eligible individuals (as described above) who had three months of *creditable coverage*[10] under another health plan prior to applying for a state-qualified plan and did not have a significant break in coverage (defined as 63 days or more without coverage). For such individuals, state-qualified health plans must provide the following four protections:[11]

1. The plan must be guaranteed issue, meaning coverage may not be denied to any qualifying applicant.
2. Coverage may not be denied based on preexisting health conditions.
3. Premiums (without regard to subsidies) may not be greater for qualifying individuals than for other similar individuals.
4. Benefits for qualifying individuals must be the same as or substantially similar to benefits for others.

Certain types of coverage are not considered qualified health insurance, even if they otherwise meet one of the categories listed above. Such coverage includes accident or disability income insurance, liability insurance, workers' compensation insurance, automobile medical payment insurance, credit-only insurance, coverage for on-site medical clinics, limited-scope dental or vision benefits, long-term care insurance, coverage for a specified disease or illness, hospital and other fixed indemnity insurance, and supplemental insurance.

[8] Voluntary employees' beneficiary association (VEBA) plans provide life insurance, medical, disability, accident, and other welfare benefits to employee members and their dependents. For background on VEBAs, see IRS, "Part 4, Chapter 76, Section 18: Voluntary Employees' Beneficiary Associations IRC 501(c)(9)," at https://www.irs.gov/irm/part4/irm_04-076-018.html.

[9] For background on state high-risk pools, see National Association of State Comprehensive Health Insurance Plans, "State Risk Pool Status Report," at http://naschip.org/portal/.

[10] See "creditable coverage" definition in U.S. Department of Health and Human Services glossary at https://www.healthcare.gov/glossary/creditable-coverage/.

[11] IRS, "Administrative, Procedural, and Miscellaneous, Section 35: Health Insurance Costs of Eligible Individuals," Revenue Procedure 2004-12, at https://www.irs.gov/pub/irs-drop/rp-04-12.pdf.

Administration and Use of the HCTC

Although the Internal Revenue Service (IRS) administers the HCTC program, full implementation entails the participation of several federal and state agencies. The Department of the Treasury (Treasury) is primarily responsible for administering the advance payment system, by providing the HCTC on a monthly basis to coincide with payment of insurance premiums. In addition, the IRS reviews tax returns on which the credit is claimed. DOL and the PBGC are responsible for helping Treasury identify who may be eligible for the credit. DOL also coordinates the One-Stop Career Center system; these centers provide a wide range of services to assist job seekers, including providing information about available benefits such as the HCTC.

State-level entities include state workforce agencies (SWAs)—DOL-funded agencies that administer unemployment and TAA benefits. Other relevant state entities include the departments of insurance and health agencies.

Notifying Eligible Taxpayers

DOL requests that SWAs mail HCTC information packets to all eligible TAA beneficiaries. Included with the information packet is an HCTC eligibility certificate, a document that identifies the individual as potentially eligible for the tax credit. Similarly, the PBGC identifies beneficiaries who are potentially eligible for the HCTC and provides the beneficiaries' relevant personal information to the IRS.

The IRS mails program kits to persons whose names are included on the lists provided by the SWAs and the PBGC.[12]

Receiving the HCTC

Eligible taxpayers with qualified health insurance may claim the tax credit when they file their tax returns for the year, or they may receive advance payments for the credit, on a monthly basis, throughout the year. Some taxpayers may choose to receive a portion of the credit through advance payments and the remainder after they file their returns. Because the HCTC is refundable, taxpayers may receive the full amount for which they are eligible, even if they have little or no tax liability.

Other tax credits for which individuals are eligible have no effect on their eligibility for the HCTC, nor does the HCTC affect other credits, with one key exception: a taxpayer who chooses to receive the HCTC is prohibited from being eligible for the premium tax credit established under the Patient Protection and Affordable Care Act (P.L. 111-148, as amended).[13]

The IRS published relevant summary statistics in its 2014 *Statistics of Income* (SOI) report.[14] The most current SOI data about the HCTC is for tax year 2013, in which 13,693 tax returns claimed the HCTC, totaling to approximately $52.3 million. In addition, preliminary data for the 2016

[12] The online version of the HCTC kit is available at https://www.irs.gov/pub/irs-utl/program_kit_rev_1-2007.pdf.

[13] For background on the premium tax credit, see IRS, "Eligibility for the Premium Tax Credit," at https://www.irs.gov/Affordable-Care-Act/Individuals-and-Families/Eligibility-for-the-Premium-Tax-Credit.

[14] IRS, "Statistics of Income—2014 Individual Income Tax Returns," at https://www.irs.gov/pub/irs-soi/14inalcr.pdf.

filing season indicated the submission of 13,015 e-filed tax returns claiming the credit, as of March 10, 2016.[15]

Receiving the HCTC After the End of the Tax Year

Taxpayers who choose to claim the HCTC after the tax year ends must complete Form 8885 and attach it to their standard Form 1040. Taxpayers must include invoices and proof of payment for qualified health insurance.

In this case, the credit amount would be used to reduce the amount of taxes owed for a given taxpayer. Because the HCTC is refundable, if the credit amount exceeds the amount of taxes owed, the excess amount is provided to the taxpayer in the form of a tax refund.

Receiving the HCTC During the Tax Year

To receive advance payments of the HCTC, individuals register with the HCTC program. They must be enrolled in a qualified health insurance plan when they register. The program confirms an applicant's eligibility and sends him or her an invoice for the taxpayer's share of the total monthly premium (which is 27.5% because the HCTC's subsidy rate is 72.5%). Individuals send payments for their share plus additional premium amounts for non-qualified family members (if applicable) to Treasury. Upon receipt of these premium payments, Treasury sends payment for 100% of the premium (comprised of 27.5% from the individual and 72.5% from Treasury) to the individuals' health insurance plans.

[15] Treasury Inspector General for Tax Administration, "Interim Results of the 2016 Filing Season," March 31, 2016, https://www.treasury.gov/tigta/auditreports/2016reports/201640034fr.pdf.

Appendix. Legislative History

Table A-1. Health Coverage Tax Credit (HCTC) Legislative History

Name of Legislation (Public Law)	Date of Enactment	Summary of Relevant Provisions
Trade Act of 2002 (P.L. 107-210)	August 6, 2002	Amended the Internal Revenue Code (IRC) to authorize a new refundable, advanceable tax credit to cover 65% of the cost of qualified health insurance for eligible taxpayers and their family members.
Working Families Tax Relief Act of 2004 (P.L. 108-311)	October 4, 2004	Amended the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (P.L. 108-173), which amended the IRC to exclude distributions from health savings accounts from the calculation of the tax credit amount.
Tax Technical Corrections Act of 2007 (P.L. 110-172)	December 29, 2007	Amended the IRC to correct a citation to the IRC definition of a custodial parent.
American Recovery and Reinvestment Act of 2009 (P.L. 111-5): Part VI cited as the TAA Health Coverage Improvement Act of 2009	February 17, 2009	Amended the IRC to enact the following temporary changes that would have expired on January 1, 2011: • Increased the subsidy rate from 65% to 80%; • Allowed one or more retroactive payments to be made; • Modified the definition of an "eligible TAA recipient" to include persons who receive unemployment compensation but are not enrolled in training and individuals who would be eligible for a trade readjustment allowance except that they are in a break in training that exceeds a specified time period; • Allowed family members to continue to receive the HCTC for up to two years after any of the following events occur: the qualified taxpayer becomes eligible for Medicare, the taxpayer and spouse are divorced, or the taxpayer dies; and • Added a new option under "qualified health insurance": health plans funded by voluntary employees' beneficiary associations. Enacted the following permanent changes: • Broadened eligibility criteria to include service sector and public agency workers and • Added new study and reporting requirements for the Treasury Secretary and the Comptroller General.
Temporary Extension Act of 2010 (P.L. 111-144)	March 2, 2010	Amended the IRC to make a technical correction related to the definition of an individual who receives COBRA premium assistance.
Omnibus Trade Act of 2010 (P.L. 111-344): Title I – Extension of Trade Adjustment Assistance and Health Coverage Improvement	December 29, 2010	Amended the IRC to extend the HCTC-related expiring provisions with a new expiration date of February 13, 2011.
Trade Adjustment Assistance Extension Act of 2011 (P.L. 112-40)	October 21, 2011	Amended the IRC to enact a number of changes to the HCTC program, which affected the program's duration, subsidy rate, availability of payments, eligibility criteria, and definition of qualified insurance, among other program components. Key changes included a new subsidy rate of 72.5% and termination of the tax credit on January 1, 2014. The effective date for these changes was for coverage months beginning after February 12, 2011.

Name of Legislation (Public Law)	Date of Enactment	Summary of Relevant Provisions
Trade Preferences Extension Act of 2015 (P.L. 114-27)	June 29, 2015	Amended the IRC to retroactively reauthorize the HCTC and to establish a new sunset date of January 1, 2020. Enacted a number of conforming amendments, including interaction with the premium tax credit established under the Patient Protection and Affordable Care Act (P.L. 111-148, as amended). The effective date for these changes was for coverage months beginning after December 31, 2013. However, the new prohibition against claiming the HCTC for individual health insurance purchased through an ACA-established exchange applies to coverage months beginning after December 31, 2015. Individuals may claim the HCTC for insurance purchased through an exchange during 2014 and 2015.

Source: CRS analysis of amendments to Section 35 of the Internal Revenue Code.

a. COBRA refers to the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272).

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