

Background

No. 2345
November 24, 2009



Published by The Heritage Foundation

Providing Health Care for Illegal Immigrants: Understanding the House Health Care Bill

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Abstract: *H.R. 3962 would deliberately permit illegal aliens to participate in the government health insurance exchange and in the public option insurance program. It would nominally bar them from receiving health care “affordability credits” and most regular Medicaid benefits, but verification procedures are weak and subject to fraud. Moreover, any limitations on benefits provided to illegal immigrants under the House bill are deceptive. The President and the congressional leadership clearly intend that these limits will be only temporary, to be overturned by amnesty or “comprehensive immigration reform” legislation that will be introduced next spring.*

The issue of illegal immigrants and health care reform has drawn considerable attention. During his September 9 address to Congress on health care, President Barack Obama famously declared that “[t]here are also those who claim that our reform efforts would insure illegal immigrants. This, too, is false. The reforms—the reforms I’m proposing would not apply to those who are here illegally.”¹ The White House subsequently amplified this point, asserting that “[u]ndocumented immigrants would not be able to buy private insurance on the [health insurance] exchange.”²

The health care bill recently passed by the U.S. House of Representatives (H.R. 3962) clearly and directly contradicts the President’s declarations and promises. Under H.R. 3962:

Talking Points

- H.R. 3962 does not seek to deter or prevent illegal immigration, but rather to support and subsidize it. It would deliberately permit illegal aliens to participate in the government health insurance exchange and in the public option insurance program.
- Illegal immigrants are nominally barred from receiving health care “affordability credits” and most regular Medicaid benefits, but verification procedures are weak and subject to fraud.
- Nearly 400,000 illegal immigrant women give birth inside the U.S. each year; under H.R. 3962, many of these births would be fully covered by U.S. taxpayers through the Medicaid program.
- All limitations on benefits provided to illegal immigrants under health care reform legislation are deceptive. The President and the congressional leadership clearly intend these limits to be only temporary, to be overturned by amnesty or “comprehensive immigration reform” legislation to be introduced next spring.

This paper, in its entirety, can be found at:
www.heritage.org/Research/HealthCare/bg2345.cfm

Produced by the Domestic Policy Studies Department

Published by The Heritage Foundation
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- Illegal immigrants are clearly permitted to purchase health insurance under the government health insurance exchange created by the bill.
- Illegal immigrants are permitted to receive coverage under the “public health insurance option” created in the bill.
- Illegal immigrants are ostensibly barred from receiving taxpayer-funded “affordability credits” to subsidize their health care, but the verification procedures used to determine the legal status of those who receive credits are weak and subject to fraud.
- The bill expands the Medicaid program. Illegal immigrants are nominally barred from receiving most Medicaid services, but the verification procedures used to determine the legal status of those who receive credits are also weak and subject to fraud.
- All illegal immigrant women who do not have private health insurance and who give birth inside the United States will have the full cost of childbirth paid by the U.S. taxpayers. There will be no effort to have the mother repay any of the cost. Given the fact that nearly 400,000 children are born inside the U.S. each year to illegal immigrant women, these costs could be quite large.
- The bill will provide tax credits to small businesses to subsidize the purchase of health insurance for illegal immigrant employees. Under H.R. 3962, small businesses will be given tax credits to encourage them to purchase health coverage for employees; because firms are not required to verify the legal status of subsidized employees, both legal and illegal employees will receive taxpayer support.
- Illegal immigrants will continue to receive so-called emergency medical services under the Medicaid program.

Finally, any restrictions on giving taxpayer-funded health care benefits contained in the House

Illegal immigrants are clearly permitted to purchase health insurance under the government health insurance exchange created by H.R. 3962.

or Senate health care bills are, in fact, irrelevant because President Obama and the current House and Senate leadership have promised to grant amnesty to illegal immigrants. Amnesty would provide legal permanent residence, and eventually citizenship, to some 10 million to 20 million illegal immigrants and their dependents. Amnesty would inevitably make illegal immigrants eligible for government health care insurance and credits, Medicaid, and all other welfare programs. (For example, the amnesty bills debated in Congress in 2006 and 2007 made amnesty recipients eligible, after a short delay, for the full range of U.S. welfare and entitlement programs.)

Granting illegal immigrants access to government health care and welfare would be enormously expensive for the U.S. taxpayer. The health care bills currently being debated in Congress would only increase those costs.

Any restrictions on providing government health care to illegal immigrants in the House or Senate health care bills are deliberately deceptive. Such restrictions are intended to be merely temporary; President Obama and the congressional leadership intend to nullify them with amnesty or “comprehensive immigration reform” legislation as soon as possible.

H.R. 3962 and Illegal Immigrants

President Obama has publicly proclaimed that health care reform would not “insure illegal immigrants.” H.R. 3962 deliberately violates the President’s pledge. The bill would provide government-sponsored, taxpayer-funded health care coverage to illegal immigrants in a number of ways.

1. President Barack Obama, “Remarks by the President to a Joint Session of Congress on Health Care,” September 9, 2009, at http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-to-a-Joint-Session-of-Congress-on-Health-Care (November 20, 2009).
2. “WH on Health Care, Illegal Immigrants,” NBC, September 11, 2009, at <http://firstread.msnbc.msn.com/archive/2009/09/11/2065287.aspx> (November 20, 2009).

1. Illegal immigrants would participate in the health insurance exchange.

Section 301 of H.R. 3962 creates the government health insurance exchange, and Section 302 specifies that “all individuals are eligible to obtain coverage” through the exchange unless they are enrolled in another qualified health care plan such as Medicare, Medicaid, veterans health care, or some employer-provided coverage.³ No requirement limits participation in the plan to citizens and lawful residents; the bill makes illegal immigrants fully eligible to participate and purchase insurance through the government exchange.

In addition, certain employers are permitted to purchase health insurance for their employees through the exchange. There is no requirement that such covered employees be citizens or legal residents; illegal immigrant employees are clearly eligible.

These provisions directly contradict the promises made by the Obama White House that under any proposal supported by the President, “undocumented immigrants would not be able to buy private insurance on the [health insurance] exchange.” The White House has further stated that under the Obama health care reform, “Verification [of legal status] will be required when purchasing health insurance on the exchange.”⁴ The House bill deliberately contradicts the President’s proclamations.

2. Illegal immigrants would be beneficiaries of the public option.

Title III, Subtitle B of the House bill creates the “public health insurance option,” a government health care plan. All individuals and employers that are eligible to participate in the “health insurance exchange” are eligible to purchase coverage through the public plan option; there are no restrictions on illegal immigrants participating in the plan either as employees or as individuals.

Section 322 suggests that the public option plan will be largely self-funded by means of premiums paid by participants. Section 322(b)(3), for example, states that there will be no taxpayer “bailouts” of

the public option plan in the future. This provision is meaningless and can be overridden by Congress at any time. It is very likely that Congress will provide the “public option” health care plan with extensive taxpayer subsidies in the future; all illegal immigrants participating in the plan would benefit from those subsidies.

Illegal immigrants are permitted to receive coverage under the “public health insurance option” created in the House bill.

The deliberate inclusion of illegal immigrants in both the proposed health insurance exchange and the public option program sends a clear and alarming message: Illegal immigrants are to be welcomed and encouraged to live in the U.S. The aim of the authors of H.R. 3962 is not to deter or reduce illegal immigration, but to support and subsidize it.

3. Illegal immigrants would not be eligible for affordability credits, but verification is weak.

The House bill provides “affordability credits” to subsidize the purchase of health insurance offered on the health insurance exchange. Families with incomes below 400 percent of poverty (around \$88,000 per year for a family of four) will be eligible for some level of affordability credit.

Section 342(a)(i) states that affordability credits shall be available only to those who are “lawfully present in a state in the United States.” This would include citizens and lawful immigrants who have legal permanent residence; non-immigrant tourists are excluded. Section 347 repeats this point, stating that “nothing in this sub-title shall allow federal payments for affordability credits on behalf of individuals who are not lawfully present in the United States.”

Identity Verification Under H.R. 3962. The original House health care bill (H.R. 3200) had similar provisions excluding illegal immigrants but lacked a mechanism to verify whether an individual was lawfully present in the U.S. H.R. 3962 contains

3. H.R. 3962, p. 156.

4. “WH on Health Care, Illegal Immigrants.”

verification provisions that are an improvement on the original bill, but they remain highly vulnerable to identity theft and fraud.

Verification of an Applicant Claiming Citizenship. Verification procedures for an applicant for affordability credits who attests citizenship are provided in Section 342(b)(4)(C) of the House bill.⁵ In this situation, verification would involve five steps.

- Applicants who self-assert they are citizens are not required to provide any physical documentation demonstrating citizenship.
- An applicant attesting citizenship will submit his name and Social Security number to the Health Care Commissioner.
- The name and Social Security number will then be sent to the Social Security Administration (SSA) to be cross-checked against the numident files kept by that agency. If the name and Social

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Security number match data in the numident files, the individual is deemed to be an eligible participant. (Income eligibility will subsequently be determined based on IRS data.)

- If the information submitted fails to match Social Security Administration data, the applicant will be given the opportunity to double-check the information submitted for clerical errors and to correct and resubmit erroneous data. The applicant will also be given the opportunity to update or correct information in the SSA database if it is

out of date or inaccurate. (For example, the SSA database may have a woman listed by her maiden rather than a married name.)

- If the applicant is still unable to offer a name and Social Security number that matches SSA files, the applicant will have four months to resolve the discrepancy. The applicant will remain eligible for affordability credits during the four-month period.

Verification for Immigrants Claiming Legal Permanent Residence. Verification procedures for applicants claiming they are non-citizen immigrants with legal permanent residence are provided in Section 342(b)(4)(D) of the House bill.⁶ These procedures are similar to those for citizen applicants except that immigrant applicants are required to provide documentation or other proof of immigrant registration.

The immigrant's name and admission number or alien file number are submitted to the Department of Homeland Security (DHS) rather than the SSA for verification. If the name and number submitted correspond to the name and number of an immigrant with lawful permanent status in the DHS files, the applicant is deemed eligible for credits. If there is a discrepancy between the information the applicant submits and DHS records, the applicant is given an opportunity to resolve it.

Problems with Identity Verification in H.R. 3962. While the verification system proposed in H.R. 3962 can determine whether the name and Social Security number submitted by an applicant correspond to an actual name and Social Security number in the Social Security database (or to a name and immigrant admission number in the DHS database), the system cannot determine whether the applicant is actually the individual he purports to be. The system is thus vulnerable to identity theft in which one person assumes the identity of another.⁷

5. H.R. 3962, p. 228. This section links to Section 1902(ee) of the Social Security Act, which specifies the verification procedures.

6. This section links to Section 1137(d), paragraphs 2 through 5 of the Social Security Act.

7. One variant on identity theft is identity sale, in which one person sells his identity information to another to enable that individual to obtain government benefits. For example, an individual with employer-provided health coverage could sell his identity data to others to enable them to receive Medicaid services. Another variant is identity lending, in which one person allows a relative or friend to pose as the first person in order to obtain Medicaid services for free.

For example, an illegal immigrant could easily apply for government aid using the name and Social Security number of a lawful citizen. The proposed system would conclude that the illegal immigrant was eligible for aid.

The verification procedures for individuals applying for Medicaid are similar to those outlined above.⁸ Although the procedures may generally stop individuals from obtaining aid by using bogus Social Security numbers, they could not prevent illegal access to benefits by way of identity theft or fraud.

Principles of an Effective Verification System.

An effective verification system must prevent three types of abuse:

- Unlawful receipt of benefits by use of a fictitious or made-up Social Security number and identity;
- Unlawful receipt of benefits by means of identity theft or sale (using the identifying information of a lawful eligible individual); and
- Unlawful receipt of benefits by lawful residents who are otherwise ineligible for assistance (for example, receipt of affordability credits by an individual who is ineligible because he or she has an offer of employer-provided coverage).

To prevent these types of abuse, an effective verification system should require the following:

- All applicants should be required to provide valid physical identification documents showing citizenship or lawful residence. Such documents alone will not prevent fraud, but they will make identity theft more difficult.
- All applicants should be required to provide name, Social Security number (or immigrant admission number), and date of birth. This information should be electronically checked against Social Security and Department of Homeland

Security databases. The inclusion of date of birth would make identity theft more difficult.

- Identifying information of applicants should be cross-checked electronically against information concerning concurrent Medicare, Medicaid, veterans, or employer-provided health insurance coverage. Situations where multiple concurrent coverage appears for a single individual could be examined for potential fraud or identity theft.

The House health care bill does not provide an effective verification system either for Medicaid or for affordability credits. For example, the bill does not even provide a mechanism to prevent multiple affordability credits from being provided under a single Social Security number.

H.R. 3962's weak verification system leaves many of its other provisions unenforceable. For example, Section 342(b)(1) contains an anti-crowd out provision stipulating that an individual who has an offer of qualified health care coverage from an employer cannot receive affordability credits, but it creates no mechanism to enforce this provision.

One way to enforce this provision would be to include health insurance information in the current wage reporting system. To reduce fraud in welfare programs, employers are already required (under U.S.C. 12320b-7) to provide quarterly information on employee wages. Anti-crowd out provisions could be enforced by having employers also provide simple information on health insurance offers and coverage to employees. The federal government could use this information to determine whether an individual was actually eligible for affordability credits. This information could also help to prevent identity theft by identifying cases of potential multiple coverage.

8. Medicaid verification standards for applicants attesting citizenship are complex. Individuals are required either to provide physical documents listed in Section 1903(x) of the Social Security Act or (at state option) to provide a name and Social Security number only, which will then be checked against Social Security Administration records according to procedures outlined in Section 1902(ee) of the Social Security Act. Section 1137(a) of the Social Security Act requires states to use an applicant's Social Security number to determine eligibility, but this provision seems to pertain to verification of wages and income rather to determination of citizenship. Applicants claiming to be immigrants with legal permanent residence are verified for Medicaid under Section 1137(d) of the Social Security Act; these procedures are described in the section on verification for immigrants claiming legal permanent residence with respect to affordability credits in the body of this paper. All verification procedures are vulnerable to fraud through identity theft.

4. All births to uninsured illegal immigrant women would be covered by Medicaid.

Section 305(d) of the House bill gives automatic Medicaid coverage to all newborn children who do not have other insurance coverage, irrespective of the income of the child's family. As part of this coverage, Medicaid would pay for the cost of the child-birth. There would be no effort to have the mother repay any of the cost.

All illegal immigrant women who do not have private health insurance and who give birth inside the United States will have the full cost of childbirth paid by the U.S. taxpayers. Given the fact that nearly 400,000 children are born inside the U.S. each year to illegal immigrant women, these costs could be quite large.

This provision differs from existing Medicaid policy, which covers only lower-income children. Each year, nearly 400,000 illegal immigrant women give birth in the U.S.⁹ Most of these mothers lack health insurance. H.R. 3962 formally and explicitly transfers the cost of these births to U.S. taxpayers. The policy seems to create incentives for even greater illegal immigration in the future.

5. Tax credits would be provided to small businesses to purchase health care for illegal employees.

Section 521 of H.R. 3962 provides tax credits to small businesses equal to 50 percent of the cost of providing health coverage to employees. These credits would be available to firms with fewer than 25 employees, and firms could receive them for a maximum of two years.

The bill does not require that the employees whose health care is subsidized through these credits be citizens or lawful immigrants, and firms are not required to check and verify the legal status of

their employees as a condition of receiving the subsidies. Since there is no limit on the type of employees whose health insurance can be subsidized by the credit, it seems clear that at least part of the credits would be used to subsidize the employment of illegal immigrants.

Amnesty and Health Care Reform

While H.R. 3962 fails to uphold President Obama's promise to exclude illegal immigrants from receiving benefits under health care reform, it does provide some restrictions on illegal immigrant access to affordability credits and expanded Medicaid. However, even these imperfect restrictions (along with similar limitations in the Senate health care bill) are meaningless because both the President and the congressional leadership plan to override them with amnesty legislation next spring.¹⁰

President Obama understands that giving illegal immigrants full access to government health care benefits would doom the current health care reform legislation politically. He has therefore devised a two-stage strategy for providing government-funded health care to illegals.

First, he plans to establish the new health care benefit system with massive subsidies but seeks to exclude illegal aliens temporarily from receiving some or all of these benefits.

Second, after creating the new system, Obama plans, no later than next spring, to enact an amnesty bill that, among other things, would give current illegal aliens full access to the newly created health care benefits.

Any "comprehensive immigration reform" or amnesty bill will inherently confer legal permanent residence and then citizenship on current illegal aliens. This change in status will automatically grant illegal immigrants access to government programs and entitlements, including expanded Medicaid and the new affordability health credits. (It is

9. Steven A. Camarota, *Births to Immigrants in America, 1970 to 2002*, Center for Immigration Studies, June 2005. Some of the cost of these births is already paid for under the Medicaid Disproportionate Share Hospitalization (DSH) program.

10. On November 14, 2009, Homeland Security Secretary Janet Napolitano reaffirmed support for amnesty legislation early next year. See Spencer S. Hsu, "Obama Presses Congress to Rework Immigration Laws," *The Washington Post*, November 14, 2009, at <http://www.washingtonpost.com/wp-dyn/content/article/2009/11/13/AR2009111303995.html> (November 20, 2009).

unconstitutional to deny any government benefit to naturalized citizens that is available to native-born citizens.)

For example, both amnesty bills advanced in Congress in recent years—the Comprehensive Immigration Reform Act of 2006 (S. 2611) and the Comprehensive Immigration Reform Act of 2007 (S. 1348)—would have given all illegal immigrants receiving amnesty access to all government means-tested welfare programs, albeit with slight delays in obtaining eligibility. Obama’s amnesty plan will inevitably follow the same course. It may try to reduce obvious short-term fiscal costs by delaying the time when amnesty recipients can obtain some government benefits, but ultimately, all will become eligible.

Over time, Obama’s planned amnesty will give some 10 million to 20 million illegal immigrants not merely health care benefits, but full access to the massive U.S. welfare system comprising over 70 separate aid programs at a cost of around \$700 billion per year. Total welfare costs will hit \$10.3 trillion over the next decade.¹¹ Lower-skill immigrants will already receive around \$1.5 trillion per year in means-tested welfare aid over the next decade; health care reform and amnesty will substantially raise these costs.

Between 50 percent and 60 percent of illegal immigrants are high school dropouts, so granting them full access to the U.S. welfare system will be extremely expensive for taxpayers. The typical high school dropout immigrant receives over \$10,000 per household in means-tested welfare benefits each year throughout his lifetime.¹² While some will argue that recipients of amnesty will pay taxes to offset welfare costs, lower-skill immigrants will receive on average \$3 in overall government benefits

for each dollar paid in taxes. The proposed health care reform legislation will increase these costs.

Overall, the debate concerning providing government health benefits to illegal immigrants in health care reform legislation is a deceptive charade. Any limitations on health care benefits for illegal immigrants that are contained in such reform legislation are meaningless, because both the President and the congressional leadership plan to jettison those limits shortly after enactment.

Conclusion

H.R. 3962 does not seek to deter or prevent illegal immigration, but rather to support and subsidize it. The bill would deliberately permit illegal aliens to participate in the government health insurance exchange and in the public option insurance program.

Illegal immigrants are nominally barred from receiving health care “affordability credits” and most regular Medicaid benefits, but the verification procedures to enforce these limitations are weak and subject to fraud. Nearly 400,000 illegal immigrant women give birth inside the U.S. each year; under H.R. 3962, many of these births would be fully covered by U.S. taxpayers through the Medicaid program.

Finally, all limitations on benefits provided to illegal immigrants under health care reform legislation are deceptive. The President and the congressional leadership clearly intend that these limits will be only temporary, to be overturned by amnesty or “comprehensive immigration reform” legislation that will be introduced next spring.

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11. Robert Rector, Katherine Bradley, and Rachel Sheffield, “Obama to Spend \$10.3 Trillion on Welfare: Uncovering the Full Cost of Means-Tested Welfare or Aid to the Poor,” Heritage Foundation *Special Report* No. SR-67, September 16, 2009, at <http://www.heritage.org/Research/Welfare/sr0067.cfm>.

12. Robert Rector and Christine Kim, “The Fiscal Cost of Low-Skill Immigrants to the U.S. Taxpayer,” Heritage Foundation *Special Report* No. SR-14, May 21, 2007, at <http://www.heritage.org/research/immigration/SR14.cfm>.