

Statement for the Record

**House Committee on Oversight and Reform
Subcommittee on Healthcare and Financial Services
“Why Expanding Medicaid to DACA Recipients Will Exacerbate the Border Crisis”
Tuesday, July 18, 2023**

Submitted by:

American Academy of Pediatrics
601 13th Street NW # 400N
Washington, DC 20005

Center for Law and Social Policy
1310 L Street NW Suite 900
Washington, DC 20005

First Focus On Children
Suite #650, 1400 I Street NW
Washington, DC 20005

Georgetown Center for Children and Families
600 New Jersey Avenue NW
Washington, DC 20001

Kids in Need of Defense (KIND)
1201 L Street NW
Washington, DC 20005

The Children’s Partnership
811 Wilshire Boulevard, Suite 1000
Los Angeles, CA 90017

The Young Center for Immigrant Children’s Rights
2245 S Michigan Avenue #301
Chicago, IL 60616

Chairwoman McClain, Ranking Member Porter, and Members of the Subcommittee on Healthcare and Financial Services, thank you for this opportunity to submit a statement for the record for this hearing regarding the proposed rule to expand federal health coverage to certain categories of lawfully present immigrants. As experts on the intersection of child health and immigration policies, we support the administration’s proposed rule to make Deferred Action for Childhood Arrivals (DACA) recipients eligible for federal health coverage programs, as well as expand access to other vulnerable immigrant youth.¹ This statement for the record in support of the proposed rule is based on a public comment previously submitted to the federal register by 85 national, state, and local organizations that advocate for and/or serve children and youth.²

By specifically excluding DACA recipients from those classified as “lawfully present” and “lawfully residing” under HHS’ definitions for deferred action in the PCIP program, Medicaid, CHIP, the Basic Health Program (BHP) and the marketplace, hundreds of thousands of youth and young adults have been largely left without access to affordable healthcare. This exclusion not only harms recipients themselves, but also their U.S. citizen children, whose overall health and insurance coverage are closely linked to that of their parents.³

The proposed rule’s provisions also make youths with approved petitions for Special Immigrant Juvenile (SIJ) status eligible for federal health programs, as well as remove the waiting period for kids applying for asylum and other humanitarian programs. Access to health care, including mental health care, is particularly important for children and youth who have experienced trauma. The rule is critical to addressing these oversights and improving the health and well-being of impacted child and youth populations.

I. The proposed rule will improve the health and well-being of DACA recipients.

Since its creation in 2012, the DACA program has promoted child well-being by protecting more than 800,000 immigrants who entered the U.S. as children and have grown up in the United States.⁴ DACA removed the threat of deportation and family separation, allowed immigrant youth to pursue educational and career opportunities, and opened doors for recipients to provide

¹ Clarifying Eligibility for a Qualified Health Plan Through an Exchange, Advance Payments of the Premium Tax Credit, Cost-Sharing Reductions, a Basic Health Program, and for Some Medicaid and Children's Health Insurance Programs, 88 FR 25313 (proposed April 26, 2023).

² “Child-Focused DACA Health Coverage Organizational Sign-On Comment,” Child Thrive Action Network (June 23, 2023), <https://childrethriveaction.org/2023/06/child-focused-daca-health-coverage-organizational-sign-on-comment/>.

³ Jessica Schubel, “Expanding Medicaid for Parents Improves Coverage and Health for Both Parents and Children,” Center on Budget and Policy Priorities (June 14, 2021), <https://www.cbpp.org/research/health/expanding-medicaid-for-parents-improves-coverage-and-health-for-both-parents-and-children>.

⁴ Nicole Prchal Svajlenka and Trinh Q. Truong, “The Demographic and Economic Impacts of DACA Recipients: Fall 2021 Edition,” Center for American Progress (November 24, 2021), <https://www.americanprogress.org/article/the-demographic-and-economic-impacts-of-daca-recipients-fall-2021-edition/>.

for their families. Since the program’s inception, DACA recipients have continued to further their education, contribute to the workforce, volunteer in their communities, and support civic engagement, all without any certainty of what their future might hold due to the precarious status of the DACA program. Most people with DACA are young adults, with over 60 percent between the ages of 21 and 30.⁵ A 2022 DACA survey revealed that more than a quarter are currently in school while nearly half hold a bachelor’s degree or higher.⁶ Data shows that approximately 343,000 people with DACA in the workforce were employed as essential workers, representing more than three-quarters of working DACA recipients.⁷ Of those, a total of 20,000 were educators and 100,000 worked to maintain our food supply chain.⁸ Additionally, approximately 45,000 DACA recipients worked in health care settings, including during the height of the pandemic, despite lacking equitable access to protect their own health.⁹

Immigrants and their families have faced numerous barriers to public services and programs, with serious consequences.¹⁰ The arbitrary exclusion of DACA recipients from health care programs represents yet another layer of complexity to the various immigrant eligibility restrictions, and the resulting harm to DACA recipients has been significant. Estimates show that since the inception of the program, up to 47 percent of DACA-eligible individuals have been uninsured at some point, more than five times the rate of the general U.S. population.¹¹ While DACA recipients’ access to employment authorization offers them increased access to health care coverage through employers, younger DACA recipients who cannot work may not be able to obtain coverage if their parents lack coverage, and those with employer-based coverage are often left without other options if they lose their job or have their work hours decreased and are no longer eligible for employer-based health insurance. The COVID-19 pandemic provided an example of this instability—nearly 20 percent of respondents to a 2021 survey of DACA recipients lost their employer-provided health insurance during the COVID-19 pandemic.¹²

⁵ “Key Facts on Deferred Action for Childhood Arrivals,” KFF (April 13, 2023), <https://www.kff.org/racial-equity-and-health-policy/fact-sheet/key-facts-on-deferred-action-for-childhood-arrivals-daca/>.

⁶ Tom K. Wong, Ignacia Rodriguez Kmec, and Diana Pliego, “DACA Boosts Recipients’ Well-Being and Economic Contributions: 2022 Survey Results,” Center for American Progress (April 27, 2023), <https://www.americanprogress.org/article/daca-boosts-recipients-well-being-and-economic-contributions-2022-survey-results/>.

⁷ Svajlenka and Truong, “The Demographic and Economic Impacts of DACA Recipients.”

⁸ Svajlenka and Truong, “The Demographic and Economic Impacts of DACA Recipients.”

⁹ Svajlenka and Truong, “The Demographic and Economic Impacts of DACA Recipients.”

¹⁰ Elisa Minoff, Isabella Camacho-Craft, Valery Martinez, and Indi Dutta-Gupta, “The Lasting Legacy of Exclusion: How the Law that Brought Us Temporary Assistance for Needy Families Excluded Immigrant Families & Institutionalized Racism in our Social Support System,” Center on Poverty and Inequality, Georgetown Law (August 19, 2021), <https://www.georgetownpoverty.org/issues/lasting-legacy-of-exclusion/>.

¹¹ “Key Facts on Deferred Action for Childhood Arrivals,” KFF; Svajlenka and Truong, “The Demographic and Economic Impacts of DACA Recipients”; Jennifer Tolbert, Patrick Drake, and Anthony Damico, “Key Facts about the Uninsured Populations,” KFF (December 19, 2022), <https://www.kff.org/uninsured/issue-brief/key-facts-about-the-uninsured-population/>.

¹² “Key Facts on Deferred Action for Childhood Arrivals,” KFF; Wong, Kmec, and Pliego, “DACA Boosts Recipients’ Well-Being and Economic Contributions”; Kat Lundie, Ben D’Avanzo, Isobel Mohyeddin, Ignacia

Additionally, 71 percent of individuals who responded to the 2022 survey of DACA recipients reported that they or their family members couldn't pay medical bills, and nearly half of respondents delayed receiving medical care because of their status.¹³ In that same survey, 57 percent of respondents stated that they believed that they were ineligible for health coverage due to their immigration status, and over half were unaware of alternative affordable care or coverage available to them.¹⁴

Limited access to health coverage impacts access to mental health care as well. DACA recipients experience a lot of fear and uncertainty about the future because of their status and constant threats to the DACA program. Yet, nearly half of respondents to the 2022 survey stated that though they have mental and behavioral health needs, they are not receiving any services from a mental health professional.¹⁵ Among the reasons for not getting care, 56 percent of respondents said that mental health services were too expensive.¹⁶ As youth mental health continues to be a concern nationally and while the DACA program remains at risk, it is important to ensure that DACA recipients and their families are able to access mental health services.¹⁷

The exclusion of DACA recipients from affordable health care programs undermines the Affordable Care Act (ACA)'s goal to increase access to equitable health care coverage, and it also hinders the full potential benefits of the DACA program. According to HHS estimates, 129,000 DACA recipients stand to benefit from the proposed rule, and their expanded access to health care will also further support their ability to contribute to their communities.¹⁸

II. The proposed rule will improve the health and well-being of the children of DACA recipients.

Across the United States, over 1.3 million people live with a DACA recipient, including 300,000 U.S.-born children who have at least one parent with DACA.¹⁹ For years, uninsured rates for

Rodriguez Kmec, Tanya Broder, et al., "Tracking DACA Recipients' Access to Health Care," National Immigration Law Center (June 1, 2022) https://www.nilc.org/wp-content/uploads/2022/06/NILC_DACA-Report_060122.pdf.

¹³ Isobel Mohyeddin and Ben D'Avanzo, "DACA Recipient's Access to Health Care: 2023 Report," National Immigration Law Center (May 2023),

https://www.nilc.org/wp-content/uploads/2023/05/NILC_DACA-Report_2023.pdf.

¹⁴ Mohyeddin and D'Avanzo, "DACA Recipient's Access to Health Care."

¹⁵ Mohyeddin and D'Avanzo, "DACA Recipient's Access to Health Care."

¹⁶ Mohyeddin and D'Avanzo, "DACA Recipient's Access to Health Care."

¹⁷ U.S. Department of Health and Human Services, Office of the U.S. Surgeon General, *Youth Mental Health*, <https://www.hhs.gov/surgeongeneral/priorities/youth-mental-health/index.html> (last accessed May 31, 2023).

¹⁸ Clarifying Eligibility for a Qualified Health Plan Through an Exchange, Advance Payments of the Premium Tax Credit, Cost-Sharing Reduction, a Basic Health Program, and for Some Medicaid and Children's Health Insurance Programs, 88 Fed. Reg. at 25313 at 25327, April 26, 2023.

¹⁹ Nicole Prchal Svajlenka and Trinh Q. Truong, "The Demographic and Economic Impacts of DACA Recipients: Fall 2021 Edition," Center for American Progress (November 24, 2021), <https://www.americanprogress.org/article/the-demographic-and-economic-impacts-of-daca-recipients-fall-2021-edition/>.

U.S. citizen children of immigrants have been double that of their peers with citizen parents despite their eligibility for federal health care programs, as their immigrant parents often face restrictions for coverage.²⁰ A large body of research has documented the long term benefits when children have access to health care, including greater educational attainment and economic outcomes.²¹ Research also shows that children's access to health care coverage increases their use of preventive care, leading to better health as adults with fewer hospitalizations and emergency room visits.²²

Children are more likely to access health insurance and health services when their parents are insured

When parents gain access to health coverage, their children also gain access to health coverage, otherwise known as the “welcome mat” effect.²³ A comprehensive body of research highlights the powerful effect of increases in parental access to insurance coverage on their children's access to insurance coverage. Following the ACA's passage, from 2013-2015, 710,000 children gained coverage, despite the fact that children's eligibility for coverage did not change under the ACA.²⁴ This research also shows that when parents have health insurance coverage, children are more likely to access the routine and preventative health care they need to be healthy and thrive.²⁵ A study conducted in 2017 found that children whose parents are enrolled in Medicaid had a 29 percent higher chance of having an annual well-child visit.²⁶ Lack of health care coverage and the inability to afford medical costs leads to significant burden on families, including the accumulation of medical debt or bills, stress around out-of-pocket costs, and the

²⁰ “Health Coverage of Immigrants,” KFF (July 15, 2021), <https://www.kff.org/racial-equity-and-health-policy/fact-sheet/health-coverage-and-care-of-immigrants/>.

²¹ Karina Wagnerman, Alisa Chester, and Joan Alker, “Medicaid is a Smart Investment in Children,” Georgetown University Health Policy Institute: Center for Children and Families (March 2017) <https://ccf.georgetown.edu/wp-content/uploads/2017/03/MedicaidSmartInvestment.pdf>.

²² Julia Paradise, “The Impact of the Children's Health Insurance Program: What Does the Research Tell Us?,” KFF, (July 17, 2014), <https://www.kff.org/medicaid/issue-brief/the-impact-of-the-childrens-health-insurance-program-chip-what-does-the-research-tell-us/>; Laura Wherry, Sarah Miller, Robert Kaestner, and Bruce D. Meyer, “Childhood Medicaid Coverage and Later Life Health Care Utilization,” National Bureau for Economic Research (February 2015), <http://www.nber.org/papers/w20929.pdf>.

²³ Julie L. Hudson and Asako S. Moriya, “Medicaid Expansion For Adults Had Measurable ‘Welcome Mat’ Effects On Their Children,” *Health Affairs*, 36, no. 9, (2017): 1643-1651, <https://www.healthaffairs.org/doi/pdf/10.1377/hlthaff.2017.034>.

²⁴ Julie L. Hudson and Asako S. Moriya, “Medicaid Expansion For Adults Had Measurable ‘Welcome Mat’ Effects On Their Children,” *Health Affairs*, 36, no. 9, (2017): 1643-1651, <https://www.healthaffairs.org/doi/pdf/10.1377/hlthaff.2017.0347>.

²⁵ Maya Venkataramani, Craig Evan Pollack, and Eric T Roberts, “Spillover Effects of Adult Medicaid Expansions on Children's Use of Preventive Services,” *Pediatrics* 160, no. 6 (2017), DOI: 10.1542/peds.2017-0953.

²⁶ Jessica Schubel, “Expanding Medicaid for Parents Improves Coverage and Health for Both Parents and Children,” Center on Budget and Policy Priorities (June 14, 2021), <https://www.cbpp.org/research/health/expanding-medicaid-for-parents-improves-coverage-and-health-for-both-parents-and-children>.

delaying or forgoing of treatment due particularly to financial constraints.²⁷ For uninsured parents, this can mean choosing between securing food for the table or receiving needed treatment and medical care to maintain a healthy life and therefore, providing and supporting their children.

Parental health is positively associated with child health

Parents and caregivers play a primary role in children's development, and therefore research shows that good or excellent parental health is positively associated with child health.²⁸ Parents who receive adequate health care are better equipped to take care of, provide for, and support their children. Improved parental insurance coverage and health outcomes consistently benefit children in the short- and long-term through improved family health and financial security.²⁹ Similarly, a parent's mental health is strongly correlated to a child's mental health, as demonstrated by research showing that maternal depression affects children's development, academic success, and overall future professional achievement.³⁰ As previously mentioned, DACA parents face unique stressors given the uncertainty of their status which often trickle down to their children.³¹ A wide range of child development literature has found that exposure to such stress and trauma can have detrimental long-term developmental impacts, especially for young children.³²

Improved health care coverage for pregnant people leads to healthier infant and maternal health outcomes

The proposed rule would improve the health of pregnant people and their children by allowing DACA recipients and other covered populations who become pregnant to be eligible for Medicaid and CHIP benefits in states that have opted to cover all lawfully residing children or pregnant people. The proposed rule would include coverage for care delivered during pregnancy

²⁷ Alejandra Muñoz-Rivera, "How do health care costs impact household finances and access to care?" Social Policy Institute, Washington University in St. Louis (2022),

<https://socialpolicyinstitute.wustl.edu/how-healthcare-costs-impact-household-finances-and-access-to-care/>.

²⁸ David Murphey, Elizabeth Cook, Samuel Beckwith, and Jonathan Belford, "The Health of Parents and Their Children: A Two-Generation Inquiry," Child Trends (2018)

https://cms.childtrends.org/wp-content/uploads/2018/10/AECFTwoGenerationHealth_ChildTrends_October2018.pdf.

²⁹ Jessica Schubel, "Expanding Medicaid for Parents Improves Coverage and Health for Both Parents and Children."

³⁰ "Affordable Health Care Keeps Children And Families Healthy," Center for Hunger-Free Communities, Drexel University (2009),

[https://drexel.edu/hunger-free-center/research/briefs-and-reports/affordable-healthcare/#:~:text=High%20medical%20care%20and%20prescription,of%20their%20mothers%20also%20suffer](https://drexel.edu/hunger-free-center/research/briefs-and-reports/affordable-healthcare/#:~:text=High%20medical%20care%20and%20prescription,of%20their%20mothers%20also%20suffer;); Jessica Schubel, "Expanding Medicaid for Parents Improves Coverage and Health for Both Parents and Children."

³¹ Jorge M. Chavez, Anayeli Lopez, Christine M. Englebrecht, & Ruben P. Viramontez Anguiano, "Sufren Los Niños: Exploring the impact of unauthorized immigration status on children's well-being," *Family Court Review* 50, no. 4 (2012): 638–649, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3821695/>.

³² Hirokazu Yoshikawa, *Immigrants Raising Citizens: Undocumented Parents and Their Young Children* (New York: Russell Sage Foundation, 2011), pgs 14-15.

and the post-partum period (up to 12 months after birth, depending on the state). Studies have shown that when insurance coverage is expanded to include pregnant people, they are more likely to enroll, seek, and receive prenatal health care.³³ For instance, an expansion in Emergency Medicaid coverage for immigrants increased receipt of recommended prenatal care screenings and vaccines.³⁴ Proper care before, during, and after birth is associated with a number of positive outcomes for both the child and pregnant person, including reduced risk of infant mortality, maternal mortality, birth complications, and alcohol use during pregnancy, among other benefits.³⁵

III. The proposed rule would improve the health and well-being of young people granted Special Immigrant Juvenile (SIJ) Status.

We strongly support the proposed rule’s clarification that youth who have been *approved* for SIJ status are considered lawfully present, not only those with pending petitions, as is currently described in 45 C.F.R § 152.2(7)—resolving an inadvertent omission that has excluded this vulnerable population from coverage.³⁶

Special Immigrant Juvenile status, which was first enacted into law in 1990 and subsequently strengthened through the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), is a form of humanitarian relief that protects child survivors of abuse and other mistreatment from being returned to harm.³⁷ Eligibility for SIJ protection derives from a finding by a state

³³ Esther Kathleen Adams, Anne L. Dunlop, Andrea E. Strahan, Peter Joski, Mary Applegate, et al., “Prepregnancy Insurance and Timely Prenatal Care for Medicaid Births: Before and After the Affordable Care Act in Ohio,” *Journal of Women’s Health* 28, no. 5 (May 2019): 654–64, <https://www.liebertpub.com/doi/abs/10.1089/jwh.2017.6871>; Laura R. Wherry, Rachel Fabi, Adam Schickedanz, and Brendan Saloner, “State And Federal Coverage For Pregnant Immigrants: Prenatal Care Increased, No Change Detected For Infant Health,” *Health Affairs* 36, no. 4 (2017): 607–15, <https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2016.1198>.

³⁴ Maria I. Rodriguez, Menolly Kaufman, Stephan Lindner, Aaron B. Caughey, Ana Lopez DeFede, and K. John McConnell, “Association of Expanded Prenatal Care Coverage for Immigrant Women With Postpartum Contraception and Short Interpregnancy Interval Births,” *JAMA Network Open* 4, no. 8 (August 2, 2021), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2782573>.

³⁵ Cristian I. Meghea, Zhiying You, Jennifer Raffo, Richard E. Leach, and Lee Anne Roman, “Statewide Medicaid Enhanced Prenatal Care Programs and Infant Mortality,” *Pediatrics* 136, no. 2 (2015), <https://publications.aap.org/pediatrics/article-abstract/136/2/334/33829/Statewide-Medicaid-Enhanced-Prenatal-Care-Programs>; Erica L. Eliason, “Adoption of Medicaid Expansion Is Associated with Lower Maternal Mortality,” *Women’s Health Issues* 30, no. 3 (May 1, 2020): 147–52, <https://doi.org/10.1016/j.whi.2020.01.005>; <https://www.sciencedirect.com/science/article/abs/pii/S1049386720300050>; “What Is Prenatal Care and Why Is It Important?,” NICHD - Eunice Kennedy Shriver National Institute of Child Health and Human Development (January 31, 2017) <https://www.nichd.nih.gov/health/topics/pregnancy/conditioninfo/prenatal-care>; Katherine Dejong, Amy Olyaei, and Jamie O. Lo, “Alcohol Use in Pregnancy,” *Clinical Obstetrics and Gynecology* 62, no. 1 (March 2019): 142, https://journals.lww.com/clinicalobgyn/Abstract/2019/03000/Alcohol_Use_in_Pregnancy.17.aspx.

³⁶ See 88 Fed. Reg. at 25,319; see also Proposed 45 CFR § 155.2(13) (stating that “lawfully present” includes a noncitizen who “[h]as a pending or approved petition for Special Immigrant Juvenile classification as described in 8 U.S.C. 1101(a)(27)(J)”) (emphasis added).

³⁷ See Immigration Act of 1990, Pub. L. No. 101-649, Nov. 29, 1990, at Sec. 153; William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, Dec. 23, 2008, at Sec. 235(d)(1).

juvenile court that a child cannot viably reunify with one or both parents due to abuse, abandonment, neglect, or a similar basis under state law, and that it is not in the child's best interests to be returned to their country of origin.³⁸ In such cases, a child may submit a petition to U.S. Citizenship and Immigration Services for classification as an SIJ (Form I-360). On the basis of SIJ classification, a young person may apply for adjustment of status to lawful permanent residence (LPR) (Form I-485), but may only do so if a visa is available.

When Congress enacted the SIJ statute in 1990, and later when CMS developed definitions and interpretations of "lawful presence," children granted SIJ status were generally able to apply to adjust to LPR status without delay. Recognizing the potential for health care coverage gaps for children whose SIJ applications were still under consideration, regulations and guidance defining "lawful presence" and "lawfully residing" specified that children with pending SIJ applications are eligible for federal healthcare programs.³⁹ However, likely because a visa backlog did not exist before April 2016 and was not foreseen, the regulations and guidance did not address children whose SIJ applications had been *approved* but who might nevertheless face delays in obtaining LPR status because a visa is not currently available.⁴⁰

Since May 2016, however, a growing SIJ visa backlog has delayed the ability of many SIJ-approved youth from El Salvador, Guatemala, Honduras, Mexico, and India to timely obtain LPR status.⁴¹ As of April 2021, this backlog reached more than 44,000 children, with some children having to wait several years for a visa to become available.⁴² In March 2023, the Department of State took steps to correct the overstated wait times resulting from earlier misapplications of the law in prior Visa Bulletins, resulting in modest advances in the dates on which a visa will become available for SIJ-based applicants from El Salvador, Guatemala, and Honduras, while moving back visa availability dates for all other countries.⁴³

³⁸ Immigration and Nationality Act, Sec. 101(a)(27)(J).

³⁹ See, e.g., Center for Medicaid and Medicare Services, Letter to State Health Officials, Re: Medicaid and CHIP Coverage of "Lawfully Residing" Children and Pregnant Women (July 1, 2010), <https://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/SHO10006.pdf>.

⁴⁰ See 88 Fed. Reg. at 25,319 ("Due to high demand for visas in this category, for many applicants it can take several years for a visa number to become available. SIJs are an extremely vulnerable population and as such, we propose to close this unintentional gap so that all children with an approved petition for SIJ classification are deemed lawfully present.").

⁴¹ Rachel Leya Davidson and Laila L. Hlass, "'Any Day They Could Deport Me:' Over 44,000 Immigrant Children Trapped in SIJS Backlog," The End SIJS Backlog Coalition and The Door, at 9 (November 2021), <https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/61a7bceb18795020f6712eff/1638382830688/Any+Day+They+Could+Deport+Me+Over+44%2C000+Immigrant+Children+Trapped+in+the+SIJS+Backlog+%28FULL+REPORT%29.pdf>.

⁴² Davidson and Hlass, "'Any Day They Could Deport Me,'" pp 11-12.

⁴³ Employment-Based Preference Immigrant Visa Final Action Dates and Dates for Filing for El Salvador, Guatemala, and Honduras, 88 Fed. Reg. 18,252 (Mar. 28, 2023), <https://www.federalregister.gov/documents/2023/03/28/2023-06252/employment-based-preference-immigrant-visa-final-action-dates-and-dates-for-filing-for-el-salvador>.

As a result of long delays in being able to adjust to LPR status, many SIJ recipients have experienced ongoing uncertainty and risk of deportation that only compound their trauma and impede healing. These delays have created real and detrimental impacts for children’s wellbeing and erected barriers to opportunities and essential supports, including public health programs.⁴⁴ Although some states have permitted children with approved SIJ applications to apply for certain public health programs, this has not occurred uniformly, and many children are hindered in accessing coverage due to regulatory language, confusion about eligibility for various forms of immigration relief, and misunderstandings about whether Social Security numbers are required in every case.

While there is limited research on this population’s access to health care coverage, anecdotal evidence from organizations that work with SIJ youth demonstrate the dire consequences young people have faced as a result of not being able to access health care coverage after being approved for SIJ. For example:

After aging out of Office of Refugee Resettlement care, Lucas was able to access healthcare through CHIP Medicaid expansion to obtain needed mental health and rehabilitation services. Once reaching 19, however, their CHIP coverage was discontinued and they were denied eligibility for Medicaid due to their immigration status—despite having been approved for SIJ and having a pending asylum application. Without access to public health programs, they have had to rely on sporadic, emergency services, rather than receiving the inpatient and outpatient care they need.⁴⁵*

Carmen, a SIJ-approved youth with a pending application to adjust to LPR status, has been unable to access public health programs to address medical needs requiring specialty care and a future surgery. Although she has received some assistance from a hospital with mounting medical bills, Carmen faces outstanding balances in medical debt that leave her unable to afford the surgery she needs. Due to confusion about the complicated application process for private health insurance she has decided to wait until she becomes eligible for employer-based insurance after finishing her first year of employment.⁴⁶*

The Biden Administration has taken important steps to address such harmful impacts, most notably by issuing a deferred action policy in March 2022 under which USCIS automatically considers children with approved SIJ applications for deferred action and work authorization.⁴⁷ Owing to this policy, many SIJ-approved children and youth have obtained a measure of

⁴⁴ Davidson and Hlass, “Any Day They Could Deport Me,” 24-25.

⁴⁵ KIND client, with pseudonym used to protect confidentiality, in discussion with KIND.

⁴⁶ KIND client, with pseudonym used to protect confidentiality, in discussion with KIND.

⁴⁷ U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, “USCIS to Offer Deferred Action for Special Immigrant Juveniles,” (March 7, 2022), <https://www.uscis.gov/newsroom/alerts/uscis-to-offer-deferred-action-for-special-immigrant-juveniles>.

stability, and in the process, also gained eligibility for some federal health programs. Nevertheless, some SIJ recipients have yet to be approved for deferred action or ultimately may not be. Additionally, like all administrative policies, SIJ deferred action could be subject to potential changes in the future. In order to promote consistency and predictability and to align with Congress' intent to provide durable access to health programs, we strongly support the inclusion of the proposed regulatory changes, which will facilitate enduring clarity about SIJ-approved youth's eligibility for federal health programs, even if they are delayed in their ability to adjust their status.

IV. The proposed rule would provide states with additional flexibility to expand access to equitable healthcare to more children, youth, and families.

Many states are working towards universal health care coverage for all residents regardless of immigration status. Twelve states cover children and eleven states provide health coverage to some parents or other adults regardless of immigration status using state-only funds.⁴⁸ States have also taken advantage of federal options, with some federal financing, to provide health care coverage to more immigrant communities. However, federal limits on immigrant eligibility for health care coverage programs undermine state progress because limited state resources must stretch even further. The complexity of federal rules also make it hard for states to communicate clearly about available coverage options for different immigrant groups. The proposed rule would make it easier for states to achieve their universal coverage goals. With DACA grantees newly eligible for federally-funded Marketplace coverage and financial assistance, and in select circumstances, Medicaid/CHIP coverage, state-only funding would be freed up to cover other uninsured groups and to conduct robust outreach campaigns to enroll harder to reach populations.

Similarly, two states to date have used the ACA's §1332 "innovation waivers" to offer more widespread coverage. Washington and Colorado use §1332 to provide Marketplace coverage regardless of immigration status.⁴⁹ According to Census data, this gave an estimated 100,000 previously ineligible immigrants, 23% of Washington's uninsured population, access to healthcare.⁵⁰ Other states, including California, have pending legislation to enact similar

⁴⁸ Tricia Brooks, Allegra Gardner, Peyton Yee, Jennifer Tolbert, Bradley Corallo, et al., "Table 3., State Adoption of Options to Cover Immigrant Populations, January 2023, from Medicaid and CHIP Eligibility, Enrollment, and Renewal Policies as States Prepare for the Unwinding of the Pandemic-Era Continuous Enrollment Provision," KFF (April 4, 2023), <https://files.kff.org/attachment/Table-3-Medicaid-and-CHIP-Eligibility-Enrollment-and-Renewal-Policies-as-States-Prepare-for-the-Unwinding-of-the-Pandemic-Era-Continuous-Enrollment-Provision.pdf>.

⁴⁹ Laura Buddenbaum, Liz Hagan, and Rachel Bonesteel, "USofCare Highlights Innovative Opportunities for States to Use 1332 Waivers to Promote Affordability," United States of Care (May 19, 2023), <https://unitedstatesofcare.org/usofcare-highlights-innovative-opportunities-for-states-to-use-1332-waivers-to-promote-affordability/>.

⁵⁰ Washington Health Benefit Exchange, Washington Section 1332 Waiver Application revised June 1, 2022, submitted May 2022,

policies.⁵¹ By giving DACA grantees access to federally funded Marketplace coverage and financial assistance, the proposed rule would give states additional flexibility to use §1332 innovation waiver funds to reach other immigrant groups.

V. The proposed rule would improve health care access for children and families by simplifying the eligibility process.

We strongly support the rule’s efforts to simplify and clarify eligibility categories in ways that benefit vulnerable immigrant children. A child’s access to the care they need, when and where they need it, should not be contingent on their or their parents’ immigration status. Accessible health insurance coverage for all people, including children, should pose minimal enrollment and renewal burdens, commence with the minimal waiting period needed to verify eligibility, offer continuous eligibility for a minimum of 12 months, and be portable across states.

Reduced complexity for DACA recipients

Under §214 of the Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA), states can extend Medicaid and CHIP coverage to income-eligible children considered to be lawfully residing in the country without a five-year waiting period.⁵² A majority of states have adopted the CHIPRA §214 expansion.⁵³ In the proposed rule, HHS states that the new lawfully present definition will expand coverage under CHIPRA §214 to DACA recipients who are under 21 or pregnant. Some studies have found that DACA recipients avoid the health care system, reporting barriers to care including cost, limited intergenerational knowledge about the health care system, lack of a driver's license, and mistrust of providers due to fear of discrimination and deportation.⁵⁴ In families with mixed-immigration status, adult DACA recipients tend to mirror the health-seeking behaviors of their DACA-ineligible parents, who have less access to health care.⁵⁵ Historically, expansions to child coverage under CHIP were successful in reducing

<https://www.wahbexchange.org/content/dam/wahbe-assets/legislation/WA%20Section%201332%20Waiver%20Application-updated%206-8.pdf>.

⁵¹ An Act to amend Section 100522 of the Government Code, relating to health care, CA - A.B. 4. Accessed June 14, 2023. (CA 2023) https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=202320240AB4.

⁵² Jonathan Beier and Karla Fredricks, “A Path to Meeting the Medical and Mental Health Needs of Unaccompanied Children in U.S. Communities,” American Academy of Pediatrics and Migration Policy Institute (April 2023), https://www.migrationpolicy.org/sites/default/files/publications/aap-mpi_unaccompanied-children-report-2023_final.pdf.

⁵³ Julie M. Linton, Andrea Green, Lance A. Chilton, James H. Duffee, Kimberley J. Dilley, et al., “Providing Care for Children in Immigrant Families,” *Pediatrics* 144, no. 3 (2019), <https://publications.aap.org/pediatrics/article/144/3/e20192077/38449/Providing-Care-for-Children-in-Immigrant-Families>.

⁵⁴ Marissa Raymond-Flesch, Rachel Siemons, Nadereh Pourat, Ken Jacobs, and Claire D. Brindis, "There is no help out there and if there is, it's really hard to find": A qualitative study of the health concerns and health care access of Latino “DREAMers,” *Journal of Adolescent Health* 55, no. 3 (2014): 323-328.

⁵⁵ Ghida El-Banna, Kimberly Higuera, and Fernando S. Mendoza, "The Intergenerational Health Effects of the Deferred Action for Childhood Arrivals Program on Families With Mixed Immigration Status" *Academic Pediatrics* 22, no. 5 (2022): 729-735.

paperwork and simplifying enrollment and renewal processes.⁵⁶ Similarly, by simplifying eligibility through this rule, some barriers to access will be lifted, and insurance coverage rates and health outcomes for DACA recipients and their children will likely improve. As stated earlier, improved parental insurance coverage, and trust in the health care system leads to improved coverage and care for children, including improved access to pregnancy-related care.

Reduced complexity for SIJ youth

As discussed above, young people received SIJ and LPR status at more or less the same time, which in turn would make them eligible for Medicaid and other affordable health insurance options. However, due to the visa backlog, they may now need to wait for several years for their green cards. This gap has caused confusion and interfered with access to health care. As the explanatory text to the proposed rule acknowledges, youth granted SIJ status are “an extremely vulnerable population” who have been abused, neglected, or abandoned by one or both of their parents and it is therefore especially important for these youth to be able to access affordable medical and mental health care and other services. One form of neglect that is relied upon for SIJ status determinations is medical neglect, which is the failure to provide or the withholding of medical treatment or mental health care needed by the child.⁵⁷ For this very reason, a young person approved for SIJ status should immediately be considered lawfully present so that they may be eligible for Medicaid or CHIP and have a form of insurance coverage for the medical and mental health services they need.

Reduced complexity for other vulnerable children

CHIPRA §214 also applies to children under the age of 14 with asylum applications that have been pending for 180 days. We strongly support the proposed rule’s provision to remove the 180-day waiting period for children under the age of 14 who have a pending application for asylum, or for withholding of removal under section 241(b)(3) of the INA (8 U.S.C. § 1231), or under the Convention Against Torture as is required under the current definition of lawfully present for purposes of health insurance eligibility. While under 8 CFR 274a.12(c) applicants for asylum and other related forms of protection must wait at least 180 days before they can be granted employment authorization, children under the age of 14 are not usually working and so this is an illogical link to make for these younger children. Removing the waiting period is a common sense fix that would improve health care access for this group of immigrant children.

⁵⁶ Suzanne Wikle, Jennifer Wagner, Farah Erzouki, and Jennifer Sullivan, “States can reduce Medicaid’s administrative burdens to advance health and racial equity,” Center on Budget and Policy Priorities (July 19, 2022), <https://www.cbpp.org/research/health/states-can-reduce-medicoids-administrative-burdens-to-advance-health-and-racial>.

⁵⁷ Child Welfare information Gateway and Children’s Bureau of the Administration for Children and Families, U.S. Department of Health and Human Services, “Definitions of Child Abuse and Neglect,” (May 2022), <https://www.childwelfare.gov/pubPDFs/define.pdf>.

Conclusion

We thank you again for the opportunity to submit this written statement for the record. By ensuring that all lawfully present children - including young DACA recipients, SIJ youth, and children seeking humanitarian protection - have health care access, the proposed rule will advance public health, equitable access to health coverage, and healthy outcomes for future generations. For any questions regarding this statement, please contact Wendy Cervantes, Director of Immigration and Immigrant Families at CLASP, at wcervantes@clasp.org.