

Stakeholder Group Convening, Salinas, October 28, 2013
New Models of Health Coverage for California Farmworkers

**Preliminary Insights and Further Analyses Needed to Effectively Address Problems
Farmworkers and Their Employers Face under ACA**

Overview

The basic premise of ACA is that the employer “play or pay” mandate will have a major impact on access to health care by providing most U.S. workers affordable health insurance as a broad avenue to better health care. The premise is that the ACA employer mandate can expand health insurance coverage without greatly increasing federal costs while federal funding can be used to support a safety net consisting of state health insurance exchanges to subsidize moderately low-income families (up to 200% of the poverty level) who purchase individual policies and Medicaid-funded health care for those living in poverty (up to 138% of the federal poverty level in California under Medic-Cal).

The provisions do not work well for California farmworkers or their employers. Although more than three-quarters of the 1.2 million farmworkers and family members in California farmworker households¹ are low-income (with family earnings below 200% of poverty), ACA will do little to improve their access to affordable health care—because of the ways in which the statute’s provisions interact with immigration law, patterns of seasonal employment in agriculture, the fact that farmworkers’ employment is inherently unstable, and the likelihood that many agricultural employers will be exempted from the employer mandate as small businesses.

Immigration Law and ACA Provisions

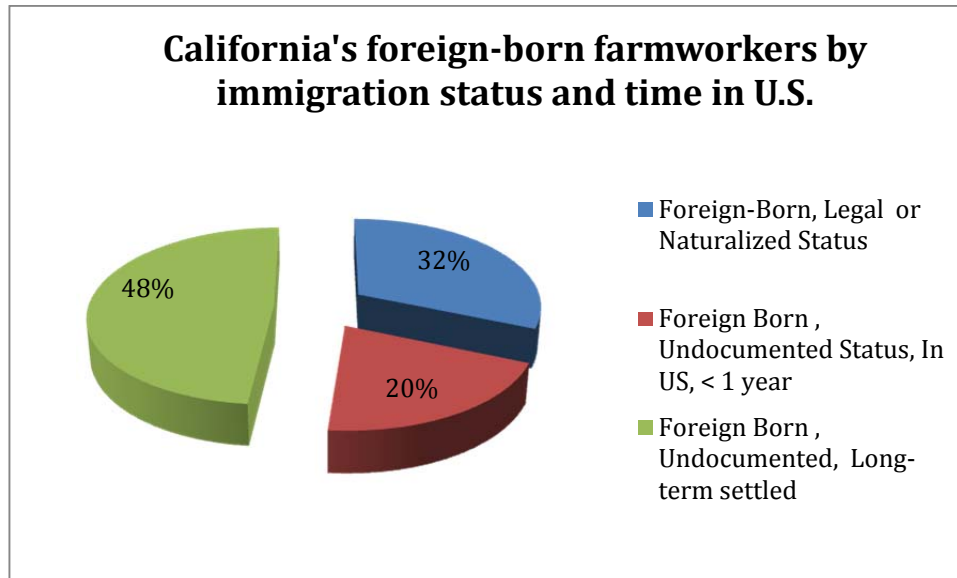
A key assumption underpinning ACA is that the low-income families whose employer is not required to offer them health insurance (many of them seasonal or part-time workers) will be able to either purchase affordable coverage on the state health insurance exchanges or qualify for a state Medicaid program. This assumption is seriously flawed in the case of California agriculture because virtually all (98%) of the farmworkers in the California farm labor force are foreign-born and two-thirds (67%) of the foreign-born workers are undocumented.² Those who are neither lawful permanent residents or naturalized citizens

¹ An estimate prepared by Ed Kissam and Shannon Williams for CRLA, Inc. (August 2013) suggests there are about 550,000 farmworkers in California and about 650,000 farmworker dependents.

² Information on farmworker characteristics and employment patterns referenced here and subsequently, unless otherwise noted, are based on tabulations of the 2007-2009 NAW public dataset, the most recent currently available. It is expected that the 2010-2012 database will be made available soon. The NAWs data public data is available for download at: <http://www.doleta.gov/agworker/naws.cfm>

will not be allowed to either purchase subsidized health insurance on the state health insurance exchanges or qualify for Medicaid.³

Chart 1 below shows the legal status of California’s foreign-born farmworkers based on National Agricultural Worker Survey (NAWS) data from 2007-2009.



Passage of immigration reform legislation is not going to make these structural problems evaporate—because the current policy framework envisions that, once farmworkers are legalized, they will not become eligible for “public benefits” programs for some years (current law requires a wait of 5 years) unless, for example, access to health insurance exchanges is deemed not to be a “public benefit”. Senator Hirono offered an amendment in the Senate Judiciary Committee hearings on S. 744 (Hirono 16) which would have rectified this problem but she was forced to reluctantly withdraw them so as to move forward with the legislation.

The ACA guidelines exempting “small” employers from the ACA mandate and the exclusion of seasonal workers from the mandate, coupled with ACA guidelines allowing a 90-day lag from hiring to provision of health insurance to “new” employees (and some returning ones), will probably exempt most agricultural employers entirely from the mandate and exclude many of the seasonal farmworkers even those who work for a large employer.

Given the size distribution of US farms (and particularly California ones) it’s likely that at least half of California farmworkers are employed by employers who are excluded from the mandate because they are “small”. About one-third of the rest who work for large

³ It deserves note that about 20,000 California farmworkers are potentially eligible for DACA (deferred action for childhood arrivals). It is likely that few have qualified to date because more than three-quarters never received a high school degree or GED do not meet the USCIS educational requirements. However, there is growing awareness that enrollment in adult education programs or vocational training provide an avenue for them to meet the educational requirements while, at the same time, building skills that will serve them and their employers well in the agricultural workforce. The Werner-Kohnstamm Family Fund is supporting efforts to develop pilot programs to help these out-of-school working farmworkers qualify for DACA.

employers are likely to be excluded because they are seasonal workers. Therefore, it's likely that no more than one-third of the current farm labor force will be offered insurance as a result of the employer mandate.

The 65% or so of the farmworkers whose employers will not be mandated to offer them health insurance are disproportionately seasonal workers, unauthorized workers, younger workers, and women. (See notes below on current health insurance coverage.) The situation of women and younger workers deserves particular note. They work less days per year on the average; thus, proportionately more will be classified as seasonal workers.

Insights into Future Disparities in Health Care Access Based on Current Health Insurance Coverage: Heads of Household, Spouses, Children

Overall, about 30% of California farmworkers currently have some sort of health insurance. About 18% have health insurance coverage because it is provided by their employer; however there are disparities in that 21% of the farmworkers directly hired by agricultural producers receive employer-provided health insurance while only 3% of those working for farm labor contractors do.

California farmworkers' children's health insurance is comparatively high (because about three-quarters are U.S. born and, thus, qualify for Medic-Cal). In 80 percent of families all of the children are covered. In an additional 4 percent of the families at least some of the children are covered. Most of the farmworker's children's health insurance coverage is provided by "the government" (responses do not permit analysis of the specific programs).

In families where the children do have health insurance coverage, it is paid for by "the government" for more than three-quarters (78%) of families, by a parent's employer's policy for 17% of the families, and by the wage-earner himself/herself in 10% of the families.

Current Health Insurance Coverage in Relation to Legal Status

Overall, 57% of the legal farmworkers in California (LPRs, citizens, and other statuses such as TPS) currently have some sort of health insurance (which they or their spouses pay for, which their employer pays for, or which their spouse's employer pays for), while only 16% of the unauthorized farmworkers do. Almost one-third (30%) of legal California farmworkers receive employment-related health insurance, while only 11% of the unauthorized farmworkers do.

Family members' health insurance coverage also is correlated with farmworkers' legal status. Only half (56%) of the unauthorized farmworkers who had health insurance in 2007-2009 reported that their spouse also had insurance (i.e., about 9% of the spouses in unauthorized families).

In contrast, more than three-quarters (78%) of the authorized farm workers' spouses were covered (i.e. about 44% of the spouses in the households of the farmworkers who were legal residents or citizens). Slightly more than half (53%) of the legal workers who have health insurance report that their employer paid for it.

The Bottom Line: Structural Mismatch

Thus, we believe it is likely that ACA provisions will have very little impact on farmworkers' access to health insurance because most of those who would be affected by the mandate are already covered voluntarily by their employers (although in many cases the policy offered may not be ACA-compliant). This is also the group where proportionately more have legal status and could purchase subsidized health insurance on the state exchange.

In contrast, those who are not affected by the employer mandate and who will be less likely to get employer-provided health insurance are the undocumented workers.

What We Can Learn from Analyses of the Full NAWS Dataset

Estimates of the proportions of farmworkers who are not affected by the employer mandate will be better once the NAWS non-public dataset analyses become available (because the trigger for the employer mandate is time worked for a single employer and, thus, the current WKF analysis based on TOTAL days of farmwork may be overly optimistic).

What we will be able to know based on analysis of the full NAWS dataset is the proportion of unauthorized spouses and children of farmworkers who will lack access to subsidized insurance on the state exchanges or expanded MediCal.

We will, based on the full NAWS dataset, be able to get a definitive idea as to the proportions of farmworkers presumed to be affected by ACA who are already covered voluntarily by their employers. We can't tell, however, whether ACA might result in some workers receiving better coverage than they currently have (due to the ACA requirements regarding minimum benefits to make a policy ACA-compliant).

With the full NAWS dataset it will be possible to see: the income distribution of the workers who ARE likely to be offered insurance because their employer is mandated to offer it and hypothesize whether the policy they are offered is affordable for them (individually and/or family coverage). We won't know whether they would actually consider it affordable and, therefore, sign up. A separate research program would be needed to determine that; appropriate methodologies exist but new research would definitely be needed.

With the full NAWS dataset it will be possible to estimate the proportion of farmworkers who are NOT offered insurance by their employer as a result of the mandate who will qualify for: a) subsidized insurance on the state exchange and b) expanded MediCal.

What NAWS Cannot Currently Tell Us

NAWS cannot provide us insights on the precise characteristics of the farm labor force employed by small and large employers—because there is no NAWS variable in the respondent records which says what size employer they work for. Therefore the estimates will inevitably have some uncertainty—since the characteristics of the labor force of small

employers might be different than that of large employers (with “large” and “small” as defined in the ACA regulations).

NAWS cannot provide us a definitive answer as to what farmworkers at different absolute income levels and at different levels of relative poverty might be willing to pay for: a) individual coverage and b) family coverage. (The high deductibles of Bronze plans would seem to make them unattractive to farmworkers).

NAWS is a survey which includes only crop workers, not livestock workers. Separate research would be needed to adequately understand what the situation is for livestock workers, for example, dairy workers and the dairy industry.

An important insight from NAWS is that the proportion of the California farm labor force who are seasonal workers has probably decreased over the past decade. Less NAWS respondents report working for two or more employers and average days of farmwork per year has increased. If there are large influxes of guest workers, it is likely that the average California farmworker will secure less days per year of agricultural employment and, thus, more will fall into the seasonal worker category. However, NAWS provides no guidance about changes in labor supply.

Using Other Data Sources

This is not a very promising line of inquiry and is, in fact, somewhat dangerous in that other commonly-used data sources may generate inaccurate analyses. Two data sources which are widely used—the American Community Survey (ACS) and the California Health Interview Survey (CHIS)-- are both problematic.

The ACS is likely to have dramatic sample bias. My research on Census 2010 coverage in hard-to-count rural tracts of California with high concentrations of farmworkers suggests that 15-20% of the most recently-arrived, most marginal farmworkers are missed in the decennial census. Most researchers feel the ACS is likely to have more serious differential undercount. Enrico Marcelli has measured 23% undercount among undocumented Los Angeles immigrants. Passel’s estimates of numbers of farmworkers in the US based on ACS are very low, inconsistent with analyses based on Census of Agriculture data. Our own review of tabulation of persons employed in agriculture by occupation shows there’s a lot of bias in the ACS sample of agricultural employees.

The CHIS—due to its being a phone sample is likely to be biased very similarly to the ACS. When Susan Gabbard and I looked at CHIS data on farmworkers back in 2005 or so it was very obviously unreliable for farmworkers.

The New Immigrant Survey has too small a sample to permit analysis of farmworkers’ situation and it only includes legalized immigrants—thus it’s not very useful at all.

The Prospects for An Industry Survey or Analysis of Personnel Records

A well-designed employer survey (if immigration status could be determined) might be very helpful in answering some key questions. Even if immigration status could not be

definitively determined (since all employees are presumed to be legally authorized to work), analysis of personnel records for a sample might usefully address the question of the profile of the labor force of large vs. small employers.

Next Steps

I envision three daunting tasks which lie ahead.

- The first will be to develop better analyses of a variety of “overlaps”—between seasonal workers and non-seasonal workers employed by large or small companies (the interaction between ACA provisions re seasonality and employer size), between legal status and seasonality and workers at large vs. small companies (the interaction between the ACA employer mandate and access to subsidized health insurance or Medic-Cal for those whose employers do not cover them).
- The second will be to better understand the determinants of farm workers’ willingness to pay in to the health insurance plans offered by employers—particularly the sensitivity to price in families of different sizes and different levels of relative poverty.
- The third will be to craft solutions to providing health insurance to California farmworkers. I am hopeful that the creativity and energy of Diringer Associates and the Stakeholder Group will make it possible to find ways to overcome the basic problem created by creation of a large-scale, somewhat attractive approach to improving Americans’ access to health care which, however, leaves some of the most vulnerable, California farmworkers and their families, out in the cold.