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HEALTH LAW

Citizenship Requirements for Medicaid Coverage

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Social policies that allocate health care resources to the poor have long been a controversial issue for politicians, lawmakers, and activists alike. States clash with the federal government over how to spend Medicaid dollars and politicians question the very worth of social welfare and equitable health care access; federal health reform legislation in 2010 further entrenched these debates. Always an undercurrent in these debates is the matter of health care coverage and access for immigrants, particularly low-income and undocumented ones. In the last 5 years, new Medicaid rules have been promulgated to ensure the exclusion of this population and some states have drafted broad, sweeping reforms to laws that affect how physicians respond to their immigrant patients. This article will explore the current health status of low-income immigrants and then turn to some of the latest and most controversial regulations occurring in this area.

Insurance Coverage and Access to Health Care

As of February 2012, 38 million immigrants resided in the United States, making up 12.5 percent of its population [1]. Immigrants residing here both legally and illegally are more likely to be uninsured than American citizens, accounting for 20 percent of those uninsured [1]. Their children are also less likely to have health insurance, with more than one-third lacking coverage [1].

The gap in health care insurance coverage between immigrants and legal citizens has been attributed to a number of factors, including socioeconomic factors and Medicaid eligibility. Many immigrants work in jobs that do not provide health insurance, and they may make too much money to qualify for Medicaid [1, 2]. Immigrants who legally reside in the U.S. must wait 5 years before becoming eligible for Medicaid and the Children's Health Insurance Program (CHIP) [3]. The latest reform to CHIP, in 2009, permitted states to waive this 5-year requirement for children and pregnant women [3]. As of January 2012, 24 states have done so for children and 18 for pregnant women, but a large portion of lawfully residing immigrants still remain uninsured or awaiting insurance [1]. Illegal immigrants are ineligible for Medicaid and CHIP with the exception of prenatal care for pregnant women, because the law permits coverage of the unborn child [1]. Emergency care may also be covered under Medicaid and CHIP [1].

The Patient Protection and Affordable Care Act will expand health coverage options for legal immigrants beginning in 2014. Nearly all persons with incomes up to 133 percent of the poverty level (up to \$14,484 for the individual or \$24,645 for a family

of three in 2011) will be covered under Medicaid, thus widening the net of coverage to higher incomes [4]. Persons with incomes up to 400 percent of the poverty level (\$74,120 for a family of three) will receive tax credits for purchasing insurance [4]. This expansion will eventually lead to coverage for many lawfully residing immigrants, but the 5-year waiting period will remain, and undocumented immigrants will still be ineligible for Medicaid or for tax credits.

Proof of Citizenship Regulations

Battles about allocating Medicaid resources are not only about immigration. They stem from Medicaid's being a federally funded but state-implemented program with limited resources. In the context of a federal budget resolution to reduce Medicaid spending by \$10 billion over the next 5 years, the Deficit Reduction Act was born in 2005 [5]. Despite a July 2005 report by the Health and Human Services Office of Inspector General (OIG) finding that widespread citizenship fraud did not exist [5] and another finding that "virtually no ineligible immigrants [were] applying for or receiving Medicaid" [6], two Republican Congressmen from Georgia with the intention of preventing illegal immigrants from defrauding Medicaid proposed the requirement that anyone applying for Medicaid provide evidence of U.S. citizenship, such as a passport or birth certificate.

At the time of the passage of the law, legal immigrants who applied for Medicaid were already required to provide documentation, illegal immigrants were forbidden from receiving benefits, and citizens were asked to sign statements of citizenship under penalty of perjury. Specific cases of suspected fraud were investigated by the states.

The proof-of-citizenship requirement generated considerable backlash. States that tracked its effect in 2006 found that many eligible U.S. citizens who simply lacked the necessary documents were denied coverage or had to wait significant periods without insurance or pay fees to obtain proper documentation [7].

In 2009, CHIP reform created a new option for states determining Medicaid and CHIP eligibility [6]. Now states can verify citizenship within 24 hours by checking for a valid social security number. If there is not a match in the Social Security Administration's database, the applicant has 90 days to prove citizenship in some other manner, such as presenting a birth certificate [6]. As of January 2012, 40 states and the District of Columbia have all elected the new option of matching social security numbers for Medicaid, and 31 states have done so for CHIP [8].

Pressure around the proof-of-citizenship requirement has lessened with the social security solution, but the procedural change does not address the fact that the citizenship requirement remains on the books, even though it proved ineffective at identifying fraudulent applicants and even though immigrant fraud appears virtually nonexistent. The citizenship requirement also presumes wrongdoing on the part of immigrants and may encourage public opinion that immigrants are scamming Medicaid.

Transport and Reporting Laws: New Movements in the States

Access to care can be affected by other elements too, in addition to access to health insurance. The latest state regulations aimed at broader immigration reform may indirectly affect health care access for immigrants. In South Carolina, legislation was passed that would make it illegal to transport undocumented immigrants, even to a hospital [9, 10]. These provisions were blocked by the Federal District Court in December 2011 [11]. That same year, Arizona's legislature passed a bill making it a fineable misdemeanor to harbor or conceal illegal immigrants, which many feared could force doctors to report illegal immigrants to the authorities when they seek treatment [12, 13]. Naturally, if this were the case, one end result could be immigrants' avoiding hospitals for fear of deportation. The federal government challenged the constitutionality of the bill, and the 9th Circuit Court of Appeals has held it unconstitutional and blocked it from going into action [14]. The case, which has implications for many broad regulatory efforts at immigration control, has been brought before the Supreme Court, which will hear arguments on April 25, 2012 [15]. Recently, the American College of Physicians decried any law that requires physicians to report the citizenship status of their patients as incompatible with their professional, ethical, and traditional obligations [16].

Whether more direct (like the Medicaid requirements) or more indirect (like the transport and reporting laws), the legal barriers to health care for immigrants are great. The issue is poised for change in the near future as the federal government, states, medical societies, and courts weigh in on both sides, but whether change will be for the better for immigrant health is yet unknown.

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