Affordable Care Act 15 Years Later
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Best in Class Brands. One Common Goal.

Today's Speaker

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Health Coverage Before the ACA

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In 2009…

- Number of uninsured Americans climbing
- 58.5 million Americans (19.4%) uninsured for at least part of the year
- Cost of group health premiums had more than doubled over 10 years
- Out-of-Pocket costs rising
- Required benefits in insured plan varied widely by state
- No easy way to compare coverage and costs from plan to plan
- Person’s health history could be considered in individual market enrollment or rating

Goals of ACA

- Increase access to health insurance/reduce number of uninsured
- Slow growth of healthcare costs
  - Both cost of coverage and out-of-pocket costs
- Improve quality of care
  - Both raise quality of coverage offered through group and individual market, and improve health outcomes

Review of Major ACA Provisions

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Individual Perspective

- Individual mandate and reporting
- Guaranteed issue
- Coverage of preventive services without cost-sharing
- Dependent coverage to age 26
- Expansion of coverage to 10 categories of EHBs
- Maximum Out-of-Pocket limits
- SBC requirement to make it easier for consumers to compare plans

Employer Perspective

- Employer mandate, reporting and penalty exposures for ALEs
- Definition of FTE at 30 hours/week
- PCORI fees for self-funded plans
- Premium rating rules based ONLY on individual/family status, geography, age (with variation in premiums limited to 3:1), and tobacco use
- SBC requirement to make it easier for consumers to compare plans
- New standards for premium rate reviews in the states
- MLR requirement with refund to contract holder

Government Perspective

- State-by-state marketplaces with required outreach and enrollment assistance programs
- Medicaid expansion and streamlined application process
- Individual market premium tax credits and cost-sharing reductions

Legal Challenges

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ACA Legal Challenges at the Supreme Court

2012	2015	2021
NFIB v. Sebellius Upheld individual mandate and Medicaid expansion under Congress's taxing power	**King v. Burwell** Upheld eligibility for subsidies for consumers who bought coverage on federally-run Exchange	**California v. Texas** Upheld ACA even though penalty for individual mandate had been changed to $0

ACA Legal Challenges at the Supreme Court

2014	2016	2020
Burwell v. Hobby Lobby Struck down contraceptive mandate for religious private employers	**Zubik v. Burwell** Religious exemption case remanded by Supreme Court to lower courts	**Trump v. PA** HHS could exempt religious employers from contraceptive mandate

2025– Preventive Care

- ACA requires coverage of preventive health services with no cost-sharing, but does not define “preventive health services”
  - Law gives U.S. Preventive Services Task Force (panel of 16 independent expert volunteers) power to determine
- 2019 task force recommended coverage without cost-sharing for PrEP, a drug highly effective at preventing HIV infection
- Kennedy v. Braidwood Management, Inc. before Supreme Court this week
  - plaintiffs are four individuals and two small businesses that have religious objections to PrEP requirement
  - Challenging Constitutionality of USPSTF entirely
- Potential to end preventive services mandate

Major Changes to the ACA

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“Cadillac” Tax

- 40% excise tax on “high-cost” health plans ($10,200 single/$27,500 family) paid by both employer and employee
  - Indexed for inflation
- Intent was:
  - Discourage overutilization of health care services
  - Cap tax exclusion for health insurance payments
  - Revenue was supposed to be used to cover other ACA provisions
- Deeply unpopular– implementation delayed twice
- Concern it would become a “Chevy tax” over time
  - 2019 KFF analysis determined 1 in 5 employers would have had at least one plan subject to tax in 2022, increasing to 1 in 3 by 2030
- Repealed in 2019, along with medical device tax

Individual Mandate

- Uninsured individuals to pay a tax penalty of the greater of $695/year (up to $2,085 per family) or 2.5% of household income
  - Annual COLA for penalty
  - Exemptions for very low income
- Intended as a counterweight to guaranteed issue and limits on medical underwriting– make healthy people sign up
- Politically controversial
- Legislation effective in 2019 reduced penalty to $0

Marketplace Subsidies

- Subsidy cliff at 400% FPL
  - Many middle-income people priced out of ACA coverage
- American Rescue Plan Act (ARPA) passed in 2021
  - COVID-19 relief
  - Expanded eligibility subsidies to people with incomes over 400% of poverty buying their health coverage on the Marketplace
  - Increased amount of subsidy to those already eligible under the ACA
  - Inflation Reduction Act (IRA) Extended to end of 2025
  - Helped to more than double Exchange enrollment to about 24.3 million in 2025
  - Will Congress extend again?

Cost-Sharing Reduction (CSR) Payments

- Insurers required to reduce cost sharing for low-income enrollees in the individual market
  - Federal government required to reimburse insurers for CSRs
- Funds never appropriated; Trump administration ended federal CSR payments to insurers in 2017
- CBO estimated termination of CSR payments would increase federal deficit by $194 billion over 10 years because of higher premiums and corresponding increase in premium tax subsidies

Medicaid Expansion

- Originally expanded eligibility to all individuals under 65 with incomes up to 138% FPL
  - Federal government reimburses states 90% of cost of expansion
- NFIB v. Sebelius upheld the Medicaid expansion, but limited the ability of HHS to enforce it
  - Made decision to expand Medicaid effectively optional for states
- As of now, 40 states plus DC have expanded Medicaid

Independent Payment Advisory Board (IPAB)

- Board of fifteen Senate-confirmed appointees
- Supposed to recommend cuts to Medicare spending when cost growth exceeded targets
- Obama administration never nominated board members; HHS secretary had powers in absence of board
- Repealed in 2018

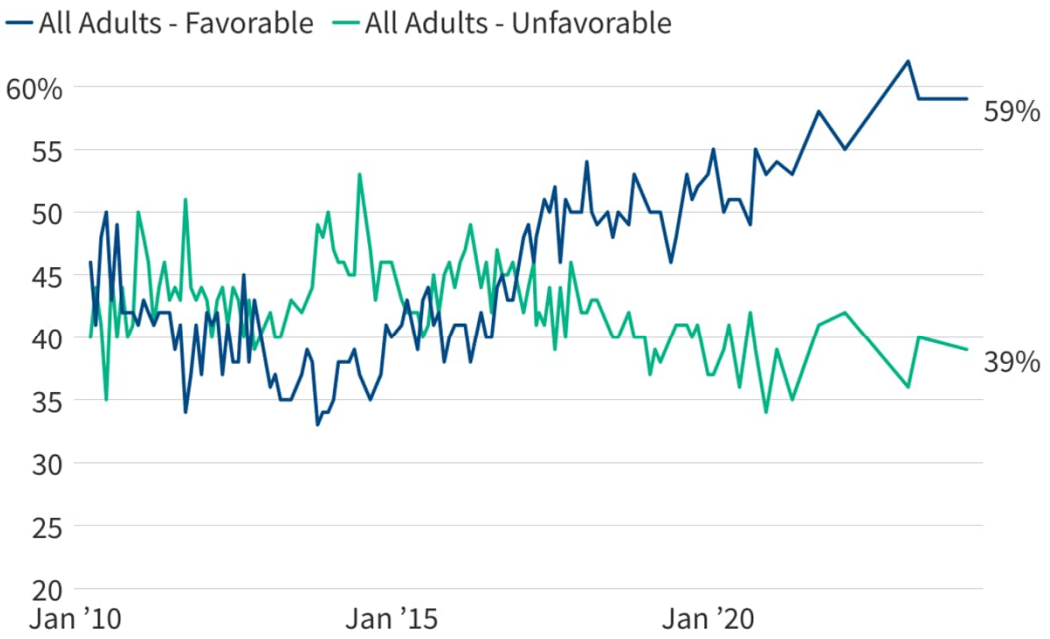
Public Opinion

- As of January 2025, all adults-favorable result is at 64%

Figure 1

KFF Health Tracking Poll: The Public's Views on the ACA

We asked: "Given what you know about the health reform law, do you have a generally favorable or generally unfavorable opinion of it?"



Note: Beginning in 2021, public opinion was measured using a combination of telephone and online surveys, this shift in methodology resulted in shifts in the share who either declined to answer the question or offered a "Don't know" response. As of March 2022, favorable and unfavorable shares were calculated using true nets instead of rounding to the nearest whole percent before netting "very" and "somewhat" responses. Numbers may not add to 100 due to rounding. July, 2015 data fielded in late June.

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Provisions Not Implemented

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“Orphan” Provisions

- Section 105(h) nondiscrimination rules for fully insured plans
- CLASS Act – public, voluntary insurance plan that would help pay for supportive services to enable individuals with mild functional limitations to remain in the community rather than entering nursing homes
- Cooperative health plans – nonprofit, member-governed health plans to operate in the individual market

The ACA at 15

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Goals of ACA

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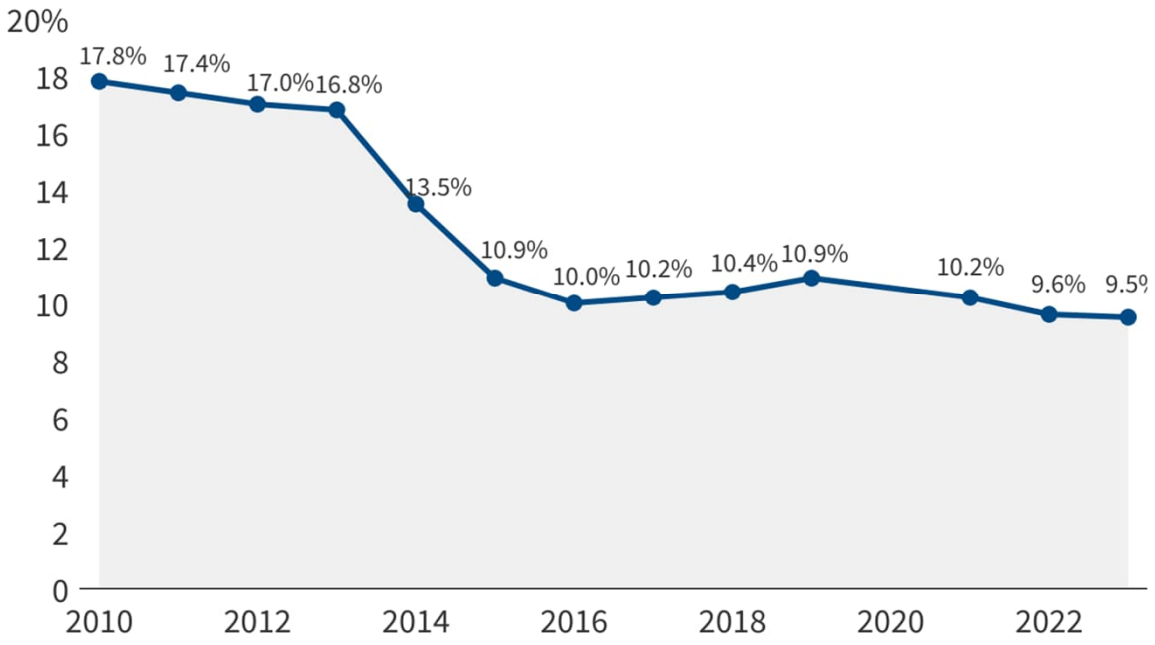
Access to Care

Figure 1

Uninsured Rate for the Population Ages 0-64, 2010-2023

Select an option:

Number of Uninsured | Uninsured Rate



Note: Due to disruptions in data collection during the first year of the pandemic, the Census Bureau did not release ACS 1-year estimates in 2020. Includes individuals ages 0 to 64

Source: KFF analysis of 2010-2023 American Community Survey, 1-Year Estimates

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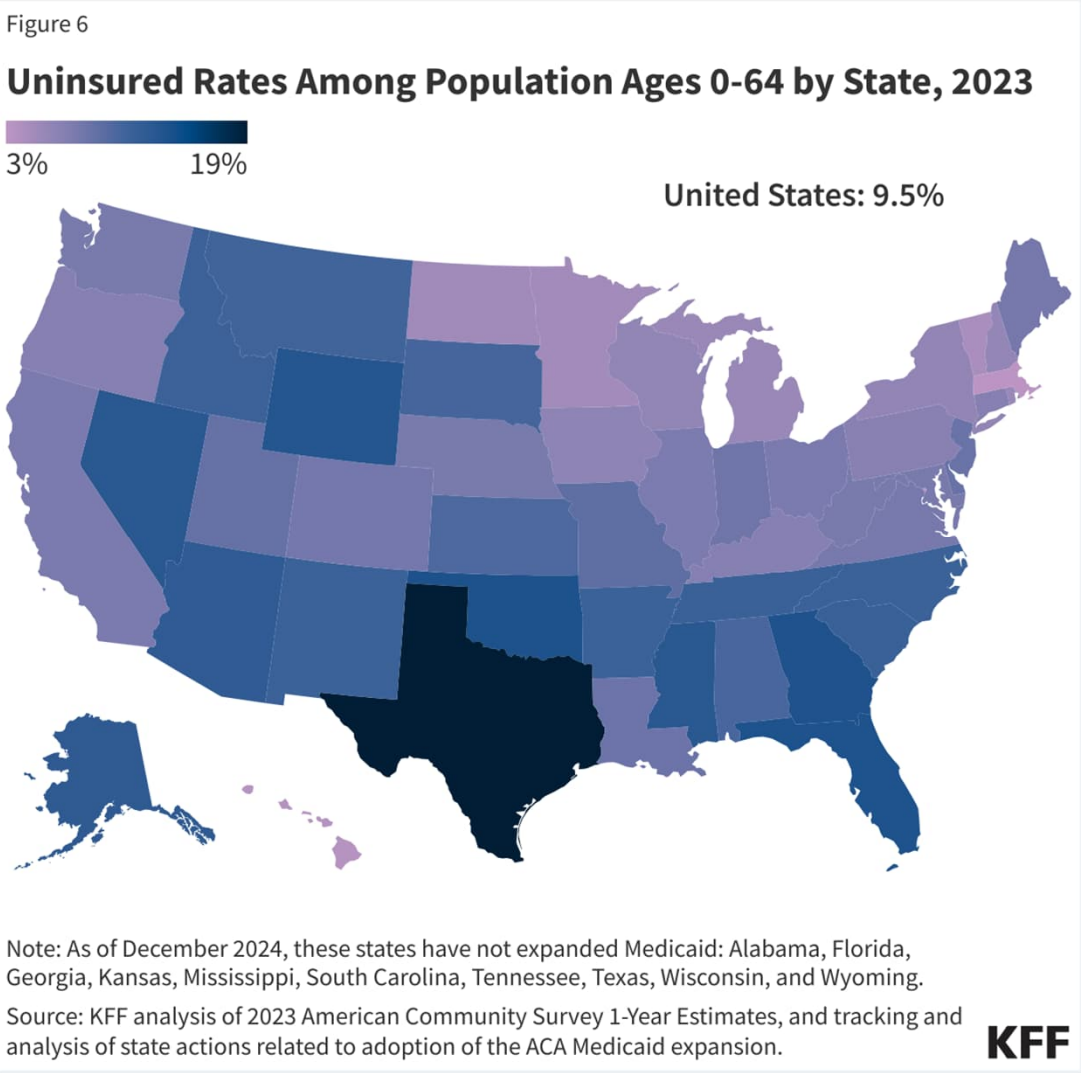
Uninsured Rates

Figure 6

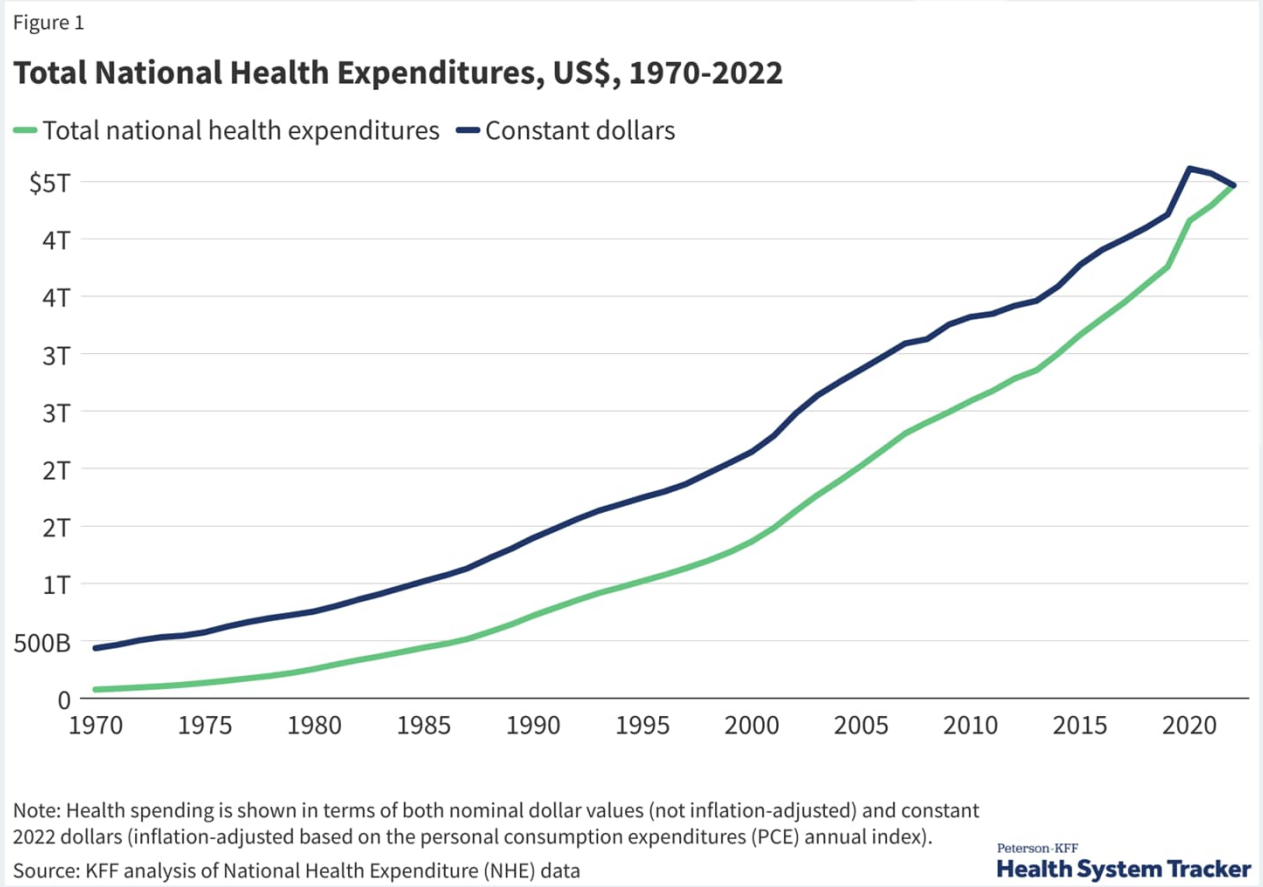


Improve Quality of Care

- Improved Quality of Coverage
  - Individual market coverage is more comprehensive than it was pre-ACA
- Preventive Care
  - Moderate increases in HPV vaccination, colorectal cancer screenings
  - Small increase in influenza vaccinations, well-child visits
  - Mammography rates increased
  - Continues to be intensely political

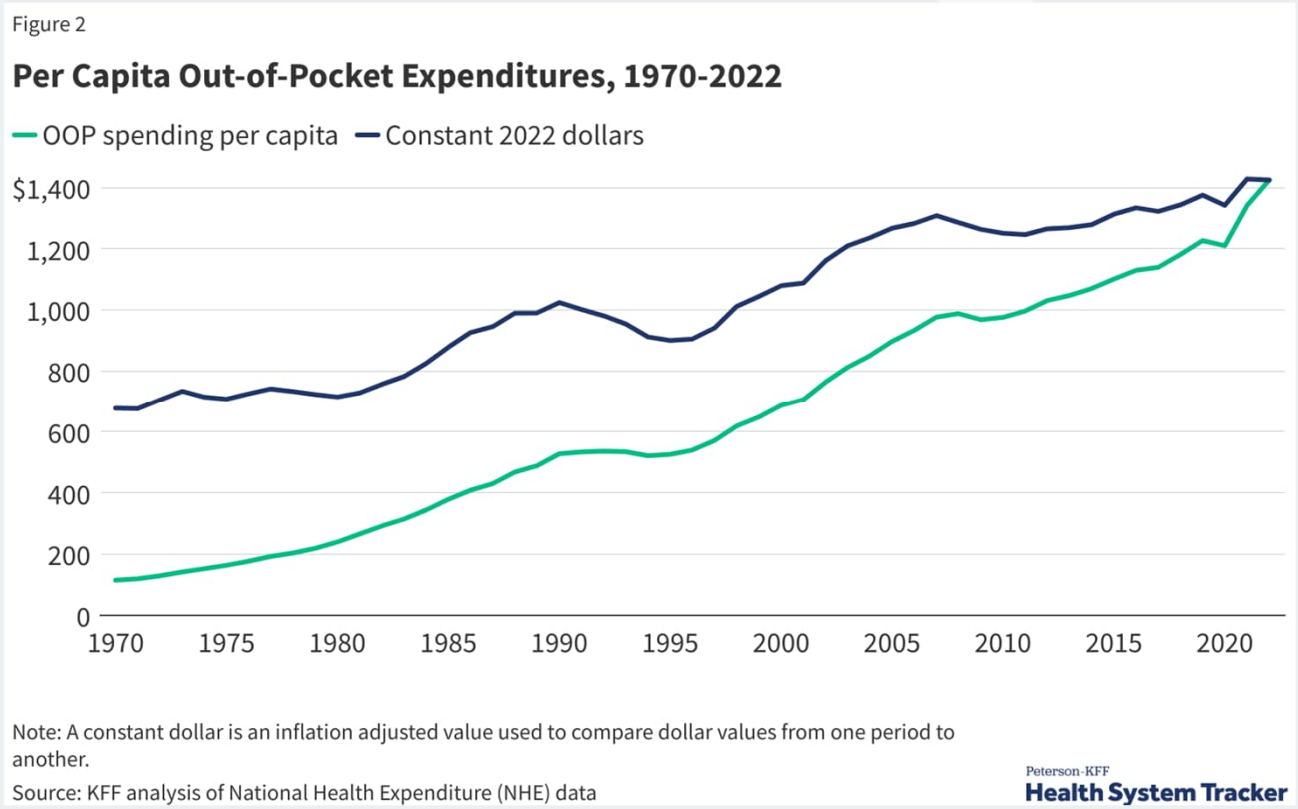
Healthcare Costs

- Healthcare spending still represents about 17% of the US economy (projected to go closer to 20% by 2030)
  - Almost $1 in every $5 spent in the US goes to healthcare
  - Compare to 1960– health care spending represented 5% of GDP



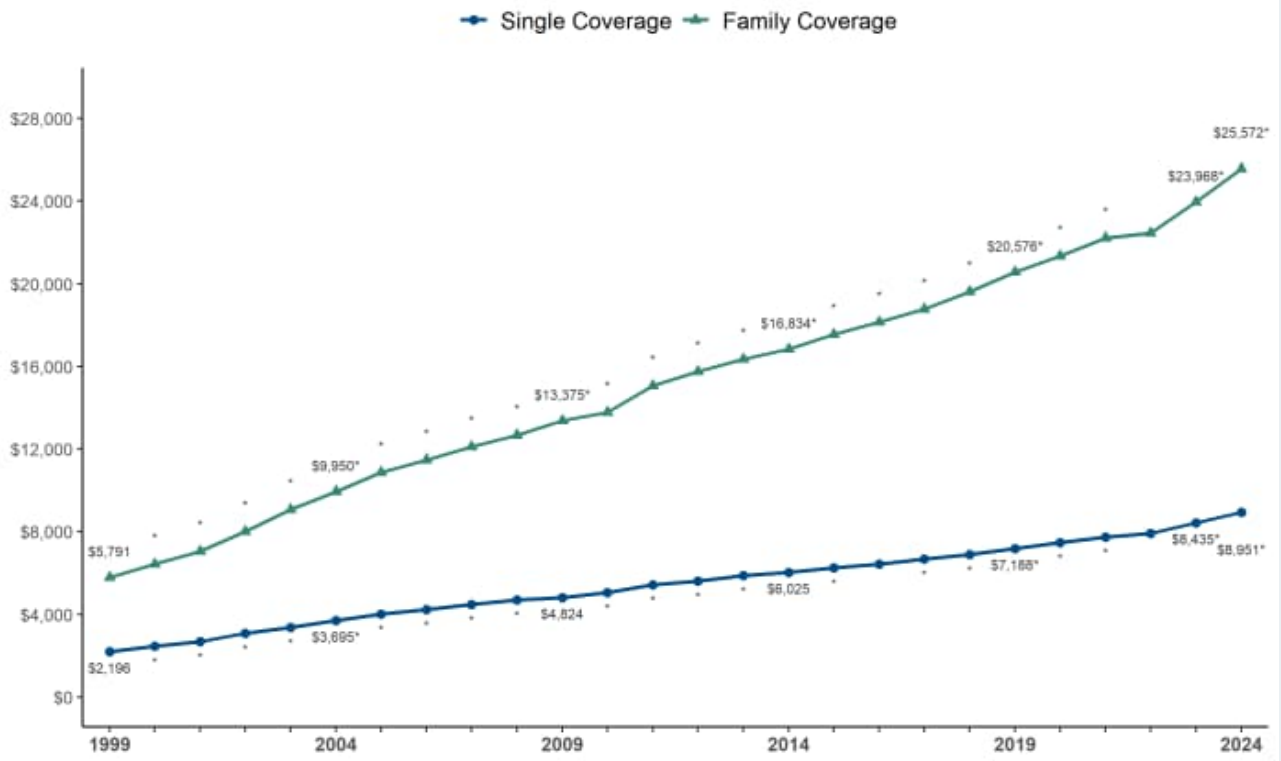
Healthcare Costs

- OOP spending continues to rise
  - 1970: $115 ($677 in 2022 dollars)/person
  - 2022: $1,425/person



Healthcare Costs

Figure 1.12
Average Annual Premiums for Single and Family Coverage, 1999-2024



* Estimate is statistically different from estimate for the previous year shown ($p < .05$).
SOURCE: KFF Employer Health Benefits Survey, 2018-2024; Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 1999-2017

The Next 15 Years

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Proposed Marketplace Regulations

- March 10, 2025 CMS released proposed rules to address alleged fraud in Marketplace enrollments and make other changes.
- Rules would:
  - End Special Enrollment Period for those making below 150% FPL ($23,475 single/$48,225/family of four)
  - Require additional pre-enrollment verification of eligibility and income verification when no tax data available
  - Reduced subsidy for those that don't confirm/update eligibility verification
  - Shorten the regular Exchange open enrollment period

Proposed Marketplace Regulations

- Would also change how ACA's "applicable percentages" and "maximum out-of-pocket" limit are adjusted each year
  - Applicable percentages determine the share of income that families are expected to pay for benchmark (the second-lowest-cost silver plan) health coverage on the marketplace
  - Maximum out-of-pocket (MOOP) limit establishes the maximum amount that people can be required to pay in cost sharing, including deductibles, co-pays, or coinsurance.
    - Applies to nearly all private plans, whether offered through employers or in the individual market
  - Each is expected to be 4.5% higher in 2026 than expected before rules change

Proposed Marketplace Regulations

- Would also allow carriers to offer plans with lower actuarial value (AV) on the Exchange
  - AV is the portion of medical costs that the plan typically covers, as opposed to the costs enrollees pay through co-pays
- Exchange plans are tiered by AV: Bronze—60% AV; Silver—70% AV; Gold—80%; Platinum—90%
- Under current rules, carriers are allowed to offer plans with lower AV as long as the amount is *de minimus* (0-2 percentage points)
  - Proposed rule would allow some plans AV to drop by as much as 4 percentage points
  - Result would be lower value as well as lower premium credit amounts, because marketplace premium subsidies are tied to the value of benchmark plan

ACA Customer Service Cuts

- HHS has cut 2 out of 6 divisions of Exchange case workers
- Administration cut Navigator funding by 90%
- Similar cuts to customer service and more onerous enrollment rules led to flat Exchange growth during first Trump administration

Impact of Expiring Subsidies

- Commonwealth Fund predicts 4 million people will lose coverage as a result of expiring enhanced subsidies
  - Additional budget pressure on states like California, Washington, Colorado, Maryland
  - Impact for red states that expanded enrollment in 2020-2025
    - Texas 255%
    - Florida 147%

50-State Medicaid Expansion?

- 10 states that have not yet expanded Medicaid
  - Florida—Initiative to put Medicaid expansion on 2026 ballot
  - Georgia is seeking to renew/extend its Section 1115 “Pathways to Coverage” Waiver
  - Kansas Democratic Governor Laura Kelly included Medicaid expansion in proposed FY 2026 budget
  - Mississippi expansion legislation failed in 2024
  - South Carolina is seeking limited coverage expansion to 100% FLP with a work requirement
  - Wisconsin governor proposed expansion in biennial budget proposal for 2025-2027
  - No action in the last year in WY, AL, TX, TN

State Waivers

- Giving states opportunity to take on "laboratory of democracy" role
- Two waiver laws—ACA Section 1332, and Medicaid Section 1115
- Section 1332—State demonstration waiver under the ACA. Allows states to opt out of certain ACA Marketplace requirements in favor of alternative solutions that:
  - Provide coverage at least as comprehensive as EHB under ACA
  - Provide coverage that is at least as affordable as what ACA subsidies and cost sharing protections
  - Cover a comparable number of people; and
  - Do not increase the federal deficit
- Section 1115—Medicaid demonstration waivers allows states an avenue to test new approaches in Medicaid that differ from federal requirements if the approach is likely to promote the objectives of the Medicaid program

Cadillac Tax 2.0?

- March 20, 2024, Republican Study Committee's Budget and Spending Task Force released budget proposal which included a limit on tax treatment for health care expenditures, including amounts paid by both an employer and an employee.
- What if tax exclusion for ESI was capped at 75% of average in 2026 and indexed for inflation using chained CPI-U? ($11,200 individual/$27,600 family)
- By 2032, this policy would limit the tax exclusion to the 50th percentile of premiums ($8,900 individual/$21,600 family in 2026 dollars)
  - 2.8 million fewer people would have coverage through employment by 2035
  - Move toward less robust coverage to stay under the cap
- Other long-run annual impacts:
  - $40 billion less GDP
  - 240,000 fewer jobs
  - $280 billion less after-tax employee compensation

Section 1557

- ACA nondiscrimination provision, which prohibits discrimination in health coverage on basis of sex
- Effective upon enactment 2010, but breadth of law has been determined by implementation guidance issued across different Presidential administrations: Obama in 2016, Trump in 2020, Biden in 2024
- Two areas of disagreement—
  - Protections for pregnancy related decisions, including abortion
  - Protections for transgender people, especially in light of Supreme Court decision in *Bostock v. Clayton County, GA*

What Will Impact ACA Over Next 15 Years?

- Access to health insurance/the number of uninsured
  - Impact of expected massive cuts to federal budget
    - 12 states with trigger laws re: falling below 90% federal Medicaid match
- Growth of healthcare costs
  - Rapidly increasing price of prescription drugs and non-preventive treatment
- Improve quality of care
  - Effect of AI and minimums medical professional shortages
- Anger

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Questions

Thank you!