



Comments on the “Patient Protection Affordable Care Act”

The “Patient Protection Affordable Care Act” (H.R. 3590) aims to make health insurance mandatory and more accessible for many Americans. However, after review of the U.S. Senate merged legislation, the National Council of La Raza (NCLR), the largest national Hispanic civil rights and advocacy organization in the United States, questions the bill’s affordability, reach into the Latino community, and ability to improve the quality of health care for many uninsured Americans. Specifically, the legislation would implement immigrant restrictions that could undermine the efficacy and sustainability of health care reform by creating massive barriers for all Americans. Several key provisions and recommendations are highlighted below.

NCLR is encouraged by the inclusion of the following provisions:

The vast majority of uninsured U.S. citizens and legal immigrants are eligible for affordability credits to make health insurance more affordable through an Exchange. The reforms in the bill will help uninsured U.S. citizens and legal immigrants gain access to more affordable health insurance through affordability tax credits. In addition, legal immigrants who have incomes below the poverty level but are not eligible for Medicaid will also have access to these tax credits in order to help purchase insurance within the Exchange. Still, there are serious questions about the affordability of the insurance, even with the available credits.

A fair level of tax subsidies are provided for eligible legal immigrants and U.S. citizens. H.R. 3590 fixes a serious flaw in the original Senate bill that would have left eligible citizens and legal immigrants without access to health insurance. In particular, four million U.S. citizen children with an undocumented parent were at risk of becoming uninsured based on the Senate Finance Committee’s previous formula for calculating subsidies. The final Senate legislation changes the protocol by prorating both the income and the premiums of the household so eligible individuals in mixed-immigration-status households can gain access to an equitable subsidy to purchase insurance. This important fix helps to ensure that no U.S. citizen or legal immigrant goes without the financial resources to purchase insurance because of who their family members are.

Expansion of data collection, workforce diversification, and community health centers are solid investments for tackling health disparities. The bill includes provisions on the collection of data on race, ethnicity, and primary language of individuals receiving care through any federally conducted or supported health care program. Grant programs are included to bolster funding for community health centers, often at the center of health care delivery in minority communities. Furthermore, the Senate seeks to help diversify and expand the workforce by increasing support for loan repayment programs and scholarships for medical students to work in medically underserved areas. Through these efforts, the quality of care can be improved through a diverse and culturally competent health care workforce, and health inequalities can continue to be identified within our health care system.

NCLR remains deeply concerned about the harmful prohibition of undocumented immigrants from purchasing insurance within the Exchange as well as the lack of action to fully integrate legal immigrants into the legislation. It was important that the Senate process moved forward; however, a final bill that reflects the Senate bill's content could leave millions of Latinos worse off. Final legislation should incorporate the positive measures contained in the two health reform bills, focusing on the following improvements:

Allow all individuals to purchase insurance in the Exchange on their own. The administration's position to exclude undocumented residents from purchasing private insurance with their own money in the new Exchange is harmful to the basic ideals of reform. The most damage is likely to be exacted on U.S. citizens and legal immigrants in these households, who will face roadblocks to health care due to the amount of bureaucracy that is required to carve undocumented immigrants out of full-priced health coverage. Denying access to the Exchange leaves these individuals uninsured and will force unnecessary delays in care. Health problems grow more urgent and their treatment more expensive. Individuals who are willing to purchase health insurance in the Exchange on their own without any taxpayer dollars should be afforded that opportunity in health care reform legislation.

Allow family-based access to health coverage. With 82% of uninsured Latinos living in families, it is essential for health care reform to streamline enrollment for families and allow them to be treated as a single unit. Families and children in particular have trouble gaining access to coverage when family members have mixed eligibility for health care programs. To eliminate this confusion and facilitate access to health coverage, we should take the approach of allowing a family to purchase insurance at a fair price once one eligible person in the family applies.

Remove the five-year bar. To promote an equitable system, we must remove remaining restrictions for legal immigrants to access Medicaid, Medicare, and the Children's Health Insurance Program (CHIP), including the five-year waiting period that keeps lawfully present individuals from gaining access to affordable health coverage. Legal immigrants are required to purchase insurance in every bill, yet when they fall on hard times, they do not have access to the programs that their taxes have helped fund. To most benefit those who need the help of the programs they support, the five-year waiting period should be mandatorily removed.

Improve affordability. While the affordability of insurance for medium-income families under the Senate bill is superior to that under the House legislation, there are concerns about insurance costs for low- and moderate-income families. Through the Senate legislation, insurance premium caps that are significantly weaker than those found in the House legislation could burden individuals with mandatory health insurance that is unaffordable. Provisions in H.R. 3590 would force higher maximum and average premiums and higher out-of-pocket costs on low- and moderate-income families than those in the House bill. For example, in the Senate bill, maximum levels of premiums and out-of-pocket costs could leave low-income families with costs totaling as much as 22% of their income. Average cost estimates show that the Senate bill could force these families to regularly contribute as much as 16% of their income to premiums and out-of-pocket expenditures on health care. Such costs are unreasonable and leave the Senate

bill without sufficient affordability protections to make the goals of health care reform attainable for low-income families. At a minimum, we encourage the Senate to revisit this proposal and identify ways to improve affordability in their bill for persons under 250% of the federal poverty level. Ideally, many of these families should be paying no more than 5% of total out-of-pocket costs.

Reject harmful verification. Paperwork and excessive verification can contribute to time delays and higher costs for people enrolling in insurance. There are numerous studies which show that while there is no evidence of abuse of our health care resources by ineligible immigrants, verification raises costs, provides barriers to health care, and has been proven to eliminate access to health coverage for many U.S. citizens. The Senate bill provides for a detrimental approach to verification that could prevent access to health insurance for eligible citizens and legal immigrants. As long as the prohibition to the health insurance Exchange persists, there will be massive verification systems in place that will make it more difficult for anyone purchasing health coverage through the Exchange. In particular, mixed-immigration-status families may find it impossible to meet the requirement of the mandate to purchase coverage—even at full price for their families—with these barriers in place. As research has shown with other excessive verification measures, inclusion in health care reform will unnecessarily raise costs, increase the risk of error, and lead to a reduction in access to coverage for otherwise eligible individuals. Verification barriers should be removed in reform. In addition, protections should be incorporated that protect misuse of personal information when verification is implemented and ensure that all individuals are given the full opportunity to prove eligibility for affordable health credits. No one should be denied access to coverage because of a cumbersome and inefficacious verification process.

Improve provisions to address inequality in health care. Many insured Latinos and others in medically underserved communities continue to experience unequal treatment in the health care system, limiting the benefit of the medical care that they receive. While the Senate explores these health disparities, it does not take enough action to eliminate them. The Senate legislation must build upon its provisions that address data collection by also addressing actual gaps in the quality of care. The Senate bill fails to match the House legislation's efforts to actively address the inequality of care in areas such as language access. For example, the House bill provides for reimbursement for culturally and linguistically appropriate services for Medicare beneficiaries, incentivizing service providers to deliver culturally competent care to overcome language barriers faced by racial and ethnic minority communities. It also requires a study by the Institute of Medicine to determine the impact of such language access services, providing for in-depth analysis of the benefits of such programs to improve the quality of health care for limited-English-proficient patients. Furthermore, another provision in the House provides robust funding for community prevention and wellness grant programs that are required to apply the majority of funds toward the reduction of health disparities. In this vein, the final bill should take steps to make the reduction of health disparities a national priority for the improvement of health care delivery in the U.S. To begin to bridge the gaps in our current system, Congress must prioritize equitable patient treatment and the elimination of disparities in a final bill.

Allow Puerto Rico to expand health care for its U.S. citizens and legal residents. The Commonwealth of Puerto Rico and other U.S. territories are left out of many of the new

expansions of health care access in H.R. 3590. In particular, they do not have the ability to purchase health coverage in the Exchange. The Senate has taken critical steps to improve the funding for the Medicaid program, but the increases fall short of meeting the needs of the 330,000 low-income Puerto Ricans who are uninsured.