

State Health Insurance Policy Implications of the ARP (and BBBA Framework)

Presentation to the NAIC Health Innovations Working Group

Jason Levitis

Dan Meuse

November 2, 2021

STATE
Health & Value
STRATEGIES

*Driving Innovation
Across States*

A grantee of the Robert Wood Johnson Foundation

About State Health and 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 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.

*Support for this meeting was provided by the Robert Wood Johnson Foundation.
The views expressed here do not necessarily reflect the views of the Foundation.*

About Jason Levitis

Jason Levitis is principal at Levitis Strategies LLC, a healthcare consultancy focused on the Affordable Care Act's coverage and tax provisions and state innovation waivers. He provides technical assistance to states officials in partnership with State Health and Value Strategies, a grantee of the Robert Wood Johnson Foundation housed at Princeton University. He's also a nonresident fellow at the Brookings Institution and a senior fellow at Yale Law School's Solomon Center for Health Law and Policy. He served at the U.S. Treasury Department from 2009 to 2017, where he led ACA implementation as Counselor to the Assistant Secretary for Tax Policy.

About Dan Meuse

Dan Meuse serves as the Deputy Director of State Health and Value Strategies, a program of the Robert Wood Johnson Foundation. In this role, Dan assists in managing and coordinating the technical assistance providers serving the states and works with states to identify their assistance needs and policy goals. He was deeply involved in the implementation of the Affordable Care Act at the state level as Deputy Chief of Staff for Rhode Island's Lieutenant Governor. Dan serves as a Lecturer in Public Affairs at the School of Public and International Affairs at Princeton University.

Contents

- **Introduction**
- **The ARP PTC Expansion and BBBA Framework Provisions**
- **State Policy Considerations**
- **Discussion**



Introduction

Level Setting

Given recent developments, this presentation has been expanded to address not just the American Rescue Plan (ARP) but also the Build Back Better Act (BBBA) Framework

April 2021

Article on state policy implications of the temporary premium tax credit expansion in the ARP and related uncertainty

Last week

BBBA Framework released with significant relevance to the ideas in the April article

Today

Discussion of ARP and BBBA Framework

Policy considerations in the current context

Key Points

ARP and potential BBBA provisions fundamentally change the landscape for state policymaking while also leaving uncertainty; states have tools well-suited to respond

- Because state health policy is built on a landscape of federal policy, the ARP's PTC expansion and potential BBBA provisions change the calculus about a wide range of state policies related to coverage and health insurance regulation
- State decision-making is also complicated by uncertainty about the duration of key ARP and BBBA provisions. Uncertainty is likely to continue for the foreseeable future
- Fortunately, several state options to advance health coverage are well-suited to multiple scenarios
- Key approaches included building flexibility into policies like state subsidies, focusing on all-weather goals like maximizing take-up, and pursuing 1332 waivers that are beneficial with or without PTC expansion



The ARP PTC Expansion and BBBA Framework Provisions

Pre-ARP Premium Tax Credit

Before the ARP, the premium tax credit (PTC) was widely seen as being insufficient to make coverage affordable for some consumers

- The PTC has made coverage affordable for millions of Americans
- But pre-ARP there were two key, long-standing concerns:
 - **Not large enough** to make coverage affordable for some eligible people
 - For example, in 2021 a family of four with \$90,000 in income had to pay almost \$9,000 in premiums for the year, despite getting the PTC
 - **Ended in a cliff** at 400% of the federal poverty level (FPL), leaving an “unsubsidized” group with no help regardless of the premium they faced
 - For example, in 2021 a 60-year-old couple with \$75,000 in income were ineligible and so had to pay the full premium of \$23,000 per year
- Several states responded with premium subsidies that supplement or “wrap around” the PTC (MA, VT, MN, CA, NJ)

ARP's Broad-Based PTC Expansion

The ARP substantially increased PTC amounts and extended eligibility for 2021 and 2022

- The ARP addressed both key concerns about the PTC:
 - **Increased PTC** for those currently eligible by reducing the share of income consumers are expected to contribute towards the premium
 - The family of four with \$90,000 in income saves almost \$2,500
 - **Extended PTC** above 400% of FPL, capping higher-income consumers' expected contribution at 8.5% of income
 - The 60-year-old couple with \$75,000 in income saves more than \$16,000
- These changes are effective for 2021 and 2022 only
- The ARP did not generally address other ACA affordability issues like cost-sharing and the family glitch

Consumer Contributions Reduced

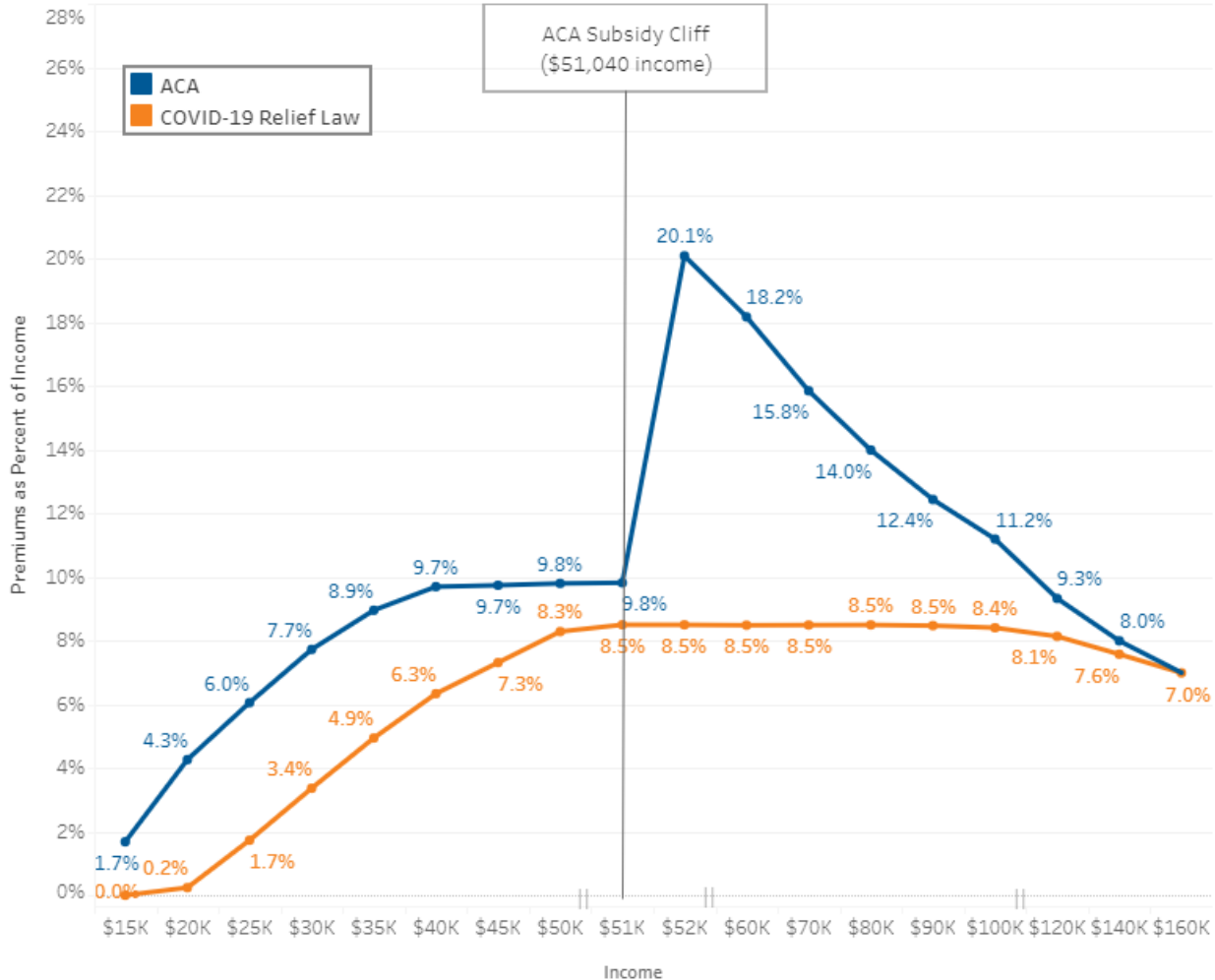
Consumer Expected Contribution towards a Benchmark Plan as Percent of Income, Pre-ARP and under the ARP

Income Range (% of FPL)	Contribution Range for 2021 under Pre-ARP Law	Contribution Range for 2021 and 2022 under the ARP
100% – 133%	2.07%	0%
133% – 150%	3.10% – 4.14%	0%
150% – 200%	4.14% – 6.52%	0% – 2%
200% – 250%	6.53% – 8.33%	2.0% – 4.0%
250% – 300%	8.33% – 9.83%	4.0% – 6.0%
300% – 400%	9.83%	6% – 8.5%
400% and higher	N/A	8.5%

The share of a consumer’s income they are expected to pay towards a benchmark (2nd-lowest cost silver) plan with the PTC is referred to as the “applicable percentage.” Applicable percentages increase linearly within the ranges shown.

Eliminating the Cliff

60-Year-Old's Expected Contribution as a Share of Income for a Benchmark Silver Plan



Note: Figures are based on national averages; excludes Hawaii and Alaska because of different FPL levels.
Source: [Kaiser Family Foundation](#)

Key BBBA Provisions Affecting Health Insurance

The BBBA framework would extend the ARP's PTC expansions through 2025 and make other changes important to states

- Extends the ARP's broad-based PTC expansion for three years (through 2025)
- Extends the ARP's unemployment compensation-linked PTC and CSR expansion for four years (through 2025)
- Fills the "Medicaid gap" in non-expansion states by providing PTC and CSR sufficient for free high-value coverage to Medicaid-ineligible consumers below 138 percent of FPL, with additional benefits and no employer coverage "firewall" (2022-2025)
- Creates a "health insurance affordability fund" providing \$10 billion per year to help states pay for reinsurance programs and subsidy wraps (2023-2025)
- Makes other PTC improvements, including conforming the employer coverage affordability threshold to the PTC's 8.5 percent applicable percentage cap (2022-2025)

Continued Uncertainty Likely

Even if the BBBA passes soon, uncertainty will continue for the long term

- Making the ARP's PTC expansion permanent is a priority of many lawmakers
- But that appears unlikely to happen soon
- If the BBBA passes, years may pass before serious efforts to extend it and other BBBA provisions beyond 2025
- Also, the BBBA could be delayed or scaled back further, or fail to advance
- Thus the federal landscape will likely remain uncertain at least about the 2026 and beyond



State Policy Considerations

Navigating Federal Changes and Uncertainty

The PTC expansion and potential BBBA changes require rethinking of state priorities; uncertainty requires flexibility and strategic decision-making

- PTC expansion changes the calculus about a broad range of state policies related to coverage and health insurance regulations
 - Many state policies focus on filling affordability gaps, and the ARP plugs the biggest gap
 - Interactions between the PTC and other state policies like rate setting and 1332 waivers
 - Additional BBBA provisions also have valence for state policy options
- Uncertainty requires a focus on flexible and “all-weather” policies, caution about major course changes, and consideration of cost of changing course
 - The BBBA would provide a longer period of certainty and thus increase viability of more ambitious options

State Subsidy Wraps Shift Focus

With premiums reasonably affordable for most consumers, states can focus on other affordability gaps

- PTC is now more generous than pre-ARP PTC ***combined with*** most state wraps
- Cost-sharing becomes perhaps the biggest affordability concern
 - Family of 3 with income of \$55,000 owes \$2,300 per year for a benchmark plan after PTC but is ineligible for CSRs and faces an average deductible over \$10,000
 - Survey data suggests many people with health coverage cannot afford to use health care services
 - Five states (MA, VT, CT, CO, NM) now have or are implementing CSR wraps
- Subsidies can fill other gaps, like family glitch and undocumented (CO, others considering)
- Premium subsidies can be targeted to selected groups like young adults (MD)
- BBBA Affordability Fund would help address state funding needs

Sources: [CMS Plan Year 2021 Enrollment Data](#); [JAMA: “Trends in Unmet Need for Physician and Preventive Services in the United States, 1998-2017.”](#)

Existing Cost-Sharing Subsidies

State Cost-Sharing Subsidies Can Rely on ACA Silver Variants or Create New Ones

Actuarial Values (AVs) Provided by Existing Cost-Sharing Subsidies

FPL Level	ACA	Mass.	Vermont	Col. (eff. 2022)
< 100%*	94%	99.7%	N/A (94%)	N/A (94%)
100-150%	94%	95%	N/A (94%)	N/A (94%)
150-200%	87%	95%	N/A (87%)	94%
200-250%	73%	92%	77%	N/A (73%)
250-300%	N/A (70%)	92%	73%	N/A (70%)
> 300%	N/A (70%)	N/A (70%)	N/A (70%)	N/A (70%)

* Individuals under 100% of FPL are generally eligible for CSRs only if “lawfully present” immigrants subject to the five-year Medicaid bar.

Subsidies Can Be Flexible for Uncertainty

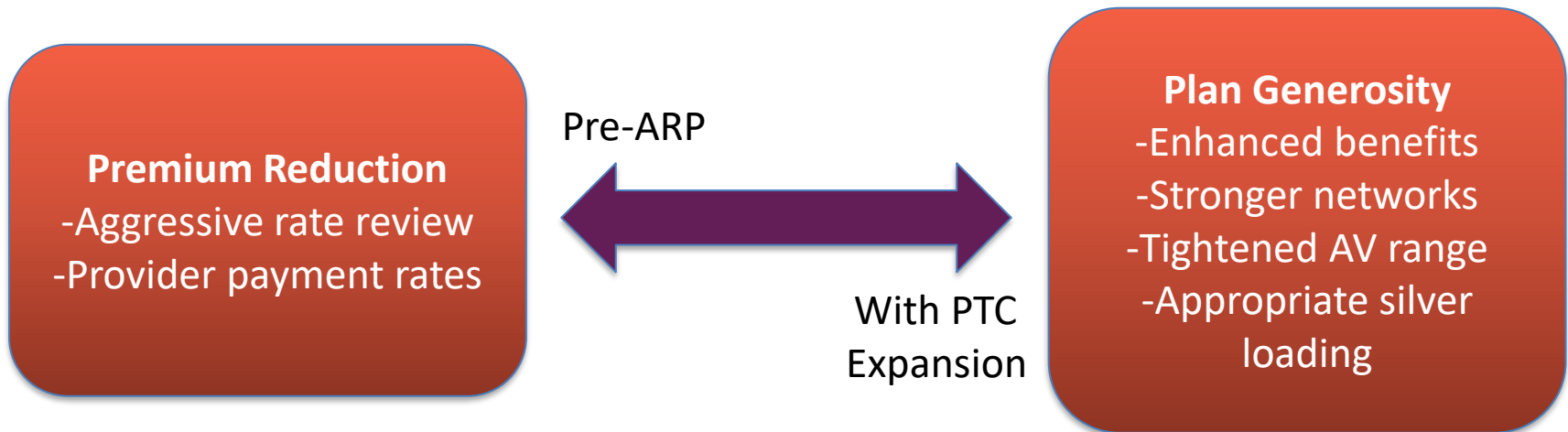
State subsidy legislation can be drafted to be adaptable to multiple affordability goals depending on the federal landscape

- States' subsidy preferences may depend on PTC expansion, family glitch, etc.
- State subsidy laws can provide flexibility to adjust to evolving federal landscape
 - **Less flexible:** [VT's law](#) calls for a premium subsidy that reduces enrollees' applicable percentages by 1.5 percentage points, and a specific cost-sharing subsidy schedule
 - **More flexible:** [CO's law](#) created a [Health Insurance Affordability Board](#) to set subsidy parameters. After the ARP passed, the board decided to target cost-sharing in 2022
 - **More flexible:** [CA](#), [NJ](#), [NM](#), and [WA's](#) laws provide for their state Marketplace or insurance department to set subsidy terms administratively
- States should also consider operational costs of creating and modifying state subsidies
- The BBBA would ease state decision-making by creating a longer period of certainty

Shifting Priorities on Premiums

With few people paying the list premium, the importance of lower premiums becomes less clear – except as part of a 1332 waiver

- States have historically faced a trade-off between comprehensive coverage and low premiums for unsubsidized consumers, especially those above 400% of FPL
- But the expanded PTC shields the vast majority of consumers from unbounded premiums and from premium changes generally



1332 Provides New and Flexible Opportunities

Section 1332 waivers can get more pass-through funding with PTC expansion; premium reduction models are well-suited to uncertainty

- Section 1332 allows states to capture federal PTC savings to pay for state subsidies or other coverage supports
- PTC expansion means a given premium reduction will generate more federal savings and thus more pass-through funding (and also increases the coverage baselines states must sustain)
- To date these premium reductions have come from reinsurance, but other means are compatible: public options, payment reforms, and reducing reimbursement rates
- This model works with or without PTC expansion
- CO is currently developing such a waiver, and other states are considering them
- The BBBA would simplify planning and analysis by create a longer period of certainty, and the affordability fund could help support the state plan

What about Reinsurance?

PTC expansion has pros and cons for reinsurance programs; uncertainty counsels against sudden shifts

- [16 states](#) currently have reinsurance programs supported by 1332 waivers
- PTC expansion has pros and cons for reinsurance
 - On the one hand, it reduces the benefit of reinsurance by reducing the number of unsubsidized individuals, especially at moderate incomes
 - On the other hand, it increases federal pass-through funding and thereby reduces the cost of reinsurance to states
- BBBA Affordability Fund could further reduce state funding needs
- Whether any remaining cost is the best use of state dollars depends on the magnitude of that cost and the state's priorities
- Given uncertainty about the duration of the PTC expansion and the significant investment of time and energy a waiver requires, states may wish to wait for greater clarity before making any lasting changes

Outreach and Facilitated Enrollment

Maximizing take-up among the eligible population is a top priority with PTC expansion and also valuable without it

- Encouraging PTC-eligible consumers to enroll has become a major state focus
 - CA and other states have shown success using outreach to expand coverage
 - Maryland pioneered tax-based facilitated enrollment strategies now being pursued by CO, CA, MA, PA, and VA
- These measures expand coverage without new federal legislation, save lives, bring federal dollars to the state, and are generally inexpensive compared to state subsidies
- PTC expansion makes the case for these measures even stronger
 - More uninsured people now qualify for even larger subsidies
- These measures are attractive amid uncertainty since they are valuable with or without PTC expansion

Other Potential BBBA Implications

If the BBBA is enacted, states should also consider the following

- **Importance of state unemployment compensation (UC) systems and State-Based Marketplace (SBM) integration**
 - The ARP's UC-linked subsidy expansion highlighted weaknesses in state UC enrollment systems and the value of connecting these systems to SBMs
 - Many states were unable to address these issues for 2021
 - If UC-linked subsidies extend through 2025 (and potentially beyond), there's a much stronger case and more time to improve these systems
- **Impact of Medicaid gap-filling policy on insurance markets.** New silver variant, additional benefits, and eligibility expansion will be issues to navigate
- **Marketplace implementation work.** Gap-filing policy and other eligibility changes would require federal and state Marketplaces to quickly implement changes to eligibility systems and to Form 1095-A reporting



Discussion



Thank You

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

Dan Meuse
Deputy Director
State Health and Value Strategies
dmeuse@Princeton.edu
609-258-7389
www.shvs.org



Appendix

Additional Resources

- Jason Levitis and Dan Meuse, “[The American Rescue Plan’s Premium Tax Credit Expansion—State Policy Considerations](#),” SHVS, April 19, 2021.
- Jason Levitis and Sonia Pandit, “[Supporting Insurance Affordability with State Marketplace Subsidies](#),” SHVS, March 11, 2021.
- Kaiser Family Foundation PTC calculators:
 - [With the ARP](#)
 - [Pre-ARP](#)

Examples of ARP PTC Expansion Impact

Net Marketplace premiums decline for families in all sorts of circumstances

Examples of Premium Savings, 2021

	Monthly marketplace premium payment		
	Current law	House proposal	Difference
45-year-old individual			
\$18,000 (141% FPL*)	\$54	\$0	-\$54
\$30,000 (235% FPL)	\$195	\$85	-\$110
\$45,000 (352% FPL)	\$369	\$274	-\$95
\$60,000 (470% FPL)**	\$511	\$425	-\$86
60-year-old couple			
\$30,000 (174% FPL)	\$132	\$24	-\$108
\$45,000 (261% FPL)	\$325	\$167	-\$158
\$60,000 (348% FPL)	\$492	\$360	-\$132
\$75,000 (435% FPL)**	\$1,920	\$531	-\$1,389
Family of four***			
\$45,000 (171% FPL)	\$193	\$32	-\$161
\$60,000 (229% FPL)	\$379	\$158	-\$221
\$90,000 (343% FPL)	\$737	\$531	-\$206
\$120,000 (458% FPL)**	\$1,445	\$850	-\$595

** Current-law examples for those with income over 400% of FPL are based on the national average benchmark premium adjusted for age where appropriate.

*** The sample family includes two 40-year-old adults, a 10-year-old child, and a 5-year-old child.

Source: [Center on Budget and Policy Priorities](#)

State Marketplace Subsidies

STATE	YEAR EFFECTIVE	SUBSIDY TYPE	TARGET POPULATION	SUBSIDY STRUCTURE	NOTES
MA	2007	Premium & Cost-Sharing	APTC-eligible with income ≤ 300% of FPL	Graduated premium schedule linked to state individual mandate affordability standards. Cost-sharing subsidy provides 92% and 95% AV silver variants	
VT	2014	Premium & Cost-Sharing	APTC-eligible with income ≤ 300% of FPL (premium) or 200%-300% (cost-sharing)	Premium subsidy reduces PTC applicable percentages by 1.5 percentage points. Cost-sharing subsidy provides 73% and 77% AV silver variants	
CA	2020-2022 (currently paused due to ARP)	Premium	APTC-eligible with income 100%-138% or 200%-400% of FPL; plus 400%-600% of FPL	Reduces PTC applicable percentages by various amounts	Statute provides flexibility for subsidy parameters. Like PTC, advanceable tax credit with reconciliation
NJ	2021	Premium	APTC-eligible; post-ARP added 400%-600% of FPL	Generally a flat amount that varies across FPL thresholds, with caps for consumers with little or no expected contribution	Statute provides flexibility for subsidy parameters
CT	July 2021	Premium & Cost-Sharing	APTC-eligible with children and income ≤ 175% FPL. Must claim full federal subsidies	Covers 100% of premium after APTC and cost-sharing after CSR	Beginning July 2022, also includes dental and transportation costs.
CO (APTC-eligible)	2022	Cost-Sharing	APTC- and CSR-eligible with income 150%-200% of FPL	Provides 94% AV silver variant	Statute provides flexibility for subsidy parameters.
CO (no-APTC)	2023	Premium & Cost-Sharing	Ineligible for APTC & Medicaid, with income ≤ 300% of FPL; details TBD	TBD, but must provide option with 90% AV and zero premium	Statute provides flexibility for subsidy parameters
MD	2022-2023 only	Premium	Young adults eligible for APTC; details TBD	TBD	Described as a “pilot program”
NM	2023	Premium & Cost-Sharing	Both APTC-eligible and APTC-ineligible; details TBD	TBD	Statute provides flexibility for subsidy parameters
WA	2023	Premium	TBD, but at most enrollees in a silver or gold standardized plan with income ≤ 250% FPL. Must claim full federal APTC.	TBD	Statute provides flexibility for subsidy parameters
MN	2017 only	Premium	QHP enrollees not eligible for APTC	25% of premium	Not provided through Marketplace