Rights to Emergency Care: All immigrants have the right to be treated if they have a medical emergency. All hospital emergency rooms in New York State provide medical screening to patients, regardless of their immigration status and regardless of their ability to pay.* Uninsured individuals, undocumented immigrants, as well as people who have non-immigrant visas have the same rights to emergency care as all other New Yorkers. Anyone with an emergency medical condition has the right to an ambulance (emergency medical transportation), regardless of immigration status or ability to pay. You can get an ambulance by calling 911.

A patient who arrives at the hospital emergency room has a right to be examined to determine if she or he has a medical emergency. A patient has a medical emergency if:
- the patient’s medical condition has severe symptoms, including severe pain, and
- not getting immediate medical attention could result in serious risk to the health of the patient, or damage to bodily functions – for example, to an organ or body part. This includes serious health risks to a pregnant woman or her unborn child.

If a medical worker determines that a patient has a medical emergency, the hospital must treat and stabilize the patient. The patient is stabilized once the emergency medical condition will not get worse if the patient leaves the hospital. In unusual cases, a patient with an emergency medical condition may be transferred to another hospital or center to receive special care.

Rights to Non-Emergency Care: All uninsured New Yorkers, including people who are undocumented, can receive health care from federally funded community health centers, and from the public and private hospitals, diagnostic and treatment centers, long-term care facilities, and clinics maintained by New York City’s Health and Hospitals Corporation (HHC). These medical providers are not permitted to turn away patients who cannot pay for care, even if a patient’s medical condition is not an emergency.

Payment Options – Public Health Insurance: Many immigrants are allowed to use public (government) health insurance programs to pay for the cost of their medical care. All categories of immigrants in New York State, including undocumented immigrants, are permitted to use Child Health Plus (for those younger than 19) and PCAP (for pregnant women). Emergency Medicaid is available to cover medical emergencies for low-income, undocumented immigrants. All categories of low-income legal immigrants in New York State are permitted to use Medicaid and Family Health Plus. All of these programs are now available regardless of how long a person has been in the country. Each program has its own rules about income and resources. Some immigrants are not eligible for any public health insurance other than Emergency Medicaid, even though they have little income. For example, an adult immigrant who is undocumented is only eligible for public health insurance if she experiences an emergency or is pregnant.

Payment Options – Reduced Rate: Based on the patient’s ability to pay, federally funded health centers, HHC facilities offer care at a reduced rate, also referred to as “sliding scale” or “fee settlement.” Enforceable by State law since January 1, 2007, all general hospitals
throughout the state are required to implement a sliding fee scale and ensure that each patient is made aware of the hospital’s financial assistance policies. Federally funded health centers and HHC’s hospitals and clinics must ensure that no patient will be required to pay more than he/she can afford, and no patient will be denied care because of an inability to pay. Medical care, however, is rarely free and all patients are asked to contribute a reasonable and fair amount toward their care. Although private and public hospitals and clinics throughout New York State offer sliding scale options, it is sometimes necessary to advocate on behalf of the patient by contacting a social worker, billing or financial staff, or an ombudsperson to ensure that the health care provider makes these affordable payment options available. HHC facilities, and many health centers and private hospitals, will help patients to sign-up on-site for free or low-cost public health insurance; patients should talk with the financial counselor or a social worker for assistance. Insurance programs are generally safe for immigrants to use.

**Common Concerns for Uninsured Immigrants:**

*Will the emergency room report me to the USICE (US Immigration and Customs Enforcement)?*
No one is supposed to report you to the Immigration officials for using medical care, or for trying to obtain medical coverage (including Medicaid, Family Health Plus, PCAP, ADAP, CHP and emergency Medicaid). Hospital workers, Medicaid eligibility workers, and health department staff have no obligation or authority to share any information with USICE about you.

*I am an undocumented adult who does not have insurance. What should I tell people at the hospital about my immigration status?* You are not required to document your immigration status before receiving care. You can say that you do not think you are eligible for Medicaid.

*When I come to the hospital I’m asked for a social security number. What if I don’t have one?* The hospital is trying to figure out whether or not you might be eligible for public insurance. You should not be turned away, even if you do not have a social security number. Tell them that you would like to talk with someone about payment options. Payment options can include public insurance, sliding scale, fee settlement, and HHC Options (at HHC facilities).

*Will I have to pay back the cost of Medicaid I used before I can adjust status (or become a citizen, or get work authorization)?* No. You will only be asked to pay back public health insurance costs if you provided false information or false documents when you applied for coverage.

*Are there laws that protect the rights of people who need emergency care?* Yes. Individuals who are asked for insurance information and then turned away by an emergency room if they are uninsured, or who are not screened by medical personnel, may have a legal claim under federal (EMTALA) and state (EMSRA) laws.

*If you have questions about immigrants’ access to health care and insurance, or feel that your rights have been violated, contact the Legal Aid Society at (212) 577-3575, or the New York Immigration Coalition at (212) 627-2227.*

* A few hospitals that focus on specialized or limited treatment are exceptions, and do not have to provide screenings by medical personnel.

Produced by the New York Immigration Coalition, with information from New York Lawyers for the Public Interest (NYLPI) and the Commission on the Public’s Health System (CPHS). For a copy of NYLPI’s training manual “The Rights of the Uninsured in New York City,” call (212) 244-4664. This information sheet was reviewed by the NYC Health and Hospitals Corporation, Legal Aid Society – Health Law Unit, CPHS, and Empire Justice Center.