



# Health Care for Immigrant Women and Families through the Affordable Care Act

*A Guide for Navigators and Other In-Person Assistors*

**N**avigators can play a key role in helping many immigrant families obtain health care coverage through the Affordable Care Act. However, complicated eligibility restrictions within the law, as well as misinformation and discrimination create a maze that navigators may need help negotiating.

This guide offers a starting point by providing clear information and additional resources to enable navigators to assist families, to comply with the law and to enroll the greatest number of eligible people.



**Women**, regardless of their immigration status, frequently take primary responsibility for providing access to health care not only for themselves but also for their children, elderly and other **members of their household**. Immigrant women may face greater confusion when they enroll their families because of concerns related to how their or their family members' immigration status affects their eligibility to enroll. They may also fear that enrollment will have a negative impact on their own immigration status or that of a family member. Navigators can assist immigrant women and their families by helping them understand the eligibility criteria and reassuring them that information they provide will be kept **confidential** and be used only for enrollment purposes.

Some immigrant women who are **pregnant** may qualify for exceptions that allow them to receive pregnancy-related care through Medicaid or the Children's Health Insurance Program (CHIP) when they would not otherwise be eligible. Immigrant **children** may also qualify for similar eligibility exceptions.

Navigators should be aware of these exceptions so that they can provide accurate information to immigrant women and their families. The Affordable Care Act offers a chance to improve health outcomes for immigrants who are now better able to access health care coverage. Navigators will play a key role in making this happen.

## ACA Eligibility for Immigrants: The Basics

There are three categories of immigration status that matter for the purpose of determining eligibility for coverage through the Affordable Care Act:

**1. Naturalized citizens** are people born outside of the United States who have become citizens. They are guaranteed the right to access health coverage through the Affordable Care Act. They have the exact same access to coverage through Medicaid and the Exchanges that apply to U.S.-born citizens.

- **Exchanges:** Naturalized citizens are fully eligible for coverage through the exchanges.
- **Medicaid/CHIP:** Naturalized citizens are fully eligible for coverage through Medicaid and CHIP.

**2. Lawfully present immigrants** are people who are not U.S. citizens but who have permission to be in the U.S. They have the right to access health coverage in the insurance exchanges guaranteed through the Affordable Care Act but there is a waiting period before many can access Medicaid or CHIP. Lawfully present immigrants are subject to the individual mandate and related tax penalty, and may be eligible for subsidies to help cover costs.

- **Exchanges:** Lawfully present immigrants are eligible to purchase coverage through the exchanges and are entitled to subsidies. They must meet the exact same eligibility requirements for coverage offered in the exchanges and have the exact same access to coverage in the exchanges as U.S. born citizens.
- **Medicaid/CHIP:** A subset of low-income lawfully present immigrants may be eligible for Medicaid or CHIP, if they meet those programs' more restrictive immigrant eligibility rules (i.e. are a "qualified immigrant") and have fulfilled, or are exempt from, the five-year waiting period.
- **Medicaid/CHIP Eligibility Exceptions for Children and Pregnant Women:** Some states provide Medicaid and CHIP to a broader group of lawfully residing children and pregnant women with no waiting period.<sup>1</sup>

#### **Lawfully present immigrants include, among others:**<sup>2</sup>

- ✓ Lawful permanent residents (LPRs, green card holders) and applicants for LPR status
- ✓ Individuals whose visa petitions to immigrate were submitted by their immediate relatives or employers and have been approved
- ✓ Refugee or asylum seekers
- ✓ Other persons who have been granted permission to stay because of threats to their safety or well being in their country of origin.
- ✓ Individuals granted deferred action, unless through DACA (see below).

Individuals granted deferred action through the Deferred Action for Childhood Arrivals (**DACA**) program, also known as "DREAMERS," are entirely excluded from ACA benefits, the Children's Health Insurance Program (CHIP), and Medicaid.

<sup>1</sup> For a list of states that have provide Medicaid and CHIP to a broader group of lawfully residing children and pregnant women with no waiting period see: [http://www.nilc.org/healthcoveragemaps.htmlNavigator Ms.docx](http://www.nilc.org/healthcoveragemaps.htmlNavigator%20Ms.docx)

<sup>2</sup> For more information about the categories of immigration status, see the list at <https://www.healthcare.gov/immigration-status-and-the-marketplace/> and at <http://www.nilc.org/document.html?id=809>.

**3. Persons Not Considered Lawfully Present by HHS** are persons who have overstayed their visas or entered the U.S. without the knowledge or permission of the U.S. Department of Homeland Security (sometimes referred to as “undocumented” or “illegal” immigrants)<sup>3</sup>, or are in other categories (such as DACA grantees). They are not eligible for healthcare coverage through the ACA – whether through Medicaid or the Exchanges – even if they offer to pay for coverage using their own private funds. They are also exempt from the federal mandate that requires health coverage and therefore not subject to fines.

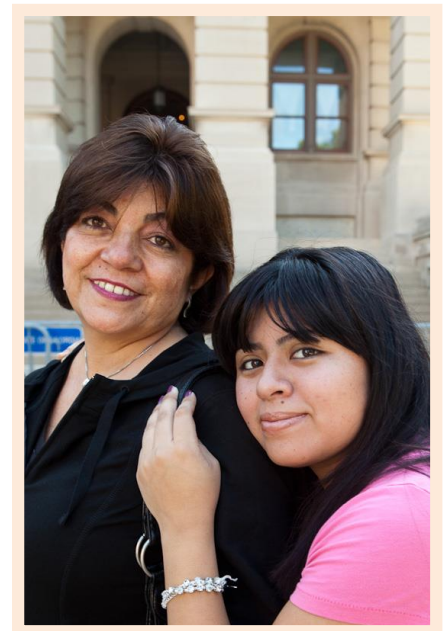
- **Exchanges:** Not eligible
- **Medicaid/CHIP:** Eligible only for Medicaid for the treatment of medical emergencies including labor and delivery.
- **Medicaid/CHIP Eligibility Exceptions for Children and Pregnant women:** Some states pick up the federal “unborn child” option, which effectively provides pregnancy-related coverage to women regardless of immigration status. A few states provide coverage to pregnant women and children regardless of immigration status solely with state funds.<sup>4</sup>

By calling 1-800-318-2596 anyone can get telephone help in English 24 hours a day and be connected to translation services. On-line help is available at: <https://www.healthcare.gov/families/>.

## What are the Rights of Families with Mixed Immigration Status?

Over 4 million Americans are in *mixed* immigration status families. This means that family members have a mix of citizenship and immigration statuses and may include both citizen and non-citizen family members. Some family members may be eligible to enroll in health care coverage through the exchange while others may not be. Very often children have citizenship by being born in the U.S. while at least one parent or other household caregiver is a non-citizen who may or may not have an eligible immigration status.

Parents and other caregivers who seek to enroll their eligible children or other family members may do so. They must not be asked for their own citizenship or immigration status information, and must not be required to provide a Social Security number (SSN) or any other documentation of their immigration status. Federal law prohibits discrimination based on where the parent or caregiver is from (or perceptions about where the individual is from), what he or she looks like, or the language he or she speaks.<sup>5</sup>



The law affirms that navigators and private citizens must keep all information on the application private and secure, and must use the information only to figure out if an applicant is eligible for health insurance, and not for

<sup>3</sup> The use of the term “illegal immigrant” is pejorative and has fallen out of use. The terms “undocumented” or “unauthorized” are to be used, or more specific language when describing how someone entered the country, such as “she entered the US without a visa.”

<sup>4</sup> <http://www.nilc.org/healthcoveragemaps.html>.

<sup>5</sup> Affordable Care Act §1557 (2010) and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2006). State law may also apply to prohibit discrimination.

any other purpose. Navigators should work with mixed immigration status families to enroll those eligible family members and to protect the privacy of all individuals' data as part of their rights under the Affordable Care Act.

## Tips for Facilitating Speedy Verification and Enrollment

Those applying for health insurance will have to provide either an SSN, to verify U.S. citizenship, or an immigration document and number, for verification of satisfactory immigration status. Parents who are applying on behalf of their children will need to provide their children's SSN or immigration documents. Parents should not be asked to provide their own documentation unless they are applying on behalf of themselves. The verification process will be done by the exchange, not by the Navigators or other application assistors. As you help individuals gather the information needed on the application, it is important to remember:

- ✓ Only the person applying for health insurance is required to provide an SSN and information about his or her citizenship or immigration status;
- ✓ If electronic verification fails, a person may then submit other documentation to prove his or her citizenship or immigration status;
- ✓ A person's immigration status may *not* be used for any purpose other than to determine his or her eligibility for health care coverage.

In households with mixed immigration status, to verify household income the social security number of a non-application household member may be requested but if unavailable then other, alternative proof of income may be provided.

The Affordable Care Act strives to enact a verification process that is reliable and that assures confidentiality. The process of verifying status should not result in delays or erroneously denying services. Navigators and other health care coverage administrators should be sensitive to the chilling effect that interaction with state officials has on undocumented individuals and mixed-status families in order to effectively enroll eligible immigrants.

## Discriminating Against Immigrants Is Illegal



The ACA provides strong protections against discrimination in the health insurance exchanges. Health programs and activities receiving federal funding cannot discriminate on the basis of race, color, national origin, sex, age, gender identity, pregnancy or disability.

Navigators and other in-person assistors may be subject to penalties if discrimination is found to have occurred. It is advisable not to make assumptions about an individual or family member's eligibility for coverage on the basis of appearance, language ability or other cultural differences.

The ACA contains some provisions for language access and translator services to facilitate enrollment and federal civil rights laws require marketplaces to provide language services for people with limited English proficiency (LEP).<sup>6</sup>

For more information, please contact the Ms. Foundation for Women at [healthcare@ms.foundation.org](mailto:healthcare@ms.foundation.org). We will honor your right to privacy and will keep confidential all information regarding individual and family members' immigration status.

The Ms. Foundation for Women works to promote access to affordable, comprehensive health care as an essential aspect of women's ability to obtain social and economic equality.



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<sup>6</sup> For more information on possible translation resources contact your state Health Exchange governing body.