No. 19-840

In The

Supreme Court of the United States

THE STATE OF CALIFORNIA, *et al.*,
Petitioners,

v.

THE STATE OF TEXAS, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

BRIEF OF *AMICUS CURIAE* AMERICAN THORACIC SOCIETY IN SUPPORT OF PETITIONERS

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INTEREST OF AMICUS[1]

The American Thoracic Society ("ATS") is an international educational and scientific organization founded in 1905 that represents more than 15,000 health care professionals. ATS works to prevent and fight respiratory disease around the globe through research, education, patient care, and advocacy. ATS's physicians are actively engaged in the COVID-19 crisis response. ATS publishes three peer-reviewed scientific journals that disseminate groundbreaking research, including studies on the relationship between access to healthcare and healthcare outcomes.[2]

ATS supports Petitioners, the State of California *et al.*, because health coverage expansion under the Patient Protection and Affordable Care Act ("ACA" or "Act") is vital for improving healthcare outcomes and reducing the cost of treating Americans who suffer from respiratory diseases.

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[1] The filing of this brief satisfies this Court's Rule 37.2(a) because all parties have granted consent. Pursuant to this Court's Rule 37.6, amicus states that this brief was not authored in whole or in part by counsel for any party and that no person or entity other than amicus or its counsel made a monetary contribution intended to fund the preparation or submission of this brief.

[2] ATS's three journals are the American Journal of Respiratory and Critical Care Medicine, the American Journal of Respiratory Cell and Molecular Biology, and the Annals of the American Thoracic Society.

SUMMARY OF ARGUMENT

Amicus curiae submits this brief to assist the Court in understanding the extraordinary importance of the ACA, Pub. L. No. 111-148, 124 Stat. 119, to the physical and economic health of the American people. Amidst the COVID-19 pandemic the ACA is more essential than ever.

The ACA was designed "to increase the number of Americans covered by health insurance and decrease the cost of health care." *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 538-39 (2012) ("*NFIB*"). "The Act's 10 titles stretch over 900 pages and contain hundreds of provisions." *Id.* Respondents here question the validity of a single provision known as the "individual mandate," 26 U.S.C. § 5000A.

The District Court for the Northern District of Texas erroneously concluded that this provision could not be severed from the hundreds of other provisions in the ACA, such as those that expand Medicaid coverage, *see generally NFIB*, 567 U.S. at 541–542, or those that establish government-run health insurance exchanges, *King v. Burwell*, 135 S. Ct. 2480, 2485, 2487 (2015). After finding the individual mandate unconstitutional and inseverable from the remaining provisions, the District Court invalidated the entire ACA. Both the Fifth Circuit and the District Court ignored the reality of Congress' actions and the Act's role in strengthening the American health system at a critical moment. Respondents now ask this Court to

uphold the District Court's decision and toss out the baby with the bathwater.

The individual mandate may be severed from the ACA. When Congress passed the Tax Cuts and Jobs Act in 2017, it neutralized the individual mandate without modifying any of the Act's other provisions. *See* Pub. L. No. 115-97, § 11098, 131 Stat. 2054, 2092 (2017). In making this change, Congress determined that the ACA can function without a mechanism to enforce the mandate. This light revisionary touch left the ACA's substantial policy benefits intact. And for good reason. The ACA has benefitted millions of Americans in the past ten years. In particular, the Medicaid expansion and health exchanges have significantly expanded health coverage, improved health outcomes, and decreased medical expenses. These benefits have accrued particularly to low-income Americans and those suffering from chronic health conditions. They have also prepared the health system to respond to the COVID-19 crisis more effectively. Regardless of the Court's determination concerning the constitutionality of the individual mandate, its decision should preserve the Act's other provisions and their associated health benefits to the American people.

ARGUMENT

I. The COVID-19 Pandemic Would Be Much Worse Without the ACA.

The COVID-19 crisis fundamentally threatens the physical and economic health of the American people. But the ACA's reforms have improved the health system's capacity to respond to and recover from this public health crisis. Invalidating the ACA now would "counteract efforts to contain the virus, improve public health, and stabilize the economy."[3]

Several elements of the ACA have improved the nation's ability to respond to COVID-19. First, the Act provides means for newly-unemployed persons to obtain health coverage and receive essential care. More than 22 million Americans have filed for unemployment aid since President Trump declared the COVID-19 pandemic a national emergency.[4] Millions more will lose their jobs in the coming weeks.[5] Many of these newly-unemployed Americans and their dependents will lose their employer-provided health insurance. Without insurance, individuals and families become increasingly vulnerable to the repercussions of

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[3] Anuj Gangopadyhaha & Bowen Garrett, Urban Inst., *Unemployment, Health Insurance, and the COVID-19 Recession* 6 (Apr. 2020).

[4] Heather Long, *U.S. Now Has 22 Million Unemployed, Wiping Out a Decade of Job Gains*, The Washington Post, Apr. 16, 2020.

[5] *Id.*

COVID-19. In particular, lack of coverage will require uninsured Covid-19 patients to bear costs of treatment; and one in seven uninsured adults have reported that they would avoid seeking health care if they had symptoms of Covid-19 because of the high cost of treatment.[6] But treatment is critical to limiting the effects of the virus.[7] Individuals with health insurance coverage and access to care are more likely to receive necessary testing and treatment.[8] Therefore, "[h]ealth insurance coverage and access to care is particularly important in the wake of the COVID-19 pandemic."[9] Additionally, people recovering from the virus without health coverage may be unable to afford necessary long-term rehabilitation once they are discharged from the hospital. Hospital systems would also face an increased burden of unreimbursed care. Lack of coverage, therefore, threatens prevention and recovery efforts and undermines hospital systems.

The ACA mitigates these potential risks by providing two alternative methods to access health

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[6] *What Issues Will Uninsured People Face With Testing and Treatment for Covid-19?*, Kaiser Family Foundation (Mar. 16, 2020), https://www.kff.org/uninsured/fact-sheet/what-issues-will-uninsured-people-face-with-testing-and-treatment-for-covid-19/; Stephanie Armour, *Coronavirus Pandemic Renews Push for Medicaid Expansion in GOP-Led States*, The Wall Street Journal (May 11, 2020, 7:00 AM), https://www.wsj.com/articles/coronavirus-pandemic-renews-push-for-medicaid-expansion-in-gop-led-states-11589194800?mod=hp_lista_pos2.

[7] Gangopadyhaha, *supra* note 3, at 6.

[8] *See id.*

[9] *Id.*

coverage—expanded Medicaid and the health exchanges. Both allow individuals to gain coverage regardless of their employment status. Medicaid, particularly in expansion states, will likely "act as an automatic fiscal stabilizer, supporting unemployed workers' and low-income families' access to health care."[10] In addition to increasing access to care, expanded Medicaid also positions states to face the COVID-19 response more effectively.[11] Medicaid expansion states are expected to receive nearly 50% more federal Medicaid funding per state resident than non-expansion states.[12] In short, without the ACA, over 20 million Americans would be left uninsured and possibly unable to afford COVID-19-related care, and states would have fewer resources to respond to the pandemic.[13]

The ACA provides a second critical benefit in the COVID-19 crisis by directly funding Community Health Centers ("CHC"). Expanded Medicaid access and CHC funding create an essential safety net for vulnerable populations. CHCs provide care for nearly 29 million Americans who live in medically

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[10] *Id.* at 5.
[11] *Id.* at 6.
[12] Cindy Mann, *The COVID-19 Crisis Is Giving States That Haven't Expanded Medicaid New Reasons to Reconsider*, To the Point Blog, The Commonwealth Fund (Apr. 15, 2020), https://www.commonwealthfund.org/blog/2020/covid-19-crisis-giving-states-havent-expanded-medicaid-new-reconsideration (expansion states will receive $1,755 in federal funding per state resident, compared to $1,198 per resident in non-expansion states).
[13] *See* Gangopadyhaha, *supra* note 3, at 6.

underserved communities—communities that are particularly exposed in the COVID-19 crisis.[14] COVID-19 fatality rates are disproportionately high among racial minorities and low-income communities.[15] Without the ACA's funding, CHCs would have fewer resources to provide care to these vulnerable populations. Striking down the entire ACA would leave these communities more susceptible to the virus, putting the entire American population at risk.

The COVID-19 crisis has created unprecedented challenges. The ACA provides access to care, shrinks existing gaps in economic and health care safety nets, and provides resources to support response efforts. Reversing the ACA now would deprive the health system of important tools to respond to the crisis and protect vulnerable Americans at a time of extreme strain.

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[14] Peter Shin et al., *Keeping Community Health Centers Strong During the Coronavirus Pandemic is Essential to Public Health*, Health Affairs Blog (Apr. 10, 2020), https://www.healthaffairs.org/do/10.1377/hblog20200409.175784/full/.

[15] Andre M. Perry et al., *Mapping Racial Inequity Amid COVID-19 Underscores Policy Discriminations Against Black Americans*, The Avenue, Brookings (Apr. 16, 2020), https://www.brookings.edu/blog/the-avenue/2020/04/16/mapping-racial-inequity-amid-the-spread-of-covid-19/.

II. Health Coverage Consistently Improves Healthcare Outcomes, as Illustrated by Evidence Related to Respiratory Diseases.

The causal relationship between health coverage and health outcomes was well-established at the time of the ACA's passage.[16] *Amicus* ATS can confirm the validity of that general relationship with regard to the particular diseases on which ATS's physicians and researchers focus their efforts. For the tens of millions of Americans who suffer from lung diseases like asthma,[17] chronic obstructive

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[16] *47 Million and Counting: Why the Health Care Marketplace Is Broken, Hearing Before the Sen. Comm. on Finance*, 110th Cong. 2d Sess. 52 (statement of Sen. Charles Grassley, R-Iowa) ("We all know the consequences of not having enough, or any, insurance coverage."); Institute of Medicine, America's Uninsured Crisis: Consequences for Health and Health Care (2009); Jill Bernstein et al., Mathematica Policy Research, Inc., *Issue Brief No. 1: How Does Insurance Coverage Improve Health Outcomes?* (Apr. 2010) (collecting peer-reviewed studies); *see also* B.D. Sommers et al., *Changes in mortality after Massachusetts health care reform: a quasi-experimental study*, 160 Annals Internal Med. 585 (2014) (tracing reduction in all-cause mortality to expansion of health coverage); B.D. Sommers et al., *Mortality and access to care among adults after state Medicaid expansions*, 367 New England J. Med. 1025 (2012) (same).

[17] *Data, Statistics, and Surveillance: Asthma*, Centers for Disease Control & Prevention, https://www.cdc.gov/asthma/asthmadata.htm (last reviewed Jan. 28, 2020) (reporting 9.3% of U.S. children and 8.0% of adults—over 25 million people in total—have asthma).

pulmonary disease,[18] lung cancer,[19] pneumonia, influenza,[20] and cystic fibrosis,[21] from sleep disorders like sleep apnea,[22] or who require critical care to treat life threatening illness or injury, health coverage often substantially determines quality of life and sometimes means the difference between life and death. In fact, studies show that Medicaid expansion and health insurance exchanges have increased access to care and improved health outcomes in the ten years since Congress passed the ACA.[23]

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[18] T. Tilert et al., *Estimating the U.S. prevalence of chronic obstructive pulmonary disease using pre- and post-bronchodilator spirometry: the National Health and Nutrition Examination Survey (NHANES) 2007-2010*, 14 Respiratory Research 103 (2013) (estimating that 14% of U.S. adults between ages of 40 and 79 suffer COPD).

[19] *Key Statistic for Lung Cancer*, American Cancer Society, https://www.cancer.org/cancer/lung-cancer/about/key-statistics.html (last updated Jan. 8, 2020) (each year, about 228,820 Americans are diagnosed with lung cancer and more than 135,720 die from the disease).

[20] *Key Facts About Influenza*, Centers for Disease Control, https://www.cdc.gov/flu/about/keyfacts.htm#how-many (last reviewed Sept. 13, 2019) (Each year approximately 3-11% of U.S. residents get the flu.).

[21] *About Cystic Fibrosis*, Cystic Fibrosis Foundation, https://www.cff.org/What-is-CF/About-Cystic-Fibrosis/ (last visited May. 8, 2020) (CF affects approximately 30,000 Americans).

[22] Naresh M. Punjabi, *The Epidemiology of Adult Obstructive Sleep Apnea*, 5 Proc. Am. Thoracic Soc'y 136 (2008) (noting that estimates of disease prevalence range from 3 to 7%).

[23] Benjamin D. Sommers et al., *Three-Year Impacts of the Affordable Care Act: Improved Medical Care and Health Among Low-Income Adults*, 36 Health Affairs 1, 7 (2017).

Millions of Americans now enjoy more accessible and higher quality care due to the ACA. Adults who gained insurance through the Act are 41% more likely to have a usual source of health care, such as a primary care provider.[24] In particular, Medicaid expansion resulted in a higher proportion of low- and moderate-income adults having a usual source of care, and a corresponding decrease in reliance on hospital emergency departments for health care.[25] Gaining access to regular care is generally associated with health improvements.[26] Medicaid expansion reduced mortality by 39–64% for new Medicaid enrollees.[27] Newly-insured adults are 23% more likely to be in "excellent health."[28] While gaining access to care alone can improve health outcomes, some studies have concluded that Medicaid expansion also improved the quality of care Medicaid patients receive.[29]

In addition to these general health improvements, the Act creates valuable benefits for people with chronic respiratory conditions. Medicaid expansion is associated with improvements in

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[24] *Id.*
[25] Olena Mazurenko et al., *The Effects of Medicaid Expansion Under the ACA: A Systematic Review*, 37 Health Affairs 944, 947 (2018).
[26] *Id.* at 949.
[27] Aparna Soni et al., *How Have ACA Insurance Expansions Affected Health Outcomes? Findings From the Literature*, 39 Health Affairs 371, 374 (2020).
[28] Sommers et al., *supra* note 23, at 7–8.
[29] Mazurenko et al., *supra* note 25, at 949.

chronic care management including more checkups, improved adherence to medications, higher rates of regular care for chronic disease, and improved self-reported health.[30] Prescription drug use increased drastically among people with a chronic condition who became insured due to the ACA.[31] In particular, people with asthma or COPD who gained Medicaid coverage filled 67% more prescriptions after the Act took effect.[32] Because people with chronic respiratory conditions often require prescription treatments, increased access to medication helps them manage their condition more effectively.

Plentiful data illustrate that the ACA has improved access to health care and, therefore, health outcomes. These improvements benefit individuals suffering from chronic respiratory illnesses, and Americans generally. These benefits would disappear if this Court invalidates the entire ACA.

A. Asthma

Asthma is "a chronic . . . lung disease that inflames and narrows the airways" thereby making breathing difficult; it affects 25 million Americans.[33]

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[30] *Id.*; Sommers et al., *supra* note 23, at 8.

[31] Andrew W. Mulcahy et al., *Gaining Coverage Through Medicaid or Private Insurance Increased Prescription Use and Lowered Out-of-Pocket Spending*, 35 Health Affairs 1725, 1732 (2016).

[32] *Id.* at 1729.

[33] *Asthma*, National Institutes of Health, National Heart, Lung, and Blood Institute, http:// www.nhlbi.nih.gov/health/health-topics/topics/asthma (last visited May 8, 2020). In extreme cases, asthma can be fatal. *Id.*

It generally cannot be cured, but treatment can help those who suffer from it to manage their symptoms.[34] Predictably, there exist significant outcome disparities based on coverage status, both for adults and for children—a reality that was well-known long before the passage of the ACA.[35]

Parents of asthmatic children who lack health coverage must often delay seeking necessary care.[36] Thus, it is not surprising that *gaining* health coverage has been shown to significantly improve health outcomes for asthmatic children and adults.[37] A 2006 study of new enrollees in New York's State Children's Health Insurance Program ("SCHIP") found that children with coverage had fewer asthma attacks and medical visits and half the number of hospitalizations.[38] Over the ACA's ten-year history,

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[34] *Id.*

[35] *See, e.g.,* J.S. Halterman et al., *The impact of health insurance gaps on access to care among children with asthma in the United States*, 8 Ambulatory Pediatrics 43 (2008); *see also* T.G. Ferris et al., *Insurance and quality of care for adults with acute asthma*, 17 J. Gen. Internal Med. 905 (2002).

[36] Halterman et al., *supra* note 11 (noting that loss of or lack of health coverage makes children more likely go without needed care (1% versus 15% for children without coverage), lack a personal physician (7% versus 28%), or go without preventative care (16% versus 50%)).

[37] *See* Mazurenko et al., *supra* note 25, at 949 (noting that gaining access to care is generally associated with improvements in health and a reduction in spending to manage chronic disease).

[38] P.G. Szilagyi et al., *Improved asthma care after enrollment in the State Children's Health Insurance Program in New York*, 117 Pediatrics 486 (2006).

mortality in young adults resulting from diseases, including asthma, has decreased by 6.1%.[39] Likewise, an analysis of records at fifty-seven hospitals found that uninsured adults with acute asthma received poorer quality outpatient care for their asthma prior to presentation at an emergency department, and presented with more severe asthma exacerbations.[40] Data show that by improving access to a source of usual care, the ACA has decreased reliance on the emergency department for health care.[41] Lower rates of preventable hospital admissions for asthmatics in Massachusetts (home of the state-level blueprint for the ACA), confirm this connection.[42]

B. Chronic Obstructive Pulmonary Disease

Chronic Obstructive Pulmonary Disease ("COPD") refers to chronic bronchitis and emphysema, incurable diseases that make it difficult to exhale all the air from one's lungs, and that cause persistent coughing, shortness of breath, and sputum.[43] COPD sufferers are especially

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[39] Soni et al., *supra* note 27, at 374.
[40] Ferris et al., *supra* note 35.
[41] Mazurenko et al., *supra* note 25, at 947.
[42] Jonathan T. Kolstad & Amanda E. Kowalski, *The impact of health care reform on hospital and preventive care: Evidence from Massachusetts*, 96 J. Pub. Econ. 909 (2012).
[43] *What Is COPD?*, Centers for Disease Control and Prevention, https://www.cdc.gov/copd/index.html (last reviewed Jun. 6, 2018).

susceptible to colds and influenza.[44] Standard COPD treatment regimens involve inhaling one or more vaporized medications; for patients with low blood-oxygen levels, oxygen supplementation is the only treatment associated with improved survival.[45] COPD exacerbations—episodes of acute difficulty breathing and moderate to severe fatigue—are dangerous, and their treatment often requires hospitalization.[46]

Health coverage matters enormously for COPD patients. In a 2005–2006 national survey of more than 4,000 adults diagnosed with COPD, 12% reported having no health coverage and 30% reported having insufficient medication coverage.[47] Those without coverage used standard health services significantly less—a third reported that their lack of coverage had led them to not fill a prescription for their COPD and 31% reported having gone to the emergency department because

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[44] *Information About COPD*, COPD Clinical Research Network, http://www.copdcrn.org/aboutcopd.htm (last visited May 8, 2020).

[45] P.M. Gold, *The 2007 GOLD [Global Initiative for Chronic Obstructive Lung Disease] Guidelines: a comprehensive care framework*, 54 Respiratory Care 1040 (2009); *see also* Royal College of Physicians (UK), Management of Chronic Obstructive Pulmonary Disease in Adults in Primary and Secondary Care §§ 6, 7 (2010) (describing treatment and citing numerous clinical trials and other studies).

[46] Gold, *supra* note 45; Royal College of Physicians, *supra* note 45, § 8.

[47] R.G. Barr et al., *Comorbidities, patient knowledge, and disease management in a national sample of patients with COPD*, 122 Am. J. Med. 348, 352 (2009).

of lack of coverage.[48] In addition, of those with insufficient coverage, 34% reported "stretching out" a prescription (*i.e.*, reducing individual doses) and 7% reported sharing another person's medication.[49] The ACA substantially improved access to prescription medication for people suffering from asthma and COPD.[50] Given how clearly coverage affects patients' approaches to their own treatment, it is notable that treating to prevent exacerbations can significantly reduce the health and economic burdens of COPD.[51]

C. Sleep Disorders

More than 18 million Americans suffer from sleep apnea,[52] a disorder characterized by interruptions in breathing during sleep, resulting in chronic daytime fatigue.[53] Without treatment, sleep apnea can increase the risk of a variety of medical problems, including heart failure, stroke, and diabetes;[54] untreated sleep apnea also places others

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[48] *Id.* at 352-53.
[49] *Id.*
[50] Mulcahy et al., *supra* note 31, at 1729 ("people with asthma or COPD who gained Medicaid coverage filled 17.8 more prescriptions in 2014 than in 2013 (a 67 percent increase)").
[51] Andrew P. Yu et al., *Incremental third-party costs associated with COPD exacerbations: a retrospective claims analysis*, 14 J. Med. Econ. 315 (2011).
[52] *Sleep Apnea*, The Sleep Foundation, https://www.sleepfoundation.org/sleep-apnea (last visited May 8, 2020).
[53] *Sleep Apnea*, National Institutes of Health, National Heart, Lung, and Blood Institute, https://www.nhlbi.nih.gov/health-topics/sleep-apnea (last visited May 8, 2020).
[54] *Id.*

at risk, as the resulting fatigue significantly increases the probability of motor vehicle crashes.[55] Access to health coverage is especially important for patients with sleep apnea due to the complexity of treatment, which typically involves breathing devices, sleep studies, therapy, regular medical consultation, or surgery.[56] However, research predating the ACA indicates that patients without health coverage were far less likely than patients with health coverage to follow up on treatment.[57]

D. Lung Cancer

A 2010 ATS literature review concluded that uninsured patients diagnosed with lung cancer are more likely to die from the disease and that access to screening and care explains the disparity.[58] This makes perfect sense, given the crucial importance of lung cancer screening and preventive care to

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[55] C.F. George, *Sleep apnea, alertness, and motor vehicle crashes*, 176 Am. J. Respiratory & Critical Care Med. 954 (2007).

[56] *Sleep apnea: Diagnosis & Treatment*, Mayo Clinic (Jul. 25, 2018), https://www.mayoclinic.org/diseases-conditions/sleep-apnea/diagnosis-treatment/drc-20377636.

[57] H. Greenberg et al., *Disparities in obstructive sleep apnea and its management between a minority-serving institution and a voluntary hospital*, 8 Sleep & Breathing 185 (2004).

[58] C.G. Slatore et al., *An official American Thoracic Society systematic review: insurance status and disparities in lung cancer practices and outcomes*, 182 Am. J. Respiratory & Critical Care Med. 1195 (2010).

outcomes.[59] Indeed, this sort of relationship informed the ACA's requirement for private insurers to cover all "A" and "B" grade preventative services, which now include CT lung cancer screening.[60] Evidence indicates that early-stage cancer diagnoses have increased since the ACA was enacted, which is associated with improved patient outcomes.[61]

III. The ACA Provides Health Coverage to Millions of Americans and Contributes to Improved Economic Health.

Approximately 20 million Americans obtained health coverage under the ACA.[62] Since Congress passed the ACA, the percentage of Americans without health coverage has fallen markedly, particularly among low- and middle-income individuals.[63] During the 2018 enrollment

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[59] D.R. Aberle et al., *Reduced lung-cancer mortality with low-dose computed tomographic screening*, 365 New England J. Med. 395 (2011).

[60] *Preventive Services Covered by Private Health Plans under the Affordable Care Act*, Henry J. Kaiser Family Foundation (Apr. 4, 2015), http://kff.org/health-reform/fact-sheet/preventivee-services-covered-by-private-health-plans/; *Lung Cancer: Screening*, U.S. Preventive Services Task Force (Sept. 25, 2014), https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/lung-cancer-screening.

[61] Soni et al., *supra* note 27, at 373.

[62] Sommers et al., *supra* note 23, at 1.

[63] *See* David Blumenthal et al., *The Affordable Care Act at 10 Years—Its Coverage and Access Provisions*, 382 New Eng. J. Med. 963, 965 (2020) (finding that the number of people without health insurance decreased from 48.6 million in 2010 to 28.6 million in 2016, and since increased to 30.4 million);

period, over 10 million Americans selected a health coverage plan through an exchange.[64] Approximately 87% of people enrolled in exchange plans received premium subsidies.[65] Additionally, over 12 million Americans have newly enrolled in Medicaid.[66]

Medicaid expansion and premium subsidies on the health insurance exchanges have resulted in reduced out-of-pocket medical spending, particularly for low-income people.[67] On average, newly-covered adults saved $337 per year in out-of-pocket medical expenses.[68] In California, these savings contributed to improved financial health, a reduction in payday loans, and reduced loan debt.[69] People with chronic conditions, in particular, are spending less to manage their condition.[70] For

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Sharon K. Long et al., *Sustained Gains in Coverage, Access, and Affordability Under the ACA: a 2017 Update*, 36 Health Affairs 1656, 1657–58 (2017) (finding that the number of low-income people without insurance fell by 42.7%, and the number of middle-income people without insurance fell by 49.4% between 2013 and 2017).

[64] Soni et al., *supra* note 27, at 372.

[65] Blumenthal et al., *supra* note 63, at 966.

[66] Soni et al., *supra* note 27, at 372; Blumenthal et al., *supra* note 63, at 966.

[67] Anna L. Goldman et al., *Out-of-pocket Spending and Premium Contributions After Implementation of the Affordable Care Act*, 178 JAMA Internal Med. 347, 347–48 (2018) (finding that out-of-pocket expenses decreased by 11.9% overall, and 21.4% for lowest-income people).

[68] Sommers et al., *supra* note 23, at 7.

[69] Mazurenko et al., *supra* note 25, at 949.

[70] *Id.*

instance, people with asthma or COPD who gained Medicaid coverage decreased their out-of-pocket spending on prescription drugs by 62%.[71] These data show that the ACA has improved the physical and economic health of millions of Americans.

Should this Court strike down the ACA, over *20 million* Americans will lose health coverage, lose access to essential care and medications, and face increased health care costs as the COVID-19 crisis continues. Undermining the exchange marketplace and Medicaid expansion would particularly harm vulnerable populations of low-income people and those suffering from chronic conditions.[72] These Americans already struggle to afford housing, food, and medical expenses, and now face an increasingly insecure future due to the COVID-19 pandemic. "An ultimate ruling by the Court that the ACA is unconstitutional in its entirety would substantially disrupt a health system that has spent 10 years adapting to the ACA and could threaten the insurance status of tens of millions of Americans."[73] Such a result would be contrary to the best interest of the American people.

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[71] Mulcahy et al., *supra* note 31, at 1732.
[72] Sommers et al., *supra* note 23, at 9; Goldman et al., supra note 67, at 347.
[73] Blumenthal et al., *supra* note 63, at 968.

CONCLUSION

For the foregoing reasons, *Amicus* American Thoracic Society urges this Court to protect the health of millions of Americans by preserving the ACA.

Respectfully submitted,

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