If you're a micro-business owner considering small group health insurance, one common question is: **Do I need a non-family employee to qualify?** This question touches on core issues like *small group eligibility*, the difference between *individual and group coverage*, and importantly, how the *Small Business Health Care Tax Credit* works.

In this post, we'll break down these concepts, define key terms—such as common-law employee—and clarify what counts toward qualifying your business for small group health insurance. We'll also explore your route options: buying coverage through the SHOP Marketplace or purchasing directly from carriers (off-exchange). Exactly.. Let's dive in!

1. Defining Key Terms Before We Proceed

Before we can tackle the main question, we need to clarify several foundational terms. This ensures we're comparing apples to apples.

- **Small Group Eligibility**: What type of business qualifies for small group insurance plans.
- **Common-Law Employee**: An employee classified under common-law rules, meaning they work under the control and direction of the employer regarding how work is done.
- **Owner-Only Plan**: Insurance coverage purchased solely for the business owner(s), with no employees included.
- **SHOP Marketplace**: The Small Business Health Options Program, a government-run marketplace specifically for small businesses (typically 1-50 employees) to purchase health insurance.
- **Off-Exchange vs On-Exchange Plans**: "On-exchange" plans are offered through state or federal marketplaces and may qualify for subsidies; "off-exchange" plans are purchased directly from insurance companies or brokers and do not qualify for marketplace subsidies.

2. The Small Group Definition Varies By State

The term "small group" is generally defined as businesses with between 1 and 50 employees (some states define small group as up to 100 employees). However, **the key factor is how your state defines an employee** for health insurance purposes. This definition impacts whether you can purchase group coverage.

Important: **A family member can count as an employee if they are a true common-law employee and not just a family business owner or partner.** But, states vary, so check your specific state's insurance regulations.

Why Does Employee Status Matter?

Health insurers and the SHOP Marketplace require you to cover a minimum number of eligible employees to qualify as a group. For example:

- Most carriers require at least one common-law employee besides the owner for small group plans.
- Some states explicitly allow "owner-only" group plans.
- Family members must be bona fide employees and not just shareholders or owners to be included.

3. Common-Law Employee vs Owner/Family Member: What Counts Toward Eligibility?

Under IRS and insurance rules, a **common-law employee** is someone you control BOTH what work is done and how it's done. This is different from business owners, shareholders, partners, or family members who aren't true employees.

Example Mini-Scenario:

- Jan runs a home-based cake business and employs her niece to help with baking and deliveries.
- The niece has specific work hours, is paid hourly, and Jan supervises the tasks.
- The niece is a *common-law employee* and can count toward small group eligibility.
- Jan's husband who helps occasionally but isn't on payroll is not an employee for insurance purposes.

This distinction matters because most insurance carriers and the SHOP Marketplace count only common-law employees when evaluating whether you can purchase small group coverage.

4. On-Exchange vs Off-Exchange Purchase Routes: What They Really Mean

Want to know something interesting? a key point i always stress:

"Off-exchange" vs "on-exchange" is a ***purchase route****, NOT a marker of plan quality or benefits.*

To clarify:

- **On-Exchange Plans** are purchased through the SHOP Marketplace. These plans meet standardized federal guidelines and may offer advantages such as:
  - Potential access to the Small Business Health Care Tax Credit (if eligible)
  - Streamlined employee signup and enrollment tools
  - State or federally regulated protections
- **Off-Exchange Plans** are bought directly from an insurer or broker. They may have similar benefits but do not qualify for the tax credit. Off-exchange plans can offer:
  - More flexibility in plan designs or carriers
  - Tailored negotiations or broker assistance

Choosing the route depends on your business size, eligibility for tax credits, and which carriers operate on or off exchange in your state.

5. SHOP Marketplace Basics and Availability Limits

The SHOP homebusinessmag.com Marketplace is designed for small businesses with 1-50 employees (some states go up to 100 employees). It allows employers to:

- Compare multiple carriers and plans on a single platform
- Potentially qualify for the **Small Business Health Care Tax Credit**
- Manage enrollment for employees with standardized tools

Important Considerations on SHOP availability:

- Not all states operate a SHOP Marketplace; some use the federal marketplace (HealthCare.gov) or have no SHOP.

- Only businesses with at least one common-law employee (usually not counting owners/family working without payroll classification) can enroll in SHOP group coverage.
- The SHOP Marketplace does not offer plans to sole-proprietors without employees under normal circumstances.

Mini-Scenario:

- Sara owns a bookkeeping business and has no employees.
- Because she has zero common-law employees, she cannot use SHOP but can buy individual coverage or off-exchange small group plans if her state allows "owner-only" group plans.
- If she hires a common-law employee, she then becomes eligible for SHOP and the tax credit.

6. How the Small Business Health Care Tax Credit Drives the Decision

The **Small Business Health Care Tax Credit** is a BIG reason many small businesses seek group coverage via the SHOP Marketplace. Here's why:

- **Who Qualifies?**
  - Businesses with fewer than 25 full-time equivalent employees
  - Average wages below $56,000 (indexed to inflation)
  - Must pay at least 50% of employee premiums
  - Must purchase on the SHOP Marketplace (or from certain SHOP-certified carriers)
- **Why It Matters**
  - The credit can cover up to 50% of employer premiums (up to 35% for tax-exempt employers)
  - This can mean significant cost savings and influence whether hiring an employee makes sense.
- **Common-Law Employee Requirement**
  - You must have at least one common-law employee other than the owner to be eligible for the credit.
  - Family members who are not bona fide employees usually don't count.

In short, if you're hoping to use the tax credit, having a legitimate, non-family common-law employee is usually required.

7. Can You Buy Small Group Coverage Without a Non-Family Employee?

This depends heavily on your state and insurer policies. Some states/carriers allow *"owner-only" small group health plans*, meaning the business owner(s) can purchase group coverage even without employees.

However:

- If your state follows the traditional definition, you need at least one common-law employee other than yourself.
- The Small Business Health Care Tax Credit only applies if you have eligible employees.
- Most SHOP Marketplaces require at least one common-law employee.

Summary Table: Employee Requirements by Purchase Route

Purchase Route Employee Requirement Tax Credit Eligibility SHOP Marketplace At least 1 common-law employee (non-owner) Yes, if criteria met Off-Exchange Carrier Direct Purchase Varies by state/carrier; some allow owner-only plans No tax credit on off-exchange plans Individual Marketplace (for sole proprietors) N/A (individual coverage only) Premium tax credits possible, but not Small Business Health Care Tax Credit

8. Practical Tips for Micro-Business Owners

1. **Check Your State's Small Group Rules.** These are foundational. Contact your state insurance department or ask your broker.
2. **Assess Your Employment Status.** Are your workers bona fide common-law employees? If family, are they on formal payroll?
3. **Decide on Your Purchase Route.** If you have eligible employees and want the tax credit, SHOP Marketplace is typically best.
4. **If no employees, consider off-exchange owner-only plans or individual plans.** Remember, no tax credit is available off-exchange.
5. **Plan for Renewal and Employee Questions.** Managing group coverage requires clear communication with employees and possibly payroll changes.

9. Final Thoughts

To answer the original question:

"Do you need a non-family employee to qualify for small group health insurance?"

The answer depends:

- **For SHOP Marketplace:** Yes, at least one non-owner common-law employee is usually mandatory.
- **For carrier direct (off-exchange) purchase:** Sometimes owner-only plans are allowed, but check state regulations and carrier policies.
- **For tax credits:** You need eligible common-law employees to qualify.

Always avoid confusing purchase route with plan quality. The best approach depends on your business size, employee status, and financial goals.

If you're unsure, reach out to a broker experienced with micro-businesses and who understands local market nuances—like someone who has been through countless renewals and employee questions!

Additional Resources

- Healthcare.gov Small Business Health Options Program (SHOP)
- IRS Small Business Health Care Tax Credit
- National Association of Insurance Commissioners: Employer Group Health Coverage