The American College of Obstetricians and Gynecologists
WOMEN'S HEALTH CARE PHYSICIANS

COMMITTEE OPINION

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Committee on Health Care for Underserved Women

This information should not be construed as dictating an exclusive course of treatment or procedure to be followed.

Health Care for Unauthorized Immigrants

ABSTRACT: Unauthorized (undocumented) immigrants are less likely than other residents of the United States to have health insurance. The American College of Obstetricians and Gynecologists has long supported a basic health care package for all women living within the United States without regard to their country of origin or documentation. Providing access to quality health care for unauthorized immigrants and their children, who often were born in the United States and have U.S. citizenship, is essential to improving the nation's public health.

Recommendations

Health professionals can play an important role in improving access to needed health care for unauthorized immigrants by

- helping society understand the importance and widespread benefit of universal health care access for all U.S. residents, regardless of immigration status.
- advocating for local, state, and national policy and legislation to secure quality, affordable coverage for all.
- advocating for programs that serve unauthorized immigrants, such as increasing funding for the Title X family planning program and encouraging states to accept the Medicaid expansion or extend meaningful insurance coverage to low-income and vulnerable populations.
- supporting the safety-net system and provision of care in the inpatient and outpatient setting for the uninsured.
- providing a culturally-diverse office atmosphere with interpreters and materials available in languages appropriate for the patient population.
- becoming involved in the American Congress of Obstetricians and Gynecologists' Government Affairs Department activities.

Background

The United States has been called a nation of immigrants. As of 2011, approximately 13% of the U.S. population, 40 million people, was born outside the United States (1). Approximately 11.3 million individuals living in the United States are unauthorized (ie, they either entered the country illegally or have expired visas) (2). Most immigrants (53%) come from Latin America and the Caribbean, one half of whom were born in Mexico (3). In addition, approximately 28% are from Asia, 12% from Europe, 4% from Africa, 2% from North America, and less than 1% from Oceania (3).

The unauthorized immigrant population is spread throughout the United States, with one half concentrated in California, Texas, Florida, and New York (3). Women account for nearly 47% of this population and children account for 10% (4). Because children born in the United States are granted citizenship by the 14th Amendment to the U.S. Constitution, many children living in families headed by unauthorized immigrants are U.S. citizens. Children who are U.S.-born citizens, although eligible for public health insurance by virtue of this citizenship status, are more likely to be uninsured when their parents have unauthorized status (5). Unauthorized immigrants frequently remain in the United States for many years, with an estimated 18% having resided in the United States since the 1980s, 41% since the 1990s, and 42% since 2000 (4). Most unauthorized immigrants live in poverty and have low rates of health insurance coverage (6–8).

Health Status of Unauthorized Immigrant Women

Unauthorized immigrants are less likely than other residents of the United States to have health insurance. Their access to publicly funded health programs has become increasingly limited since the passage of welfare reform in

1996 and varies from state to state. Unauthorized immigrants are excluded from benefits provided under the Patient Protection and Affordable Care Act (ACA). These barriers to access result in these individuals receiving fewer preventive health care services, including prenatal care, and reporting poorer reproductive health outcomes (6, 9, 10).

In addition, the ACA cuts federal payments to Disproportionate Share Hospitals, which makes it more difficult for safety-net hospitals to take care of these individuals. If every state were to accept the Medicaid expansion offered under the ACA, however, the impact of Disproportionate Share Hospital cuts would be effectively mitigated. To date, only 27 states and the District of Columbia have adopted the Medicaid expansion.

Unauthorized Latino immigrants are less likely to visit a physician in an outpatient setting than the general U.S. population. Conversely, their rate of childbirth-related hospitalization is significantly higher (6). Birth complications are more common among unauthorized women, as is neonatal morbidity, including fetal alcohol syndrome, respiratory distress syndrome, and seizures (10). Studies in several areas of the country have found that unauthorized immigrant women begin prenatal care later and have fewer prenatal visits than the general population (9, 10). This disparity appears to be related to health care coverage. When publicly funded prenatal programs are available, the use of prenatal care increases (9).

Some evidence indicates that immigrants have less access to preventive services. For example, although the incidence and mortality from cervical cancer is decreasing among women born in the United States, it is increasing among immigrant women (11, 12). A 1998 survey showed that U.S. and foreign-born Latinas were less likely than non-Latina whites to have had a recent mammogram, and more likely to have never had a mammogram or Pap test (13). A retrospective study of patients with cervical cancer in Chicago found recent immigrant status to be a risk factor for never having had a Pap test (14). Lack of health insurance was the strongest predictor of no recent mammogram, clinical breast examination, or Pap test (13).

Immigrant status also is associated with some positive health outcomes. Investigators have found that first-generation Latina immigrants have lower rates of premature births and low birth weight infants than the general U.S. population (10, 15–17). These maternity outcomes have been described as the "healthy migrant effect," resulting from a bias toward younger individuals coming to the United States with healthier lifestyle practices attributable to their native cultures. This tendency toward better birth outcomes appears to last only one generation.

Health Programs and Unauthorized Immigrants

In 2011, only 29% of unauthorized immigrants had either employer-sponsored or private health insurance, whereas 71% reported no health insurance coverage (18). In the same year, 47% of unauthorized immigrant children were uninsured (18). Although some health care services are available to uninsured immigrants, the complexity and fear of accessing care in the face of ever-changing and complicated laws may inhibit many legal and unauthorized immigrants from seeking care.

Unauthorized immigrants and temporary immigrants in the United States generally are ineligible for Medicaid (19). The 1996 Welfare Reform Act made unauthorized immigrants ineligible for benefits previously provided by state and local governments unless new state legislation was enacted (20). A number of states have passed legislation to continue use of state funds to provide care, especially prenatal care, to unauthorized immigrants based on residence and financial need (9, 21).

Some public health programs serve unauthorized immigrants, such as Title V Maternal and Child Health Services and Title X Family Planning programs. In addition, federally qualified health centers, health care for the homeless, and migrant health clinics provide comprehensive primary care, including prenatal care, without regard to income, insurance, or immigration status. State grantees in the National Breast and Cervical Cancer Early Detection Program may elect to offer screening without regard to immigration status. If cancer or premalignant conditions are diagnosed through this program, however, unauthorized patients may not receive care through its companion law, the Breast and Cervical Cancer Prevention and Treatment Act because unauthorized immigrants cannot receive Medicaid benefits (22).

The Children's Health Insurance Program (CHIP, formally the State Children's Health Insurance Program), which provides health coverage for children in families with incomes too high for Medicaid but too low to afford private coverage, contains similar restrictions on care for immigrant children. In 2002, the Centers for Medicare & Medicaid Services permitted states to use CHIP funds to provide coverage for fetuses (23). Some states have used this option as a way to finance coverage for legal and unauthorized pregnant women (23). Although an unauthorized pregnant woman is ineligible for health insurance, her fetus qualifies her for pregnancy-related medical care (23). However, conferring eligibility on the fetus, rather than the pregnant woman herself, leads to the exclusion of essential perinatal services, including postpartum care (23).

Unauthorized immigrants who meet Medicaid financial and categorical eligibility requirements but who are not eligible for Medicaid because of their immigration status can receive Emergency Medicaid to cover emergency care, including labor and delivery (24). In addition, federal law requires provision of emergency care to any individual regardless of insurance or ability to pay, citizenship, or immigration status (25). Under the Emergency Medical Treatment and Active Labor Act (EMTALA), passed in 1986, Medicare-participating hospitals that

offer emergency services must provide an appropriate medical screening examination to any patient requesting examination or treatment for an emergency medical condition. If the hospital determines that the patient is experiencing an emergency medical condition, the hospital must provide treatment until the patient is stabilized or the patient is transferred in accordance with specific procedures (25). The Emergency Medical Treatment and Active Labor Act was enacted to ensure that indigent and uninsured patients receive necessary emergency medical care, and the law specifically addresses emergency medical conditions and considerations for pregnant women. However, although EMTALA requires hospitals to provide necessary treatment, it does not require the federal government to reimburse hospitals for the cost of this care. Funding for this care was addressed for the first time when Congress passed Section 1011 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (P.L. 108-173), which provided $250 million each year for fiscal years 2005–2008 to reimburse hospitals, physicians, and ambulance companies for emergency care provided to unauthorized immigrants under EMTALA (26). No funds have been allocated to Section 1011 since 2008, and most states have exhausted their allotments. There are no plans to pass legislation to add additional funding (27).

Immigration Detention

Many unauthorized immigrants, at some point, will be detained by U.S. Immigration and Customs Enforcement (ICE) in prisons, jails, or ICE detention centers. In 2012, ICE detained approximately 478,000 foreign nationals, the highest number ever detained (28). It has been documented that women, especially pregnant women, held in immigration detention facilities have poor access to medical care (29). They are also highly vulnerable to sexual assault (29). As with incarcerated women in general in the United States, the gender-specific health care needs of women in immigration detention often are neglected (30).

Standards have been published by ICE in an attempt to improve a variety of aspects of immigration detention (31). A special section on women's health outlined requirements for reproductive health care, including prenatal care, access to abortion, nonuse of restraints for pregnant women and women in labor, and preventive services such as sexually transmitted infection and cancer screenings and contraception provision. Facility adherence to these standards is unknown.

The Affordable Care Act of 2010

The ACA specifically excludes unauthorized immigrants from coverage by Medicare, Medicaid, and CHIP, or from purchasing health insurance through state marketplaces. Citizen or lawfully present children of unauthorized parents, however, are eligible to purchase coverage through state marketplaces, for premium tax credits and lower copayments, and for Medicaid or CHIP.

In July 2012, the Obama administration announced a new policy, called Deferred Action for Childhood Arrivals, which allows unauthorized youth who meet certain criteria to apply for a 2-year deferral from deportation (32). Immigrants granted Deferred Action for Childhood Arrivals status are considered "lawfully present." However, in August 2012, the Obama administration released an Interim Final Rule specifying that Deferred Action for Childhood Arrivals-eligible individuals, despite their "lawfully present" status, are excluded from expanded coverage under the ACA, Medicaid, and CHIP. According to recent estimates, 48% of the 1.76 million immigrants anticipated to be eligible for Deferred Action for Childhood Arrivals status are women and 72% are 15 years and older—a key demographic in need of the full range of preventive reproductive and sexual health services (33). Similarly, those who will qualify for deportation deferral under the recent Immigration Accountability Executive Actions will not be eligible for Medicaid, CHIP, or ACA subsidies (34).

Unauthorized immigrants will continue to rely on EMTALA and Emergency Medicaid for emergency care and safety-net providers such as community and migrant health centers, public health clinics, and hospital emergency departments. Although it is difficult at this time to predict how the law exactly will affect unauthorized immigrants, it appears that access to care may not improve.

Conclusion

The ACA does not extend health care coverage for unauthorized immigrants. Because Disproportionate Share Hospital payments will decrease under the ACA, it is imperative that states accept the Medicaid expansion option, otherwise health care resources available to care for these individuals will be even further compromised. The American College of Obstetricians and Gynecologists supports a basic health care package for all women, without regard to immigration status, and helps achieve this by promoting universal access to health insurance for all individuals in the United States and advocating for the elimination of barriers to existing federal programs, including Medicaid (35).

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