



**Stan Dorn, Senior Fellow
Legislative Health and Human Services
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The ACA's individual responsibility requirement



Core concept:

- If you can afford insurance, you should obtain it
- If you don't fulfill your individual responsibility to obtain coverage, you pay a tax penalty

Rationale: make it possible to protect people with preexisting conditions

- Before the ACA, several states found that when insurers were forbidden from discriminating, many healthy people waited until they got sick before buying insurance
- Raised premiums significantly and destabilized markets

Broader vision of shared responsibility

- Insurers are responsible to offer coverage without discrimination
- The federal government is responsible for providing financial assistance to those who cannot afford insurance on their own
- Individuals who are offered affordable coverage are responsible to enroll

What an individual responsibility requirement means now

For insurance starting in 2019, federal tax legislation eliminated the penalty for violating the ACA's individual coverage requirement

Projected consequences for New Mexico, according to the Urban Institute

- 26.7% higher premiums in the individual market: a greater impact than in any other state
- 34,000 more uninsured—a 19% relative increase

States are beginning to replace the disappearing federal enforcement role

- MA has enforced a state mandate since 2006
- In 2018, legislation passed in NJ, DC, VT, and WA
- Legislation considered seriously in MD and CT during 2018 legislative session



The silver lining: states can improve on the ACA's original design

Maryland's proposed approach

- Create an individual mandate under state law that is more realistic about what low-income households can truly afford
 - Exempt everyone with incomes below the Medicaid threshold of 138% of the federal poverty level
 - Exempt additional low-wage workers who can't truly afford insurance but were subject to penalty under the ACA
- Use state income-tax filing as an opportunity to enroll the uninsured into coverage
 - People qualify for Medicaid and the Children's Health Insurance Program (CHIP) based on income information on the tax return
 - People with incomes too high for Medicaid have a brief special enrollment period to sign up for exchange coverage
 - People who owe a penalty for being uninsured the prior year can turn their penalty into a down payment to help buy insurance
 - If someone qualifies for health insurance that costs no more than their federal premium tax credit (PTC) plus their down-payment, and they don't sign up for anything else during the special enrollment period, enroll them into zero-additional-premium coverage as automatically as possible



Key facts about New Mexico

Why focus on tax filing? That's where the eligible uninsured are! Before the ACA went into effect, the Urban Institute estimated that federal income-tax filers in New Mexico included

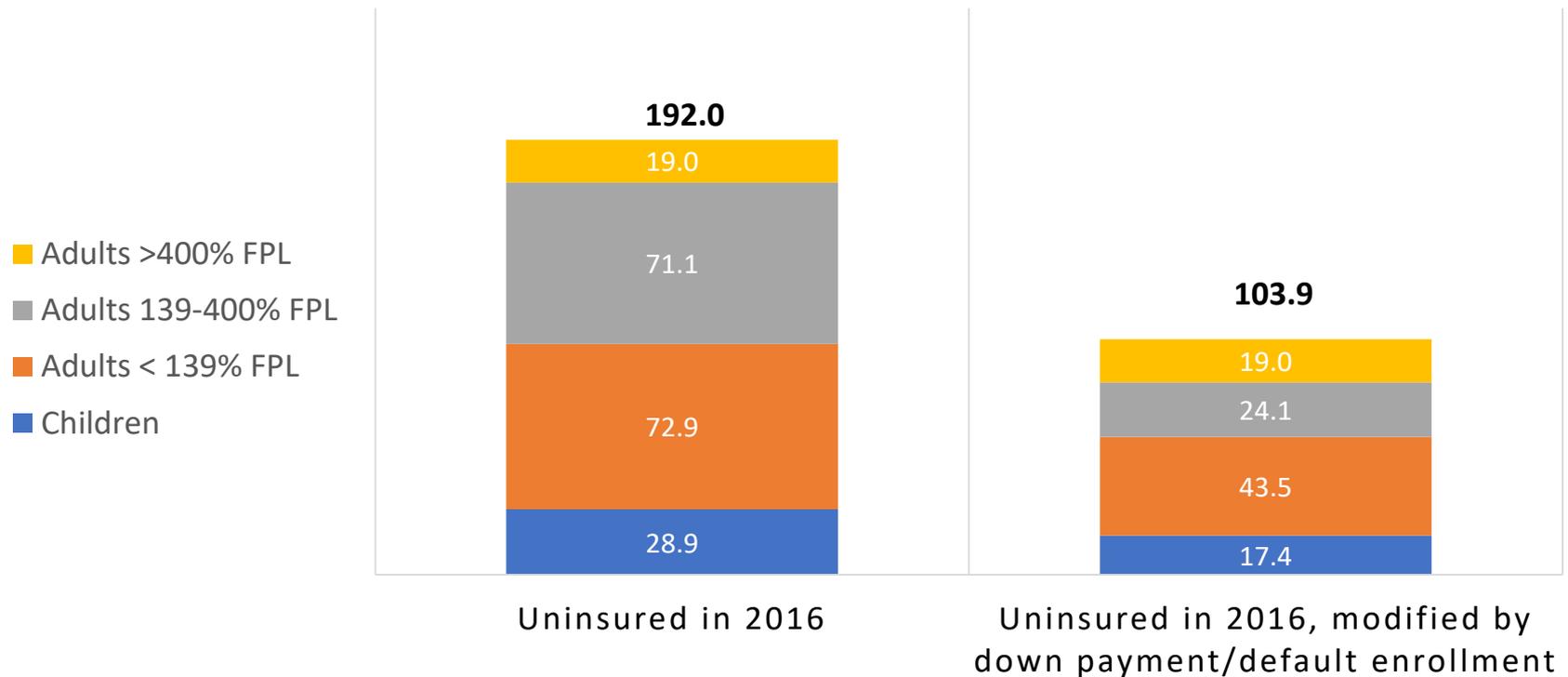
- 61% of the uninsured who would qualify for Medicaid after the ACA went into effect
- 92% of the uninsured who would qualify for PTCs

Many uninsured are not taking advantage of coverage that is essentially free. Based on the most recent available data about the uninsured in New Mexico and premiums in the exchange:

- More than 15,000 uninsured children and 50,000 uninsured adults are eligible for Medicaid or CHIP but not enrolled
- More than 29,000 uninsured residents are offered exchange insurance that costs no more than the consumer's PTC.
- More than 47,000 uninsured residents are offered exchange insurance that costs no more than the consumer's PTC plus the federal penalty for lacking insurance the prior year. These consumers would be offered zero-additional-premium coverage under a down-payment plan in New Mexico.

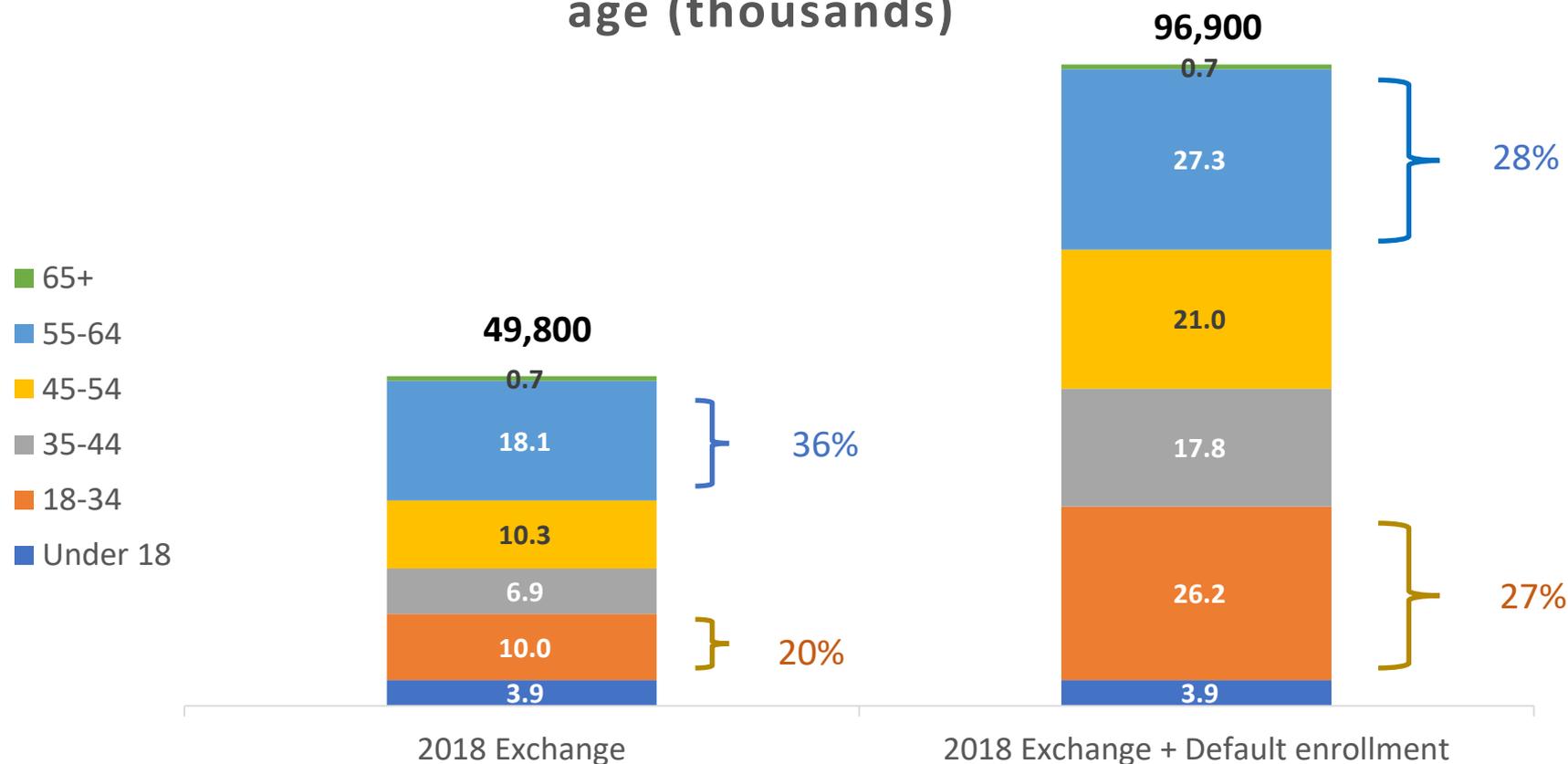
Potential impact of down-payment/default enrollment plan on New Mexico uninsured

Estimated number of uninsured, by age and income (thousands)



Enrollment in the New Mexico exchange: Potential impact of default enrollment that includes the down payment plan

Estimated distribution of exchange enrollees by age (thousands)



Source: Families USA analysis of 2016 American Community Survey data; CMS 2018 public use files.



Technicalities

These estimates are very rough. They suggest the approximate magnitude of effects.

Enrollment could not be truly automatic

- Tax filers must consent to sharing their information with state health agencies to determine eligibility for low-cost or zero-cost health insurance
- Consumers must be informed about the implications of using advance PTCs to buy coverage
- Some consumers may need to provide the exchange with information that supplements information already on the tax return
- At the final point of enrollment, consumers could be given a chance to opt out

Possible timing

- Individual responsibility for coverage could be enforced in New Mexico for insurance beginning in 2020, with enforcement through the state income tax system starting in 2021
- Down payment plan and tax-based enrollment could go into effect as soon as the exchange determines that
 - Implementation is feasible, given the completion of other work required to stand- up a fully independent exchange
 - Administrative costs of initial implementation and operation would be fully covered by penalty payments not used to purchase insurance



Related strategies



Leverage hospital reductions in uncompensated care to provide New Mexicans with additional help affording insurance

Increasing enrollment can yield other benefits

- Enrolling young and healthy adults into the individual market addresses the root cause of high premiums
 - In Massachusetts, this approach helped achieve the country's lowest exchange premiums, even though Massachusetts health care costs are generally among the highest in the country
- Additional enrollment draws down more federal financial assistance to support the New Mexico economy and create jobs
- Create opportunities to gain future federal approval for truly bold New Mexico reforms, like a strong Medicaid buy-in plan

Conclusion

Prevent harm: state individual mandate in NM would stop

- Spikes in individual-market premiums
- Increases in the number of uninsured

Seize opportunity: building on the ACA to craft a better individual mandate in NM could

- Be more realistic than federal law about the circumstances of low-wage, working families
- Take a less punitive approach that enrolls the uninsured into coverage whenever possible, rather than impose potentially avoidable penalties
- Significantly reduce the number of uninsured
- Lower individual-market premiums by increasing enrollment of young and healthy adults



For additional information, contact
Stan Dorn, sdorn@familiesusa.org



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