

Statement of the National Immigration Law Center

House Committee on Oversight and Accountability, Subcommittee on Health Care and Financial Services

Why Expanding Medicaid to DACA Recipients Will Exacerbate the Border Crisis

July 18th, 2023

Dear Members of the House Committee on Energy and Commerce Subcommittee on Health,

The National Immigration Law Center (NILC) appreciates the opportunity to submit this written statement for the record for the hearing titled, “Why Expanding Medicaid to DACA Recipients Will Exacerbate the Border Crisis.” NILC is the leading advocacy organization in the U.S. dedicated to defending and advancing the rights and opportunities of low-income immigrants and their families. We focus on issues that promote the well-being and economic security of immigrants and their families: health care and safety net programs; education and training; workers’ rights; and federal and state policies affecting immigrants. We have decades of experience advocating for policies that improve the health of immigrants and their families, as well as established relationships with immigrant and community organizations across the country for whom we provide technical, policy, and advocacy assistance.

We strongly support the Department of Health and Human Services (HHS) Notice of Proposed Rulemaking (NPRM) that would define Deferred Action for Childhood Arrivals (DACA) recipients as lawfully present for the purposes of Affordable Care Act (ACA), Medicaid, and Children’s Health Insurance Program (CHIP) coverage. When Congress passed the Affordable Care Act in 2010, it defined eligibility for advanced premium tax credits to include “lawfully present” immigrants, a term of art that had previously included recipients of deferred action, a long-standing administrative mechanism dating back to at least the 1960s. This eligibility policy built on the 2019 Children’s Health Insurance Program Reauthorization Act, which gave states the option to cover “lawfully residing” pregnant people and children on Medicaid and CHIP. To date, dozens of states have selected to do so.¹ HHS correctly recognized recipients of deferred action as being lawfully present when it established the Preexisting Condition Insurance Pool regulations in 2010.²

However, in 2012, after DACA was established by the Department of Homeland Security, HHS determined, without justification based on statute or precedent, that recipients would be specifically excluded in regulation from those in the lawfully present category. This was followed by guidance indicating they would be similarly excluded from the children and

¹ See <https://www.nilc.org/issues/health-care/healthcoveragemaps/>

² Interim Final Rule, Pre-existing Condition Insurance Plan Program, 75 FR 45013, <https://www.federalregister.gov/documents/2010/07/30/2010-18691/pre-existing-condition-insurance-plan-program>.

complications from aggravated medical conditions. For example, people who don't have insurance are more likely to receive an initial diagnosis of cancer in a late stage of the disease and to die within less time after being diagnosed.¹¹

Access to health insurance also has powerful economic effects. Uninsured individuals who become hospitalized experience a host of financial setbacks in the subsequent *four years*, including reduced access to credit and a significantly higher likelihood of filing for bankruptcy.¹² Access to affordable health coverage improves consumer well-being through reduced debt, improved credit scores and decreased bankruptcy filings.¹³

Expanding ACA coverage to DACA recipients will not just help them, their families and their workplaces, but could also have a beneficial effect on local healthcare marketplace risk pools. Among individuals who are likely eligible for DACA, estimates find that 92% report their health as excellent, very good, or good.¹⁴ While accessing important preventative care by gaining health insurance will help these individuals stay healthy, their presence could help reduce overall premiums.

Any connection between expanding health care coverage for DACA recipients and U.S. border policy is contrived. There is no evidence that eligibility policy drives migration.¹⁵ In fact, states are newly expanding health care coverage every year with their own funds, making up for the failures of the federal government.¹⁶ Congress must end its focus on harmful political attacks on immigrants and at a minimum pass the Dream and Promise Act to give DACA recipients and other immigrant youth certainty and stability in the country that most have now called home for decades. In the meantime, this expansion of health coverage gives at least some support to those who have long made deep contributions to our country most of their lives.

Sincerely,

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National Immigration Law Center

¹¹ Karen Davis, *The Costs and Consequences of Being Uninsured* (The Commonwealth Fund, June 2003), http://www.commonwealthfund.org/~media/files/publications/in-the-literature/2003/jun/the-costs-and-consequences-of-being-uninsured/davis_consequences_itl_663-pdf.pdf.

¹² Luojia Hu, Robert Kaestner, Bhashkar Mazumder, Sarah Miller, and Ashley Wong, *The Effect of the Patient Protection and Affordable Care Act Medicaid Expansions on Financial Wellbeing* (Federal Reserve Bank of Chicago, September 2016), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2857533.

¹³ Marketplace Coverage and Economic Benefits: Key Issues and Evidence, (ASPE Office of Health Policy, July 2022), <https://aspe.hhs.gov/sites/default/files/documents/36e5e989516728adcc63e398b3e3d23d/aspe-marketplace-coverage-economic-benefits.pdf>.

¹⁴ Key Facts on Deferred Action for Childhood Arrivals (DACA)(KFF, April 13, 2013), <https://www.kff.org/racial-equity-and-health-policy/fact-sheet/key-facts-on-deferred-action-for-childhood-arrivals-daca/>.

¹⁵ Yasenov, Vasil et al, *Public Health Insurance Expansion for Immigrant Children and Interstate Migration of Low-Income Immigrants* (JAMA Pediatrics, Jan 2020) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6865314/>

¹⁶ *A Decade of State Immigrant Rights Victories: Moving Toward Health Care and Economic Justice for All* (National Immigration Law Center, December 2022), <https://www.nilc.org/news/special-reports/a-decade-of-state-immigrant-rights-victories-moving-toward-health-care-and-economic-justice-for-all/>