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OFFICE OF THE
HEALTH INSURANCE COMMISSIONER
STATE OF RHODE ISLAND

MARKET STABILITY WORKGROUP 2.0

Meeting #8

Tuesday, January 8, 2018
8:30 – 10:30 a.m.
ISPN, 265 Oxford Street, Providence, RI 02905

TEN WEEK SYLLABUS

RI Market Stability Workgroup Schedule

Topic(s) for Discussion	Meeting Date
Meeting 1 **Regrouping: Workgroup "2.0" + Reinsurance Recap**	Wednesday, October 3rd
Meeting 2 **Reinsurance Financing Options**	Tuesday, October 16th
Meeting 3 **Affordability Programs in Addition to Reinsurance**	*Wednesday*, October 31st
Meeting 4 **Shared Responsibility Requirement**	Tuesday, November 13th
Meeting 5 **Wrap-Up/Opportunity for Follow-Up**	Tuesday, November 27th
Meeting 6 **Reaching Recommendations**	Tuesday, December 11th
Meeting 7 **Recommendations (*reserved if needed*)**	Tuesday, December 18th

TEN WEEK SYLLABUS

RI Market Stability Workgroup Schedule

Topic(s) for Discussion	Meeting Date
Break for the holidays	Mid-December – early January
Meeting 8 **Recommendations;** **Possible Codification of ACA Consumer and Market Protections**	Tuesday, January 8th
Meeting 9 **Legislative Recommendations**	Tuesday, January 22nd
Meeting 10 **Legislative Recommendations (*reserved if needed*)**	Tuesday, February 5th

TODAY'S AGENDA

1. **Review Text of Potential Recommendations (including comments received)**
2. **Vote on Recommendations**
3. **Review of ACA Consumer Protections and State Law**

THE CHARGE TO THE WORKGROUP

Rhode Island has been here before. In response to the passage of the ACA, our state pulled together a coalition of experts.

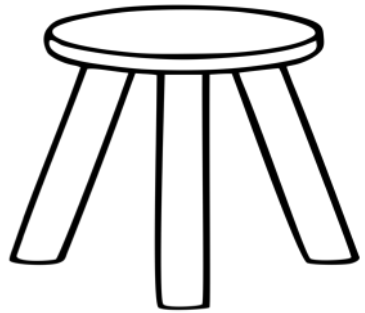
Those efforts resulted in providing **access to high-quality, affordable health coverage** to more Rhode Islanders than ever before.

In 2018, continued efforts are needed to protect that success – **for Rhode Island's individuals, families and business community.**

Guiding Principles:

1. Sustain a balanced risk pool;
2. Maintain a market that is attractive to carriers, consumers and providers; and
3. Protect coverage gains achieved under the ACA.

Goal: Identify and propose sensible, state-based policy options for RI that will be in service to those Principles.



RECOMMENDATION VARIATIONS

	Option 1	Option 2	Option 3
Reinsurance	• **10.3% Reinsurance Program** • Cost: $26 M • State funding : $10.2 M	• **8.3% Reinsurance Program** • Cost: $21 M • State funding : $8.3 M	• **5.2% Reinsurance Program** • Cost: $13 M • State funding : $5.1 M
SRP	• **Federal Model** *Penalty: $695 flat or 2.5% of household income - whichever is higher* • $11.3 M penalty revenue	• **Exempt <138% FPL** *Penalty: $695 flat or 2.5% of household income - whichever is higher* • $9.6M penalty revenue	• **No Flat Penalty** *Penalty: 2.5% of household income* • $6.7 M penalty revenue

Please note: All options include more penalty revenue than needed for reinsurance program state funding, leaving some penalty revenue available to cover the administrative costs of implementing the reinsurance program.

DISCUSSION

ACA CONSUMER PROTECTIONS AND STATE LAW

INTRODUCTION: ACA CONSUMER PROTECTIONS IN RI

1. **Workgroup Statement on Consumer Protections**
2. **Current Status**
3. **Overview**
    1. **Key Consumer Protections in ACA**
    2. **Essential Health Benefits in ACA**
    3. **Consumer Protections in RI law**
    4. **ACA Consumer Protections not in RI law**

MARKET STABILITY WORKGROUP—JUNE 2018 REPORT

Future market stability actions required:

The state should also carefully consider codifying into law critical consumer protections provided through the ACA which are currently at risk and vulnerable to future federal changes. Examples of critical consumer protections include, but are not limited to, coverage of the ten Essential Health Benefits categories, no-cost preventive services and bans on annual and life-time limits. The Workgroup also notes that these recommendations are necessary, but may not fully address all potential causes of market instability, and more actions may be needed in the future.

TEXAS COURT DECISION RE: CONSTITUTIONALITY OF THE ACA

- On December 14, 2018, Judge Reed O'Connor in Fort Worth, Texas, concluded that:
    - Since Congress has eliminated the fine for not complying with the individual mandate, the mandate is no longer permissible under Congress's taxing power and is thus **unconstitutional**
    - Because the individual mandate is "essential" to and inseverable from the ACA the entire law is invalid
- The decision is expected to be appealed, possibly to the Supreme Court. The high court has rejected two previous efforts (2012 & 2015) to find the law unconstitutional.

CURRENT STATUS

- More than 20 million Americans who previously were uninsured gained coverage from 2010 to 2017

- RI has made great progress in achieving near universal coverage. The uninsured rate in RI has dropped from nearly 12% in 2012 to less than 4.5% today.

- If the uninsured rate goes up, we could reasonably expect to see deferred healthcare, increased emergency room utilization, increased uncompensated care costs at hospitals, and higher utilization of state human service programs

KEY CONSUMER PROTECTIONS IN THE ACA*

- 10 Essential Health Benefits (EHBs) (detailed on next slide)
- Coverage of preventive services with no cost sharing
- Allows dependents up to age 26 to stay on parent's plan
- Prohibition on pre-existing condition exclusions
- Prohibition on annual limits/lifetime dollar caps on coverage for EHBs
- Ensure that payers keep their administrative costs in check ("medical loss ratio")
- Guaranteed Issue and renewal
- Right to appeal denial of payment
- Rate review
- Actuarial value of plans
- Allowable rating factors
- Uniform explanation of benefits and coverage
- Limits on Out of Pocket Maximums

**this list is not exhaustive*

ESSENTIAL HEALTH BENEFITS (EHBs)

- Ambulatory patient services
- Emergency services
- Hospitalization
- Pregnancy, maternity, and newborn care
- Mental health and substance use disorder services
- Prescription drugs
- Rehabilitative and habilitative services and devices
- Laboratory services
- Preventive and wellness services and chronic disease management
- Pediatric services, including oral and vision care

CURRENT CONSUMER PROTECTIONS IN RI LAW

- RI has been proactive in enacting legislation and adopting regulations that will mitigate some of the potential harm to consumers if the ACA is repealed or substantively replaced. Under current state law, Rhode Islanders have the following protections, among others:
  - Insurers cannot refuse to sell a health plan to RI residents and employees because of a preexisting health condition
  - Parents can keep their sons and daughters on their health plan up to age 26
  - Residents with a need for substance use and mental health treatment will continue to be covered, and such coverage must be at parity with coverage of medical and surgical treatment
  - Rate review
  - State mandates include pediatric preventive care, maternity hospitalization, emergency room services and transportation (see appendix for full list)

ACA CONSUMER PROTECTIONS NOT IN RI LAW

- Medical loss ratio requirements
- Guaranteed issue and renewal
- Out of pocket maximum limits
- Rating factors
- Preventive services with no cost sharing
- Full breadth of coverage for the Essential Health Benefits (EHBs)—particularly children's dental and vision; and habilitative services.
- In addition, there are sections of current RIGLs that contain language that will strip OHIC of enforcement authority if the ACA is declared invalid by a final judgment of the federal judicial branch or repealed by Congress, including:
  - Uniform explanation of benefits and coverage
  - Prohibition on annual and lifetime coverage limits

NEXT STEPS AND UPCOMING MEETINGS

- Next Meeting:
  - Consumer Protections (Cont'd)
  - January 22, 2019, 8:30am – 10:30am

    United Way of RI

    50 Valley Street

    Providence, RI 02905

PUBLIC COMMENT?

THANK YOU

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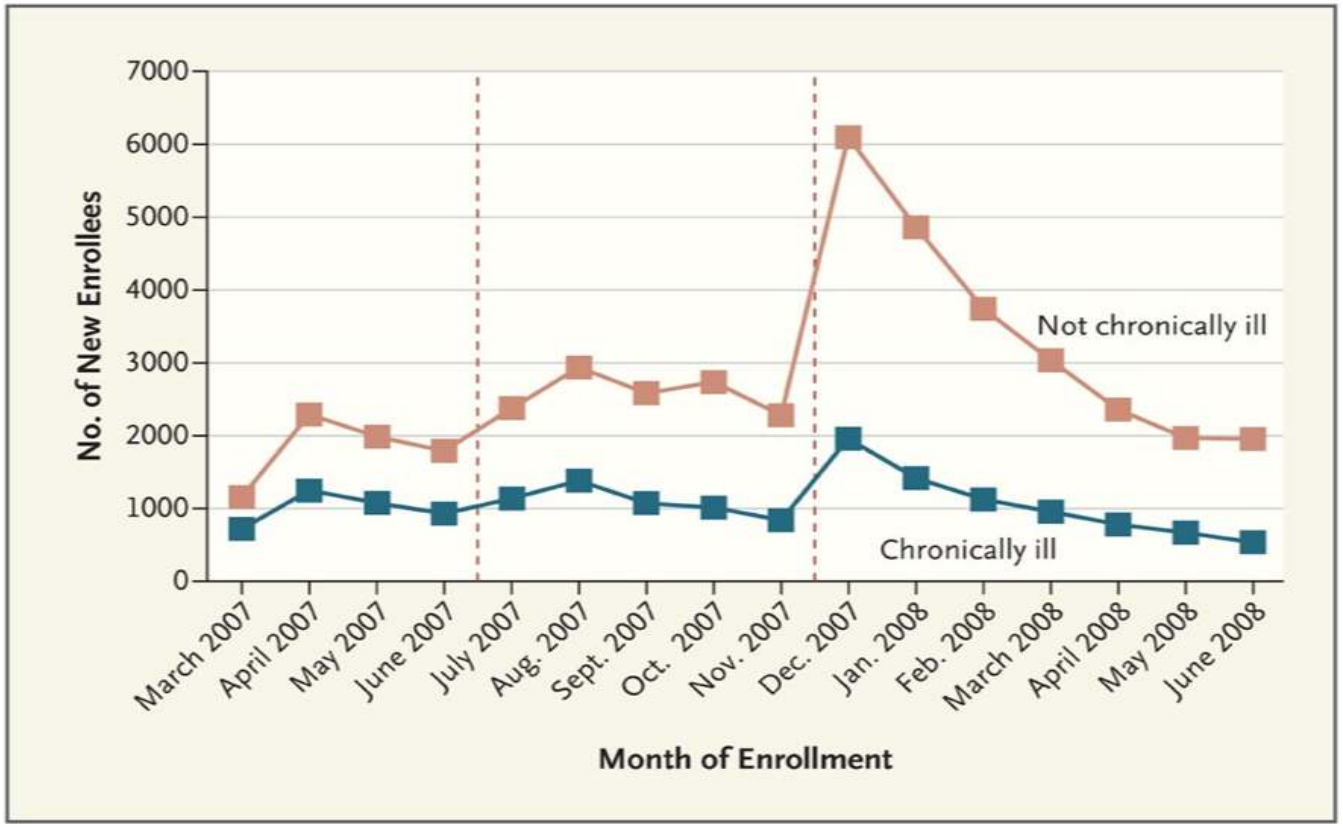
APPENDIX

REMINDER: WHY A REQUIREMENT TO BUY INSURANCE?



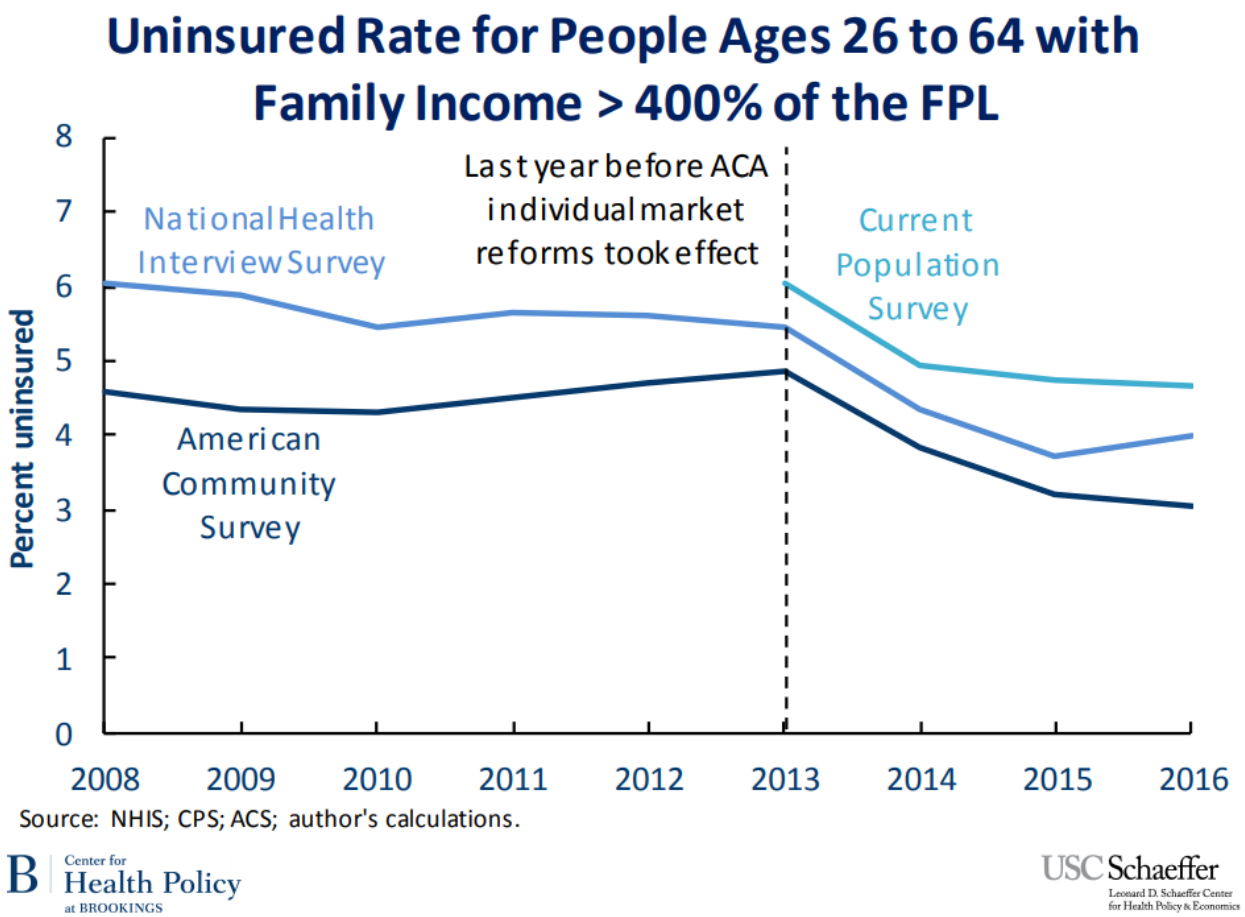
Number of New Enrollees in Commonwealth Care, According to Chronic-Illness Status.

The two vertical dashed lines represent the start of the mandate phase-in period (from July through November 2007) and the start of the period when the mandate became fully operational (from December 2007 onward)

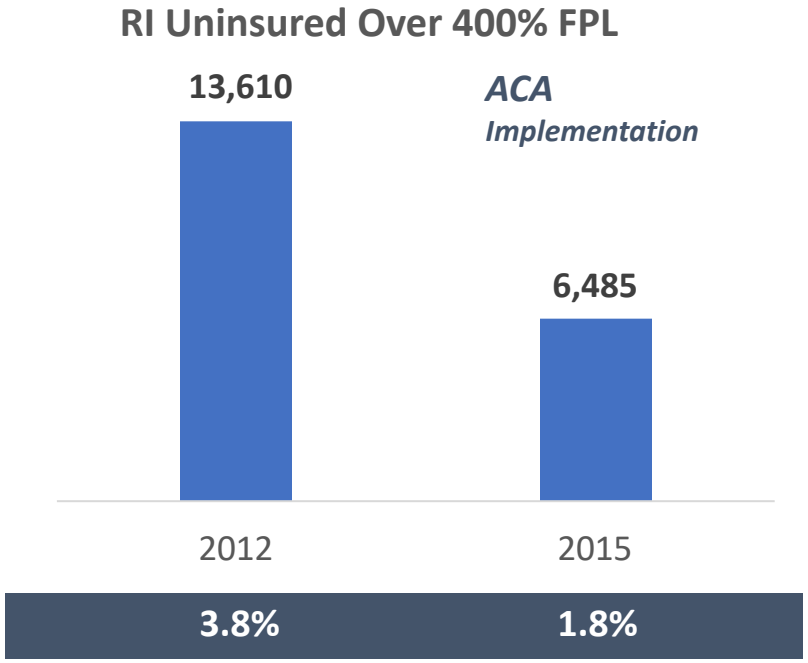
- Phased in separately from subsidies
- Increased enrollment in general
- Significant and disproportionate effect on healthy population
- MA rollout accompanied by messaging campaign

Source: https://www.nejm.org/doi/full/10.1056/NEJMp1013067

REMINDER: WHY A REQUIREMENT TO BUY INSURANCE?



- Unsubsidized population
- Notable drop post-mandate implementation
- Mandate not the only 2014 ACA change



Sources: https://www.brookings.edu/wp-content/uploads/2018/02/fiedlerslidesfor030618-for-posting.pdf; 2016 RI Health Insurance Survey (RI HIS)

Key Findings (Funding)

- Different assumptions will also impact the estimated pass-through (Federal dollars)
- The greater the pass-through, the less state funding is needed
- Estimated Federal pass-through rates and needed state funding (in millions):

Funding Level	$13 million	$21 million	$26 million
Minimal Impact	60.7%	60.7%	60.6%
KFF	60.6%	60.5%	60.5%
OACT	64.0%	64.0%	64.0%

Funding Level	$13 million	$21 million	$26 million
Minimal Impact	$5.1 million	$8.3 million	$10.2 million
KFF	$5.1 million	$8.3 million	$10.3 million
OACT	$4.7 million	$7.6 million	$9.4 million

Modeling Range and Best Estimates

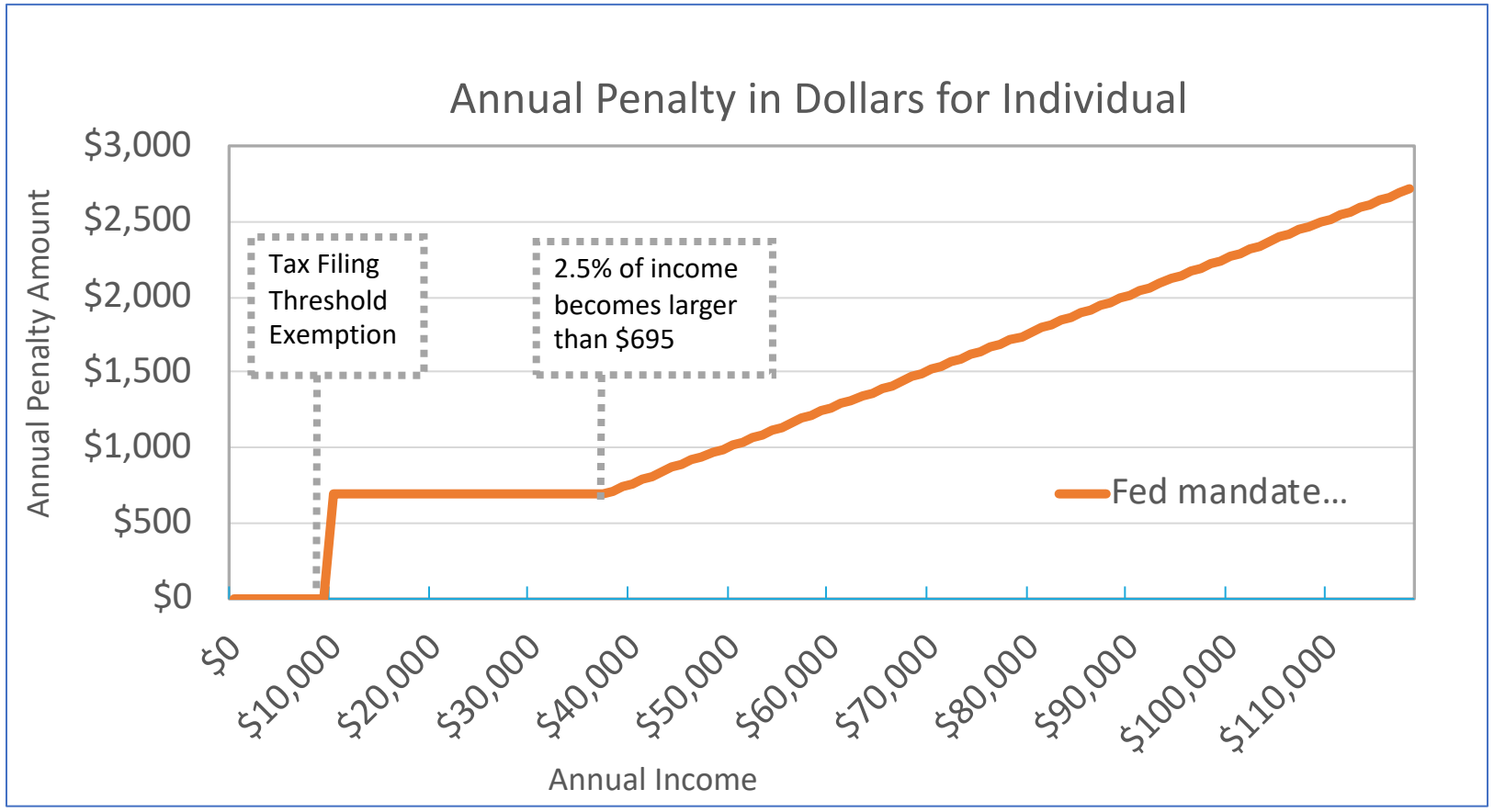
Ultimately based on 2018 experience, carrier input, and current regulatory environment (e.g., Silver loading):

- Wakely estimates a pass through range of 60% to 64% assuming moderate assumptions
- However, the pass through estimates are extremely sensitive to various levers that could change the pass through significantly (more than 20%), which could increase needed state funding

Funding Level	$13 million	$21 million	$26 million
Premium Impact	-5.2% to -5.6%	-8.3% to -9.1%	-10.3% to -11.3%
Federal Pass-through	$7.9 to $8.3 million	$12.7 to $13.4 million	$15.7 to $16.6 million
Needed State Funding	$4.7 to $5.1 million	$7.6 to $8.3 million	$9.4 to $10.3 million
Federal Pass-through %	60.6% to 64.0%	60.5% to 64.0%	60.5% to 64.0%

FEDERAL PENALTY STRUCTURE (ending 12/31/18)

Larger of 1) $695 per adult, or 2) 2.5% of income above filing threshold*



KEY EXEMPTIONS

- **Income Exemption** if income below tax filing threshold
- **Affordability Exemption** if coverage costs more than 8.13% of income
- **Hardship Exemption** in case of bankruptcy, flood/fire, death in family, etc.

**Half dollar amount for children, and max per family is equivalent of 3 adults. Overall max set at bronze plan cost*

Current Federal SRP Exemptions

Income Related Exemptions
Income is below the filing threshold
The cheapest available plan was unaffordable
Hardship Exemptions
You were homeless
You were evicted or were facing eviction or foreclosure
You received a shut-off notice from a utility company
You experienced domestic violence
You experienced the death of a family member
You experienced a fire, flood, or other natural or human-caused disaster that caused substantial damage to your property
You filed for bankruptcy
You had medical expenses you couldn't pay that resulted in substantial debt
You experienced unexpected increases in necessary expenses due to caring for an ill, disabled, or aging family member
You claim a child as a tax dependent who's been denied coverage for Medicaid and CHIP for 2017, and another person is required by court order to give medical support to the child. In this case you don't have to pay the penalty for the child.
As a result of an eligibility appeals decision, you're eligible for enrollment in a qualified health plan (QHP) through the Marketplace, lower costs on your monthly premiums, or cost-sharing reductions for a time period when you weren't enrolled in a QHP through the Marketplace in 2016
You had another hardship. If you experienced another hardship obtaining health insurance, describe your hardship and apply for an exemption.

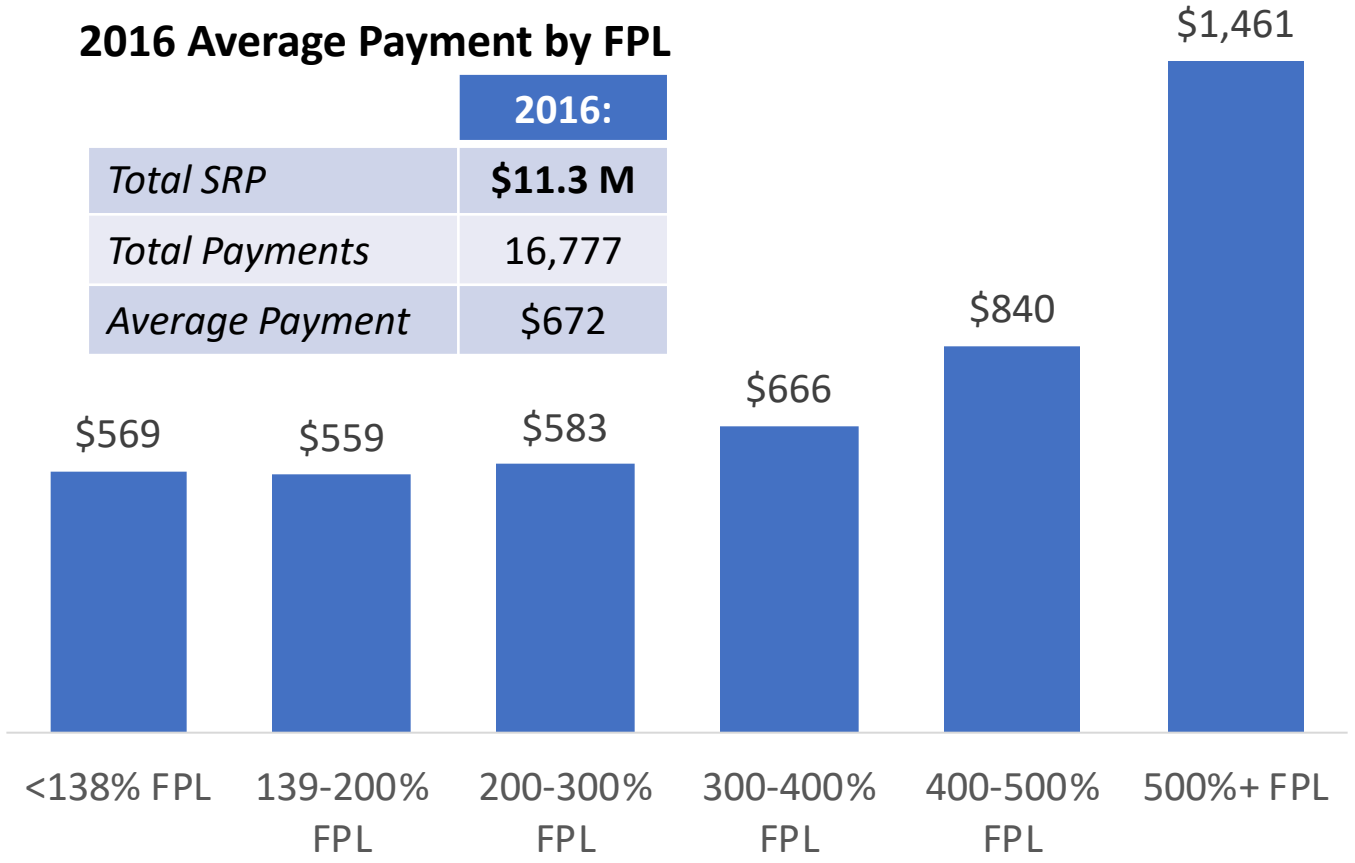
Health Coverage-Related Exemptions
You were uninsured for less than 3 consecutive months of the year.
You lived in a state that didn't expand its Medicaid program and your household income was below 138% of the federal poverty level.
Group Membership Exemptions
You're a member of a federally recognized tribe or eligible for services through an Indian Health Services provider.
You're a member of a recognized health care sharing ministry.
You're a member of a recognized religious sect with religious objections to insurance, including Social Security and Medicare. Application required.
Other Exemptions
You're incarcerated (serving a term in prison or jail).
You're a U.S. citizen living abroad, a certain type of non-citizen, or not lawfully present.
A member of your tax household was born or adopted during the year. This exemption applies only to the month of the event and the month before. You can claim this exemption only if you're also claiming another exemption.
A member of your tax household died during the year. This exemption applies only to the month of the death and the month before. You can claim this exemption only if you're also claiming another exemption.

Hardship Exemptions (Not Relevant In RI)
You were determined ineligible for Medicaid because your state didn't expand eligibility for Medicaid in 2017 under the Affordable Care Act
Your "grandfathered" individual insurance plan (a plan you've had since March 23, 2010 or before) was canceled because it doesn't meet the requirements of the Affordable Care Act and you believe other Marketplace plans are unaffordable

RI SHARED RESPONSIBILITY PAYMENTS: 2016

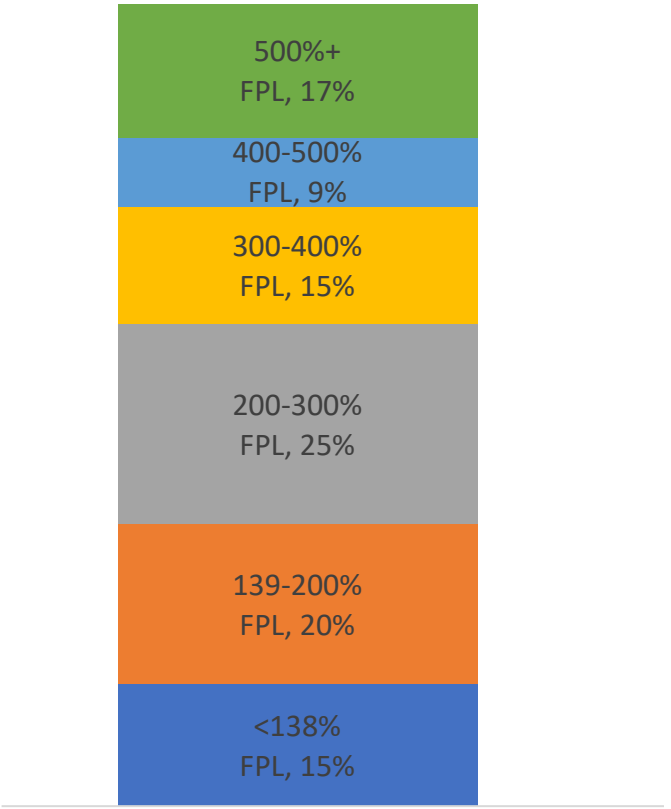
2016 Average Payment by FPL

	2016:
Total SRP	**$11.3 M**
Total Payments	16,777
Average Payment	$672

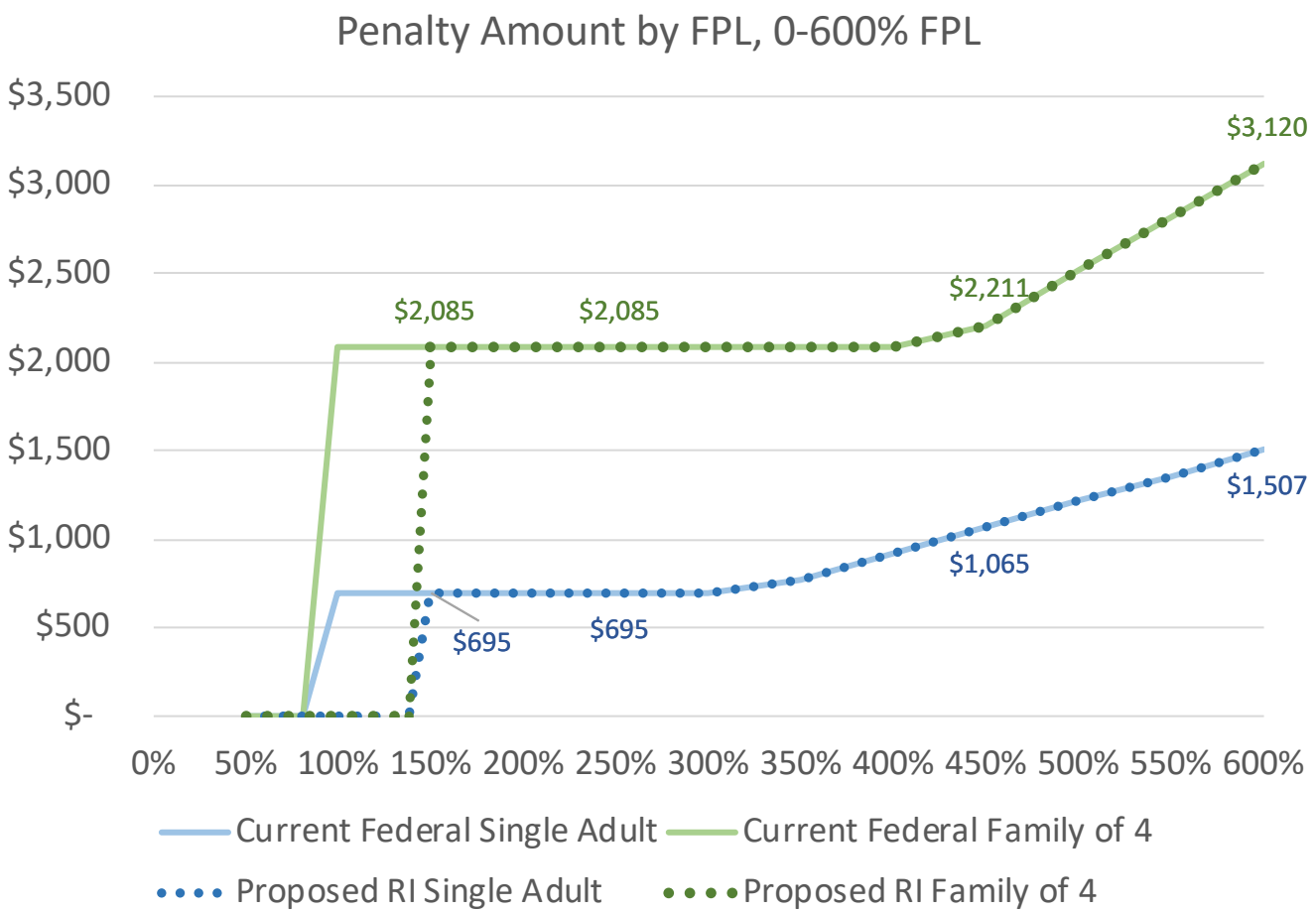


	<138% FPL	139-200% FPL	200-300% FPL	300-400% FPL	400-500% FPL	500%+ FPL
# Payments	2,993	4,027	4,840	2,467	1,177	1,274

Share of Total Paid Amount by FPL



VARIATION 1: EXEMPTION UNDER 138% FPL



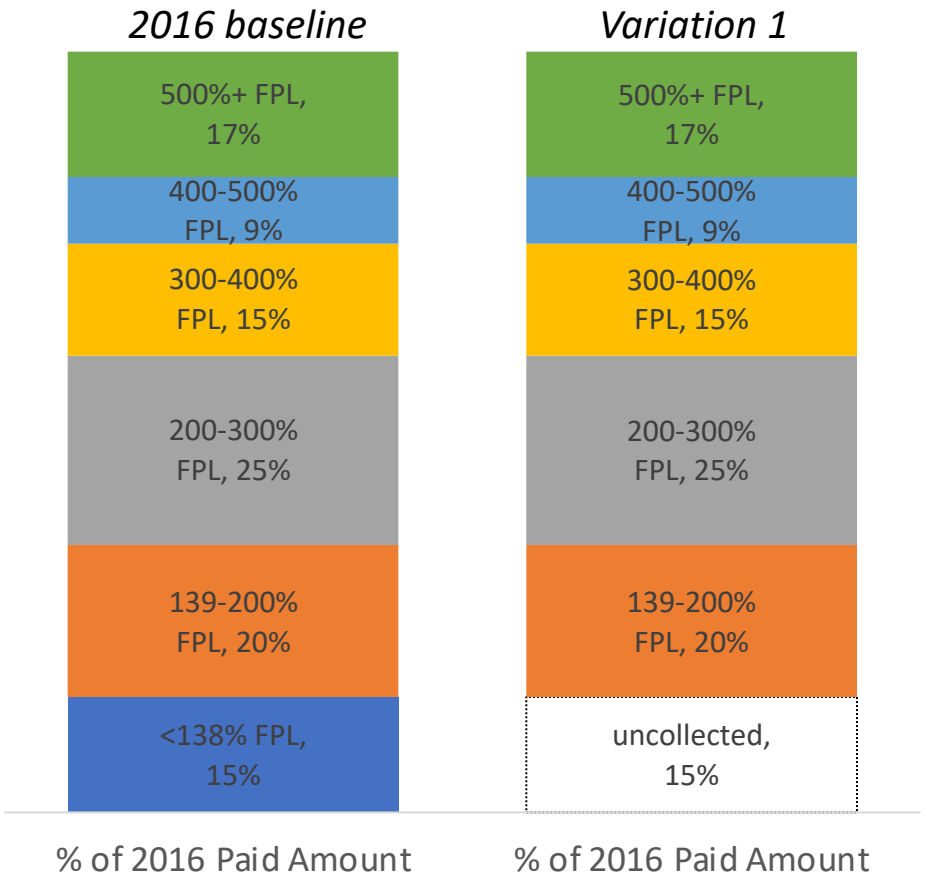
- Corresponds with Medicaid eligibility for most adults
- Many ought to be exempt via affordability exemption, but simplification may make it easier to avoid being penalized
- Estimated revenue reduction of $1.7M
- 100% reduction at lowest income ranges. No impact above that
- Could be “revenue neutral” if the percentage were also increased to 3.5%

VARIATION 1: EXEMPTION UNDER 138% FPL

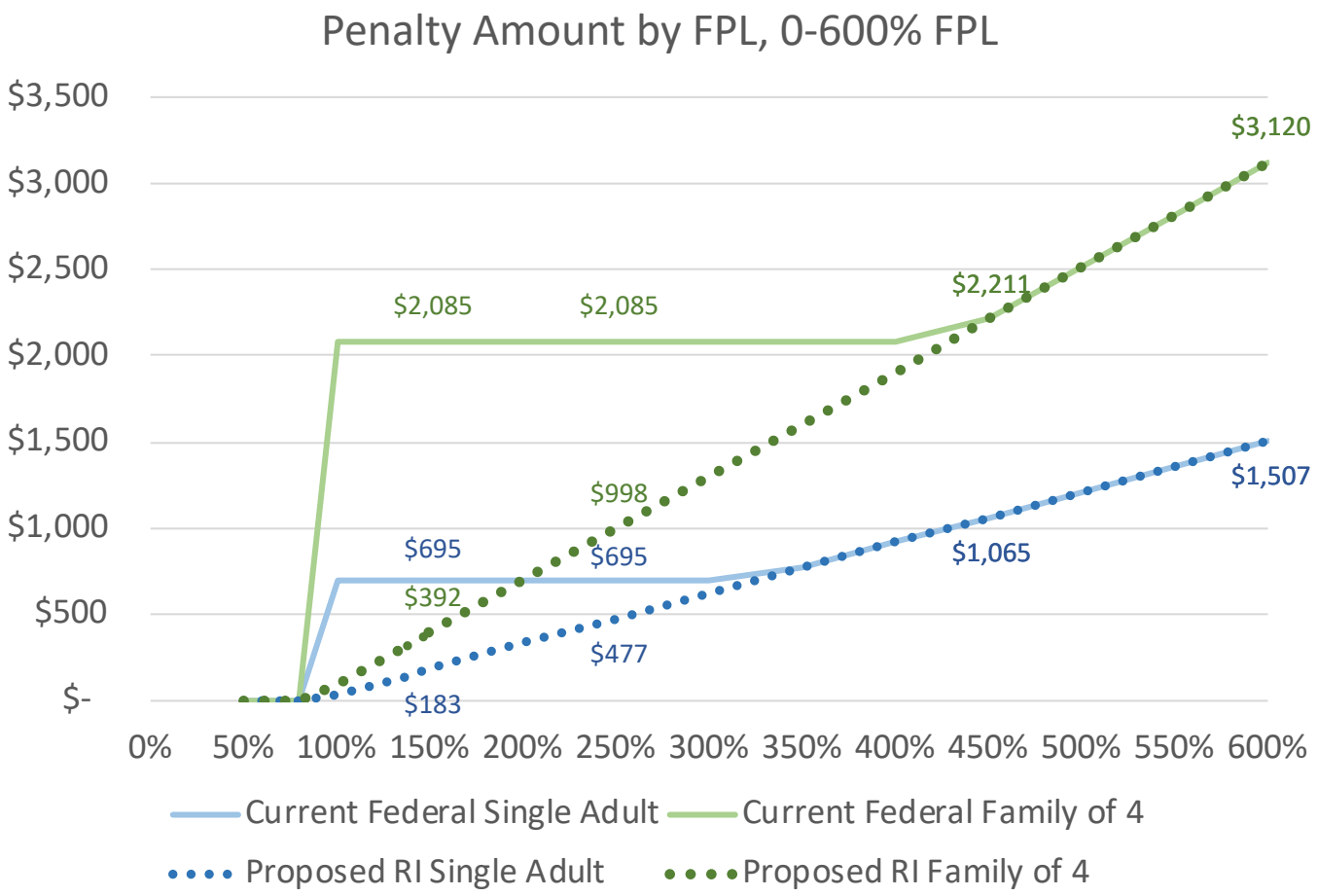
Payment by FPL: 2016 vs. Variation 1

	2016:	Variation 1:	Difference
Total SRP	$11.3 M	$9.6 M	-$1.7 M
Total Payments	16,777	13,784	-2,993
Average Payment	$672	$694	+$22

Share of 2016 Paid Amount by FPL



VARIATION 3: REMOVE FLAT PENALTY AMOUNT



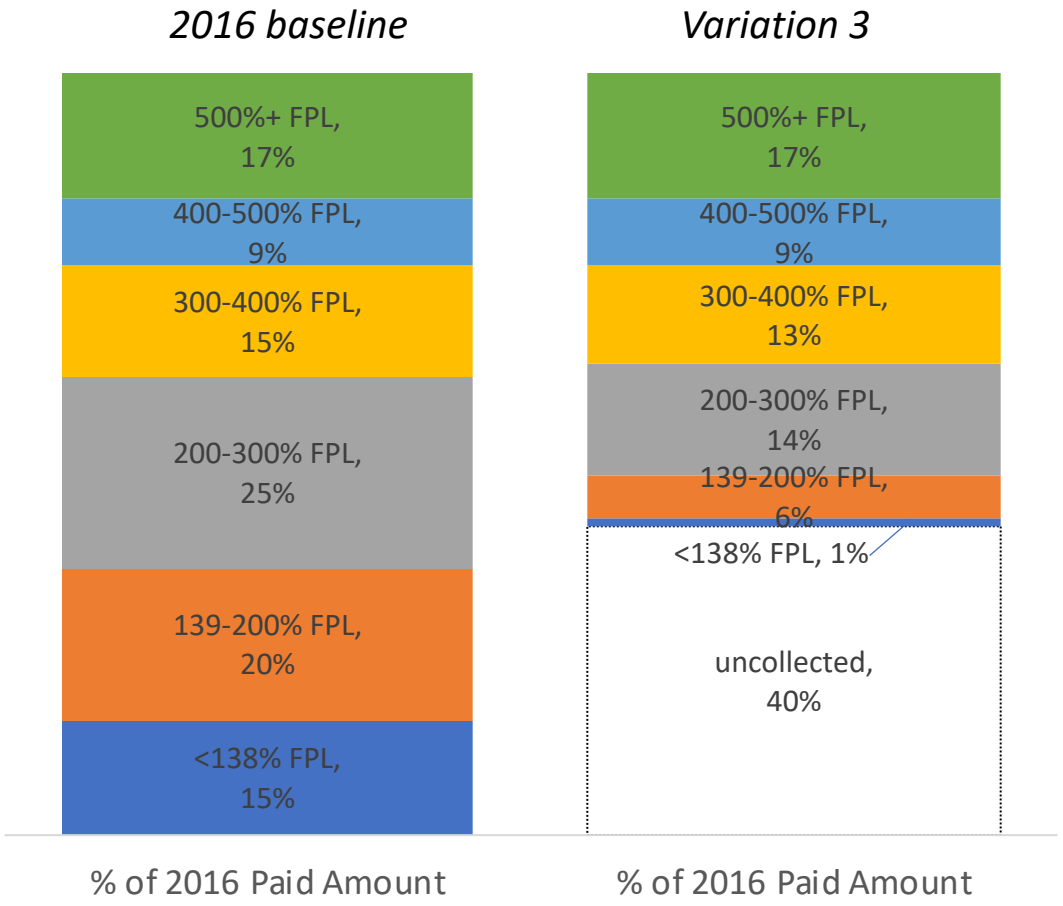
- Slightly simplifies filing process
- Estimated revenue reduction of $4.6M
- Impact largest at lowest income ranges—aggregate 80+% reduction below 150% FPL
- Modification phases out as income increases—aggregate 31-50% reduction for 200%-300% FPL
- No impact above 450% FPL
- Could be “revenue neutral” if the percentage were also increased to 4.25%

VARIATION 3: REMOVE FLAT PENALTY AMOUNT

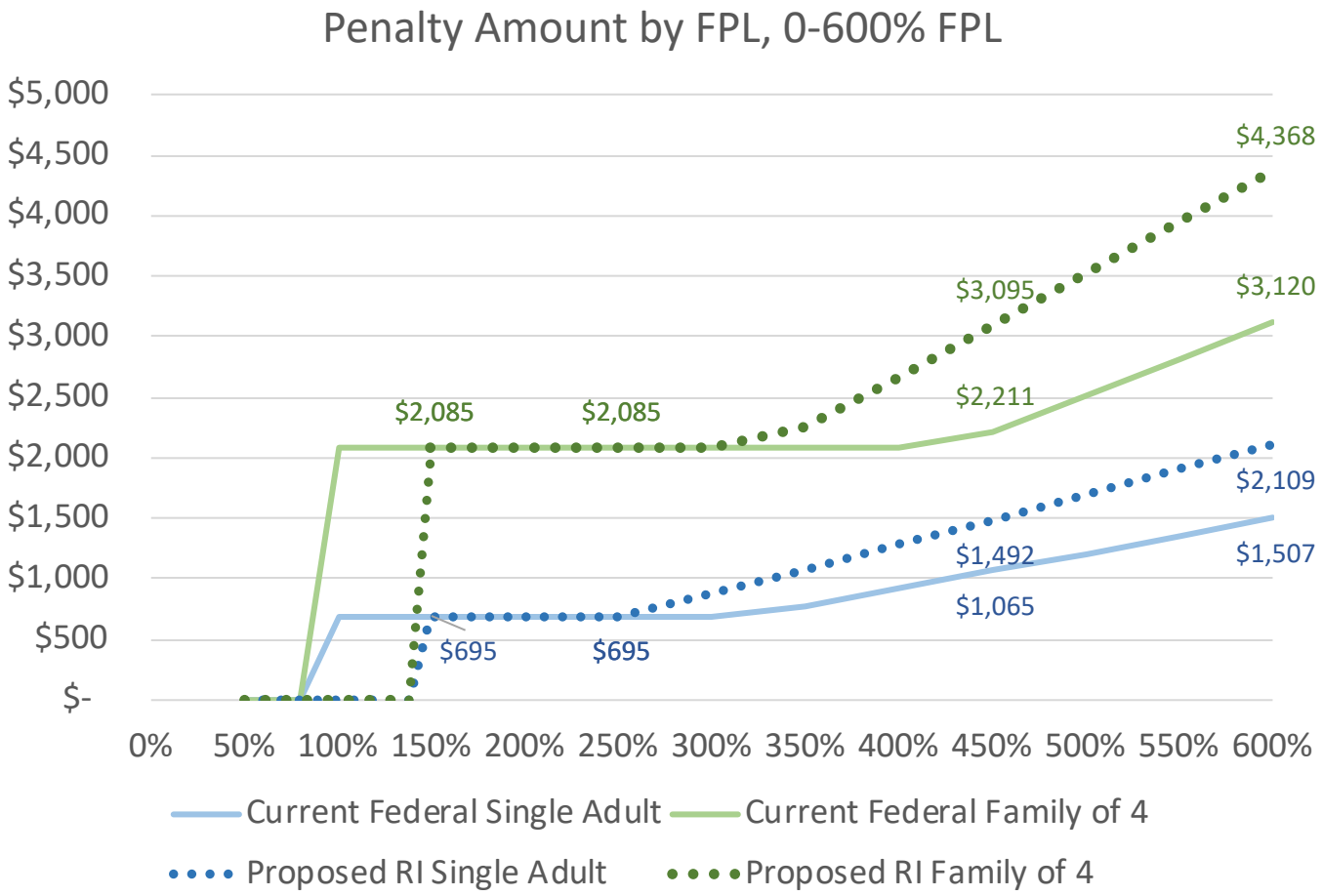
Payment by FPL: 2016 vs. Variation 3

	2016:	Variation 3:	Difference
Total SRP	$11.3 M	$6.7 M	-$4.6 M
Total Payments	16,777	16,777	-
Average Payment	$672	$400	-$272

Share of 2016 Paid Amount by FPL



VARIATION 4: EXEMPTION UNDER 138% FPL COMBINED WITH INCREASED INCOME PERCENTAGE TO 3.5%



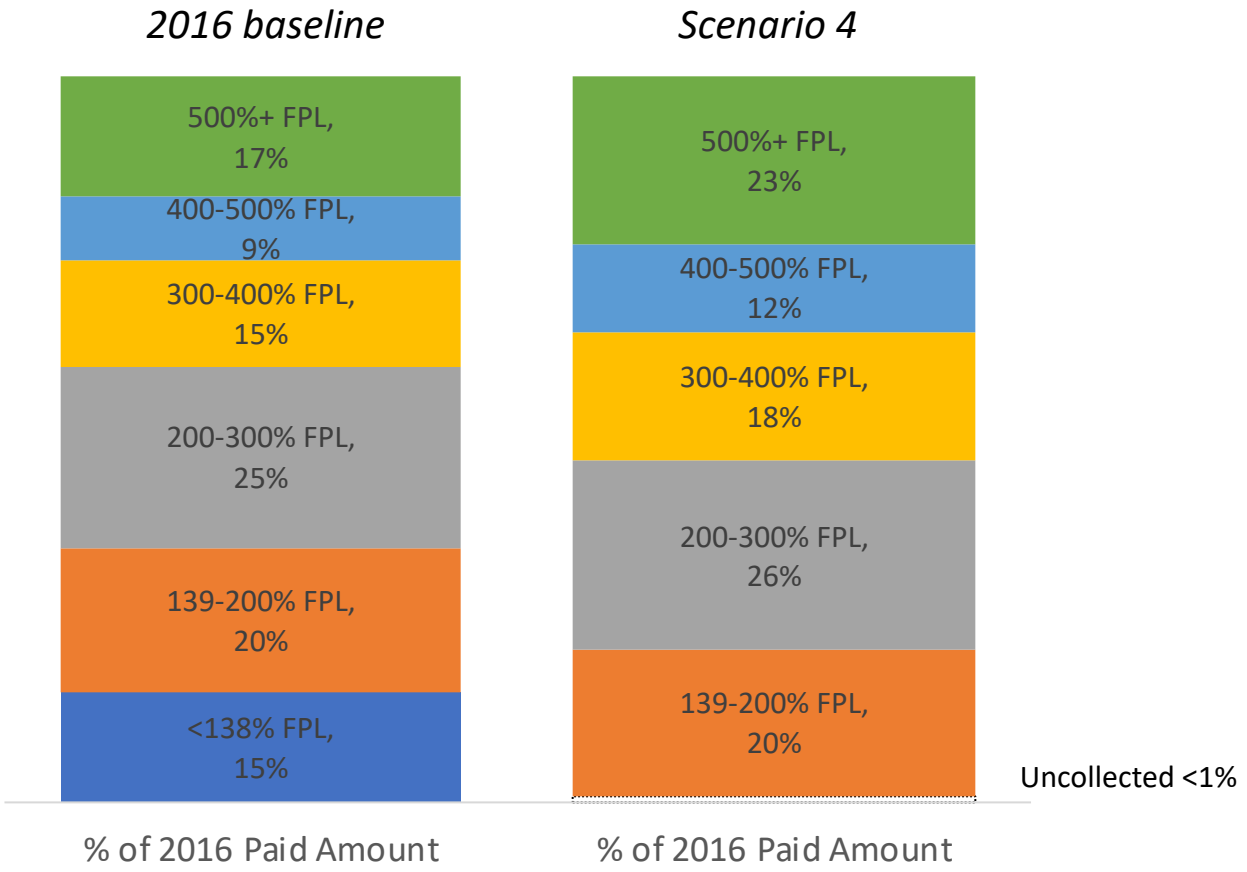
- Estimated revenue reduction of $0.1M
- Exemption matches Medicaid eligibility for most adults
- 100% reduction at lowest income ranges
- Increased penalty begins at 300% FPL and phases in fully by 450% FPL
- Penalty 40% higher for those above 450% FPL

VARIATION 4: EXEMPTION UNDER 138% FPL COMBINED WITH INCREASED INCOME PERCENTAGE TO 3.5%

Average Payment by FPL: 2016 vs. Scenario 4

	2016:	Scenario 4:	Difference
Total SRP	$11.3 M	$11.2 M	-$0.1 M
Total Payments	16,777	13,784	-2,993
Avg Payment	$672	$813	+$142

Share of 2016 Paid Amount by FPL



SUMMARY OF VARIATIONS + DISCUSSION

Variation	Revenue Change from $11.3M	Description
Use federal model	N/A	• No change
1. <138% Exemption	-$1.7M	• 100% reduction at lowest incomes (Medicaid level) • No impact above 138%
2. Half Flat Amount	-$3.3M	• Phased impact • 50+% reduction below 200% FPL • No impact above 450%
3. No Flat Amount	-$4.5M	• Phased impact • 80+% reduction below 150% FPL • No impact above 450%
4. <138% Exemption + increase to 3.5%	-$0.1	• 100% reduction at lowest incomes (Medicaid level) • Higher payments above 300% FPL

- Which options, if any, seem attractive to you?
- How do the options, including revenue impacts, fit in with other priorities for market stability?
  - reinsurance program funding and/or
  - additional affordability programs

Do these options support the Workgroup's Guiding Principles:
(1) *Sustain balanced risk pool; (2) Maintain attractive market, or; (3) Protect coverage gains achieved under the ACA?*