Highlighting State Innovation to Close Coverage Gaps in Perinatal Care for Noncitizens

Under the rules set out in the Consolidated Appropriations Act of 2023, states are now beginning to disenroll individuals newly ineligible for Medicaid whose coverage had been extended under COVID-19 pandemic-era rules. As a result, commentators across the political spectrum have noted the imperative to pursue off-ramps for other forms of coverage for particularly vulnerable populations, such as pregnant or postpartum individuals currently enrolled in Medicaid. Scholars project that low-income individuals whose Medicaid eligibility was tied to postpartum care may initially bear the brunt of unwinding continuous enrollment.1

Given the national focus on addressing the maternal health crisis, it is an ideal time for states to consider options to close significant coverage gaps in perinatal care for noncitizens. States can play a crucial role in shaping the rules that determine state residents’ eligibility for perinatal care through Medicaid and the Children’s Health Insurance Program (CHIP). However, states sometimes overlook how excluding noncitizens from Medicaid and CHIP creates disparities in access to perinatal care for their state residents. States may also fail to realize that they have options to use both federal and state funds to expand perinatal care access for noncitizens. This Viewpoint highlights several key steps that states could take to expand perinatal care coverage for noncitizens.

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The Biden administration has made postpartum coverage a focus.2 The first goal3 is to reduce gaps in coverage by encouraging states to elect to cover 12 months of postpartum care for Medicaid and CHIP beneficiaries through the American Rescue Plan Act of 2021 (ARPA). This new option under ARPA was based on recognition by Congress that low-income pregnant persons in the US face significant lapses in coverage after delivery, and that having Medicaid or CHIP during delivery is a significant risk factor for perinatal insurance change or loss of coverage.3 The Centers for Medicare & Medicaid Services has issued guidance to state health officials on implementing the new option, highlighting the opportunity states now have to “reduce pregnancy-related deaths and severe maternal morbidity and improve continuity of care for chronic conditions,”4 and, critically, to address disparities in pregnancy-related morbidity and mortality.

Before ARPA, states that sought to cover postpartum care beyond the minimum of 6 weeks had to either use state funding or receive a waiver from the Centers for Medicare & Medicaid Services. Following the passage of ARPA, 31 states and the District of Columbia have implemented this 12-month extension. Six additional states (Delaware, Mississippi, New York, Rhode Island, Vermont, and Wyoming) have plans to implement the extension. Three states have implemented “limited extensions” either by limiting the coverage depending on the outcome of the pregnancy (Utah) or by limiting the coverage to 90 days (Wisconsin) or 6 months (Texas) rather than the full 12 months.

Although the underlying health policy goals of extending postpartum coverage for Medicaid and CHIP beneficiaries apply regardless of immigration status, the new option entrenches existing disparities in access to subsidized perinatal care for low-income noncitizens. There is significant variation in states’ coverage of perinatal care for noncitizens owing to the cooperative federalism structure of Medicaid and CHIP, in which states have significant flexibility to determine eligibility for noncitizens subject to certain minimum requirements set out by federal law.

A major barrier to noncitizens’ access to perinatal care is the legal framework excluding certain noncitizens from subsidized health insurance eligibility. In 1996, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), which governs much of the alienage-based eligibility restrictions for public benefits still in place today. Under PRWORA, most noncitizens without 5 years of lawful residence are ineligible for most federal public benefits, including Medicaid. After a decade of advocacy highlighting the negative effects of PRWORA on the health outcomes of immigrant children and pregnant persons, Congress passed the CHIP Reauthorization Act (CHIPRA) of 2009, which included a provision giving states the option to cover lawfully residing children and pregnant persons for full-scope Medicaid or CHIP without a 5-year residency requirement. This is often referred to as the CHIPRA 214 option.

As of January 2023, 25 states and the District of Columbia have extended coverage available through the CHIPRA 214 option for lawfully residing noncitizen pregnant persons—meaning that half of the states still have not opted to provide this coverage despite the availability of federal funding.5 States that have not already pursued the CHIPRA 214 option may now gain access to additional federal Medicaid funds that can lessen the blow of losing enhanced federal Medicaid benefits, including Medicaid. After a decade of advocacy highlighting the negative effects of PRWORA on the health outcomes of immigrant children and pregnant persons, Congress passed the CHIP Reauthorization Act (CHIPRA) of 2009, which included a provision giving states the option to cover lawfully residing children and pregnant persons for full-scope Medicaid or CHIP without a 5-year residency requirement. This is often referred to as the CHIPRA 214 option.

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funding linked to the COVID-19 public health emergency. The 2 states (Missouri and Oklahoma) that have experienced the highest cumulative change in Medicaid enrollment during the pandemic have not pursued the CHIPRA 214 option, and many states whose Medicaid enrollment exceeds the national average (Georgia, Illinois, Kansas, Texas, Utah, and other states) have also chosen not to pursue the expansion.\(^6\)

Undocumented immigrants are not considered lawfully present in the US and therefore do not benefit from the CHIPRA 214 option and instead must rely on a patchwork of subsidies to access perinatal care. Noncitizens who would qualify for Medicaid if not for their immigration status can access limited perinatal care because emergency access to Medicaid may reimburse clinicians for treatment provided during labor and delivery. Importantly, however, emergency access to Medicaid does not cover prenatal or postpartum care unless there are complications during the pregnancy or delivery that necessitate care as an emergency medical condition.

Alternatively, undocumented immigrants living in any of the 20 states that have elected the CHIP unborn child option may receive subsidized coverage for pregnancy-related care. The unborn child option is a set of regulations promulgated by the US Department of Health and Human Services in 2002 that permits states to extend CHIP to cover prenatal care, labor and delivery, and limited postpartum care for uninsured, pregnant individuals without regard to immigration status. Similar to the CHIPRA 214 option, states should also consider adopting the CHIP unborn child option, which would extend crucial health coverage for pregnant individuals otherwise ineligible for Medicaid or CHIP. Some states have avoided the adoption of this option because of a perceived link to fetal personhood, whereas other states have adopted the option explicitly to advance that purpose.\(^6\)

Noncitizens face the greatest barriers in states that have not elected federal options (such as the CHIPRA 214 option or the CHIP unborn child option) or allocated state funds to support noncitizen access to perinatal care. However, even in the states that have elected all available options for expanding noncitizen access to perinatal care, significant coverage gaps exist for pregnant noncitizens. For example, noncitizens who receive CHIP coverage of pregnancy-related care through the CHIP unborn child option (which only provides coverage for limited postpartum care related to the health of the fetus) are not eligible for the full 12 months of postpartum care made recently available under ARPA, which is limited to individuals who received Medicaid during pregnancy or who received CHIP coverage during pregnancy in the targeted low-income pregnant persons category or through the CHIPRA 214 option. In addition, individuals whose labor and delivery are covered by emergency access to Medicaid are ineligible for extended postpartum care under ARPA, even though pregnancy-related health issues may arise after the 6-week postpartum coverage period; many of these individuals are noncitizens excluded from Medicaid. To address these gaps, some states use state funding to provide 12 months of postpartum coverage to residents regardless of immigration status. Other states may consider following their example to create a universal baseline of 12 months of postpartum care for all.

Decreasing maternal and infant mortality, reducing obstetric complications, and improving mental health outcomes through perinatal care provision are important policy goals for citizens and noncitizens alike. Even though immigrant-inclusive policymaking during the past 5 years has often focused on state-level policy changes given barriers to federal action,\(^7\) this is a unique moment for policymakers to turn their attention to tools that can be leveraged at the federal level to help states close important health coverage gaps for noncitizens. Although more comprehensive legislative reforms are warranted to raise the baseline of federally reimbursable care for noncitizens, states should first look to the existing opportunities that are crucial for improving the maternal health for all of their residents.

**ARTICLE INFORMATION**
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**REFERENCES**