

NYIC IMMIGRATION NEWS

An update by the New York Immigration Coalition on issues affecting immigrants and their communities.

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HEALTH CARE ACCESS

Bi-Partisan Legislation Introduced to Restore Federal Medicaid Eligibility and Funding for Immigrants

Federal legislation called ICHIA (Immigrant Children's Health Improvement Act) has been re-introduced with bi-partisan support in both the House of Representatives and the Senate (H.R. 1689 and S. 845). ICHIA would give states the option to use federal funds to provide health care for lawfully-present pregnant women and children, regardless of their date of entry.

Under current law, lawful immigrants – including pregnant women and children – who arrive in the United States after August 1996 are barred for five years from receiving health benefits under *federal* Medicaid or the State Children's Health Insurance Program (SCHIP), even as their families pay taxes.

In New York State, however, recent legal immigrants who are very low-income are permitted to enroll in Medicaid as a result of the *Aliessa v. Novello* decision. But the 1996 welfare law prevents states like New York from using federal funds to cover the recent legal immigrant population. Consequently, New York State currently pays for this coverage itself, without the benefit of millions of dollars in federal support that would come to New York if ICHIA passes.

The Congressional Budget Office estimated in 2000 that ICHIA would eventually provide coverage for about 155,000 children and 60,000 pregnant women per year nationally. Advocates have been fighting for years to pass ICHIA, and the legislation is now more important than ever, since it would provide significant financial relief for New York State at a time when the health care budget is in crisis.

The Bush administration is pressuring members of Congress to oppose ICHIA. In a recent letter to the sponsors of ICHIA, the Secretary of Health and Human Services cited budgetary reasons and legal immigrants' eligibility for other services as reasons not to support ICHIA. In response to specific points raised by the Secretary, advocates responded in a letter that pointed out the irony of the Administration supporting Medicaid coverage to fetuses of immigrant women but not to immigrant children or the woman herself. As to the cost objections, advocates noted that immigrant tax dollars have paid for these very programs that exclude them. Finally, the advocates' letter objected to Thomson's view that partial restorations of food stamps to some legal immigrants was a reason not to offer health coverage to pregnant women and children – as if food stamps were a substitute for health care.

Building bi-partisan support for ICHIA from New York's House members is absolutely vital to achieving immigrant restorations in Medicaid and SCHIP. Please call and send a letter to your member of Congress and urge him or her to co-sponsor ICHIA (H.R. 1689) if he or she has not yet signed on. See the Action Box for a list of New York co-sponsors. Please contact Adam at ext. 222 or Su Yon at ext. 232 for more information.

IMMIGRATION

Supreme Court Upholds Mandatory Detention of Criminal Immigrants in Deportation Proceedings

In a deeply disappointing decision that restricts the due process rights of non-citizens, on April 30, the Supreme Court in *Demore v. Kim* ruled that the government can detain lawful permanent residents and other "aliens" who are in deportation proceedings without giving them an opportunity for a bond hearing in which to show that they present neither a flight risk nor a danger to the community.

The 5-4 decision upheld the constitutionality of section 236(c) of the Immigration and Nationality Act, which mandates detention during removal proceedings for persons convicted of one of a number of specified drug crimes and other "aggravated felonies."

The Court reversed the decision of the 9th Circuit Court of Appeals, where attorneys for Kim had successfully argued that his detention under section 236(c) violated due process under the Fifth Amendment because the INS had made no determination that Kim posed either a flight risk or a danger to society.

Deferring to Congress's "broad power over immigration and naturalization," the majority opinion by Chief Justice Rehnquist asserts that Congress may make rules as to "aliens" even if those rules may be unacceptable if applied to citizens. In his dissent, Justice Souter argues that "due process calls for an individual determination before someone is locked away." For more information, contact Norman at ext. 235.

TPS Extended for Nicaraguans and Hondurans

The Department of Homeland Security (DHS) has extended Temporary Protected Status (TPS) for Nicaraguans and Hondurans. The designation of both Hondurans and Nicaraguans under TPS would have expired on July 5 but now has been extended 18 months until January 5, 2005. The re-registration period lasts 60 days from May 5 through July 7, 2003. Re-registration is limited to those who registered under the initial designation (period ended on August 20, 1999) and who timely re-registered under the prior extensions of

designation. Because DHS expects a large number of re-registrants and recognizes that they will not receive their Employment Authorization Documents (EADs) until after their expiration on July 5, 2003, it is automatically extending the EAD through December 5, 2003. For more information, contact Ana María at ext. 233 or Naheed Qureshi of the Bureau of Citizenship and Immigration Services at 202-514-4754.

CITY AND STATE ISSUES

State Legislature Makes Better Choices on Budget

During the NYC's annual *Immigrants' Day in Albany* on April 30, the New York State Legislature was negotiating a budget for the 2003-04 fiscal year, which began on April 1. The Legislature rejected Governor Pataki's proposed cuts of \$1.4 billion in state aid for education and also rejected \$2 billion in cuts to the health care system, restoring most of these cuts. To pay for these restorations, the Legislature adopted a temporary surcharge on state income taxes of 0.65 percent for single taxpayers earning more than \$100,000 per year and for couples earning \$150,000 per year. In addition, the Legislature increased the sales tax by 0.25 percent. These tax increases, the first in nearly thirty years, will raise approximately \$2 billion per year. New York City also was given the authority to increase the city sales tax and income tax to raise nearly a billion dollars, and consequently eliminate the need to implement Mayor Bloomberg's "doomsday" budget. In addition, the Legislature included \$1.25 million in TANF funding for ESL classes – an increase of \$200,000 over last year's budget.

Following through on his threats, on May 14, Governor Pataki vetoed numerous parts of the budget passed by the Legislature. Remarkably, both the Senate and Assembly moved swiftly to override all of the Governor's 119 vetoes the next day. It remains unclear whether the Governor will implement the budget items he opposes, and whether he will seek to nullify sections of the budget through the courts. Also, the Governor has since vetoed a \$1.8 billion aid package for the City. Advocates need to urge their state legislators to override this veto also (see Action Box for details). For more information, contact Mark Lewis at ext. 231.

Despite Prospect of State Aid, City Faces Significant Service Cuts and Layoffs

New York City's budget situation needs more than a helping hand from the State Assembly and Senate. After the State Legislature voted to override Governor Pataki's vetoes of its budget package, the Governor in turn vetoed a \$1.8 billion aid package for New York City meant to help the City get through its fiscal crisis. The aid package includes restorations of \$1.2 billion in education and health care cuts affecting New York City, and permits the City to generate revenue through a

variety of measures such as an income-tax surcharge on upper-income city residents, an increase in the state and city sales tax rates (proposed new sales tax = 8.63%) and debt restructuring. The State Legislature is expected to override the Governor's veto of the aid package, and has until the end of its session in June do so.

Even with help from the State Legislature, New York City still faces \$620 million in new service cuts and layoffs under Mayor Bloomberg's executive budget, over and above the \$2.6 billion in spending reductions that have occurred since the Mayor took office 18 months ago. In fact, neither the Mayor nor the Council is even publicly considering ways to create additional revenue to avoid these new service cuts and layoffs. The Immigrant Services Initiative, which funds ESL, civics instruction and legal services at over 40 non-profit groups, has already been dropped in the Mayor's current proposal. These crucial immigrant services programs will be eliminated unless the City Council defends their restoration in the final city budget.

With the outcome of the city and state budgets unclear, we must keep pressure on our city and state elected officials for a fair budget. Groups should continue to advocate for increased city and state revenues through raising an income-tax surcharge for upper-income residents, closing corporate loopholes and reinstating the stock transfer tax. (See Action Box.) For more information, contact Jose at ext. 241.



ACTIONS YOU CAN TAKE RIGHT NOW TO HELP

PROTECT IMMIGRANTS' RIGHTS

- 1. Urge your Representative to restore federal Medicaid for immigrants – pass ICHIA.** Please call and send a letter to your member of Congress – whether Democrat or Republican – and urge him or her to co-sponsor ICHIA (H.R. 1689). Tell your representative that immigrant restorations in Medicaid and SCHIP must be passed this year, and that he or she is needed as a co-sponsor right now. Currently, the only co-sponsors from New York are Representatives Ackerman, Engel, Maloney, Nadler, Rangel, and Towns. Capitol switchboard: 202-224-3121.
- 2. Call on the State Legislature to override Governor Pataki's veto of the City aid package.** Call your local members of the NYS Senate and Assembly and urge them to override Governor Pataki's veto of the \$1.8 billion assistance package for New York City. NYS Senate: 518-455-2800. NYS Assembly: 518-455-4100.
- 3. Urge the City Council to pass a budget that enhances revenue to prevent \$620 million in service cuts and layoffs.** Call Mayor Bloomberg (212-788-9600), Speaker Miller (212-788-7210), and your Council member (Council operator: 212-788-7100).

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