

FACTS ABOUT

New State Option to Provide Health Coverage to Immigrant Children and Pregnant Women

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The recently enacted Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA)¹ provides states with a new opportunity to provide affordable health coverage to many immigrant children and pregnant women through Medicaid and the Children's Health Insurance Program (CHIP).² This new law was drawn from earlier legislation, the Immigrant Children's Health Improvement Act (ICHIA), which had longstanding bipartisan support. By allowing states to cover more immigrant children and pregnant women, the new law begins to address some of the health inequities and disparities in our health care system. This fact sheet highlights the key elements of this new law.

■ What does ICHIA do?

ICHIA allows states to use federal funding to cover lawfully residing immigrant children and pregnant women in Medicaid and CHIP without a five-year waiting period, and eliminates sponsor-related barriers for states that elect this option.

■ What did ICHIA change?

As part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, or the "welfare law"), Congress imposed an arbitrary restriction that required most lawfully residing immigrants to wait five years before they could be eligible for federally funded Medicaid. This same restriction was applied to CHIP after it was enacted in 1997.

Many states continued to provide Medicaid and CHIP coverage to lawfully residing immigrants with state funds, as an investment in the health of their residents and as a strategy for reducing inefficient and expensive emergency health costs.

ICHIA removes the mandatory federal five-year waiting period for immigrant children and pregnant women in Medicaid and CHIP. States can now receive federal funding to provide coverage to these populations without a waiting period.

■ Is ICHIA mandatory for states?

No. The new law is a state option and available to all 50 states, Guam, Puerto Rico, and the U.S. Virgin Islands. Any state can elect to receive additional federal funding to provide more affordable health coverage to its residents under this new law.

¹ Public Law No. 111-3, 2009 (H.R. 2).

² Section 214 of H.R. 2 – "Permitting States To Ensure Coverage Without A 5-Year Delay Of Certain Children And Pregnant Women Under The Medicaid Program And CHIP."



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Electing ICHIA can help a state maximize federal funding during the next several years under CHIPRA's new criteria for determining a state's future CHIP allotments.

■ What is the effective date of ICHIA?

April 1, 2009. States can choose immediately to elect ICHIA with a start date of April 1, 2009. States may also be able to receive federal funding retroactive to April 1, 2009, if they elect this new option before June 30, 2009.

■ How does a state elect ICHIA as a state option?

States need to notify the Centers for Medicare and Medicaid Services (CMS), under the U.S. Department of Health and Human Services, that they are electing the ICHIA option through an administrative process known as a State Plan Amendment (SPA). States do not need to apply for a Medicaid waiver in order to elect ICHIA. CMS is developing more specific procedures on this new law that will be shared with the states soon. In the meantime, states can notify CMS now that they have elected the ICHIA option.

States that already provide state-funded coverage to immigrant children and pregnant women without a five-year waiting period must officially notify CMS that they wish to elect this new option, in order to obtain the federal funding.

■ Is a new state law required to elect the ICHIA option?

Not necessarily. There is no federal requirement that states enact a new law in order to elect the ICHIA option. Many states will be able to elect this option through simple administrative policy decisions rather than enacting a new state law. Other states may require statutory changes to be able to take advantage of this new federal law, in which case a new state law may be needed.

■ Which groups can states cover under ICHIA?

ICHIA provides federal funding for certain noncitizen children under age 21 and/or noncitizen pregnant women (eligible during pregnancy and up to 60 days post-partum). A state can elect to cover both or only one of these groups under this new law. Existing state Medicaid and CHIP eligibility criteria (such as income and resource limits) apply to this newly covered group.

■ Which categories of immigrants are covered by ICHIA?

The new law covers "lawfully residing" immigrant children and pregnant women. In some federal safety-net programs, "lawfully residing" has been defined to include several categories of immigrants who are "lawfully present" and intend to reside in the U.S. In addition to lawful permanent residents ("green card holders") and other "qualified" immigrants (e.g., persons paroled into the U.S. for humanitarian reasons, and certain battered immigrants), the term has been defined to include other immigrants who are in the U.S. lawfully, such as victims of serious crimes who have been granted U visas, residents of "compact of free association states," persons with deferred action status, and spouses and children of U.S. citizens who have applied for lawful permanent residence. CMS will need to define this term for purposes of the Medicaid and CHIP programs. Stay tuned for a more definitive list of immigrants covered under this new law.

■ Does ICHIA provide benefits to undocumented immigrants?

No. Undocumented immigrants remain ineligible for federally funded nonemergency Medicaid and CHIP.³ ICHIA did not change existing eligibility rules for undocumented immigrants, who may be eligible for Emergency Medicaid.⁴

Remember, however, that eligibility rules apply only to individuals seeking benefits, not to the entire household. Thus if a lawfully residing child is eligible for Medicaid or CHIP as a result of the new law, the child's parents may apply for Medicaid or CHIP for their child, regardless of their own immigration status.

With the additional federal funding and long-term cost savings that this new law brings, states can consider using state funds to cover all children and other state residents, regardless of their immigration status.

■ Why should a state elect ICHIA?

Here are a few key reasons:

- **Children should not be forced to wait five years for health care. Five years is a lifetime to a child.** Timely health care coverage can prevent or treat conditions that can affect a child's long-term prospects for a healthy, productive life, rather than leaving those conditions undetected and untreated.
- The new law will bring immediate and critically needed fiscal relief to states that already chose to cover immigrant children and pregnant women with state funds.
- The federal government will now be paying its fair share to help states cover more low- and middle-income children and pregnant women. According to CMS, the federal match rate for all children and some pregnant women covered under this new option will be the higher federal CHIP match rate for each state.⁵
- States now have an opportunity to provide affordable health coverage to many immigrant children who lack coverage because their parents work in one or more jobs that do not offer employer-based coverage or whose parents, like many Americans, are currently losing their health coverage and/or their jobs.
- Covering all children improves kids' health, their performance in school, and their long-term security and stability.
- Covering immigrant children and expectant mothers can start to address health disparities and health inequities by restoring equitable access to health coverage.

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³ Nothing in CHIPRA (H.R. 2) changes existing eligibility for Emergency Medicaid or the CHIP "fetus option." In particular, Section 605 of H.R. 2 simply confirms that undocumented immigrants remain ineligible for nonemergency Medicaid and CHIP.

⁴ In states that elect the CHIP program's "fetus option," prenatal care to women regardless of their immigration status is also available.

⁵ The national average of the federal CHIP match rate for Fiscal Year 2010 is 65%. See Table: "Federal Matching Rate (FMAP) for SCHIP, FY 2010," Kaiser Family Foundation State Health Facts, at www.statehealthfacts.org (last accessed Mar. 27, 2009).