

(2) "Small employer" includes:

(i) If the requirements of paragraph (1)(i)1 and 2 of this subsection are satisfied, a local government body of:

1. A charter county established under Article 25A of the Code;
2. A code county established under Article 25B of the Code;
3. A board of county commissioners established or operating under Article 25 of the Code; and
4. A municipal corporation established or operating under Article 23A of the Code; and

(ii) A nonprofit organization, which has been determined by the Internal Revenue Service to be exempt from taxation under § 501(c)(3), (4), or (6) of the Internal Revenue Code, with at least one eligible employee.

(3) (i) A carrier may not impose a minimum participation requirement for a small employer that is greater than 75 percent of eligible employees of the small employer.

(ii) In applying minimum participation requirements with respect to a small employer to determine whether the applicable percentage of participation is met, a carrier may not consider eligible employees or dependents that have coverage under a public or private health insurance plan or other health benefit arrangement, including Medicare, Medicaid, and CHAMPUS, that provides benefits similar to or exceeding the benefits provided under the comprehensive standard benefit plan.

(4) If the federal Employee Retirement Income Security Act is amended to exclude employee groups under a specific size, notwithstanding paragraph (1)(i) of this subsection, this subtitle shall apply to any employee group size that is excluded from that federal Act.

(5) In determining the number of eligible employees who meet the requirements under paragraph (1)(i) of this subsection, companies which are affiliated companies or which are eligible to file a consolidated federal income tax return shall be considered one employer.

(6) In determining the number of eligible employees who meet the requirements under paragraph (1)(i) of this subsection, an employee may not be counted who:

(i) Is otherwise covered under a public or private health insurance plan or other health benefit arrangement; or

(ii) Is a part-time employee.

(7) Notwithstanding the provisions of paragraph (1)(i) of this subsection, in otherwise satisfying the requirements of paragraph (1)(i) of this subsection, a small