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How Will the Patient Protection and Affordable Care Act Affect Liability Insurance Costs?

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Summary

Implementation of the Patient Protection and Affordable Care Act (ACA) will greatly expand private coverage and Medicaid while making major changes to payment rates and the health care delivery system in a number of areas. Although considerable analysis has been devoted to understanding the impacts of reform on health care providers, insurers, and patients, less attention has been given to other payers that fund health care services, such as property and casualty insurers and workers' compensation (WC) programs.

This report identifies a number of potential mechanisms through which the ACA might affect claim costs for liability insurers.¹ For each mechanism, we discuss the conceptual basis for the mechanism, review existing scholarly evidence regarding the importance of the mechanism, and, where possible, attempt to use reasonable assumptions based on existing data to develop rough estimates of the size and direction of expected impacts as of 2016, when the ACA is expected to be fully in force. We discuss how each mechanism might operate across different liability lines and provide examples of how variation across states in existing legal rules, population demographics, and other relevant factors might mediate the operation of each mechanism. There is considerable uncertainty in our estimates, which are intended as broad indicators of sign and magnitude but are reported here quantitatively for convenience and to facilitate comparison between states and impacts. There are also other effects that could be large (such as systemic effects of ACA-induced changes to health care delivery) but that are extremely difficult to pinpoint. Some of these are discussed in Chapter Five of this report.

The main mechanisms we identify and characterize in the report are as follows:

- *individual substitution effect*, whereby uninsured individuals may use liability coverage as a vehicle for (1) untreated conditions unrelated to the accident in question or (2) related conditions made worse by lack of health insurance
- *collateral source effect*, whereby states that limit the collateral source rule allow for health insurance payments to be deducted from final liability awards
- *provider treatment effect*, whereby providers provide more care to individuals who have health insurance than those without because they have greater certainty of payment
- *direct fee effect*, whereby the ACA directly changes some rates paid to providers via Medicare, and some liability insurers use prevailing Medicare rates as a basis for determining how much to reimburse providers

¹ We focus on expected claim costs and not premiums paid or the net profits or losses to insurers or governments.

- *medical malpractice volume effect*, whereby individuals with health insurance have more-regular contact with the formal health care system and therefore may be more likely to make medical professional liability claims.

Our estimates of the range (across states) of these effects on each market we consider in the report are summarized in Table S.1.

These effects are relatively small in percentage terms—generally because they are relevant for only a fraction of the U.S. population (those gaining insurance coverage) or because the underlying changes are relatively small (e.g., the impact of the ACA on provider fees). However, under reasonable assumptions, some effects can generate potential cost changes as high as 5 percent or more in certain states and for certain insurance lines.

Most are in the negative (cost-reducing) direction. In the case of the individual substitution effect, liability insurers are, today, paying for some of the additional costs associated with treating the uninsured. When those individuals obtain health insurance, some of those costs will then be transferred to their insurance. For the collateral source effect, health insurance expansions mean that there is a new source of payment for medical care resulting from accidental injuries that can reduce liability awards in some cases. Under the direct fee effect, because the ACA reduces provider fees, liability insurers will, in some cases, be able to adopt those lower fees in their own payment schedules. The other two effects act to increase costs, with the larger impact coming through the increased frequency of malpractice suits associated with insurance coverage.

Although we do not provide direct quantitative estimates for general liability, homeowner's, or certain other lines that have a bodily injury component, the mechanisms described here are likely to operate similarly for these lines as for third-party auto, so the ACA may have a small cost-reducing effect for these lines in the short run.

More-detailed tables for each effect and for each individual state can be found in the main body of the report. Despite the limited size of many of these effects, they could have important implications both for insurers and for the general public. For example, the public

Table S.1
Range of Estimated Changes Across States in Liability Claim Costs, by Market

ACA Impact Mechanism	Auto (first party)	Auto (third party)	WC	Medical Malpractice
Individual substitution effect (%)	-0.1 to -1.6	0 to -0.8	-0.1 to -1.2	n/a
Collateral source effect (%)	n/a	0 to -3.8	n/a	0 to -3.0
Provider treatment effect (%)	n/a	0 to 2.0	n/a	n/a
Direct fee effect (%)	-0.7 to -0.8	-0.7	-0.8 to -1.7	n/a
Medical malpractice volume effect (%)	n/a	n/a	n/a	0.4 to 7.8
Combined impact (%)	-1.4	-1.7	-1.4	2.4
Combined impact (millions of 2016 dollars)	-200	-540	-930	120

NOTE: Percentages are rounded to the nearest 0.1 percent, and dollar figures are rounded to the nearest \$10 million. These data are estimates with a wide degree of uncertainty that is impossible to quantify and do not necessarily imply the level of precision to which they are reported. n/a = not applicable.

may be affected if some of these underlying cost changes are incorporated into premiums paid or if they prompt shifts in the types of coverage offered by insurers.

We also discuss a number of longer-run changes that could be fostered by the ACA that could exert more-significant downstream effects on insurance claim costs. These include shifts in tort law, changes in the supply of physicians, new pricing schemes for medical services prompted by the rise of accountable care organizations (ACOs), and changes in population health. Because such developments depend on a number of uncertain factors and may take several years to manifest themselves, we do not incorporate them into our quantitative estimates. Nevertheless, these trends merit continued attention and monitoring by stakeholders interested in the future of the insurance industry.