



June 20, 2023

Chiquita Brooks-LaSure, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9894-P
P.O. Box 8016
Baltimore, MD, 2124-8016
Docket number 2023-08653

Submitted electronically via Regulations.gov

RE: Comments on “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”

Dear Administrator Brooks-LaSure:

The Colorado Health Foundation (CHF or the Foundation) applauds the Centers for Medicare and Medicaid Services’ (CMS) proposal to amend the definition of "lawfully present" to include DACA recipients thus allowing them to participate in the ACA Health Insurance Marketplace, Medicaid, and CHIP for pregnant individuals and children. Per the Administration’s estimates, more than 130,000 individuals across the country and 3,000 DACA recipients in Colorado stand to gain access to health coverage under the proposal.

As Colorado’s largest private foundation, CHF works statewide to bring good health and well-being in reach of everyone who calls Colorado home. We are a non-profit, nonpartisan organization that advances our mission to improve the health of Coloradans through community engagement, grantmaking, public policy initiatives, research, and private sector investments. At our core, we believe that health is a basic human right, and our work aims to ensure everyone has what they need to be healthy, regardless of their national origin, immigration status, or DACA status. We firmly believe in ensuring equitable access to affordable and high-quality health coverage to individuals and families, including immigrant communities in Colorado. The Foundation strongly supports CMS’s proposed rule as an important step towards addressing inequities that directly impact immigrant communities’ well-being.

The Foundation commends the proposed rule’s expansion of access to Affordable Care Act (ACA) subsidies for DACA participants. This change would enable individuals enrolled in DACA who also meet financial eligibility criteria to access government subsidies for health insurance coverage. Absent this change, despite contributing to their families and local communities by working legally and paying taxes, DACA recipients have not met the criteria for "lawful presence" under ACA regulations. As a result, they have been ineligible for subsidized health insurance coverage on the private marketplace.

The Foundation also supports the proposed rule’s expansion of Medicaid and CHIP eligibility to provide health coverage to some of the nation’s lowest income children and pregnant persons. Under the proposed changes, DACA recipients who reside in states that offers Medicaid or CHIP coverage to lawfully present children and pregnant individuals without a waiting period will no longer face eligibility restrictions based on their immigration status.

The Foundation also supports the sections of the proposed rule that would remove the current 180-day waiting period for individuals under the age of 14 who are applicants for asylum and other related forms of protection to be granted an Employment Authorization Document (EAD). The mental and physical health care needs of children seeking asylum and other humanitarian relief are urgent. The current delays in care can have negative physical and mental health consequences. We agree with CMS that removing the waiting period would be beneficial for children.

CHF strongly supports the proposal to substitute the antiquated and derogatory term "alien" with the more precise term "noncitizen." We agree with CMS that this change reflects an appropriate and sensible measure, aligning with the aim of accurately defining "qualified noncitizen."

DACA recipients make immense contributions into the social and economic fabric of Colorado's communities. Thousands are health care professionals or other essential workers who worked in the front lines of the pandemic response in Colorado. CMS' proposal outlines significant and meaningful changes that address the high uninsured rate among active DACA recipients: more than one-third currently lack coverage. The Administration estimates that approximately 200,000 DACA recipients will apply for the new coverage options annually, resulting in approximately 130,000 individuals gaining insurance through various affordability programs including marketplace plans as noted above. This change could result in almost 25% of the 13,000 total DACA recipients in Colorado gaining access to affordable health insurance.

The Foundation wholeheartedly supports these proposals due to the historical inequities in health care access that have plagued our communities. For far too long, certain populations, particularly DACA recipients and noncitizens, have faced systemic barriers preventing them from accessing adequate health care coverage. By finalizing these proposed changes, CMS can help to dismantle these inequities, ensuring that every individual, regardless of their immigration status, has the opportunity to receive quality health care and lead healthier lives.

The Foundation urges CMS to quickly move forward with a final rule codifying the parameters delineated in this proposed rule and appreciates your consideration of our comments. Please contact Kyle Rojas Legleiter, Colorado Health Foundation Senior Director of Policy, at klegleiter@coloradohealth.org or 303-953-3618 with any questions you might have.

Sincerely,



Kyle Rojas Legleiter
Senior Director of Policy
Colorado Health Foundation