

**The Implications of a Finding for the Plaintiffs in *King v. Burwell*
for Small Employers, their Workers, and the Self-Employed**

**Oral Statement of
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Chairman Vitter, Ranking Member Shaheen, and members of the Committee, I appreciate the opportunity to testify today. The views that I express are my own and should not be attributed to the Urban Institute or its sponsors. My testimony draws on my own and my colleagues' research on the ACA, private insurance markets pre- and post-2014, and the *King v. Burwell* case.

Small employers historically have been much less likely to offer health insurance to their employees than large employers, and their employees historically have been much more likely to be uninsured. These differences have grown considerably over time, a trend that long predates the ACA, with offer rates among small employers—particularly small, low-wage firms—falling dramatically over the last 15 years, while remaining steady for large firms. For example, offer rates among low-wage firms with fewer than 25 workers dropped by 46 percent between 2000 and 2013 while offer rates across all employers fell by 16 percent (table 1).¹

In June 2013, prior to the implementation of the ACA's nongroup reforms and tax credits for the purchase of coverage, 30.4 percent of the self-employed and 23.5 percent of small firm (fewer than 50 employees) employees were uninsured, compared to only 7.6 percent of employees in large firms, according to the Urban Institute's Health Reform Monitoring Survey (table 2).

Prior to implementation of the ACA's coverage provisions, many small firm employees, the self-employed, and their dependents had only their state's nongroup insurance market as a coverage option. These were small markets with limited ability to meet insurance need, due to very high administrative costs, coverage denials, and health status discrimination against those in less than perfect health.

Thus, the ACA's reforms of nongroup insurance markets benefit disproportionately small firm employees and the self-employed, those least likely to have access to employer sponsored insurance. By March of 2015, a year after implementation of the ACA's reforms, uninsurance among the self-employed had fallen by 10.8 percentage points or 36 percent, and among small firm employees it had fallen by 10.8 percentage points or 44 percent (table 2). Meanwhile, the share of employees receiving offers of health insurance from their employers stayed steady across all firm sizes.² Thus, the ACA's nongroup market reforms, foster choice for employment in a small firm or self-employment, facilitating hiring and entrepreneurship.

If the ACA's premium tax credits and cost-sharing reductions are eliminated in 34 states by a Supreme Court ruling, the number of uninsured in these states would increase by a total of 8.2 million people in 2016.³ Additional analyses by place of employment reveal that 5.8 million people losing premium tax credits under a decision for the plaintiffs, or 63 percent, have at least one family member employed by a small firm.⁴ Of these 5.8 million people, 4.1 million, or 70 percent, would become uninsured. 2.5 million people in self-employed families would lose tax credits, 1.6 million of whom would become uninsured. Those who retain insurance would face much higher premiums.

Once tax credits are eliminated, the mix of health risks in these nongroup insurance markets

would change promptly. The healthy who lose tax credits would be first to drop their insurance, increasing significantly the markets' average health care costs. As a consequence, the average premiums would increase for the nongroup markets both inside and outside the new health insurance exchanges, as they are treated as a single risk pool. As average premiums increase, even those who would not have received financial assistance would reassess their ability to afford coverage, and some would leave the markets, become uninsured and drive premiums even higher for those who remained.

Therefore, another 3.4 million people in small firm families who would not have received tax credits regardless of *King* would face substantially higher premiums under a ruling for the plaintiffs, and about 840,000 of them would become uninsured.⁵ About 2 million people in self-employed families would face large premium increases and about 360,000 of them would become uninsured, even though they were never eligible for tax credits.

If the *King* plaintiffs prevail, the median person or family buying nongroup insurance fully with their own funds would pay a premium 55 percent higher to maintain the same coverage that they would have had otherwise.⁶ For those who otherwise would have qualified for tax credits, the premium increases would be much larger.

Small firm employees, the self-employed, and their family members benefit disproportionately from changes the ACA brought to the nongroup insurance markets. Thus, they would be disproportionately harmed due to destabilization of these markets engendered by elimination of premium tax credits. New legislation to re-instate the ACA's financial assistance in any state in which it would be prohibited would be required to reverse such damage.

Table 1.
Share of Establishments Offering Health Insurance, by Firm Size, 2000 and 2013

	Total	< 25 employees	25-99 employees	100-999 employees	1000 or more employees
Share of establishments offering health insurance, total					
2000	59.3%	44.9%	84.5%	95.0%	99.2%
2013	49.9%	32.3%	77.2%	93.4%	99.3%
Percentage point change 2000-2013	-9.4%	-12.5%	-7.3%	-1.6%	0.1%
Relative change 2000-2013	-15.9%	-27.9%	-8.6%	-1.7%	0.1%
Share of establishment with 50% or more low wage employees that offer health insurance					
2000	42.5%	28.9%	73.5%	94.2%	96.4%
2013	37.1%	15.7%	52.8%	86.5%	99.3%
Percentage point change 2000-2013	-5.4%	-13.2%	-20.7%	-7.7%	2.9%
Relative change 2000-2013	-12.7%	-45.6%	-28.2%	-8.2%	3.0%

Source: Author's calculations of data from the Medical Expenditure Panel Survey, Insurance Component, 2000 and 2013.

Table 2. Share of Workers Who Are Uninsured, June 2013 and March 2015, by Firm Size and Family Income Categories

	All Nonelderly Workers				Nonelderly Workers with Family Income <250% FPL				Nonelderly Workers with Family Income ≥250% FPL			
	June 2013 (Quarter 2)	March 2015 (Quarter 1)	Percentage Point Change		June 2013 (Quarter 2)	March 2015 (Quarter 1)	Percentage Point Change		June 2013 (Quarter 2)	March 2015 (Quarter 1)	Percentage Point Change	
All workers	13.9%	7.7%	-6.2	***	30.9%	18.0%	-13.0	***	4.1%	1.8%	-2.3	***
<i>Sample Size</i>	5025	5443			1622	1784			3403	3659		
Self-employed workers	30.4%	19.6%	-10.8	***	44.7%	28.6%	-16.1	***	14.4%	10.1%	-4.2	
<i>Sample Size</i>	594	567			250	265			344	302		
Workers at small firms (fewer than 50 workers)	23.5%	13.2%	-10.3	***	38.3%	22.3%	-16.0	***	8.0%	3.7%	-4.3	**
<i>Sample Size</i>	1136	1225			542	566			594	659		
Workers at large firms (50 or more workers)	7.6%	3.8%	-3.8	***	21.6%	11.6%	-10.0	***	1.8%	0.6%	-1.2	***
<i>Sample Size</i>	3275	3622			819	940			2456	2682		

SOURCE: Health Reform Monitoring Survey, 2013 Quarter 2 and 2015 Quarter 1.

NOTES: Estimates are regression-adjusted. "Workers" includes nonelderly adults working for pay and self-employed adults. Adults who refuse to report work status and those who report working for pay but refuse to report firm size are excluded.

*/**/** Estimate is significantly different from June 2013 at the 0.1/0.05/0.01 level, using two-tailed tests.

Endnotes

¹ Authors calculations from the Medical Expenditure Panel Survey, Insurance Component. Agency for Healthcare Research and Quality. Rockville, MD. www.meps.ahrq.gov.

² Fredric Blavin, Adele Shartzter, Sharon K. Long and John Holahan. "An Early Look At Changes in Employer-Sponsored Insurance Under the Affordable Care Act." *Health Affairs*, 34, no. 1 (2015):170-177.

³ Linda J. Blumberg, Matthew Buettgens, and John Holahan. "The Implications of a Supreme Court Finding for the Plaintiff in King vs. Burwell: 8.2 Million More Uninsured and 35% Higher Premiums." Timely Analysis of Immediate Health Policy Issues. January 2015. <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000062-The-Implications-King-vs-Burwell.pdf>

⁴ Linda J. Blumberg, Matthew Buettgens, John Holahan. "Characteristics of Those Affected by a Supreme Court Finding for the Plaintiff in King v. Burwell." Timely Analysis of Immediate Health Policy Issues. January 2015. <http://www.urban.org/research/publication/characteristics-those-affected-supreme-court-finding-plaintiff-king-v-burwell>

⁵ Ibid.

⁶ Ibid.