

## Health Reform Legislation and Immigration

By James R. Edwards, Jr.

Immigration will affect and be affected by the health reform legislation being crafted in the U.S. House and Senate. There are around 12 million uninsured immigrants. Their presence means every provision designed to extend health coverage to those without insurance will potentially expand taxpayers' costs by billions of dollars. Many immigrant households have children who are automatically eligible for government health care, even if their parents are here illegally.

Bear in mind, Government agencies and nonprofits often look only at income levels and similar qualifiers when enrolling new beneficiaries in public programs like Medicaid and SCHIP. They often overlook immigration status, even though that could disqualify someone from program participation.

Health reform legislation, particularly H.R. 3200, contains a number of provisions that open the door to taxpayer funding of immigrants' health care. That's for illegal aliens, legal aliens who are supposed to rely on their sponsor for financial assistance their first five years here, and certain immigrants who sponsor other immigrants.

In brief:

- Despite nominally barring illegal immigrants from receiving a health-insurance subsidy, an amendment to require that applicants be screened for eligibility — as are all other welfare recipients — was rejected on a party-line vote.
- Even legal immigrants whose sponsors are supposed to provide them financial support would be eligible for taxpayer-funded subsidies.
- Certain legal immigrants who qualify for premium subsidies or expanded Medicaid would *also* be able to sponsor new immigrants, whom they would have to pledge to support.
- Illegal immigrants would be exempt from the legal mandate to have health insurance, but they'd still receive taxpayer-funded medical services at health clinics and hospitals required to serve all those presenting with medical emergencies.

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## Taxpayer-Funded Premium Subsidy

H.R. 3200's Title II of Division A relates to coverage. It creates a government agency to regulate health insurance. Individuals and employers will have to go through its "exchange" arm for government-approved health insurance, it will run the "public option," and it will operate a graduated subsidy program.

Section 242(a) defines who's eligible and for how many credits to receive a premium subsidy. The bill apparently qualifies all lawful permanent residents, regardless of their sponsor's pledged responsibility or the required five-year bar from most means-tested programs. Sec. 242(d) excludes receipt of these payments from counting as welfare. Taxpayers will subsidize households earning up to 400 percent of the poverty level.

Thus, Section 242 generously subsidizes the foreign-born well into the middle class (up to about \$88,000 a year income for a family of four). The money doesn't count as welfare payment, which might potentially risk deportation as a public charge or jeopardize one's ability to sponsor other immigrants. And the credits are available to sponsored legal immigrants and foreign-born sponsors themselves. The Senate Finance Committee's health-care reform outline indicates that the bill will subsidize insurance costs for people earning up to three times the poverty income level.

The public charge doctrine is a longstanding U.S. policy dating to colonial times. It's supposed to protect the country from importing people who would become a burden on society. Would-be immigrants are denied visas on public charge grounds, but very few immigrants are deported for this reason any more. The 1996 welfare and immigration reforms strengthened public charge doctrine. Immigrant sponsors must now sign a legally enforceable affidavit of support. They must earn at least 125 percent of the poverty level. And their household income is deemed available to the immigrant applying for federal means-tested programs.

Because H.R. 3200's provisions suspend welfare reform's requirements, they weaken public charge doctrine. It creates a situation where sponsors of immigrants and the immigrants themselves can collect taxpayer dollars for health coverage, when immigration policy would require that they be self-reliant.

Section 246 states illegal aliens are excluded from receiving federal payments under the Affordable Credits subsidy. But there's nothing requiring screening of affordable credit recipients, such as through the SAVE system. Rep. Dean Heller (R-Nev.) offered an amendment in the Ways and Means Committee to correct that, but it was defeated along party lines. Senate legislation omits the same eligibility verification requirements that would ensure only lawful immigrants and U.S. citizens benefit under these programs.

## Medicaid and SCHIP

Title VII under Division B of H.R. 3200 expands Medicaid eligibility to those earning one-third above the official poverty level. Thus, the minimum income required of immigrant sponsors, at 125 percent, will fall below the sponsors' eligibility for taxpayer-funded health care for the poor, at 133 percent. The HELP bill (from the Senate Health, Education, Labor, and Pension Committee) expands Medicaid eligibility to 50 percent above the official poverty rate. That leaves an even larger gap, enabling immigrant sponsors poor enough to be on Medicaid to still bring in — with a promise to support — additional immigrants from abroad. Again, this aspect of the legislation undermines public charge doctrine.

Section 1702 of H.R. 3200 explicitly prohibits states, which administer Medicaid and SCHIP, from making further determinations about new enrollees' Medicaid eligibility. One such provision requires states to presume someone's eligibility. In other words, these provisions amount to "enroll first, don't ask questions later."

In the Energy and Commerce Committee markup, Rep. Nathan Deal (R-Ga.) offered an amendment to correct this. The Deal amendment would require a check of the eligibility, on immigration and citizenship status, of those being signed up for Medicaid. It would apply the same verification standards and use the existing verification system that's in the Medicaid statute. This taxpayer protection lost on a largely party-line vote by a single vote. Senate legislation similarly omits any eligibility verification requirements.

### Mandate Exemption

The Senate Finance Committee outline, like the HELP and House bills, mandates that individuals must carry health insurance or face a fine. The Finance outline says illegal aliens will be exempt from the individual mandate. This means Americans and legal immigrants must have health coverage or else pay a fine. But illegal aliens escape both the mandate and any fine for being uninsured. It appears that illegal aliens would be free riders, of sorts. They'd still receive taxpayer-funded medical services at health clinics and hospitals required to serve all those presenting with medical emergencies. Yet illegal aliens would be free from any responsibility or sanction that other people would bear.

Essentially, these bills expand government health coverage and taxpayer-funded subsidies for government-controlled private insurance and the public option. They make it easy to enroll new people in government-run health programs with what amounts to built-in willful ignorance about characteristics that would exclude them from qualifying, such as being here on temporary visas, still being under sponsorship, or being an illegal alien. And the bills make no provision at all for ensuring that only lawful U.S. residents and U.S. citizens benefit from these trillion-dollar health programs.

In short, the health reform plans on the table will create new incentives for illegal immigration. They'll reward illegal aliens by giving them health care at no expense to them. And they'll further weaken the important public charge doctrine that long served our national immigration policy so well.