



3 Key Facts About The Free Rider Penalty

The Affordable Care Act includes a free rider penalty to prevent those who can afford to buy health insurance, but choose not to, from forcing the rest of us to pay for their care. By upholding the penalty, the Supreme Court affirmed that the 2 percent of Americans who willfully choose to forgo coverage will be held accountable without imposing a hidden tax of over \$1,000 on responsible Americans. The free rider penalty has deep Republican roots and has been a success in Massachusetts. Instead of refighting old political battles by trying to repeal health benefits and protections for the middle class, Republicans should join with Democrats to work on creating jobs and building an economy that lasts.

1. The free rider penalty prevents subsidizing care for the irresponsible.

- **The Affordable Care Act penalizes free riders.** The Affordable Care Act requires most people to maintain a minimum level of health insurance coverage beginning in 2014. Individuals will not be penalized if they have employer-sponsored insurance, insurance purchased through the state or federal health insurance exchanges, or government-sponsored coverage such as Medicare or Medicaid. Individuals who fail to meet this requirement will pay a penalty equaling the greater of 2.5% of household income or \$695 per year. This penalty will be phased in from \$95 in 2014, \$325 in 2015, and \$695 in 2016, increasing only by the cost-of-living adjustment from 2017 and beyond. Individuals will be exempt from coverage requirements if insurance would cost more than 8% of their income.
- **Free riders impose a hidden tax on responsible Americans.** When those who willfully choose to forego health insurance inevitably require care, they shift the cost of that care to others as providers recoup their losses through higher medical bills and insurance premiums. The average family pays a hidden tax of \$1,017 per year to pick up the tab for uninsured free riders. [\[Families USA, 5/28/09\]](#)
- **Without the free rider penalty health insurance would be more expensive.** Without the free rider penalty, fewer healthy individuals would purchase insurance through the state health exchanges, thereby leaving a greater proportion of sicker, more costly individuals in the pool of individuals with coverage. CBO estimates that this adverse selection would increase the price of non-group health insurance by 15 to 20 percent. [\[CBO, 6/16/10\]](#)
- **Only 2 percent of Americans will be impacted by the free rider penalty.** Under health reform, nearly 98 percent of Americans will never have to pay a penalty for failing to purchase health insurance. The free rider penalty will apply only to those who do not have insurance through an employer, do not qualify for subsidies, and can buy insurance but simply choose not to. This means that only 2 percent of

Americans will have to pay any penalty for failing to have health insurance. Of that 2 percent:

- Two-thirds will be offered coverage through their employer, eligible for premium subsidy tax credits or eligible to enroll in Medicaid, but they decline. In almost every case, the subsidy tax credits they forgo would be greater than the penalty they would face;
- One-third have incomes greater than 400% of the poverty line (\$92,200 for a family of four). [[CBO](#), 9/19/12; [Census](#), access on 7/5/12; [Families USA](#), accessed on 7/5/12]

2. The free rider penalty has deep Republican roots.

- **The free rider penalty is a creation of the Republican right.** In 1989, the Heritage Foundation first proposed the free rider penalty, stating that, “If a man is struck down by a heart attack...Americans will care for him whether or not he has insurance...even if that means more prudent citizens end up paying the tab. A mandate on individuals recognizes this implicit contract.” Heritage argued that a mandate was essential to any health reform effort and a fine could be imposed on those individuals failing to comply. [[Heritage Foundation](#), 10/1/89; [Heritage Foundation](#), 1/2/89; [Washington Post](#), 3/26/12]
- **Gov. Romney’s free rider penalty has been critical to successful health reform in Massachusetts.** Since enactment in 2006, Massachusetts has achieved near-universal coverage, insuring 98 percent of the population according to the most recent estimates. Analyses suggest that the free rider penalty was critical to the success of the Massachusetts initiative, and dramatically increased the number of healthy people who signed up for insurance through the Health Connector compared to chronically ill people. As a result, the state avoided adverse selection through the Health Connector, thereby maintaining target coverage levels. [[Massachusetts Division of Health Care Finance and Policy](#), 12/10; [NEJM](#), 1/27/11]
- **Governor Romney’s health reform law served as the model for the ACA.** As the model for ACA, the Massachusetts’ law aimed to achieve near-universal coverage through health insurance premium subsidies, expanded Medicaid eligibility, and a state health insurance exchange. In order for premiums to remain affordable through the Health Connector, the state required that nearly every resident purchase a minimum level of state-sanctioned coverage. Gov. Romney explained, “Using tax penalties, as we did... encourages ‘free riders’ to take responsibility for themselves rather than pass their medical costs on to others. This doesn’t cost the government a single dollar.” [[Kaiser Family Foundation](#), 5/21/12; [USA Today](#), 7/20/09]
- **The free rider penalty included in ACA is less punitive than Republican proposals.** In Massachusetts, Governor Romney’s free rider penalty is currently \$1,260, compared to \$95 in 2014, \$325 in 2015, and \$695 in 2016 under ACA. From 2017 on the ACA’s free rider penalty increases by a cost-of-living adjustment. [[Massachusetts Health Connector](#), accessed on 6/12; [Kaiser Family Foundation](#), accessed on 7/5/12]

	Gov. Romney’s Health Reform Law	Senator Hatch and Grassley’s Cosponsored “Health Equity and Access Reform Today Act of 1993”	Affordable Care Act
Requirement	Individuals with qualifying income would be mandated to obtain health insurance through an employer, individual market, or public program. Those choosing not to do so would face a tax penalty.	Individuals are mandated to be covered under a qualified health plan or equivalent health care program. Those choosing not to do so would face a tax penalty.	Individuals with qualifying income would be mandated to obtain health insurance through an employer, individual market, or public program. Those choosing not to do so would face a tax penalty.
Penalty	The tax penalty amount is based on a sliding scale, with people earning more than 300 percent of poverty (\$67,056 for a family of four) paying \$1,260 per adult who is uninsured in 2012. [Massachusetts Health Connector , accessed on 6/12]	This tax penalty would be 120 percent of an annually determined amount, based on a measurement of health insurance premium costs. [S. 1770, 103 rd Congress]	The law limits the penalty to individuals who have a choice of affordable health insurance but choose not to take it. They pay \$95 in 2014, \$350 in 2015, and \$750 in 2016 when phased in. The penalty can’t exceed 2.5 percent of an individual’s income. [P.L. 111-138]
Failure to comply with the penalty	If the individual fails to pay the penalty, Massachusetts Department of Revenue can enforce a tax lien, intercept refunds, revoke certain licensure, and levy and individual’s bank account. [Massachusetts Health Connector and Department of Revenue , 12/11; Massachusetts General Laws , accessed on 7/9/12]	Not specified.	If the individual fails to pay the penalty, the IRS could withhold future tax refund offsets. The law prohibits freezing bank accounts, seizing assets or pursuing criminal charges. [CNN Money , 6/29/12]
Impact of penalty	In 2009, 1% of Massachusetts residents paid a penalty for not purchasing health insurance. [Fox News , 6/12]	N/A	Only 2% of Americans would face a penalty for not purchasing health coverage. Of this 2%, nearly half are eligible for premium subsidies or but decline to purchase coverage. [CBO , 9/12]

3. The Affordable Care Act is providing stability, security, and benefits to millions.

- **Health reform has over \$800 billion in tax cuts to make health care affordable.** Contrary to false Republican claims, the free rider penalty and ACA are not tax hikes on the middle class. Under the law, middle class families and small businesses will receive \$828 billion in tax cuts over the next ten years, including a tax decrease of \$270 billion for families. An estimated 18 million individuals and families will receive tax credits of about \$4,000 each to help them afford health care coverage. The free rider penalty only impacts those who will be able to afford health insurance or enroll a federal health program but choose not to buy it, while reducing tax liabilities for the other 99 percent. [[CBO](#), 3/12; [JCT](#), 6/15/12; [WH](#), 6/28/12]
- **Middle class families want the security that the health care reform law provides.** Republicans want to go back to the days when insurance companies had free reign to raise costs and deny coverage. [[HHS](#), 6/19/12; [HHS](#), 11/11; [CMS](#), 6/25/12; [WH](#), 3/5/12; [HHS](#), 9/21/12; [HHS](#)]
 - Because of the health care reform law, 17 million American children with pre-existing illnesses can no longer be denied coverage by insurance companies.
 - More than 5.5 million seniors have already saved \$4.5 billion on prescription drugs because of the so-called “donut hole” fix.
 - Over 3 million young adults now have health insurance that would otherwise not be covered.
 - More than 86 million Americans have received free preventive services as a result of the law.
 - And 105 million Americans no longer have lifetime limits on their health coverage.