Medicine and Money

Why children's health is threatened by federal immigration policies

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Introduction

In response to the growing problem of children's lack of health insurance, the United States Congress, in 1997, appropriated $24 billion to fund state expansions of children's health insurance under the Children's Health Insurance Program (CHIP).[1] Under this program, states can expand Medicaid coverage, establish a separate health insurance program, or use a combination of both programs for children. Children from immigrant families make up a sizeable portion of those eligible for CHIP and Medicaid because they live in families with lower incomes and are more likely to be uninsured.[2,3] According to the General Accounting Office (GAO), 36% of uninsured children who are eligible for Medicaid are from immigrant families, and most of these children are citizens.[4] Immigrants are frightened that using public health insurance could jeopardize their families' immigration status, and this fear may be a major cause of low enrollment of children from immigrant families in Medicaid and CHIP programs. In this article, we discuss recent government actions and contradictory policies that contribute to these fears and explain a new health policy statement by the government to address these fears.

Summary points

- Citizen children from immigrant families make up a large proportion of those who are eligible for the new publicly funded Children's Health Insurance Program (CHIP).
- Enrollment of immigrants in Medicaid has sharply declined recently, perhaps in part because of their fears that use of publicly funded health insurance could jeopardize their families' immigration status.
- Immigrants' fears may be exacerbated by the fact that recently several federal and state programs unlawfully demanded repayment of Medicaid benefits by thousands of immigrants who were lawfully entitled to receive them.
- The Immigration and Naturalization Service and the State Department should issue a statement clarifying that use of publicly funded health insurance such as Medicaid and CHIP programs will not harm a family's immigration status.
- The Clinton administration recently issued a statement clarifying that use of publicly funded health insurance such as Medicaid and CHIP programs will no longer harm a family's immigration status. Health care providers can play an important role in disseminating this information.

Recent government actions

The US Immigration and Naturalization Service (INS), the State Department, and several state departments of health recently took illegal actions against immigrants. In 1997 and 1998, various state health departments shared confidential information about immigrants' lawful receipt of Medicaid benefits with the Immigration and Naturalization Service and with State Department officials in embassies and consulates through a federal program called the Public Charge Lookout System.[5] No new laws or regulations were issued to authorize such actions. Furthermore, through 2 Medicaid fraud detection programs, the California State Department of Health shared information about immigrants' use of Medi-Cal (California's Medicaid program) from 1994 to 1999 with the Immigration and Naturalization Service.[6] In thousands of cases, officials from these programs warned immigrants that "public charge" determinations would be made based solely on their receipt of Medicaid unless benefits were repaid.[6]

"Public charge" is a term used by the Immigration and Naturalization Service and State Department when referring to immigrants who are likely to become dependent on government benefits in the future.[7] A public charge determination can bar immigrants from becoming legal permanent residents or from returning to the United States after foreign travel; it can limit the ability of immigrants' relatives to immigrate to the United States; and, under limited circumstances, it can result in deportation. Until recently, it was not clear whether the use of Medicaid or other public health insurance should be taken into account in the determination of public charge.

Reports from a variety of sources, including an investigation by the California state auditor and reports from legal advocacy groups and the media, indicate that unauthorized activities of the Public Charge Lookout System and the Medi-Cal fraud detection programs led to unnecessary hardship for many immigrants.[5,8,9] For example, legal permanent residents who had been out of the country for more than 6 months were told by the Immigration and Naturalization Service or by State Department officials that they could not reenter the US until Medicaid benefits they or their children had legally received were paid back.[5] In other cases, US citizens' applications for sponsorship of family members to immigrate were denied until Medicaid benefits were paid back.[9] The Immigration and Naturalization Service, State Department personnel, and state health department investigators told immigrants that receipt of Medicaid would hinder their efforts to become legal permanent residents or obtain citizenship.[5,6] California's State Department of Health Services also sent out letters to immigrants who had lawfully received Medi-Cal, demanding that they repay benefits.[6]

In December 1997, the Immigration and Naturalization Service and the State Department ordered a halt to efforts to collect reimbursements from immigrants who had lawfully received Medicaid. The Public Charge Lookout System was terminated shortly thereafter.[5] Subsequently, Florida decided to give back approximately $200,000 coerced from immigrants by

immigration judges and US consular officers abroad.[10] In California, it took a class action lawsuit to get the State Department of Health to agree to repay approximately 1500 immigrants the $3 million they had been illegally forced to pay.[6,9] In early 1998, the budget committee of the California legislature recommended that the state remove funding from 2 Department of Health Services programs that contributed to this miscarriage of justice against immigrants. The programs were not dismantled until April 1999, when the California state auditor's investigation reported continued abuses and recommended their closure.

Waiting for a "back to school" giveaway in Los Angeles. Children of immigrants face poverty and lack of health care.

AP Photo/Kevork Djansezian

Restricting public benefits

Other governmental actions, though less extreme, have contributed to fear and confusion regarding eligibility of children from immigrant families for health insurance. In the past 5 years, several laws aiming to restrict public benefits to immigrants were introduced; the most significant of these, the 1996 Welfare Reform Act, introduced a complex set of new rules governing Medicaid eligibility for children from immigrant families (Table 1).[11] Another law, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, together with the Welfare Reform Act, mandates that citizenship and immigration status be verified for receipt of federal public benefits. It also mandates that agencies providing 3 types of benefits (Supplemental Security Income, Temporary Assistance to Needy Families [TANF], and federally subsidized housing) must report illegal immigrants to the INS.[11,12]

In California, where nearly 40% of US immigrants live,[3] their fears about enrolling their children in federally funded health insurance may also be influenced by Proposition 187, even though it was ruled unconstitutional and never implemented. Passed by California voters in 1994, Proposition 187 would have denied publicly funded health care, education, and social services to undocumented immigrants, and it would have required providers of these services to report undocumented immigrants to the INS.

Fears of public charge

No published studies in the medical literature have directly investigated the impact of immigrants' fears of public charge on enrollment in Medicaid, but 2 population-based studies provide indirect evidence.[13] Data from Los Angeles County, where 40% of California's uninsured children live,[14] demonstrated a sizeable reduction in applications for Aid for Families with Dependent Children/TANF and Medi-Cal for children between 1996 and 1998.[13] The number of newly approved citizen children of noncitizen parents for these programs dropped by 48%, compared to a 6% increase in citizen children of citizen parents. Noncitizen adults and children approved for Medi-Cal only (not including AFDC/TANF) dropped by 24%, while citizen approvals fell only 7%. A national study, based on the US Census Bureau's current population survey, showed similar results.[15] Between 1994 and 1997, use of Medicaid among noncitizen households fell more sharply (22%) than among citizen households (7%). These drops in immigrant enrollment did not result directly from the Welfare Reform Act's new eligibility rules, because virtually all states retained the eligibility of current immigrants for Medicaid.[16]

Reports of advocacy organizations

Reports in the media and from legal advocacy groups state that the unlawful attempts by the Immigration and Naturalization Service, the State Department, and state departments of health to make immigrants repay Medicaid benefits have had a chilling effect in immigrant communities.[5,8] Several advocacy organizations reported a recent increase in cases of immigrants who refused to enroll in public benefit programs for fear of jeopardizing their families' immigration status.[5] To investigate this problem, the National Health Law Program, the National Immigration Law Center, and a group of state and local advocacy organizations surveyed provider and advocacy organizations across the country in April 1998.[5] The results indicate that fears have led many immigrants to refuse enrollment in government-sponsored health programs and to forfeit both urgent medical care and preventive care. Hospitals reported difficulties obtaining Medicaid reimbursement for emergency services provided to immigrants because of refusals to apply for Medicaid.

Lack of access to medical care can endanger the health of immigrants and others as well. One study showed that patients who feared immigration consequences from visiting a physician were much more likely to delay seeking care for active tuberculosis.[12] In 3 recent rubella outbreaks in New York and North Carolina, the majority of victims

Table 1 *Summary of Medicaid and CHIP program eligibility for immigrants*

Population	Policy
Citizen children of immigrant parents	Medicaid and CHIP programs: eligible
Immigrants arriving before August 22, 1996	
Legal permanent residents	Medicaid and CHIP programs: state option
Asylees, refugees	Medicaid and CHIP programs: eligible for first 7 years of residency; state option afterward
Immigrants arriving on or after August 22, 1996	
Legal permanent residents	Medicaid and CHIP programs: barred for first 5 years of residency*; state option afterward
Asylees, refugees	Medicaid and CHIP programs: eligible for first 7 years of residency; state option afterward
Undocumented or PRUCOL immigrants**	Medicaid: emergency services only CHIP programs: ineligible

*Some states are using state funds to provide Medicaid during the 5-year ban.
**PRUCOL (persons residing under color or law) refers to immigrants legally residing in the United States who do not fit into other immigrant categories.

were unvaccinated Latino immigrants.[18,19] A major obstacle to controlling these outbreaks was that many Latinos feared the health department because they associated it with the Immigration and Naturalization Service.

Nationally, 31% of uninsured children are eligible for Medicaid but not enrolled.[4] When GAO investigators interviewed experts from several states to determine why so many Medicaid-eligible children were not enrolled, they were told that one potential cause was immigrant parents' fears of being deemed a "public charge."[4] Observations from health officials in several states[8,20] and 2 investigations in California support this hypothesis. The California Child Medi-Cal Enrollment Project concluded that the "public charge issue" among immigrant families was one of the top 2 reasons why 38% of the state's uninsured children are Medicaid-eligible but not enrolled (Takeda J, Director, Child Medi-Cal Enrollment Project, written communication, October 27, 1998). Another study using focus groups with parents of Medi-Cal-eligible uninsured children revealed that most Latino parents believed that they would have to repay Medi-Cal benefits received by their children when applying for citizenship.[21]

Immigrants' concerns about the public charge issue could also deter them from enrollment in the new CHIP programs.[22] Results of an investigation by the Medi-Cal Policy Institute suggest that the sluggish rate of enrollment in California's CHIP program, Healthy Families, may be due in part to reluctance among immigrant parents who fear that their children's use of the programs could cause them to be deemed a public charge.[23] In several other states, concern has been expressed that public charge fears could limit immigrant participation in CHIP and other health programs. A few studies have begun to examine this issue.[24-26]

While the studies described above did not directly measure the relationship between immigrants' fears of public charge and their participation in public health insurance programs, they support the conclusions of numerous legal and health advocacy groups. Many immigrants appear not to be enrolling their children because of fears of jeopardizing their families' immigration status. Additional research is needed to measure the extent of this phenomenon and to examine the health consequences of not enrolling children in these programs.

New federal guidelines on public charge

After a year of sustained pressure from public officials, advocacy groups, medical associations, social service agencies, and concerned individuals[8, 27] (National Health Law Program, letter to DeParle NM, July 22, 1998), on May 25, 1999, the Clinton administration issued a policy statement clarifying that use of publicly funded health insurance will not be considered in public charge determinations.[28, 29] The new guidelines clearly delineate for the first time what kinds of benefits may and may not be considered in making a public charge determination. According to this document, public charge determinations will include consideration of 1) receipt of public cash assistance for income maintenance purposes or 2) institutionalization for long-term care at government expense. Benefits that will not be considered in public charge determinations include Medicaid, CHIP programs, nutritional programs, and a variety of other public benefits.

Potential benefits

This long-awaited policy statement is of great potential benefit to uninsured immigrants and their children. Given the government's record of recent abuses described above, however, careful surveillance for improper implementation by overzealous officials is warranted. To allay widespread fears among immigrants regarding use of public health insurance, the new federal guidelines must be unequivocally communicated to all employees of the Immigration and Naturalization Service and the State Department and enforced accordingly. The guidelines also must be publicized widely in immigrant communities. Latino communities should especially be targeted, because over 70% of uninsured Medicaid-eligible children in immigrant families are Latino. By explaining the new federal guidelines to their immigrant patients, healthcare providers and other staff can help to reduce unnecessary fears. Questions on applications to adjust legal status (applications for legal permanent resident status, citi-

zenship, or sponsorship of a relative) should be reframed to ask only about the cash assistance or long-term care programs specified in the new federal guidelines. Currently, applications ask immigrants if they have received any public assistance except emergency Medicaid. Such an open-ended question is likely to cause confusion and increase fears, because immigrants may think that even programs such as the Special Supplemental Nutrition Program for Women, Infants, and Children and school lunch are included.

Over 10 million children in the United States have no health insurance.[2] Unfortunately, contradictory government policies have hindered efforts to address this serious problem. The recent federal guidelines on public charge should begin to remedy this situation; disseminating this information to immigrants who have grown distrustful of government policies will, nevertheless, be challenging. Now that the government has clarified that use of public health insurance will not harm families' immigration status, healthcare providers can assist by explaining this to their patients. Perhaps now Medicaid and the Children's Health Insurance Program can approach their intended goals of providing a needy and eligible population with meaningful access to health care.

Acknowledgments: We are grateful for helpful comments from Paula Braveman, Joshua Fenton, Claudia Schlosberg, Yolanda Vera, Wendy Zimmermann, Tanya Broder, and Cecilia Munoz.

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capsule

Smoking in pregnancy can make sons violent A well-crafted Danish study in Archives of General Psychiatry adds to the growing body of evidence linking maternal smoking in pregnancy with antisocial behavior in the offspring (1999; 56:223-224). Data from a cohort of over 4000 men and their mothers show a clear dose-response relation between the number of cigarettes smoked by mothers in pregnancy and their sons' risk of arrest for both violent and nonviolent crime. Mothers who smoked more than 20 cigarettes a day in late pregnancy doubled their sons' risk of arrest for violent crime compared with nonsmoking mothers. Another good reason for young women to quit.

capsule

Pain relief a must for circumcision "No more studies, just do it," goes the subtitle of an Op-Ed urging physicians in the US to give analgesia to newborns during routine circumcision. (Archives of Pediatrics and Adolescent Medicine 1999; 153:444-445). The two authors describe circumcision without pain relief as unconscionable, and blame inadequate training, ignorance of the evidence and a lack of interest for the persisting practice. Nothing will change, they say, until leading medical societies demand their physicians wake up and learn to do dorsal penile nerve blocks.