



## What Will Be the Impact of the Employer Mandate on the U.S. Workforce?

Sherry Glied and Claudia Solís-Román

**Abstract** The Affordable Care Act's employer mandate requires large firms to pay penalties unless they offer affordable health insurance coverage to full-time employees, raising concerns that employers might lay off workers or reduce hours. In this brief, we estimate the number of workers potentially at risk of losing their jobs or having hours reduced. Most workers near the thresholds—those in firms with around 50 full-time-equivalent employees or those working near 30 hours per week—are already insured or have been offered coverage. There are 100,000 full-time workers at the firm-size threshold and 296,000 at the hourly threshold who are uninsured. Fewer than 10 percent, less than 0.03 percent of the U.S. labor force, might see reductions in employment or hours in the short run. Over time, employment patterns might change, leading to fewer firm sizes and work schedules near the thresholds, potentially affecting up to 0.5 percent of the workforce.

### OVERVIEW

Under the Affordable Care Act (ACA), employers must offer health insurance to their employees or pay penalties.<sup>1</sup> Under this so-called employer mandate, firms with 50 or more full-time or full-time-equivalent employees may have to pay penalties if they do not offer health benefits and have workers with low enough incomes to qualify for federally subsidized coverage who are not otherwise insured. The law defines full-time employees as those who work 30 or more hours per week, while full-time-equivalent (FTE) is defined as the sum of part-time employee hours in a week divided by 30.<sup>2,3</sup>

The Obama administration suspended the mandate requirement in 2013 and incorporated a further delay for firms with 50 to 99 FTE employees in 2014 to give employers more time to comply with new requirements. Employers with 50 to 99 FTE employees have until 2016 to comply, and firms with 100 or more workers that provide insurance to 70 percent or more of their workforce will not face penalties in 2015.

To avoid being subject to this mandate—and thus avoid paying for either coverage or penalties—employers could choose to lay off workers or reduce worker hours. If employers go this route, more workers are likely to seek subsidized coverage in the marketplaces, increasing the federal cost of the health reform law. Avoiding the insurance mandate in such a way also may lead to distortions in the market and decreased productivity.

Prior research shows the changes mandated by the Affordable Care Act are most likely to affect workers near the regulatory thresholds at which penalties

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For more information about this brief, please contact:

Sherry Glied, Ph.D.  
Dean

Robert F. Wagner School of Public  
Service, New York University  
sherry.glied@nyu.edu

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are levied.<sup>4,5</sup> These workers are in firms with around 50 FTE employees or working close to 30 hours per week. Many employers of workers near these thresholds already meet the mandate standard because their employees hold employer-sponsored insurance, they have offered their workers insurance and been declined, or their workers have insurance coverage from another source.

Most firms subject to the employer mandate already comply with the requirement; among those that do not, most are likely to find compliance less expensive than mandate avoidance. Altering staff size is costly. Hiring and training costs are often substantial even for entry-level employees. Hiring two 20-hour/week employees often costs more in supervision, scheduling, and hiring costs than hiring a single 40-hour/week employee. Regulations also make it costly to substitute two part-time employees for one full-time employee. For instance, in some states, an employer will pay double the unemployment tax if she hires two workers and pays each \$7,000 per year rather than paying a single employee \$14,000.<sup>6</sup> Similarly, because overtime pay is higher than regular pay, it can be more costly to increase hours for existing workers rather than hiring an additional employee.

While there has been a lot of debate over the expected effects of the employer mandate, there is little evidence of the magnitude of its potential effect on workers' hours and employment. This issue brief estimates the number of workers most at risk of either layoff or a reduction in hours because of the employer mandate. It also examines current research to assess the long-term consequences of the mandate based on estimates of effects of similar government regulations implemented elsewhere.

We use data from the Small Business Administration and the Medical Expenditure Panel Survey to estimate the number of workers who may be at risk of losing hours or positions. We calculate employment levels near the Affordable Care Act thresholds for firm size and weekly hours worked.<sup>7</sup> See [Appendix A](#) for a detailed methodology.

## HOW MANY WORKERS WORK AT JOBS NEAR THE MANDATE THRESHOLDS?

### Employees in Firms with Just Over 50 Workers

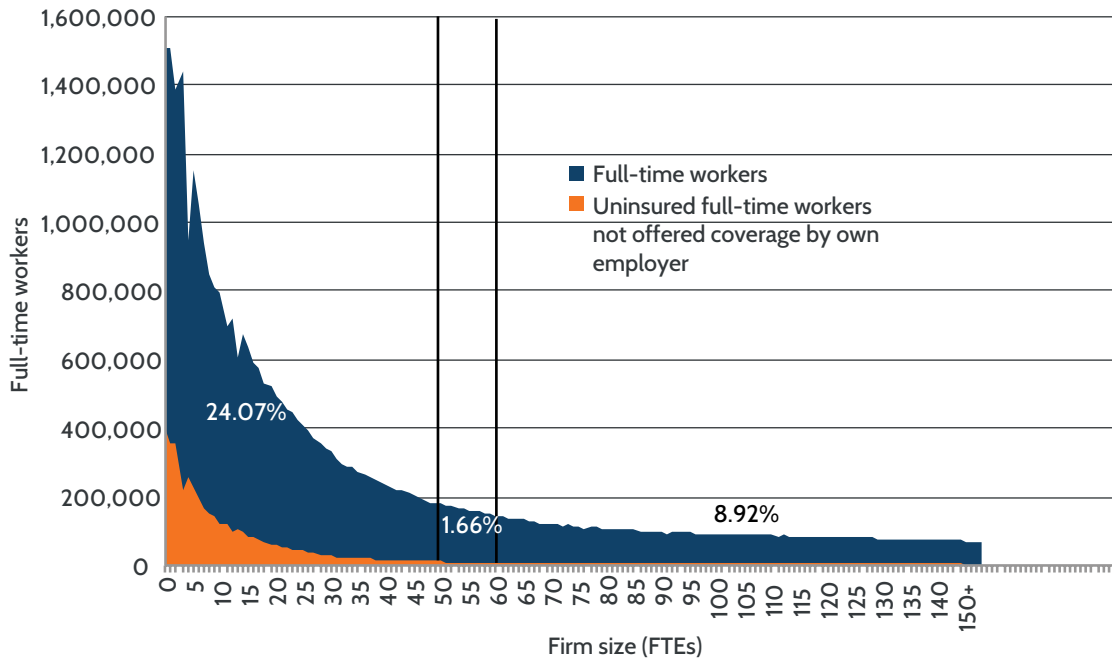
Exhibit 1 shows the distribution of full-year, full-time employment by firm size. About 24 percent of workers are employed in firms with fewer than 50 FTE employees. Relatively few are employed in firms that have 50 to 59 FTE employees—the range most likely to be affected by the mandate. About 1.66 percent of all U.S. employees work full time in firms near this employment threshold ([Table 1](#), Column 2). If we looked at firms with 45 to 54 workers—or other nearby thresholds—it would not affect our estimates substantially.

Of the 1.66 percent of workers in firms near the 50-worker threshold, more than 71 percent already hold coverage through their own employers ([Table 1](#), Column 3). An even larger share—more than 88 percent—either hold or have been offered employer-based coverage; just 11.56 percent of these workers have no offer of employer coverage from their own employer. Most of those who received an offer but declined it have insurance from an alternative source—usually as a dependent. The 11.56 percent who are employed in a firm near the threshold but are not already offered health insurance coverage by their employer constitutes 0.17 percent of all U.S. workers—a total of about 193,000 people. Of these, less than two-thirds are uninsured and might seek coverage in the marketplaces. In total, an estimated 100,000 workers, or about 0.09 percent of the labor force, work in firms that would be penalized under the mandate if their employers did not change their current offering behavior.

### Employees Working Just Over 30 Hours per Week

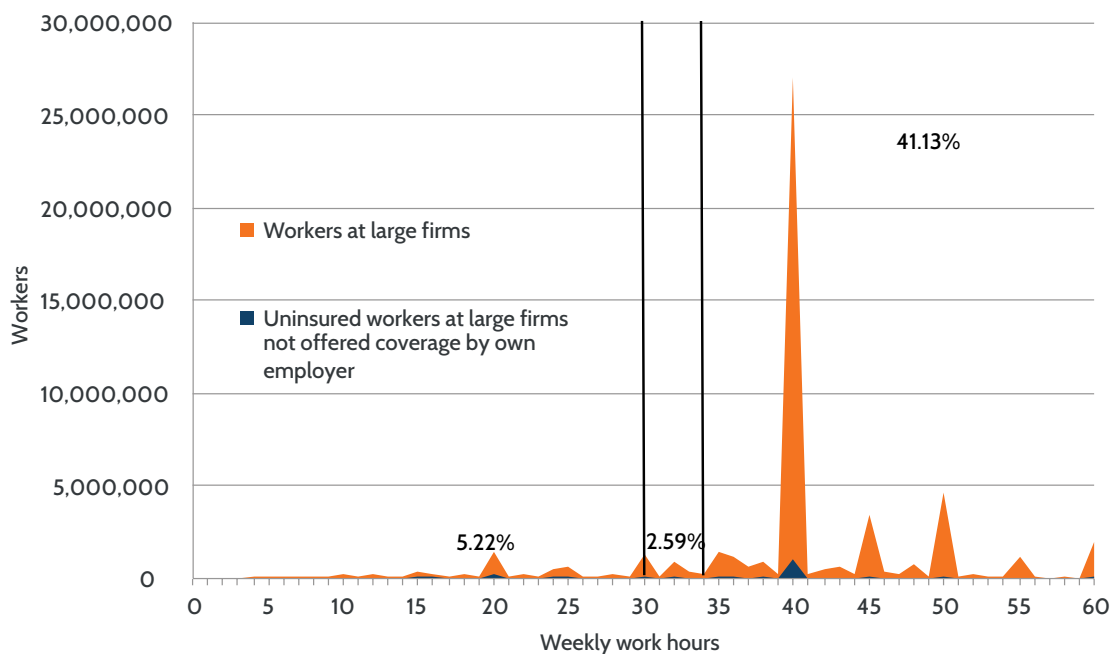
In Exhibit 2, we show the number of hours worked by full-year employed workers of large firms. About 5.22 percent of such workers work fewer than 30 hours per week. Relatively few workers (2.59% of all workers) have 30-to-34-hour work week schedules. If we looked at workers working 40 to 44 hours per week—a higher threshold currently under consideration—it would greatly increase the number of workers in the threshold range (from 2.9 million to 28.6 million; see [Table 3](#)).<sup>8</sup>

**Exhibit 1. Employment by Firm Size (percentages of U.S. workforce)**



In total, about 2.59 percent of the U.S. workforce is employed 30 to 34 hours per week in a firm with 50 or more FTE employees (Table 2). Slightly more than half of these workers already receive employer-sponsored insurance through their own employers (Table 2, Column 3). More than 70 percent have employer-sponsored coverage or have received an offer from their employers. In total, about 835,000 U.S. workers—about 0.75 percent of all U.S. workers—currently work hours near the mandate threshold and are not offered health insurance coverage by their employers. Among those without an offer of coverage, most have insurance through another source; fewer than 40 percent are uninsured—a total of about 296,000 workers. Many firms are unaware that their employees may have coverage from another source and make employment decisions based only on their own information about which workers hold employer-sponsored

**Exhibit 2. Employment by Weekly Work Hours (percentages of U.S. workforce)**



coverage. However, because firms can only be penalized if their full-time workers seek subsidized coverage in the exchanges, and most workers who already hold coverage as dependents are unlikely to seek such subsidized coverage, the number of employers who might wish to avoid the mandate by lowering hours would be much lower if employers were aware of which of their employees is currently uninsured.

The number of uninsured workers without an offer of coverage near the firm size and weekly hours thresholds (100,000 and 296,000, respectively) together comprise just over one-third of one percent (.09 and .26 percent, respectively) of the U.S. workforce. As we show below, the number of people likely to be affected by the mandate is much lower than this figure, as most employers would find the cost of adjusting firm size—by switching from full-time to part-time workers or reducing hours—greater than the cost of offering coverage.

## HOW HAVE MANDATES AFFECTED WORKERS IN OTHER LOCALES?

Several recent studies examine the effects on the labor market of other similar provisions. After the implementation of an employer mandate in Massachusetts, both employer-sponsored coverage and employment increased. Employment patterns in both high- and low-wage industries in Massachusetts from 2001 to 2010 were similar to those in other states over the same period.<sup>9,10</sup> Since 1975, Hawaii has had a mandate requiring all employers, regardless of firm size, to provide health insurance to workers employed 20 hours per week or more. This provision had little effect on wages or employment, but it was associated with a statistically significant increase of about 1.4 percentage points in the share of workers working fewer than 20 hours.<sup>11</sup> Only workers with a very low probability (26%) of holding employer-sponsored insurance before the mandate were more likely to have low hours. No effect was observed among workers with higher initial rates of employer coverage.<sup>12</sup> The Hawaii results suggest that the ACA mandate would have very little effect, if any, because it affects only the workforce of larger firms, where the probability that workers already hold coverage is more than double the Hawaii figure (58%).

Another study focused on the effect of labor regulations in France, where regulatory requirements, such as requirements to negotiate with in-house workers' councils, sharply increase labor costs for firms with 50 or more employees. Researchers found that the share of firms with 49 to 57 workers (3.5% of all firms) in France is about 10 percent smaller than would have been expected in the absence of these laws, meaning that firms have either shrunk (laid off or failed to hire workers) or grown to avoid the regulatory threshold. The regulations in France require firms with over 50 workers to establish several committees, to report detailed information to the government monthly, and to face higher penalties for workplace infractions. Unlike the health insurance that firms will provide to their employees under the ACA, the French requirements provide few benefits to individual workers. Analyses suggests that French workers have been unwilling to accept lower wages in return for these regulations; in contrast, analyses from Massachusetts suggest that workers are willing to accept lower wages in exchange for newly mandated health insurance.<sup>13,14,15</sup> This suggests that employer responses under the ACA regulations would likely be substantially more limited than in France.

In the next few years, ACA-related changes in employment patterns would likely affect only uninsured workers without offers near the thresholds for firm size and hours worked. Estimates from the existing literature—including those based on Massachusetts's experiences—suggest the mandate will have little impact on behavior short term. Even estimates based on longer-run responses to much more onerous regulations in Hawaii and France suggest modest effects. In combination, the Massachusetts results and the findings from Hawaii and France adjusted for the differences between the ACA and these regulations suggest that from 0 percent to 10 percent of threshold-affected workers may experience reductions in employment or hours in the short run. This would mean 0 to 10,000 workers might be displaced because of firm-size reductions and 0 to 29,000 workers might see a reduction in hours.

In the longer run, firms will enter and exit the market, grow and shrink, and change their health insurance offering decisions. As new firms enter and hire workers, they will make decisions about offering health insurance and about

how many workers to employ. The evidence from Hawaii and France is particularly relevant, as these studies reflect long-term effects of mandates. The results suggest that in the long run, the effect of mandates might extend to all workers who would have been in the threshold range, whether or not they are currently offered coverage. If that were to occur, we would expect to see about 167,000 fewer workers employed at firms with 50 to 59 workers and about 290,000 fewer workers employed 30 to 34 hours per week. These changes would affect about one-half of 1 percent of the U.S. labor force. To put this in context, there were approximately 3.8 million job openings overall—including 391,000 openings in the accommodation and food services sector alone—on the last day of May 2013.<sup>16</sup>

## DISCUSSION

Our results show that relatively few American workers are employed near the Affordable Care Act thresholds—that is, firm sizes of 50 FTE employees or working 30 weekly hours. Among those who are employed near the thresholds, the overwhelming majority (88 percent of those near the firm-size threshold and 71 percent of those near the hourly threshold) are employed by firms that already meet the mandate requirement by offering coverage to their employees. Among those workers who do not have an offer, many hold insurance coverage from an alternate source, and thus would not count toward an employer penalty. Less than one-half of 1 percent of workers (.09 percent of workers near the firm-size threshold and .26 percent of workers near the hourly threshold) work at firms that do not offer them coverage and are uninsured.

Experience from other settings suggests that even in the longer run, regulatory requirements have relatively modest effects on the distribution of firm sizes and hours worked across the labor market. Even if employers responded in the long run as they did in Hawaii or France, where regulatory costs were considerably higher, any effects would be very small—affecting less than one-half of 1 percent of all workers. Of course, in the United States, a relatively small effect translates into a sizable group of people.

Currently, Congress is being lobbied to raise the weekly hour threshold to 40 hours per week, so it is also useful to compare the labor market effects associated with the 30-hour threshold to what might occur if the threshold were raised.<sup>17</sup> Relative to other possible thresholds, the threshold of people working near 30 hours per week (in firms of around 50 full-time workers) would generate small labor market effects. Far more workers would be affected, in both the short run and the long run if the threshold were moved to 40 hours.<sup>18</sup>

Despite the likely small empirical effect of the employer mandate, it has caused a great deal of consternation among employers. One reason for this may be that employers do not routinely collect information on the alternative coverage available to their employees. Among the employees affected by the thresholds and included in our analyses, there are many more who have employer coverage than those who do not. In addition, there are others who have employer coverage from another source, usually as a dependent on a family member's plan. Employers are increasingly requiring higher employee contributions for family coverage to discourage workers from selecting family coverage when they have other options available. Despite these incentives, there are many reasons families choose to obtain coverage from a single employer rather than dividing family members among two or more plans. Families may choose to obtain coverage from the spouse with more stable employment or they may prefer coverage from a single managed care plan so they can get care from the same practice. Public policy should not discourage such family coverage decisions.

As the Obama administration develops strategies for implementing the employer mandate, it should take into consideration evidence available to employers about coverage alternatives used by their employees. Employers should not be penalized if they believe an employee holds coverage from an alternative source and therefore do not offer coverage. As reporting requirements for employer coverage are developed, the IRS also should consider ways to make information about whether employees have alternative sources of coverage more evident to employers.

## Appendix A. Methodology

The majority of existing data sources do not provide sufficient detail on firm size, employer offers, and sources of insurance coverage to directly estimate the number of threshold-affected employees. As Garicano and colleagues show, regulations affecting firms at a 50-worker threshold are likely to affect the distribution of firms in a narrow range around 50. Large population data sources on health insurance coverage, however, classify firms into categories of, at best, 25 to 49 or 50 to 99 workers. Workers also may have difficulty precisely estimating the number of employees in their firm. Even data that do count workers do not account for full-time-equivalence standards employed as the metric for firm applicability in the employer mandate.

We therefore use a series of estimates based on multiple data sources. We build our analysis on data from the Medical Expenditure Panel Survey (MEPS), which provides detailed information on availability of employer-sponsored insurance plans, health insurance coverage, weekly work hours, as well as detailed firm size, but has relatively small samples. Employment estimates are calculated using small-firm size category employment data from the Small Business Administration (SBA), provided by the U.S. Census Bureau, Statistics of U.S. Businesses 2010. SBA data that provided employment levels at intervals as small as 45 to 49 and 50 to 74 was merged with MEPS firm size data at unit level, and smoothed using a negative binomial regression model over firm sizes 2 to 200. Public administration workers, self-employed individuals, agricultural workers, and most government businesses are excluded from MEPS employment levels for consistency with the definition of working population used by Statistics of U.S. Businesses. Using these data, we fit curves to smooth the distribution of employment, full-time-equivalents (FTEs), coverage, and offer rates by firm size and weekly hours. We calibrate our fitted data against the data on firm size from SBA and MEPS.

As the maximum suggested look-back period for the employer mandate is one year, employees averaging 30 hours over a full year are included in threshold estimates, and average hours of staff working seasonally or below an average of 30 hours per week are included in the calculation of FTE employees for firm size, as it pertains to categorizing applicable firms. Offer information not ascertained from full-time, full-year workers is predicted using a logit regression model including firm size, weekly hours, wage, marital status, industry category, and insurance coverage status.

### Firm Size and Full-Time-Equivalence

To assess firm size as defined by the Affordable Care Act, FTE employees are calculated by prorating part-time work hours over number of employees at firms and dividing hours completed by part-time employees in a week by 30. (Guidance provides a means of counting part-time employees that includes a by-month measure of hours divided by 130, a calculation that generates slightly different results.) To generate the FTE scale, we produce a measure of the share of workers at each unit of firm size working below 30 hours per week by fitting a cubic logit regression. Average hours worked by part-time staff are generated by limiting the sample to employees averaging below 30 weekly hours and using a cubic logistic regression of hours by firm size.

### **Number of Employees Near the Firm-Size Threshold for Large Firms**

Detailed information from MEPS about insurance coverage, employer offer of insurance, and worker status is used to calculate rates of characteristics of interest across firm size for employees near the threshold of the definition of large firm. Rates are predicted using cubic logit regression for holding employer-sponsored insurance (ESI) through own employer; having no employer offer; and having no employer offer of coverage and no other coverage (uninsured), then predicted by FTE firm size and summed across the threshold range.

### **Number of Employees Near the Hours Threshold for Full-Time Employment**

Employment along the threshold of weekly hours is drawn from 2008–2011 MEPS data. Rates of coverage and coverage type are evaluated along weekly hours using a probit regression model. In this case, the sample is restricted to workers at large firms working 1 to 60 hours per week. Rates along the target range are calibrated against the number of workers at each unit of weekly hours worked to generate employment levels among workers working 30 to 34 hours per week.

### **Threshold-Affected Workers as a Share of the U.S. Workforce**

The percent of the total workforce illustrated in [Table 1](#) and [Table 2](#) are taken from the SBA static national small firm size categories data, provided by the Census Bureau's Statistics of U.S. Businesses 2010 estimates. Exhibits describe employment by hours and firm size and show year-round employees.

**Table 1. Full-Time Workers in Firms with 50 to 59 Full-Time-Equivalent Employees**

	Employment	Percent of U.S. workforce	Percent of workers near threshold
<b>Total workforce</b>	<b>111,970,095</b>	<b>100.00%</b>	<b>-</b>
Full-time workers in firms with 50-59 FTE employees	1,670,000	1.66%	100.00%
Holding own ESI	1,199,000	1.07%	71.80%
Without own ESI	471,000	0.42%	28.20%
Not offered coverage by own employer	193,000	0.17%	11.56%
Uninsured and not offered coverage by own employer	100,000	0.09%	5.99%

**Table 2. Workers at Firms with at Least 50 Full-Time-Equivalent Employees Working 30 to 34 Hours per Week**

	Employment	Percent of U.S. workforce	Percent of workers at 30-34-hour threshold
<b>Total workforce</b>	<b>111,970,000</b>	<b>100.00%</b>	<b>-</b>
Large-firm workers working 30-34 hours per week	2,901,000	2.59%	100.00%
Holding own ESI	1,460,000	1.30%	50.33%
Without own ESI	1,441,000	1.29%	49.67%
Not offered coverage by own employer	835,000	0.75%	28.78%
Uninsured and not offered coverage by own employer	296,000	0.26%	10.20%

**Table 3. Workers at Firms with at Least 50 Full-Time-Equivalent Employees Working 40 to 44 Hours per Week**

	Employment	Percent of U.S. workforce	Percent of workers at 40-44-hour threshold
<b>Total workforce</b>	<b>111,970,000</b>	<b>100.00%</b>	<b>-</b>
Large-firm workers working 40-44 hours per week	28,626,000	25.57%	100%
Holding own ESI	21,712,000	19.39%	76%
Without own ESI	6,914,000	6.17%	24%
Not offered coverage by own employer	2,567,000	2.29%	9%
Uninsured and not offered coverage by own employer	1,148,000	1%	0%

Notes: Throughout the exhibits, ESI denotes employer-sponsored insurance holders with coverage through their own employer. In the MEPS data set, in cases where respondents estimate hours worked per week at 35 hours or more, hours are set to 40. Like the Small Business Administration, we exclude workers with inapplicable, unknown, or not ascertained hours or firm size. Statistics of U.S. Businesses (SUSB) data exclude self-employed persons and most government business establishments. "All U.S. business establishments with paid employees. The Statistics of U.S. Businesses (SUSB) covers all NAICS industries except crop and animal production; rail transportation; National Postal Service; pension, health, welfare, and vacation funds; trusts, estates, and agency accounts; private households; and public administration. The SUSB also excludes most government employees."



## NOTES

- <sup>1</sup> It states: “If (1) any applicable large employer fails to offer to its full-time employees . . . minimum essential coverage under an eligible employer-sponsored plan for any month . . . and (2) at least one full-time employee has . . . enrolled for such month in a qualified health plan with . . . an applicable premium tax credit or cost-sharing reduction . . . then there is hereby imposed on the employer an assessable payment.” Under this provision, employers must offer their employees plans which cover at least 60% of the cost of essential health benefits (“minimum value”), at a cost to employees that may not exceed 9.5% of household income (“affordable”).
- <sup>2</sup> As defined by regulations proposed by the Department of the Treasury on August 31, 2012.
- <sup>3</sup> J. Mulvey, “Potential Employer Penalties Under the Patient Protection and Affordable Care Act (ACA)” (Washington, D.C.: Congressional Research Service, 2013); and Kaiser Family Foundation, “Employer Responsibility Under the Affordable Care Act,” last modified July 15, 2013, <http://kff.org/infographic/employer-responsibility-under-the-affordable-care-act/>.
- <sup>4</sup> T. C. Buchmueller, J. DiNardo, and R. G. Valletta, “The Effect of an Employer Health Insurance Mandate on Health Insurance Coverage and the Demand for Labor: Evidence from Hawaii,” *American Economic Journal: Economic Policy*, Nov. 2011 3(4):25–51.
- <sup>5</sup> L. Garicano, C. Lelarge, and J. van Reenen, “Firm Size Distortions and the Productivity Distribution: Evidence from France” (National Bureau of Economic Research, 2013).
- <sup>6</sup> Tax Policy Center, “Payroll Taxes,” Urban Institute and Brookings Institution, <http://www.taxpolicycenter.org/taxtopics/Payroll-Taxes.cfm>.
- <sup>7</sup> As framed by the Congressional Research Service. Mulvey, “Potential Employer Penalties,” 2013.
- <sup>8</sup> S. Glied and C. Solís-Román, “Why Changing the Definition of Full-Time Work Under the ACA Will Put More Workers at Risk and Increase Federal Spending,” *The Commonwealth Fund Blog*, Jan. 24, 2014.
- <sup>9</sup> J. R. Gabel, H. Whitmore, J. Pickreign et al., “After the Mandates: Massachusetts Employers Continue to Support Health Reform as More Firms Offer Coverage,” *Health Affairs*, Nov.–Dec. 2008 27(6):w566–w575.
- <sup>10</sup> L. Dubay, S. K. Long, and E. Lawton, “Will Health Reform Lead to Job Loss? Evidence from Massachusetts Says No,” in *Timely Analysis of Immediate Health Policy Issues* (Washington, D.C.: Urban Institute, 2012).
- <sup>11</sup> Buchmueller, DiNardo, and Valletta, “Effect of an Employer Health Insurance Mandate,” 2011.
- <sup>12</sup> Thomas Buchmueller, email message to Sherry Glied, Sept. 16, 2013; Robert Valletta, email message to Sherry Glied, Sept. 19, 2013.
- <sup>13</sup> Regulations include a requirement that firms establish a works council with a minimum budget of 0.3% of total payroll, a committee on health, safety and working conditions, a profit-sharing plan, and incur higher costs in the case of workplace accidents, among other duties.
- <sup>14</sup> Garicano, Lelarge, and van Reenen, “Firm Size Distortions,” 2013.
- <sup>15</sup> J. T. Kolstad and A. E. Kowalski, “Mandate-Based Health Reform and the Labor Market: Evidence from the Massachusetts Reform” (Cambridge, Mass.: National Bureau of Economic Research, 2012).
- <sup>16</sup> U.S. Bureau of Labor Statistics, “Table 1. Job Openings Levels and Rates by Industry and Region, Seasonally Adjusted” (Washington, D.C.: BLS, 2013).
- <sup>17</sup> E. Viebeck, “Lobbyists Push to Change Obamacare’s Definition of Full-Time Work,” *The Hill*, Sept. 19, 2014, <http://thehill.com/policy/healthcare/218325-big-k-street-push-to-change-o-care-30-hour-rule>.
- <sup>18</sup> Glied and Solís-Román, “Why Changing the Definition of Full-Time Work,” 2014.

## ABOUT THE AUTHORS

[Sherry Glied, Ph.D.](#), is dean of the Robert F. Wagner Graduate School of Public Service at New York University. From 1989–2013, she was professor of Health Policy and Management at Columbia University’s Mailman School of Public Health. Dr. Glied served as assistant secretary for Planning and Evaluation at the U.S. Department of Health and Human Services from July 2010 through August 2012. She is a member of the Institute of Medicine of the National Academy of Sciences and of the National Academy of Social Insurance, and is a research associate of the National Bureau of Economic Research. Dr. Glied’s principal areas of research are in health policy reform and mental health care policy. She is the author of *Chronic Condition* (Harvard University Press, 1998), coauthor (with Richard Frank) of *Better But Not Well: Mental Health Policy in the U.S. Since 1950* (Johns Hopkins University Press, 2006), and coeditor (with Peter C. Smith) of *The Oxford Handbook of Health Economics* (Oxford University Press, 2011).

[Claudia Solís-Román](#) is a junior research scientist at New York University’s Robert F. Wagner Graduate School of Public Service. She conducts research and data analysis relating to health and public policy. She worked previously as a researcher at Columbia University’s Mailman School of Public Health. She graduated with a bachelor of arts degree in Public and International Affairs from Princeton University’s Woodrow Wilson School, where she concentrated in global health.

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