

# Potential Coverage and Federal Funding Losses for Massachusetts if *California v. Texas* Ultimately Overturns the Affordable Care Act

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## BACKGROUND AND CONTEXT

*California v. Texas* is a case currently before the U.S. Supreme Court. It seeks to overturn the Affordable Care Act (ACA), a major piece of legislation that extended subsidized health insurance coverage and introduced new consumer protections like the elimination of pre-existing condition exclusions to millions of people across the country.<sup>1</sup> The court is expected to hear arguments on this case on November 10, 2020. This is not the first time the Supreme Court has considered a major legal threat to the ACA. In 2012, for example, the Supreme Court was charged with reviewing the constitutionality of the law's individual mandate provision, which requires individuals to maintain health insurance coverage. By a majority vote of 5–4, the Supreme Court upheld the mandate and the law, with Justice Ruth Bader Ginsberg among the majority justices. Her death in September 2020 has elevated attention to and cast greater uncertainty on *California v. Texas*.<sup>2</sup>

An ultimate finding that overturns the ACA would have widespread implications, affecting every state. In Massachusetts, the ACA formalized and increased federal funding streams for coverage expansions that were largely already in place. This analysis describes what's at stake for Massachusetts — focusing on what it could mean for the state's health insurance coverage rates and federal funding.

Massachusetts has a longstanding commitment to health insurance coverage and has successfully collaborated with various stakeholders to develop policies and programs that support access to health insurance coverage. This shared responsibility and commitment enabled Massachusetts to achieve the highest insurance rate in the country even before the ACA was in place, and to maintain that status through the present day. Therefore, even if the court were to overturn the ACA, history suggests that Massachusetts would make every effort to mitigate the impacts in order to maintain its near-universal coverage. However, the federal financing arrangements and coverage programs — both of which are potentially at risk in *California v. Texas* — are an important component of maintaining the state's gains.

## IMPACTS IN MASSACHUSETTS

If the Supreme Court overturns the ACA in its entirety, we estimate the following consequences for Massachusetts:

- 422,000 Massachusetts residents will lose health insurance coverage. The number of uninsured people in the state will more than double from about 246,000 to 668,000, and the uninsured rate will climb from 4.4 percent to 12.0 percent of the nonelderly population (see table on next page).
- Massachusetts will lose \$3.3 billion per year in federal health care spending in 2020 dollars. Federal funding for the state's Medicaid program will decline as eligibility is rolled back. Simultaneously, federal funding for premium tax credits (which help individuals afford their coverage in the state's Health Connector, Massachusetts' Marketplace) will cease.

## WHAT'S UPDATED?

As a result of COVID-19 and the associated economic downturn, there have been notable shifts in the health insurance coverage landscape in Massachusetts. This analysis considers updated cost and coverage data from MassHealth, the Massachusetts Health Connector, and the Center for Health Information and Analysis, which captures many of these changes. In addition, this analysis incorporates updated information from the Department of Labor on job losses by industry. Analyzing these data together, the Health Insurance Policy Simulation Model (HIPSM) — the model used for this analysis — estimates the uninsurance rate for the nonelderly (individuals ages 0–64) in Massachusetts for the second half of 2020 will be 4.4 percent.

This analysis also takes into account approximately 56,000 MassHealth members who became eligible for MassHealth as a result of the ACA expansion and who were not accounted for in our previous analysis.\*

\*Our previous analysis did not take into account individuals who are eligible for MassHealth as a result of the ACA Medicaid expansion, but who are not enrolled in CarePlus. CarePlus is the MassHealth program that serves most members eligible for MassHealth as a result of the expansion, but some members made eligible by the expansion are not enrolled in CarePlus for a variety of reasons, such as age or health conditions.

The findings above assume that if the ACA is overturned, the subsidized coverage programs that served as a cornerstone of the state's 2006 reforms and led to Massachusetts having the highest coverage rates in the nation would also be eliminated.

Under a scenario in which the ACA is repealed nationwide and Massachusetts maintains its subsidized coverage programs as they were pre-ACA under its 2006 health reforms, the state will still see the number of uninsured grow — by 69,000 people, instead of 422,000 — and state costs will increase substantially:

- If the federal government agrees to the funding agreement that made the Massachusetts' 2006 coverage expansions possible, federal health care funding for Massachusetts will still shrink by \$2.1 billion per year in 2020 dollars (a 25 percent decline) compared with current levels under the ACA. State spending will have to rise by \$988 million, an increase of 24 percent in state spending on acute care for the nonelderly.<sup>3</sup>
- If Massachusetts chooses to maintain the 2006 subsidized coverage programs at its own cost (without federal funding), the state will have to raise its own spending on health care programs by \$2.1 billion (a 51 percent increase) compared with what is in current law.

#### HEALTH INSURANCE COVERAGE DISTRIBUTION OF THE NONELDERLY\* (THOUSANDS OF PEOPLE)

	CURRENT LAW (ACA)**		FULL ACA REPEAL WITHOUT 2006 SUBSIDIZED COVERAGE PROGRAMS				FULL ACA REPEAL WITH 2006 SUBSIDIZED COVERAGE PROGRAMS			
	#	%	#	%	CHANGE FROM CURRENT	% DIFFERENCE	#	%	CHANGE FROM CURRENT	% DIFFERENCE
<b>INSURED (MINIMUM ESSENTIAL COVERAGE)</b>	<b>5,308</b>	<b>95.6%</b>	<b>4,886</b>	<b>88.0%</b>	<b>-422</b>	<b>-8.0%</b>	<b>5,240</b>	<b>94.3%</b>	<b>-69</b>	<b>-1.3%</b>
Employer	3,168	57.0%	3,347	60.3%	179	5.7%	3,308	59.6%	140	4.4%
Private Nongroup	342	6.2%	111	2.0%	-232	-67.7%	494	8.9%	152	44.4%
• Marketplace with Premium Tax Credits/ ConnectorCare/Commonwealth Care (under repeal)	249	4.5%	0	0.0%	-249	-100.0%	392	7.1%	144	57.7%
• Full-pay Nongroup (on and off Marketplace)	94	1.7%	111	2.0%	17	18.2%	102	1.8%	8	8.5%
<b>Medicaid/CHIP†</b>	<b>1,720</b>	<b>31.0%</b>	<b>1,350</b>	<b>24.3%</b>	<b>-370</b>	<b>-21.5%</b>	<b>1,359</b>	<b>24.5%</b>	<b>-361</b>	<b>-21.0%</b>
• Disabled	268	4.8%	268	4.8%	0	-0.1%	268	4.8%	0	0.0%
• Medicaid Expansion††	360	6.5%	0	0.0%	-360	-100.0%	0	0.0%	-360	-100.0%
• Traditional Nondisabled Adult	437	7.9%	436	7.8%	-1	-0.3%	437	7.9%	0	0.0%
• Nondisabled Medicaid/CHIP Child	655	11.8%	646	11.6%	-8	-1.2%	654	11.8%	-1	-0.1%
<b>Other Public</b>	<b>78</b>	<b>1.4%</b>	<b>78</b>	<b>1.4%</b>	<b>0</b>	<b>0.0%</b>	<b>78</b>	<b>1.4%</b>	<b>0</b>	<b>0.0%</b>
<b>UNINSURED‡</b>	<b>246</b>	<b>4.4%</b>	<b>668</b>	<b>12.0%</b>	<b>422</b>	<b>171.7%</b>	<b>315</b>	<b>5.7%</b>	<b>69</b>	<b>27.9%</b>
<b>TOTAL</b>	<b>5,554</b>	<b>100.0%</b>	<b>5,554</b>	<b>100.0%</b>	<b>0</b>	<b>0.0%</b>	<b>5,554</b>	<b>100.0%</b>	<b>0</b>	<b>0.0%</b>

\* Nonelderly includes individuals ages 0 to 64. Due to shifts in the health insurance coverage landscape in Massachusetts that began after the first quarter of 2020, these estimates reflect average monthly enrollment estimates for the second half of calendar year 2020 only.

\*\* There are several factors that could impact the estimated coverage distributions for the nonelderly in the second half of 2020 under current law. Changes to these distributions would change the results under the scenarios modeled here. For example, an economic recovery would increase employer-sponsored insurance coverage and reduce the number of uninsured under the current law and slightly reduce the loss of coverage due to repeal of the ACA with or without 2006 subsidized coverage programs. On the other hand, further job losses related to COVID-19 could increase the number of uninsured under current law and increase the loss of coverage in the repeal of the ACA scenarios. Extension of the federal public health emergency could increase Medicaid enrollment under current law, thus increasing the loss of coverage in the repeal of the ACA scenarios. It is possible that a combination of the above could happen at different times during the year.

† Estimated enrollment for Medicaid/CHIP populations other than Medicaid expansion may vary from recent MassHealth caseload snapshot data. However, the scenarios modeled in this analysis do not significantly impact individuals covered in these categories and therefore any differences in actual enrollment from the estimates assumed here will not materially alter the coverage or financing results.

†† Includes all members classified as newly eligible for Medicaid under the ACA: CarePlus, the Medically frail, and 19- and 20-year-olds not previously eligible.

‡ The uninsured rate estimated for the second half of 2020 is higher than prior estimates of the uninsured rate for the nonelderly in Massachusetts. This estimate accounts for some loss in insurance coverage among the nonelderly as a result of the 2020 economic recession associated with COVID-19. For comparison purposes, the model used for this analysis estimates the uninsured rate for all Massachusetts residents, including individuals ages 65 and older, is 3.6 percent.

Source: The Urban Institute. Health Insurance Policy Simulation Model (HIPSM), 2020.

1 Massachusetts does have state laws that preclude insurers from denying coverage based on pre-existing conditions. However, prior to the ACA, these state laws did allow insurance companies to exclude coverage for services related to pre-existing conditions for six months if coverage was purchased outside of an open enrollment period.

See, *A History of Promoting Health Coverage*, at [https://bluecrossmafoundation.org/sites/default/files/download/publication/History\\_Health\\_Coverage\\_MA\\_FINAL.pdf](https://bluecrossmafoundation.org/sites/default/files/download/publication/History_Health_Coverage_MA_FINAL.pdf).

2 The Supreme Court is charged with reviewing the Fifth Circuit Court of Appeals decision that the individual mandate is unconstitutional now that Congress has set the penalty to \$0. If the court holds that the mandate is unconstitutional, it must then consider whether the mandate can be separated from the rest of the law or whether the decision that the mandate is unconstitutional invalidates other parts — or the entirety — of the law.

3 The model used for this analysis does not include individuals ages 65 and older and also does not account for spending on long-term care.