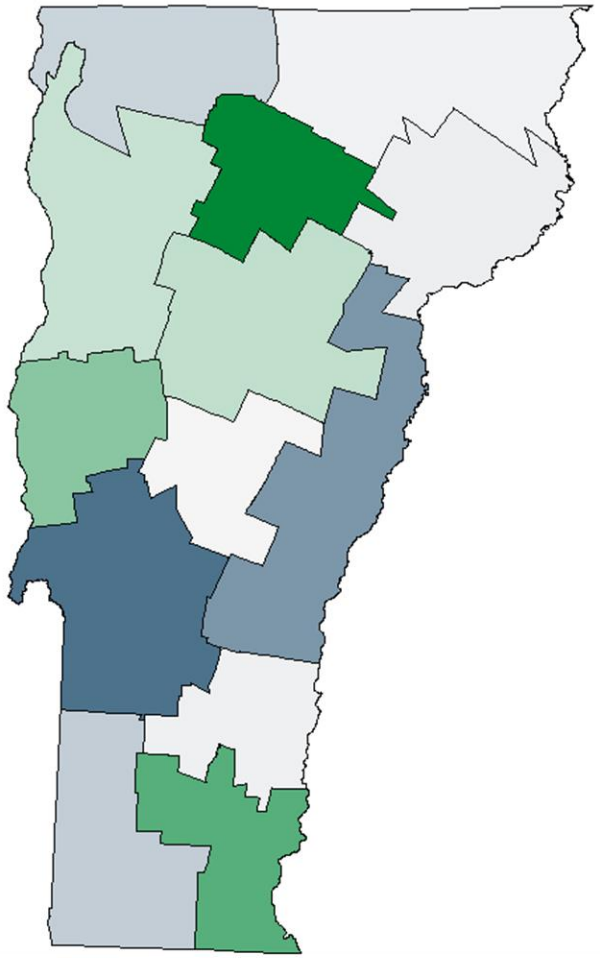


Individual Mandate Working Group

Overview of Preliminary Recommendations

September 26, 2018

Agatha Kessler, Health Policy Director, GMCB

VERMONT
GREEN MOUNTAIN CARE BOARD

Agenda

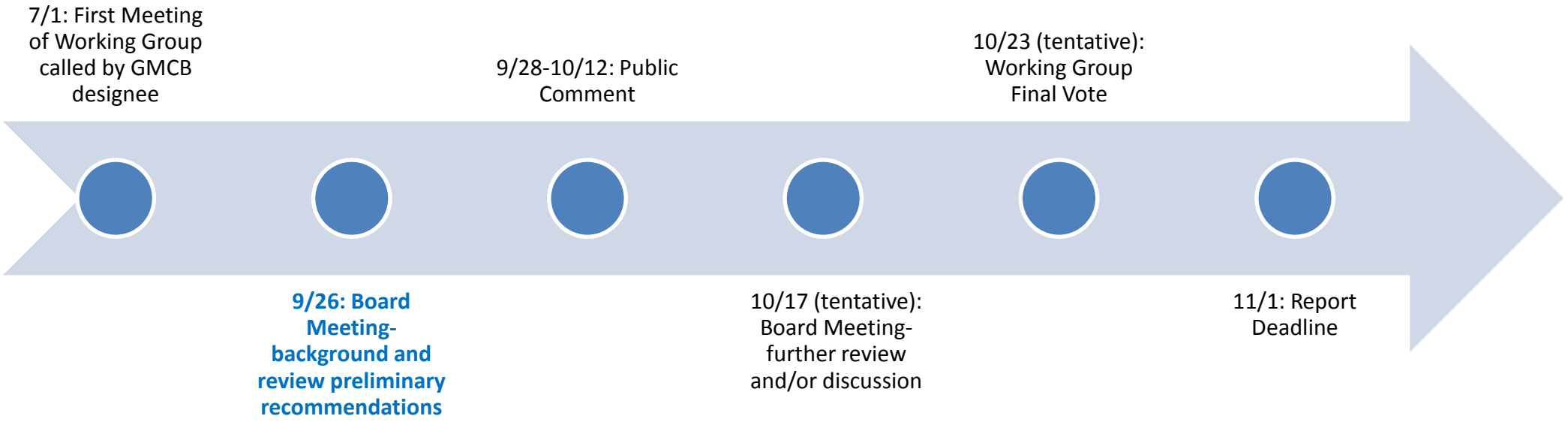
I. **Act 182 of 2018**
   a) Overview of Act
   b) Timeline
   c) Individual Mandate Working Group

II. **Individual Mandate**
   a) Background
   b) What we know about Vermont
   c) Federal Individual Mandate Overview (Jason Levitis)
   d) Recommendations

Act 182 of 2018: Overview

- **In response to the elimination of the federal penalty associated with the individual mandate (Tax Cuts and Jobs Act of 2017), the General Assembly passed Act 182 of 2018:**
  - Requirement that Vermonters shall maintain minimum essential coverage
  - Intent that the 2019 General Assembly should enact a financial penalty or other enforcement mechanism
  - Established the Individual Mandate Working Group, to develop recommendations regarding:
    - Minimum Essential Coverage
    - Exemptions
    - Enforcement
    - Administration

Act 182 of 2018: Report Timeline



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Act 182 of 2018: Working Group

Membership

- Agency of Human Services: (Adaline Strumolo)
- Department of Financial Regulation (Emily Brown)
- Department of Tax (Doug Farnham)
- Green Mountain Care Board (Robin Lunge)
- Office of the Health Care Advocate (Mike Fisher)
- Blue Cross and Blue Shield of Vermont (Sara Teachout)
- MVP (Susan Gretkowski)

Meetings

- Six Meetings; Independent member(s) also did research and proposal development outside of public meetings
- Facilitator approach: Agendas and meetings led by most relevant organization
- Public Comments: accepted at each meeting; online; public comment period (September 28 – October 12)

  Public comments on the draft report may be submitted:

  - By email: imwgcomments@vtlegalaid.org
  - By phone: (802) 828-5322 or (802) 828-4871

Act 182 of 2018: Working Group

Resources

- Staff from membership's organizations: including insurers' actuarial departments
- State Health and Value Strategies: Jason Levitis[1]
- Colleagues in Other States
- Federal Issues Working Group resources[2]

Principles & Process

Recommendations should:

- Focus on maintaining Vermont's low uninsured rate
- Strive to be practical: balance the complexity of health care policy, administrative burden and Vermonters' best interests
- Include alternative options to present different perspectives/priorities

[1] Jason Levitis is a health policy expert focusing on the ACA's tax provisions and state innovation waivers. He provides technical assistance to states in partnership with State Health and Value Strategies, a program housed at Princeton University and supported by the Robert Wood Johnson Foundation. He is also a nonresident fellow at the Brookings Institution and a senior fellow at Yale Law School's Solomon Center for Health Law and Policy. Until January 2017 he led ACA implementation at the U.S. Treasury Department.

[2] The Federal Issues Working Group is a stakeholder group of Vermont organizations that responds to changes in federal health care policy

What we know about Vermont

Item	All returns	Under $1 [1]	$1 under $10,000	$10,000 under $25,000	$25,000 under $50,000	$50,000 under $75,000	$75,000 under $100,000	$100,000 under $200,000	$200,000 under $500,000	$500,000 under $1,000,000	$1,000,000 or more
		Federal Income Tax Returns: 2016 Data[1, 2] Size of adjusted gross income									
FPL Level	1		<84%	84% - 210%[1,2,3]	210% - 421%[2,3]	421% - 631%	631% - 842%	842% - 1684%	1684% - 4209%	4209% - 8418%	>8418%
	2		<62%	62% - 156%[1,2,3]	156% - 312%[2,3]	312% - 468%[3]	468% - 624%	624% - 1248%	1248% - 3121%	3121% - 6242%	>6242%
	3		<50%	50% - 124%[1,2,3]	124% - 248%[1,2,3]	248% - 372%[2,3]	372% - 496%[3]	496% - 992%	992% - 2480%	2480% - 4960%	>4960%
	4		<41%	41% - 130%[1,2,3]	103% - 206%[1,2,3]	206% - 309%[2,3]	309% - 412%[3]	412% - 823%	823% - 2058%	2058% - 4115%	>4115%
# of Vermont returns	325,860	5,850	50,030	61,570	82,690	46,050	30,140	38,750	9,050	1,210	520
	100%	**2%**	**15%**	**19%**	**25%**	**14%**	**9%**	**12%**	**3%**	**0%**	**0%**
# of returns w/ penalty	10,590	**	** 30	3,160	5,070	1,480	470	290	70	** 10	**
$ of penalty	$7,346,000	-	$ 18,000	$ 1,607,000	$ 2,967,000	$ 1,328,000	$ 573,000	$ 570,000	$ 225,000	$ 58,000	-
	3.2%		**0%**	**30%**	**48%**	**14%**	**4%**	**3%**	**1%**	**0%**	**0%**

Program Eligibility Thresholds

- [1]Medicaid: up to 138% FPL
- [2]Vermont Premium Assistance: up to 300% FPL
- [3]Federal Premium Tax Credit: up to 400% FPL

- Categories not broken down by household size, makes definitive conclusions more difficult
- $10,000 - $25,000: Many family sizes should be eligible for Medicaid
- $25,000 - $50,000: Some family sizes should be eligible for Medicaid, federal Advance Premium Tax Credit or Vermont premium assistance.

[1] 2016 Report on Individual Income and Tax Data, Vermont

[2] As a result of confusion about the federal tax rules, the figures above include substantial numbers of erroneous payments by Medicaid-eligible families who were in fact exempt. The issue was detected, and the IRS took steps to correct it, including refunding payments, but the results of those efforts are not reflected above.

What we know about Vermont

Item	All returns	under $10,000	$10,000 under $25,000	$25,000 under $50,000	$50,000 under $75,000	$75,000 under $100,000	$100,000 under $200,000	$200,000 under $500,000	$500,000 or more
		Federal Income Tax Returns: 2015/2016 Vermont Data[1, 2] Delta between 2015 and 2016 Size of adjusted gross income							
FPL Level	1	<84%	84% - 210%[1,2,3]	210% - 421%[2,3]	421% - 631%	631% - 842%	842% - 1684%	1684% - 4209%	4209% - 8418%
	2	<62%	62% - 156%[1,2,3]	156% - 312%[2,3]	312% - 468%[3]	468% - 624%	624% - 1248%	1248% - 3121%	3121% - 6242%
	3	<50%	50% - 124%[1,2,3]	124% - 248%[1,2,3]	248% - 372%[2,3]	372% - 496%[3]	496% - 992%	992% - 2480%	2480% - 4960%
	4	<41%	41% - 130%[1,2,3]	103% - 206%[1,2,3]	206% - 309%[2,3]	309% - 412%[3]	412% - 823%	823% - 2058%	2058% - 4115%
# of returns subject to penalty	-2,290	-10	-920	-950	-270	-80	-80	0	0
% change	**-18%**	**-25%**	**-23%**	**-16%**	**-15%**	**-15%**	**-22%**	**0%**	**0%**
$ of penalty	$ 1,242,000	$ 9,000	$ 520,000	$ 581,000	$ 137,000	$ 13,000	$ -48,000	$ 20,000	$ 10,000
% change	**20%**	**100%**	**48%**	**24%**	**12%**	**2%**	**-8%**	**10%**	**21%**

Program Eligibility Thresholds

- [1]Medicaid: up to 138% FPL
- [2]Vermont Premium Assistance: up to 300% FPL
- [3]Federal Premium Tax Credit: up to 400% FPL

- Penalty increased from 2015 ($325/adult) to 2016 ($695/adult)

[1] 2016 Report and 2015 Report, Individual Income and Tax Data, Vermont

[2] As a result of confusion about the federal tax rules, the figures above include substantial numbers of erroneous payments by Medicaid-eligible families who were in fact exempt. The issue was detected, and the IRS took steps to correct it, including refunding payments, but the results of those efforts are not reflected above.

What we know about Vermont

Table One: Maintenance Population[1] Approximate Percent of Members Projected to Drop Coverage							
Income Range	Age Band						
	LT18	18-26	26-35	35-45	45-55	GT55	Total
Below 200% FPL	8%	7%	5%	5%	4%	2%	4%
200% to 250% FPL	12%	12%	11%	11%	8%	4%	8%
250% to 300% FPL	13%	11%	10%	10%	8%	3%	7%
300% to 400% FPL	11%	11%	9%	9%	7%	3%	7%
Above 400% FPL	41%	38%	40%	37%	27%	13%	25%
Total	25%	13%	10%	11%	10%	5%	9%

Table One: Maintenance Population Demographics of population projected to drop coverage as a result of removing the individual mandate penalty.

Table Two: Recruitment Population Demographics of population uninsured in 2014; federal individual mandate penalty was in effect.

Table Two: Recruitment Population[2] Uninsured Rate by Age and FPL (2014)									
Breakdown by Age									
Age	0-17	18-24	25-34	35-44	45-64	65+	TOTAL		
% uninsured	1.0%	4.6%	11.0%	5.1%	3.7%	0.3%	**3.7%**		
Change from 2012 to 2014	-1.5%	-6.9%	-7.2%	-2.1%	-2.5%	0.0%	**-3.1%**		
Breakdown by FPL									
FPL Level	Below 139%	139%-150%	151%-200%	201%-250%	251%-300%	301%-350%	351%-400%	Above 400%	TOTAL
% uninsured	5.0%	3.2%	5.8%	5.7%	4.2%	5.4%	2.0%	2.0%	**3.7%**
Change from 2012 to 2014	-4.6%	-11.4%	-7.4%	-2.3%	-5.4%	-1.1%	-1.7%	-1.3%	**-3.1%**

[1] Lewis & Ellis Individual Mandate Report: considers financial determinants and does not include non-financial considerations such as risk aversion, health status, pending legislation (Act 182 of 2018) or compliance accountability.
[2] Vermont Household Health Insurance Survey 2014: 2018 results not available at time of report submission. 2018 results expected to be roughly similar to 2014, with a slightly lower uninsured rate overall and a statistically lower rate for those with Incomes <139% FPL.

What we know about Vermont

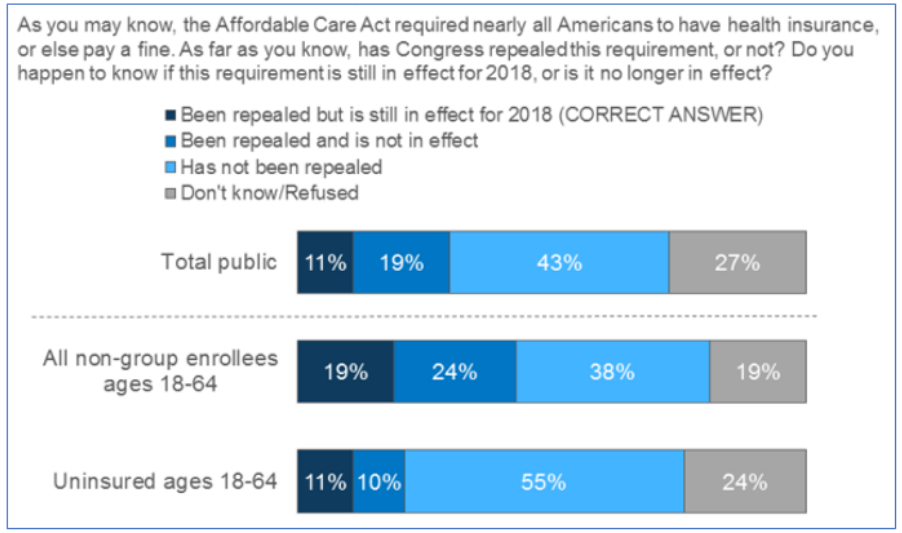
2019: In their individual and small group filings, BCBSVT and MVP each requested a 2.0% rate increase due to the elimination of the federal penalty, approximately a $9.8 million impact on overall total premium. The approved rates allowed for a 1.6% increase, resulting in an overall total premium impact of approximately $7.9 million.

Impact on 2019 Individual and Small Group Premiums

Carrier	# of Lives	Filed		Approved	
		Rate	Premium Impact	Rate	Premium Impact
Blue Cross/Blue Shield[1]	52,591	2.00%	$ 6,954,599	1.60%	$ 5,563,679.15
MVP[2]	25,223	2.00%	$ 2,891,984	1.60%	$ 2,313,587.42
			$ 9,846,583		**$ 7,877,266.58**

Beyond 2019: The status of the individual mandate penalty is unclear to many Americans at this time. As individuals develop a clearer understanding of the federal penalty's status over time, enrollment and premiums may be impacted.

Public Confusion regarding status of the Individual Mandate[3]



*Source: Kaiser Health Tracking Poll - March 2018: Non-Group Enrollees

[1] Blue Cross and Blue Shield of Vermont 2019 Individual and Small Group Filing
[2] MVP 2019 Vermont Health Connect Filing
[3] Kaiser Health Tracking Poll- March 2018: Non-Group Enrollees

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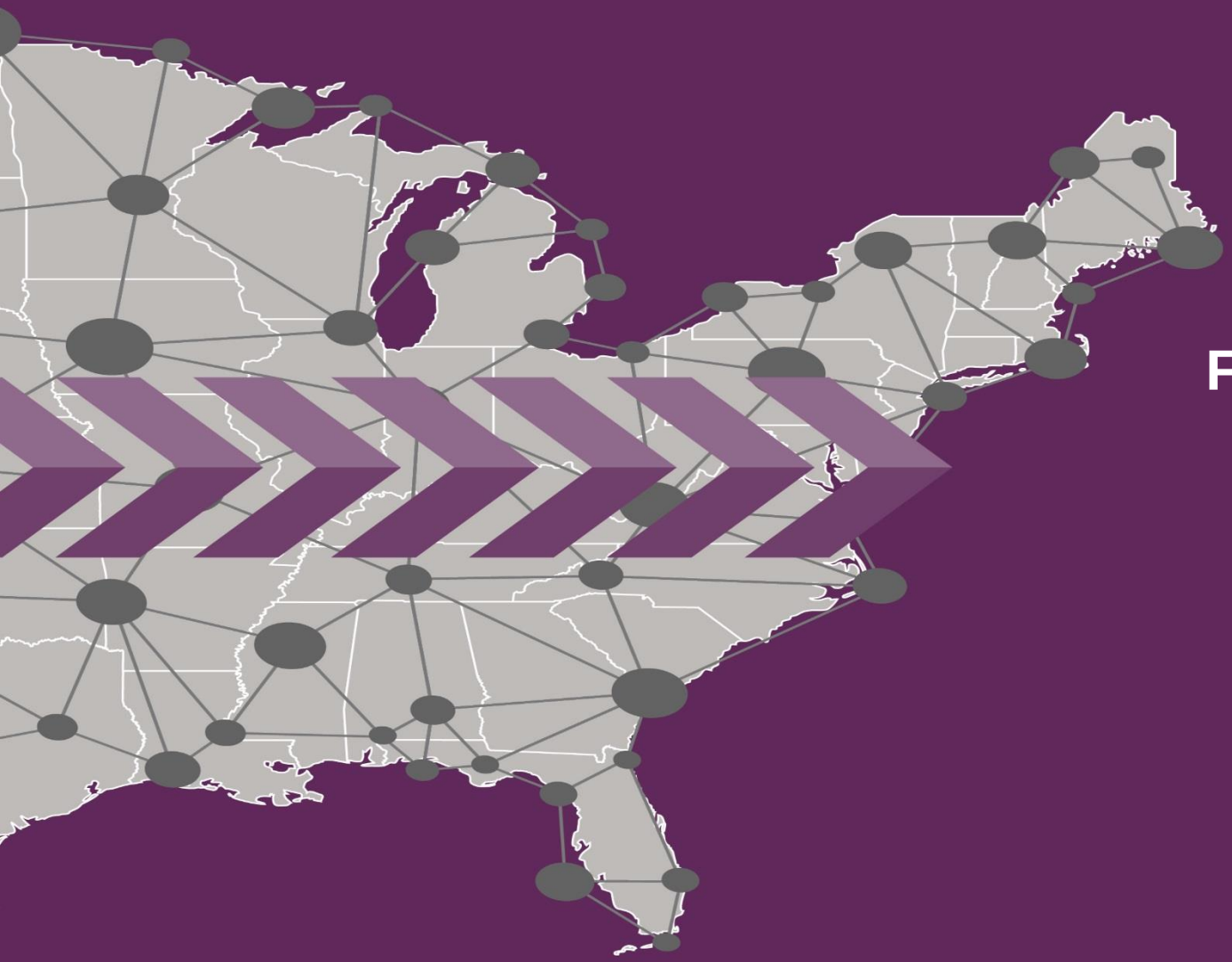


Understanding the Federal Individual Mandate

Presentation to the Green Mountain Care Board

Jason Levitis

September 26, 2018

STATE Health & Value STRATEGIES

Driving Innovation Across States

A grantee of the Robert Wood Johnson Foundation

About State Health Value Strategies

State Health and Value Strategies (SHVS) assists states in their efforts to transform health and health care by providing targeted technical assistance to state officials and agencies. The program is a grantee of the Robert Wood Johnson Foundation, led by staff at Princeton University's Woodrow Wilson School of Public and International Affairs. The program connects states with experts and peers to undertake health care transformation initiatives. By engaging state officials, the program provides lessons learned, highlights successful strategies, and brings together states with experts in the field. Learn more at www.shvs.org.

Questions? Email Heather Howard at heatherh@Princeton.edu.

About Jason Levitis

Jason Levitis is principal at Levitis Strategies LLC, a healthcare consultancy focusing on the Affordable Care Act's tax provisions and state innovation waivers. He provides technical assistance to states in partnership with State Health and Value Strategies. He is also a nonresident fellow at the Brookings Institution and a senior fellow at Yale Law School's Solomon Center for Health Law and Policy. Until January 2017, he led ACA implementation at the U.S. Treasury Department.

Objectives

- ✓ Review the rules and workings of the federal individual mandate
- ✓ Highlight modifications made by states (New Jersey and DC) that recently passed mandates based on the federal one

Background

- The federal individual mandate took effect in 2014 along with the ACA's other major coverage provisions.
- The December 2017 federal tax law repealed the federal mandate penalty, effective 2019.
- In 2018, NJ and DC passed individual mandates closely based on the federal one, effective 2019.
- In addition, Massachusetts enacted an individual mandate in 2007 as part of its health reform law.

Federal Individual Mandate

Major Features of the Federal Mandate

- Basic structure: Requires individuals to maintain qualifying coverage, qualify for an exemption, or pay a penalty
- Key parameters:
  - Definition of qualifying coverage
  - Available exemptions
  - Penalty calculation
- Administration: Primarily through the federal income tax system; certain exemptions granted by federal Marketplace
- Coverage reporting: Health insurers and other coverage providers report on coverage to IRS, with copy to covered individuals
- Outreach to the Uninsured: Leveraging information collected

The Mass. mandate includes these same major elements; many of the specifics are similar.

Qualifying Coverage

- Referred to as “minimum essential coverage” or “MEC”
- Generally includes all conventional public and private health coverage
  - Employer coverage – insured and self-insured
  - Individual market health insurance
  - Medicare
  - Medicaid
  - VA coverage, Tricare, etc.
- Excludes limited coverage like short-term plans, dental and vision plans, and fixed indemnity plans
- CMS has authority to designate addition coverage as MEC
  - Example: self-insured student health plans

Exemptions

- Available for:
  - Low income (below tax filing threshold)
  - Unaffordable coverage (cost to enrollee exceeds 8% (indexed) of income)
  - Short coverage gaps (less than 3 months)
  - Membership in Indian tribes, health care sharing ministries, and certain religious groups (must have long-standing exemptions from Social Security and Medicare payroll taxes)
  - Individuals living abroad
  - Certain non-citizens, including undocumented immigrants and non-resident aliens
  - Other hardships (loss of a job, foreclosure, death of a family member, etc.)
- Most claimed on tax return, but a few granted by Marketplace through separate process available year-round
- CMS has broad authority to designate additional exemptions

Penalty Calculation

- Zero at low incomes
- Increases with income and number uninsured
- No one pays more than cost of coverage
- Prorated for part-year coverage

See Appendix for additional details

Administration

- Penalty collected through individual income tax system
- Single line on Form 1040 has check-box for full-year coverage, space for penalty amount
- Exemptions claimed or reported on Form 8965

IRS Form 1040, Line 61

• All others:
Single or Married filing separately, $6,350
Married filing jointly or Qualifying widow(er), $12,700
Head of household, $9,350

48	Foreign tax credit. Attach Form 1116 if required	48			
49	Credit for child and dependent care expenses. Attach Form 2441	49			
50	Education credits from Form 8863, line 19	50			
51	Retirement savings contributions credit. Attach Form 8880	51			
52	Child tax credit. Attach Schedule 8812, if required	52			
53	Residential energy credits. Attach Form 5695	53			
54	Other credits from Form: a ☐ 3800 b ☐ 8801 c ☐	54			
55	Add lines 48 through 54. These are your **total credits**			55	
56	Subtract line 55 from line 47. If line 55 is more than line 47, enter -0- ▶			56	
57	Self-employment tax. Attach Schedule SE			57	
58	Unreported social security and Medicare tax from Form: a ☐ 4137 b ☐ 8919			58	
59	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required			59	
60a	Household employment taxes from Schedule H			60a	
b	First-time homebuyer credit repayment. Attach Form 5405 if required			60b	
61	Health care: individual responsibility (see instructions) Full-year coverage ☐			61	
62	Taxes from: a ☐ Form 8959 b ☐ Form 8960 c ☐ Instructions; enter code(s)			62	
63	Add lines 56 through 62. This is your **total tax** ▶			63	
64	Federal income tax withheld from Forms W-2 and 1099	64			
65	2017 estimated tax payments and amount applied from 2016 return	65			
66a	**Earned income credit (EIC)**	66a			
b	Nontaxable combat pay election 66b				
67	Additional child tax credit. Attach Schedule 8812	67			
68	American opportunity credit from Form 8863, line 8	68			
69	Net premium tax credit. Attach Form 8962	69			
70	Amount paid with request for extension to file	70			
71	Excess social security and tier 1 RRTA tax withheld	71			
72	Credit for federal tax on fuels. Attach Form 4136	72			
73	Credits from Form: a ☐ 2439 b ☐ Reserved c ☐ 8885 d ☐	73			
74	Add lines 64, 65, 66a, and 67 through 73. These are your **total payments** ▶			74	
75	If line 74 is more than line 63, subtract line 63 from line 74. This is the amount you **overpaid**			75	
76a	Amount of line 75 you want **refunded to you.** If Form 8888 is attached, check here ▶ ☐			76a	

Other Taxes

Payments

If you have a qualifying child, attach Schedule EIC.

Refund

Outreach to the Uninsured

- Mandate provides detailed information about who is uninsured
- ACA leverages this info by providing for the IRS to notify the uninsured of coverage options each year
  - The IRS has generally used alternative means for this outreach
- Mass. has made robust use of this information for outreach
  - Credits it as major reason for lowest-in-nation uninsured rate

DC and NJ Changes

- Exemption based on state filing threshold
- Exemption and for out-of-state residents
- Exemption for Medicaid-eligible income (DC only)
  - NJ has authority to do something similar
- Penalty cap tied to state-average bronze premium instead of national average
- Ensure no double-payment if federal penalty reinstated
- Reporting requirement modified for simplicity and state authority
- Other adjustments for state context

Q&A

Thank You

Contact information:

Jason Levitis
jason.levitis@gmail.com
203-671-2609

Appendix: Detail on Penalty Calculation

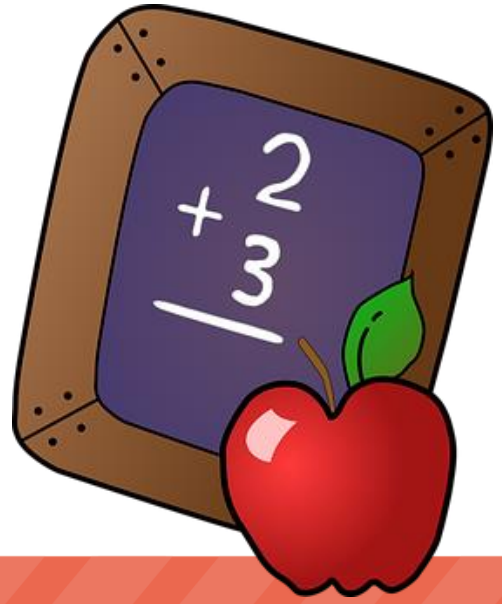
Penalty Calculation: Nuts and Bolts

- Penalty = greater of a flat dollar amount and an income-based amount, capped at the cost of coverage
- Flat dollar amount
  - $695 per adult (half that for children)
  - Up to $2,085
- Income-based amount
  - 2.5% of income over filing threshold ($12K/$24K)
- Cap
  - Nat'l average bronze premium for 21-year-old (about $3,800 per person)
  - Only those with very high incomes affected (e.g., $164K for a single person)
- Prorated based on months without coverage

All values for 2018

Penalty Calculation: Examples

- Example 1: Single individual with $50K income (412% of fed'l poverty line)
  - Flat dollar amount = $695
  - Income-based amount = 2.5% x ($50K – $12K) = $950
  - Cap = $3,800
  - Penalty = $950 ($79 per month)
- Example 2: Married couple with 2 kids, $80K income (319% of FPL)
  - Flat dollar amount = 2 x $695 + 2 x $347.50 = $2,085
  - Income-based amount = 2.5% x ($80K – $24K) = $1,400
  - Cap = 4 x $3,800 = $15,200
  - Penalty = $2,085 ($174 per month)



All values for 2018

Coverage Reporting

- Who must report: Providers of MEC, including:
  - Insurers
  - Self-insuring employers
  - Public programs
- What is reported:
  - List of covered individuals, with months covered
- Who reporting goes to:
  - IRS and covered individuals

Agenda

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   c) Individual Mandate Working Group

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