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

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BACKGROUND

Texas v. United States, a case currently before the U.S. Court of Appeals for the Fifth Circuit, seeks to overturn the Affordable Care Act (ACA), a major piece of legislation that extends subsidized health insurance coverage to millions of people across the country. The court's decision in the case could be announced any day; however, regardless of the appellate court's decision, the case may go to the Supreme Court. If the Supreme Court overturns the ACA, every state will experience the ramifications. It is extremely difficult to measure the full impact of such a ruling given that hundreds of federal and state laws and regulations were enacted or issued to enforce the provisions of the ACA. Moreover, over the four years between the 2010 passage of the law and the 2014 implementation of major coverage provisions of the ACA, complex systems, such as those that determine eligibility for Medicaid and the Exchange Marketplace, were developed at the federal and state levels in response to the law's requirements. Health care providers and insurers also developed systems to comply with ACA requirements. It is not simple to reverse these widespread changes, ranging from the way income is measured for Medicaid eligibility to how insurers design health plans and set premiums. In an amicus brief, the American Hospital Association and other hospital groups argue that any ruling that overturned the ACA "would disrupt nine years of innovations that have become enmeshed in the health care landscape [and] wreak havoc on health care delivery in this country."[1] This brief focuses on the implications of repeal for Massachusetts in two specific areas: the effects on health insurance coverage and on federal health care dollars spent in the state. A description of our methods is found in the appendix to this brief.

When the ACA was passed in 2010, Massachusetts and six other states had federal Medicaid waivers[2] in place that expanded coverage to people not traditionally covered by Medicaid — such as low-income childless adults.[3] In Massachusetts, this waiver supported the development and financing of the subsidized health insurance program that was a key element of the state's 2006 health reform initiative and coverage expansion. As this and other reforms demonstrate, Massachusetts has a longstanding commitment to expanding health care 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 since. However, under a repeal of the ACA, Massachusetts, and other similarly situated states, would need to consider whether it could return to the subsidized coverage programs and financing structure in place prior to the ACA. Repeal of the ACA would cause large increases in the uninsured, leaving Massachusetts and its residents worse off than they were before the ACA was implemented.

POTENTIAL IMPACT OF FULL REPEAL **WITHOUT** REESTABLISHMENT OF 2006 SUBSIDIZED COVERAGE PROGRAMS

Our estimates are computed assuming that the ACA was repealed in 2019; we first estimate coverage and spending under current law for 2019 to make those comparisons. Insurance coverage in Massachusetts will decrease significantly if the ACA is repealed and the 2006 coverage programs are not reestablished. We estimate that 375,000 Massachusetts residents would lose health insurance coverage; see Table 1. As a result, the number of uninsured people in the state would nearly triple from about 194,000 to 569,000, and the uninsured rate would climb from 3.5 percent to 10.2 percent of the population under age 65, hereafter referred to as the nonelderly population. This means that the uninsured rate would be substantially higher than it was prior to implementation of the ACA in 2014 *and* prior to implementation of the state's own reform effort in 2006. In 2013 (prior to ACA implementation), 4.8 percent of the Massachusetts nonelderly population was uninsured[4] and in 2006 (prior to state health reform), 8.3 percent of the nonelderly Massachusetts population was uninsured.[5] In our analysis we assume people would lose coverage immediately in the wake of a Supreme Court ruling that the ACA was unconstitutional.

TABLE 1. 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	PERCENTAGE-POINT CHANGE	% DIFFERENCE	#	%	CHANGE FROM CURRENT	PERCENTAGE-POINT CHANGE	% DIFFERENCE
INSURED (MINIMUM ESSENTIAL COVERAGE)	**5,372**	**96.5%**	**4,997**	**89.8%**	**-375**	**-6.7%**	**-7.0%**	**5,332**	**95.8%**	**-40**	**-0.7%**	**-0.7%**
Employer	**3,295**	**59.2%**	**3,429**	**61.6%**	**134**	**2.4%**	**4.1%**	**3,394**	**61.0%**	**99**	**1.8%**	**3.0%**
Private Nongroup	**351**	**6.3%**	**129**	**2.3%**	**-222**	**-4.0%**	**-63.3%**	**486**	**8.7%**	**135**	**2.4%**	**38.4%**
• ConnectorCare	228	4.1%	0	0.0%	-228	-4.1%	-100.0%	359	6.5%	132	2.4%	57.7%
• Marketplace with Premium Tax Credits	18	0.3%	0	0.0%	-18	-0.3%	-100.0%	0	0.0%	-18	-0.3%	-99.5%
• Unsubsidized Marketplace	44	0.8%	0	0.0%	-44	-0.8%	-100.0%	0	0.0%	-44	-0.8%	-100.0%
• Other Nongroup	61	1.1%	129	2.3%	68	1.2%	110.3%	126	2.3%	65	1.2%	106.3%
Medicaid/CHIP	**1,647**	**29.6%**	**1,361**	**24.4%**	**-286**	**-5.1%**	**-17.4%**	**1,372**	**24.7%**	**-274**	**-4.9%**	**-16.6%**
• Disabled	295	5.3%	293	5.3%	-1	0.0%	-0.5%	294	5.3%	0	0.0%	-0.2%
• Medicaid Expansion	260	4.7%	0	0.0%	-260	-4.7%	-100.0%	0	0.0%	-260	-4.7%	-100.0%
• Traditional Nondisabled Adult	425	7.6%	420	7.5%	-5	-0.1%	-1.1%	420	7.5%	-4	-0.1%	-1.0%
• Nondisabled Medicaid/ CHIP Child	667	12.0%	647	11.6%	-20	-0.4%	-3.0%	658	11.8%	-9	-0.2%	-1.4%
Other Public	**79**	**1.4%**	**79**	**1.4%**	**0**	**0.0%**	**0.0%**	**79**	**1.4%**	**0**	**0.0%**	**0.0%**
UNINSURED	**194**	**3.5%**	**569**	**10.2%**	**375**	**6.7%**	**192.6%**	**234**	**4.2%**	**40**	**0.7%**	**20.6%**
TOTAL	**5,566**	**100.0%**	**5,566**	**100.0%**	**0**	**0.0%**	**0.0%**	**5,566**	**100.0%**	**0**	**0.0%**	**0.0%**

Source: The Urban Institute. Health Insurance Policy Simulation Model (HIPSM), 2019.

The largest share of those who would lose coverage are among the 260,000 people currently enrolled in MassHealth as a result of the ACA expansion in Medicaid eligibility. These enrollees include nondisabled childless adults with incomes up to 138 percent of the federal poverty level (FPL), or $17,236 for a single adult in

FIGURE 1.
IF THE ACA IS REPEALED, WHAT COVERAGE WILL THE MEDICAID EXPANSION POPULATION HAVE? (THOUSANDS OF PEOPLE)

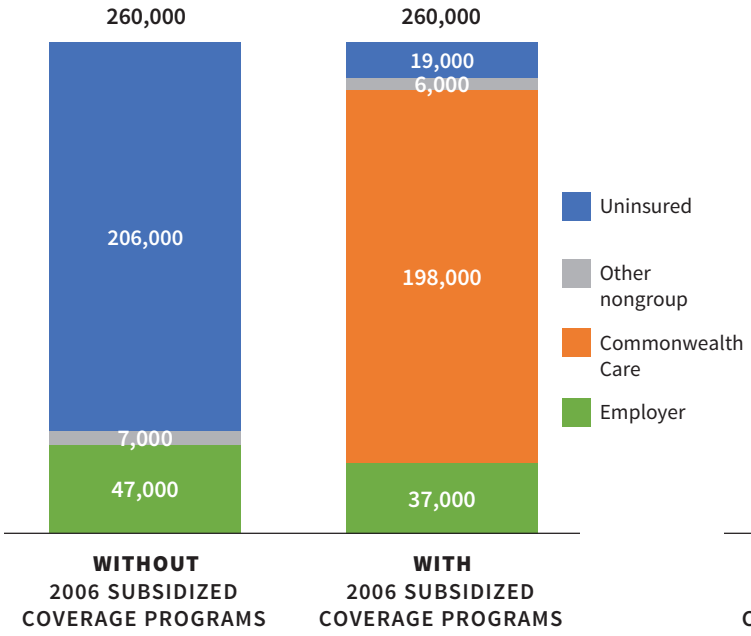
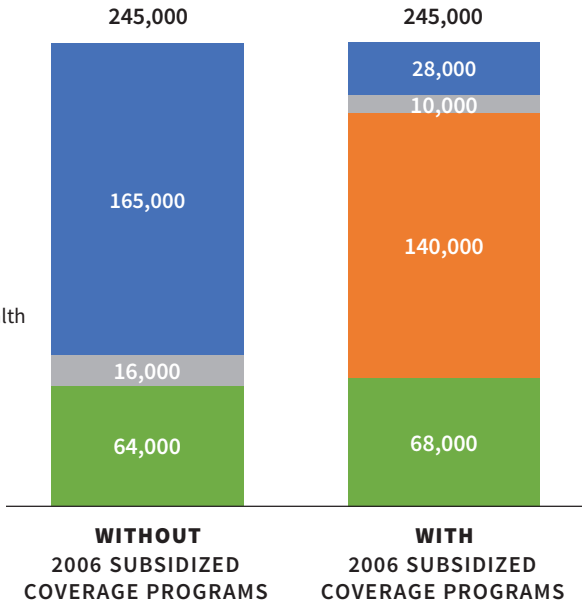


FIGURE 2.
IF THE ACA IS REPEALED, WHAT COVERAGE WILL THE SUBSIDIZED PRIVATE NONGROUP POPULATION HAVE? (THOUSANDS OF PEOPLE)



Source: The Urban Institute. Health Insurance Policy Simulation Model (HIPSM), 2019.

2019. In the absence of the ACA and the absence of the coverage programs that were in place in 2006, these people would no longer be eligible for Medicaid. About three-quarters of these people (over 200,000) would become uninsured, while the remainder would enroll in other types of coverage; see Figure 1. People in this income group generally have few alternative sources of insurance coverage since many are unemployed, self-employed, work part-time, or work for employers who do not offer coverage. Those who do have access to employer-sponsored coverage may find it difficult to afford the premium contributions and deductibles. Under a repeal of the ACA, less than one-fifth (47,000) of this group would enroll in employer-sponsored coverage. Financial assistance to purchase coverage in the nongroup market would no longer be available. Only 7,000 would purchase private coverage in the nongroup market without a subsidy.

Other people who would lose coverage are among the roughly 245,000 people currently enrolled in ConnectorCare or in Marketplace plans with a tax subsidy to help them afford their premiums.[6] Under the ACA, someone with an affordable offer of health insurance coverage from their employer is not eligible for these subsidies. This means employer-sponsored coverage is not available to most ConnectorCare and subsidized Marketplace enrollees, either because they work part-time or because they work for employers that do not offer insurance to any worker, or their employer's offer of insurance is unaffordable, or they are self-employed. In the absence of the ACA or the reestablishment of the state's 2006 coverage programs, ConnectorCare and subsidized Marketplace plans would be eliminated, and more than two-thirds of their enrollees (about 165,000 people) would become uninsured; see Figure 2. A little more than one-quarter (64,000 people) would find coverage through an employer-sponsored plan; it is likely they would be paying a very high premium relative to their income. Less than one-tenth (16,000 people) would purchase coverage in the nongroup market without a subsidy.

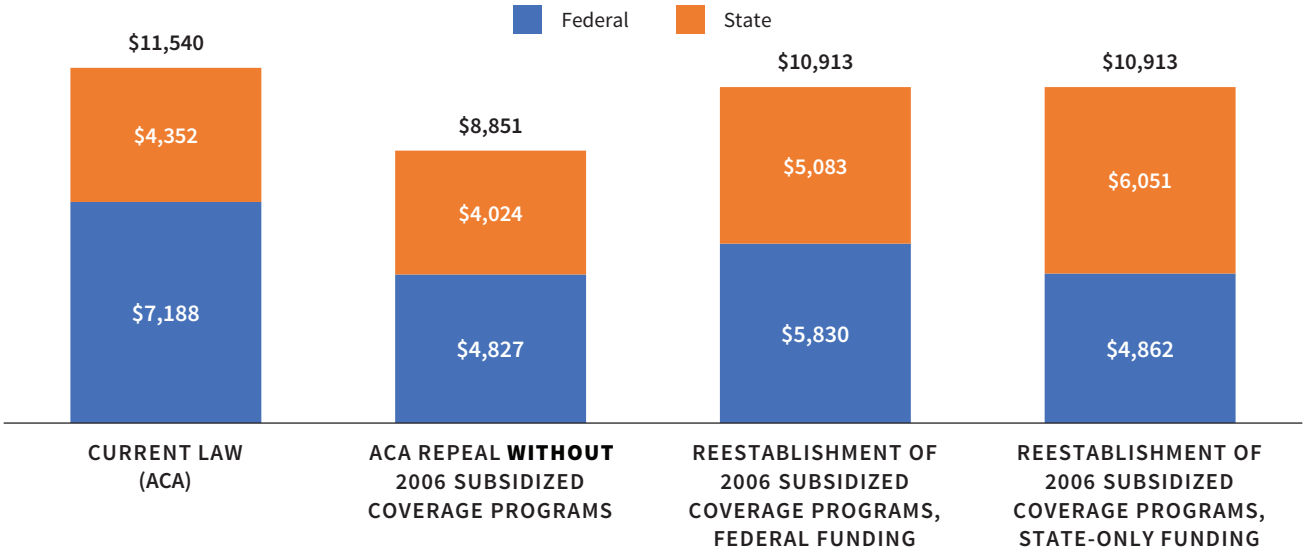
Federal spending on health care in Massachusetts would drop substantially in the wake of the ACA being overturned and the state not reestablishing its 2006 coverage programs. Federal funding for the state's Medicaid

program would decline as eligibility is rolled back. Simultaneously, federal funding for premium tax credits (which help individuals afford their coverage in the Health Connector, Massachusetts' Marketplace) would cease. Total federal spending on health care in Massachusetts would fall from $7.2 billion to $4.8 billion per year in 2019 dollars, a decline of $2.4 billion; see Figure 3. At the same time, state spending would decrease by $328 million if no other changes were made. Thus total government health spending in Massachusetts would decrease by $2.7 billion, from $11.5 billion to $8.9 billion. These changes would have large consequences for families, the Commonwealth, and health care providers in the state.

These dramatic declines in federal spending would directly affect health care providers, as some of their patients would transition from insured to uninsured. Hospitals and other providers who serve the uninsured would experience more unpaid bills, or "bad debt." If the ACA were overturned in its entirety, we estimate that people losing health coverage would seek at least $400 million in additional uncompensated care, including care sought from hospitals, physician offices, prescription drug manufacturers, and other providers.[7] This increase in the demand for free or reduced-price care would occur in the wake of the coverage losses detailed above, as uninsured residents without the ability to pay for their care presented themselves at hospitals, community health centers, and other health care providers. However, it is unlikely that providers would meet all of this increase in demand for uncompensated care, and patients could experience higher levels of unmet need.

In an unrelated study, an analysis based on cost reports filed by hospitals in Massachusetts found that the 2006 health reforms reduced hospital bad debt by 26 percent.[8] This evidence suggests that if the ACA is overturned, the resulting decrease in coverage could increase the level of bad debt experienced by hospitals to pre-2006 levels. Several other studies have found that hospital finances improved in states that expanded Medicaid eligibility under the ACA relative to states that did not expand eligibility.[9] The studies found that hospital spending on uncompensated care fell and Medicaid revenues rose, resulting in improved margins. Thus the evidence strongly suggests that overturning the ACA and substantially increasing the number of uninsured residents could be expected to cause significant financial strain on hospitals in Massachusetts. Moreover, the state's Uncompensated Care Pool that existed prior to the 2006 reforms to compensate providers with bad debt is no longer available at the same levels, having been used to partly fund the expansion of coverage under the 2006 waiver.

FIGURE 3. CHANGES IN FEDERAL AND STATE FUNDING FOR MASSACHUSETTS UNDER ACA REPEAL (MILLIONS OF DOLLARS)



Source: The Urban Institute. Health Insurance Policy Simulation Model (HIPSM), 2019.

POTENTIAL IMPACT OF FULL REPEAL **WITH** REESTABLISHMENT OF 2006 SUBSIDIZED COVERAGE PROGRAMS

The results presented in the previous section assume that Massachusetts would revert to its pre-2006 programs and levels of eligibility, before the passage of the Commonwealth Care program (which was the predecessor to the ConnectorCare program). In 2006, Massachusetts passed legislation to establish Commonwealth Care, providing subsidized health insurance coverage for adults with income up to 300 percent of the FPL who were ineligible for other public programs and who were not eligible for employer-sponsored insurance or student health insurance.[10] Given this leadership and dedication to health coverage by all stakeholders, we have also estimated the implications of full repeal of the ACA if the coverage programs established under the 2006 reform are reestablished, under two funding options: one in which the federal government contributes to the costs of the programs consistent with funding arrangements in place in the 2006 reforms, and the other in which the state covers the full cost of the 2006 programs.

When we assume that if the ACA were overturned, and that Massachusetts would revert to its 2006 coverage program (known as Commonwealth Care), only 40,000 people would lose coverage. This stands in sharp contrast to the previous scenario, in which 375,000 more people would be uninsured; see Table 1. Federal health care spending in Massachusetts would decline substantially but by less so than under the previous scenario.

Of the 260,000 people enrolled in MassHealth under current law — as a result of the ACA expansion in Medicaid eligibility — nearly 200,000 would remain covered under Commonwealth Care if that program was reinstated; see Figure 1. Approximately 37,000 people would enroll in employer-sponsored coverage, and about 6,000 people would purchase coverage in the nongroup market without subsidies. However, about 19,000 people in this group would become uninsured.

Of the 245,000 people enrolled in ConnectorCare or in the Marketplace with a subsidy under current law, more than half, about 140,000 people, would maintain coverage through Commonwealth Care under a repeal of the ACA in a scenario where this 2006 coverage program was reinstated; see Figure 2. More than one-quarter, or 68,000 people, would enroll in employer-sponsored coverage, while 10,000 people would purchase coverage in the nongroup market without a subsidy. About 28,000 people in this group would become uninsured.

Federal funding for Medicaid would fall substantially, while federal funding for subsidies in the nongroup market would drop to zero. In a scenario where the state reestablishes its 2006 coverage programs with federal participation, federal health care funding for Massachusetts would shrink by $1.4 billion per year in 2019 dollars, a decline of 19 percent; see Figure 3. State spending would have to increase by $731 million per year, or 17 percent, over present-day spending, and total government health spending in Massachusetts would fall by $627 million. Should the federal government no longer participate in the financing of a reestablished Commonwealth Care program, Massachusetts could maintain the program at its own cost. However, doing so would require the state to raise its own spending on health care programs by $1.7 billion per year, or 39 percent.

CONCLUSION

As we illustrate here, a court decision to overturn the ACA would have serious and widespread implications for Massachusetts. In the scenario where the ACA is overturned and Massachusetts is not able to reestablish its 2006 coverage programs, hundreds of thousands of people would lose their health insurance coverage, increasing the uninsured rate among the Massachusetts nonelderly population from 3.5 percent today to 10.2 percent. This would also be well above the pre-ACA uninsured rate of 4.8 percent in 2013. The much larger number of uninsured would be accompanied by the loss of more than $2 billion per year in federal health care spending in the state. At the same time, the state and its health care providers would be hit with large increases in the demand for uncompensated care. If the ACA is repealed and Massachusetts is not able to reestablish the coverage programs and financing that supported the 2006 health reform initiative, the state and its residents would likely be worse off in terms of coverage and federal financing than they were prior to the ACA's enactment.

Given its historical commitment to health reform and expanding access to coverage, it is reasonable to assume Massachusetts would continue its efforts to maintain near-universal coverage. However, this brief also demonstrates that reestablishment of the state's 2006 reform programs would still result in 40,000 people losing coverage, substantial declines in federal funding for Medicaid, and the loss of all federal subsidies in the nongroup market. State spending would have to increase by $731 million per year to reestablish those 2006 subsidized coverage programs, assuming federal financial support. In the absence of federal financial support for those programs, the state would need to increase its own spending on health care programs by $1.7 billion per year. These results clearly demonstrate the significant impact that repeal of the ACA will have on coverage and financing for health care in Massachusetts under a variety of scenarios.

APPENDIX: METHODOLOGY

We simulated health care coverage and costs under current law and alternative ACA repeal scenarios using the Urban Institute's Health Insurance Policy Simulation Model (HIPSM). HIPSM is a detailed microsimulation model of the health care system designed to estimate the cost and coverage effects of proposed health care policy options. In HIPSM, individuals and families are assumed to choose, among the coverage options available to them, the option that is most desirable or provides the greatest utility. Decisions are based on premiums, expected out-of-pocket costs, health care risk, family disposable income, and whether the Massachusetts individual mandate penalty would apply. Affordability of coverage is built into the decision-making, as is the Massachusetts individual mandate requirement for those who are not exempt. HIPSM is designed for quick-turnaround analysis of policy proposals. It can be rapidly adapted to analyze a wide variety of scenarios — from novel health insurance offerings to strategies for increasing affordability to state-specific proposals — and can estimate the effects of a policy option over several years.

HIPSM calculates who is eligible for subsidized coverage under the public programs available in each scenario, including Medicaid, Commonwealth Care, ConnectorCare, and the Marketplace, so that these options are included in each individual's or family's set of options. The model also includes information on people's access to employer-sponsored insurance, either through their own or a family member's job. In a policy simulation, the model analyzes how changes in eligibility and costs of coverage affect individual, family, and employer decisions. Changes in one insurance market can result in changes in other markets. For example, if a group of people lose Medicaid eligibility, some of them will become uninsured, but others may decide to enroll in employer-sponsored insurance and pay the employee premium. If another group of people lose access to subsidized coverage in the nongroup market, some of them may decide to purchase another plan in the nongroup market without a premium subsidy, and others may decide to enroll in employer-sponsored insurance and pay the employee premium. HIPSM assumes that Massachusetts state insurance market regulations (consistent with the 2006 reforms), including guaranteed issue, modified community rating, merged small group and nongroup insurance markets, and the state-based individual mandate, would remain in place under ACA repeal.

HIPSM is based on two years of data from the American Community Survey, which provide a representative sample of families that is large enough to allow estimates for individual states and smaller regions such as cities. The model is designed to incorporate timely real-world data to the extent that they are available. For the estimates in this brief, we customized the model to incorporate detailed information on 2019 enrollment and health care costs provided by MassHealth, the Massachusetts Health Connector, and the Center for Health Information and Analysis.

Results from HIPSM simulations have been favorably compared to actual policy outcomes and compared to other respected microsimulation models, as assessed by outside experts.[11] Findings from the model were cited in the majority opinion in the Supreme Court case *King v. Burwell*, in many amicus briefs submitted to the court in that case, and in a number of briefs submitted in the *Texas v. United States* case. Findings from HIPSM have been broadly cited in top-tier media, including the *New York Times*, *Washington Post*, *Wall Street Journal*, *Vox*, *CNN*, and *Los Angeles Times*. Results from HIPSM have been displayed on the floor of the U.S. Senate during debate and are widely distributed among legislative staff.

Limitations: HIPSM does not model student health insurance as a potential source of coverage, nor does it explicitly model the exclusion of students from the Massachusetts 2006 health reform program Commonwealth Care. This is a potential issue in the second scenario presented in this brief: the estimates of changes in coverage and cost if the ACA was repealed and Massachusetts was able to reinstate its 2006 programs. Under this scenario, students who are enrolled in MassHealth or ConnectorCare would lose their coverage and would also be excluded from enrolling in Commonwealth Care. Although we are not able to specifically model this aspect of the state program, the underlying data in HIPSM capture student coverage distributions from a period after the 2006 Massachusetts reform and before the ACA was implemented in 2014, a period when students were excluded from Commonwealth Care. This suggests that our estimates of repeal of the ACA are roughly consistent with a reinstatement of that policy regarding students.

For more information on HIPSM and related research, see http://www.urban.org/hipsm.

ENDNOTES

1 Brief of the American Hospital Association et al. as Amici Curiae in Support of Intervenor Defendants-Appellants, Texas v. United States of America, No. 4:18-cv-00167-O, Ca. Att'y Gen. 2557 Tx. Dist. Ct. (2018) (No. 19-10011).

2 The seven states were Arizona, Delaware, Hawaii, Massachusetts, New York, Vermont, and Wisconsin.

3 States may request approval from the Secretary of Health and Human Services to waive certain provisions of Medicaid and Children's Health Insurance Program (CHIP), under Section 1115 of the Social Security Act. A waiver permits a state to use Medicaid and CHIP funds in ways that are not otherwise allowed under federal rules as long as the initiative is likely to promote the objectives of the program. Prior to the ACA, states required waivers to extend Medicaid coverage to populations not traditionally covered in Medicaid, such as low-income childless adults without disabilities.

4 John Holahan, Caroline Elmendorf, Linda Blumberg, and Laura Skopec. "A Typology for Analyzing Coverage Gains by State: 2013–2017," Urban Institute, September 2019. www.urban.org/sites/default/files/publication/101035/a_typology_for_analyzing_coverage_gains_by_state_2013-2017_0.pdf.

5 Robin Cohen and Michael Martinez, "Health Insurance Coverage: Early Release of Estimates from the National Health Interview Survey, 2006," June 2007. www.cdc.gov/nchs/data/nhis/earlyrelease/insur200706.pdf. The Health Insurance Policy Simulation Model (HIPSM) estimates are most consistent with the American Community Survey. Different household surveys measure uninsured rates somewhat differently, and the published 2006 National Health Interview Survey estimate is not precisely comparable to the estimates presented here.

6 ConnectorCare is a program that provides enhanced premium and cost sharing subsidies to individuals with income up to 300% FPL who are also receiving premium tax credits.

7 This estimate is based on national historical data demonstrating how much uncompensated care is used by people who are uninsured. This estimate does not capture any conditions specific to Massachusetts, like the existence of the Health Safety Net, which likely results in more uncompensated care. These costs are the estimated costs for providers caring for the uninsured who seek health care services and are not able to pay for them. It should be noted that some of the newly uninsured will go without needed health care services, pay out of pocket, or finance services on a credit card.

8 Arrieta, Alejandro. "The Impact of the Massachusetts Health Care Reform on Unpaid Medical Bills," *Inquiry: The Journal of Health Care Organization, Provision, and Financing* 2013, Vol. 50(3) 165–176.

9 Blavin, Fredric. "Association between the 2014 Medicaid expansion and US hospital finances." *JAMA*. 2016;316(14):1475–1483. April 3, 2017. "How Has the ACA Changed Finances for Different Types of Hospitals? Updated Insights from 2015 Cost Report Data." Washington, DC: Urban Institute; Lindrooth, Richard C., Marcelo C. Perraillon, Rose Y. Hardy, and Gregory J. Tung. 2018. "Understanding the Relationship Between Medicaid Expansions and Hospital Closures," *Health Affairs* 37:1, pp 111-120, January 2018; Rhodes, Jordan H., Thomas C. Buchmueller, Helen G. Levy, and Sayeh S. Nikpay. 2019. "Heterogeneous Effects of the ACA Medicaid Expansion on Hospital Financial Outcomes" *Contemporary Economic Policy*.

10 Those income thresholds would translate into $63,990 for a family of three and $37,470 for an individual in 2019.

11 Sherry A. Glied, Anupama Arora, Claudia Solís-Román (2015). The CBO's Crystal Ball: How Well Did It Forecast the Effects of the Affordable Care Act? The Commonwealth Fund. http://www.commonwealthfund.org/publications/issue-briefs/2015/dec/cbo-crystal-ball-forecast-aca.

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