

Tips for Addressing Immigrant Families' Concerns When Applying for Health Coverage Programs

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SINCE JANUARY 2017, changes in immigration enforcement policy and increased enforcement activity have caused fear among immigrants and their families, undermining trust in government agencies and resulting in eligible people going without access to health care and other critical programs. Members of immigrant families may ask people helping with the health insurance application process if it is safe to apply for health coverage programs, particularly if their family includes someone who is not authorized to be in the United States. This handout provides suggestions for addressing these concerns.

The laws and policies about immigrants' eligibility for health coverage have not changed. The Affordable Care Act (ACA) is still the law, and people should apply for health insurance through the ACA's health insurance marketplace, or Medicaid, or the Children's Health Insurance Program (CHIP) if they are eligible.

Federal and state laws protecting the privacy of people who apply for or use health coverage programs are strong and remain in place. Any information provided in the process of applying for Medicaid, CHIP, or the marketplace may be used only to determine the applicant's eligibility for the program—not for immigration enforcement purposes.

People who help with the application process are required by law to keep information private and secure. Government workers, application assisters, and people who help with health insurance applications may be liable for civil monetary penalties if they violate federal privacy laws.

Household members who are *not* applying for insurance for themselves should *not* provide information about their immigration or citizenship status. However, they may need to provide other information, such as their tax-filing plans and income. If unauthorized people are asked for their immigration status, they should say, "I am not applying for health insurance for myself." For example, a mother who has employer-based coverage for herself—and wants to enroll her eligible daughter in marketplace coverage—should not provide her own immigration or citizenship status on the application.

Household members who do not have a Social Security number (SSN) do not have to provide one. The health insurance marketplace application may not be delayed or denied based on an applicant's or household member's lack of an SSN. Only people who have a valid SSN are required to provide one. Individuals who do not have an SSN and who file taxes with an Individual Taxpayer Identification Number (ITIN) should not use an ITIN on the application.

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Protections for Household Members Not Applying for Coverage for Themselves

Citizenship or Immigration Status

*Nonapplicants** should *never* provide information about their citizenship or immigration status. They may need to provide other information, such as their income, and agree to file federal taxes if they have a dependent or spouse who gets help paying for their premium (premium tax credits).

Social Security Number

- **Medicaid or CHIP.** Nonapplicants do not have to provide an SSN when providing information for Medicaid and CHIP applications.
- **Marketplace.** Nonapplicants should not provide an SSN unless all the following are true: The nonapplicant (1) has an SSN that was issued to them by the Social Security Administration, (2) plans to file taxes for 2018, *and* (3) filed a federal tax return in the relevant year (for example, 2016 if applying for coverage for 2018).

* *Nonapplicants* are people seeking coverage for someone other than themselves — for their dependent child, for example.

Medicaid, CHIP, and marketplace subsidies are not considered in screening for “public charge.” Immigrants can use health coverage programs without jeopardizing their immigration status.

Federal law allows immigration authorities to deny entry or a “green card” (lawful permanent residence) to people who may not be able to support themselves and who may have to depend on the government for their subsistence — people who are likely to become a “public charge.” Under current rules, the government may not consider the use of health benefits, including Medicaid, CHIP and marketplace subsidies, in determining whether a person is likely to become a “public charge.” There is an exception for people who use Medicaid for long-term institutional care.

Moreover, certain immigrants are not subject at all under the law to the public charge test, including refugees; asylees; survivors of trafficking, domestic violence or other serious crimes; special immigrant juveniles; green card-holders applying for U.S. citizenship; and others. For example, a refugee who is eligible for Medicaid may enroll without worrying that doing so may make it harder to get their green card. Or a person applying for a green card who applies for marketplace coverage with financial assistance may also enroll: doing so should not prevent them or their family members from getting a green card or becoming a U.S. citizen later. A draft executive order on public charge, which could make it harder for low-income immigrants who use certain benefits to obtain a green card, was leaked to the media in January 2017 but has not been finalized or signed by President Trump.

People should be careful not to misrepresent themselves or provide false information when completing applications (including renewal applications) for health care programs. This has always been true. Committing benefits fraud can cause problems with benefits agencies and immigration authorities.

Tips for Talking about Immigration Status

Start by telling the consumer that you will keep information private and safe and that people not applying for coverage for themselves do not have to provide information about their immigration or citizenship status.

Use broad questions and share general information about immigrant eligibility to help consumers identify which members of the household may want to apply for insurance.

When asking questions about immigration and citizenship status of applicants, **do not ask if individuals are “undocumented,” “not legally in the U.S.,” or “don’t have papers.”**

When completing the application, **use words like “eligible immigrant,” “eligible immigration status,” or “ineligible,”** and provide relevant lists of statuses to help individuals understand how to answer the question.

EXAMPLES:

“We keep your information private and safe. The application asks for some information about everyone in your family, but only people seeking coverage for themselves have to answer questions about immigration or citizenship.”

“The marketplace provides coverage to citizens and noncitizens who are lawfully present. Here’s a list of immigration statuses considered lawfully present.”

Deferred Action for Childhood Arrivals (DACA)

On September 5, 2017, the Trump administration announced that it was ending the Deferred Action for Childhood Arrivals (DACA) program. U.S. Citizenship and Immigration Services is not accepting new DACA applications. However, health care coverage assisters may continue to see or hear from people with DACA because **their protected status and employment authorization will remain in effect until their current documents expire.**

- DACA recipients are **not eligible to obtain health insurance or subsidies through the health insurance marketplaces.**
- DACA recipients who have **health coverage through their employer** should remain covered as long as they are employed.
- DACA recipients **can buy private health coverage directly from insurance companies and brokers**, regardless of their immigration status. However, no ACA-related financial assistance is available to them, and they may purchase coverage only during open enrollment or a special enrollment period.
- In certain states that cover children or people who are **permanently residing in the U.S. under color of law (PRUCOL)**, DACA recipients can keep or enroll in state-funded health coverage programs. See NILC’s “Medical Assistance

Programs for Immigrants in Various States,” www.nilc.org/medical-assistance-various-states/, for information about state health care coverage for immigrants.

For more information on DACA recipients and health care coverage, see the health care section of NILC’s “Frequently Asked Questions on DACA Termination,” www.nilc.org/daca-termination-faq/#healthcare.

MORE RESOURCES

From National Immigration Law Center

Know Your Rights: Is it Safe to Apply for Health Insurance or Seek Health Care?

English: www.nilc.org/health-insurance-and-care-rights/

Spanish: www.nilc.org/derechos-seguro-y-cuidado-de-salud/

Trump’s Executive Orders and Immigrants’ Access to Health, Food and Other Public Programs: Things to Keep in Mind When Talking with Immigrants

www.nilc.org/exec-orders-and-access-to-public-programs/

Federal Guidance About Public Charge: When Is It Safe to Use Benefits?

www.nilc.org/wp-content/uploads/2015/12/public-charge-nat-2014-08-08.pdf

Health Care Providers and Immigration Enforcement: Know Your Rights, Know Your Patients’ Rights

www.nilc.org/healthcare-provider-and-patients-rights-imm-enf/

Frequently Asked Questions: The Affordable Care Act & Mixed-Status Families

www.nilc.org/aca_mixedstatusfams/

“Lawfully Present” Individuals Eligible under the Affordable Care Act

www.nilc.org/lawfullypresent/

Medical Assistance Programs for Immigrants in Various States

www.nilc.org/medical-assistance-various-states/

From Health Reform: Beyond the Basics (Center on Budget and Policy Priorities)

Key Facts: Helping Families That Include Immigrants Apply for Health Coverage

www.healthreformbeyondthebasics.org/key-facts-application-process-families-that-include-immigrants/

Webinar: Immigrant Eligibility for Health Coverage Programs

www.healthreformbeyondthebasics.org/cbpp-webinar-oe5-immigrant-eligibility-for-coverage-programs/