



## Assessing How ACA Provisions and Immigration Status Affect Farmworkers' Access to Health Insurance Coverage

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### INTRODUCTION

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 workers affordable health insurance as a broad avenue to better health care. The reasoning is that the 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 who purchase individual policies and Medicaid-funded health care for those living in poverty (up to 133% of the federal poverty level).

Although the nation’s 4.4 million farmworkers and family members<sup>1</sup> are virtually all working poor, 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 status, 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.

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Agricultural employment is hazardous and health risks are high; a recent review (Villarejo, 2013) examines the evidence of occupational health risks faced by farmworkers and shows that, despite improvements in working conditions of the past several decades, serious problems remain. Farmworker housing continues to be sub-standard and, in rural areas, lack of transportation, lack of available cash, and cultural/linguistic differences are barriers to receiving quality health care. Although it is widely believed that the farm labor force consists primarily of solo male migrants from Mexico who are

<sup>1</sup> I estimate that there were about 1.9 million farmworkers in the farm labor force in 2007 and that there are about 2.5 million dependent family members who are not, themselves, farmworkers (primarily non-farmworker spouses and children). This 2007 estimate is the most current one as estimation of the population size rests on Census of Agriculture (COA) data, the most recent being from that year. Updated 2012 COA data will become available in 2014.

young and, generally, fairly healthy, in actuality, the majority of U.S. farmworkers are long-term, settled immigrants with families.<sup>2</sup>

Access to health insurance is, indeed, important to all workers and to farmworkers. A study by the Commonwealth Fund (Davis et al 2005) shows that lack of health insurance not only constrains employees' access to health care but that it, also, negatively impacts workforce productivity—for those who come to work sick because they have no recourse, for those who stay home due to illness or injury, and for those who stay home to care for sick children who lack health insurance. These problems are most serious for workers in the most marginal occupations (who have no paid sick leave) and farmworkers are among the most marginal of the working poor.

In this discussion piece, I review the policy framework and administrative provisions of ACA in the context of current immigration law, agricultural employer practices, and the prospects for immigration reform legislation and conclude that ACA is likely to fail dramatically as a strategy for providing farmworkers and their families the access to health care that it has promised to other Americans. It is likely that it will also fail in improving health care access for other unauthorized immigrants employed in low-wage, low-skill jobs, many of which are at small businesses or other businesses that have highly seasonal employment and frequent spells of unemployment.

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Further analysis of available data, particularly the NAWS, and affordable investments in generating the additional data needed to definitively assess what ACA will and won't do for farmworkers, are needed. This current discussion paper is meant simply to bring together the evidence to be found in tabulations of NAWS data on farmworkers and Census of Agriculture data on agricultural employers to provide an initial ballpark assessment of how ACA will play out in agriculture.

My preliminary analysis suggests that the interaction among a range of policy provisions related to health care financing, each of which were negotiated separately, and a range of administrative provisions framed and proposed without adequate social science or analytic foundations, will have major negative consequences and further increase the current health disparities separating immigrant families and communities from mainstream America. The negative impacts on individuals and families will not simply hurt them personally but more broadly the entire communities in which they live.

## **THE SHORTCOMINGS OF ACA AS A ROUTE TO ADEQUATE HEALTH CARE FOR FARMWORKERS AND THEIR FAMILIES AS A RESULT OF LEGAL STATUS**

A key assumption underpinning ACA is that families whose employer is not required to offer them health insurance will be able to either purchase affordable coverage on the health insurance exchanges or qualify for a state Medicaid program.

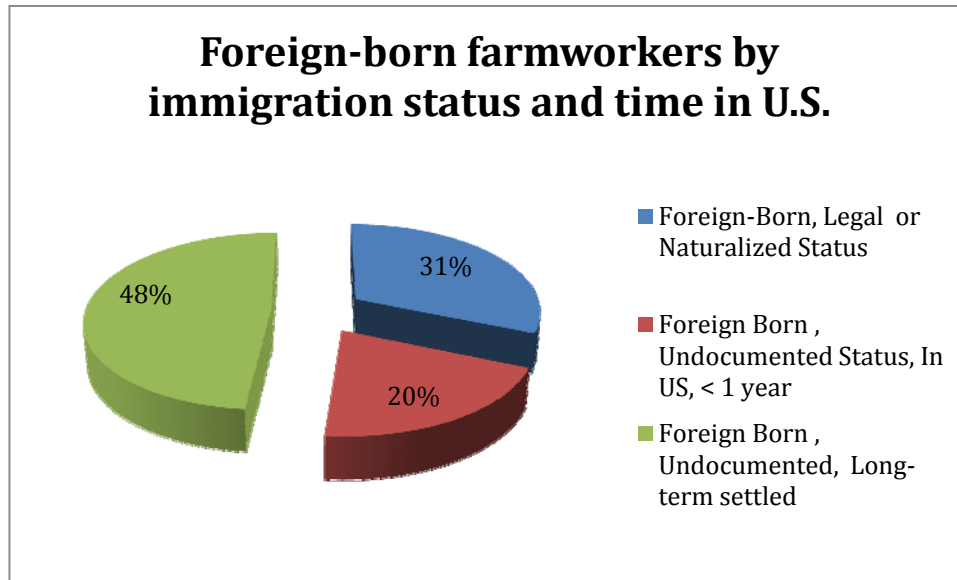
This assumption is seriously flawed because the majority of the overall U.S. farm labor force (71%) are foreign-born and two-thirds (68%) of the foreign-born workers are undocumented.<sup>3</sup> Those who

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<sup>2</sup> The solo male migrant workers are an important sub-population, identified in National Agricultural Worker Survey (NAWS) data as “shuttle migrants”. They make up one-fifth (20%) of the total farmworker population.

are neither lawful permanent residents or naturalized citizens will not be allowed access to either the state health insurance exchanges or Medicaid.<sup>4</sup>

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



At the same time that immigration status blocks many farmworkers’ access to affordable health insurance or health care, it is likely that the ACA employer mandate will fail to assure that most farmworkers get health insurance coverage from their employers.

The ACA guidelines which exclude seasonal employees from the employer mandate, and the procedures for determining which employers of seasonal workers are “small” and can be exempted from the employer mandate, coupled with 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, including those who work for a large employer.

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Passage of immigration reform legislation is not going to make these structural problems immediately 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

<sup>3</sup> 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 2010-2011 database will be made available soon. The NAWS data public data is available for download at: <http://www.doleta.gov/agworker/naws.cfm>

<sup>4</sup> It deserves note that about 55,000 farmworkers in the U.S. are likely to be eligible for DACA (deferred action for childhood arrivals). These workers, even when granted work authorization are currently ineligible to purchase health insurance on the state exchanges or receive Medicaid.

requires a wait of 5 years) unless, for example, access to health insurance exchanges is deemed not to be a “public benefit”.

It is conceivable that “fast track” provisions for agricultural workers and DREAMers envisioned in the current policy framework might compress the schedule for their becoming eligible by allowing them to transition from provisional legal status to legal permanent resident status in one or two years. However, even if these provisions become part of the final legislation, currently unauthorized farmworkers who secure legalization would still remain without access for 7 years or so (since the legalization process itself will take some time—before regulations and procedures are established and before applicants can assemble the paperwork to apply).

ACA is seriously structurally flawed as a mechanism for improving farmworkers’ access to health insurance coverage. Currently, 18% of farmworkers report that their employer provides them with health insurance. ACA will do little to increase the proportion of agricultural employers who offer their workers health insurance and may induce some to re-structure their operations to avoid the mandate.<sup>5</sup> The assumption that ACA will contribute in a major way to ameliorating the problems of low-income farmworkers’ access to health care is an unwarranted and dangerous one.

In assessing the ACA’s impact on farmworkers’ access to health care, I consider, first, the proportion of farmworkers who do have alternatives to employer-provided health insurance.

### **FARMWORKERS WITH ALTERNATIVES TO EMPLOYER-PROVIDED HEALTH INSURANCE: US CITIZENS AND LEGAL PERMANENT RESIDENTS (LPR’S)**

Nationally, about 29% of the U.S. farm labor force are U.S.-born while the remaining 71% are foreign born.

NAWS shows that, in addition to the US-born farmworkers, another 22% of the overall farm labor force (31% of the foreign-born farmworkers) are LPR’s or naturalized citizens. Like US-born workers, if their employer does not provide these legal foreign-born workers with health insurance coverage, or if they opt out of the plan their employer offers, they will be eligible to buy health insurance on the state exchanges or qualify for Medicaid if their earnings are low enough (as most probably are since families up to 133% of the federal poverty level are eligible).

So, all in all, about half (52%) of the farmworkers in the country have a somewhat viable alternative to employer-provided health insurance and the other half don’t. However, this group of US-born, naturalized, and legally-authorized farmworkers are those who are more likely to already have employer-provided health insurance than other farmworkers.

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<sup>5</sup> The trend in labor-intensive agriculture has been for large producers to contract with increasingly larger suppliers of labor who, in turn, are providing more continuous employment for their work crews by arranging a relatively long sequence of seasonal crop production tasks. If the farm labor contracting pattern shifts toward reliance on smaller farm labor contractors or hiring of more short-term workers so as to sidestep the ACA employer mandate, the negative consequence is that less workers will be covered and positive trends in labor force utilization will be undercut. It should be noted there are bona fide challenges in figuring out how to configure insurance policies to provide year-round coverage to seasonal workers who work in a sequence of jobs that ACA apparently does little to address.

For example, more than one-quarter (26%) of the farmworkers who were legalized under IRCA are currently covered (as compared to about 18% in the overall farmworker population).<sup>6</sup> Many, perhaps most, of the aging foreign-born workers have, over the years, worked themselves into situations where they have steadier employment than the other more recently-arrived farmworkers who are undocumented. This aging cohort of IRCA-legalized workers, for example, report 226 days of farmwork per year (as compared to 200 days of work for the average foreign-born farmworker). However, even within this more fortunate group, some won't have access to the health insurance exchanges (for example, a minority of the legal residents who received LPR status less than 5 years ago as a result of a family petition and who are, therefore, not yet eligible to access federally-funded programs).

So there is a structural problem with respect to interactions between the provisions of ACA and the current profile of the farmworker population because the farmworkers most likely to receive employer-provided health insurance coverage as a result of ACA provisions—the aging SAWs and a few who have benefited from 245(i) or survived the long 20 year wait for Mexicans to be legalized within the priority system for family visas—will be the same workers who could qualify to buy insurance on the exchanges or receive Medicaid.

One piece of good news is that, as the IRCA-era legal farmworkers' ability to work decreases as they age further, ACA provisions do appear to provide them a safety net since premiums are capped at 3-4% of total income for persons close to the poverty level, out-of-pocket costs are subsidized, and the poorest (i.e. those under 133% of the federal poverty level) would probably qualify for Medicaid.

## **UNAUTHORIZED FARMWORKERS' ACCESS TO HEALTH INSURANCE EXCHANGES AND MEDICAID IF THEIR EMPLOYER DOES NOT PROVIDE THEM HEALTH INSURANCE**

According to tabulations of NAWS 2007-2009 data about 68% of the foreign-born farmworkers in the U.S. are unauthorized. They will not have access to health insurance exchanges and or Medicaid. These unauthorized farmworkers' only hope for accessing health insurance is via their employers.

A key question, with regard to their access to health care, then, is whether their employers will provide them health insurance coverage? There is then the related question as to whether the employer-provided health insurance coverage will provide affordable health insurance to cover their children? Although ACA seeks to address this problem by capping employees' share at 9.5% of their annual earnings, the cost may still be beyond the reach of farmworkers.

The ACA employer mandate does not require employers to provide policies that cover spouses (based, apparently, on the assumption, which is incorrect in the case of farmworkers' spouses, that they might independently qualify for Medicaid or subsidized insurance purchased via a health exchange). So, a still more problematic question is whether the farmworkers' spouses will have access to health insurance. The NAWS data show that many farmworker wives are not covered and

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<sup>6</sup> However, this is the maximum proportion of farmworkers who receive employer-provided health insurance because the actual NAWS question on this topic asks survey respondents, "If you are injured or get sick off the job (e.g. at home), does your employer provide health insurance or pay for your health care?" In some cases, the employer may "help out" even if they do not provide the worker with health insurance.

even the wives of many of the legal farmworkers are still unauthorized (because the provisions of IIRIRA and many farmworkers' limited English has made it difficult for them to successfully petition for legal residence even for their undocumented spouses and minor children).<sup>7</sup>

The problem is not simply an individual one. It affects entire communities. My analysis from our New Pluralism survey research in Arvin (2006) provides some insights consistent with those to be found in NAWS data about how demographic patterns interact with immigration law and affect the residents of an entire rural agricultural community (82% of Arvin HH heads are employed in agriculture).

<b>Unauthorized Immigrants as % of Age Group in a Typical Farmworker Community: Arvin, CA</b>	
<i>Age Group</i>	<i>Unauthorized Immigrants as % of Age Group</i>
5 or under	2.6%
6-12 years old	12.7%
13-18 years old	20.0%
19-24 years old	49.3%
25-34 years old	44.2%
35-44 years old	20.7%
45-64 years old	15.2%
65+ years old	---

*\*Ed KISSAM presentation to American Public Health Association annual conference 2010*

This distribution of age and immigration status suggests that young working-age farmworkers 19-34 years of age will be the rural population sub-group least likely to have recourse to purchasing insurance on the exchanges or Medicaid.

Nonetheless, smaller proportions of every age group of farmworkers and their dependents will be left out. For example, although most farmworker children are U.S.-born, as can be seen in the table above, a significant minority who are growing up in Arvin are foreign-born and undocumented,

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**NAWS DATA ON THE PRECARIOUS SITUATION OF UNAUTHORIZED “NEWCOMERS”**

Tabulations of NAWS data on the entire group of unauthorized farmworkers is not currently available to me (but can be generated relatively easily). However the summary tabulations of NAWS

<sup>7</sup> Few farmworkers have achieved citizenship (only 17% of the IRCA-era legalized workers) because for immigrants with only a primary school education who live in predominantly Spanish-speaking communities and work in predominantly Spanish-speaking workplaces, the USCIS English language requirements are difficult. Unless an immigrant achieves citizenship, if he or she is born in Mexico, they face about a 20-year wait before they can immigrate even their immediate family members (spouses and children). Under new USCIS regulations, a petition to apply from within the US for a hardship waiver of the IIRIRA 10 year bar for admission of spouses and children who resided unlawfully in the U.S. for more than 1 year (as most have), can be made available to citizens, but not to LPR's.

data currently available show that “foreign-born newcomers”, those who have lived in the U.S. 1 year or less, all of whom are, therefore, unauthorized, make up about 20% of the unauthorized workers.

Looking at the newcomers’ situation provides some clues to the overall situation of unauthorized workers. The newcomers are almost all (97%) of Mexican origin. There is a mix of migrant streams bringing them north—with slightly more than one-third (37%) from “core sending areas” of Mexico (Michoacan, Guanajuato, and Jalisco--West Central region) and slightly less than one-third from the predominantly indigenous sending regions (Oaxaca, Guerrero, and Chiapas--Pacific South region). Nine out of ten (88%) are young men, with an average age of 25. Being newcomers, they are the most marginal workers in the labor market and their earnings (both hourly wage and annual earnings) are much lower than other sub-groups of farmworkers. The majority of them are seasonal workers and will be excluded from the ACA-mandated employer coverage. Only 4% work for employers who provide voluntary health insurance coverage currently.

The only good news is that, because the newcomers are young, they are healthier than older workers. Ultimately, many may come to be at risk for diabetes and/or cardiovascular diseases, but the most serious immediate health risks they currently face are workplace injury, non-workplace injury, especially in vehicle accidents, problems stemming from alcohol and drug abuse, and HIV infection. Presumably, preventive health care and health education might be an affordable investment in their well-being. But, within the current policy framework it’s not clear how such health care services might be paid for since the operant assumption is that ACA has solved the most serious problems of access to health care via the combination of employer mandate, state insurance exchanges, and Medicaid.

## **ACCESS TO HEALTH INSURANCE BY UNAUTHORIZED LONG-TERM SETTLED FARMWORKERS**

The remaining 48% of the foreign-born farmworkers who are unauthorized are long-term, settled immigrants. Their situation is perhaps the most tragic because they are now aging, have families, and have very constrained access to health care.

It is likely that some of the long-term settled farmworkers have relatively steady employment and work for a large company. They will probably benefit from the ACA mandate requiring their employer to cover them. But it is likely that the majority will not. Even though they work for a large firm, some may still only work seasonally (and a few are still paid off the books—in cash and without any evidence that they are an employee).

## **OVERALL NUMBERS OF FARMWORKERS UNAFFECTED BY THE ACA EMPLOYER MANDATE**

Assessing the number of farmworkers who will remain unaffected by the ACA employer mandate requires estimation of the proportion who are employed on “small” farms that are totally exempt from the employer mandate and the proportion who are seasonal employees (working less than 120 days for an employer) who need not be covered even if their employer is a large one.



## ***Proportions of Farmworkers Excluded Because their Employer is Exempt from the Employer Mandate under the ACA Definition of “Small” Business***

The proportions of the unauthorized farmworkers (both long-term settled and newcomers) who work at small companies which would be excluded because they are “small” employers cannot be definitively determined but can be estimated. The ACA guidelines which state that a business with less than 50 full-time equivalent (FTE) employees is considered a “small” employer provides a basis for a rough estimate of how many farmworkers will be left out due their primary employer being a “small” one.

With an average farmworker hourly wage of about \$10/hour and additional labor costs for mandated fringe benefits such as FUTA, UI, WC, OASDI/FICA contributions, the labor bill alone for a farm close to the ACA guidelines cut point of 50 FTE workers would be at least \$1.1 million (50 workers at an annual FTE salary of about \$20,000 plus an estimated 10% in fringe benefits). Since the regulations allow employers to treat a short-term employee as only a portion of a FTE based on the time they are employed, even farms with large numbers of short-term workers at harvest time could be deemed “small” (e.g. a grape grower with 20 full-time employees and 140 workers each working for 60 days in the harvest).

Linda Calvin and Phil Martin (2010) observe that labor costs in labor-intensive fruit and vegetable production make up about 42% of overall farm production costs. Therefore, the “small” farms under ACA guidelines are likely to be those with farm incomes up to about \$2.6 million per year; otherwise they would not be economically viable. If this is, indeed, the case then slightly less than two-thirds (61%) of the farms where farmworkers are employed are might be considered “small” (since 28% of US farms generate more than \$5 million in farm income and another 11% have between \$2.5 million and \$5.0 million in farm income).

Because some agricultural producers outsource harvest or other labor to farm labor contractors, it is possible that even more agricultural employers might be considered “small” since their tally of directly-hired farmworkers might fall under the 50 FTE benchmark if they outsource a lot of their labor needs by contracting with farm labor contractors (FLC’s) or “custom harvesters”. The size distribution of FLC’s is not known so a definitive estimate of the proportion of farmworkers excluded by the “small” business exception may be slightly higher or lower than an estimate based solely on farm size since, nationally, about 12% of farmworkers are employed by FLC’s.

### ***Proportions of farmworkers who would get no health insurance or only negligible, temporary coverage because they are classified as seasonal employees***

The proportion of the unauthorized farmworkers who work seasonally can be estimated—but only imperfectly, because current tabulations of NAWS show only total days worked in farmwork, not the number of days a farmworker worked for each of their farm employers (which is the key variable determining whether the worker is considered seasonal or not and determining the impact of the 90-day lag period prior to employer initiation of coverage, as well as the impact of the regulations providing guidance on “new employees” vs. “rehired employees”).

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Nonetheless, the distribution of total days worked in farmwork of all farmworkers and the number of employers per farmworker suggests that a large proportion of the farmworkers in the US—at least 20% of them, possibly 40%, would get no health insurance coverage (or very little) because of the provisions which allow a 90-day lag after an employee is hired before their employer needs to offer them health insurance coverage.<sup>8</sup>

Some of the considerations which indicate that many of the long-term settled farmworkers who are unauthorized are seasonal employees who will not benefit from the employer mandate is the fact that the average foreign-born farmworker did 35 weeks of farmwork during the year and averaged 1.38 employers. While it is not possible to determine how many farmworkers never worked for any employer for more than 120 days (the ACA cutoff for seasonal workers) if one divides the average number of days worked by average number of employers, this yields an average of about 145 days per employer. An additional analysis of 2007-2008 NAWS data by Richard Mines (personal communication 3/31/13) found that 22% of farmworkers who worked for only one farm employer during the year worked for less than 120 days in farmwork and that 20% of the farmworkers who worked for two farm employers worked for less than 120 days. This implies that at least 19% of the farmworkers are seasonal employees. Based on both the average farmworker employment and the subset of farmworkers who work for only one or two employers it is likely that about 35-45% of farmworkers would be excluded from ACA-mandated employer coverage because they could be classified as seasonal workers.<sup>9</sup>

Another significant minority who worked more than 120 days and, thus, would be considered non-seasonal workers, might receive health insurance coverage for 2-3 months of the year (e.g. if they worked for 6-7 months) because their employer would be allowed, under ACA guidelines, to offer them a health insurance policy which had an initial 90 day waiting period before coverage began and then terminate the policy when they left for the winter.

Ethnographic research suggests that the sub-population most likely to work for only short periods of seasonal farmwork employment are women with young children.

Quite probably the half of the farm labor force whose access to health insurance is unaffected by the employer mandate will include disproportionate numbers of unauthorized farmworkers who have no other recourse for affordable health care.

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<sup>8</sup> Although the average farmworker is employed in farmwork for 194 days per year, the key concern vis-à-vis ACA is the lower end of the distribution--the workers who are employed <120 days. Moreover-- the actual number of farmworkers unaffected by ACA provisions because their employers can classify them as seasonal workers depends on the number of days they worked for the farm employer for whom they worked longest during a year. For example a worker who does farmwork 210 days during the year, 100 for employer A and 110 for Employer B, could be treated as a seasonal worker by both of his/her employers, both of whom would then be relieved of the responsibility of offering the worker health insurance coverage.

<sup>9</sup> A remaining question regarding the 7% of farmworkers who work for three or more agricultural employers has to do with projecting whether they are more likely to be seasonal or non-seasonal employees. Those who work for more employers may well have more days of farmwork per year but they, also, may well have less days with any single employer.

## **HEALTH INSURANCE AFFORDABILITY AND FARMWORKERS' DECISION TO OPT OUT OF HEALTH INSURANCE PLANS OFFERED BY EMPLOYERS**

While ACA caps the amount an employer can charge their workers for health insurance at 9.5% of annual earnings many farmworkers would opt out at that price. Given that farmworkers' average annual earnings are in the \$15,000-\$17,500 range, the typical annual employee contribution for health insurance could be as high as \$135/month.

It is likely that the younger newcomers, with lower earnings would opt out of an employer health plan even if they worked at an establishment where it was offered—because of cost considerations. Moreover, it appears that a relatively high proportion work only seasonally (because they've not yet developed the networks to access more days of work).

It is likely that the older, settled undocumented farmworkers would be interested in health insurance coverage but it is not clear whether family coverage is affordable for them and, thus, many will opt out even though their spouses and they would remain without insurance coverage (even though their US-born children could qualify for Medicaid).

### **UNAUTHORIZED FARMWORKERS' CHILDREN—MOST, BUT NOT ALL, US-BORN**

The situation looks fairly promising for the unauthorized farmworkers' minor children who are currently living in the U.S. About 78% of the children are US-born or LPR's. But, then 22% are unauthorized children.

However, in addition to the unauthorized children currently living in the U.S., within the current framework of immigration reform legislation, a fair number of Mexican-born farmworkers' children who now reside in Mexico but who would be eligible for legal status, would still be excluded from access to the health insurance because they would initially be only in provisional legal status when they rejoin their parents in the U.S. About 18% of farmworker parents have minor children still living in Mexico who would rejoin them after immigration reform.

### **SUMMARY—LIKELY IMPACT OF THE ACA MANDATE FOR EMPLOYER COVERAGE**

It does not appear that the ACA mandate for employer coverage will have much impact on unauthorized farmworkers' access to health insurance or health care.

NAWS does not provide detailed information on the size of farms where farmworkers are interviewed so there is no definitive way to determine the overlap between farmworkers left out in the cold due to their being seasonal workers and those left out in the cold because their employers are “small” since the Census of Agriculture does not provide adequately detailed information on the work patterns at farms.<sup>10</sup>

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<sup>10</sup> The full NAWS dataset does, however, provide one indicator of the size of the agricultural employer where they work—an estimate of the number of workers employed on the day the survey respondent was interviewed. Estimating how many farmworkers are employed at large or small employers under ACA regulations based on this variable is feasible but not at all easy because the size of an agricultural employer's labor force does vary throughout the year, as does the mix of seasonal and full-time workers.

Nonetheless, with 65% of U.S. farm likely to be classified as “small farms” and about 40% of the hired farmworkers working only seasonally, the overall proportion of farmworkers who are left unaffected by the ACA employer mandate is likely to be well over half. An important next step in assessing the seriousness of the problem will be to see the exact overlap between those excluded due to working for small employers and those excluded because they are classified as seasonal workers by all of the employers they work for.

Of course, this analysis should also examine the demographic profile of those who are left out in the cold in order to better understand the broader public health impacts of depriving them of affordable access to health care since in many rural communities, like Arvin, farmworkers and their families make up one-third to two-thirds of the entire community population.

### **LOOKING FORWARD: TABULATIONS OF THE NAWS FULL DATASET ARE NEEDED TO BETTER ASSESS THE IMPACT OF ACA ON FARMWORKER ACCESS TO HEALTH INSURANCE**

The NAWS full dataset has a good deal of relevant information for determining the impact of the ACA provisions on farmworkers and, also, for modeling the likelihood that workers would opt-in or opt-out of the specific sorts of health plans which their employers might offer them.

The prototype table on the next page provides an example of the sort of analysis which would be needed to generate a sound quantitative estimate of the numbers of farmworkers who would and would not be likely to be covered under the employer mandate.

Other analyses would be needed, however, to take into account the distribution of workers employed by “small” and large employers since adequately detailed information is not available in the NAWS, only in the Census of Agriculture which, unfortunately, has little information on patterns of seasonal employment in relation to farm size.

Such analyses might, then, provide the basis for designing specialized health insurance products and health maintenance plans to address the real challenges which were ignored in formulating ACA, namely development of strategies whereby multiple employers of seasonal workers can join together to fund year-round health insurance coverage for those left out in the cold by ACA.

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**KEY VARIABLES/ANALYSES IN NAWs FOR ESTIMATING THE IMPACT OF THE SEASONAL WORKER PROVISIONS OF THE ACA RULES RE EMPLOYER MANDATE<sup>11</sup>**

<b>Maximum duration of FW with any employer during the year</b>	<b>LPR or Citizen</b>	<b>Unauthorized</b>
<p><i>&lt;120 days</i></p> <p><i><b>XTAB for Large and “small” employers</b></i></p>	<p>Gender</p> <p>Age</p> <p>Marital Status</p> <p>Spouse’s status</p> <p>Number/status of children</p> <p>Longest FW employment in yr.</p> <p>Longest employment in non-FW</p> <p>Legal status</p> <p>Annual earnings</p> <p>Covered by farm employer</p> <p>In state w/ mandatory WC</p>	<p>Gender</p> <p>Age</p> <p>Marital Status</p> <p>Spouse’s status</p> <p>Number/status of children</p> <p>Longest FW employment in yr.</p> <p>Longest employment in non-FW</p> <p>Legal status</p> <p>Annual earnings</p> <p>Covered by farm employer</p> <p>In state with mandatory WC</p>
<p><i>&gt;120 days</i></p> <p><i><b>XTAB for Large and “small” employers</b></i></p>	<p>Gender</p> <p>Age</p> <p>Marital Status</p> <p>Spouse’s status</p> <p>Number/status of children</p> <p>Longest FW employment in yr.</p> <p>Longest employment in non-FW</p> <p>Legal status</p> <p>Annual earnings</p> <p>Covered by farm employer</p> <p>In state w/ mandatory WC</p>	<p>Gender</p> <p>Age</p> <p>Marital Status</p> <p>Spouse’s status</p> <p>Number/status of children</p> <p>Longest FW employment in yr.</p> <p>Longest employment in non-FW</p> <p>Legal status</p> <p>Annual earnings</p> <p>Covered by farm employer</p> <p>In state w/ mandatory WC</p>

<sup>11</sup> This analysis would also, ideally, be performed separately to determine the ways in which the labor force of “small” agricultural employers and large ones differ (to determine which population sub-groups are left out) and to estimate the proportion of farmworkers totally excluded from employer-provided health insurance because their employer is “small” and the proportion excluded from employer-provided health insurance even if their employer is large (because they would be classified as seasonal workers)

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