

## Meeting the Health Needs of the Immigrant Community In Uncertain Times

The Patient Protection and Affordable Care Act (ACA) provided millions of uninsured U.S. residents, including uninsured legal permanent residents and naturalized citizens, with coverage opportunities through the Medicaid adult expansion and state-based exchanges with tax credits available to support affordability. However, ACA excludes the undocumented community from these opportunities.

Pre- and post-ACA, California lawmakers demonstrated their commitment to coverage for all California residents. Pre-ACA, California lawmakers passed legislation to cover legal immigrants excluded from federal, full-scope Medicaid. Subsequently, California embraced the ACA implementing the Medicaid adult expansion and becoming the first state to develop a state-based exchange. Post-ACA implementation, California lawmakers passed legislation providing full-scope Medi-Cal to all children in low-income families, regardless of immigration status.

Federal ACA “repeal and replace” efforts threaten California’s progress in expanding health care coverage. As outlined in the ITUP [ACA Watch](#) series, federal efforts to rollback the ACA would result in millions of Californians losing coverage. In addition to this threat, Trump Administration immigration policies create an atmosphere of uncertainty that compromise health care access for California’s immigrant communities. This fact sheet provides information on California’s immigrant community, the barriers they face to access health care, and California policies promoting access and/or coverage for all residents, regardless of immigration status.

### California’s Immigrant Community

California is home to a diverse group of immigrants. In 2015, over a quarter of California’s population, 10 million residents, were foreign-born.<sup>1</sup> Almost half of California immigrants are naturalized citizens, a quarter are legal permanent residents, and the remaining quarter are undocumented.<sup>2</sup> California’s foreign-born population comes from primarily Latin America (52 percent) and Asia (39 percent).<sup>3</sup> Most recently (2011 – 2015), over half of California’s foreign-born residents immigrated from Asia.<sup>4</sup>

#### **California’s Undocumented Community:**

- California is home to more than two million undocumented immigrants (6 percent of the state’s population).<sup>5</sup> Sixty-six percent of this community have lived in the U.S. for ten or more years.<sup>6</sup>
- In California, the Pew Research Center estimates that 12.3 percent of K-12 school children have an undocumented parent. According to the Migration Policy Institute, most of these children (79 percent) are US citizens.
- The Public Policy Institute of California estimated 814,000 undocumented immigrants live in Los Angeles County. (2013)

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## Barriers to Health Care for the Immigrant Community and California's Response

In addition to longstanding linguistic and cultural barriers in health care, California's immigrant community and, in particular, the undocumented community, face additional hurdles to access health coverage. Most California residents (56 percent) receive health care coverage from their employment.<sup>7</sup> Unfortunately, large portions of the undocumented community are employed in industries, such as agriculture and construction, with low levels of job-based coverage. Although in California, undocumented immigrant men ages 18 to 64 have the highest labor market participation of any population, this same group has the highest uninsured rate in the state, approximately 51 percent are uninsured.<sup>8</sup> (According to the Pew Research Center, nearly one in ten California workers is an undocumented immigrant.) Legal permanent residents fair better in securing coverage – whether employment-based, through the individual market, or government-sponsored health coverage. In California, 20.7 percent of noncitizens are uninsured.<sup>9</sup> (This data derives from the Community Population Survey, which does not request information on legal status, and therefore this data likely includes some undocumented individuals.)

In addition to limited access to employment-based coverage, the undocumented community faces affordability barriers as well. Almost 60 percent of undocumented adults live at or below 100 percent of the federal poverty level (FPL).<sup>10</sup> Many other low- and moderate-income communities access coverage through government-sponsored programs, such as Medi-Cal and state-based exchanges. However, undocumented residents, as well as many new legal permanent residents, (those legally residing in the U.S. less than 5 years) are ineligible for federally-funded, full-scope Medicaid. The undocumented community is also prohibited from participation in or subsidies through Covered California, California's state-based exchange.

As referenced in the introduction, in response to these coverage gaps, California dedicates state-only funds to extend full-scope Medi-Cal to all income-eligible legal permanent residents, children, and other immigrant groups, such as those protected under the Deferred Action for Childhood Arrivals (or DACA) program. ([Medi-Cal coverage for DACA enrollees](#) has not changed in spite of the changes at the federal level, referenced below.) This year, California lawmakers also deliberated an additional Medi-Cal expansion for all income-eligible adults up to age 26; however, this proposal was not included in the final 2017-18 state budget.

### *Climate of Uncertainty and Fear*

Even with California's demonstrated commitment to cover its residents and the strength of California's immigrant community, changes in federal immigration policy are restraining immigrants from accessing health care services. President Trump's campaign promise to "build a wall," federal Executive Orders (EOs) regarding travel bans, leaked draft EOs on potential immigration consequences for using public benefits, and enforcement orders prioritizing virtually all unauthorized immigrants for deportation (the previous Administration focused on those with criminal histories) have created a climate of uncertainty and fear among immigrants and their families. Recently, the Department of Homeland Security initiated a phase-out of the DACA program. Although this change will not impact coverage for [Medi-Cal-eligible, DACA enrollees](#), this federal change adds to the growing concerns among immigrant communities.

According to the National Immigration Law Center, the number of immigration arrests increased since January, including sweeps of large apartment complexes and collateral arrests of people who happen to

be in a place where U.S Immigration and Customs Enforcement (ICE) officials are looking for someone else.

The fear and anxiety fostered by the current climate increases mental distress; and yet, this same fear inhibits immigrants and their families from seeking support and mental health services to address these challenges. Under the current environment, many immigrants fear immigration enforcement actions targeting locations that serve everyone, regardless of immigration status, including many health facilities.<sup>11</sup> They fear personal information, such as immigration status and home addresses often required to access services, may not be protected and could lead to targeted enforcement actions. Many in the immigrant community fear that accessing public benefits, such as Medi-Cal, may adversely impact future efforts to legalize their status. A leaked draft EO regarding how the use of public benefits impact a “public charge” determination during immigration proceedings raised this concern. (“Public charge is a ground of inadmissibility... Immigrants who are seeking to enter the U.S. or to get a green card must show, that based on all their circumstances, they are not likely in the future to rely on the government for subsistence.”<sup>12</sup>) This fear and anxiety touches the entire immigrant community including children, who may be experiencing social isolation, depression and other symptoms of mental distress.<sup>13</sup>

### ***California’s Response to Support the Immigrant Community***

California’s immigrant community, legal advocates, service providers, and local agencies are mobilizing to ease concerns hindering the immigrant community from accessing critical health services. These community organizations are adopting policies to help protect immigrants that seek care and training staff to provide accurate “know your rights” information. Local officials are adopting or reaffirming their “sanctuary” or “community-trust” policies to limit local enforcement involvement in federal immigration enforcement. California legislators and the Governor recently signed into law state-level, community-trust legislation ([SB 54 - De León](#)) that includes other health-related provisions. SB 54 requires each health facility operated by the state or a political subdivision of the state to publish policies (model policy to be developed by the Attorney General) limiting the facility’s assistance with federal immigration enforcement to the fullest extent possible. Under SB 54, state-operated health facilities must ensure their locations remain safe and accessible to all California residents, regardless of immigration status. SB 54 encourages other providers of physical or mental health services to adopt similar policies.

Other recently passed state legislation intended to provide protections for the immigrant community and reduce the community’s reluctance to access health care include:

- ***SB 613 (De León)*** repeals the mandate for the State Department of State Hospitals and the State Department of Developmental Services to cooperate with the U.S. Bureau of Immigration in arranging for the deportation of immigrants who are confined, admitted, or committed to any state hospital.
- ***SR 22 (De León)*** calls on the federal government to publicly and explicitly reaffirm the limitations on enforcement actions at or near sensitive locations. Under an ICE policy memorandum dated October 24, 2011, immigration enforcement actions at or near “sensitive locations,” which includes health facilities, are only allowed under exigent circumstances or with prior approval.
- ***HR 28 (Gipson)*** resolves to oppose any federal actions that would compromise California’s progress on health care affordability, immigrant opportunity, and worker protection.

ITUP intends to convene health care stakeholders throughout California to discuss health care access and the immigrant community. ITUP will compile findings from these discussions and present this important information at the ITUP Annual Conference in February, 2018.

<sup>1</sup> Joseph Hayes, “Just the FACTS: Immigrants in California,” Public Policy Institute of California, January 2017, [http://www.ppic.org/main/publication\\_show.asp?i=258](http://www.ppic.org/main/publication_show.asp?i=258).

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Pew Research Center, “Estimated Unauthorized Immigrant Population, by State, 2014,” November 3, 2016, <http://www.pewhispanic.org/interactives/unauthorized-immigrants/>.

<sup>6</sup> Hayes, “Just the FACTS: Immigrants in California.”

<sup>7</sup> Paul Fronstin, Employee Benefit Research Institute, “California’s Uninsured: As Coverage Grows, Millions Go Without,” 4, *California Health Care Almanac*, California Health Care Foundation, December 2016, <http://www.chcf.org/~media/MEDIA%20LIBRARY%20Files/PDF/PDF%20C/PDF%20CaliforniaUninsuredDec2016.pdf>.

<sup>8</sup> Steven P. Wallace, Jacqueline M. Torres, Tabashir Z. Nobari, and Nadereh Pourat, “Undocumented and Uninsured: Barriers to Affordable Care for Immigrant Populations” 10, UCLA Center for Health Policy Research, August 2013, [http://www.commonwealthfund.org/~media/files/publications/fund-report/2013/aug/1699\\_wallace\\_undocumented\\_uninsured\\_barriers\\_immigrants\\_v2.pdf](http://www.commonwealthfund.org/~media/files/publications/fund-report/2013/aug/1699_wallace_undocumented_uninsured_barriers_immigrants_v2.pdf).

<sup>9</sup> Fronstin, “California’s Uninsured: As Coverage Grows, Millions Go Without,” 15. This information is derived from the Current Population Survey (CPS), March 2016 Supplement. As mentioned previously, CPS does not attempt to ascertain the legal status of any person interviewed and therefore, their data includes undocumented individuals. CPS defines non-citizens as individuals interviewed that indicate being foreign-born and not citizens of the U.S.. Non-citizens, as used in this fact sheet, will include some members of the undocumented community as well as other immigrant groups with permission to remain in the U.S. as their immigration proceedings move forward.

<sup>10</sup> Wallace, Torres, Nobari, and Pourat, “Undocumented and Uninsured: Barriers to Affordable Care for Immigrant Populations” 10.

<sup>11</sup> Under ICE policy memorandum dated October 24, 2011, immigration enforcement actions at or near “sensitive locations,” which includes health facilities, are only allowed under exigent circumstances or with prior approval. However, the immigrant community and other stakeholders have expressed concern that these policies are not being followed by ICE. This concern led to the introduction of SR 22 (De León) described in the fact sheet.

<sup>12</sup> National Immigration Law Center, “Trump’s Executive Orders and Immigrants’ Access to Health, Food, and Other Public Programs – Things to Keep in Mind When Talking with Immigrants,” March 22, 2017, <https://www.nilc.org/issues/health-care/exec-orders-and-access-to-public-programs/>.

<sup>13</sup> The Children’s Partnership and California Immigrant Policy Center, “The Effect of Hostile Immigration Policies on Children’s Mental Health,” 2, March 2017, <http://www.childrenspartnership.org/wp-content/uploads/2017/03/The-Effect-of-Hostile-Immigration-Policies-on-Childrens-Mental-Health.pdf>.

**Insure the Uninsured Project (ITUP)** is a nonprofit, 501(c)(3) organization, founded in 1996 to focus attention on California’s significant number of uninsured. Based in Sacramento, California, ITUP’s mission is to advance creative and workable policy solutions that expand health care access and improve the health of Californians. ITUP conducts policy-focused research and convenes broad-based stakeholders on health policy topics, acting as an honest broker among diverse health care leaders in the state. To assist with implementation of health reform in California, ITUP hosts an annual statewide conference in Sacramento and facilitates regional and statewide workgroups on topics affecting health and health care in the state.

For more information on this report, contact ITUP Executive Director Deborah Kelch, at 916-226-3899.

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