

KNOW YOUR RIGHTS

Is it safe to apply for health insurance or seek health care?

NOVEMBER 2016

Since the 2016 presidential election, questions have arisen about whether it is safe for families to apply for health coverage through the Affordable Care Act (ACA) Marketplaces, Medicaid, and CHIP (**Children’s Health Insurance Program**) if they include members who are not authorized to be in the U.S. Some individuals and families have even decided not to seek health care because they fear that their immigration status might be discovered or shared with immigration enforcement agents. This factsheet provides information that all families should have when they apply for and enroll in health insurance programs or seek health care services.

■ **The Affordable Care Act is still the law, and you should apply for health insurance if you are eligible.**

The ACA (or “**Obamacare**”) remains the law of the land, and the Department of Health and Human Services (HHS) expects that people who enroll in or renew their coverage during this **year’s open enrollment period (Nov. 1, 2016, through Jan. 31, 2017)** will be able to keep their coverage through 2017. Approximately 85 percent of people who are eligible to buy health coverage through the ACA Marketplaces are also eligible for federal subsidies to help pay for it, and 70 percent can find quality coverage for under \$75 per month. Immigrant families may continue to apply for or renew coverage for family members who are eligible.

■ **Strong privacy rules protect families applying for health insurance, including families whose members have different immigration statuses.**

Any information provided in the process of applying for Medicaid, CHIP, or a Marketplace plan may be used only to determine the **individual’s eligibility** for the program—not for immigration enforcement purposes.¹ Government workers, application assisters, and people who help with the insurance applications are required by law to keep information private and secure.

■ **Do not provide your immigration status if you are not applying for insurance for yourself.**

By law, applications for Medicaid, CHIP, and insurance bought through the Marketplace require citizenship or immigration status information *only* from people who are applying for coverage for themselves. The applications may not ask for citizenship or immigration status information about other people who are part of the household or about people who are applying

¹ See **Affordable Care Act Section 1411(g)** and the **Dept. of Homeland Security’s** *Clarification of Existing Practices Related to Certain Health Care Information*, available in English at www.ice.gov/doclib/ero-outreach/pdf/ice-aca-memo.pdf and in Spanish at www.ice.gov/espanol/factsheets/aca-memoSP.

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on behalf of eligible family members but not for coverage for themselves. If you are undocumented, you should not provide any information about your immigration status. Instead you may say, *“I am not applying for health insurance for myself.”*

■ **If you don’t have a Social Security number (SSN), you don’t have to provide one.**

Whether you are applying for health insurance for yourself or on behalf of eligible family members, your health insurance application may not **be delayed or denied because you don’t** have an SSN. Only people who have a valid SSN are required to provide one.

■ **Everyone has a right to an interpreter when applying for health insurance or seeking health care, at no cost.**

Regardless of your immigration status, you have a right to an interpreter at no cost, whether you are applying for Medicaid, CHIP, or a Marketplace insurance plan, or are seeking care at a hospital or community health center. Children should not be asked to translate for their parents or other adults, especially in a health care setting. Hospitals and community health centers may use bilingual staff, telephone interpretation services, or qualified in-person interpreters to provide language assistance services for patients.

■ **If you are uninsured, you have certain health care options, regardless of your immigration status.**

The following health care programs and services are available for undocumented immigrants, people with Deferred Action for Childhood Arrivals (DACA), and other uninsured people in all states:

- emergency-room care
- community health centers, migrant health centers, and free clinics
 - To find a health center, go to <https://findahealthcenter.hrsa.gov>.
 - To find a free or charitable clinic, go to www.nafcclinics.org/find-clinic.
- public and safety-net hospitals
- public health services (immunizations, mental health, screening and treatment for communicable diseases such as tuberculosis, HIV, sexually transmitted infections)
- programs providing health services necessary to protect life or safety: emergency medical, food or shelter, mental health crisis, domestic violence, crime victim assistance, disaster relief
- treatment **for an emergency medical condition under “emergency Medicaid,” including** labor and delivery for pregnancy
- financial assistance or **“charity care” programs at community health centers and most** hospitals

More options may be available in your state; check with a trusted local health care provider or with an **immigrants’ rights or health advocacy group**. Note that currently five states and the District of Columbia provide state-funded Medicaid or CHIP coverage to children and youth regardless of immigration status (the states are California, Illinois, Massachusetts, New York, Washington); and sixteen states and the District of Columbia provide pregnancy-related services to pregnant women regardless of immigration status. More information is available at www.nilc.org/healthcoveragemaps/ and www.nilc.org/medical-assistance-various-states/.

■ Health care providers should not ask for immigration status information.

Under federal law, hospitals with emergency rooms must screen and treat people who need emergency medical services regardless of whether they have insurance, how much money they have, or their immigration status. Similarly, anyone can seek primary and preventive health care at community health centers regardless of whether they are insured, their ability to pay, or their immigration status.

Neither citizenship, lawful immigration status, nor a Social Security number are required to receive health care services under federal law. Doctors, hospitals, clinics, health centers, or other medical providers may ask for this information to find out if you may be eligible for public health insurance, like Medicaid, and how you are going to pay for services. But they should not deny medical treatment based solely on your immigration status—or based on assumptions about your immigration status they make because of the language you speak, your accent, what you look like, or whether you have an SSN. In fact, doing so may violate federal civil rights laws.

Even though health care workers have no duty to report your immigration status to law enforcement or federal immigration officials, if you are undocumented you should not provide your immigration status information to workers at a hospital, **health center, or doctor's office**. If **you don't have health insurance, you may say, "I am not eligible for health insurance and do not want to apply."**

■ Existing policy keeps immigration officials away from hospitals and medical facilities.

The current and longstanding policy of immigration enforcement officials at U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) is **to avoid hospitals, doctors' offices, accredited health clinics, and emergent or urgent care facilities**. (More information about this policy is available at www.dhs.gov/news/2016/07/15/fact-sheet-frequently-asked-questions-existing-guidance-enforcement-actions-or.)

While this policy is currently in force, it could change under a future presidential administration.

■ You should not have to show a photo ID to receive medical treatment.

Hospitals or doctors may ask for photo identification, but not for purposes of immigration enforcement. Photo ID may be needed to show that the person getting care is the person whose name is on the medical record or on the prescription. No one should be refused treatment because they do not have a photo ID.

IMPORTANT RESOURCES

- Suicide Prevention Lifeline (English & Spanish; interpretation available in other languages) — 1-800-273-TALK (8255), www.suicidepreventionlifeline.org
- Mental Health and Substance Abuse National Helpline (English & Spanish) — 1-800-662-HELP (4357), www.samhsa.gov/find-help/national-helpline
- Behavioral Health Treatment Services Locator — <https://findtreatment.samhsa.gov/>
- Know Your Rights: *Everyone Has Certain Basic Rights, No Matter Who Is President* — www.nilc.org/everyone-has-certain-basic-rights/
- If you have DACA: FAQs and know-your-rights resources — www.nilc.org/daca/