



555 West Washington Ave, Suite 200
Madison, WI 53703

www.wccf.org
☎ 608-284-0580
✉ 608-284-0583

Over 180,000 Wisconsinites at Risk of Losing Health Coverage in *King v Burwell*

Wisconsin has more at stake than most other states when the U.S. Supreme Court issues a ruling on *King v. Burwell*, which determines whether people can continue to get federal tax credits for health care coverage purchased through the federal health insurance marketplace. The ruling could be a serious blow to the Affordable Care Act (ACA) and could affect access to health care for more than 183,000 Wisconsinites who have purchased coverage through that marketplace.¹

In this brief paper, we examine what's at stake for Wisconsin and analyze which communities and individuals in the state have purchased insurance through the federal health insurance marketplace.

The *King v. Burwell* decision could be especially hard on rural areas, which have the highest percentage of residents who get their insurance through the federal marketplace. And, while the marketplace provides coverage mostly to adults, as many as 11,000 enrolled children enrolled could also lose coverage if the court decides in favor of King – the plaintiff.

New data from the Department of Health and Human Services show that as of the end of March, 183,155 Wisconsinites were getting their health care coverage through a marketplace insurance plan, and almost 91 percent were receiving federal financial assistance. King and cosigners contend that the federal tax credits authorized by the ACA – which substantially reduce the cost of health insurance for about 8.7 million people – are only valid for coverage purchased through a state-run insurance marketplace and are invalid in states like Wisconsin that rely on the federal health insurance marketplace.

A ruling striking down the subsidies in states using the federal marketplace wouldn't just affect the Wisconsinites who are receiving federal subsidies. Unless Wisconsin officials move quickly to establish a state-based marketplace, everyone in our state participating in the federal marketplace could lose their coverage because it wouldn't be economically viable for insurers to continue offering those health insurance plans.

While Wisconsin is one of 34 states that rely on the federal marketplace and could be adversely affected by a decision restricting eligibility for subsidies, our state has more at stake than most others:

- State lawmakers made Wisconsin more dependent on the federal marketplace by ending BadgerCare eligibility for about 63,000 state residents, mostly parents, who have incomes above the poverty line – based on the argument that they could get subsidized coverage through marketplace plans.
- The average premium tax credit in Wisconsin is \$315 per month, which is the 8th highest nationally (among the 34 states relying on the federal marketplace) and almost 16 percent above the national average of \$272.

¹HHS. Centers for Medicare and Medicaid Services. "March 31, 2015 Effectuated Enrollment Snapshot." <http://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2015-Fact-sheets-items/2015-06-02.html>. (viewed June 15, 2015)

- Wisconsin also has the 8th highest percentage of participants in the federal marketplace who are receiving premium tax credits and the 11th highest number of people receiving the credits.
- Without the federal subsidies, the cost of marketplace plans would grow by an average of 252 percent in Wisconsin.

Experts predict that a ruling restricting eligibility for premiums would also cause health insurance premiums to spike for people who buy individual or family plans outside the federal marketplace. Taking into account both the direct and indirect effects, as well as shifts to employer-based coverage, an analysis by the Urban Institute estimates that the elimination of marketplace subsidies in Wisconsin would result in about 247,000 Wisconsinites becoming uninsured.²

Rural Communities Especially Vulnerable

Milwaukee County and our state's other populous counties have the most Wisconsinites who have signed up for insurance plans offered in the federal marketplace, but the map on the previous page illustrates that the percentage of county residents relying on the marketplace tends to be higher in the northern and rural parts of Wisconsin. For example, almost all the counties in the southern third of the state have less than 5 percent of their nonelderly population participating in marketplace insurance plans, whereas nearly all of the counties in the northern third of the state have participation rates in the range of 6 percent to 11 percent of the nonelderly population.

The percentages for each county are mapped on the preceding page, and a table on page 5 contains both the percentages and the number of sign-ups for Marketplace plans in each county.

Solutions to prevent coverage disruption

Despite the potential for many Wisconsinites to lose coverage in a ruling for *King*, Governor Walker has not outlined any contingency plans if the Court should rule for the plaintiff. After making Wisconsin more dependent upon the federal marketplace by cutting in half the BadgerCare income eligibility limit for parents, state lawmakers have an obligation to step up and help fix the problem if the marketplace subsidies end.

If the court narrows eligibility for subsidies, there are at least a couple of options for avoiding the abrupt termination of health care for millions of Americans. The simplest solution is for Congressional representatives to change a few words in the ACA to make it clear that residents of all the states are eligible for subsidies for marketplace insurance plans. Unfortunately, it seems that amending the ACA is never actually simple, so a Congressional fix is far from certain.

If Congress cannot resolve the problem, Wisconsin lawmakers should move very quickly to:

- expand BadgerCare eligibility to all adults below 133 percent of the federal poverty level; or
- develop a state-run marketplace that qualifies for federal subsidies.

Expanding BadgerCare to all adults below 133 percent of the federal poverty level would also qualify Wisconsin for increased federal funding, and the Legislative Fiscal Bureau estimates that it would actually yield a net *savings* of \$360 million during the 2015-17 budget period.

² "Implications of a Supreme Court Finding for Plaintiff in *King vs. Burwell*: 8.2 Million More Uninsured and 35% Higher Premiums" Urban Institute (January 2015) <http://www.urban.org/research/publication/implications-supreme-court-finding-plaintiff-king-vs-burwell-82-million-more-uninsured-and-35-higher-premiums> (viewed June 12, 2015).

Another option is for state officials to develop their own marketplace, and use the federal marketplace as a technical hub that performs certain key functions on behalf of the new state insurance market. This approach was recently approved for Pennsylvania and Delaware, which have taken steps to be ready to use the federal government's information technology system to support application and enrollment functions for state-based marketplaces. Other states are closely watching the case and exploring their options to stabilize coverage for their residents should a decision change current policy.³

A Supreme Court ruling restricting eligibility for marketplace subsidies would be a substantial challenge for Wisconsin, but not an insurmountable hurdle. As policymakers study the options, the Wisconsin Council on Children and Families and its partners believe that it is important to implement solutions that do not leave Wisconsinites worse off and reduce their access to quality health care.

Jon Peacock and Sashi Gregory
June 17, 2015

Methodology for Estimating County-level Sign-ups in the Marketplace

The Wisconsin Council on Children and Families derived the percentages for marketplace sign-ups using Enroll America's Zip Code to County Conversion of HHS data for plan signups as of February 22, 2015. We then used 2013 Census Bureau estimates (from the American Community Survey) of the number of non-elderly people in each county to compute the percent of non-elderly individuals in marketplace plans.

More recent state-level figures show that 11.7 percent of Wisconsinites who signed up for marketplace plans by February 22 had not paid the premiums to initiate that coverage by March 31, reducing the total number of state residents insured through the Marketplace to 183,155. We will update the map and the table when comparable participation data is available for each county.

[See the county-level data in the table on the next page.]

³ Trish Riley, et al, "King v Burwell: State Options" National Academy for State Health Policy (March 17, 2015).

Marketplace Open Enrollment 2: Wisconsin Sign-up Data by County

County	Open Enrollment 2: Sign-ups	Percent Non-Elderly (age <65) Sign-ups
Adams	872	5.6%
Ashland	880	6.6%
Barron	2,305	6.2%
Bayfield	941	8.0%
Brown	8,642	3.9%
Buffalo	772	7.0%
Burnett	819	7.0%
Calumet	1,473	3.4%
Chippewa	2,978	5.6%
Clark	1,811	6.2%
Columbia	1,600	3.3%
Crawford	500	3.7%
Dane	14,458	3.3%
Dodge	2,566	3.4%
Door	2,057	9.7%
Douglas	1,427	3.8%
Dunn	1,450	3.8%
Eau Claire	3,830	4.4%
Florence	187	5.2%
Fond du Lac	3,067	3.6%
Forest	445	6.1%
Grant	1,657	3.8%
Green	1,308	4.2%
Green Lake	614	4.0%
Iowa	824	4.1%
Iron	463	10.6%
Jackson	730	4.3%
Jefferson	2,711	3.7%
Juneau	837	3.8%
Kenosha	5,493	3.7%
Kewaunee	927	5.4%
La Crosse	3,893	3.9%
Lafayette	681	4.8%
Langlade	977	6.2%
Lincoln	1,396	6.0%
Manitowoc	2,910	4.3%

County	Open Enrollment 2: Sign-ups	Percent Non-Elderly (age <65) Sign-ups
Marathon	5,915	5.1%
Marinette	1,990	6.0%
Marquette	482	4.0%
Menominee*	-	-
Milwaukee	33,469	4.0%
Monroe	1,497	3.9%
Oconto	1,731	5.5%
Oneida	2,384	8.6%
Outagamie	5,923	3.8%
Ozaukee	3,356	4.6%
Pepin	365	6.1%
Pierce	1,340	3.7%
Polk	2,203	6.0%
Portage	3,062	5.0%
Price	719	6.5%
Racine	5,949	3.5%
Richland	683	4.7%
Rock	4,620	3.3%
Rusk	722	6.3%
Sauk	2,020	3.8%
Sawyer	934	7.2%
Shawano	1,833	5.4%
Sheboygan	3,468	3.5%
St. Croix	2,805	3.7%
Taylor	1,156	6.7%
Trempealeau	1,158	4.7%
Vernon	1,027	4.1%
Vilas	1,785	11.4%
Walworth	4,401	5.0%
Washburn	886	7.2%
Washington	4,518	4.0%
Waukesha	11,173	3.4%
Waupaca	2,163	5.1%
Waushara	874	4.5%
Winnebago	5,234	3.6%
Wood	3,323	5.4%

*Data unavailable