

117TH CONGRESS
1ST SESSION

S. 1660

To expand access to health care services for immigrants by removing legal and policy barriers to health insurance coverage, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2021

Mr. BOOKER (for himself, Mr. MARKEY, Mrs. GILLIBRAND, Mr. MERKLEY, Mrs. MURRAY, Ms. HIRONO, Mr. SANDERS, Mr. BLUMENTHAL, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To expand access to health care services for immigrants by removing legal and policy barriers to health insurance coverage, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Health Equity and
5 Access under the Law for Immigrant Families Act of
6 2021” or the “HEAL for Immigrant Families Act of
7 2021”.

8 **SEC. 2. FINDINGS; PURPOSE.**

9 (a) FINDINGS.—Congress finds as follows:

1 (1) Health insurance coverage reduces harmful
2 racial, economic, gender, and health inequities by al-
3 leviating cost barriers to, and increasing utilization
4 of, necessary health care services, especially among
5 low-income and underserved populations.

6 (2) Based solely on their immigration status,
7 many immigrants and their families face legal and
8 policy restrictions on their ability to obtain afford-
9 able health insurance coverage through Medicaid,
10 the Children's Health Insurance Program (CHIP),
11 and the health insurance exchanges.

12 (3) Lack of health insurance coverage contrib-
13 utes to persistent inequities in the prevention, diag-
14 nosis, and treatment of health conditions. This leads
15 to negative health outcomes for immigrants and
16 their families, especially Black, Indigenous, Latinx,
17 Asian, Pacific Islander, and other Immigrants of
18 Color.

19 (4) Black immigrant women often cite cost as
20 a major barrier to health care. Many who are un-
21 documented forgo doctor visits altogether due to the
22 financial burden in addition to consistent racial bias
23 by medical practitioners and racism in health care.

24 (5) Nearly half of immigrant women are of re-
25 productive age. Immigrant women, lesbian, gay, bi-

1 sexual, transgender, and queer (LGBTQ) immi-
2 grants, and immigrants with disabilities dispro-
3 tionately live in households with low incomes and
4 lack health insurance coverage. Legal and policy bar-
5 riers to affordable health insurance coverage signifi-
6 cantly exacerbate their risk of negative pregnancy-
7 related and other reproductive and sexual health
8 outcomes, with lasting health and economic con-
9 sequences for immigrant women, LGBTQ immi-
10 grants, immigrants with disabilities, and their fami-
11 lies and society as a whole.

12 (6) Immigrants who identify as LGBTQ experi-
13 ence compounding discrimination from health care
14 providers and systems based on race and ethnicity,
15 primary language, immigration status, sexual ori-
16 entation, and gender identity. Nearly one in five
17 transgender patients have been refused care due to
18 their gender non-conforming status, and providers
19 have denied care to undocumented immigrants be-
20 cause of immigration status. These inequities are ex-
21 acerbated by legal and policy barriers that restrict
22 access to health coverage on the basis of immigra-
23 tion status, exposing LGBTQ immigrant commu-
24 nities to disproportionate gaps in affordable, com-
25 prehensive health care. These compounding barriers

1 are especially harmful for LGBTQ immigrants who
 2 are escaping interpersonal and state violence due to
 3 their sexual orientation and gender identity.

4 (7) Denying health insurance coverage or im-
 5 posing waiting periods for health insurance coverage
 6 on the basis of immigration status unfairly hinders
 7 immigrants' ability to reach and maintain their opti-
 8 mal levels of health and undermines the economic
 9 well-being of their families.

10 (8) International human rights standards hold
 11 that governments have an affirmative obligation to
 12 ensure that everyone, including immigrants, can ac-
 13 cess safe, respectful, culturally and linguistically ap-
 14 propriate, and high-quality pregnancy-related care,
 15 including postpartum care, free from discrimination
 16 or violence. Medicaid is the nation's single largest
 17 payer for pregnancy-related care. Nevertheless, bar-
 18 riers to health coverage persist for pregnant and
 19 postpartum people, particularly immigrants.

20 (9) Immigrants—especially Black, Indigenous,
 21 Latinx, Asian, and Pacific Islander immigrants—are
 22 among those most harmed by the United States'
 23 pregnancy-related morbidity and mortality epidemic,
 24 which is the worst among high-income nations.
 25 Black people are more than three times more likely

1 than white people to suffer pregnancy-related death,
2 and twice as likely to suffer maternal morbidity. In-
3 digenous people are more than two times more likely
4 than white people to die from a pregnancy-related
5 death. The majority of United States pregnancy-re-
6 lated deaths are preventable. Lack of access to
7 health care, immigration status, poverty, and expo-
8 sure to racism, sexism, and xenophobia in and be-
9 yond the health care system contribute to the dis-
10 proportionately high number of pregnancy-related
11 deaths among BIPOC birthing and postpartum peo-
12 ple. Unnecessary barriers that limit pregnant and
13 postpartum immigrants' access to health care under-
14 mine their health, safety, and human rights.

15 (10) One in seven United States residents is
16 foreign-born, approximately one in four children in
17 the United States has at least one immigrant par-
18 ent, and the population of immigrant families in the
19 United States is expected to continue to grow in the
20 coming years. It is therefore in our collective public
21 health and economic interest to remove legal and
22 policy barriers to affordable health insurance cov-
23 erage that are based on immigration status.

24 (11) Although individuals granted relief under
25 the Deferred Action for Childhood Arrivals (DACA)

1 program are authorized to live and work in the
2 United States, they have been unfairly excluded
3 from the definitions of lawfully present and lawfully
4 residing for purposes of health insurance coverage
5 provided through the Department of Health and
6 Human Services, including Medicaid, CHIP, and the
7 health insurance exchanges.

8 (12) Since immigration law evolves constantly,
9 new immigration categories for individuals with fed-
10 erally authorized presence in the United States may
11 be created.

12 (13) Some States continue to unwisely restrict
13 Medicaid access for immigrants who have long re-
14 sided in the United States, fueling significant health
15 inequities and increasing health care costs for indi-
16 viduals and the public.

17 (14) Congress restored Medicaid eligibility for
18 individuals living in the United States under the
19 Compacts of Free Association as part of bipartisan
20 legislation in December 2020 and should build on
21 that success by ensuring all immigrants can access
22 care.

23 (b) PURPOSE.—It is the purpose of this Act to—

1 (1) ensure that all individuals who are lawfully
2 present in the United States are eligible for all fed-
3 erally funded health care programs;

4 (2) advance the ability of undocumented indi-
5 viduals to obtain health insurance coverage through
6 the health insurance exchanges established under
7 part II of the Patient Protection and Affordable
8 Care Act, Public Law 111–148;

9 (3) eliminate the authority for States to restrict
10 Medicaid eligibility for lawful permanent residents;
11 and

12 (4) eliminate other barriers to accessing Med-
13 icaid, CHIP, and other medical assistance.

14 **SEC. 3. REMOVING BARRIERS TO HEALTH COVERAGE FOR**
15 **LAWFULLY RESIDING INDIVIDUALS.**

16 (a) **MEDICAID.**—Section 1903(v)(4) of the Social Se-
17 curity Act (42 U.S.C. 1396b(v)(4)) is amended—

18 (1) by amending subparagraph (A) to read as
19 follows:

20 “(A) Notwithstanding sections 401(a),
21 402(b), 403, and 421 of the Personal Responsi-
22 bility and Work Opportunity Reconciliation Act
23 of 1996, a State shall provide medical assist-
24 ance under this title to individuals who are law-
25 fully residing in the United States (including

1 individuals described in paragraph (1), battered
 2 individuals described in section 431(c) of such
 3 Act, and individuals with an approved or pend-
 4 ing application for deferred action or other fed-
 5 erally authorized presence), if they otherwise
 6 meet the eligibility requirements for medical as-
 7 sistance under the State plan approved under
 8 this title (other than the requirement of the re-
 9 ceipt of aid or assistance under title IV, supple-
 10 mental security income benefits under title
 11 XVI, or a State supplementary payment).”;

12 (2) by amending subparagraph (B) to read as
 13 follows:

14 “(B) No debt shall accrue under an affi-
 15 davit of support against any sponsor of an indi-
 16 vidual provided medical assistance under sub-
 17 paragraph (A) on the basis of provision of as-
 18 sistance to such individual and the cost of such
 19 assistance shall not be considered as an unreim-
 20 bursed cost.”; and

21 (3) in subparagraph (C)—

22 (A) by striking “an election by the State
 23 under subparagraph (A)” and inserting “the
 24 application of subparagraph (A)”;

1 (B) by inserting “or be lawfully present”
 2 after “lawfully reside”; and

3 (C) by inserting “or present” after “law-
 4 fully residing” each place it appears.

5 (b) CHIP.—Subparagraph (O) of section 2107(e)(1)
 6 of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is
 7 amended to read as follows:

8 “(O) Paragraph (4) of section 1903(v) (re-
 9 lating to lawfully residing individuals).”.

10 (c) EFFECTIVE DATE.—

11 (1) IN GENERAL.—Except as provided in para-
 12 graph (2), the amendments made by this section
 13 shall take effect on the date of enactment of this Act
 14 and shall apply to services furnished on or after the
 15 date that is 90 days after such date of enactment.

16 (2) EXCEPTION IF STATE LEGISLATION RE-
 17 QUIRED.—In the case of a State plan for medical as-
 18 sistance under title XIX, or a State child health plan
 19 under title XXI, of the Social Security Act which the
 20 Secretary of Health and Human Services determines
 21 requires State legislation (other than legislation ap-
 22 propriating funds) in order for the plan to meet the
 23 additional requirements imposed by the amendments
 24 made by this section, the respective State plan shall
 25 not be regarded as failing to comply with the re-

1 requirements of such title solely on the basis of its
 2 failure to meet these additional requirements before
 3 the first day of the first calendar quarter beginning
 4 after the close of the first regular session of the
 5 State legislature that begins after the date of enact-
 6 ment of this Act. For purposes of the previous sen-
 7 tence, in the case of a State that has a 2-year legis-
 8 lative session, each year of such session shall be
 9 deemed to be a separate regular session of the State
 10 legislature.

11 **SEC. 4. CONSISTENCY IN HEALTH INSURANCE COVERAGE**
 12 **FOR INDIVIDUALS WITH FEDERALLY AU-**
 13 **THORIZED PRESENCE, INCLUDING DE-**
 14 **FERRED ACTION.**

15 (a) IN GENERAL.—For purposes of eligibility under
 16 any of the provisions described in subsection (b), all indi-
 17 viduals granted federally authorized presence in the
 18 United States shall be considered to be lawfully present
 19 in the United States.

20 (b) PROVISIONS DESCRIBED.—The provisions de-
 21 scribed in this subsection are the following:

22 (1) EXCHANGE ELIGIBILITY.—Section 1411 of
 23 the Patient Protection and Affordable Care Act (42
 24 U.S.C. 18031).

1 (2) REDUCED COST-SHARING ELIGIBILITY.—
2 Section 1402 of the Patient Protection and Afford-
3 able Care Act (42 U.S.C. 18071).

4 (3) PREMIUM SUBSIDY ELIGIBILITY.—Section
5 36B of the Internal Revenue Code of 1986 (26
6 U.S.C. 36B).

7 (4) MEDICAID AND CHIP ELIGIBILITY.—Titles
8 XIX and XXI of the Social Security Act, including
9 under section 1903(v) of such Act (42 U.S.C.
10 1396b(v)).

11 (c) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Subsection (a) shall take ef-
13 fect on the date of enactment of this Act.

14 (2) TRANSITION THROUGH SPECIAL ENROLL-
15 MENT PERIOD.—In the case of an individual de-
16 scribed in subsection (a) who, before the first day of
17 the first annual open enrollment period under sub-
18 paragraph (B) of section 1311(c)(6) of the Patient
19 Protection and Affordable Care Act (42 U.S.C.
20 18031(c)(6)) beginning after the date of enactment
21 of this Act, is granted federally authorized presence
22 in the United States and who, as a result of such
23 subsection, qualifies for a subsidy under a provision
24 described in paragraph (2) or (3) of subsection (b),
25 the Secretary of Health and Human Services shall

1 establish a special enrollment period under subpara-
 2 graph (C) of such section 1311(c)(6) during which
 3 such individual may enroll in qualified health plans
 4 through Exchanges under title I of the Patient Pro-
 5 tection and Affordable Care Act and qualify for such
 6 a subsidy. For such an individual who has been
 7 granted federally authorized presence in the United
 8 States as of the date of enactment of this Act, such
 9 special enrollment period shall begin not later than
 10 90 days after such date of enactment. Nothing in
 11 this paragraph shall be construed as affecting the
 12 authority of the Secretary to establish additional
 13 special enrollment periods under such subparagraph
 14 (C).

15 **SEC. 5. REMOVING CITIZENSHIP AND IMMIGRATION BAR-**
 16 **RIERS TO ACCESS TO AFFORDABLE HEALTH**
 17 **CARE UNDER THE ACA.**

18 (a) IN GENERAL.—

19 (1) PREMIUM TAX CREDITS.—Section 36B of
 20 the Internal Revenue Code of 1986 is amended—

21 (A) in subsection (c)(1)(B)—

22 (i) by amending the heading to read
 23 as follows: “SPECIAL RULE FOR CERTAIN
 24 INDIVIDUALS INELIGIBLE FOR MEDICAID
 25 DUE TO STATUS”; and

1 (ii) by amending clause (ii) to read as
 2 follows:

3 “(ii) the taxpayer is a noncitizen who
 4 is not eligible for the Medicaid program
 5 under title XIX of the Social Security Act
 6 by reason of the individual’s immigration
 7 status,”.

8 (B) by striking subsection (e).

9 (2) COST-SHARING REDUCTIONS.—Section 1402
 10 of the Patient Protection and Affordable Care Act
 11 (42 U.S.C. 18071) is amended by striking sub-
 12 section (e) and redesignating subsection (f) as sub-
 13 section (e).

14 (3) BASIC HEALTH PROGRAM ELIGIBILITY.—
 15 Section 1331(e)(1)(B) of the Patient Protection and
 16 Affordable Care Act (42 U.S.C. 18051(e)(1)(B)) is
 17 amended by striking “lawfully present in the United
 18 States,”.

19 (4) RESTRICTIONS ON FEDERAL PAYMENTS.—
 20 Section 1412 of the Patient Protection and Afford-
 21 able Care Act (42 U.S.C. 18082) is amended by
 22 striking subsection (d) and redesignating subsection
 23 (e) as subsection (d).

24 (5) REQUIREMENT TO MAINTAIN MINIMUM ES-
 25 SENTIAL COVERAGE.—Subsection (d) of section

1 5000A of the Internal Revenue Code of 1986 is
 2 amended by striking paragraph (3) and by redesignig-
 3 nating paragraph (4) as paragraph (3).

4 (b) CONFORMING AMENDMENTS.—

5 (1) ESTABLISHMENT OF PROGRAM.—Section
 6 1411(a) of the Patient Protection and Affordable
 7 Care Act (42 U.S.C. 18081(a)) is amended by strik-
 8 ing paragraph (1) and redesignating paragraphs (2),
 9 (3), and (4) as paragraphs (1), (2), and (3), respec-
 10 tively.

11 (2) QUALIFIED INDIVIDUALS.—Section 1312(f)
 12 of the Patient Protection and Affordable Care Act
 13 (42 U.S.C. 18032(f)) is amended—

14 (A) in the heading, by striking “; ACCESS
 15 LIMITED TO CITIZENS AND LAWFUL RESI-
 16 DENTS”; and

17 (B) by striking paragraph (3).

18 (c) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to years, plan years, and taxable
 20 years, as applicable, beginning after December 31, 2021.

21 **SEC. 6. PRESERVING ACCESS TO COVERAGE.**

22 (a) IN GENERAL.—Nothing in this Act, including the
 23 amendments made by this Act, shall prevent lawfully
 24 present noncitizens who are ineligible for full benefits
 25 under the Medicaid program under title XIX of the Social

1 Security Act from securing a credit for which such lawfully
2 present noncitizens would be eligible under section
3 36B(c)(1)(B) of the Internal Revenue Code of 1986 and
4 under the Medicaid provisions for lawfully present nonciti-
5 zens, as in effect on the date prior to the date of enact-
6 ment of this Act.

7 (b) DEFINITION.—For purposes of subsection (a),
8 the term “full benefits” means, with respect to an indi-
9 vidual and State, medical assistance for all services cov-
10 ered under the State plan under title XIX of the Social
11 Security Act that is not less in amount, duration, or scope,
12 or is determined by the Secretary of Health and Human
13 Services to be substantially equivalent to the medical as-
14 sistance available for an individual described in section
15 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C.
16 1396a(a)(10)(A)(i)).

○