

**Q&A ON ICHIA:
THE LEGAL IMMIGRANT CHILDREN'S HEALTH IMPROVEMENT ACT**

1. WHAT IS ICHIA?

ICHIA is the Legal Immigrant Children's Health Improvement Act, S. 764. It is sponsored by Senators Clinton and Snowe and 10 other Senators. The House companion, H.R. 1308, is sponsored by Representatives Solis and Diaz-Balart as well as 15 other Representatives. It would restore eligibility for Medicaid and SCHIP to lawfully residing immigrant children and pregnant women who were arbitrarily cut off from eligibility in 1996.

The National Governors' Association and the SCHIP Directors support passage of ICHIA along with over 600 local, state and national organizations.

2. WHAT DOES ICHIA DO?

ICHIA provides states an option to enroll lawfully residing immigrant children and pregnant women in Medicaid and SCHIP. It is not a requirement for states, but an option. States would have to receive approval from CMS to use the option.

3. WERE LAWFULLY RESIDING IMMIGRANT CHILDREN AND PREGNANT WOMEN EVER ELIGIBLE FOR MEDICAID?

Yes. Prior to 1996, lawfully residing immigrants – both those holding green cards and those defined as “permanently residing under color of law” – were eligible for Medicaid.

ICHIA offers a restoration of eligibility for only some of these immigrants – those children and pregnant women who are in the country lawfully, who intend to remain in the U.S., and who meet all other Medicaid and SCHIP eligibility requirements.

4. WHY WERE THESE RESTRICTIONS INITIATED IN 1996?

As part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Congress implemented new restrictions that prohibit most lawfully residing immigrants from receiving major federal public benefits, such as Medicaid, during their first five years in the U.S. This same prohibition automatically applied to SCHIP when it was enacted in 1997.

This was an arbitrary bar placed on lawfully residing immigrants to save money for other programs. The five years is unrelated to their immigration status. After the five years, federal funding is available to serve these immigrants.

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5. WOULD UNDOCUMENTED IMMIGRANTS BE ELIGIBLE FOR MEDICAID OR SCHIP IF ICHIA WAS ENACTED?

No. Undocumented immigrants have never been eligible for full-scope Medicaid or SCHIP, and this proposal would continue to prohibit states from enrolling undocumented immigrants in federally-funded Medicaid or SCHIP.¹

ICHIA is unrelated to the immigration debate which focuses on undocumented immigrants. ICHIA only allows states to enroll *lawfully residing* immigrant children and pregnant women in Medicaid and SCHIP.

6. WHO COULD STATES ENROLL?

States could opt to enroll only immigrant children and pregnant women who are “lawfully residing” in the U.S. Existing Department of Justice regulations, used by the Social Security Administration and other federal agencies, define “lawfully residing” as persons who are both “lawfully present” and who reside in the U.S., with an intent to remain in the country. This includes, for example, immigrants with lawful permanent resident status (i.e. “green card” holders), persons admitted into the U.S. for humanitarian reasons, “qualified” battered spouses and children, and the spouses and children of U.S. citizens whose immigration visa petition has been approved and who have already filed their application for a “green card.” It does not include persons who are in the U.S. on a temporary basis.

7. BUT WHAT ABOUT OTHER MEDICAID AND SCHIP ENROLLMENT REQUIREMENTS?

If a state chose the option under ICHIA, lawfully residing immigrant children and pregnant women would still be required to meet other SCHIP and Medicaid eligibility requirements such as income eligibility and documentation.

8. HAVE OTHER BENEFIT RESTORATIONS BEEN ENACTED SINCE 1996?

Yes. For example, Congress has twice enacted food stamp eligibility restorations and eliminated the same five-year waiting period for important subsets of the legal immigrant population, such as children. These restorations have occurred with broad bi-partisan support, including support from the Administration.

9. HOW ARE LAWFULLY RESIDING IMMIGRANT CHILDREN AND PREGNANT WOMEN RECEIVING HEALTH CARE NOW?

All states must provide emergency Medicaid to immigrants who meet the other eligibility criteria. While immigrants generally use emergency rooms less than U.S. citizens, ICHIA could further reduce this by giving states the option of enrolling lawfully residing immigrant children and pregnant women in Medicaid or SCHIP. Medicaid and SCHIP offer access to primary and preventive care, which can reduce emergency room visits and allow for cost-effective well-baby/child exams and pre-natal care that can prevent costly exacerbation of treatable conditions. For example, studies have shown that spending \$1 in pre-natal care can save over \$3 in post-natal care. And providing children access to primary care will ensure timely vaccinations and improve public health.

Recognizing the cost-effectiveness and efficiency of providing access to primary and preventive care, about half of the states use their own funds to pay for some health coverage for lawfully residing immigrant children or pregnant women during the five years while they are ineligible for federal Medicaid/SCHIP. If ICHIA were enacted, these states could secure federal matching funds for these payments, freeing up state funds to cover additional uninsured children.

These states are: Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, Maine, Maryland, Michigan, Minnesota, Nebraska, New Jersey, New Mexico, New York, Pennsylvania, Rhode Island, Texas, Virginia, Washington, Washington D.C., and Wisconsin. In addition, at least one other state recently declared that it will adopt the option under ICHIA if Congress enacts the law.

10. WHY SHOULDN'T LAWFULLY RESIDING IMMIGRANT CHILDREN WAIT FIVE YEARS FOR ELIGIBILITY?

A child's development in the early years can have a significant impact on the child's health, well-being, educational attainment, and overall ability to grow into a productive member of society. Investments in young children can have big payoffs for families, government, and society. These investments can reduce the need for more costly measures later in life and lead to increased productivity. Waiting five years could cause a long-term health impact or developmental delays. Health does not wait five years.

Coverage of pregnant women is equally important. In 2004, about 1 in 9 infants (11.2% of live births) was born to a woman receiving inadequate prenatal care in the United States. Since these future children will be U.S. citizens – and thus eligible for Medicaid or SCHIP upon birth (as long as other income and eligibility requirements are met) – it is less costly to provide pre-natal care than to wait until the child is born with complications requiring more costly care.

11. HOW LONG WOULD THIS COVERAGE LAST?

Pregnant women – pregnant women would be eligible during pregnancy and up to 60 days post-partum.

Children – as long as the enrollee remained eligible for Medicaid or SCHIP under other eligibility requirements, a child could continue receiving Medicaid or SCHIP until age 21 (depending on state eligibility rules).

12. DOES ICHIA REMOVE OTHER BARRIERS TO CRITICAL HEALTH CARE FOR CHILDREN AND PREGNANT WOMEN?

Yes. As explained above, it is critical for children and pregnant women to get primary and preventive care immediately, before simple problems become costly emergencies or public health problems. Neither children nor pregnancies can wait for five years. To protect public health, it is important to remove other barriers that prevent children and pregnant women from securing this care. With that goal, ICHIA eliminates barriers for those sponsored immigrants who are often concerned that securing services will harm their sponsors or their relationship with their sponsors. By deterring families from seeking care, these barriers also harm U.S. citizen

children who live with immigrant parents or siblings. Providing access to Medicaid and SCHIP for lawfully residing immigrant children and pregnant women can reduce the barriers faced by U.S. citizen children in these “mixed status” households, and can protect the health of newborns as well.

Sponsors help support immigrants in a variety of different ways, including assistance with housing, food, and transportation. But sponsors with insurance may not be able to add the child or pregnant woman to their policy, and may have trouble finding affordable insurance in the private market or paying for the care out of pocket. Recognizing the vital importance of health care, ICHIA would eliminate the need to ask about or “deem” the income of a child’s or a pregnant woman’s sponsors-- unless the income is actually received by the child or pregnant woman. By eliminating fictional income and the risk that sponsors will be held liable for medical bills which they cannot reasonably pay, ICHIA would ensure that children and pregnant women can get critical care without worrying that doing so will place their sponsors in jeopardy.

13. WHY SHOULD ICHIA BE INCLUDED IN SCHIP REAUTHORIZATION?

In 2003, as part of the floor debate on the Medicare Modernization Act (MMA), the Senate voted to retain ICHIA in the MMA. Ultimately, ICHIA was removed at the very end of conference because it was not directly related to Medicare. As SCHIP reauthorization directly addresses the provision of health coverage to uninsured children, the time is right to eliminate an 11 year-old barrier that impedes access to health care and puts the future of our children at stake.

¹ Any immigrant (documented or undocumented) ineligible for full-scope Medicaid because of immigration status but who meets other Medicaid eligibility requirements can receive limited coverage for health care provided in an emergency.