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# Practical Changes State Agencies Can Make to Increase Equity in Application Processes for Immigrant Families

By Sovereign Hager | December 2020

**CLASP**  
The Center for Law and Social Policy

**NM** center on  
law and poverty

## Introduction

Medicaid and income support programs, like the Supplemental Nutrition Assistance Program (SNAP) and cash assistance, are proven to increase health and economic opportunity for families and communities overall.<sup>1</sup> However, many people who qualify confront barriers to these supports. This is the case for many immigrant families, and particularly those in which some members are U.S. citizens and others aren't (mixed-status families). These families contribute substantially to the tax base that funds these programs. But data shows that, nationwide, mixed status families have less access to these programs than families comprised entirely of U.S. citizens.<sup>2</sup> In New Mexico, families that include immigrants have been historically under-enrolled due to state agency policies and practices that prevent them from accessing these critical supports.

Since 2013, advocates and community-based organizations in New Mexico have been successful in pushing state policymakers to take important steps toward more equitable access to benefits for people

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<sup>1</sup><https://www.cbpp.org/research/poverty-and-inequality/economic-security-programs-help-low-income-children-succeed-over>

<sup>2</sup> Alex Nowrastey and Robert Orr, Immigration and the Welfare State: Immigrant and Native Use Rates and Benefit Levels for Means-Tested Welfare and Entitlement Programs, May 10, 2018 Immigration Research and Policy Brief No. 6, available at <https://www.immigrationresearch.org/report/cato-institute/immigration-and-welfare-state-immigrant-and-native-use-rates-and-benefit-level>

who are immigrants. By taking practical steps in administering these public programs, state agencies can maximize their collective benefits and the positive impact they have on families. **Below is an overview of work NM Center on Law and Poverty and partners did or are advancing in New Mexico to support equitable access to food and medical assistance for people who are immigrants.**

We accomplished many of the changes described below through a mix of litigation, administrative advocacy, and problem solving with the state agency. The benefits of these approaches are two-fold: they increase families' opportunity and wellbeing, while reducing the burden on state agencies to administer these programs.

## Background

Despite the goal of programs like SNAP and Medicaid to reach and enroll eligible families, many people face significant barriers to enrollment. Recent federal regulatory actions, like the change to the U.S. Department of Homeland Security's expansion of benefits considered in a "public charge"<sup>3</sup> test, have caused some immigrant families to fear enrolling in public programs. This rule change is being challenged in court.<sup>4</sup> In the meantime, using certain public benefits count against an immigrant's ability to obtain a green card or be admitted into the United States.

Yet even before concerns about public charge, immigrant and mixed-status families face additional barriers to enrollment. They include concerns about immigration enforcement; confidentiality; having difficulty obtaining the documents they need to verify their eligibility; language access; and state agency requests for unnecessary information. These barriers even block children who are U.S. citizens from obtaining health care and nutrition assistance if they are in immigrant families.

Understanding these barriers is key to identifying and prioritizing system changes that will have the greatest impact on immigrant families. Collaboration with community-based partners and advocacy organizations is critical for state agencies to understand, track and address these barriers.

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<sup>3</sup> Public charge is a test used by the federal government to see if someone applying for a green card or a visa is likely to use government programs, and being labeled a "public charge" can be used to deny some immigrants admission into the United States or lawful permanent residency. In 2019, the federal government issued regulations that expand the number of public benefits that can be considered in a public charge test. See [8 CFR §212.21\(b\)](#) and [www.ProtectingImmigrantFamilies.org](http://www.ProtectingImmigrantFamilies.org)

<sup>4</sup> Multiple legal challenges have been filed to stop the rule changes; however, the Department of Homeland Security (DHS) public charge rule went into effect in February 2020. A nationwide injunction prohibits the Department of State from implementing its version of the rule expanding public charge and related changes to the Foreign Affairs Manual for the duration of the COVID-19 public health emergency. For up to date information on the various legal challenges and the public charge rule, visit [www.ProtectingImmigrantFamilies.org](http://www.ProtectingImmigrantFamilies.org)

### Litigation to Protect Access to the Supplemental Nutrition Assistance Program (SNAP) and Medicaid

A 1988 federal court consent decree requires the New Mexico Human Services Department (HSD) to comply with federal requirements in the SNAP and Medicaid application process. This includes application forms and notices, verification requirements, and the timely provision of benefits.

The New Mexico Center on Law and Poverty (the Center) represents the class of applicants for SNAP and Medicaid in that case. It also advocates for specific administrative changes that meet federal requirements and increase access to SNAP and Medicaid.

After a large backlog developed in 2014 and other systemic barriers to benefits were brought to the court's attention, including illegal barriers for immigrant families, the Center asked the court to appoint an outside expert to oversee implementation of the Consent Decree and the court's other orders. The Center works closely with that court-appointed "Special Master" and HSD to implement permanent program changes. Although the consent decree gives the Center unusual access to state agency administrators, advocates in other states could still urge similar changes.

## Complex Federal Immigration Rules Act as Barriers to Enrollment

Federal law is complex when it comes to explaining which immigrants qualify for benefits. There are some general rules, but they vary depending on the program; specific exceptions based on immigration status; the date the individual came into the United States or was granted a specific immigration status; and other factors, like age and pregnancy. The 1996 federal "welfare reform" law is responsible for most of these complications.<sup>5</sup> Subsequent laws created exceptions and expanded eligibility for certain programs and statuses.

Currently, people who entered the United States as immigrants after August 22, 1996, must meet two sets of criteria to get SNAP, Medicaid, or other federal means-tested public benefits. They must:

1. Be granted one of six immigration statuses<sup>6</sup> that the law calls "qualified" to get benefits. **Or, they must** be given an immigration status that qualifies as an exception to that rule, which would apply to a specific public program; **and**
2. For immigrants who have been given a qualified status, they must have waited a required five years (also known as the five-year bar).<sup>7</sup> **Or, they must** be granted an immigration status like refugee or asylum-seeker, categories that are exempt from the waiting period. This exemption would also be for a specific public program.

<sup>5</sup> See the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 Pub. L. No. 104-193, 110 Stat. 2105 (August 25, 1996).

<sup>6</sup> The six statuses are: 1) lawful permanent residents, or LPRs, 2) refugees, people granted asylum or withholding of deportation/removal, and conditional entrants, 3) people granted parole by the U.S. Department of Homeland Security for a period of at least one year, 4) Cuban and Haitian entrants, 5) certain immigrants that survived abuse, their children and/or their parents, and 6) certain survivors of trafficking. See 8 U.S.C. 1611

<sup>7</sup> 8 U.S. Code § 1613

There are many unique and varied exceptions. For example, children who have been given a qualified status can get SNAP without a waiting period. And, in some states, any pregnant woman or child who is considered to be lawfully residing in the United States qualifies for Medicaid; they do not have to be granted one of the six qualified statuses.

We rely heavily on organizational tools and charts created by the National Immigrant Law Center (NILC)<sup>8</sup> that break down the rules and exceptions in a way that can be applied to specific circumstances. We've partnered with NILC to create state-specific resources for New Mexico.<sup>9</sup>

Even with those resources, it can be challenging for the state to implement – and for a family to follow such a complicated and arbitrary scheme. This policy complexity, in particular, can cause confusion for families. For example, it is common for some members of a family to be eligible for a program, while others family members are not. In these circumstances, children are most often eligible while some parents may not qualify. However, because these programs are means-tested, families may still need to report income and resources of ineligible family members.

## Strategies used in New Mexico to increase access for immigrant families

States can take several approaches to help eligible immigrants and families apply for SNAP, Medicaid, and other key supports. New Mexico advocates worked with state partners to improve applications for these public programs and the process for determining a person's eligibility to enroll. State advocates also found that boosting education and community outreach to immigrant families are effective ways to increase their access.

What follows is a description of the changes we sought using these different strategies and recommendations to support their success.

### 1. Adopt application updates that help eligible immigrants enroll.

The questions on an application form can play a role in whether people complete or abandon their request to enroll in SNAP or Medicaid. For example, asking for details that aren't essential to assessing their eligibility can discourage someone from applying. People from mixed-status families may need to provide some information about everyone in their family. But the state should never request Social Security and immigration status information about family members who are not seeking benefits. Requesting unnecessary information can have a significant chilling effect,<sup>10</sup> even if these application questions are not mandatory.

<sup>8</sup> See National Immigrant Law Center, Access to Economic Support Resources, available at <https://www.nilc.org/issues/economic-support/>

<sup>9</sup> See NM Center on Law and Poverty, Immigrant Eligibility for Public Benefits Table and other resources available at <http://nmpovertylaw.org/wp-content/uploads/2019/01/ME-Photo-4-e1602084414861.png>

<sup>10</sup> September 2000 Tri-Agency Guidance (CMS, ACF, USDA) to Welfare Officials, available at <https://www.hhs.gov/civil-rights/for-individuals/special-topics/needy-families/triagency-letter/index.html>

Other factors can also discourage eligible people in immigrant families from completing applications. Immigrants may be deterred from applying if they do not have standard verifications of employment, like paystubs or a letter from an employer. They may not realize that the state must accept alternatives.

**States can use the following approaches to craft applications that encourage people who are immigrants to apply for SNAP and Medicaid:**

***i. Only request information necessary to determine eligibility:***

Federal law requires applications for SNAP and Medicaid to be accessible and only ask for information necessary to determine eligibility. Federal guidance makes it clear that states should not require information about household members who are not seeking benefits. Further, states cannot deny individuals benefits because of their household members' immigration status.<sup>11</sup>

Under federal law, the state agency must also provide assistance to families who need it. We worked extensively with our state agency to make critical changes to its application that make enrollment easier for families. These updates included revising application forms, as well as advancing improvements to the SNAP payment card known as an Electronic Benefit Transfer (EBT) card.

**Successes and Recommendations:**

- ***Updating paper or online applications to exclude unnecessary questions***

- ***Social Security Number and Immigration Status:***

Federal law and guidance are very clear that immigration status and Social Security numbers (SSNs) are not necessary to provide when applying for Medicaid or SNAP. State agencies must carefully craft online and paper applications to ensure they do not request this information.<sup>12</sup>

When rolling out Medicaid expansion in 2014, New Mexico made changes to the paper application and launched an online application and renewal option. Both types of applications required SSN and immigration status information from all family members listed on the form, even if each family member was not applying for benefits. The fix was relatively simple for the paper form. However, updating the online application was more complex. The form would not be submitted if these fields were blank. The online application and renewal forms had to be adjusted several times to ensure these fields were not mandatory for all family members. The agency also added clear language explaining that such information was not required for people who were not seeking benefits.

The state addressed this issue by adding a preliminary question to the online form about who is seeking benefits. Depending on how an applicant answered, subsequent data collection screens would only seek required information. This improvement shortens the time it takes for

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* and <https://www.hhs.gov/sites/default/files/triagencyq%26as.pdf>

someone to complete the application and ensures families are more comfortable responding. The state agency must also make these changes to the **renewal** forms, so people can add other eligible family members through that process in the future.

- **Preserving Access to Emergency Benefits**

Relatedly, the application also lacked an option for individuals who need to attest to having an *ineligible* status so they can get support known as *Emergency Medical Services for Aliens*. However, individuals would not feel safe if they were required to provide their status as undocumented. For this reason, the state changed the application so it now lists “other” as an option for immigration status.

The state agency must explain why the form requests certain information, especially when it is about family members who are not seeking benefits. We worked with the state to provide this kind of key language<sup>13</sup> for the application. For example, updated guidance now explains why the application asks about the incomes of all household members. It also includes other statements about immigrant eligibility and confidentiality.

- **EBT card use and activation:**

SNAP payments are now provided through an Electronic Benefit Card (EBT). Many states require Social Security numbers to activate an EBT card. This requirement is a barrier for families when parents do not have a SSN but their children solely qualify for benefits. The system that activates the card is specific to the EBT vendor.

However, advocates discovered that there are many alternatives to activate cards without using a SSN. For example, state agencies can mail a family an activation number, or use details like date of birth and other identifying information to activate it. New Mexico now provides families an alternative verification number before their benefits are approved.

## **ii. Integrate Emergency Medicaid into the normal application process:**

Federal law requires states to ensure Medicaid covers emergency medical bills, including labor and delivery, for people who, other than their immigration status, meet all the criteria for the program, such as income and residency.<sup>14</sup> This coverage is known as Emergency Medical Assistance for Aliens.

The application process for Emergency Medicaid in New Mexico creates significant barriers for several reasons. They include:

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<sup>13</sup> Language from the NM Application: “You only have to give U.S. Citizenship and SSNs for household members that you are applying for. You do not need to be a U.S. Citizen to apply. Non-citizen immigrants who are not requesting assistance for themselves do not need to give immigration status information, SSNs or other similar proofs; however, they must give information about their income because part of their income and things they own may count towards the households eligibility for assistance. Certain benefits may be available for people without a SSN; ask ISD. Immigration information will not be shared with any immigration enforcement agency.”

<sup>14</sup> 42 U.S.C. 1396b(v)

- a. Individuals who do not normally qualify for Medicaid would have to know about it;
- b. A person would need to apply within 90 days after a medical emergency, in a window of time when their primary focus may be on their health rather than administrative tasks; and
- c. They may not have been given an authorized immigration status or may have significant concerns about confidentiality.

In New Mexico, only hospitals can initiate the application process. This policy leads to inconsistent access and barriers to coverage for families who try to apply at state agency offices.

#### **Successes and Recommendations:**

Over the last two years, advocates have worked with the state to integrate Emergency Medicaid into the standard eligibility system and notices. We've long advocated for an Emergency Medicaid application process comparable to what some other states have. An ideal system could pre-certify individuals as eligible for coverage for certain periods of time, regardless of whether they had a medical emergency. This way, families would feel comfortable seeking emergency care when they need it and would not have to rely on a hospital to initiate the process.

In the wake of COVID-19, and the need to leverage Emergency Medicaid for testing and treatment wherever possible, New Mexico has finally begun transitioning to an advanced approval process. The state is fully integrating Emergency Medicaid into its single streamlined application, online and in paper form. This will help people be deemed eligible for coverage in advance of a health crisis. This also simplifies the process by allowing hospitals to submit claims in the event of an emergency, rather than initiate an entire eligibility process.

### ***iii. Ensure Language Access and Compliance with Special Rules under SNAP:***

Federal law requires vital documents, such as applications for public program to be available for people in a language they can understand if certain population requirements are met and everyone is entitled to assistance in the language they speak. But without strong compliance and resources, language barriers prevent families from accessing benefits. In some cases, state agency workers cannot communicate with families, while in others, the documents and information provided in writing is not in the language families speak.

Enforcing language access rights can be challenging under the Civil Rights Act. Yet SNAP also has important federal regulations that encourage state policymakers to improve language access.

For example, federal regulations require state agencies to have SNAP application materials available in languages spoken by approximately 100 single-language minority low-income households in areas with a total of less than 100 low income from a single-language

minority.<sup>15</sup> State agencies must use census data to develop the estimated number of households that meet these thresholds for each project area and certification office. The state must also seek information from community action agencies, planning agencies, migrant service organizations, and school officials.<sup>16</sup>

Under federal law, in general, agencies that receive federal funding must provide documents in the languages spoken by more than 5 percent of the population, or 1,000 individuals, whichever is less.<sup>17</sup>

#### **Successes and Recommendations:**

New Mexico advocates were successful in convincing our state agency to translate its online application into Spanish. We worked with community-based and membership organizations to document the languages spoken by families in different areas of the state for food stamp purposes. Additionally, we are in the process of seeking further translation for languages such as Vietnamese, Chinese languages, and other indigenous languages, where possible, for groups that fall under the thresholds in federal law. Because we have a single streamlined application that is used for all programs, the translations will be relevant for all program applications.

When working with the state on translating notices, like verification requests and eligibility decisions, we had to ensure the state was using a qualified translator and not translation software. We sought to confirm that these materials made sense when they were in languages other than English, especially where the text was generated by an automated system. We continue to advocate that the state agency test its notices in multiple languages any time a change is planned, so they will continue to be simple and accurate, per federal requirements.

#### ***iv. Improve Accuracy in Automated Eligibility Systems***

The way that integrated eligibility systems collect information and are programmed to determine immigrant eligibility can mistakenly keep public supports out of reach for individual immigrants and families. In New Mexico, advocates learned that our state agency had initially set up its online data collection screen to gather only two types of information on immigration status, for eligibility purposes:

1. whether the applicant was “documented or undocumented” and
2. the technical immigration document type.

This limited questionnaire was problematic for several reasons. First, knowing whether people are documented or undocumented does not determine their eligibility to enroll in SNAP or Medicaid. Individuals who are undocumented may be eligible for Emergency Medicaid. People who have documentation may not be eligible for Medicaid, depending

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<sup>15</sup> 7 CFR. 272.4(b)(3).

<sup>16</sup> *Id.*

<sup>17</sup> *See* 42 U.S.C. 2000d, et seq.

on their specific immigration status.

Second, “document type” is extremely difficult for many families and workers to identify. Immigrants have a right to Medicaid immediately, with a 90-day verification period, if they can attest to having an eligible immigration status but do not have a document on hand, or specific information about their status on hand to fully verify eligibility.<sup>18</sup>

The narrow questions on this form resulted in confusion and inaccuracies. For example, the system was not approving individuals who were, in fact, qualified to enroll in SNAP or Medicaid. The system was denying them approval because it could not apply some exceptions to the general eligibility restrictions. And some immigrants were being deterred by workers directly asking about whether they are documented or undocumented.

This data collection method was also not taking into consideration family circumstances that could make someone eligible, who would otherwise not qualify based on immigration status alone.<sup>19</sup> The data collection screen and back-end programming need to identify eligible immigrants based on their circumstances, immigration status, and possibly documents that are turned in.

### **Successes and Recommendations:**

Our discussions with state agency workers included multiple meetings with information technology (IT) programmers and state agency leaders. We reviewed the data collection screens and identified gaps or eligibility scenarios that the current system was not taking into account. The agreed changes, which are still being implemented, include:

1. Asking people to provide their **immigration status** by using a pull-down menu. The menu will include the option of “other” for individuals who do not know their status, or who are seeking *Emergency Medical Services for Aliens*. Immigration status is not verified for EMSA because the individual states that he or she is not in an eligible status.
2. Seeking a person’s **document type** by using a pull-down menu. This menu will include the option of “other/unknown” for families who do not list the document type on their application or are not sure how to answer the question.
3. Providing a check box for applicants seeking Emergency Medicaid to ensure immigration status verification does not occur.
4. Having existing data be used for electronic verification via the federal interface, SAVE. Existing data could include an immigrant’s Date of Entry to the United States and the Alien Registration Number (“A-number”) issued to them by the Department of Homeland Security. (*This point is discussed further below, under “Facilitating a SAVE Match”.*)

<sup>18</sup> 42 CFR 435.956

<sup>19</sup> The most common circumstances that make individuals exempt from the 5 year bar for individuals in “qualified statuses” under federal law, are being pregnant or under 21 if your state agency adopted the 2010 Children’s Health Insurance Program changes, originally having a refugee or asylee status, and having 40 quarters of income documented with social security or being under the age of 18 for SNAP.

5. Ensuring that the back end programming takes into account a person's pregnancy; age; SNAP eligibility under the Violence Against Women Act;<sup>20</sup> and other factors, to identify individuals eligible for enrollment.
6. Programming to ensure that the immigrant data collection screen is not triggered for household members who are not seeking benefits.

## v. ***Make Eligibility Verification Work for Families***

After people apply for Medicaid or SNAP, state agencies are required to verify some of their information before approving their benefits. However, the verification requirements are different for each program. Federal law requires states to use electronic verification systems in many instances. These digital methods can lessen the burden on families because they do not have to bring paperwork into state agency offices.

### **Successes and Recommendations:**

We worked with our state agency to improve the immigration status verification requirements in the following ways.

#### **1. Facilitating a SAVE match:**

State agencies use a federal online system called Systematic Alien Verification for Entitlements (SAVE) to verify immigration status as part of assessing eligibility for public benefits.<sup>21</sup> The system works by connecting electronically to the state agency's system.

SAVE requires the applicant's first and last name, birth date, and a numeric identifier such as an A-number.<sup>22</sup> Its digital form has fields to collect information including a document type and number.<sup>23</sup> However, neither the actual document, nor its type or number, are always required to verify immigration status.

Once the state agency adopted changes to improve the automated eligibility system (described above), state workers could enter "other" in SAVE's "document type" field. That would prompt a text box where the worker could type in a person's immigration status or other helpful information. SAVE also collects the person's date of entry to the United States and A-number. Implementing these changes, including the text box, required programming updates to the state's IT system and to the interface with SAVE.

The state agency immediately saw positive verification results through SAVE in many cases where the system did not know a person's document type. In addition to supporting state agency processes, this system also helps families who may have difficulty finding a needed document, but who know basic information about their

<sup>20</sup> See Department of Justice's Guidance on Standards and Methods for Determining Whether a Substantial Connection Exists Between Battery or Extreme Cruelty and Need for Specific Public Benefits (DOJ Guidance), Federal Register, Vol. 62, No. 238.

<sup>21</sup> 42 U.S.C.A. § 1320b-7(d)(3)

<sup>22</sup> SAVE Minimum Requirements for Verification available at <https://www.uscis.gov/save/about-save/verification-process> and Electronic Verification of Immigration Status on HealthCare.gov available at: <https://marketplace.cms.gov/technicalassistance-resources/electronic-verification-of-immigration.pdf>

<sup>23</sup> SAVE Minimum Requirements for Verification available at <https://www.uscis.gov/save/about-save/verification-process>

immigration status.

**2. Providing a reasonable time frame for families to verify immigration status:**

Families must be immediately approved for Medicaid if they meet all eligibility requirements, even if they do not have documentation that their immigration status is an eligible one. They must also be provided at least 95 days to provide verification of their status.<sup>24</sup>

The state agency must give approve SNAP applications without proof of immigration status if the following are true: 1) the state agency has not requested verification of immigration status within the 30-day application period and 2) the individual is otherwise eligible.

**3. Ensuring alternate verification methods for income:**

Many mixed-status households do not have readily available documents to verify their income, such as a pay check stub or a letter from an employer. Federal law requires state agencies to let families confirm their income in other ways, such as a third party who can attest to the family's income (known as a "collateral contact") or even a sworn statement from an individual stating his or her income.

State agencies must have systems that let people use these other options. Policymakers must also ensure that state workers are trained to tell applicants about these options, and how to accept them. In New Mexico, the public benefit application itself explains that the alternatives to submitting a paycheck or employer statement to show income. As advocates, we developed a sample sworn statement form that individuals can use as a different method to verify their income. We have disseminated it in the community.<sup>25</sup>

**4. Creating more effective verification request letters:**

Letters requesting documents or information must clearly explain what the agency requires, and from which family members. We worked with the state agency to revise the verification request form. Now, it clearly requests proof of eligible immigration status from specific family members who are seeking benefits. It also gives examples of the kind of document or information applicants can provide their state agency to verify their eligibility.

The form is also available in a version that requests additional information, when prior documentation was insufficient. This form explains why the prior submission was incomplete or questionable. Giving families this clarifying information helps reduce any confusion they about subsequent verification requests to which they think they have already responded.

## **vi. *Protecting Confidentiality***

General fear and changes in immigration enforcement undermine trust in government

<sup>24</sup> 42 C.F.R. 435.956 for Medicaid and 7 CFR 273.2(f)(1)(C) for SNAP

<sup>25</sup> The sample form is available here <http://nmpovertylaw.org/wp-content/uploads/2020/07/Letter-Sworn-Statement-for-Income-Documentation-2012-05-10.pdf>

agencies. They result in eligible people going without access to health care and other critical, basic needs. Federal law restricts state agencies' ability to report people to immigration authorities. However, few families seeking benefits are aware of these restrictions.<sup>26</sup>

Protecting privacy and confidentiality in the process of applying for public supports is increasingly important so families feel comfortable seeking the help they need. It is also critical because of public reports of data sharing between immigration enforcement and state and local governments. Without adequate protections and confidentiality assurances, families will not feel safe seeking benefits.

### **Successes and Recommendations**

In New Mexico, a well-intentioned state agency believed that noting individuals as undocumented would streamline the eligibility process by immediately identifying family members who should be excluded from benefits. However, this question was making immigrants reluctant to apply for benefits for themselves or on behalf of other family members because they were afraid this information would be shared with ICE. We worked with the state to evaluate all data collection screens that workers use and eliminated unnecessary and harmful fields on the screen.

Confidentiality has also been addressed in a revised training for state agency staff. Now, workers are taught *not* to ask a person or family about immigration status until determining who among them is seeking benefits. State staff learn to never ask if someone is documented or undocumented. Instead, workers explain that many lawfully residing immigrants are eligible for public programs and then ask who in the family is seeking benefits.

Federal law limits state agencies' ability to share enrollment information for the purpose of immigration enforcement. State agencies should never report any Medicaid applicants' immigration details to federal authorities because sharing information with ICE is not connected to the administration of the state Medicaid plan. Federal law establishes extremely limited reporting for individuals seeking SNAP and TANF for themselves. However, the circumstances are so restrictive that they should never happen, especially when a state properly designs its applications—that is, ensuring they do not collect unnecessary immigration status information. In New Mexico, we worked to get the restrictions on reporting into our state regulations,<sup>27</sup> which are the basis of a state worker manual. This way workers are explicitly prohibited from reporting or sharing information in local policy, not just federal law. This ensures it is a part of regular training for workers.

### **vii. Worker training and eligibility tools.**

When families get accurate information about eligibility and policies they are concerned about, like public charge, they are more likely to enroll eligible family members in the programs they need. But immigrant eligibility rules are complex and are challenging to

<sup>26</sup> See Federal Register Vol. 65, No. 189 at p. 5830, restricting reporting of immigrants seeking TANF and SNAP.

<sup>27</sup> See NMAC 8.139.410.9(F), available at <http://164.64.110.134/parts/title08/08.139.0410.html>

communicate to the public without strong guidance.

### **Successes and Recommendations**

In New Mexico, community-based enrollers and organizations reported that state eligibility workers routinely gave out incorrect information. For example, workers usually stated that eligible individuals were not qualified to enroll in Medicaid or SNAP. To remedy this problem, the state agency developed new trainings, appointed an immigration expert, and created a web-based eligibility tool for its workers to use as a reference:

**1. Training for current and new employees:**

The agency developed a new training with multiple state agency leadership teams. It will continue to evolve as the state makes the IT changes described above. The training includes numerous case examples, a short workbook, and a test upon completion to check that staff understood its key guidance. The state worked with outside consultants and advocates to develop the curriculum and materials.

**2. Immigrant Eligibility Expert:**

In our work with the state agency, we identified a need for concentrated expertise in immigrant eligibility rules and application processes. The state agency ended up appointing a motivated and knowledgeable current employee who had collaborated with advocates to obtain further training. She went on to implement an “immigrant ambassadors” program. The agency appointed and trained a key staff person in each field office on immigrant eligibility to provide technical assistance to staff. The appointed expert also leads on policy and IT changes related to immigrant eligibility and reviews cases for incorrect eligibility determinations. While these changes are in the early stages, they provide a consistent framework on immigrant eligibility that connects field office, IT, and policy staff.

**3. Immigrant eligibility tool:**

The complex rules about immigrant eligibility were so confusing for state agency workers, that many were unintentionally giving incorrect information to families. The state agency therefore created an internal, web-based eligibility tool as a permanent reference for workers. The tool includes a list of eligible immigration statuses by program and information about how to enter data for each immigration status and document type.

## ***viii. Community Partnerships to Increase Enrollment and Systemic Advocacy***

Community-based enrollers and organizations can create a safe environment for immigrants and their family members who are applying for SNAP and Medicaid benefits. They can also provide important information to state agencies about how state systems are functioning. Further, these partners can often create spaces for families that participate in the programs to speak directly to the state agency to guide improvements.

**1. Maximize community-based enrollment options:**

The Affordable Care Act (ACA) requires community-based options to enroll in health

coverage, like on the spot approvals, known as “presumptive eligibility” in the hospital setting. ACA allows state agencies to adopt presumptive eligibility in other community-based settings. Enrollers can be trained to know about enrollment and eligibility in other key programs.

In New Mexico, community health workers, or *promotoras*, were especially effective at helping people in immigrant families enroll in [SNAP and Medicaid?]. Several factors contributed to their success. They are trusted in the community. *Promotoras* also offer culturally and linguistically relevant help to families because they are from the communities where they work, whereas the standard system may not. In addition, they know about community resources that can help families who encounter barriers to public supports. State advocates worked with the enrollers by providing training and resources on immigrant eligibility and were always available to troubleshoot problems.

**2. Provide accurate information about eligibility in offices and in outreach materials:**

Information branded by the state agency, and made available in agency offices and throughout the community, will help alleviate fears and dispel myths that immigrants may hold about these programs. Such publications may include information with a welcoming tone geared towards encouraging applications. This includes information about who qualifies for public supports and that outlines the right to apply for other family members. Materials may also convey key information about immigration status concerns, like public charge. Agencies must ensure that their outreach to immigrant families targets the community groups and information sources that they use and trust. To do so, state agency staff would need to cultivate community partnerships.

**3. Collaborate with community groups to understand and address enrollment barriers and identify advocacy priorities:**

Community-based organizations, enrollers, and advocacy groups have the best view of the system when families are facing obstacles. Collaborating with state agencies that are open and interested in feedback can be a very powerful way to address those barriers.

Federal law requires states to maintain a Medical Advisory Committee. This can be one forum to raise community-level concerns about Medicaid. In the past, New Mexico’s state leaders formed advisory committees to discuss concerns about all income and medical assistance programs. However, in the absence of formal committees, advocates, community groups, and state staff can still have meaningful connections. For example, community-organized town halls, direct meetings with state agency officials, and regulatory hearings offer opportunities for impacted families to lead conversations with decisionmakers.

## Conclusion

Sustained advocacy and partnership with our state agency has increased our state's capacity to address barriers in SNAP and Medicaid and more equitably administer them over time. We recognize that everything isn't fixed and some changes are still in process, but we have made progress by acting strategically. Efforts to evaluate and eliminate unnecessary information requests in letters and in automated systems, train workers and engage community members directly with the state agency can increase access for families that qualify, especially those that include immigrants.

In the long run, we hope that our work, and that of our partners, to reduce enrollment barriers will support movements to end eligibility restrictions for immigrants altogether. We hope it leads to increased access to health care and food for everyone in New Mexico.

This brief was written as part of the **Advancing Strategies to Align Programs (ASAP) project**, which worked with state advocates to improve the policy and operational components of public benefit programs. For more information about this brief contact the author, Sovereign Hager ([sovereign@nmpovertylaw.org](mailto:sovereign@nmpovertylaw.org)). For more information about the ASAP project, contact Suzanne Wikle ([swikle@clasp.org](mailto:swikle@clasp.org)).