

Access to Healthcare for Undocumented (and Some Other) Immigrants



Gabrielle Lessard
National Immigration Law Center
Lessard@nilc.org



Who We Are

National Immigration Law Center (NILC)

Our mission is to defend & advance the rights & opportunities of low-income immigrants and their family members.

We provide publications, offer technical assistance and training, and engage in advocacy and strategic litigation.

Roadmap

- Immigrants in California
- Update: Deferred Action (DACA & DAPA)
- Healthcare eligibility for DACA, PRUCOL and unauthorized residents
- SB 4 Update

Immigrants in California



Highest Share in US:

- Over a quarter of the state population was born in another country (10.3 million)
- About half of foreign-born CA residents have become citizens (4.8 million)
- Undocumented immigrants make up 7% of the state's population and 9% of its workforce (~2.6 million)
- About a quarter of the US undocumented population lives in California (~23%)

Mixed-Status Families

- Over half of California children have at least one **immigrant** parent (55%)
 - 88% of whom are US-born
- One in 6 California children has at least one **undocumented** parent (19%)
 - 81% of whom are US-born



Update: Deferred Action

Deferred Action for Childhood Arrivals (DACA)

Deferred Action for Childhood Arrivals (DACA) is **administrative relief** granted in 2012 to certain immigrant youth who came to the US as children.

Authorization to live and generally to work in the US for 2 year renewable periods.

170,000 DACA grantees live in California

Eligibility requirements include:

- Undocumented person who arrived in U.S. before age 16,
- Enrolled in or completed high school, or other education leading to employment,
- Continuously resided in US since June 15, 2007, and
- Under age 31 on June 15, 2012.



Key parts of President Obama's 11/20/14 announcement

Expand DACA to eliminate age cap, change date-of-entry, and extend time period to 3 years

Extend Deferred Action to include parents of U.S. Citizens and LPRs (green card holders)

End Secure Communities and revise priorities for removal

Deferred Action for Parents of Americans and LPRs (DAPA)

Parent of a U.S. citizen or permanent resident (green card holder), as of November 20, 2014;

Continuously resided in the U.S. since January 1, 2010;

Physically present in the U.S. on November 20, 2014 and at the time of request;

No lawful status on November 20, 2014

Benefits

Protection from
deportation for 3 year
period

Work authorization

Social security number

May request permission to
travel abroad

Limitations

Not a green card or visa

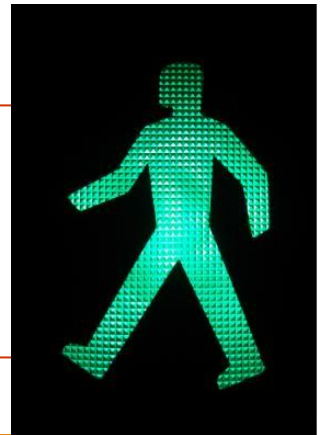
Not a path to citizenship

Discretionary case-by-case
decision based on DHS
enforcement priorities

Legal Challenge: *Texas v. U.S.*

- Texas and 25 other states sued the Obama Administration.
- On February 16, 2015, a Texas federal district court issued an injunction that temporarily blocked the DAPA and expanded DACA programs.
- An appeal of the district court's decision was heard on July 10th
- There may be an appeal to the Supreme Court

▪ **IMPORTANT:** The **original 2012 DACA** program is **NOT affected** by the court's decision. DACA recipients who are scheduled to renew should do so.



What can we do to defend executive action?



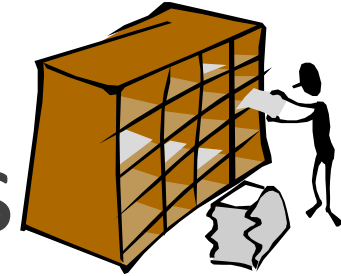
- Put a human face on the issue
 - Highlight stories of people who qualify for DAPA & expanded DACA
 - Highlight stories about DACA recipients and how the program has improved their lives
- Promote implementation efforts, info sessions, workshops, etc.
 - Encourage people to prepare to apply

What can people do to prepare?

1. Save money for filing fees (at least \$465)
2. Gather evidence to show you qualify (presence, education records, birth records, etc.)
3. Gather any criminal records that you have
4. Consult with a licensed immigration lawyer or a BIA accredited representative
5. Do not travel out of the country.
6. Watch out for fraud!

Healthcare eligibility for DACA-mented, PRUCOL and unauthorized residents

Immigrant Benefit Classifications



- U.S. Citizens
- “Qualified” immigrants
- “Not Qualified” immigrants
 - Other **lawfully present** non-citizens
 - PRUCOL (Permanently Residing Under Color of Law)
 - Undocumented immigrants

Eligibility: Covered California

US Citizens and **lawfully present** immigrants

Exception: DACA recipients are not eligible

Must meet residency requirements

Individuals who are not eligible for coverage through Covered California can use the exchange to purchase coverage for their eligible dependents



California Residency



Live in CA with intent to reside here, or

Live in CA and entered State with job commitment or to seek employment, whether or not currently employed.

Children generally assume the residence of their parents, with an opportunity to establish state residence independently.

Eligibility: Medi-Cal

Full-scope

- Qualified immigrants
- PRUCOLs
- Lawfully residing children
- Foster Children and former Foster Youth (up to age 26)
- Survivors of trafficking
- Survivors of serious crimes

Restricted-scope

- Available regardless of immigration status
- Emergency
- Pregnancy
- Dialysis
- Long Term Care
- Breast and Cervical Cancer Treatment
- Prostate Cancer Treatment



And soon -

children regardless of immigration status! (not before May 2016)

Must meet income and residency requirements

PRUCOL

Permanently Residing Under Color of Law (PRUCOL)

- Not an immigration status, but a benefits eligibility category
- Applies in Medi-Cal, not in Covered CA
 - Most people classified as PRUCOL are lawfully present for ACA
 - Not DACA
- Varies from state to state



PRUCOL

May include persons:

- with an approved immediate relative visa petition
- who filed application for adjustment to LPR status
- granted deferred action (**including DACA**)
- granted a stay of deportation
- who have lived in the US continuously since before Jan. 1, 1972
- who are survivors of domestic violence (certain immigrants)
- Other persons in the US with the knowledge of DHS whose departure that agency does not contemplate enforcing because of the person's status or characteristics

see DHCS MC 13 Form: Statement of Citizenship, Alienage, and Immigration Status

Survivors of Serious Crimes

U-visas may be issued to:

- survivors of serious crimes
- committed in the US or in violation of US law
- Who have assisted, or will assist in the prosecution of the crime

Under state law (SB 1569) :

- U visa holders and applicants can be eligible for Medi-Cal and other benefits
- Continues unless U status finally denied



Survivors of a Severe Form of Trafficking

T non-immigrant status may be granted to:

- Victims of trafficking
- Brought, due to trafficking, to the US, a port of entry, American Samoa or Mariana Islands
- Willing to comply with reasonable requests by law enforcement
- Would suffer serious harm if returned to home country

To be qualified for federal benefits:

- Adults may be certified by Office of Refugee Resettlement (ORR)
 - If they have filed a bona fide petition for a T-visa or were granted ‘continued presence’
 - Children can receive an eligibility letter (though this is not required)
- Derivative beneficiaries of T visa holders are also eligible

Survivors of a Severe Form of Trafficking

State law (SB 1569):

- Trafficking survivors can get state and local benefits before being certified
- Limited to 12 months, extended if T visa application or request for continued presence filed

Eligibility includes:

- Medi-Cal
- CalFresh
- CalWORKS
- CAPI/IHSS



Undocumented Immigrants

- Undocumented residents can receive restricted-scope Medi-Cal
- Remain eligible for health programs that are available regardless of immigration status (e.g., public health programs)
- Hospitals must still provide emergency care regardless of insurance or immigration status
- Community health centers can continue to provide non-emergency health care regardless of immigration status
- Eligible to be covered by employer-sponsored group health insurance
- Insurance companies may offer insurance policies outside the state exchange(s) that are available to undocumented

Programs & Services Available Regardless of Status

- Restricted Scope Medi-Cal
- Community Health Centers
- Medi-Cal Access Program (MCAP, formerly AIM)
- California Children's Services (CCS)
- Children's Health Initiatives
- Some county health programs (Healthy SF)
- Child Health and Disability Prevention Program (CHDP) and CHDP "Gateway"
- Hospital presumptive eligibility
- Family PACT
- Minor consent services
- Mental health services
- Regional Center Services

AG's List of Programs

"Necessary to Protect Life or Safety"

- Child protection & adult protective services
- Violence and abuse prevention, including domestic violence
- Mental illness or substance abuse treatment
- Short-term shelter or housing assistance
- Programs during adverse weather conditions
- Soup kitchens, food banks, senior nutrition programs
- Medical & public health services & mental health, disability,
- Substance abuse services necessary to protect life or safety
- Programs to protect life & safety of workers, children & youth, or community residents
- Other services necessary for the protection of life or safety

Non-Profit Agencies

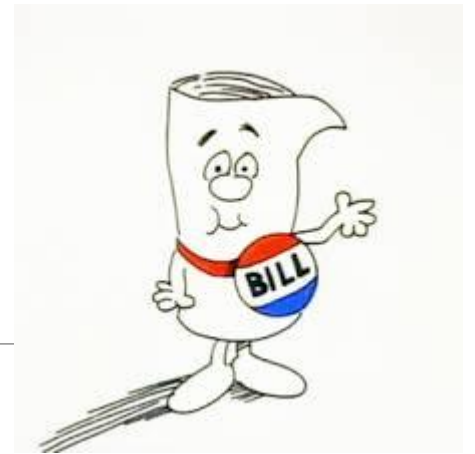


Non-profit charitable organizations are not required to determine, verify or otherwise ask for proof of an immigrant's status

- applies to immigrant restrictions in the 1996 welfare and immigration laws
- Non-profits can create a safe environment for immigrants and their family members who are seeking services

SB 4 Update

SB 4 Update



As passed by the Senate, SB 4 would:

- Extend Medi-Cal eligibility to kids (up to age 19) who met the income & residency requirements, regardless of their immigration status
- Include a statement that the state would extend Medi-Cal eligibility to persons age 19 and up when the funds became available
- Direct the state to seek federal approval for a waiver, under Section 1332 of the Affordable Care Act (ACA), to allow undocumented residents (and DACA recipients) to purchase health plans on Covered California

SB 4 Update

Because of constitutional deadlines, the budget had to be approved before SB 4 was heard in the Assembly.

The Medi-Cal expansion for kids was included in the budget the legislature sent to the Governor, and the Governor signed it.

The expansion will be implemented regardless of what happens in the Assembly.



SB 4 Update

SB 4's sponsor amended the bill to move the language about extending Medi-Cal eligibility to adults to a second bill, SB 10.

SB 4 and SB 10 were heard in the Assembly Health Committee yesterday.



More Resources on Immigrants and Health Care

National Immigration Law Center: Nilc.Org

National Health Law Program: Healthlaw.Org

Center on Budget and Policy Priorities: Cbpp.Org

California Immigrant Policy Center: Caimmigrant.Org