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Undocumented and Uninsured: Access to Medicaid for Undocumented Immigrants

By **Omar Ibarra**, *CHCI-AHIP Health Graduate Fellow*

Executive Summary

There are currently an estimated 11 million undocumented immigrants in the U.S.,¹ most of whom have very little to no access to affordable healthcare services. Undocumented immigrants are three times more likely to live in poverty when compared to the national rate,² and 45% of them live close to or under 138% of the Federal Poverty Level.³ However, federal policy prohibits undocumented immigrants from qualifying for Medicaid due to their immigration status even if they are income eligible. This federal exclusion and federal policies such as the public charge rule fuel discrimination and increase fears of deportation among undocumented immigrants, forcing them to wait until their health is considered an emergency to access emergency Medicaid funds.⁴ Without access to preventive care, undocumented immigrants may be more susceptible to infectious disease,⁵ and this is increasingly concerning during the ongoing COVID-19 pandemic. This is a serious public health threat to both undocumented and documented individuals. Further, the restriction to only emergency Medicaid is putting a tremendous financial strain on hospitals to pay for emergency services. To combat this financial struggle and help curb the COVID-19 pandemic, federal

and state governments must take action by expanding Medicaid programs to include undocumented immigrants. From amending federal policy to implementing a Medicaid buy-in program, there are options available to expand Medicaid and ensure this vulnerable population is given equitable and just access to healthcare in the United States. Though there are multiple avenues to health insurance in the U.S., such as the Affordable Care Act marketplaces and employer insurance, this policy brief explores Medicaid for undocumented immigrants specifically.

Background

The Medicaid program, along with Medicare, was signed into law in 1965 and is one of the most sweeping pieces of health reform legislation in U.S. history. Medicaid is jointly funded and run by the federal government and states.⁶ Since its inception, Medicaid has played a pivotal role in the U.S. healthcare system. It is the country's top public insurance system for low-income people which covers an estimated 75 million individuals.⁷ The program has helped narrow longstanding racial disparities in coverage and access to care.⁸ One noteworthy and disappointing aspect, however, has been the explicit continued exclu-

sion of millions of undocumented immigrants from Medicaid programs.⁹

Overview of Undocumented Immigrants

Undocumented immigrants are people residing in the U.S. without legal documentation. This includes people who entered the U.S. without inspection and proper permission from the government.¹⁰ Undocumented immigrants also include immigrants who entered the country legally through a visa but overstayed their allowed time.¹¹ Unlike "lawfully present" immigrants, who have been legally admitted or recognized in the U.S., undocumented immigrants are ineligible for most local, state, and federal services and public programs.¹² There are currently an estimated 11 million undocumented immigrants in the U.S.¹³

Undocumented Immigrants and Medicaid

Historically, federal policy has excluded undocumented immigrants from accessing programs such as Medicaid. Though Medicaid is run and financed by both federal and state governments, strict regulations have prohibited states from using federal dollars towards undocumented immigrants and

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states are discouraged from using their own Medicaid funds towards this vulnerable population.¹⁴ Upwards of 45% of undocumented immigrants live at or near the poverty line, and they are three times as likely to live in poverty compared to the national rate, yet they are not allowed to enroll in the nation's central insurance system for low-income individuals.¹⁵ Though undocumented immigrants have historically not been eligible for Medicaid, much of the targeted exclusion stems from the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) signed by President Clinton in 1996.¹⁶ This welfare reform law restricted undocumented immigrants from enrolling in Medicaid and Medicare, and the Children's Health Insurance Program (CHIP). Moreover, the Affordable Care Act, signed by President Obama in 2010, further, and explicitly, barred the majority of undocumented people from the newly established marketplaces. This exclusion has resulted in the uninsured rate of undocumented immigrants being almost five times higher than that of citizens.¹⁷ Before PRWORA, public health professionals regularly provided needed health services to people no matter their immigration status. However, PRWORA denies any Medicaid coverage to undocumented immigrants unless it is an emergency.¹⁸

Public Charge

The public charge rule, which was altered by the Trump Administration, went into effect in early 2020. This updated rule expanded

the criteria of what it meant to be considered a "public charge" to the government.¹⁹ Immigrants who were seen as "likely" to rely on government assistance and benefits in the future were at an increased risk of being denied a visa or green card. Though this specific component of the change would not have affected undocumented immigrants, anti-immigrant rhetoric and policies had a "chilling effect" on the use of healthcare services by the undocumented community.²⁰ This may lead to undocumented immigrants avoiding testing and treatment for COVID-19 due to fears of potential deportation. Though the updated rule has since been rescinded by the Biden Administration,²¹ the lingering chilling effect and massive confusion about the updated rule and who it would affect could discourage enrollment in Medicaid programs where some subgroups of undocumented immigrants do qualify, such as in states like California and Illinois.²²

Policy Analysis

Undocumented and Uninsured

Of the 11 million undocumented people in the U.S., roughly 46% remain uninsured – that is almost five million people who have virtually no access to health insurance.²³ The other 54% of undocumented immigrants gain some access to health insurance through employer insurance, student health plans, and through certain state policies which allow non-citizens to enroll in limited access to programs, such as Medicaid for children and pregnant mothers. Though data on how undocumented

people access health insurance is sparse, policy experts note that a majority of those with insurance have it through their employer.²⁴ While 54% of undocumented immigrants may have access to some form of health insurance,²⁵ it is often too expensive for them to use due to factors such as high deductibles and copays.²⁶ This would effectively lead to undocumented people being underinsured, wherein they have access to health insurance, but it is inadequate for most health needs.²⁷ It is likely undocumented immigrants with health insurance are accessing it through their employer; however, 3 in 4 undocumented immigrants work in jobs that are considered essential,²⁸ where being underinsured is more prevalent. These essential positions tend to be low-wage, and it is unlikely workers would be able to afford the insurance plan offered by their employer.³⁰ Throughout the COVID-19 pandemic, Medicaid has served as a significant security blanket for those who have lost their jobs as job loss often means loss of health insurance. In fact, Medicaid enrollment grew by 18.2% nationwide and by as much as 32% in some states.³¹ This safety net, however, has not been available to undocumented immigrants who have lost their jobs since they cannot enroll. Loss of employer insurance and no Medicaid access can have serious consequences for, not only the undocumented worker, but entire families of those workers.

A Public Health Threat

The issue of undocumented immigrants being barred from Medicaid is especially concerning amid the

Preventing such a large and vulnerable population from accessing affordable healthcare services through Medicaid creates a barrier to preventative care and may lead to undocumented immigrants being more susceptible to infectious disease such as COVID-19.³⁴

COVID-19 pandemic. Through the Congress has passed legislation to provide funding for free COVID-19 testing, there have been periods of nationwide shortages of tests which lead hospitals and providers to rely on insurance to cover testing supplies.³² It is also important to note that the legislation passed only subsidizes COVID-19 testing, not treatment for it. This means that even when undocumented individuals can access limited COVID-19 testing, they would have to incur significant out-of-pocket expenses to cover treatment due to a lack of insurance.³³ This lack of access to COVID-19 resources poses tremendous public health risks to the rest of the country due to the nature and transmissibility of coronavirus. Preventing such a large and vulnerable population from accessing affordable healthcare services through Medicaid creates a barrier to preventative care and may lead to undocumented immigrants being more susceptible to infectious disease such as COVID-19.³⁴ The inability to access affordable health insurance affects not only each individual undocumented immigrant, but also their families and those around them.

Reliance on Safety-Net & EMTALA

Due to their inability to access Medicaid or being underinsured when they do have access through their employer, undocumented immigrants have had to rely on a patchwork of safety net hospitals, federally qualified health centers, and policies to seek care. However, fears stoked by anti-immigrant rhetoric and policies, such as the public charge rule, have led

many in this vulnerable population to completely avoid health care due to fears of family separation or other consequences.³⁵ Relying on the safety net of the U.S. healthcare system is worrying as these providers have been historically underfunded and are currently under immense financial strain due to the ongoing pandemic.³⁶ In fact, experts predict some safety net providers will have to close or be sold into the private industry in the near future.³⁷ Opponents of Medicaid expansion for this population point out the billions of dollars in state funds used to treat undocumented immigrants under the Emergency Medical Treatment and Active Labor Act (EMTALA).³⁸ Several dozens of hospitals around the country have been forced to close or file for bankruptcy due to inability to sustain unpaid EMTALA costs which includes care provided to undocumented immigrants. What opponents do not point out is that these large costs cannot solely be attributed to undocumented immigrants; these costs include covering both uninsured citizens and undocumented patients. Current law requires that Medicaid pay for emergency health services³⁹ and this may exacerbate the financial strain placed on hospitals to pay for the uninsured. Current overuse of emergency care is costing the US healthcare system up to \$32 billion.⁴⁰ Expanding Medicaid to undocumented immigrants could save the US healthcare system billions of dollars per year as these individuals would be able to seek needed care sooner rather than wait until an emergency.⁴¹ What is often left unsaid in conversations surrounding the financial impact of the health system, and country as a

whole, are the contributions made by the undocumented community. Undocumented immigrants pay upwards of \$11 billion each year in state and local taxes,⁴² Social Security, and Medicare tax. Their contributions have even been found to make the social security system more solvent as they pay in but are ineligible to collect the benefits.⁴³ This is to say that undocumented immigrants are paying into systems that benefit all Americans, but they are purposefully excluded from the benefits due solely to their immigration status.

Medicaid Expansion Efforts

There has been an increasing movement and political will to address inequities among the undocumented in their access to care by expanding Medicaid to undocumented immigrants. Expanding Medicaid to cover the undocumented is not a novel idea and, in fact, several states are pushing this initiative. California, home to the nation's largest undocumented population, passed legislation in 2019 that will allow young undocumented individuals to enroll in Medicaid up to the age of 26,⁴⁴ and legislators in the state recently agreed to further expand the state's Medicaid program to cover undocumented immigrants over the age of 50.⁴⁵ Additionally, Illinois became the first state to expand its Medicaid program to undocumented seniors over the age of 65.⁴⁶

Conclusion and Recommendations

Federal Action

- **Allow for the use of federal Medicaid dollars in the coverage of undocumented immi-**

grants. The Federal government can modify the eligibility requirements under PRWORA⁴⁷ to allow undocumented immigrants to enroll in Medicaid, or they can allow the use of federal dollars to aid states in expanding their Medicaid programs.

State Action

- **Pass state-level legislation allowing the use of state Medicaid dollars for the coverage of undocumented immigrants.**

Several states have already taken steps to expand their Medicaid programs to cover undocumented immigrants. Though federal law prohibits U.S. tax dollars from covering undocumented individuals, states have the ability to circumvent this by using state dollars. States such as California and Illinois have used this approach for certain subgroups among the undocumented community to have access to their Medicaid programs,⁴⁸ and several states have extended their Medicaid programs to cover undocumented children.

- **Implement a Medicaid Buy-in Program.** This program would require undocumented immigrants to fully pay premiums and cost-sharing to gain coverage. This option would allow states to expand Medicaid while maintaining affordability for the state. To maintain an equitable approach, states could also set aside funding to allow undocumented immigrants to buy into the program on a sliding scale basis with plan premiums and cost-sharing options.⁴⁹

- **Incremental Medicaid Expansion.** Lastly, states can also utilize a common strategy of starting with Medicaid expansion for undocumented children only and slowly expand to other subgroups of undocumented communities based on the success of the program. Several states began with this approach and are now pushing to expand to much larger groups of undocumented immigrants.⁵⁰

Expanding affordable health coverage to this vulnerable population which contributes tremendously to the United States is a just and equitable action that must be taken. As well noted by one scholar “In a pandemic, we are only as healthy as the most vulnerable members among us.”⁵¹

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