



Analysis of Health and Benefit Provisions in the U.S. Citizenship Act

On February 18, 2021, Sen. Bob Menendez and Rep. Linda Sanchez introduced the U.S. Citizenship Act. This bill would make a number of changes to immigration policy, including the creation of a long-needed pathway to U.S. citizenship for many of the 11 million undocumented people in the United States. There is much to applaud in the bill. However, in the midst of a pandemic that has disproportionately harmed immigrants, the bill would exacerbate barriers to health and economic support for immigrants while doing little to address existing restrictions. Excluding immigrants from health care and support during a global pandemic will hinder the nation's ability to recover from the public health and economic crisis and to ensure a strong and healthy future.

Summary of Provisions Affecting Immigrant Access to Health and Benefits

Section numbers indicate new amendments to the Immigration and Nationality Act.

Sec. 1101 creating Sec. 245B(e). Creates a new lawful prospective immigrant (LPI) status. People with LPI status would be considered lawfully present for all purposes except eligibility for subsidies under the Affordable Care Act (ACA). They would be able to enroll in qualified health plans in the ACA health care marketplace at full cost.

People with LPI status would not be considered “qualified” immigrants and, therefore, would be ineligible for Medicaid or the Children’s Health Insurance

Program (CHIP), with the exception of children and pregnant persons in states that have [elected to cover lawfully residing individuals in those categories](#).¹ In the two states with Basic Health Plans (BHP) – New York and Minnesota – LPIs would be eligible for BHP coverage.

Under this section, people with LPI status also would be ineligible for the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), and many other federal public benefit programs.

Sec. 1103 creating Sec. 245D(e). Rescinds a 2012 U.S. Department of Health and Human Services regulation that excludes Deferred Action for Childhood Arrivals (DACA) recipients from the definition of lawfully present immigrants for purposes of ACA eligibility. DACA recipients would be able to receive subsidized coverage under the ACA, and DACA recipients who are pregnant or children could receive Medicaid or CHIP in states that have elected to cover lawfully residing children or pregnant women. The bill would eliminate the five-year waiting period for Medicaid and CHIP for DACA recipients who have adjusted to lawful permanent resident (LPR) status.

Sec. 1201 amending Sec. 214(q)(1)(C). Bars the newly expanded category of V-visa holders from eligibility for ACA subsidies, Medicaid, CHIP, SNAP, TANF, and Supplemental Security Income (SSI). The bill offers access to nonimmigrant V status and employment authorization for individuals with approved visa petitions who are awaiting the availability of a family preference visa or who are the spouse or child of a person granted LPI status. Although these individuals would be considered lawfully present in the U.S., they would be denied access to ACA subsidies and would not be eligible for the programs listed above or for most other federal public benefits.

Analysis

This bill represents, in other respects, important progress over previous immigration reform proposals. However, despite immigrants' terror of using health care during the past four years – and a year of significant barriers to obtaining COVID testing, treatment, and, more recently, vaccinations – the legislation continues many of the same harmful policies that the National Immigration Law Center and its partners opposed in previous proposals.

The [Biden-Sanders unity task force was committed](#) to “work with Congress to lift the five-year waiting period for low-income lawfully present immigrants for Medicaid and Children’s Health Insurance Program eligibility.”² Yet this bill does not address the eligibility restrictions that lead to significant uninsured rates among immigrants. It maintains the



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existing Medicaid, CHIP, and SNAP eligibility restrictions imposed by the 1996 welfare law, including distinctions between “qualified” and “not qualified” immigrants and the five-year waiting period in some programs for most qualified immigrants. For more details on the existing rules, see NILC’s [table on immigrant eligibility for federal programs](#).³

While the bill would eliminate arbitrary barriers to health coverage for DACA recipients, millions of others will need to wait at least five years before becoming eligible for ACA subsidies and eight to ten years or longer before adults would be eligible for Medicaid and SNAP. This delay can mean life or death for low-wage workers, who pay taxes yet are unable to access the services financed by their tax dollars. This bill adds new complexity to an already deeply complicated and confusing system of benefits eligibility for immigrants, which deters many from seeking coverage.

Congress must not create new barriers to immigrant health and economic support. By denying ACA tax credits to lawfully present individuals, the bill undermines the ACA’s goals. Instead, legislation should address current barriers – for example, by including the [HEAL Act](#)’s provisions.⁴ To recover from the pandemic and to protect individual and public health, all community members will need care and support. Like everyone else, immigrants need access to health care and economic relief during the global pandemic to be able to shelter in place if they get sick or to take care of their family members who fall ill. For the nation to recover from the COVID-19 public health and economic crisis, everyone residing in the U.S. needs to be included in relief measures and have access to testing and health care.

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Notes

¹ <https://www.nilc.org/issues/health-care/healthcoveragemaps/>.

² <https://joebiden.com/wp-content/uploads/2020/08/UNITY-TASK-FORCE-RECOMMENDATIONS.pdf>.

³ https://www.nilc.org/wp-content/uploads/2015/11/tbl1_ovrvw-fed-pgms.pdf.

⁴ <https://www.napawf.org/heal>.