

May 20-21, 2015

## The Affordable Care Act (ACA)

### Congress should be prepared to act to:

Ensure that people residing in states with health insurance marketplaces operated by the federal government do not lose their premium subsidies in the event that the Supreme Court rules in favor of the petitioners in the King versus Burwell case. Congress should not make changes in the ACA that would result in more uninsured persons or weaken consumer protections.

### What's it all about?

In 2014, about 6.7 million persons were paid enrollees in qualified health plans (QHPs) purchased through the ACA's health insurance marketplaces. More than half of the states have elected to expand Medicaid to all individuals with incomes up to 138 percent of the federal poverty level. [Enrollment](#) in expansion states rose by 24 percent from July-September 2013 to October 2014; Medicaid enrollment in non-expansion states also increased to a lesser extent. Altogether, an estimated 10 million previously uninsured persons gained coverage in 2014. According to the Centers for Medicare and Medicaid Services, [11.4 million](#) persons selected or were auto-reenrolled in QHPs through the Healthcare.gov website or state-operated health insurance marketplaces as of February 15, 2015.

The "shared responsibility" penalty (the "individual mandate") will be reflected in 2014 tax returns filed in 2015. The Treasury Department estimates that between 3 and 6 million people may be required to pay \$95 (individual adult) or 1 percent of their income, above a filing threshold of \$10,000, because they did not enroll in a plan with minimum essential coverage (MEC) in 2014. For the 2015 tax and enrollment year, the penalty amount increases to the higher of 2 percent of annual household income, above a filing threshold of \$10,000, or \$325 per person (lower for individuals under age 18) for those who do not enroll in MEC. The purpose of the shared responsibility penalty, combined with the open enrollment period, is to ensure that people do not wait to obtain health coverage until they get sick, driving up overall premium costs. To mitigate the possibility of people being unwittingly fined in both 2014 and 2015 because they didn't know they had to enroll in qualified plans, the Obama administration has created a special "tax season" open enrollment period, running from March 15 through April 30, to allow them to choose a 2015 enrollment year QHP through the health insurance marketplace. Most states that operate their own marketplaces are also offering a similar special open enrollment period for such persons. The employer responsibility penalty (the "employer mandate") went into effect on January 1 for large employers with over 100 employees.

- [Read](#) about the Affordable Care Act at Kaiser Family Foundation.

### What's the current status?

Open enrollment for the 2015 plan year for most people ended on February 15, and the special tax season enrollment period (for the marketplaces operated by the federal government) ends on April 30. People can enroll after these dates if they experience certain specified changes in their circumstances, such as a woman having a baby or a person losing health insurance coverage from an employer. In January, the House approved changes to the employer mandate work hour definition; the Senate has yet to take it up, and the administration has stated

that it would veto the change. The United States Supreme Court will issue a ruling later this year on the King v. Burwell case, which will decide whether the Internal Revenue Service is permitted to provide premium and cost-sharing financial assistance to individuals in states with a health insurance marketplace operated by the federal government.

## Why should the 114<sup>th</sup> Congress address it?

Should the Supreme Court rule in favor of the administration in the King v. Burwell case, then Congress would not be compelled to enact legislation affecting the ACA's subsidies and marketplaces, because the premium subsidies would continue in all states. Should the Supreme Court decide in favor of the petitioners, Congress must be prepared to take action to ensure that millions of people don't lose their premium subsidies, their cost-sharing subsidies, and their coverage. If premium subsidies for federally-facilitated marketplace (FFM) plans were eliminated, enrollment in the market plans would drop by 9.6 million, according to the RAND Corporation. Also, as healthy enrollees exit the market, premiums would become unaffordable for those who remain covered; RAND estimates that without tax subsidies, individual market plan premiums in the FFM states would increase by 47 percent. Millions of low-income persons would also lose their cost-sharing subsidies.

- [Read](#) the RAND Corporation's study on the potential effects of the King v. Burwell decision.

There are other changes that Congress might seek to make in the ACA that independent experts believe would increase the number of uninsured, including modification or repeal of: the individual responsibility requirement, the Medicaid eligibility expansion program, and the employer responsibility requirement. Other potential changes would have substantial fiscal effects by reducing tax revenue, and/or cost-savings, mandated by the ACA. The administration is likely to veto changes that would adversely affect health insurance coverage under the ACA. Congress may also decide to take action to improve marketplace-based coverage to ensure continuity of care, including ensuring that enrollees can access necessary medications and continue to see the physician of their choice while undergoing care. The administration and state regulators are taking steps to address such concerns about discriminatory formularies, narrow networks and network adequacy through the regulatory process, however.

## What's ACP's view?

The College joined other concerned stakeholders in an amicus brief urging the Supreme Court to uphold the ACA's insurance subsidies in all states because of concern about the impact an adverse ruling would have on millions of patients who would lose coverage. ACP believes that Congress must be prepared to act to ensure continuation of premium and cost-sharing subsidies for current and future enrollees at the level established in the ACA should the Supreme Court's decision eliminate subsidies in the 34 states with federally-facilitated marketplaces. We believe Congress should not pass legislation that would increase the number of uninsured or weaken insurance market regulations or consumer protections that ensure essential benefits or prohibit limitations on pre-existing condition coverage. We support greater consumer protections to ensure continuity of care in QHPs offered under the ACA.

- [Learn more](#) about ACP's views in a press statement on the King v. Burwell amicus brief.

## Who can I contact to learn more?

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