July 24, 2015

Health Care Reform and Affordable: The Graduate Student's Need for Further Reform

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7/25/2014
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Introduction

In 2010, the reform that President Barack Obama was proposing for America’s health care system was passed by Congress as the Patient Protection and Affordable Care Act (ACA).\(^1\) The ACA allowed for the development of the Health Insurance Marketplace where many of America’s uninsured could go to purchase health insurance coverage.\(^2\) The goal of the act was to increase the overall number of Americans covered by health insurance while decreasing the cost of the health care provided.\(^3\) The ACA included requirements to have coverage and to expand the coverage of State provided Medicaid with tax penalties for individual citizens and states that did not comply with these requirements, respectively.\(^4\)

Unfortunately in Texas, the positive effects of working towards solving health insurance consumption issue and providing more insurance plan options as a whole is offset by the situation with which the State’s graduate students are currently faced.\(^5\) Graduate students are important to the success of the health care system as their premiums contribute to offsetting the cost of insuring the State’s older adults.\(^6\) They are needed to represent their proportion of potential health care enrollees, yet their list of coverage options is much smaller.\(^7\) This is due to the fact that Texas is a state that decided not to expand Medicaid coverage for its citizens and as a student they have little to no income that would have otherwise qualified them for insurance in

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4. Id at 2572.
7. Id.
the Marketplace.\textsuperscript{8} It is likely that if there are no further changes to Texas’s health care system these uninsured graduate students will remain uninsured.\textsuperscript{9}

The major group facing this problem within the graduate student population is unemployed students of uninsured parents. These are often healthy and driven students, yet they have the least amount of options. Changes in the health insurance arena that are in favor of graduate students are necessary to allow these individuals to have easier access to health care. Changes in both the existing Affordable Care Act and the State’s Medicaid program could make all the difference. A delayed program of the ACA, called the Basic Health Program, will be available in 2015 which aims to insure more low-income people.\textsuperscript{10} Medicaid expansion is likely the best option for Texas’s graduate students because this option allows for an increase in government funding to account for the expense of the expansion. Therefore, the State would not be placing an extreme burden on itself by footing the entire cost of covering the insurance gap with its Medicaid program.

Furthermore, the Supreme Court has recently carved out a small exception to the Affordable Care Act that could lead to further exceptions and fundamental changes to the Act, which could lead to a weak and less enforceable Affordable Care Act. Graduate students can serve the state of Texas and the country to make a better future with the knowledge they are obtaining. Without any further attempts to change and make better the health care system, the state of Texas is doing a serious disservice to what will be some of its most educated and contributing citizens.

\textsuperscript{8}\textit{Id.}
\textsuperscript{9} Kaiser Family Foundation, \textit{How Will the Uninsured in Texas Fare Under the Affordable Care Act} (Jan. 6, 2014), http://kff.org/health-reform/fact-sheet/state-profiles-uninsured-under-aca-texas/.
\textsuperscript{10} Deborah Backrach, Melinda Dutton, Jennifer Toblert, & Julia Harris, \textit{The Role of the Basic Health Program in the Coverage Continuum}, 1 (March 2012), http://kaiserfamilyfoundation.files.wordpress.com/2013/01/8283.pdf.
Background of Health Care Reform

The ACA led to the development of the online Health Insurance Marketplaces.\textsuperscript{11} The Marketplaces are new organizations that are set up to create more organized and competitive markets for buying health insurance.\textsuperscript{12} The Marketplace offers individuals and families choices in health care plans so that they may buy health insurance on their own.\textsuperscript{13} There are also options for small businesses to buy coverage that will cover their employees as there are not requirements for these businesses.\textsuperscript{14} The Marketplace is set up in every state and eligibility is given to those who reside in the state where the Marketplace is located, are U.S. citizens or lawfully present in the U.S., and are not incarcerated.\textsuperscript{15}

The Marketplace started coverage for Americans in 2014 by setting a time frame of several months where enrollment for the year was open.\textsuperscript{16} There is an enrollment period every year and those who do not enroll during that time period must wait until the following year’s enrollment period to enroll in Marketplace health plans.\textsuperscript{17} The Marketplace tries to simplify the information for potential enrollees as much as possible by displaying different coverage benefits in different colors and sorting the different plans according to increasing monthly premiums.\textsuperscript{18} The plans range in colors of bronze, silver, or gold to correspond with the increase in coverage and, therefore, overall cost of the premium the individual would need to pay.\textsuperscript{19} Each color group has a number of options listed to it with slight variances in premium prices and coverage, but

\begin{itemize}
  \item \textsuperscript{12} \textit{id}.
  \item \textsuperscript{13} \textit{id}.
  \item \textsuperscript{14} \textit{id}.
  \item \textsuperscript{15} \textit{id}.
  \item \textsuperscript{16} \textit{id}.
  \item \textsuperscript{17} \textit{id}.
  \item \textsuperscript{18} \textit{id}.
  \item \textsuperscript{19} \textit{id}.
\end{itemize}
largely offers and covers the same things. The purchasing of insurance in the Marketplace is very similar to any other online purchase. The site prompts customers through a series of web pages requesting personal information, payment information, and finally a confirmation of purchase of their new insurance coverage. All of this information is also sent to the customer via email and any updates or changes to the system are also sent via email.

There were several key factors in the overall approach to expanding health care coverage. The first of these factors is the requirement for Americans to maintain “minimum essential” health insurance coverage. Under the ACA, an individual can meet this requirement through individual market policies, job-based coverage, Medicare, Medicaid, Children’s Health Insurance Program, Tricare, and certain other coverage. The minimum essential coverage is for those who are not exempt due to their amount of income or those who do not receive health insurance from an employment or government program. This coverage is purchased through private companies.

The second key factor includes a penalty for those who do not maintain the minimum essential coverage, which is paid out of an individual’s taxes each year they do not meet the requirement. This penalty is named the “shared responsibility payment” because of the need nearly everyone will have for health care at some point during their lifetime and the

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20 Id.
21 Id.
22 Id.
23 Id.
25 Id at 2571.
28 Id.
29 Id at 2571-72.
responsibility everyone has to add to the system as a result of that need.\textsuperscript{30} The penalty is phased into the system by increasing every year.\textsuperscript{31} For 2014, the penalty is the greater of $96 for each adult and $47.50 for each child with a cap at $285 per family, or 1% of family income minus the federal tax filing threshold.\textsuperscript{32} In 2015 the penalty will increase to $325 for each adult and $162.50 for each child with a cap at $975 per family, or 2% of family income.\textsuperscript{33} Finally in 2016, the penalty will increase again to $695 for each adult and $347.50 for each child and a cap at $2,085 per family, or 2.5% of family income.\textsuperscript{34} After 2016 the penalty amounts will change based on the cost of living.\textsuperscript{35}

The final key factor in expanding health care coverage was the expansion of Medicaid.\textsuperscript{36} This expansion increases the number of citizens a state must cover, which includes pregnant women, children, needy families, the blind, the elderly, and the disabled.\textsuperscript{37} The ACA increases federal funding to cover the State’s costs that result from Medicaid expansion.\textsuperscript{38} However, if the State does not meet the quota required it could lose not only the increased funding but also all of its federal Medicaid funding.\textsuperscript{39} Out of the fifty states twenty-six implemented the expansion of Medicaid in 2014, which includes California, Hawaii, and Illinois.\textsuperscript{40} Three states still remain in

\begin{footnotes}
\item Id at 2572.
\item Id.
\item Id.
\item Id.
\item Id.
\item Id.
\item Id.
\item Id.
\item Id.
\end{footnotes}
open debate about expansion and twenty-one states have decided not to move forward with the expansion, which includes Florida, Tennessee, and Texas.\textsuperscript{41}

One of the goals of the expanded coverage is to solve the consumption issues found in the health care system.\textsuperscript{42} The consumption issue is basically a multi-step shift in health care expenses and correlates with the age of those enrolled in the health care system and those who could potentially be enrolled.\textsuperscript{43} The beginning of the issue is with those who, usually due to the cost associated with health insurance, chose to forego health insurance and pay out of pocket.\textsuperscript{44} The decision to forego health insurance coverage or and resulting attempt to self-insure increases financial risks for both the individuals households and medical providers.\textsuperscript{45} This leads to a failure to pay the more expensive medical bills, which amounted to approximately $43 billion in 2008.\textsuperscript{46} This cost leaves medical providers unpaid, so they impose higher chargers on the private insurance companies to make up the difference.\textsuperscript{47} In turn, the private insurance companies must then increase their premiums for their already-insured customers to offset the cost shifted to them.\textsuperscript{48} These higher premiums take the system full circle where uninsured people remain uninsured due to the higher price of obtaining coverage.\textsuperscript{49} This cost-shifting increases family premiums on average of $1,000 per year and increases individual premiums on average of $368 to $410 per year, which ends up representing approximately eight percent of average

\textsuperscript{41} Id.
\textsuperscript{43} Id.
\textsuperscript{44} Id.
\textsuperscript{45} Id.
\textsuperscript{46} Id.
\textsuperscript{47} Id.
\textsuperscript{48} Id.
\textsuperscript{49} Id.
premiums.\textsuperscript{50} Providing government-regulated health care through the ACA is a way to help minimize the effects of this cycle of increasing health insurance costs.\textsuperscript{51}

There was an initial objection to the minimum essential coverage requirement and overall mandate to have insurance being that Congress did not have the authority to impose a penalty for those who did not meet the requirement.\textsuperscript{52} The requirement was found to fall within Congressional authority under the Commerce Clause.\textsuperscript{53} National health care spending was approximately $2.5 trillion in 2009 which represented about 17.6\% of the national economy.\textsuperscript{54} Out of that total, federal, state, and local governments paid $1.1 trillion, or 44\%.\textsuperscript{55} Additionally, private insurance companies covered 176 million Americans through employer-based health systems and another 24.7 million Americans through individual insurance markets.\textsuperscript{56} Through these numbers it is undisputed that health insurance and its related services are a significant part of the national economy.\textsuperscript{57} The major premise behind the Commerce Clause was to allow the federal government to regulate economic activity related to the government and interstate commerce.\textsuperscript{58} The decision about whether and when to purchase health insurance and how to pay for the related services are inherently economic.\textsuperscript{59} The conclusion that the Commerce Clause applied was based on the premise that most uninsured Americans would need health care at some point and, therefore, would inevitably enter health insurance market and substantially affect that

\textsuperscript{50} Id at 1244-45.
\textsuperscript{51} Id.
\textsuperscript{52} Seven-Sky v. Holder, 661 F.3d 1, 16 (D.C. Cir. 2011).
\textsuperscript{53} Id at 17.
\textsuperscript{55} Id.
\textsuperscript{56} Id.
\textsuperscript{57} Id.
\textsuperscript{58} Seven-Sky v. Holder, 661 F.3d 1, 4 (D.C. Cir. 2011).
\textsuperscript{59} Id.
However, the act provided certain exemptions to the general rule of paying penalty for not obtaining coverage. The exemptions to paying the penalty include not being able to afford coverage, not being a U.S., having a gap in coverage for less than three consecutive months during the year, falling below the tax filing threshold, being unable to qualify for Medicaid due to a state not expanding the program, or participating in a health care sharing ministry, and certain individuals the government deems to have suffered a hardship.

Requirements for employers are slightly less strict than for individuals. Large businesses, which are defined as having more than 50 employees, are currently not required to offer health benefits for their full-time employees or dependent children, where full-time employees are individuals who work at least 30 hours per week. However, starting in 2015 large businesses will be required to provide health benefits and tax penalties will be imposed against those large businesses who continue not to offer health benefits. The health benefits required of large businesses would cover the full-time worker and his or her dependent children. The businesses are not required to offer insurance to the employee’s spouse, so the uninsured spouse would need to find health insurance through other areas, such as his or her employer of the Marketplace. The requirement to provide health benefits to employees will

60 Id at 16.
61 Id.
62 Id.
64 Id.
65 Id.
66 Id.
67 Id.
also encompass the seasonal worker as long as the business has been considered a large business for four or more months.\textsuperscript{68}

In cases where the employer does not start offering health benefits and the employee is between 100\% and 400\% of the federal poverty level, the employee can apply for tax credits to reduce the cost of coverage in the government provided health care Marketplace.\textsuperscript{69} Regarding a large business’s part-time employees, there will not be any requirements to offer those employees, spouses of the employees, or children of the employees’ health benefits nor will any tax penalties be applied for continuing not to offer health benefits.\textsuperscript{70} Small businesses, which are business with fewer than 50 employees, are not required to offer health benefits to either full-time or party-time employees or any of their dependents.\textsuperscript{71} There are no penalties for these businesses and employees will likely have to seek coverage through the Marketplace.\textsuperscript{72} Furthermore, any employer-based health benefits can be supplemented by purchasing additional coverage through the Marketplace.\textsuperscript{73}

There are also several aspects of the costs and coverage associated with ACA that provide for a more accessible health insurance arena overall.\textsuperscript{74} The ACA’s changes to coverage can be seen primarily in the prohibition of excluding coverage to those who have pre-existing medical conditions.\textsuperscript{75} Furthermore, the ACA provides a Medicare expansion which allows for more coverage for citizens 65 years and older.\textsuperscript{76} The expansion includes increasing prescription

\begin{itemize}
\item \textsuperscript{68} Id.
\item \textsuperscript{69} Id.
\item \textsuperscript{70} Id.
\item \textsuperscript{71} Id.
\item \textsuperscript{72} Id.
\item \textsuperscript{73} Id.
\item \textsuperscript{74} Peterson v. U.S., 774 F.Supp.2d 418, 421 (N.H. 2011).
\item \textsuperscript{75} Id.
\item \textsuperscript{76} Id.
\end{itemize}
drug benefits, imposing additional Medicare taxes on high-wage earners and investment income, and constraining the rate that Medicare pays to certain types of health care providers.\textsuperscript{77}

The expansion also brings the subsidies for Medicare Advantage plans into line with traditional Medicare payments.\textsuperscript{78} These Medicare Advantage plans are private plans through which beneficiaries can elect to receive Medicare benefits.\textsuperscript{79} As far as the costs of insurance under the ACA, subsidies are provided for that will limit the costs of maintaining minimum coverage for citizens that are below 400\% of the poverty level.\textsuperscript{80} Additionally, the ACA also imposes a tax on high-cost health insurance plans, encouraging private companies to lower their premiums.\textsuperscript{81} The total effect of these changes to cost and coverage of health insurance is one that ideally helps American citizens receive benefits at a lower cost.\textsuperscript{82}

\textbf{Student Enrollment in Health Care Reform}

Graduate students all over the country were likely wondering what new options were available to them once Congress passed the Affordable Care Act. They were likely wondering how they could apply and what other resources were available to them to give them a more financially sound future that was without worry of how they would pay any potential medical bills. For the country as a whole, there are many options available to graduate students. However, that does not necessarily mean that every graduate student’s situation is free of worry for health and its financial impact. In Texas, the student population is set as far as health care

\textsuperscript{77} Id.
\textsuperscript{78} Id.
\textsuperscript{79} Id.
\textsuperscript{80} Id.
\textsuperscript{81} Id.
\textsuperscript{82} Id.
despite being an extremely important group to the overall success behind the numbers of the new health care system.

Graduate students, and young adults in general, are extremely important as far as the success of the ACA is concerned, yet they are uninsured at nearly double the rate of older adults. The lack of insurance leaves these students at risk for medical or financial hardship that could prevent them from earning their degrees, such as added debt in medical bills or the need to resort to bankruptcy. A major illness or an automobile collision are just a few situations where a student who was getting by financially is now faced with bills for ambulance services, in-hospital medications, out-patient prescriptions, follow-up office visit fees, hospital stay fees, and many, many more. This age group is an integral part in the balancing of age distribution in the health care system.

Under the ACA, premiums vary based on age with people approximately 60 years and older paying about three times more than a person in their mid-twenties. Because the ACA limited the variation in premiums for the older generation to no more than three times that of the younger generation, older adults typically pay premiums that do not fully cover their health care expenses. Before the ACA premium variations based on age were typically about to five to one. Older adults typically have a more frequent need for health care than young adults, which

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85 Id.
86 Id.
87 Id.
88 Id.
is the source of the problem. To offset this issue, young adults are needed so that their premiums can help cover the costs of the older adults because the young adults typically do not have as much, if any, medical expenses. Therefore, for the new health care system to function properly, young adults are greatly needed to produce a surplus in premium revenues to cover the expenses created by older adults. If this does not happen insurers may seek to raise premiums for following years.

A health insurance option that allows for student enrollment into the health care system is purchasing a catastrophic plan. There are catastrophic plans available for young adults who are also under the age of thirty but also encompass those who are unable to find coverage that costs less than eight percent of their income. A catastrophic plan aims to cover the remaining cost of a worst-case scenario situation, which is oftentimes a serious accident or illness. Although these plans have much lower premiums, they have much higher deductibles than the typical insurance plans. The catastrophic insurance plan only covers three doctor’s visits and preventive care upfront. After the student has meet that amount there is no coverage until the student meets a deductible that is approximately $6,000. Furthermore, tax credits cannot be applied to the premium of a catastrophic plan, but these may plans may sometimes offer the cheapest cost for coverage.

89 Id.
90 Id.
91 Id.
92 Id.
93 Id.
94 Id.
95 Id.
96 Id.
97 Id.
98 Id.
99 Id.
Because young adults are so important to the health care system, there is an ideal proportion of this group that needs to be enrolled. In general, this ideal proportion is the same proportion that young adults represent in the market of potential health care enrollees. These potential enrollees include individuals who are currently uninsured, not eligible for Medicaid or affordable employer coverage, and residing in the country legally. Approximately 40% of potential enrollees are represented by young adults, which are those between 18 and 34 years of age. Therefore, out of all the people who enroll in the new health care system, about 40% of those people need to be young adults to help with the age distribution issue. For example, in a scenario where about 7 million people enroll in the new health care marketplaces about 2.8 million of those people would need to come from the young adult age group. But what happens if the care system falls short of this proportion of young adults? The amount of premiums collected from everyone enrolled in the health care system would not be enough to cover the total health care expenses. If the enrollment of young adults does not increase over the span of a few years, then it is possible that premiums will need to be raised to compensate for the loss.

There are certain coverage options available to graduate students, because they are typically in the young adult age category. Graduate students whose income falls below 138% of the federal poverty level can qualify for Medicaid coverage, which is about $15,856 for a

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100 Id.
101 Id.
102 Id.
103 Id.
104 Id.
105 Id.
106 Id.
107 Id.
single person or $32,500 for a family in 2014. However, this is only possible in a state that has approved the expansion of Medicaid eligibility. Another option is to be placed as a dependent on their parents’ coverage, which often allows dependency up to 26 years of age but the parent does not need to claim the child as a dependent for tax purposes and the child does not need to live in the parents’ home to be covered. Moreover, foster youth under the age of 26 are allowed under the ACA to remain on their state’s Medicaid plan. This option can be an issue for young adults that either have uninsured parents or have aged out of dependency. Lastly, graduate students have the option to buy a policy through their state’s health insurance Marketplace which must meets the requirements of offering certain benefits and allow for cost sharing. The premiums of these plans can be reduced depending on the student’s income, but this does not mean the plan will automatically be affordable to them. There is also the option of obtaining a student health plan through the student’s college or university, but cost can also become an issue in this scenario as well.

There is also the option of obtaining a student health insurance plan (SHIP) through the student’s college or university, but cost can also become an issue in this scenario as well. SHIPs can be labeled as “fully insured” or “self-insured” which changes the requirements placed on the plans of what types of health care must be provided and how much of the health care must

109 Id.
110 Id.
111 Id.
113 Id.
114 Id.
115 Id.
116 Id.
117 Id.
These student health plans count as minimum essential coverage and must cover essential health benefits if they are represented as a “fully insured” student health plans. These essential health benefits of SHIPs include ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services, prescription drugs, laboratory service, preventative and wellness services, and rehabilitative and habilitative services and devices. In contrast, student health plans labeled as “self-insured” might not be required to cover these essential benefits depending on the state’s regulations.

Uninsured students with an income are likely to qualify for premiums tax credits and cost-sharing subsidies in the Marketplace. Students with an income between 133% and 400% of the federal poverty level will qualify for tax credits to lower their premiums. More specifically, a student making about $15,000 and $46,000 individually or $31,000 and $94,000 for students with a family of four would qualify. The tax credits are applied up front to lower the individual’s health insurance premium. This method adds convenience so that the student does not have to pay more out-of-pocket and then wait to be reimbursed. The tax credits are also refundable, so if a student does not owe any income or has not filed tax returns past he or she can still receive the credits. However, there are a few negative aspects to the tax credits,
such as the restriction set by the government that tax credits cannot be used to purchase a catastrophic plan.127

The tax credits are applicable to situation of Student B. Student B is a 28 year old graduate student without any children.128 He is at 138% of the federal poverty level, which falls within the abovementioned range of qualification.129 Student B is working full-time along with his academic course load, making his monthly income $1,323.130 He then goes to the Marketplace to purchase health care insurance and finds a plan priced at $273.131 Based on his income, the government has determined that he qualifies for a tax credit of $229.132 Student B’s tax credit of $229 is taken away from the plan’s total cost of $273, leaving Student B with a premium of $44.133 This aspect of the ACA is clearly very beneficial to the graduate student population, but it unfortunately does not account for those students that cannot handle a job during their academic career to get them to the minimum percentage of the federal poverty level required of them to qualify.134 Another caveat of this method of obtaining cheaper health insurance is that these tax credits are only applicable to Marketplace plans and cannot be shifted to cover any portion of premiums paid for employer-sponsored health insurance.135

The cost-sharing subsidies, which is likely to be less prevalent in the graduate student community, is for individuals who earn up to 250% of the federal poverty level and select the

127 Id.
128 Id.
129 Id.
130 Id.
131 Id.
132 Id.
133 Id.
134 Id.
135 Id.
Silver plan in the Marketplace. These subsidies are payments from the government to help cover costs beyond the premiums, which means the government will pay a part of the out-of-pocket medical costs such as co-pays, co-insurance, and deductibles. The design behind this assistance is that it will help ensure that moderate-income individuals who enroll in Marketplace plans can actually use them.

The uninsured graduate students of Texas have a smaller list of coverage options. Texas is one of the state’s that has chosen not to follow the ACA’s plan for Medicaid expansion, a program that often covered gaps in existing health care options. Since January 2014, Medicaid eligibility for non-disabled adults is limited to parents with income below 19%, or about $4,500 per year for a family of four, of the federal poverty level. Comparing this to the ACA’s standard of below 138%, it is clear that Texas’s standard cuts out a very large portion of what would have been Medicaid-eligible people. The graduate student or young adult uninsured population is not mentioned in Texas’ changes to the state’s Medicaid plan. However, this population is encompassed in the 6.2 million nonelderly Texas who are not insured of which about one million would have been eligible for Medicaid had it been expanded. Because these one million adults are below the poverty line and there are no other options provided for under the ACA, these people are likely to remain uninsured.

136 Id.
137 Id.
138 Id.
139 Kaiser Family Foundation, How Will the Uninsured in Texas Fare Under the Affordable Care Act (Jan. 6, 2014), http://kff.org/health-reform/fact-sheet/state-profiles-uninsured-under-aca-texas/.
140 Id.
141 Id.
142 Id.
143 Id.
144 Id.
145 Id.
Graduate students are important to the success of the health care system.\textsuperscript{146} Unfortunately, the system in place to Texas seems to largely favor the employed community college student as opposed to the unemployed graduate student.\textsuperscript{147} Out of the list of options above, most are based on either meeting a minimum threshold of the federal poverty level or making just enough income to qualify for a break.\textsuperscript{148} There are several things that can be done to remedy this situation for them, but the country and the state have to want this change as much as, if not more than, the graduate student.

\textbf{Analysis of Health Care Reform}

The facts and data aforementioned play out into a few scenarios. For example, Student A is a 27 year old, healthy, full-time graduate student in Texas. Student A receives federal assistance in the form of student loans every year to pay for his education. Because of the demands of a full-time student schedule and his desire to maintain a high GPA in order to later compete in the job market of a recovering economy, Student A does not have a job or any income aside from financial aid refunds. The ACA is now in place and he goes to the Marketplace website to see what his coverage options are. After entering in his personal and employment, he receives a list of different level of coverage and their respective premiums, none of which are less than $100 per month. Student A realizes that after factoring in his rent, utilities, groceries, transportation, and textbook costs for a semester, which is the exclusive universities


\textsuperscript{148} \textit{Id.}
factor into their cost of attendance for refund purposes, he cannot afford the Marketplace options. However, based on his lack of income Student A will not have to pay a penalty.

There is also a student insurance plan through Student A’s university, but it is no less than $1000 for a semester, which is still outside of his budget. Student A then turns to Texas’s Medicaid program to receive coverage. Student A speaks to a Medicaid representative and finds out that because he already receives government assistance in the form of his student loans, which did not provide for health expenses in the list of factors in the cost of attendance, he is not eligible to receive assistance from Medicaid. Student A continues to go to class as an uninsured individual hoping that he can continue not needing health care long enough to get to a point in his life where he is able to get health insurance. Student A is receiving his education to become an educated and contributing citizen of Texas, a state that has short-changed its many graduate students of the opportunity to receive health care insurance that is affordable for them.

In order to help Texas’s graduate students like Student A, as well as other graduate students faced with varying scenarios, changes need to be made to both the new health care system and future Texas health care legislation.\textsuperscript{149} One change that will take place without any further action by Congress is the start of the Basic Health Program (BHP) in 2015.\textsuperscript{150} The BHP was a part of the ACA but was voted to be delayed by one year.\textsuperscript{151} The BHP is an option coverage program that allows states to use federal tax subsidies to offer subsidized coverage for individuals with incomes between 139\% and 200\% of the federal poverty level.\textsuperscript{152} This would

\textsuperscript{149} Deborah Backrach, Melinda Dutton, Jennifer Toblert, & Julia Harris, \textit{The Role of the Basic Health Program in the Coverage Continuum}, 1 (March 2012), http://kaiserfamilyfoundation.files.wordpress.com/2013/01/8283.pdf.
\textsuperscript{150} \textit{id.}
\textsuperscript{151} \textit{id.}
\textsuperscript{152} \textit{id.}
allow states to reduce the cost of health insurance cover for low-income individuals.\textsuperscript{153} The BHP will be extremely helpful to graduate students before graduation and after graduation prior to securing a job as it can help consumers maintain coverage as their income stays consistently below Medicaid levels.\textsuperscript{154} However, there are a couple of disadvantages to relying on the BHP as a means to an end of the graduate students’ problem.\textsuperscript{155}

The first disadvantage is that the State has to weigh whether to implement a BHP.\textsuperscript{156} Therefore, like the expansion of Medicaid, Texas could choose not to allow BHP as an option for its citizens.\textsuperscript{157} The second disadvantage of the BHP is that although federal funding is available for the program, states that choose to implement it must accurately estimate the amount of funding they will receive and costs related to the program so that funding will be sufficient.\textsuperscript{158} There is an emphasis on the need for accuracy because an estimate that is too low sets up for a BHP that does not have enough revenues to fund the costs of the health care for those that would be covered the program.\textsuperscript{159}

Despite the possible future attempts to add in further provisions to the ACA to benefits graduate students, the better plan is to focus on making what is already available even better and more viable of an option that it currently is.\textsuperscript{160} This notion is directed at both Texas’s and the country’s Medicaid policies.\textsuperscript{161} Making changes to the Medicaid program in Texas is another

\begin{flushleft}
\textsuperscript{153} Id.
\textsuperscript{154} Id.
\textsuperscript{155} Id at 2.
\textsuperscript{156} Id.
\textsuperscript{157} Id.
\textsuperscript{158} Id.
\textsuperscript{159} Id.
\textsuperscript{160} Texas Medicaid (June 24, 2014), http://www.benefits.gov/benefits/benefit-details/1640.
\textsuperscript{161} Id.
\end{flushleft}
viable option for providing a better opportunity for health care to the state’s graduate students.\textsuperscript{162} Currently, Medicaid is defined as providing medical coverage to eligible needy persons.\textsuperscript{163}

The broad mission of the Medicaid is a positive one and focuses on emphasizing prevention, promoting continuity of care, providing a medical home for Medicaid recipients, and ensuring that each recipient can receive high quality, comprehensive health care services within the recipient’s community.\textsuperscript{164} The general requirements to qualify for the program and its benefits include Texas residency and a need for health care assistance characterized by low or very low income.\textsuperscript{165} The person must also be either pregnant, a parent or relative caretaker of a depend child under the age 19, blind, have a disability or family in the household with a disability, or be 65 years of age or older.\textsuperscript{166} There is an application process that requires personal information as well as relevant medical and tax information to prove the eligibility requirements.\textsuperscript{167} This process would be a fairly simple one for the average graduate student.\textsuperscript{168}

Graduate students, who are typically in the young adult age range, would not have to use the benefits as often as the 65 years of age and older group.\textsuperscript{169} Therefore, it is very unlikely that they will substantially disrupt the system. Moreover, the choice to fund the expansion of Medicaid would result in additional government funding to cover the costs of implementing and maintaining the expansion.\textsuperscript{170} For this change to occur, both the Texas governor and state

\begin{footnotesize}
\begin{enumerate}
\item\textit{Id.}
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legislature must agree.\textsuperscript{171} Graduate students can write to their representatives, create petitions, and do whatever else it takes to advocate on their behalf and get the leaders of Texas to listen to their health care issues.

Choosing not to expand Medicaid has put Texas in a position of financial loss, which further hinders the ability to make changes in the state to help graduate students when there is less money to utilize for this cause.\textsuperscript{172} The Texas Hospital Association has been working on a plan since at least February 2014 to compensate for shortfalls in Medicaid financing and the billions in uncompensated care costs accruing annually.\textsuperscript{173} Had Texas leadership chosen to expand Medicaid it would have received $100 billion in federal funds over a 10 year time-frame and would have had to pay $15 billion from general revenue.\textsuperscript{174} In order to fund this financing of Medicaid expansion, the ACA reduces payments to hospitals for uncompensated care.\textsuperscript{175} This means that Texas did not receive the federal funding because of its choice not to expand Medicaid, but the hospitals are still facing the lack of compensation that was supposed to be offset by the billions the State would have had.\textsuperscript{176} In addition, Texas hospitals will receive $1.6 million less in 2016 from federal Medicare money as a result of cuts to Medicare reimbursements.\textsuperscript{177} This cut may not cause such worry if there was not already a lack of federal funds to the state based on the Medicare decision.\textsuperscript{178}

\begin{footnotes}
\item[{171}] Id.
\item[{173}] Id.
\item[{174}] Id.
\item[{175}] Id.
\item[{176}] Id.
\item[{177}] Id.
\item[{178}] Id.
\end{footnotes}
Texas lawmakers even considered an alternative plan to the Medicaid expansion in 2013 because there was so much opposition to the ACA. The alternative was referred to as “Texas solution” and involved obtaining a waiver or authorization from the federal government to reform Medicaid and expand coverage to poor adults. The waiver needed to cost-neutral and allow Texas to use tax revenues collected from health care plan premiums to pay for the state’s portion of the program’s total costs. The solution would have also provided provisions similar to ACA as far as cost-sharing and an individual’s “personal responsibility.” However, it is unlikely that the state of Texas could obtain the waiver the “Texas solution” is based on and the bill is still pending. Moreover, the earliest the Texas legislature will address the expansion of Medicaid is the year 2015, unless a special session is called.

The U.S. Supreme Court ruled that Medicaid expansion would not be mandatory for the states to adopt. Posing valid arguments that allows the Court to see that this decision is in need of reversal would be a major benefit to Texas graduate students as well. This avenue towards expansion in Texas is undoubtedly a more difficult and lengthy process, but is still a potential solution to the problem. Clearly, further development of Medicaid or a sufficient state replacement would help not only our graduate students but the state of Texas itself.

Unfortunately, the current health care reform legislation is already being chipped away by exceptions that could result in hindering the future progression of the benefits for all citizens.

180 Id.
181 Id.
182 Id.
183 Id.
including students.\textsuperscript{186} Three family-owned businesses, Hobby Lobby, Conestgoa, and Mardel, went before the Supreme Court requesting the right to refuse to pay for certain forms of contraception for their employees based on the corporations religious beliefs.\textsuperscript{187} Specifically, these corporations wanted an exception that does not require them to provide contraceptive methods that are related to abortion, such as the actual abortion procedure or a post-contraceptive pill that induces abortion.\textsuperscript{188} Without the Supreme Court granting these corporations request they would need to pay a penalty for their refusal to pay for the contraceptive methods they oppose.\textsuperscript{189} These penalties would be as much as $1.3 million per day and $475 million per year on the lower end, which all depends on the size of the corporation.\textsuperscript{190}

In June 2014 the Supreme Court decided in a five to four split that corporations have religious rights and certain for-profit companies cannot be required to pay for specific types of contraceptives for their employees, a requirement that was a part of the health care reform law.\textsuperscript{191} While certain religious ties of these corporations were the focus of the decision, there is a disadvantage to the employees who do not share their employer’s religious beliefs.\textsuperscript{192} When these corporations include retail stores, it is more likely that these employees include students.\textsuperscript{193} Those students with a differing religious view than their employer are having certain areas of their health care restricted via their birth control options.\textsuperscript{194} Furthermore, while the corporations

\textsuperscript{187} \textit{id.}
\textsuperscript{188} \textit{id.}
\textsuperscript{189} \textit{id.}
\textsuperscript{190} \textit{id.}
\textsuperscript{191} Bill Mears and Tim Cohen, \textit{Supreme Court rules against Obama in contraception case} (June 30, 2014), http://www.cnn.com/2014/06/30/politics/scotus-obamacare-contraception/.
\textsuperscript{192} \textit{id.}
\textsuperscript{193} \textit{id.}
\textsuperscript{194} \textit{id.}
that were the subject of the suit may want to only limit access to the contraceptives related to birth control, the ruling itself allows for corporations the freedom to decide not to provide even more forms of contraceptives if the decision is in line with their religious beliefs.\textsuperscript{195} However, it is likely that President Obama’s administration will provide a practical administrative fix to help with the exception the Supreme Court carved out of the health care reform law.\textsuperscript{196} This one Supreme Court ruling may not have a significant effect on the ACA, but it does open the door to further changes and exceptions that will ultimately lead to these significant effects.\textsuperscript{197}

\textit{Conclusion}

There is a lot to the structure of the new health care system and the effects it has on the student population in Texas. A portion of the student population has health choices through individual insurance plans, employer plans, and university plans, but there are those students who cannot afford those options and need more support during their academic careers. The enrollment of these students is important to the overall success of the health care system, and therefore every effort should be made to see them into the system and protected from catastrophic financial burdens that come from not having health care. This support should be sought by both the federal government and the state of Texas.

There is still a great deal of hope for the Texas graduate student when it comes to awaiting a better health care system. The previously discussed situation of Student A is not an uncommon one for many of the country’s students, and it is possible that a few of them could soon end up in the Texas legislature to make health care better for the future Student As of

\textsuperscript{195} Id.
\textsuperscript{196} Id.
\textsuperscript{197} Id.
Texas. There are endless possibilities when it comes to the changes these students could make in a leadership position that can better the health care arena for graduate students all over the state of Texas.

Current Texas leaders have already started putting together substitute programs, knowing that their decision not to expand Medicaid on principle would have ill effects on its student citizens. The beginnings of the Basic Health Program in 2015 may provide a little relief for those graduate students that have chosen to take on jobs alongside their academic careers. However, depending on the strength and reach of the program, it may need more to supplement its effects. Furthermore, the potential exceptions that could result from recent Supreme Court decisions also pose an issue to further positive developments to the ACA.

Medicaid also has a chance to make a comeback in the state of Texas. Anyone from Texas lawmakers to the rallying graduate student population to the U.S. Supreme Court can help the Medicaid situation progress in the right direction. The aforementioned groups first need to take action before these Medicaid and other related changes can be worked towards, implemented, and preserved in the health care system. The graduate student is a highly educated and contributing member of society that needs to have the worry of health care off his shoulders while he focuses on his studies.
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I swear or affirm that I am the sole author of all the contents of this paper, that I have not plagiarized in whole or in part, that I have not cheated in any other manner, and that I have abided by the requirements of the law school and the Honor Code in writing this paper.

Angela Nicewonder

Student’s Printed Name

/s/ Angela Nicewonder

Student’s Signature

7/24/14

Date