

Submitted via www.regulations.gov

June 23, 2023

Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health & Human Services
7500 Security Boulevard
Baltimore, MD 21244-1850

RE: CMS-9894-P: Clarifying Eligibility for a Qualified Health Plan Through an Exchange, Advance Payments of the Premium Tax Credit, Cost-Sharing Reductions, a Basic Health Program, and for Some Medicaid and Children's Health Insurance Programs

Administrator Brooks LaSure:

The Colorado Center on Law and Policy (CCLP) strongly supports the proposal by the Centers for Medicare and Medicaid Services (CMS) to end the exclusion of DACA recipients from eligibility for affordable health coverage through the federal and state exchanges, Medicaid and CHIP. We also support the reduction of certain hurdles to coverage for other eligible non-citizens.

CCLP is a state-based anti-poverty organization that uses research, legislation and legal advocacy to ensure that all Coloradans should have what they need to succeed. We recognize that having access to health coverage and services is an essential first step to physical, behavioral and economic well-being.

1. Policy considerations around health coverage for DACA recipients

Immigrants comprise approximately 10 percent of Colorado's population and 14,520 active DACA recipients lived in Colorado as of 2020. DACA recipients and DACA-eligible recipients are an important part of Colorado's economy, contributing \$31.5 million in state and local taxes in 2018 alone.¹ People who are uninsured are less likely to access preventive care, more likely to defer needed services due to cost, and are significantly more likely to struggle to pay medical bills.² From an economic perspective – for communities, individuals, and the state economy – there are clear benefits to

¹ Immigrants in Colorado. American Immigration Council, 2020.

https://www.americanimmigrationcouncil.org/sites/default/files/research/immigrants_in_colorado.pdf

² Jennifer Tolbert, Patrick Drake, Anthony Damico. Key Facts About the Uninsured Population, Kaiser Family Foundation, Dec. 19, 2022. Available at: <https://www.kff.org/uninsured/issue-brief/key-facts-about-the-uninsured-population/>



making sure that this well-employed population can get the care they need without incurring unnecessary debt. The wider population would benefit as well: As we emerge from the COVID-19 pandemic, it has become increasingly clear that ensuring access to care for all Colorado residents is a vital step toward protecting public health.

In recognition of the value of coverage to those barred from affordability programs due to immigration status, Colorado created a program that launched in 2023 and provides state-subsidized commercial coverage to a limited number of immigrants who lack documentation, a group that currently includes DACA recipients. Those approximately 10,000 slots in the OmniSalud program were filled in less than 6 weeks, a clear indication of the pent-up need for coverage and the importance of affordability.³ Many more are still going without.

By bringing DACA recipients – primarily younger, working adults – into the individual market, Colorado should see an improved risk pool and will be able to use its limited state funding to better serve the remaining immigrant populations through the OmniSalud program. Our state exchange, Connect for Health, has consistently demonstrated the ability to adjust to eligibility changes and we are confident that they can comply with the proposed effective date for the rule.

Providing access to Medicaid and CHIP will allow DACA recipients additional health benefits and is also likely to have positive ripple effects. Based on our experience with Medicaid expansion to adults in Colorado, we know that parents who enroll also bring their children into coverage, and we anticipate the same boost in coverage for the children of DACA recipients.⁴ The robust benefits afforded children through Medicaid have well-documented and long-lasting positive effects.⁵

2. Consistency of the definition of lawful presence for the purposes of health affordability programs and elimination of administrative burdens

We strongly support the proposal to eliminate limitations pertaining to DACA and other groups when those limitations have no clear purpose. Distinctions in existing HHS definitions among groups that are granted deferred action are one such limitation. Ensuring that DACA is classified as “lawfully present” and “lawfully residing” for the purposes of Medicaid, CHIP, and the marketplace will appropriately align eligibility standards for all people granted “deferred action.”

We also support elimination of hurdles for several other groups of immigrants, including young adults granted Special Immigrant Juvenile Status (SIJS) and children who have filed for status under the Convention against Torture. We appreciate the

³ OmniSalud Health Insurance for Undocumented Coloradans Enrollment Succeeds; More Investment Needed. Colorado Consumer Health Initiative. Dec. 15, 2022. <https://cohealthinitiative.org/media-releases/omnisalud-release/>

⁴ An Analysis of Enrollment, Costs and Benefits – and How They Exceeded Expectations. Colorado Health Institute, May 15, 2016. <https://www.coloradohealthinstitute.org/research/medicaid-expansion-colorado>

⁵ Michel Boudreaux, Ezra Golberstein, Donna McAlpine. The Long-Term Impacts of Medicaid Exposure in Early Childhood; Evidence from the Program’s Origin. *J Health Econ.*, Jan 2016.



attention to reducing these administrative burdens – waiting periods or unnecessary documentation – which prevent timely enrollment, and can deter people from accessing the programs meant to serve them and reduce faith in effective government.

Thank you for the opportunity to comment.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Bethany Pray', is positioned above the typed name.

Bethany Pray
Legal Director
Colorado Center on Law and Policy