



Covering Undocumented Immigrants — State Innovation in California

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The proportion of undocumented immigrants in the United States who lack health insurance continues to be high — around 40%¹ — even as the country's overall uninsured rate has dropped

to historic lows under the Affordable Care Act (ACA). Insuring undocumented immigrants would be an important step toward achieving universal coverage, but in an increasingly hostile national political climate, the likelihood of addressing this challenge at the federal level is low. Because the ACA continues a long-standing restriction on using federal funds to insure undocumented immigrants, covering this population will probably remain largely a state prerogative in terms of both policy and funding.

State innovation can help to build an evidence base for creative policy solutions for curbing the uninsured rate among undocumented

immigrants. California, home to about 2.5 million undocumented residents, introduced three relevant measures in the 2015–2016 legislative session. The first policy, passed in 2015, offers insurance coverage to undocumented-immigrant children; the second, passed in June 2016, allows undocumented-immigrant adults to participate in the state exchange; and the third, which did not make it out of committee, would have created a program similar to Medicaid for undocumented-immigrant adults. All three provide insight into the current opportunities and challenges for state-level innovation to expand health coverage.

The Health for All Kids Act pro-

vides undocumented-immigrant children with access to coverage through Medi-Cal, the state Medicaid program. Its passage makes California the largest state to use state-only funding to provide coverage to all children regardless of immigration status; in doing so, it joins New York, Illinois, Massachusetts, Washington, and the District of Columbia. There has been greater political will for covering undocumented-immigrant children than adults — in fact, Health for All Kids was split off from a bill that originally aimed to cover both children and adults. It also built on national momentum favoring health coverage for immigrant children spurred by the Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009, which gave states opportunities to receive federal money to cover legally present immigrant children before they have resided

in the United States for 5 years — a period when federal law bans eligibility for public insurance. CHIPRA resulted in substantial increases in coverage and access to care among targeted children.² Covering undocumented-immigrant children thus allows states to build on past successes in covering other immigrant children.

It remains to be seen how many undocumented-immigrant children will gain insurance as a result of the Health for All Kids Act. Reaching undocumented immigrants is difficult: even citizen children of undocumented-immigrant parents, who are eligible for coverage, are substantially less likely than citizen children of citi-

zens to have insurance.³ Undocumented-immigrant parents may believe that their own exclusion from public programs also extends to their children⁴ or fear that applying for benefits for citizen children could lead to deportation.

line enrollment and reduce the chilling effect for mixed-status families. However, to stay within federal law, the policy establishes that undocumented immigrants who enroll in California QHPs will not be eligible for any federal assistance and must pay the entire cost of coverage themselves. The cost to a typical undocumented-immigrant family is likely to discourage substantial participation: 56% of such households have incomes of less than 200% of the federal poverty level and would ordinarily receive substantial subsidies and cost-sharing reductions.¹ In northeast Los Angeles, a typical silver plan in 2016

law directs California's exchange, Covered California, to apply for a State Innovation Waiver to allow people who would be eligible for the exchange if not for their immigration status to purchase California Qualified Health Plans (QHPs), which provide benefits identical to those included in other ACA-compliant QHPs. This policy requires a waiver because it involves an alteration to the original terms of the ACA, which bars the participation of undocumented immigrants in state exchanges.

Allowing household members to purchase insurance through Covered California regardless of immigration status could stream-

for a single, 40-year-old adult has an unsubsidized premium of \$252 per month, but the cost for citizens and legal residents with incomes of 200% of the poverty level is reduced to \$131.⁵


This policy may therefore prove more symbolic than effective: the political will to grant legal equality to undocumented immigrants enabled its passage but was insufficient to permit the provision of subsidies that make QHPs affordable. As noted, the law requires a State Innovation Waiver from the federal government, which California submitted on September 30, 2016. The outgoing Obama administration might have a strong incentive to act quickly, given that the ACA's expansion of health coverage constitutes one of its crowning achievements.

The final state policy under consideration in California sought to create a Medi-Cal look-alike program; although it was not passed this session, it will most likely be reintroduced next year. This look-alike program would extend Medi-Cal benefits to all otherwise eligible undocumented immigrants, regardless of their immigration status, using state-only funds. This program would not be an entitlement program like Medi-Cal for citizens or legally present immigrants; it would provide full-scope benefits (matching those of regular Medi-Cal) as funds allow — but would not guarantee them to all eligible enrollees. If the program were not sufficiently funded in the California budget, it would offer limited-scope benefits, which might cover only pregnancy and emergency conditions (these services are already covered to some extent through the Medi-Cal program).

Reaching undocumented immigrants is difficult: even citizen children of undocumented-immigrant parents, who are eligible for coverage, are substantially less likely than citizen children of citizens to have insurance.

This policy did not overcome long odds in the legislature, and similar policies might not succeed in other states without federal financial participation, which is currently illegal.

Any state policy action on this front will take place in the face of an uncertain future for providing undocumented immigrants with a path to permanent residence or citizenship. In addition to the hostile national political climate, the recent Supreme Court split over Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) in *U.S. v. Texas* leaves in place a nationwide injunction against granting recognition to undocumented-immigrant parents in mixed-status families. This stalemate could even indicate a shift in sentiment against undocumented-immigrant children, since it also keeps Presi-

 An audio interview with Ms. Fabi is available at NEJM.org

dent Obama's immigration policy known as Deferred Action for Childhood Arrivals (DACA), which grants non-immigrant legal status to undocumented-immigrant children who entered the country before 2007, from being extended to include all children who arrived in the

country before 2010. The continuing uncertainty regarding the future of DACA and DAPA may make it more difficult for states such as California to develop programs that effectively provide services to undocumented immigrants, because it perpetuates the chilling effect associated with children's unauthorized status. Furthermore, even if the Court had not suspended the administration's executive actions, existing federal restrictions on access to public programs for undocumented immigrants continue to necessitate state-based solutions to coverage.

In this challenging environment, the California legislature's move to cover undocumented-immigrant children through Medi-Cal and include undocumented-immigrant adults in the insurance exchange can provide important test cases for legislation that could be replicated in other states. Building a coalition to support and sustain these programs, which rely on uncertain state revenues, will be an important further test going forward. The improving state economy, coupled with reduced spending on care for indigent citizens now covered by

Medi-Cal under the ACA, creates an unusual window of opportunity for these actions. California has the opportunity to point the way forward.

Disclosure forms provided by the authors are available at NEJM.org.

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Out-of-Network Emergency-Physician Bills — An Unwelcome Surprise

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Although the Affordable Care Act has increased the number of Americans with health insurance, a 2014 survey found that 20% of insured people still have trouble paying medical bills.¹ A major source of financial hard-

ship for patients comes from surprise bills from physicians who are not in their insurance network. Recent media reports have described large and troubling surprise bills from anesthesiologists, radiologists, and surgeons who

assisted during routine procedures.² Surprise bills from emergency physicians have also been a source of concern and are representative of the wider problem.

U.S. hospitals generally contract with physician groups to