

# Update on Access to Health Care for Immigrants and Their Families

MARCH 18, 2020

**I**n this difficult time, we want to provide some reminders about access to health care for immigrants and their family members, including new funding that Congress recently made available for coronavirus testing.

- The Families First Act provides additional funding to pay for coronavirus testing for anyone who is uninsured. The funding will pay for testing at community health centers, outpatient clinics, and doctors' offices.
- Immigrants can continue to access services at community health centers, regardless of their immigration status, and at a reduced cost or free of charge depending on their income. However, people should call first to find out the availability of COVID-19 screening and testing. Health centers may do patient assessments over the phone or using telehealth.
- Eligibility for Medicaid, the Children's Health Insurance Program (CHIP), and the Affordable Care Act (ACA) marketplaces has not changed.
- U.S. Citizenship and Immigration Services (USCIS) recently **posted an alert** clarifying that it will not consider testing, treatment, or preventive care (including vaccines if a vaccine becomes available) related to COVID-19 in a public charge inadmissibility determination, even if the health care services are covered by Medicaid.<sup>1</sup>

More details are provided below.

## The Families First Coronavirus Response Act

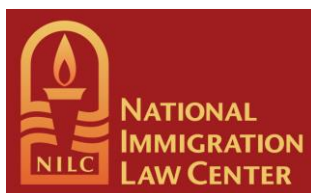
The House and Senate have now passed, and the president has signed, the Families First Coronavirus Response Act.

**The act provides a \$1 billion health care fund to fund COVID-19 "testing" for the uninsured through the National Disaster Medical System.**

- Anyone who is uninsured and not covered by Medicaid, the Children's Health Insurance Program (CHIP), the Affordable Care Act (ACA) marketplace, or any other individual or group health plan is eligible for testing that will be paid for by this fund.

<sup>1</sup> <https://www.uscis.gov/greencard/public-charge>.

LOS ANGELES (Headquarters)  
3435 Wilshire Blvd. #108 - 62  
Los Angeles, CA 90010  
213 639-3900  
213 639-3911 fax



WASHINGTON, DC  
P.O. Box 34573  
Washington, DC 20043  
202 216-0261  
202 216-0266 fax

- Receipt of testing or other health care services through the disaster medical system will *not* be considered a negative factor in a “public charge” determination.

**The optional state Medicaid program created in the Families First Act does *not* provide COVID-19 testing for immigrants who are ineligible for federal nonemergency Medicaid.**

- The act creates an optional state Medicaid program that provides COVID-19 testing (and *testing only*) that will be funded with 100 percent federal Medicaid funds.
- However, this will be available only to uninsured people who meet federal Medicaid’s immigrant eligibility requirements.
- Federal Medicaid eligibility is available only to certain immigrants who have had a “qualified” immigration status for five years,<sup>2</sup> “humanitarian” immigrants, military/veterans and their families ([eligibility details here](#)),<sup>3</sup> and, in some states, lawfully residing children and/or pregnant women ([state maps available here](#)).<sup>4</sup>
- In states that elect this new optional program, eligible people can apply at Disproportionate Share Hospitals (DSHs) and federally qualified health centers (FQHCs). There will be no cost-sharing or other fees for people tested under this option.
- Receipt of Medicaid for emergency services, or by children under age 21 or pregnant women (including women who are 60 days postpartum), will not be considered a negative factor in a public charge determination.

**The Families First Act provides full coverage for COVID-19 testing for those who are insured.**

- The act requires coverage and eliminates cost-sharing (including copays and deductibles) for those who are covered by Medicaid, Medicare, Medicare Advantage, and private health insurance.

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<sup>2</sup> “Qualified” immigrants are: (1) lawful permanent residents (LPRs); (2) refugees, asylees, persons granted withholding of deportation/removal, conditional entry (in effect prior to Apr. 1, 1980), or paroled into the U.S. for at least one year; (3) Cuban/Haitian entrants; (4) battered spouses and children with a pending or approved (a) self-petition for an immigrant visa, or (b) immigrant visa filed for a spouse or child by a U.S. citizen or LPR, or (c) application for cancellation of removal/suspension of deportation, whose need for benefits has a substantial connection to the battery or cruelty (parent/child of such battered child/ spouse are also “qualified”); and (5) victims of trafficking and their derivative beneficiaries who have obtained a T visa or whose application for a T visa sets forth a prima facie case. (A broader group of trafficking victims who are certified by or receive an eligibility letter from the Office of Refugee Resettlement are eligible for benefits funded or administered by federal agencies, without regard to their immigration status.)

<sup>3</sup> [https://www.nilc.org/issues/economic-support/table\\_ovrw\\_fedprogs/](https://www.nilc.org/issues/economic-support/table_ovrw_fedprogs/).

<sup>4</sup> <https://www.nilc.org/issues/health-care/lawfully-residing-medicaid-chip/>.

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## The Affordable Care Act's Health Care Marketplaces

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- Immigrants who are lawfully present may be eligible to buy health insurance in the marketplaces ([lawfully present defined here](#)).<sup>5</sup>
- However, during periods that are not open enrollment periods, people can enroll only if they have a special life change that makes them eligible for a special enrollment period, such as losing health coverage or gaining lawful presence or U.S. citizenship (special enrollment period details here: <http://www.healthreformbeyondthebasics.org/sep-reference-chart>).

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## Other Health Care Services Available

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- Immigrants and their families can continue to seek services at community health centers, regardless of their immigration status, and at a reduced cost or free of charge, depending on their income.
- To find the nearest health center, go to <https://findahealthcenter.hrsa.gov/>.
- Call your nearest health center first to find out the availability of COVID-19 screening and testing. Health centers can assess whether a patient needs further testing, which may be done over the phone or using telehealth.
- Some states and localities provide state- or locally-funded health coverage programs for immigrants ([table of state programs available here](#)).<sup>6</sup>

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## Medicaid for Emergency Services, or “Emergency Medicaid”

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### Eligibility

Emergency Medicaid is available to individuals who are otherwise eligible for Medicaid, except for their immigration status. Some lawfully present individuals are ineligible for Medicaid based on immigration status (such as some people with TPS, DACA, or people with lawful permanent residence who have had that status for less than five years), and undocumented people who are ineligible for Medicaid based on their immigration status.

Note that the individual would also have to meet the income and other categorical eligibility requirements for Medicaid. For example, in a state that has not expanded Medicaid to adults without children, an adult immigrant without a child (like an adult U.S. citizen without a child) would not be eligible for services.

### Services Provided

Emergency Medicaid covers “a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the

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<sup>5</sup> <https://www.nilc.org/issues/health-care/lawfullypresent/>.

<sup>6</sup> <https://www.nilc.org/issues/health-care/medical-assistance-various-states/>.

absence of immediate medical attention could reasonably be expected to result in (A) placing the patient's health in serious jeopardy, (B) serious impairment to bodily functions, or (C) serious dysfunction of any bodily organ or part." Social Security Act section 1903(v)(3).

"[Payment shall be made only if] such care and services are not related to an organ transplant procedure." Social Security Act section 1903(v)(2)(c).

There is some state flexibility to define emergency services to include health care services such as nonemergency dialysis, but that varies from state to state.

If an individual receives Medicaid for emergency services only, it won't count as a negative factor in a public charge determination.

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## Emergency Medical Treatment and Labor Act

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There is also a separate federal law called the Emergency Medical Treatment and Labor Act (EMTALA) that requires that anyone arriving at an emergency room/department be stabilized and treated regardless of insurance status or ability to pay. However, EMTALA does not provide any payment for these services. Therefore, individuals who are uninsured — and not eligible for emergency Medicaid — may be billed for this treatment. (Some hospitals have charity care or other ways to reduce a bill, but this is not always available and cannot always meet the need.)

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## Public Charge

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USCIS recently [posted an alert](#) clarifying that it will not consider testing, treatment, or preventive care (including vaccines if a vaccine becomes available) related to COVID-19 in a public charge inadmissibility determination, even if the health care services are provided by Medicaid.<sup>7</sup>

USCIS also specified that if an individual lives in a jurisdiction where social distancing is taking place or works for an employer or attends a school or university that shuts down to prevent the spread of COVID-19, the individual can submit a statement with their application about how these policies have affected factors considered in the public charge determination.

Receipt of health care services through Medicare, CHIP, state-only-funded health programs, the federal or state marketplaces, or private insurance do not count as negative factors. Medicaid for emergency services, services provided to children under 21 years old, or pregnant women (including 60 days of postpartum services) are not weighed negatively in a public charge determination.

The U.S. State Department's public charge regulations specifically exempt health services for immunizations and for testing and treatment of communicable diseases, as well as emergency services and services for children and pregnant women (including 60 days of postpartum services) in the public charge determinations made by consular officials abroad.

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<sup>7</sup> <https://www.uscis.gov/greencard/public-charge>.