



A not-for-profit health and tax policy research organization

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**Rep. Diane Black, Interim Chair
Rep. John Yarmuth, Ranking Member**

Hearing on

**THE FAILURES OF OBAMACARE:
HARMFUL EFFECTS AND BROKEN PROMISES**

January 24, 2017

**Testimony presented by
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President, Galen Institute**

***“THE FAILURES OF OBAMACARE:
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Chairman Black, Ranking Member Yarmuth, and members of the committee, thank you for the opportunity to testify today on the consequences of the Affordable Care Act on American families, small businesses, workers, and young people.

My name is Grace-Marie Turner, and I am president of the Galen Institute, a non-profit research organization focusing on patient-centered health policy reform. I also served as an appointee to the Medicaid Commission from 2005-2006, as a member of the Advisory Board of the Agency for Healthcare Research and Quality from 2005 to 2007, and as a congressional appointee to the Long Term Care Commission in 2013.

While millions of people have received health coverage through the Affordable Care Act, many millions more have felt the personal harm it has imposed on them and their families. I know that you and many other members of this body, including Speaker Ryan, have provided assurances that repeal and replace measures will protect the people who are receiving coverage now under the health law while building a bridge to new coverage that will protect others from the damage that it has done and is doing to their pocketbooks and their access to medical care.

The costs of health insurance are crippling many families' finances, including forcing them to work extra jobs. An Uber driver who lives in Maryland told me last week that he is working this second job so he can pay for health insurance. The premium for the policy for himself, his wife, and one child is \$1,200 a month. He must spend hours away from them every week to meet his obligation to provide coverage. I hear similar stories repeatedly from people across the country. While many millions are covered, millions more are pleading for relief.

The impact on young people

Young people face many daunting challenges in getting started in the workforce in our changing economy. Many of those who were fortunate enough to attend college struggle to make their student loan payments. Lackluster economic growth has made it extremely hard for them and for far too many others to find that first real job.

One of the ways that the Affordable Care Act tried to help them was by allowing adult children to stay on their parents' policies until age 26. But this provision is not free. “We find evidence that employees who were most affected by the mandate, namely employees at large firms, saw wage reductions of approximately \$1,200 per year,” according to Gopi Shah Goda and Jay

Bhattacharya of Stanford and Monica Farid of Harvard. As this new wave of young adults was added to their parent's existing job-based policies, the cost of coverage inevitably climbed. Companies responded by scaling back cash wages as a share of overall compensation. The study found that the costs of the 26-year-old mandate weren't "only borne by parents of eligible children or parents more generally." The costs were spread to each worker—not just the dependents' parents.¹

This was a very popular provision, but it has been one of the factors flattening cash wages and driving up the cost of coverage for tens of millions of workers at American firms.

The ACA makes a direct hit on young people in two important ways: First, young people purchasing individual policies in or out of the exchanges are required to pay much more for their policies than their actuarially-expected costs because of the law's required 3:1 age rating band. Forcing the young to pay more drives costs up for everyone.

The average 64-year-old consumes six times as much health care, in dollar value, as the average 21-year-old.² Under the ACA's age-rating requirements, insurers cannot charge their oldest policyholders more than three times the price they charge their youngest customers. If every customer were to remain in the insurance market, this would have the net effect of increasing premiums for 21-year-olds by 75%, and reducing them for 64-year-olds by 13%.³

However, if half of the 21-year-olds drop out of the market because they don't see the insurance as a good value, this drives premiums up for everyone, including the 64-year-olds who were supposed to benefit from the rule.

In theory, the individual mandate penalty should force these younger individuals to purchase health coverage, even if that coverage is more expensive than their actual health care consumption. In reality, however, the ACA's individual mandate is relatively weak, often representing a fraction of the cost of ACA-based coverage.

Many young people are opting to pay the individual mandate penalty—or get an exemption—rather than enroll in health insurance. This has destabilized the exchange pools, which desperately need more young people to enroll to balance out the disproportionate number of older, sicker people.

The ACA's employer mandate—requiring employers with more than 50 workers to sponsor health coverage for their workers—contributes to the difficulty young people have in finding the entry-level jobs that allow them to get the experience they need to get moving with their professions and careers. Businesses are automating the jobs out of existence, hiring only part-time workers exempt from the mandate, deciding not to expand their businesses, or just doing without the help they need. Economist Ben Casselman of *FiveThirtyEight* found "the evidence suggests [the ACA] has led some employers to limit the hours of workers who were already part-time, effectively giving a pay cut to some of the most vulnerable Americans."⁴ Jed Graham of *Investor's Business Daily* has an extensive catalogue of hours cut and jobs lost that employers attribute to ObamaCare employer mandate.⁵

Young people need strong economic growth to boost the economy so it can create more jobs. But they also need the federal government to lighten the regulatory burden that makes it so difficult for employers to hire entry-level lower-skilled workers.

The impact on families

The ACA imposes tax penalties on Americans who do not purchase compliant health coverage. IRS reports that for the 2015 tax year, 6.5 million people paid \$3 billion in penalties.⁶ Another 12.7 million claimed an exemption from the individual mandate penalty.⁷ These 19 million people clearly are saying the health insurance the federal government is requiring them to purchase is too expensive or not a good value for the cost they are required to pay. Far too many of them are the younger, healthier people that we most need in the insurance pools to make them solvent.

A report in *Modern Healthcare* shows some of the problems that the ACA's attempted micro-management of health insurance have caused:⁸

If HHS Secretary Sylvia Mathews Burwell was listening to NPR's "Morning Edition" on Tuesday, the first day of 2017 open enrollment, she must have felt sick.

On the [broadcast](#), Will Denecke, a self-employed urban planning consultant in Portland, Ore., said he planned to skip buying health insurance for 2017 because the premium had shot up to \$930 a month. Instead, the 63-year-old man said if he developed a medical issue sometime during the year, he would go to the Affordable Care Act marketplace and buy a plan outside the open-enrollment window, which he's aware he's not supposed to do.

He said the ACA rules sharply limiting such midyear enrollment are easy to get around. Last time he simply claimed a change of income. "I've done it before, and my broker helped me," he boasted, while admitting, "I know that undermines the economics and premise of the ACA."

That's precisely the type of consumer gaming that's producing heartburn for the Obama administration. Insurers complain it's causing them [serious financial losses](#) in the ACA-regulated individual markets. Such abuses are one factor prompting widespread calls for federal policy changes to stabilize the exchanges.

Meanwhile, because of the sharply rising 2017 premiums, healthier consumers increasingly are gravitating to cheaper short-term health plans that don't meet ACA rules. The growth of such plans, which as many as 1 million people have purchased, could further undercut the ACA markets.

Brokers say this trend reflects the turmoil in the individual market. "I've got clients saying, 'The prices are nuts and I won't pay it, I'll pay the penalty,'" said Lisa Lettenmaier, a broker who owns the [HealthSource Northwest](#) brokerage in Portland and

who spoke during a short break in the hectic first day of open enrollment.

Enrollment in the exchanges has been far below expectations. The Congressional Budget Office originally estimated that 21 million people would be enrolled in exchange coverage by 2016. As of June 2016, only 10.5 million were enrolled.⁹ That is 2.2 million fewer than had selected a plan by the end of open enrollment on February 1.¹⁰

For those purchasing coverage in the ACA exchanges, premiums went up an average of 25%,¹¹ with people in many other states experiencing much higher increases—averaging greater than 50% in Illinois, Montana, Oklahoma, and Tennessee, for example, and 116% in Arizona.

To keep premium prices from soaring further, health plans are narrowing their networks of providers and hospitals. Avalere found that networks in ACA exchange plans have 34% fewer providers compared to commercial plans.¹² A report in *Modern Healthcare* found that 70% of plans sold on the exchanges in 2014 consisted of narrow networks,¹³ and the number is getting higher.¹⁴

According to a report in *USA Today*:¹⁵

Loralea Grey, whose husband is self employed, says they are living a "middle-class nightmare" because of the law. They grew used to the necessary sacrifices to afford the premiums and out-of-pocket costs for their "catastrophic" insurance before the ACA, she says. This year they were facing a premium increase of nearly 40% with a \$7,000 deductible per family member. They've decided they can't scrimp anymore to afford plans through the ACA exchange.

"How is this possible or allowable?," she asks. "When I contacted the Oregon insurance commissioner, I received a response back telling me I should feel free to shop around; as if I wasn't smart enough to have already done that?"

... In North Carolina, the cheapest option with a "decent network" of doctors and hospitals for Jim Harrison's 61-year-old wife would cost \$1,421 a month with a \$7,150 deductible. (He is on Medicare.) Because he is retired and that isn't affordable, the family got a hardship exemption from the mandate to have insurance.

"So against our better judgment, she is going to go without health insurance next year ... but we put all of our retirement assets at risk should something catastrophic happen," he says, "I never thought we would be in this situation."

Consumers faced dilemmas with rising premiums and fewer choices. *The Daily Signal* reports about the experience of Rochelle Bird, a financial adviser from Overland Park, Kansas:¹⁶

Bird is one of roughly 10 million Americans who doesn't receive insurance from an employer—she's self-employed—and also doesn't qualify for a subsidy. So when insurers announced double-digit premium increases for 2017, she prepared to pay full price for coverage purchased in the individual market.

And that wasn't it.

Coventry Health Care [sent](#) Bird a notice last month saying it would cancel her policy at the end of the year.

On the first day of open enrollment, the Overland Park resident selected a new plan through Blue Cross Blue Shield of Kansas City, one that is only \$50 more than her old policy.

But though Bird's premiums increased minimally compared to others across the country, her deductible is higher and she has less coverage than with her previous plan.

"I'm paying more for less," she said.

Even with the higher premiums, insurers are facing losses on ACA policies that are driving many out of the market. One-third of all U.S. counties will have just one insurer. In 2016, a total of 225 counties in the U.S. had only one insurer offering coverage, but that number more than quadrupled to 1,022 in 2017.¹⁷ Thirty-three states have fewer insurers offering coverage on the exchanges in 2017 than in 2016. Only one state, Virginia, gained insurers. Five states have only one insurer, while 13 have just two. This is certainly not the competitive market that creators of the ACA envisioned.

Again, *The Daily Signal* offers an example of a veterinarian whose premiums doubled over three years while the quality of his coverage eroded.¹⁸

For the past 15 years, Warren Jones has had the same health insurance plan with Blue Cross and Blue Shield of Kansas City.

But over the years, Jones, of Kansas City, Missouri, has watched the coverage offered in his policy "erode" over time.

First, the company got rid of the dental and vision coverage he had.

Then, Jones' deductible increased—to \$2,500—for his plan alone.

But perhaps the most significant change for Jones, a veterinarian, has been the rising cost of his monthly premiums.

In 2014, the year Obamacare took effect, Jones paid \$318 in monthly premiums. In 2015, the price went up to \$394 per month, then to \$491 for 2016.

For 2017, Blue Cross and Blue Shield of Kansas estimates that Jones will pay \$716 each month for his premiums—a 45.8 percent increase—according to a letter the insurer sent him.

“You can’t keep doing this because people’s wages don’t increase by that amount,” Jones told The Daily Signal. “Nobody’s wages are increasing, so it’s taking a bigger chunk of the budget.”

Further, more than 800,000 people who were enrolled in ACA Co-op health plans in 18 states lost their plans and were forced to find other coverage.¹⁹ American taxpayers spent \$2.4 billion²⁰ to finance these start-up, non-profit health plans, but they struggled from a lack of experienced management that failed to match the price of their policies with the services their enrollees were consuming. American families suffered as a result.

The law’s “essential health benefits” and the extensive regulatory interpretation by the Obama administration contribute to the rising cost of insurance. Another contributor is the nearly two-dozen new and higher taxes in the ACA totaling more than \$1 trillion.²¹

- **Individual mandate tax.** A mandate that people buy government-directed health coverage, with tax penalties for those who don’t. *\$43.3 billion in taxes.*
- **Employer mandate tax.** A mandate that employers provide government-directed health coverage, with tax penalties for those who don’t. *\$166.9 billion in taxes.*
- **Cadillac tax.** A 40% excise tax on generous workplace health plans. *\$87.3 billion in taxes.*
- **Medical device tax.** A 2.3% tax on sales by manufacturers of medical devices and equipment that will cost jobs and make medical care more expensive. *\$23.9 billion in taxes.*
- **Health savings taxes.** Tax increases on Flexible Spending Accounts and the purchase of over-the-counter medicine, and increased tax penalties on Health Savings Accounts and Archer Medical Savings Accounts. *\$74.4 billion in taxes.*
- **Health insurance tax.** An annual tax on health insurers that is passed on to consumers. *\$142.2 billion in taxes*
- **Pharmaceutical tax.** An annual tax on drug manufacturers that is passed on to consumers. *\$29.6 billion in taxes*

The ACA has failed Americans who were promised more choices of more affordable coverage in the exchanges, but those outside the exchanges have felt the impact as well as they have been hit with these taxes.

Former President Obama promised that the average American family would see its insurance premiums fall by \$2,500 a year, yet average annual family premiums in the employer-sponsored market have soared by roughly \$4,300 and now total more than \$18,000 annually.²²

Some of the ACA taxes were delayed for two years as Congress saw the impact they were having on rising premiums. The Health Insurance Tax in particular is a direct sales tax on health insurance that increases the premiums people pay. The HIT was delayed for only one year, and it starts impacting small businesses as early as Feb. 1 of this year as they begin to renew their coverage. It will be fully integrated into rates shortly after as insurers start solidifying 2018 rate filings. Economist Doug Holtz-Eakin concluded this one tax will raise premiums for small businesses and households by nearly \$5,000 per family over a decade.²³

Impact on small businesses

Companies have struggled in trying to pay their workers a competitive wage while still making enough of a profit margin to stay in business. Health insurance costs for small firms have risen 56% in the last decade.²⁴ Worker wage increases have suffered as a result. Too much of the money that employees could have seen as wage increases has been consumed by rising health insurance costs instead. Workers also have seen their share of premium payments rising. Provider networks have narrowed. And deductibles have been rising.

The SHOP exchanges were supposed to help small businesses. Small businesses had high hopes for this program. The Obama administration's Council of Economic Advisers said in July 2009 that it would reduce the burden on small business by allowing firms to choose among more plans to provide better coverage at lower costs. That, coupled with the small business tax credit for firms with lower average wages, would help balance their higher administrative and other costs compared to larger firms.

It didn't succeed. The tax credits were so complicated and the path to obtaining them so narrow that the credits drew very limited interest and participation. The SHOP exchanges also failed to provide a broader range of affordable and attractive choices of insurance for small businesses.

Instead, small businesses face continued premium increases, administrative burdens, and ever-more-limited coverage options.

Businesses with more than 50 full-time workers that don't meet ACA health coverage criteria are subject to tax penalties of up to \$3,000 per worker per year. Twenty-one percent of businesses report that they have reduced the number of employees, wages, and benefits as a result of the law.²⁵ The "cost of health insurance" consistently is reported as their number one problem.

The federal government has not collected data on the impact of the ACA on the "opportunity cost" of small business growth, but small business owners definitely see the impact. Here is a report from *The Daily Signal* about Scott Womack, owner of about a dozen IHOP restaurants in Indiana and Ohio.²⁶

The IHOP in Terre Haute is located on South 3rd Street, just a few minutes from the Interstate 70 interchange and a short drive from the Holiday Inn where we had stayed the night before. As we sat in the back of the bustling restaurant waiting for Womack to arrive, we ordered french toast, omelets and other IHOP specialties.

At the time, Womack employed about 1,000 people at his 12 restaurants. When the Affordable Care Act became law on March 23, 2010, he had big plans for his franchise. He had purchased a development agreement in 2006 that would expand the company to 14 new IHOP locations in Ohio...

“Let me state this bluntly,” Womack told lawmakers [in earlier testimony before Congress], “this law will cost my company more money than we make.”

The cost of Obamacare’s mandates—Womack estimated it would be \$7,000 to provide health care coverage for each full-time employee—left him with few options: cut costs, eliminate staff, reduce hours or convert workers to part-time status.

Four years later, facing the prospect of Obamacare’s employer mandate on Jan. 1, 2015, Womack opted to sell his 16 IHOP restaurants last year to Romulus Restaurant Group.

Impact on vulnerable Americans

Research from ACA architect Jonathan Gruber and his coauthors,²⁷ using data from the Census Bureau, estimate that Medicaid “produced 63% of the gains [in coverage] that we identified” for 2014. Gruber *et al* found that much of this gain was attributable to the enrollment in Medicaid of people who were eligible for the program under criteria that preceded the ACA’s Medicaid expansion.

Mercatus Center economist Brian Blase concludes: “Dividing Gruber’s estimate of the percentage gain in coverage of Medicaid enrollees who were eligible before the ACA by the percentage gain in coverage attributable to Medicaid overall means that 70% of new Medicaid enrollees in 2014 were eligible for the program under pre-ACA rules.”²⁸

While there are many unintended consequences of the law, perhaps the most tragic is how it is harming some of the most vulnerable on Medicaid.

Charles Blahous of the Mercatus Center concludes, based upon the latest CBO²⁹³⁰ uninsured estimate that, “although ACA substantially increased Medicaid eligibility and federal funding, it did not appreciably change the supply of health care services available through Medicaid. Accordingly, the primary effect of the ACA’s Medicaid coverage expansion was to require the most sympathetic and vulnerable Medicaid population (lowest-income enrollees, pregnant women, children, etc.) to face more competition for health services from a marginally less vulnerable population (childless adults of somewhat higher income).”³¹

Too many states have enthusiastically enrolled people in Medicaid but are failing to pay providers enough to allow them to afford to see all of the Medicaid patients seeking appointments. A Louisiana Medicaid recipient told *The New York Times*:³²

“My Medicaid card is useless for me right now. It’s a useless piece of plastic. I can’t find an orthopedic surgeon or a pain management doctor who will accept Medicaid.”

The next chapter in advancing health reform

President Trump’s executive order of January 20³³ directed all federal agencies “to minimize the unwarranted economic and regulatory burdens” of the Affordable Care Act. While administrative actions will be able to postpone or lighten the burden of the regulations in place,

only Congress can actually change the underlying law, not only to provide relief from the existing rules but also to provide new opportunities to give people the option of more affordable coverage and more choices of coverage that people and families want and need. I look forward to working with you to develop those policies. Thank you for the opportunity to testify today, and I look forward to your questions.

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