

CRITICAL THINGS YOU SHOULD KNOW ABOUT HEALTH CARE REFORM

Over the past year, national leaders have labored to change the way health care works in the United States. Now that President Obama has signed the bills into law and reform is on our doorstep, many people are curious about the impact of this law on their own ability to access insurance and health care. The law has promise to bring new, affordable health insurance options to many Americans, including Latinos and their families. Some changes are immediate, while several of the largest pieces of reform will not happen until years down the road. Below are the most common questions posed to the National Council of La Raza (NCLR) during the final stages of health care reform deliberations. The answers may help you understand what is in store for you and your family. Keep in mind that even though a new law has been passed, there may be even more changes on the way. Some of the information below may adjust as health care reform becomes fully realized in the United States.

MAJOR PATHWAYS TO HEALTH INSURANCE

There are three major ways that the new health care reform bill expands health coverage for uninsured Americans or provides new options for those already insured. The rules for each program may vary depending on your immigration status.

Medicaid: The medicaid program has been significantly expanded and now covers almost any individual who is 133% below the federal poverty level and meets the appropriate immigrant or citizenship qualifications.¹

The State Exchanges: The health care reform bill has provided resources for each state and Puerto Rico to build a new health insurance marketplace where you can go to shop for insurance.² For individuals who are not covered under Medicaid or through their employer, this is a new option for purchasing coverage. The health insurance plans in these marketplaces, which are known as “exchanges,” must guarantee a level of coverage to ensure that an individual patient has access to a broad set of necessary health care services. In addition, if you have a low or moderate income, you may also be eligible for federal funds that will help make the cost of insurance more affordable for you and your family.

Employer Responsibility: Many employers will have to contribute to the costs of health insurance for their employees, making it more likely that you’ll obtain coverage or have an affordable option. Employers with 50 or more employees will now be expected to pay toward the cost of covering the uninsured in an exchange, if they choose not to contribute toward the cost of their employees’ health insurance.³

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ACCESS TO HEALTH COVERAGE**1. I need insurance. Am I eligible for coverage?**

If your employer does not provide affordable coverage and you are a U.S. citizen or lawfully present immigrant, you are eligible to gain access to some or all of the new reforms. You will also be required to purchase insurance by 2014. If you are in the United States without legal status, you will not be able to access the new state exchanges or full-scope Medicaid.⁴

The new state exchanges and the expanded Medicaid program will have different sets of criteria to determine individual eligibility and financial support. A state exchange must allow an individual who is a U.S. citizen or legal immigrant to purchase insurance from the marketplace at the start of the program.⁵ The new health care reform law did not remove any of the restrictions for federal Medicaid. Therefore, most legal immigrant adults and some legal immigrant children will continue to wait a minimum of five years after their date of entry into the United States; only after surpassing this waiting period in a “qualified”^{*} status will they be able to access a federal Medicaid program. However, whether you are a citizen or an immigrant, if you can be covered by Medicaid, then you will not be able to access the state exchanges.⁶

Before you get insurance through these new options, you and anyone who is eligible will be screened through rigorous verification procedures to determine your immigration status.⁷

2. I’m already insured. Why does health care reform matter for me?

It’s true that if you want to keep your insurance you have the right to do so, but beginning in 2014 you will also have the ability to purchase insurance in the new state exchanges, which guarantee you a series of benefits that may not be available in your current health insurance plans, such as access to free preventive care services.⁸ Additionally, at some point in the future, most employers will have the option to participate in the exchange or give workers the choice to participate in the exchange instead of insuring them, as they do today.⁹

^{*} “Qualified” immigrants include legal permanent residents; refugees[†]; asylees[†]; persons granted withholding of deportation or removal; conditional entrants; persons granted parole by the Department of Homeland Security (DHS) for at least one year; Cuban/Haitian entrants[†]; Violence Against Women Act (VAWA) petitioners whose petitions have been filed or accepted but not denied; and victims of trafficking.[†] Those marked with a dagger (†) are exempt from the five-year bar for Medicaid. “Not qualified” immigrants include all other categories and include both undocumented and legal immigrants. Examples of legal immigrants who are “not qualified” but will still be subject to the individual responsibility requirement include immigrants who are the spouse or child of a U.S. citizen who has a pending application for adjustment of status, as well as U-Visa and K-Visa holders. Additionally, states may continue to cover legal immigrants subject to the five-year bar with state-only dollars.

3. I have someone in my family who is undocumented. Is my family disqualified from coverage?

The simple answer is no. If you are eligible for coverage (see question 1), having a person who is undocumented in your family does not change your own eligibility for insurance. While any individual who is undocumented will be ineligible to receive federal assistance, purchase health insurance from state exchanges, or enroll in Medicaid, your access should be unchallenged. Additionally, like Medicaid, if a child qualifies for the exchange but has one or both parents without legal status, the child will still be able to have their parents enroll him or her in the exchange or in Medicaid.¹⁰

4. In the past, I've been rejected from insurance because of a chronic disease or serious illness. Will I be able to access health insurance?

Under the new law, no one can be denied coverage or charged significantly more for insurance because of a preexisting condition. Health care reform eliminates this form of discrimination by improving access to coverage even if you have been diagnosed with a serious illness such as cancer or diabetes. These benefits will be vital for uninsurable individuals seeking coverage between now and 2014, when health care reform will be fully implemented.

Within the first year of health care reform's enactment, all states will establish a high-risk pool for individuals with a medical problem or preexisting condition that has caused them to be uninsured for at least six months; they will be eligible to purchase insurance at a more affordable rate.¹¹

Beginning in 2014, all insurance plans in the exchange will have to guarantee you coverage regardless of your health status.¹²

THE TIMELINE FOR OBTAINING INSURANCE

5. I need insurance now. When will all of these changes take place?

The new state health insurance exchanges are not required to be established until 2014. However, in the coming months, changes will be made to allow some of the very sickest individuals to access coverage, and benefits will be improved for people who are already insured.

At a minimum, you can expect to begin seeing the following benefits over the next year:

- By the end of June 2010, the federal government is expected to set up new insurance options for individuals with serious health conditions who were previously "uninsurable" or priced out of insurance.¹³

- As part of the most immediate benefits, health insurance companies can no longer take away coverage if a person gets sick.¹⁴ In addition, in about six months, health coverage can no longer be capped by insurance companies, guaranteeing insured individuals the benefits of insurance over the lifetime of a policy.¹⁵
- In the next few months, low-wage firms with less than 25 employees can receive a tax credit of up to 35% of their contributions toward their employees' health coverage, if they contribute at least half of the costs of health care premiums for their employees. Nonprofit organizations are also eligible for a tax credit of up to 25% of their contributions toward health coverage. This tax credit will increase over time and benefits for businesses will also expand in the future.¹⁶
- Young adults will be able to remain on their parents' plan until age 26.¹⁷
- Medicare prescription drug benefits for the elderly will be made affordable. Seniors who have met their prescription benefits will be assisted with an additional \$250 this year, with gradual increases in years to come.¹⁸

COSTS OF BEING INSURED

6. I can access one of the new insurance options; however, I am worried about the costs. How will I be able to afford health insurance?

Purchasing health insurance should not cause extreme financial burden. For this reason, many Americans will be able to receive financial support. You will be eligible for some form of financial assistance or affordable coverage if you have an income below 400% of the federal poverty level.¹⁹

Citizens and legal immigrants eligible for Medicaid will have limited health care expenses. The law prevents them from spending more than 5% of their income on insurance expenses.²⁰

Anyone eligible for insurance in the state exchanges who is not enrolled in Medicaid and who has a modified adjusted gross income under 400% of the federal poverty level will be able to access refundable tax credits, known as affordability credits, to purchase health insurance. For example, an individual earning about \$43,320 (400% above the poverty level) or a family of four who earns approximately \$88,200 (400% above the poverty level) would qualify for some assistance to help pay for their insurance.²¹

7. What happens if I still cannot afford to buy health coverage? Will I be penalized?

An integral part of health care reform is the requirement for people to have health insurance. This requirement will be enforced by a tax penalty that will be placed on individuals who do not purchase insurance. However, certain individuals will still be unable to access affordable health insurance, even when health care reform is fully implemented. For this reason, there are certain exemptions and waivers that will be available if you cannot fulfill the requirement to have health coverage.

All legal immigrants and U.S. citizens must have insurance, but those who are barred from the exchange because of their undocumented immigration status are exempt from mandates or requirements to obtain health insurance.²² As a result, many undocumented immigrants will be uninsured but may be able to waive the penalties against them. They are not allowed to buy insurance in the exchanges, even at full price.

If you are responsible for acquiring insurance but cannot find an affordable option, the penalties for failure to purchase coverage can also be waived if the costs of insurance cause you hardship. In order to avoid this penalty, you will be required to apply for a waiver or exemption certificate.²³ Beginning in 2014, you will need to have insurance. Otherwise, you will face a penalty of \$95 in the first year, and this penalty will reach a maximum of \$695 or 2.5% of your family's income (whichever is greater) in 2019.²⁴

Finally, there are also small categories of Americans who may be exempt from purchasing insurance due to religious beliefs related to obtaining insurance or health care, designation as an American Indian, or incarceration.²⁵

8. Once I obtain health insurance, will I have any other costs?

When you purchase health insurance, your plan will include the costs of monthly premiums as well as co-payments for medical services that you receive. In order to ensure that these costs are affordable, new regulations in health care reform will place limits on how much of your income will be spent on the cost of health insurance premiums and co-payments.²⁶ If you qualify for assistance, federal subsidies will also be provided to take care of some of these costs as well.²⁷

ACCESS TO HEALTH CARE

9. I'm still going to be uninsured when all this is done. What options are out there for me?

The new system will not make health coverage accessible to everyone in our country, but it also did not change the rules for current health care programs that are open to all Americans. If you remain uninsured after reform is implemented, there are still a number of public health services that are available to anyone, regardless of your ability to afford care and whether or not you are an immigrant.²⁸ These options include:

- **Public health services.** You can access a number of services for the purpose of protecting the life and safety of everyone. These include immunizations, services to treat communicable disease, mental health services, and substance abuse services.
- **Federally qualified health centers.** Often known as community health centers, these health care providers offer primary and preventive care services to communities on a sliding scale. In your neighborhood there may also be other community-based health care providers, such as cash-only doctors, who can serve their entire community without restriction.
- **Emergency medical care.** If you experience an emergency medical problem, you cannot be denied care. In some cases, depending on your income, you may also be eligible for a hospital's charity care program or another insurance program that will cover your emergency medical issue.

10. I live in Puerto Rico. Has my access to health care changed?

If you are a resident of Puerto Rico, you may have new options that will help you secure health care. The new law provides more funding for Medicaid, meaning that Puerto Rico may be able to serve more low-income residents who qualify for the Medicaid program, known as *La Reforma*. Additionally, nearly \$1 billion being provided to Puerto Rico must go directly toward the premiums and other health care costs of individuals purchasing insurance through the exchange.²⁹

Endnotes

- ¹ *Patient Protection and Affordable Care Act*, Public Law 111–148, 111th Cong., 2nd sess. (March 23, 2010), §2001(a).
- ² *Health Care and Education Reconciliation Act of 2010*, Public Law 111–152, 111th Cong., 2nd sess. (March 30, 2010), §1204.
- ³ *Patient Protection and Affordable Care Act*, §1513.
- ⁴ *Patient Protection and Affordable Care Act*, §1412(d) and §1312(f)(3); and National Immigration Law Center, *Guide to Immigrant Eligibility for Federal Programs* (Los Angeles, CA: National Immigration Law Center, 2002), http://nilc.org/pubs/guideupdates/tbl1_ovrvw-fed-pgms-rev-2010-03-02.pdf (accessed April 15, 2010), Table 1.
- ⁵ *Ibid.*
- ⁶ *Patient Protection and Affordable Care Act*, §2001(a), §1412(d), and §1312(f)(3); and National Immigration Law Center, *Guide to Immigrant Eligibility*, Table 1.
- ⁷ *Patient Protection and Affordable Care Act*, §1411.
- ⁸ *Patient Protection and Affordable Care Act*, §1302.
- ⁹ *Patient Protection and Affordable Care Act*, §1513.
- ¹⁰ *Patient Protection and Affordable Care Act*, §1302(f).
- ¹¹ *Patient Protection and Affordable Care Act*, §1101; and Letter from Kathleen Sebelius, U.S. Secretary of Health and Human Services, to state governors, April 2, 2010.
- ¹² *Patient Protection and Affordable Care Act*, §1201.
- ¹³ *Ibid.*
- ¹⁴ *Patient Protection and Affordable Care Act*, §2712.
- ¹⁵ *Patient Protection and Affordable Care Act*, §2711.
- ¹⁶ *Patient Protection and Affordable Care Act*, §1421; and Small Business Majority, “What’s in Healthcare Reform for Small Businesses?” (Washington, DC: Small Business Majority, 2010).
- ¹⁷ *Patient Protection and Affordable Care Act*, §2714.
- ¹⁸ *Health Care and Education Reconciliation Act of 2010*, §1101.
- ¹⁹ *Health Care and Education Reconciliation Act of 2010*, §1001; and *Patient Protection and Affordable Care Act*, §1401(c)(1).
- ²⁰ *Deficit Reduction Act of 2005*, Public Law 109–171, 109th Cong., 1st sess. (February 8, 2006), §6041(a); and January Angeles, *Improving Medicaid as Part of Building on the Current System to Achieve Universal Health Care* (Washington, DC: Center on Budget and Policy Priorities, 2009).
- ²¹ *Patient Protection and Affordable Care Act*, §1401(c)(1); and *Health Care and Education Reconciliation Act of 2010*, §1001. Cost estimates are calculated using Kaiser Family Foundation, “Health Reform Subsidy Calculator -- Premium Assistance for Coverage in Exchanges/Gateways,” <http://healthreform.kff.org/SubsidyCalculator.aspx> (accessed April 15, 2010).
- ²² *Patient Protection and Affordable Care Act*, §1501.
- ²³ *Patient Protection and Affordable Care Act*, §1311(d)(4)(H) and §1411(b)(5)(B).
- ²⁴ *Patient Protection and Affordable Care Act*, §1501(b); and *Health Care and Education Reconciliation Act of 2010*, §1002(a)(2) and §1002(a)(1).
- ²⁵ *Patient Protection and Affordable Care Act*, §1501(d) and §1411(b)(5).
- ²⁶ *Protection and Affordable Care Act*, §1402.
- ²⁷ *Protection and Affordable Care Act*, §1401.
- ²⁸ National Immigration Law Center, *Guide to Immigrant Eligibility for Federal Programs*.
- ²⁹ *Health Care and Education Reconciliation Act of 2010*, §1323.