



Insight

Undocumented Immigrants and the California ACA Exchanges

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Introduction

The California Senate recently passed a bill intended to make many benefits of the Affordable Care Act (ACA) available to undocumented immigrants in the state. The bill is currently working its way through the state assembly, and will soon come to a vote in that body. The two-part proposal would allow undocumented immigrants to purchase health insurance through the state's ACA exchange, CoveredCalifornia, and allow many others unable to afford insurance to participate in Medi-Cal, the state Medicaid program.

Currently, federal law does not allow undocumented immigrants to benefit from federal health programs. The ACA explicitly excludes undocumented immigrants from eligibility to purchase health insurance through the federally subsidized health insurance exchanges. Section 1312(f)(3) further entirely excludes non-qualified individuals from federal premium subsidy eligibility. Likewise, undocumented immigrants are ineligible to receive any Medicaid benefits supported by federal funds.

CA SB4

The first part of the bill, SB4, which would become effective on January 1, 2017, addresses the exclusion of undocumented immigrants in the ACA exchanges. Currently, relatively young and healthy people in need of preventive care and living in California are prohibited from purchasing health insurance plans through the state insurance exchange because of their immigration status.^[1] Nearly 20 percent of uninsured undocumented immigrants in California cite ineligibility due to immigration status as their primary reason for being uninsured, while another 33 percent report not knowing how to become insured or not qualifying for public programs as their primary reasons. Only 36.4 percent consider cost the primary obstacle to coverage.^[2] Among the 43 percent of undocumented immigrants who do have health insurance, 35 percent have private coverage purchased through an employer or through the individual market.^[3] If we assume that some of these undocumented immigrants would purchase insurance on the exchange, allowing them to participate could potentially improve the risk pool and may place some downward pressure on premiums.

The bill calls for a §1332 waiver application to be submitted to the Secretary of Health and Human Services (HHS) requesting an exemption to the ACA's express exclusion of undocumented immigrants from the exchanges. However, this provision of the bill does not attempt to make the undocumented immigrants eligible for premium subsidies or cost-sharing credits, and any insurance purchased by these individuals would be bought entirely out-of-pocket.

The effect of this first section of the bill would, in effect, allow all potential consumers to purchase products offered for sale in a given market. Undocumented immigrants would benefit from the price and coverage of the mandates to the same degree as any other consumer, and the statistically younger and healthier undocumented demographic could help improve those benefits for citizens by driving down premium prices through

unsubsidized competition and better risk ratings.

The second major provision of SB4, intended to become effective on May 1, 2016, is significantly more problematic. The proposed amendment to Medi-Cal would allow some of the 1.5 million undocumented immigrants in California to be eligible to receive Medi-Cal benefits. This new eligibility would be extended to financially eligible children under 19 years old and a capped number of adults. Undocumented children would then have a legislative entitlement, unrestricted by state appropriations or budget, while the expansion of Medi-Cal to undocumented adults would be subject to the appropriation of necessary funds.

The bill also calls for the California department of health care services (DHCS) to apply to the Secretary of HHS for a grant of federal funds to support this Medi-Cal expansion, if and when federal laws permit.

What this Bill Means

California is unique among the states for having both an expansive Medicaid program and a very large undocumented immigrant population. SB4 is the result of these two circumstances. The first provision – to allow all residents of the state to purchase insurance plans through the exchange – is a way to reduce the instances of uncompensated care provided to the 1.5 million uninsured undocumented immigrants in the state, and could have the added bonus of increasing price-sensitive competition and driving down insurance premiums in the state. Of course, there is only a positive impact on risk and prices if a significant subset of this population is willing to pay full price for a plan premium and deductible on the California exchange. The concerns articulated by opponents of the law are that this may be the first step towards making federal premium subsidies available to this undocumented population as well. While the risk of a slippery slope does exist, federal law currently places a substantial barrier to expanding federal subsidization to undocumented immigrants.

The expansion of Medi-Cal to all undocumented children otherwise eligible for the program will create an obligation on the state budget which will be difficult to reverse once implemented. Furthermore, the language of the bill anticipates the eventual availability of federal funds for this expansion, and may indicate California's inability to sustain this new expense with its own treasury. It is noteworthy that the California legislature seems willing to gamble state funds on the bet that the federal government will soon compromise on providing these millions of uninsured and undocumented immigrants a path to legal status, or else that even undocumented immigrants will soon be eligible to receive health care funded in part by the federal government.

[1] Suárez-Orozco, C., H. Yoshikawa, R. T. Teranishi, and M.M. Suarez-Orozco. 2011. "Growing Up in the Shadows: The Developmental Implications of Unauthorized Status." *Harvard Educational Review* 81(3):438-72; (studies suggest that undocumented immigrants from South and Central American countries have "better health status and lower rates of risky health behaviors compared to the US-born.").