



Undocumented Patients

UNDOCUMENTED IMMIGRANTS & ACCESS TO HEALTH CARE

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Amid growing bipartisan and public support for comprehensive immigration reform, there is a need and an opportunity to understand how immigration reform will meet health care reform during the implementation of the Affordable Care Act. If as a nation we are beginning to think about offering 11 million undocumented immigrants legal status and a path to citizenship, how should undocumented immigrants, new immigrants, and future immigrants be integrated into our health care system at a time of change? Lack of progress on immigration reform has placed financial pressures on safety-net health care organizations and created ethical challenges for health care professionals seeking to provide good care to their undocumented patients: how should we act now to prevent these problems going forward?

Beginning in June 2011, investigators at The Hastings Center, an independent, nonpartisan, and non-profit bioethics research institute, have explored ethical, legal, and policymaking challenges in access to health care for the nation's undocumented immigrants and their families.

This report summarizes key project findings for stakeholders, including health care professionals, health policymakers, immigrants' rights organizations, grant makers, and journalists. For information about the Undocumented Patients project and its publications, see page 4.

Health Care Access

Undocumented immigrants are currently ineligible for the major federally funded public insurance programs: Medicaid, Medicare, and the Child Health Insurance Program (CHIP) because they are not "lawfully present" in the U.S., as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Some states (notably New York) have granted limited exemptions allowing some undocumented immigrants to enroll in Medicaid or CHIP. Undocumented immigrants were excluded from the insurance provisions of the ACA. Permanent legal immigrants have to wait five years to become eligible for Medicaid and the ACA.

The publicly funded safety-net provides some access to health care for undocumented immigrants, through state-level Emergency Medicaid

Key Facts

- An estimated 11.2 million undocumented immigrants live in the U.S. Most are economic migrants concentrated near labor markets. Typical jobs include food production, construction, maintenance, and other unskilled, physically demanding, low-wage jobs.
- An estimated 4 million U.S.-born "citizen children" have undocumented parents. Most undocumented immigrants live in "mixed-status" families.
- Due to increased border security and the economic downturn in the U.S., undocumented immigration has greatly decreased since 2006 (to net zero from Mexico).
- California, Texas, Florida, New York, and Illinois are home to 55.5% of undocumented immigrants living in the U.S., with growing communities in many other states.

to cover hospitalization for emergency medical treatment and Federally Qualified Health Centers for primary care. Access to medically appropriate diagnostics, treatment, and care beyond the scope of these emergency treatment and primary care provisions is severely limited. While health care professionals may resort to using emergency treatment provisions to help patients manage health problems, this is recognized as an expensive and medically problematic way to treat chronic disease.

Young undocumented immigrants (the “dreamers”) eligible for work permits under the Deferred Action on Childhood Arrivals (DACA) program are currently excluded from Medicaid and CHIP and from ACA insurance benefits.

Health Consequences of Undocumented Status

Eighty percent of undocumented immigrants in the U.S. are Hispanic. The Department of Health and Human Services (HHS) reported in 2012 that Hispanics are more likely to be uninsured, more likely to have chronic diseases, and less likely to receive preventive care, compared with the general population. Efforts to improve the health of the U.S. Hispanic population are likely to be stymied if undocumented immigrants are unable or reluctant to be included in these initiatives.

Citizen children of undocumented parents lag both in health insurance enrollment and in access to health care despite their eligibility for CHIP. Public health research suggests that anti-immigrant policies (such as Arizona S.B. 1070) have developmental consequences for children with undocumented parents. Even when these policies do not explicitly restrict access to health care, undocumented parents may be reluctant to participate in preventive-health and other activities in which their status could be revealed or questioned. Similar findings have been reported in education research.

Immigration Reform, Health insurance, and the Safety-Net

Undocumented immigrants are likely to continue to rely on safety-net health care for years to come. Immigration reform proposals currently under discussion describe numerous steps that undocumented immigrants will need to complete to gain provisional legal status. As outlined in these proposals, undocumented immigrants with provisional legal status will continue to be ineligible for federal benefits such as Medicaid and Medicare. Their applications for permanent legal residence will be processed only after green card applications from legally present immigrants have been reviewed; as noted, permanent legal residents currently must wait five years before enrolling in Medicaid.

It is as yet unclear whether immigration reform will expand access to ACA provisions for new immigrants or if the shorter path to citizenship for young undocumented immigrants proposed in the Senate plan will expand access to health care for this group. Because most undocumented immigrants are low-income workers, Medicaid may be their most likely future source of health insurance. Greater economic opportunities resulting from legal status, including better jobs and access to credit, may eventually make affordable private health insurance more available to them.

Undocumented Immigrants and the Ethics of Access: Fairness, Prudence, Beneficence

The “dirty” jobs that undocumented immigrants and other unskilled immigrants often fill

It is time for fresh thinking about the cost of excluding undocumented immigrants and other low-income recent immigrants from public benefit programs. Progress on population health will be hampered if undocumented immigrants are left out of health care reform.

are part of the economy of developed nations. Fairness would seem to require that undocumented immigrants “go to the end of the line,” behind current applicants for permanent residency. However, there has been no real queue for unskilled workers from Mexico and other developing countries to join to fill a range of available jobs in the U.S. The route to these jobs has instead involved unauthorized entry and tacit acceptance of this status quo. As immigration reform attempts to fix this problem, fairness also requires attention to the health, welfare, and safety of all members of our society as equal persons and social citizens. One low-income population’s access to medically appropriate health care should not wait on the resolution of the immigration backlog.

To do so is prudent as well as fair. As a society, we aim to make progress on health and health care for all. Leaving the undocumented behind now, while health care reform is being implemented, may increase the suffering of the sick, undermine the health-related rights of citizen children whose access to health care depends on their parents, and work against the goals of reducing health disparities affecting vulnerable populations. Thinking about how to integrate undocumented immigrants and other new immigrants into our comprehensive efforts to improve our health care system is a challenging problem. It requires fresh thinking about the cost of providing health insurance to 11 million undocumented immigrants and also to legal residents currently excluded, and to the cost of exclusion.

Health care professionals seek to do good (beneficence) and be effective advocates for their patients. As long as a large group of low-income patients is excluded from health insurance coverage and from public programs that cover dialysis, hospice care, and other services, this situation will continue to create disproportionate dilemmas and economic burdens for safety-net providers in communities and states where undocumented immigrants find work. Tackling the problem of access to health care as part of immigration reform is good for the nation’s health care workforce and for the integrity of our safety-net.

Undocumented immigrants and their families need health care, now and in the years ahead. Immigration reform and health care reform are related challenges for our society.

Recommendations for integrating access to health care into immigration reform

- Policymakers and other stakeholders in immigration reform should explicitly address access to health care for low-income immigrants, who may include undocumented immigrants, guest workers, permanent legal residents, refugees, and newly naturalized citizens, in the details of reform proposals. The health and health care needs of future citizens should be on the table at all levels of policymaking, with attention to the costs of inclusion and of exclusion. At a time of reform in immigration and health care, it is prudent to assess whether existing barriers to health care (such as waiting periods for Medicaid enrollment within the larger immigrant population) are appropriate, or are unduly burdensome to safety-net providers and to persons in need of medical treatment.
- The HHS Secretary should direct safety-net funding to states with large informal labor markets, where undocumented immigrants and other low-income immigrants are likely to live and seek health care, to mitigate known uncompensated-care problems.
- State policymakers should, similarly, support safety-net funding for organizations serving undocumented immigrants, other low-income immigrants, and mixed-status families.
- Health policy analysts should study and share findings on local-level innovations, such as union-sponsored low-cost health insurance, aimed at improving the health, welfare, and safety of undocumented immigrants and their integration into mainstream society.

This report is a publication of the Undocumented Patients project at The Hastings Center. The project is codirected by Nancy Berlinger and Michael K. Gusmano, who are the authors of this report.

Website

The project's website (www.undocumentedpatients.org) was designed by Jacob Moses. It features an interactive database of literature on undocumented immigrants and access to health care.

Project publications include:

Issue briefs written by Michael K. Gusmano and edited by Nancy Berlinger, available at:

<http://www.undocumentedpatients.org/issuebrief/>

- "Undocumented Immigrants in the United States: Demographics and Socioeconomic Status"
- "Undocumented Immigrants in the United States: U.S. Health Policy and Access to Care"
- "Undocumented Immigrants in the United States: Use of Health Care"

Commentaries, available at: <http://www.undocumentedpatients.org/commentary/>

- Berlinger, Nancy, and Rajeev Raghavan, M.D., "The Ethics of Advocacy for Undocumented Patients," *Hastings Center Report*, 43, no.1 (2013): 14-17
- Gusmano, Michael K., "Access to Health Care for Undocumented Immigrants as a Family Health Issue," October 10, 2012
- Maldonado, Maria, M.D., "The Intersection of Medical Education and Healthcare Access for Undocumented Immigrants," October 16, 2012
- Marks, Jonathan H., J.D., "The Undocumented Unwell," *Hastings Center Report* 43, no. 1 (2013): 10-11
- Tunzi, Marc, M.D., "Health Reform and Access for Undocumented Patients: Pressure on the Safety-Net," December 27, 2012

Selected other publications:

- Berlinger, Nancy, and Michael K. Gusmano, "Immigrant Health Care," *New York Times*, August 6, 2012 <http://www.nytimes.com/2012/08/07/opinion/immigrant-health-care.html?_r=0>
- Berlinger, Nancy, and Michael K. Gusmano, "Undocumented Immigrants and Access to Health Care," *Encyclopedia of Bioethics*, fourth edition, 2013 (forthcoming)
- Gusmano, Michael K. and Nancy Berlinger, "Undocumented Immigrants and Child Health: What Are the Issues?," *Communities and Banking* (the Journal of the Federal Reserve of Boston) June 2013 (forthcoming)

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