



REPRODUCTIVE RIGHTS

IMMIGRANT RIGHTS AND REPRODUCTIVE JUSTICE: HOW HARSH IMMIGRATION POLICIES HARM IMMIGRANT HEALTH

Everyone, regardless of immigration status, needs to be able to make decisions about their bodies, health, sexuality, and family with dignity and autonomy. This requires that they have access to comprehensive health care, including preventive and reproductive health care. But policies and practices that target some women simply because they are immigrants – even if they are lawfully present in the U.S. – make it harder for immigrant women to access health care.

Many of the justifications underlying these policies are designed to stoke xenophobia, largely playing upon harmful stereotypes of immigrants – for example, that they only come to the U.S. for health care or to have children – in order to exclude these individuals from our health care system. In reality, most immigrants came to this country to work, to be reunited with family members, or to escape a dangerous situation. They come seeking a better life for themselves and for their families.

Instead of implementing policies that make it harder for immigrant families to establish themselves and flourish, government should be embracing policies that ensure all people in our communities – including immigrants – have basic living standards. This must include access to comprehensive health insurance and health care that includes reproductive health services, such as birth control and abortion. Policies that promote access to health care increase both the physical and economic health of immigrant families.

Harsh anti-immigration policies deter utilization of health care services

Harsh anti-immigrant policies deter individuals from seeking the care they need.¹

- **State and federal legislators have introduced legislation seeking to deter immigrant women from having children.** For instance, the federal Birthright Citizenship Act of 2013 sought to deny automatic citizenship at birth – which is currently guaranteed under federal law – to children born in the U.S. to parents who are not citizens or permanent resident aliens.²
- **States have also passed anti-immigrant laws that discourage immigrants from seeking care.** Often, the laws allow for “profiling” of individuals based on how they look or sound. An Arizona law, for example, allows police to determine the immigration status of someone arrested or detained when there is “reasonable suspicion” they are in the U.S. illegally.³ Five copycat laws were also passed in Alabama, Georgia, Indiana, South Carolina, and Utah.⁴ These laws stand in the way of immigrants’ health care access. After enactment of Arizona’s law, immigrant women in Arizona reported that they were discouraged from seeking healthcare for themselves and their families out of fear that they will have to present documentation or face the threat of deportation.⁵
- **Even in the absence of specific state laws, fears of deportation still deter some immigrant women from seeking care.** In 2017, a woman seeking asylum in the U.S. was taken from detention to a Texas hospital where she was diagnosed with a brain tumor. But while she was awaiting treatment, she was removed from the hospital and returned to detention.⁶ In 2015, a woman was arrested and detained while seeking routine medical care because clinic staff suspected her identification, presented in order to receive care, was fake.⁷ Arrests like these create mistrust between medical providers and their patients, deterring women from receiving care they desperately need, threatening their lives and wellbeing.



Laws limit immigrants' access to health insurance

Health insurance coverage plays a key role in increasing access to health care services, especially for women struggling to make ends meet.⁸ Yet, in 2015, almost 18 percent of all immigrants were uninsured.⁹ In contrast, 8 percent of U.S.-born individuals were uninsured.¹⁰ This rate was even higher for women of reproductive age (18-54), of which 27 percent of noncitizen immigrants were uninsured, compared with 10 percent of U.S.-born women.¹¹ Immigrants are more likely than U.S.-born citizens to work in low-wage jobs that do not offer employer-sponsored health insurance.¹² But that only accounts for part of the disparity: several policies limit access to federal health insurance programs for immigrants, even those lawfully present.

- **Immigrants face harsh restrictions on public health coverage.**

Lawfully present immigrants are barred from participating in Medicaid and the Children's Health Insurance Program (CHIP) during the first five years they have lawful status.¹³ Undocumented immigrants and young immigrants allowed to legally remain in the United States under the Deferred Action for Childhood Arrivals (DACA)¹⁴ program are completely banned from Medicaid and CHIP. Beyond a narrow exception,¹⁵ undocumented immigrants can only receive health insurance assistance if their state uses state-only funded programs to increase insurance access for undocumented immigrants. Unfortunately, only 10 states and D.C. offer any kind of health benefits to undocumented immigrants through state-funded programs.¹⁶

- **Undocumented immigrants and individuals with DACA status were specifically left out of the Affordable Care Act.**

The Affordable Care Act (ACA) prohibits undocumented immigrants from purchasing private coverage in the marketplaces – even if they pay the full cost without help from the government.¹⁷ Young immigrants allowed to legally remain under the DACA program are also ineligible to purchase private coverage in the health insurance marketplaces, with or without federal subsidies¹⁸ – while most lawfully present immigrants are eligible to purchase private insurance and receive subsidies to make private health insurance coverage affordable.¹⁹

U.S. Immigration and Customs Enforcement denies immigrants comprehensive health care

Over 440,000 immigrants are currently housed in civil immigration detention centers and in county and city jails.²⁰

- **Women in detention often have a particularly hard time obtaining reproductive health care.** There have been instances of women in detention being denied basic health

care, including treatment of HIV/AIDS, pregnancy care, abortion, and feminine hygiene products.²¹ Some immigrant women in detention have even been forced to give birth while shackled.²²

- **Minors who entered the country without an adult may also struggle to obtain reproductive health care.** In 2016, the U.S. Customs and Border Protection reported that it has apprehended nearly 60,000 unaccompanied children at the southwest border this year.²³ These unaccompanied minors receive housing, care, and other services from private organizations that have contracts with the federal government.²⁴ Unfortunately, some of these organizations have denied girls necessary reproductive health care services such as emergency contraception, birth control, abortion care, STI treatment, and pregnancy care because they have a religious or moral objection to providing the care. Some religiously affiliated organizations have even refused to provide referrals for or arrange transportation to reproductive health care services for unaccompanied minors.²⁵

Laws and policies that keep immigrants from accessing reproductive health care exacerbate health disparities

These restrictions on health care have significant consequences. For example:

- Only about half of immigrant women at risk for unintended pregnancy received contraceptive care in the last year. In contrast, two-thirds of U.S.-born women received contraceptive care.²⁶
- Immigrant women have higher rates of unintended pregnancy.²⁷
- Immigrant women are less likely to receive cervical cancer screening,²⁸ which has serious consequences for immigrant women's health. For example, Asian and Pacific Islander, and Latina immigrant women have higher rates of cervical cancer and higher rates of death caused by cervical cancer because of low access to preventative care and screening.²⁹

Immigrants Deserve Better

Everyone needs access to comprehensive health insurance and health care services – including immigrants. Harsh immigration and health care policies particularly burden immigrant women and their ability to access reproductive health care. Federal and state governments should implement policies that improve access to health care for immigrant women, rather than policies that make it harder for immigrants to obtain health care.



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- 3 Support Our Law Enforcement and Safe Neighborhoods Act, S.B. 1070, 49th Leg., 2nd. Reg. Sess. (Ariz. 2010); see also *Arizona v. United States*, 132 S. Ct. 2492 (2012) (striking down the bill's provisions regarding 1) noncompliance with federal alien-registration laws; 2) limitations on an unauthorized alien's ability to seek employment; and 3) arrests for removable offenses; but upholding an officer's ability to conduct a stop, detention, or arrest to verify person's immigration status if the officer suspects the person to be in the US unlawfully).
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- 9 Uninsurance rates calculated by NWLC based on 2016 Current Population Survey, Annual Social and Economic Supplement, available at <http://www.census.gov/topics/income-poverty/poverty.html>.
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- 11 *Id.*
- 12 NAT'L WOMEN'S LAW CTR., *MOVING WOMEN & FAMILIES FORWARD: A FEDERAL ROADMAP TO ECONOMIC JUSTICE 61* (Mar. 2016), available at https://nwlc.org/wp-content/uploads/2016/04/final_nwlc_2016_FederalRoadmap.pdf.
- 13 Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. § 1613. Limited exceptions to this five-year ban have been made for lawfully present, low-income pregnant women and children. States are allowed to offer federal Medicaid and CHIP coverage to lawfully present pregnant women and children regardless of how long they have been in the U.S. 42 U.S.C. § 1396 *et seq.* (2009). Nine states offer this coverage to lawfully present immigrant children only, 1 state offers this coverage to lawfully present pregnant immigrant women only, and 21 states and D.C. offer this coverage to both lawfully present immigrant children and pregnant women. MEDICAID.GOV, *Medicaid and CHIP Coverage of Lawfully Residing Children and Pregnant Women* (updated Sept. 9, 2016), <https://www.medicaid.gov/medicaid/outreach-and-enrollment/lawfully-residing/index.html>.
- 14 Memorandum from Janet Napolitano, Sec'y of Dep't of Homeland Sec., on Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children (June 15, 2012), <http://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf>.
- 15 A narrow exception does allow states to offer federal CHIP coverage for prenatal care to low-income women – regardless of immigration status. 67 Fed. Reg. 61956 (Oct. 2, 2002) (to be codified at 42 C.F.R. pt. 457). But only 16 states and D.C. provide this coverage. Tanya Broder, Avideh Moussavian, & Jonathan Blazer, *Overview of Immigrant Eligibility for Federal Programs*, NAT'L IMMIGRATION LAW CTR. (revised Dec. 2015), <https://www.nilc.org/issues/economic-support/overview-immeligfedprograms/>.
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- 28 Kinsey Hasstedt, *supra* note 18.
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