VIEWS FROM THE FIELD
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GRANT MAKERS IN HEALTH

Fulfilling the Promise of Equality: Ensuring that "Health for All" Extends to Everyone

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When President Obama signed the Affordable Care Act (ACA) into law in 2010, it was a crucial step toward fixing a health care system that has been broken for far too long. The law did more to provide access to health care for low-income people than any legislation since the passage of Medicaid 50 years ago, but it is still a partial victory in achieving the President's stated goal of making access to affordable health care a fundamental right for everyone instead of a privilege just for some. The law perpetuates a system of excluding many immigrants from access to programs that would help them lead a healthy life. Legal barriers and continual enrollment difficulties that essentially prevent even eligible, lawfully present immigrants from applying for coverage have resulted in a vastly different health care experience for immigrants. It is clear that the current system does not extend the promise of health care reform to these populations.

We at the National Immigration Law Center (NILC) believe that efforts to achieve health equity for all should truly extend to everyone, regardless of immigration status. In order to do so, policymakers and advocates will need to pursue a more inclusive approach to health care reform.

ELIMINATING BARRIERS

Since the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), most immigrants have been shut out of Medicaid unless they are "qualified immigrants," which includes lawful permanent residents ("green card holders") or people granted one of a number of mostly humanitarian-based forms of relief, like asylees or certain domestic violence victims. Even then, PRWORA imposes a five-year waiting period for many qualified immigrants before they can apply for Medicaid. Since 2009, states can elect to make an exception to this general rule for lawfully present children and/or pregnant women under the Children's Health Insurance Program, and about half have done so. NILC advocated that the ACA—which mirrors PRWORA standards in terms of which non-citizens are eligible for Medicaid—should also exempt these children and mothers-to-be from this waiting period restriction. The ACA did greatly improve immigrants' access to health care by allowing those who are lawfully present—which includes most forms of legal recognition—to enroll on the marketplace with subsidies, but still excludes many immigrant families.

Aside from eligibility bars, the system to enforce these restrictions has made the ACA marketplace system difficult for many immigrants. Frequently, electronic databases fail to verify immigration status correctly, and consumers must send in documents—sometimes time and time again—to prove that they are eligible for health care coverage. This is no small issue because more than 200,000 individuals in states with the federal marketplace have had their insurance coverage cancelled because they are unable to resolve these bureaucratic errors. Government notices about how to fix the problem are sent only in English and Spanish. Immigrants literate in other languages are often unaware of the issue.

In addition to the lack of adequate notice to, and support for, people with limited English proficiency, the ACA marketplace system was not built with immigrants in mind. Identity verification in the federal marketplace and in systems developed by many states is contracted out to credit reporting agencies. Since many immigrants lack adequate credit history, this process does not work without significant additional effort. Further, although efforts are made to ensure that an ineligible family member can apply on behalf of an eligible person in the same household, relying on Social Security numbers as a primary mode of identification creates confusion. In households where there is a mixture of people with different immigrant statuses, ineligible family members are unaware that they can apply on behalf of eligible children,

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for example, and fail to enroll for coverage. Without eliminating these barriers, many eligible immigrants will remain uncovered by health programs.

HEALTH CANNOT BE DEPENDENT ON IMMIGRATION REFORM

Policymakers often say that the way to improve immigrant health access is through comprehensive immigration reform (CIR), but this has not proved to be a viable route. The CIR bill that the U.S. Senate passed in 2013, for example, would have barred aspiring American citizens from access to ACA subsidies during a 10-year provisional period.

Given the politics surrounding immigration and immigrant access to health care and public benefits, it is clear that health coverage for undocumented immigrants will not come through executive measures either. In 2012 President Obama announced the Deferred Action for Childhood Arrivals (DACA) program, which as of April 2015, has provided much-needed relief from deportation and work authorization for more than 660,000 so-called "Dreamers." Despite the fact that people granted deferred action are considered lawfully present, and therefore eligible for ACA marketplace coverage with subsidies, the U.S. Department of Health and Human Services issued rules barring DACA beneficiaries from purchasing even full-price coverage through ACA marketplaces. In November 2014 President Obama announced an expansion of DACA, along with the Deferred Action for Parents of Americans and Lawful Permanent Residents program, which together stand to protect almost 5 million individuals from deportation. As a result of a legal challenge brought by Texas and 25 other states, implementation of these 2014 programs has been blocked. But even if they are implemented, we anticipate that these individuals will also be excluded from benefitting from the ACA.

Illnesses do not discriminate based on who has proper immigration papers. Waiting for immigration reform to address the health of immigrant communities is not the answer. It is imperative that we explore new avenues for pursuing a truly inclusive health care system.

TRANSFORMATION TO A MORE INCLUSIVE HEALTH CARE SYSTEM

After two years of ACA enrollment, there is growing awareness that the ACA is only part of the solution, and alternative methods must be pursued for the millions of people who remain uninsured. At the same time, there is a growing movement among immigrants and advocates from across the country to explore new opportunities in their states and communities. Californians are leading the way toward transforming the conversation.

NILC is proud to be a part of a coalition that has seen phenomenal, although incomplete, success through innovative policy solutions, political advocacy, and a concerted effort to shift the hearts and minds of Californians. This campaign—which complements The California Endowment's "Health for All" campaign—built the momentum that laid the groundwork for policymaker champions to propose Senate Bill 4 (SB 4), a set of reforms that seeks to expand immigrants' access to affordable health care. These reforms were incorporated into the June 2015 state budget compromise.

The budget compromise allocates $40 million to provide Medi-Cal (California's Medicaid program) coverage for all children—regardless of status—who meet income and residency requirements. At the time of this writing, SB 4 still needed to be voted on by the California Assembly and signed into law by Governor Brown. If adopted, the bill would also direct the state to apply to the federal government for a state innovation waiver that, if approved, would allow undocumented immigrants to purchase health coverage, without subsidies, in the state marketplace. There is still much to do in the state—with Medi-Cal for adults and health insurance subsidies for undocumented people high on the priority list.

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California may be a leader, but it is certainly not unique. New York City and Washington, DC, are among other places in the country that provide a level of care regardless of immigration status, with the former looking at innovative, new ways to provide more comprehensive coverage to immigrants. Advocates and affected communities in Colorado, Illinois, Maryland, Minnesota, and Oregon are building coalitions with the goal of more inclusive health care programs. NILC is committed to working closely with diverse stakeholders across the nation to ensure that we achieve health equity for everyone.

Thanks to the work of people in California and across the country, we are on a path toward making sure that everyone has equal opportunity to lead a healthy life. But there is still much work to be done. We must eliminate barriers to enrollment in the ACA so its promise can be fulfilled. We need to continue advocating for DACA beneficiaries to be treated the same as all lawfully present immigrants. And we need to find creative solutions to extend health care to everyone, including aspiring citizens who are currently undocumented. We cannot be bound by the status quo.

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