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Congress Should Bolster ACA Marketplace Coverage Amid COVID-19

Marketplaces Can Do Even More to Protect People From Health and Economic Hardship

By Tara Straw, Sarah Lueck, and Aviva Aron-Dine

As the COVID-19 pandemic triggers staggering job losses and slashes families' incomes, the Affordable Care Act's (ACA) health insurance marketplaces are a crucial source of comprehensive health insurance for millions of people. But others who could benefit from marketplace coverage will remain uninsured due to inadequate financial assistance, because enrollment is closed to them, or due to other barriers. Congress should take steps to help as many people as possible access marketplace plans at this critical time.

Comprehensive health coverage is important under any circumstances because it improves access to care, financial security, and people's health outcomes when they get sick. But extending comprehensive health coverage to more people is even more critical during a pandemic and severe recession. Health coverage shields families from financial hardship and also supports public health efforts, allowing people to seek the testing and treatment needed to curb the disease's spread. So far, the federal legislation enacted in response to COVID-19 has not included any provisions to extend health coverage or make it more affordable. Congress can and should address this gap.

Specifically, policymakers should:

- **Make marketplace plans more accessible** with new special enrollment periods (SEPs), both a time-limited emergency SEP for everyone and a new SEP for people who lose their jobs, even if they weren't enrolled in health coverage. Legislation should also fund and require the Administration to conduct outreach about marketplace coverage.
- **Make marketplace plans more affordable** by increasing premium tax credits and protecting people from having to repay large amounts of premium tax credits due to uncertainty and volatility in their incomes during the recession.

Legislation introduced by House Democratic leaders, the Heroes Act (H.R. 6800), would establish an emergency SEP and provide robust funding for outreach. But it falls short on affordability since

it does not include improvements in premium tax credits or protections against premium tax credit repayment.¹

These improvements to marketplace coverage are needed even though the Heroes Act includes subsidies for COBRA, which lets workers losing their jobs continue purchasing coverage through their employers. COBRA coverage is unavailable to many unemployed workers, including many low-income people and people of color, whereas premium tax credit improvements would make coverage more affordable for those who need help the most. Even before the pandemic, low-income people and people of color were more likely to be uninsured and face barriers to accessing health care, and these groups have been especially hard hit by the economic crisis and by the illness itself.²

Likewise, the funding for health providers enacted in previous COVID-19 response bills is no substitute for expanding access to comprehensive coverage. The Trump Administration has claimed there is no need for additional steps to strengthen marketplace coverage because it is planning to use some of this funding to cover COVID-19 costs for the uninsured.³ But reimbursing providers for some COVID-19 treatment costs does not give consumers the financial security and access to health care services that come with comprehensive coverage.⁴

Marketplaces Provide an Alternative to Job-Based Coverage

Millions of people will lose job-based coverage during the economic downturn. About 27 million people (both workers and their family members) had already lost coverage by May 2, as job losses mounted amid the COVID-19 pandemic, the Kaiser Family Foundation estimates.⁵ If the unemployment rate rises from 14.7 percent in April to 20 percent, as some forecasts suggest may occur by June, as many as 43 million people could lose employer-sponsored health coverage, the Urban Institute estimates.⁶

¹ The next COVID-19 response legislation should also include measures to address the looming state budget crisis, protect Medicaid coverage, and improve financial security for struggling families, as the Heroes Act does. See Robert Greenstein, “Pelosi Package Would Provide Needed Support for Economy, Relief to Households,” Center on Budget and Policy Priorities, May 12, 2020, <https://www.cbpp.org/press/statements/greenstein-pelosi-package-would-provide-essential-support-for-economy-relief-to>.

² Samantha Artiga, Rachel Garfield, and Kendal Orgera, “Communities of Color at Higher Risk for Health and Economic Challenges due to COVID-19,” Kaiser Family Foundation, April 7, 2020, <https://www.kff.org/coronavirus-covid-19/issue-brief/communities-of-color-at-higher-risk-for-health-and-economic-challenges-due-to-covid-19/>; and LaDonna Pavetti and Peggy Bailey, “Boost the Safety Net to Help People With Fewest Resources Pay for Basics During the Crisis,” CBPP, April 29, 2020, <https://www.cbpp.org/research/poverty-and-inequality/boost-the-safety-net-to-help-people-with-fewest-resources-pay-for>.

³ Adam Cancryn, Nancy Cook, and Susannah Luthi, “How Trump surprised his own team by ruling out Obamacare,” Politico, April 3, 2020, <https://www.politico.com/news/2020/04/03/trump-obamacare-coronavirus-164285>.

⁴ Christen Linke Young *et al.*, “Responding To COVID-19: Using The CARES Act’s Hospital Fund To Help The Uninsured, Achieve Other Goals,” *Health Affairs* Blog, April 11, 2020, <https://www.healthaffairs.org/doi/10.1377/hblog20200409.207680/full/>.

⁵ Rachel Garfield *et al.*, “Eligibility for ACA Health Coverage Following Job Loss,” Kaiser Family Foundation, May 13, 2020, <https://www.kff.org/coronavirus-covid-19/issue-brief/eligibility-for-aca-health-coverage-following-job-loss/>.

⁶ Bowen Garrett and Anuj Gangopadhyaya, “How the COVID-19 Recession Could Affect Health Insurance Coverage,” Urban Institute, May 2020, https://www.rwjf.org/en/library/research/2020/05/how-the-covid-19-recession-could-affect-health-insurance-coverage.html?cid=xsh_rwjf_tw. ⁷ Anuj Gangopadhyaya and Bowen Garrett, “Unemployment, Health

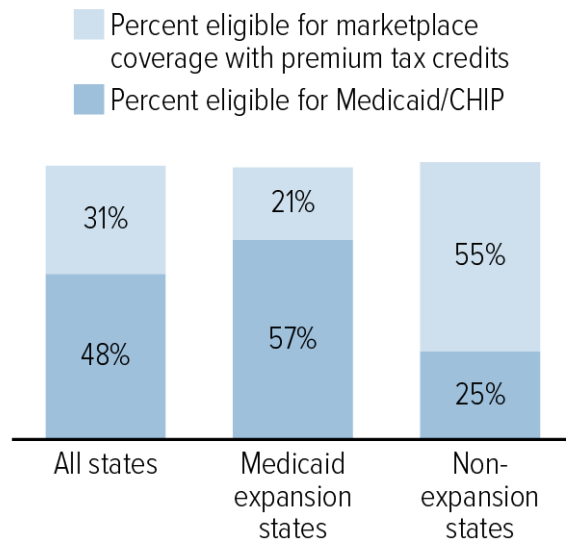
Since taking effect in 2014, the ACA marketplaces and Medicaid expansion have provided health insurance to many who lack it at their jobs, including gig workers, the self-employed, and people who work for small businesses, as well as those who are unemployed. The uninsured rate among unemployed people fell markedly after the ACA was fully implemented in 2014. While states that expanded Medicaid saw the largest gains, non-expansion states also saw drops in uninsured rates for unemployed people due to the availability of marketplace coverage.⁷

The importance of the marketplaces is likely to grow in this recession. In prior recessions, which occurred before the ACA became law, people who lost job-based coverage often had nowhere to turn. This time, the marketplaces and the ACA’s Medicaid expansion (which 35 states and Washington, D.C. have implemented) are serving as vital sources of affordable coverage. As Senator John Cornyn, a Texas Republican, recently noted, “The good news is that if you lose your employer-provided coverage... [that] makes you then eligible to sign up for the Affordable Care Act... [I]t has a sliding scale of subsidies up to 400 percent of poverty. So that’s an option for people.”⁸

FIGURE 1

Many Losing Job-Based Coverage Can Get Medicaid/CHIP or Premium Tax Credits

Eligibility among people who recently lost job-based coverage



Note: CHIP = Children’s Health Insurance Program. Medicaid expansion states are those that have taken up the Affordable Care Act option to cover low-income adults. Estimates are for May program eligibility for people who lost job-based coverage between March 1 and May 2, 2020 and assume workers receive unemployment benefits.

Source: Kaiser Family Foundation

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The Kaiser Family Foundation estimates that 31 percent of those who have already lost job-based coverage are eligible for subsidized marketplace coverage. (See Figure 1.) Subsidized marketplace coverage is an important option for workers in all states but will play an especially crucial role for lower-income people in non-expansion states, where an estimated 55 percent of those who have lost

Insurance, and the COVID-19 Recession,” Urban Institute, April 2020, https://www.urban.org/sites/default/files/publication/101946/unemployment-health-insurance-and-the-covid-19-recession_1.pdf.

⁷ Anuj Gangopadhyaya and Bowen Garrett, “Unemployment, Health Insurance, and the COVID-19 Recession,” Urban Institute, April 2020, https://www.urban.org/sites/default/files/publication/101946/unemployment-health-insurance-and-the-covid-19-recession_1.pdf.

⁸ Jennifer Bendery, “John Cornyn Encourages People to Sign Up for Obamacare After Fighting to Repeal It,” HuffPost, May 13, 2020, https://www.huffpost.com/entry/john-cornyn-affordable-care-act-repeal_n_5eb99535c5b65e6c9a4d98d0.

job-based coverage to date are eligible for premium tax credits.⁹ (These estimates are for May 2020 and assume workers are receiving unemployment insurance, or UI.¹⁰)

But some people who need help won't be eligible to enroll in the marketplace under current rules because they didn't have employer coverage before losing their job. And some people who are eligible for assistance will opt not to enroll because of financial and other barriers. Many millions could become or remain uninsured at the worst possible time. Federal legislation should focus on making it easier and more affordable for these people to enroll in the marketplace.

Make Marketplace Coverage More Accessible

People can enroll in marketplace plans during a yearly open enrollment period each fall. The last open enrollment, for 2020 plans, had already ended when the pandemic and job losses hit the United States. To enroll in the marketplace and access premium tax credits for the rest of the year, people must therefore qualify for a special enrollment period (SEP).

Some people harmed by the COVID-19 crisis will not be eligible for a marketplace SEP under current federal rules. People qualify for an SEP if they have lost other qualifying coverage. Other events that trigger an SEP include the birth of a child and moving to a new geographic area. But people who lose their jobs or experience a sharp drop in income and were already uninsured will not qualify to enroll in the marketplace. Along with the 27 million people who have lost job-based coverage over the past few months, Kaiser estimates that about 7 million people in families where someone has become unemployed were already uninsured prior to job loss and thus wouldn't be eligible to enroll in the marketplace, even if they otherwise qualified for subsidized coverage.

Even for people who do qualify for an SEP, following through to enrollment can be challenging. First, they must know where and how to apply for coverage, but many people are not familiar with the marketplaces or the situations that trigger an SEP. Second, to apply, people must supply all the usual information needed for an eligibility determination as well as details related to SEPs, such as when they lost other coverage, and they usually have to meet a 60-day deadline. Often, people are asked to supply documents (such as a letter from a former employer or health insurer) to verify that they are eligible for an SEP.

This information and related documents may be difficult to obtain due to office closures and other social distancing protocols in place due to the public health emergency. At the moment, many marketplaces, including the federal marketplace, known as HealthCare.gov, are allowing people to attest to their eligibility rather than requiring paper documents, but this may not remain the case for the duration of the public health and economic crises.

⁹ In expansion states, people with incomes between 100 and 138 percent of the poverty line qualify for Medicaid; in non-expansion states, this group qualifies for subsidized marketplace coverage. Many unemployed workers and their families are likely to fall into this income range.

¹⁰ Without UI or after unemployment benefits lapse, more people in expansion states will qualify for Medicaid, but many people in non-expansion states will fall into the coverage gap, being ineligible for both Medicaid and premium tax credits. The Kaiser analysis takes into account the UI enhancements enacted as part of the Coronavirus Aid, Relief, and Economic Security Act.

Require HealthCare.gov to Open a Time-Limited SEP

Eleven states and the District of Columbia that fully run their own health insurance marketplaces (rather than relying on HealthCare.gov) acted quickly to implement time-limited emergency SEPs to allow uninsured people to enroll during the public health emergency. Preliminary data show this helped many people access coverage: thousands enrolled in marketplace plans, while others visited their state marketplaces because of the SEP and learned that they were eligible for Medicaid.

- In California, more than 84,000 people signed up for marketplace plans during roughly the first five weeks of the emergency SEP — 2.5 times more enrollment than during the same calendar period the prior year.¹¹
- In Maryland, more than 4,000 people enrolled in the state’s marketplace plans in just the first two weeks of the state’s emergency SEP, and nearly 6,000 enrolled in Medicaid.¹²
- In Massachusetts, more than 8,000 people enrolled using the COVID-19 SEP within the first 40 days. More than 11,000 additional people have enrolled since early March, using other extended enrollment pathways including the SEP for loss of other coverage or because the state allows many people with lower incomes to enroll throughout the year in private plans.¹³

Many of the states that created emergency SEPs have extended them beyond their initial deadlines, with several allowing people to continue to enroll through June or even, in the case of Washington, D.C., September.

The Administration has the authority to create a similar SEP for the 38 states that rely on HealthCare.gov. This would be a simple way to open the door to people who newly want insurance, for any reason, and to reduce SEP documentation burdens on applicants as well as the agencies and contractors that operate the eligibility and enrollment system. It has broad support from stakeholders, including governors of many states using HealthCare.gov and health insurer associations.¹⁴

Unfortunately, the Trump Administration has so far refused to use this authority. The Centers for Medicare & Medicaid Services (CMS) reportedly was poised to create an SEP, but the White House

¹¹ “Covered California Continues to See Strong Consumer Interest in Quality Health Care Coverage During the COVID-19 Pandemic,” press release, Covered California, April 28, 2020, <https://www.coveredca.com/newsroom/news-releases/2020/04/28/covered-california-continues-to-see-strong-consumer-interest-in-quality-health-care-coverage-during-the-covid-19-pandemic/>.

¹² “Maryland Health Connection Data Report,” March 31, 2020, https://www.marylandhbe.com/wp-content/uploads/2020/04/Executive-Report_3_31_2020.pdf.

¹³ “Massachusetts Health Connector COVID-19 Special Enrollment Period: Results to Date,” Massachusetts Health Connector, May 1, 2020, <https://www.mahealthconnector.org/wp-content/uploads/Health-Connector-COVID-19-SEP-Brief-050120.pdf>.

¹⁴ See Rebecca Klar, “12 Governors Press Trump for Special Obamacare Enrollment Period Amid Coronavirus Pandemic,” *The Hill*, April 13, 2020, <https://thehill.com/homenews/state-watch/492555-12-governors-call-on-trump-to-open-special-obamacare-enrollment-period>; “Governor Ducey Requests Special Health Care Enrollment Period,” March 25, 2020, <https://azgovernor.gov/governor/news/2020/03/governor-ducey-requests-special-health-care-enrollment-period>; and America’s Health Insurance Plans and Blue Cross Blue Shield Association, Letter, March 19, 2020, <https://www.ahip.org/wp-content/uploads/AHIP-and-BCBSA-Legislative-Recommendations-03.19.2020.pdf>.

stepped in to block it from doing so.¹⁵ Given the Administration’s refusal to act, Congress should mandate the creation of an emergency SEP, as the Heroes Act would do. The bill proposes an eight-week SEP for the marketplace, which would take effect in all states that have not already provided an emergency SEP, and it would allow people’s coverage to be effective retroactive to April.

Create an SEP for Loss of Job, Not Just Loss of Job-Based Coverage

It would also be helpful to create an SEP for anyone who loses their job even if they have not lost job-based coverage. Such an SEP could be permanent, or it could be made available for the duration of the current economic crisis.

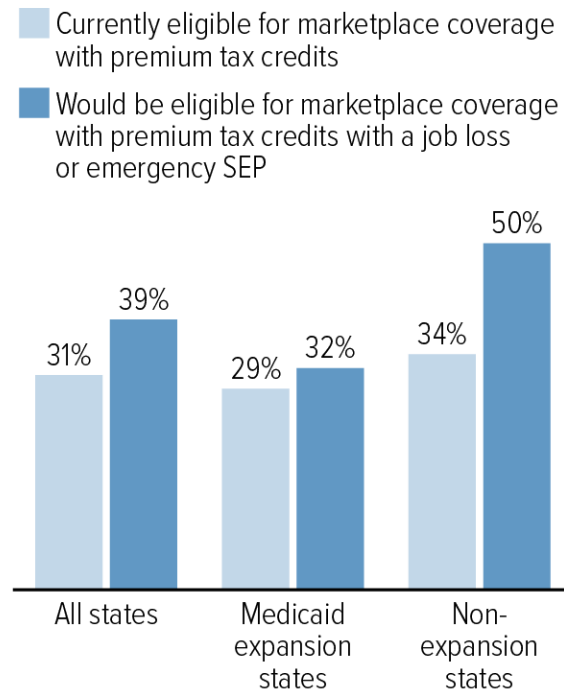
The scale of job losses as a result of the pandemic is staggering. As discussed above, many of these people would qualify for the existing “loss of coverage” SEP because they have also lost their employer-sponsored health coverage. Others will qualify for Medicaid, which allows people to enroll year-round. But a new SEP tied to job loss (irrespective of loss of coverage) would help many more people when they or their family members become unemployed, including cases where the employer didn’t offer coverage or the worker opted not to enroll in their employer plan.

A recent Urban Institute analysis examines workers in industries especially vulnerable to job loss (such as restaurants, certain retail, and child care) and what their coverage options would be if they lost their jobs.¹⁶ Because some such workers are currently uninsured, they would not qualify for marketplace coverage without a special SEP. A job-loss SEP would increase by about a quarter the number of these workers (and their family members) able to access subsidized marketplace coverage if they lost their jobs, the Urban Institute estimates show, with a larger impact in non-expansion states. With a job-loss SEP, 39 percent of

FIGURE 2

Special Enrollment Period (SEP) for Job Loss Would Let More People Access Marketplace Plans

Eligibility for workers in vulnerable industries (and family members) if they lost their jobs



Note: Special enrollment periods allow people to sign up for marketplace coverage outside of the annual open enrollment period. Vulnerable industries are those at risk of job cuts during the pandemic. Marketplace and primary tax credit eligibility assumes that workers lost their jobs and were eligible for unemployment insurance.

Source: Urban Institute, Health Insurance Policy Simulation Model, April 2020

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¹⁵ Susannah Luthi, “Trump rejects Obamacare special enrollment period amid pandemic,” Politico, March 31, 2020, <https://www.politico.com/news/2020/03/31/trump-obamacare-coronavirus-157788>.

¹⁶ Linda J. Blumberg *et al.*, “Potential Eligibility for Medicaid, CHIP, and Marketplace Subsidies Among Workers Losing Jobs in Industries Vulnerable to High Levels of COVID-19-Related Unemployment,” Urban Institute, April 2020, https://www.urban.org/sites/default/files/publication/102115/potential-eligibility-for-medicaid-chip-and-marketplace-subsidies-among-workers-losing-jobs-in-industries-vulnerable-to-high-levels-of-covid-19-related-unemployment_0.pdf.

such workers (and their family members) would qualify for subsidized marketplace coverage, compared to 31 percent in the continued absence of such an SEP. In non-expansion states, the share would increase from 34 to 50 percent.¹⁷ (See Figure 2.)

In addition to expanding eligibility for marketplace coverage, a job-loss SEP would also make it easier for people dealing with job loss to understand and corroborate that they qualify for an SEP; as noted above, currently, even many people who qualify find the requirements confusing. And it would simplify outreach to the newly unemployed since they would all qualify to purchase a marketplace plan regardless of the particulars of their situation. A job-loss SEP would be beneficial even if Congress also establishes a one-time emergency SEP, as the Heroes Act would do, since job losses will continue after that SEP ends. And because job loss usually occurs for reasons unrelated to health care needs, a long-term or permanent job-loss SEP shouldn't create significant concerns about adverse selection.

Expand Consumer Assistance

Since 2017, CMS has slashed the budget for HealthCare.gov outreach and advertising by 90 percent, and funding for navigators, people who provide impartial enrollment assistance to consumers, by 84 percent.¹⁸ Some states supplement this funding, and state-based marketplaces such as Covered California have made a particularly strong outreach push.¹⁹

Requiring and funding HealthCare.gov to mount an aggressive email, digital, and television outreach campaign would let people know that if they've lost insurance or experienced another life change, marketplace coverage may be available. As noted above, creating a new SEP for job loss would simplify this outreach, since the campaign could simply let people know that if they've lost their job, they can enroll through the marketplace. (In addition, outreach can let people know that Medicaid and the Children's Health Insurance Program are available at any time.) Marketplaces can also conduct outreach to current enrollees whose income may have fallen to alert them that they may qualify for a higher premium tax credit or Medicaid.

Additional funding could also be used to facilitate Medicaid and marketplaces' coordination with other state agencies — such as unemployment agencies — to reach people who are newly eligible for help paying for health care. And HealthCare.gov, state-based marketplaces, and Medicaid call centers may need more funding so that additional staff are available to handle a surge in calls, can adapt to remote work and other social distancing requirements, and are sufficiently trained in SEP-, UI-, and Medicaid-related questions. The Heroes Act would require the Department of Health and Human Services (HHS) to conduct education and outreach to inform more people about marketplace plans and financial assistance and would appropriate \$25 million for this purpose.

¹⁷ These estimates assume that workers receive unemployment benefits.

¹⁸ Karen Pollitz, Jennifer Tolbert, and Maria Diaz, "Data Note: Limited Navigator Funding for Federal Marketplace States," Kaiser Family Foundation, November 13, 2019, <https://www.kff.org/private-insurance/issue-brief/data-note-further-reductions-in-navigator-funding-for-federal-marketplace-states/>; Timothy Jost, "CMS Cuts ACA Advertising By 90 Percent Amid Other Cuts To Enrollment Outreach," *Health Affairs*, August 31, 2017, <https://www.healthaffairs.org/doi/10.1377/hblog20170901.061790/full/>.

¹⁹ Peter Lee *et al.*, "Marketing Matters: Lessons From California to Promote Stability and Lower Costs in National and State Individual Insurance Markets," Covered California, September 2017, https://hbex.coveredca.com/data-research/library/CoveredCA_Marketing_Matters_9-17.pdf.

Make Marketplace Coverage More Affordable

Improve Premium Tax Credits

The ACA provides premium tax credits and cost-sharing assistance for marketplace plans, which has helped millions of people afford health coverage. But many people who are eligible for this assistance remain uninsured, often because the net premium they owe, even with a premium tax credit, is higher than they can afford. Despite ACA subsidies, uninsured rates remain higher among lower-income people, and the share of people without job-based coverage who enroll in individual market plans remains lower.²⁰ State programs that supplement the ACA premium tax credits have been shown to substantially increase enrollment in coverage, confirming that cost is a key barrier.²¹

Affordability problems will become more acute in the current crisis. For people who lose their jobs or experience sharp drops in income this year, their annual incomes, which are used to calculate the amount of premium tax credit they are eligible for, will be high compared to their monthly income after the job loss or income drop. That will make it harder for them to afford the monthly contributions toward premiums they must make to maintain health insurance for themselves and their families. In addition, because premium tax credits are not available to people with incomes greater than 400 percent of the federal poverty line (about \$50,000 for an individual in 2020), some people face high premium costs relative to their incomes but are not eligible for any assistance. This problem is particularly common among older people, who face higher premiums.

The Heroes Act does not include increases in premium tax credits. But a bill that House Democrats proposed in March to respond to COVID-19 (H.R. 6379, the Take Responsibility for Workers and Families Act) rightly prioritized significant improvements, cutting required premium contributions for people at all income levels.²² Under that proposal, people with incomes up to 150 percent of the poverty line would pay nothing toward the premium for a benchmark plan in the marketplace, down from roughly 2 to 4 percent of income that group must pay under current law. And the bill proposed capping how much people with incomes over 400 percent of the poverty line must pay, protecting them from paying more than 8.5 percent of their income on premiums. (See Figure 3.)

²⁰ Aviva Aron-Dine and Matt Broaddus, “Improving ACA Subsidies for Low- and Moderate-Income Consumers Is Key to Increasing Coverage,” CBPP, March 21, 2019, <https://www.cbpp.org/research/health/improving-aca-subsidies-for-low-and-moderate-income-consumers-is-key-to-increasing>.

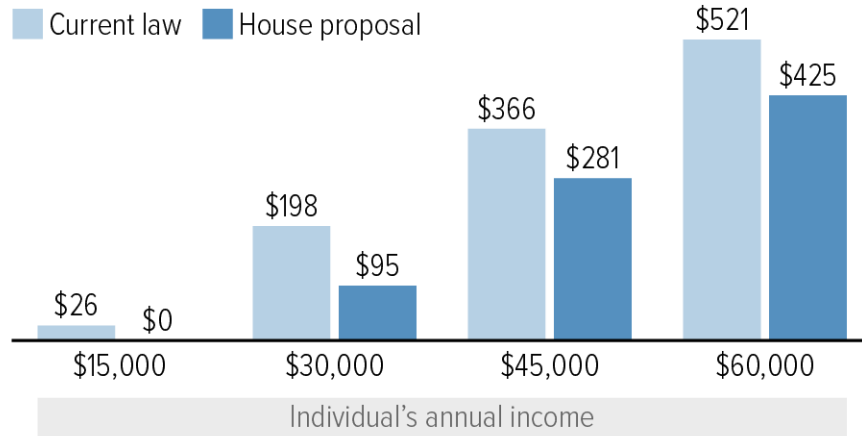
²¹ Amy Finkelstein, Nathaniel Hendren, and Mark Shepard, “Subsidizing Health Insurance for Low-Income Adults: Evidence from Massachusetts,” *American Economic Review*, 2019, <https://pubs.aeaweb.org/doi/pdfplus/10.1257/aer.20171455>; and Jennifer Tolbert *et al.*, “Improving the Affordability of Coverage through the Basic Health Program in Minnesota and New York,” Kaiser Family Foundation, December 2016, <http://files.kff.org/attachment/Issue-Brief-Improving-the-Affordability-of-Coverage-through-the-Basic-Health-Program-in-Minnesota-and-New-York>.

²² Premium tax credit improvements should be set to take effect for 2020, earlier than H.R. 6379’s proposed 2021 effective date; there is no programmatic reason premium tax credit amounts cannot change mid-year.

FIGURE 3

Proposal in Earlier House Bill Would Make Marketplace Coverage More Affordable

Monthly premium for benchmark marketplace coverage for a 45-year-old, based on national average premium



Source: CBPP calculations based on H.R. 6379, the Take Responsibility for Workers and Families Act

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Increasing premium tax credits could expand health coverage while also providing timely and effective economic stimulus. Before the crisis, the Urban Institute estimated that a broadly similar package of premium tax credit improvements would lead almost 5 million people to gain coverage, and that number could grow significantly during the downturn.²³

Helping more people access affordable health care will allow them to visit the doctor and fill prescriptions when they need them, rather than avoiding or delaying those purchases and risking worse health problems down the line. And providing greater assistance with premiums to people who buy their own coverage will help relieve some pressure in families' budgets, so people can spend money on food, housing, and other necessities.

As the Urban Institute estimates above show, improving premium tax credits is especially important for low-income people in states that have not expanded Medicaid; this group is disproportionately people of color, who, as noted, have been especially hard hit by COVID-19 and the resulting economic downturn. In these states, many people losing their jobs or income will end up in the coverage gap, with incomes below the poverty line but ineligible for both Medicaid and subsidized marketplace coverage. But those with incomes a little above the poverty line, who would

²³ See Linda Blumberg *et al.*, "From Incremental to Comprehensive Health Reform: How Various Reform Options Compare on Coverage and Costs," Urban Institute, October 16, 2019, <https://www.urban.org/research/publication/incremental-comprehensive-health-reform-how-various-reform-options-compare-coverage-and-costs>.

qualify for Medicaid if they lived in an expansion state, will qualify for subsidized marketplace coverage.²⁴

But people who have lost their jobs may not be able to afford to pay 2 to 4 percent of their annual income toward premiums, the contribution level required at the most generous levels of premium tax credits. So many will still end up uninsured without premium tax credit improvements.

Protect People With Mid-Year Income Changes Against Large Premium Tax Credit Repayments

Eligibility for the premium tax credit is based on annual income. To get the credit in advance and reduce monthly premium costs, people estimate their income for the year ahead; the health insurance marketplace verifies that projection. When they file their taxes, they can claim an additional premium tax credit or must repay some of what they received, depending on whether their actual income is lower or higher than estimated.

The ACA shielded people from very large repayment obligations by capping repayment amounts for those with lower incomes. But subsequent legislation eroded those protections, and there is no protection at all for people who are determined eligible for tax credits during the year but then turn out to have incomes over the eligibility cutoff of 400 percent of the poverty line. Those who find themselves even a few dollars over that threshold must repay the full credit they received, which can amount to thousands of dollars. The specter of repayment can deter people from enrolling in coverage with the financial help they need.

While accurately predicting income is challenging in normal times, the insufficient repayment caps will be even more of a problem — and for more people — in the current crisis. When someone loses a job, their income plummets. Many unemployed people hope to return to work within the year but are unsure whether or when they will. Adding to the complexity, most of these workers will receive UI to help mitigate the income loss, including a \$600-per-week federal supplemental benefit through July that would be extended by the Heroes Act.

Consider a restaurant manager who lost their job and health benefits in April. They were on track to earn income of about \$50,000 for the year and now expect to earn less — but it's difficult to estimate how much less. When applying at the marketplace, this person would need to consider factors such as how long they expect to have no income, how much UI they might collect, when they might find other work, and what amount of income they will earn at that point. If they estimate they will earn about \$30,000 for the year, but then get a new job in October and end up earning \$45,000, they would owe nearly \$700 in repayment, even if they immediately report their higher income.²⁵ If they end up earning \$50,000 — just over 400 percent of the poverty line — they will have to repay the entire \$1,900 advance premium tax credit they received.

²⁴ The temporary \$600-per-week additional UI payment provided in earlier COVID-19 response legislation will help push more people into this income range.

²⁵ CBPP analysis. The 2020 marketplace premium for a 45-year-old is calculated using the Kaiser Family Foundation's Health Insurance Marketplace Calculator (<https://www.kff.org/interactive/subsidy-calculator/>). People receiving premium tax credits are supposed to report changes in income to the marketplace, which may mitigate large repayment obligations but doesn't prevent them in all cases.

To address these challenges, policymakers should restore more protective repayment caps for people below 400 percent of the poverty line and institute reasonable repayment caps for people with incomes above that threshold.

Proposed Alternatives to Marketplace Affordability Improvements Are Insufficient on Their Own

COBRA Subsidies Alone Leave Out Many of Those Needing Help

The Heroes Act would subsidize the full cost of people’s COBRA premiums from March of this year through January 2021. COBRA (named for the 1985 law that created it, the Consolidated Omnibus Budget Reconciliation Act) allows most people with employer-sponsored coverage to continue their coverage for up to 18 months, though usually people must pay the full cost of their premiums. While subsidizing COBRA would reduce some families’ costs, if enacted in place of (rather than alongside) policies to broaden access to marketplace coverage and make marketplace plans more affordable, it would leave out millions of those who most need assistance, including many low-income people and people of color.

One problem is that COBRA is not available to many workers losing their jobs, such as people who are not offered or are not enrolled in job-based coverage. In 2010, following the Great Recession, just 39 percent of UI claimants overall were eligible for COBRA.²⁶ Among all workers losing their jobs (including those not eligible for UI), the share was probably even lower. Moreover, people who work at businesses with fewer than 20 employees are not eligible for federal COBRA.

Low-income people and people of color are less likely to be eligible for COBRA because of lower enrollment in job-based coverage.²⁷ In 2019, only a quarter of workers in the bottom quartile of the wage distribution and half in the second-lowest quartile were enrolled in a health plan through their employer.²⁸ Only 46 percent of Black and 41 percent of Hispanic workers were enrolled, compared to 60 percent of white workers.²⁹ (See Figure 4.)

A second problem is that COBRA coverage is unavailable, or could become unavailable, to people whose employers go out of business or stop offering a health plan during the economic downturn. If the employer stops offering a plan for any reason, COBRA is no longer an option for its employees. With many businesses struggling as a result of the downturn, even some workers who had employer coverage may be unable to enroll in COBRA. And while a potential advantage of COBRA is that workers could continue their coverage in the same plan, some will face the disruption of losing their COBRA coverage (and any associated subsidy) mid-year if their employer goes out of business.

²⁶ Jillian Berk and Anu Rangarajan, “Evaluation of the ARRA COBRA Subsidy: Final Report,” Mathematica Policy Research, prepared for the U.S. Department of Labor, February 18, 2015, <https://www.dol.gov/sites/dolgov/files/EBSA/researchers/analysis/health-and-welfare/evaluation-of-the-arra-cobra-subsidy.pdf>.

²⁷ *Ibid.*

²⁸ Bureau of Labor Statistics, “Healthcare benefits: Access, participation, and take-up rates, private industry workers,” March 2019, <https://www.bls.gov/ncs/ebs/benefits/2019/ownership/private/table09a.pdf>.

²⁹ CBPP analysis using the Census Bureau’s 2017 Current Population Survey.

Finally, COBRA is unaffordable for many of the workers who are offered it. The Heroes Act addresses this by covering the entire cost of the COBRA premium, but final legislation might provide less generous subsidies, in line with the 65 percent subsidy that was provided during the Great Recession.³⁰ Then, even with some people eligible for a subsidy, only 34 percent of eligible people took the COBRA offer.³¹ This was significantly lower for Black (17 percent) and Hispanic (22 percent) workers than for white workers (41 percent).³² Among subsidy-eligible people, a study concluded the subsidy increased take-up by just 5 percentage points (from 30 to 35 percent).³³

This means that unless final legislation provides extremely deep COBRA subsidies, even many workers eligible for COBRA are still likely to end up uninsured, with lower-income workers and people of color especially likely to be left out.³⁴

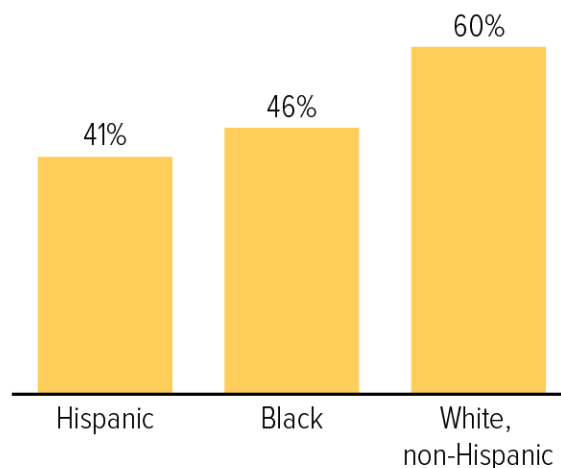
In contrast, the combination of an emergency SEP or SEP for job loss and improved premium tax credits would help most workers with modest incomes, including those who didn't previously have job-based coverage. And while very deep COBRA subsidies would be needed to make COBRA affordable for those who qualify, small increases in premium tax credits could reduce marketplace premiums for these workers to affordable levels.

Take, for example, a family of four whose annual income falls from \$100,000 to \$50,000 due to one parent's job loss. If they lost their health coverage, they would pay just \$259 per month for benchmark marketplace coverage, compared to about \$1,800 for COBRA for a typical plan.³⁵ Even

FIGURE 4

Hispanic and Black People Less Likely to Have Employer Coverage

Percentage enrolled in employer health plans



Source: CBPP analysis of Census Bureau's 2017 Current Population Survey data

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³⁰ The Great Recession subsidy was available to workers and their dependents for up to 15 months. In general, to qualify, a worker needed to have no offer of coverage from another group health plan or Medicare; adjusted gross income under \$125,000 (for a tax-filing status of single) or \$250,000 (for married filing jointly); and an involuntary termination between certain dates.

³¹ Berk and Rangarajan, *op. cit.*

³² *Ibid.*

³³ *Ibid.* In all, only 13 percent of all UI claimants enrolled in COBRA, despite most claimants having access to a 65 percent subsidy.

³⁴ *Ibid.* Among eligible people, the 65 percent COBRA subsidy was used more by people who were white (at twice the rate of Black or Hispanic workers), were college graduates (four times the use as those with a high school diploma), and had higher incomes. It was used less by lower-income workers, those in poor or fair health, and workers with dependent children.

³⁵ CBPP analysis. The 2020 marketplace premium is calculated using the Kaiser Family Foundation's Health Insurance Marketplace Calculator (<https://www.kff.org/interactive/subsidy-calculator/>). The 2020 COBRA premium is based on 2019 average monthly employer coverage premiums for a family of four. Kaiser Family Foundation Employer Health Benefits

with a 65 percent — \$1,200 per month — subsidy, they would still pay a premium of more than \$600. But Congress could eliminate their marketplace premium by increasing their subsidy by \$259 or cut their premium to \$100 per month with a premium tax credit increase of \$159.

Provider Fund Is Not a Substitute for Coverage

In earlier COVID-19 response legislation, Congress provided a total of \$175 billion to support hospitals and other health care providers, and the Heroes Act would add another \$100 billion to the fund. The Administration has announced that it will use a portion of the fund to reimburse providers for COVID-19 treatment for the uninsured. Providers can request reimbursement for COVID-19 testing and for treatment services with COVID-19 as the primary diagnosis for people without another source of coverage.

Reimbursing providers for COVID-19 treatment is no substitute for enrolling people in comprehensive health insurance. As people lose their jobs and health coverage during the economic downturn, this approach does nothing to provide them with access to care and financial protection for health care needs other than COVID-19. It's also inadequate from a public health perspective, since seeking care remains risky for patients who suspect they have COVID-19: they could still incur large bills if they turn out to have some other illness, or if their provider opts to bill them rather than the fund. One in seven U.S. adults say their concerns about not being able to pay for care would lead them to avoid seeking treatment for typical COVID-19 symptoms of a fever and dry cough, according to a recent survey, with higher rates reported for people of color and people with low incomes, groups that are also much more likely to be uninsured.³⁶

Survey, <https://www.kff.org/health-costs/report/2019-employer-health-benefits-survey/>), increased by 2 percent to account for permissible administrative fees, and then inflated by projected employer coverage premium growth in 2020 (Centers for Medicare & Medicaid Services' National Health Expenditure Accounts, <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsProjected>).

³⁶ Dan Witters, "In U.S., 14% With Likely COVID-19 to Avoid Care Due to Cost," Gallup, April 28, 2020, <https://news.gallup.com/poll/309224/avoid-care-likely-covid-due-cost.aspx>.