The New York Immigration Coalition
Update: Immigrants and Health Reform
April 2, 2010 (updated June 15, 2010)

National health care reform has passed and is the new law of the land! Between March 21 and March 30 Congress and the President passed the Patient Protection and Affordable Care Act (Pub. Law No. 111-148) and the Reconciliation bill (Health Care and Education Act of 2010, Pub. Law No. 111-152).

Each of you who diligently called, wrote, and met with your representatives to share your vision of health reform that would include everyone living and working in the country, who plowed through the layers of political rhetoric and misinformation – each of you should feel proud that you contributed your voice to shaping the most important piece of health care legislation in this generation.

You truly made a difference. While the law does not go far enough by many accounts, it is a remarkable step forward that will set into motion changes that will improve the quality and accessibility of health care for the vast majority of Americans.

Nonetheless, there is much to be critical of the dominant rhetoric that persisted on both sides of the aisle regarding immigrant inclusion, as well as the discriminatory policies against immigrants that made it into the final package. Despite the bill's investment and focus on preventative health care and wellness, funding to increase diversity in the health care work force, and national recognition of health disparities and cultural and linguistic competence, the status quo in obtaining affordable health insurance will only change for some immigrants. Others will continue to be left out.

Included in this update, I am providing links to general overviews of the health care law that help to make sense of the major reforms and a timeline for when the major changes will take effect, including the protections from insurance companies’ most harmful and discriminatory practices, how health insurance will become more affordable for low- and middle-income families and small businesses, and how the skyrocketing costs of the U.S. health care system will be brought under better control.

The rest of this update will focus on the impact of national health care reform on immigrant New Yorkers, including reminders about both federal and state-specific programs and laws that will remain in effect to fill in some of the gaps that will remain, especially for uninsured, undocumented immigrants.

To start, here are a few general points about health care reform:

- The major reforms that will expand access to health insurance for individuals who are currently uninsured (e.g. expansions in Medicaid, tax credits, insurance exchange) will not go into effect until 2014, although states will start taking steps immediately to implement these major changes;
- Federal health care reform sets a floor, meaning all states will be required to meet minimum standards, but states like New York are generally free to expand coverage, enact laws, retain existing laws, or use its own money to move beyond the floor;
• Individuals, regardless of immigration status, who currently have health insurance will be able to keep their insurance; and
• Since the majority of immigrants in New York and across the country are residing here lawfully, the majority of immigrants will benefit from health reform. About 85% of immigrant New Yorkers are naturalized citizens or lawfully residing noncitizens – including lawful permanent residents (green card holders), refugees, and asylees. Nationally, about two-thirds of immigrants are naturalized citizens or lawfully residing noncitizens.

**Medicaid Expansion**

Medicaid, the public health insurance for low-income individuals, will be expanded to 133% of the Federal Poverty Level (about $14,400/year for a single adult; $29,300/year for a family of four) in 2014. This is a significant expansion for most states throughout the country, especially in states that did not cover any childless adults in their Medicaid programs.

*Immigrants and Medicaid.* The law does not change immigrants’ eligibility for Medicaid. Naturalized citizens and lawfully residing immigrants who have had lawful status for at least five years remain eligible. Even though lawfully residing immigrants pay the same taxes as citizens and help subsidize all public programs, the legislation unfortunately does not restore fairness to legal immigrants by removing the five-year waiting period in Medicaid that has existed since 1996. Undocumented immigrants remain ineligible for full coverage Medicaid.

**The Impact in New York.** There is no five-year waiting period in New York. All naturalized citizens and lawfully residing immigrants, who also meet the program’s income guidelines, are eligible for Medicaid or Family Health Plus. This includes lawful permanent residents (green card holders), refugees, asylees, as well as individuals who have applied for permanent residence or asylum and other categories.

Undocumented adults will remain ineligible for Medicaid and Family Health Plus. Special populations of undocumented immigrants will continue to have access to New York’s safety net programs that have no immigration status requirements: Child Health Plus for children under 19, Medicaid for Pregnant Women and Adolescents, and Medicaid for the treatment of a medical emergency.

**Health Insurance & Tax Credits Through the New Insurance Exchanges**

Naturalized citizens and “lawfully present” immigrants will have the same access to affordable health insurance as U.S.-born citizens in the new insurance exchanges scheduled to go online in 2014. They will be required to get health insurance and pay a tax penalty for not having health insurance. They can apply for tax credits to make health insurance more affordable and apply for an exemption from the requirement to buy health insurance if it remains unaffordable.

Undocumented immigrants are not provided any options for affordable health insurance. Although many undocumented immigrants pay taxes and would like to pay their fair share for health insurance, they are not allowed to get tax relief to help make insurance more affordable. Fortunately, citizen and legal immigrant children of undocumented parents will be able to apply for tax credits on their own in order to have affordable health insurance.

One of the most disappointing parts of this law is the restriction that prevents undocumented immigrants from buying even full-price health insurance in the exchange with their own money.
Because they are not allowed to buy insurance, undocumented immigrants are explicitly exempted from the insurance requirement. In order to implement the exclusion effectively, anyone who wants to buy health insurance in the exchange will have to provide proof of citizenship or immigration status.

**The Impact in New York.** Once fully implemented, the health reform law will still leave a residual population of uninsured individuals. Because of the exclusions of undocumented immigrants, it is likely that the majority of the uninsured will be undocumented immigrants. Safety net facilities will remain vital providers of health care to the uninsured. These facilities, including hospitals and community health centers, currently see a large number of uninsured patients and will continue to play that crucial role even after health reform is fully implemented. It is imperative that these facilities remain strong and stable.

Currently, any uninsured patient, regardless of immigration status, may go to any hospital or community health center in New York and apply for financial assistance to have their bill reduced. All hospitals and community health centers are required by law to notify uninsured patients about the availability of financial assistance and to help them apply. Hospitals and community health centers must have sliding-fee scales based on patients’ income and must reduce the medical bill if the patient is eligible.

Although the health care law does not achieve all our goals, we are proud of the courageous positions taken by several legislators from New York. We would like to especially recognize the leadership of Congresswoman Nydia Velazquez, Chairwoman of the Congressional Hispanic Committee, for her critical role in ensuring that the health reform bill that first passed in the House of Representatives did not exclude undocumented immigrants from buying insurance with their own money in the exchange.

We also recognize New York Senators Charles Schumer and Kirsten Gillibrand for cosponsoring Congressman Menendez’s amendment (which never saw a vote, unfortunately) that would have given states the option of covering lawfully residing adults in Medicaid in their first five years, as the Children’s Health Insurance Program Reauthorization Act of 2009 did for legal children and pregnant women. We also gratefully acknowledge Representatives Joseph Crowley, Steve Israel, Jerrold Nadler, José Serrano, and Anthony Weiner for publicly supporting the fair treatment of legal immigrants in Medicaid.

Finally, the New York Immigration Coalition proudly acknowledges the community-based members in its Immigrant Health Access and Advocacy Collaborative (Collaborative) for their role in shaping the NYIC’s health reform priorities, their extraordinary advocacy to ensure immigrant inclusion in health care reform, and their education and outreach work in their communities. The NYIC vows to continue to work toward the goal of quality, affordable health care for all New Yorkers. With our partners in New York and across the country, especially the Collaborative, the Health Care For All New York (HCFANY) campaign, the national Coalition for Immigrant Equity in Health Care, and the national Health Rights Organizing Project, we will be watching the implementation of the health care reform law very carefully and will continue to fight for improvements at the state and federal level.

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For more information about the Patient Protection and Affordability Act, please visit:
- Community Catalyst - http://www.communitycatalyst.org/projects/national_reform/right_now
- Families USA - http://www.familiesusa.org/health-reform-central/
- Kaiser Family Foundation - http://healthreform.kff.org/
- National Immigration Law Center - http://www.nilc.org/