Immigrant–Friendly Health Coverage Outreach and Enrollment

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More than one out of every three children who are eligible for Medicaid but not enrolled lives in an immigrant family. Fears about applying for and receiving public benefits often deter immigrant families from seeking public health coverage for themselves and their children. Some of these fears are caused by misinformation, but others are grounded in legitimate concerns that must be addressed with sensitivity and knowledge.

Outreach workers, application assisters, and advocates need to understand immigrant families' concerns in order to provide credible assurances about the safety (or consequences) of applying for health coverage. The most common concerns are described below. All of these issues are dynamic, and may be changed by federal legislation, court interpretations, and administrative actions.

- **Confusion about eligibility:** The rules governing immigrant eligibility for public benefits are complex. Eligibility varies by state, by immigration status, and for many immigrants, by date of entry into the U.S. This complexity is made more confusing by the fact that most immigrant families are "mixed-status"—comprised of persons whose immigration status differs. It is typical for individual families to include members who are eligible for benefits (such as U.S.-born citizen children) and others who are barred because of their immigration status (such as older, undocumented siblings). The confusion this situation creates for families is compounded by the uncertainty among some outreach and eligibility workers about the rules. Consequently, they may sometimes provide misinformation to potential applicants.

  Outreach workers should form partnerships with advocates who can explain and answer questions about state and federal eligibility rules. As always, outreach workers should provide only general information about eligibility rules and refrain from telling individuals whether or not they are eligible.[1]

- **Confidentiality**: Many citizens and immigrants who are eligible for benefits have family members who are undocumented or waiting to adjust to lawful status. Such families commonly fear that benefits agencies will share immigration status and other information about family members with the Immigration and Naturalization Service (INS). This fear is exacerbated when agencies ask for Social Security numbers (SSNs), which many people mistakenly perceive as a proxy for immigration status.

  The U.S. Department of Health and Human Services (HHS) has clarified that Medicaid and State Children's Health Insurance Program (SCHIP) agencies may not require applicants to provide SSNs or information about the immigration status of persons who are not applying for benefits. However, heads of households who are not applying for benefits (e.g., ineligible parents of children applying for SCHIP) are required to provide information about household income. Benefits agencies sometimes request nonapplicant parents' SSNs to facilitate verification of income. They may not require this information, and failing to provide it cannot hurt the applicant's chances of receiving benefits.

  An agency administering health benefits has limited authority to contact the INS about noncitizen applicants. When a person applying for benefits is not a citizen, benefits agencies are required to verify the noncitizen applicants' immigration status with the INS through the Systematic Alien Verification of Eligibility (SAVE) system.[2] The INS is required to confine its use of applicants' information to determining eligibility for benefits, except in cases of fraud. No inquiries are made about family members who are not applying for benefits.

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Medicaid agencies are not permitted to provide information about a person's receipt of Medicaid to the INS or other government agencies, except for the limited purpose of collecting a debt that was created by an overpayment or fraud.

These verification requirements apply to "full-scope" Medicaid only. Persons seeking emergency Medicaid cannot be denied because they do not have an SSN or proof of satisfactory immigration status.

- **Public Charge:** Families are concerned that using health care and other benefits will cause them to be deemed a "public charge," which could prevent them from becoming lawful permanent residents (getting green cards) or from reentering the country after travel abroad. The INS has clarified that the use of health benefits does not put immigrants at risk of being considered a public charge, except in limited circumstances involving the use of long-term care. For more information on which types of benefits can be used without public charge consequences, see www.ins.usdoj.gov/graphics/publicaffairs/summaries/public.htm or go to www.nilc.org/ and click on "Immigrants and Public Benefits" and "Public Charge."

  However, it is important to be careful about giving families broad assurances that receiving health coverage (other than long-term care) cannot hurt their immigration status. Immigration judges sometimes consider whether a person has received benefits (including health benefits) in making discretionary decisions. People who will need to appear in immigration court should seek legal advice about their use of benefits. In addition, the use of health benefits can pose a barrier for some persons with HIV, who may need to demonstrate that they will not be reliant on the government for medical assistance before entering the U.S. or becoming a lawful permanent resident (LPR). Persons in this situation should consult an immigration attorney for individual advice.

- **Sponsor Liability:** Immigrants often come to the U.S. through family members who sign a contract promising to support them, an "affidavit of support." Immigrant families sometimes fear that using public benefits will be detrimental to their sponsors. There is a legitimate basis for this concern—with certain exceptions, sponsors who have signed an enforceable affidavit of support (INS Form I-864) can be required to repay means-tested public benefits, including federally funded SCHIP and nonemergency Medicaid, used by immigrants they sponsor. (States have the option to impose sponsor liability in certain state-funded benefit programs.) In addition, immigrants whose sponsors signed the enforceable affidavit of support are often not eligible for Medicaid or SCHIP, because their sponsors' income is "deemed" or counted in determining whether they meet income requirements.

  The enforceable affidavit of support, INS Form I-864, was placed in use in December of 1997. Sponsors who signed the traditional affidavit of support, INS Form I-134, are not obligated to repay benefits used by persons they sponsor. Outreach workers assisting immigrants with concerns about harming their sponsor should first determine which affidavit the sponsor signed.

  A sponsor's liability begins when the sponsored immigrant becomes an LPR (gets a green card) and terminates when the sponsored immigrant becomes a citizen or is credited with 40 quarters of work in the United States.[3] Immigrants do not need to worry about harming their sponsor by receiving benefits before they get a green card or after they become a citizen or obtain the required work credit.

- **Sponsoring Relatives:** Many immigrants also fear that receiving benefits will prevent them from sponsoring their relatives. This concern is heightened by the fact that the affidavit of support form asks about benefits the sponsor has received over the last three years. Receiving benefits does not hurt a person's ability to act as a sponsor, as long as the potential sponsor can demonstrate that he or she has income equal to at least 125 percent of the federal poverty level. The question about benefits is intended to ensure that public benefits are not being included in the sponsor's income. An individual who does not meet the income requirement can sponsor an immigrant jointly with other persons whose income can be counted toward the minimum. (Joint sponsors may also be liable for repaying certain benefits used by the immigrant.)

- **Language Access:** Immigrants who have limited ability to read, speak, or understand English have difficulty learning about the availability of health coverage programs, completing application and redetermination processes, and obtaining quality services once enrolled.

Medicaid and SCHIP programs should provide qualified interpreters and accurate translations of documents for persons who are limited English-proficient (LEP). Federal civil rights law requires recipients of federal funds to make available no cost interpretation and translation services to provide LEP persons meaningful access to federally funded programs and services. This obligation extends to all aspects of a recipient's operations, whether or not a particular activity receives federal funding.

Federal funding recipients are often unaware of their obligations or do not understand how to meet them. Many communities have limited resources for interpretation and translation. HHS has developed detailed guidance to help recipients of its funds (including Medicaid and SCHIP funds) understand their obligations to LEP persons.[4] Advocates should ensure that both recipients and LEP community members are aware of the recipients' obligations, and work with recipients to implement language assistance programs as described in the guidance.

The following suggestions can help in creating an immigrant-friendly application and enrollment process. These suggestions are general and do not address the details of individual family situations. It is important to form relationships with immigrant rights advocates and legal service providers who can assist you and immigrant families with the details of specific situations.

Application Process

- Advocate against unnecessary questions on Medicaid and SCHIP applications. Review applications to ensure they state clearly that SSNs and information about immigration status only need to be provided by the persons applying to receive benefits (i.e., on a SCHIP application, the child).

- Encourage your state not to require SSNs on SCHIP applications. Interim final regulations currently in effect authorize states to require SSNs on SCHIP applications, but this is at state option.

- Ensure that Medicaid and SCHIP applications state clearly that applicants who do not have SSNs will be assisted in applying for SSNs, and that their health coverage will not be delayed while their SSN application is pending.

- Ensure that your state has a good cause exemption for eligible immigrants unable to obtain SSNs. Some eligible immigrants are unable to obtain SSNs, or experience long delays.

- Advocate against unnecessary verification requirments on Medicaid and SCHIP applications. Federal law establishes only one verification requirement for SCHIP and Medicaid: applicants who are not U.S. citizens or nationals are required to provide proof of their immigration status. No other verification is required. Encourage your state to adopt self-declaration of citizenship, income, resources, date of birth, SSN and residence.

- Review applications to ensure that persons required to document their immigration status are instructed that they can use an INS receipt showing that they have applied to replace a lost document.

- Delay verification of applicants' immigration status until all other steps necessary to determine eligibility have been completed.

- Include on the application assurances that the information provided will not be used for any purpose other than determining eligibility for benefits. Incorporate into disclosures about SAVE verification of immigration status assurances that the INS cannot use this information for any purpose other than verifying benefits eligibility, except in cases of fraud.

- Federal law requires your state eligibility system to provide meaningful access for persons with limited English proficiency. Ensure that at least the following are provided:

  - outreach materials, applications, notices, and other important program information should be available in all languages commonly spoken in the state.

  - persons with limited English proficiency who contact eligibility offices in person or by telephone should be advised, in their language, that interpreter services will be provided to them at no cost.

  - information "hotlines" and other points of entry into the application process should incorporate multilingual messages and employ bilingual workers or telephone interpretation services.

For more information on language access, see the U.S. Department of Health and Human Services Guidance to Federal Fund Recipients, www.hhs.gov/ocr/lep/preamble.html.

Application Assistance

- Ensure the prompt availability of application assisters and hotline support in all languages commonly spoken in the community.
- Recruit application assisters who are bilingual, bicultural and have relationships with immigrant and refugee communities. Many communities are served by health educators, or promotoras, whose established role as providers of health information makes them credible application assisters.
- Provide application assisters with basic training on immigrant eligibility for benefits, but emphasize that there are many exceptions. Ensure that application assisters form relationships with resources, such as legal services offices, which can assist them in serving families. As with any other eligibility factor, application assisters should never tell a person they are ineligible because of their immigration status.
- Ensure that all application assisters have training and resources to enable them to assist families with concerns about sponsor liability, public charge, and other immigration concerns. These resources should include local immigration advocates and legal services offices.
- Make SSN applications available for Medicaid applicants who do not have SSNs, and assist applicants in completing and submitting them. Note that some eligible immigrants are unable to obtain SSNs; others may be able to obtain "nonwork" SSNs with the assistance of a benefits agency.
- Encourage application assisters to think carefully about ways to avoid asking applicants if they or their family members are undocumented. Applicants can be asked if they fall within categories of people eligible for benefits (note that being ineligible does not always mean a person is undocumented). Requests for documents can be framed as requests for "any documents you have." Programs that cover undocumented people can be described as programs that provide coverage without regard to immigration status.

Enrollment Simplification

- Ensure that enrollment simplification strategies, such as "express lane" eligibility programs, require families to affirmatively opt into the program. Express lane enrollment is often linked to programs, such as school lunch and Women, Infants, and Children (WIC), which do not ask about immigration status. The schools and offices administering these programs are typically viewed as "safe" places within the community for immigrant and low-income families. When agencies that administer health coverage programs receive family information from these programs, they will need to make additional inquiries, including inquires about immigration status, to determine eligibility for Medicaid or SCHIP. Such questions can be very threatening, especially to families with undocumented members. Care must be taken to ensure that these additional inquires are expected, and do not undermine the school or WIC office's role as a safe place for families. Agencies should ensure that they have relationships with persons or organizations competent to answer immigration-related questions that families confront during the enrollment process.
- Ensure that families and their sponsors are shielded from any penalties and not obligated to repay benefits if they are inadvertently enrolled through presumptive eligibility or other enrollment simplification programs.

Outreach

- Many immigrants have not had prior experience with health insurance or health benefits, or come from cultures whose understandings of illness and treatment differ from the views and practices that predominate in the U.S. Outreach workers and application assisters should receive training on immigrant communities' knowledge and beliefs about health care and health insurance.
- Recruit outreach workers who are bilingual, bicultural, and have relationships with immigrant and refugee communities.
- Work with organizations serving immigrant communities to develop culturally appropriate outreach materials and campaigns. Explore how decisions are made within families from different countries of origin, and what resources people rely on for information.
- Train outreach workers and application assisters to explain the U.S. system and the importance of insurance and preventive care. Provide this information in multiple formats and multiple languages that are accessible to immigrants.
- Highlight the advances that your state may have made in simplifying the application process (e.g., if

your state does not require SSNs on SCHIP applications).

- Let families know that they can come back to you if they need help using their Medicaid or SCHIP coverage.

- Advise families whose members include LEP persons that they have the right to receive interpretation services at no cost. A new web site, www.lep.gov, provides information about federal protections against national origin discrimination (which includes language assistance rights) in 16 languages. Organizations engaged in outreach should develop and distribute "I speak" cards, which explain in English that a person speaks a particular language and needs an interpreter. The cards also explain in the person's language the individual's rights to language assistance.

- Encourage organizations you work with to incorporate outreach into their services.

Expanding Access

Although current federal legislation restricts some immigrants' access to health benefits, states can use their own funds to cover immigrants. People concerned about health coverage should advocate their states for:

- state-funded Medicaid and SCHIP "replacement" coverage for immigrants who cannot get federal coverage
- no sponsor deeming or sponsor liability in state-funded coverage
- funding to ensure that translated materials and language assistance are available to people with limited proficiency in English
- increased funding and training for bilingual and bicultural community health outreach workers who have developed close relationships with immigrant and refugee communities

In addition, advocates are working at the federal level for legislation that would restore access to health care for immigrants who became ineligible under the 1996 welfare law, or expand the health coverage benefits that can be provided without regard to immigration status. People concerned about health coverage can support these efforts by subscribing to NILC's *E-Mail Benefits Updates* at www.nilc.org.

Providing a Safe Haven

Federal law (8 U.S.C. § 1642) explicitly states that nonprofit charitable organizations that provide state or federal public benefits are not required to determine, verify, or otherwise require proof of immigration status from any person seeking benefits. This provision provides an opportunity for nonprofit organizations to serve as a safe place where immigrant families can ask questions and obtain referrals without fear of negative consequences. Work with your organization to adopt a clear policy of confidentiality on immigration, and to make this policy known to the community.

END NOTES

[1] The rules governing immigrant eligibility for major benefit programs are explained in the *Guide to Immigrant Eligibility for Federal Programs*, 4th ed. (2002) available from the National Immigration Law Center at www.nilc.org/pubs/orderfrm.htm.

[2] Some states have obtained waivers that permit them to use an alternative verification method.

[3] The amount of time needed to obtain credit for 40 quarters of work varies because individuals can receive credit for their spouse's or parents' work.

[4] The guidance is available on line at www.hhs.gov/ocr/lep.