

116TH CONGRESS
2D SESSION

S. 3799

To expand access to health care services, including sexual, reproductive, and maternal health services, for immigrants by removing legal and policy barriers to health insurance coverage, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 21, 2020

Mr. BOOKER introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To expand access to health care services, including sexual, reproductive, and maternal health services, for immigrants by removing legal and policy barriers to health insurance coverage, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Health Equity and
5 Access under the Law for Immigrant Women and Families
6 Act of 2020” or as the “HEAL for Immigrant Women
7 and Families Act of 2020”.

1 **SEC. 2. FINDINGS; PURPOSE.**

2 (a) FINDINGS.—Congress finds as follows:

3 (1) Health insurance coverage reduces harmful
4 disparities by alleviating cost barriers to and in-
5 creasing utilization of necessary health care services,
6 especially among low-income and underserved popu-
7 lations, including women.

8 (2) Based solely on their immigration status,
9 many immigrants and their families face legal and
10 policy restrictions on their ability to obtain afford-
11 able health insurance coverage through Medicaid,
12 the Children’s Health Insurance Program (CHIP),
13 and the health insurance exchanges.

14 (3) Lack of health insurance coverage contrib-
15 utes to persistent disparities in the prevention, diag-
16 nosis, and treatment of negative health outcomes ex-
17 perienceed by immigrants and their families.

18 (4) Nearly half of immigrant women are of re-
19 productive age. Immigrant women are also dis-
20 proportionately living in low-income households and
21 lacking health insurance coverage. Legal and policy
22 barriers to affordable health insurance coverage
23 therefore particularly exacerbate their risk of nega-
24 tive sexual, reproductive, and maternal health out-
25 comes, with lasting health and economic con-

1 sequences for immigrant women, their families, and
2 society as a whole.

3 (5) Denying health insurance coverage or im-
4 posing waiting periods for health insurance coverage
5 unfairly hinders the ability of immigrants to attain
6 good health and undermines the economic well-being
7 of their families.

8 (6) The population of immigrant families in the
9 United States is expected to continue to grow. One
10 in seven United States residents is foreign-born, and
11 approximately one in four children in the United
12 States has at least one immigrant parent. It is
13 therefore in the Nation's shared public health and
14 economic interest to remove legal and policy barriers
15 to affordable health insurance coverage based on im-
16 migration status.

17 (7) Although Deferred Action for Childhood Ar-
18 rivals (DACA) recipients are authorized to live and
19 work in the United States, they have been unfairly
20 excluded from the definition of lawfully present and
21 lawfully residing for purposes of health insurance
22 coverage through the Department of Health and
23 Human Services, including Medicaid and CHIP, and
24 the health insurance exchanges.

1 (8) Immigration law is constantly evolving and
 2 new immigration categories for individuals with fed-
 3 erally authorized presence in the United States may
 4 be created.

5 (b) PURPOSE.—It is the purpose of this Act to—

6 (1) ensure that all individuals who are lawfully
 7 present in the United States are eligible for all fed-
 8 erally funded health care programs; and

9 (2) advance the ability of undocumented indi-
 10 viduals to obtain health insurance coverage through
 11 the health insurance exchanges.

12 **SEC. 3. REMOVING BARRIERS TO HEALTH COVERAGE FOR**
 13 **LAWFULLY PRESENT INDIVIDUALS.**

14 (a) MEDICAID.—Section 1903(v)(4) of the Social Se-
 15 curity Act (42 U.S.C. 1396b(v)(4)) is amended—

16 (1) by amending subparagraph (A) to read as
 17 follows:

18 “(A) Notwithstanding sections 401(a), 402(b), 403,
 19 and 421 of the Personal Responsibility and Work Oppor-
 20 tunity Reconciliation Act of 1996, payment shall be made
 21 under this section for care and services that are furnished
 22 to individuals who are not citizens of the United States,
 23 including aliens described in paragraph (1), if they other-
 24 wise meet the eligibility requirements for medical assist-
 25 ance under the State plan approved under this title (other

1 than the requirement of the receipt of aid or assistance
 2 under title IV, supplemental security income benefits
 3 under title XVI, or a State supplementary payment) and
 4 are lawfully present in the United States (including such
 5 an individual who is granted deferred action or other fed-
 6 erally authorized presence).”;

7 (2) in subparagraph (B)—

8 (A) by striking “a State that has elected to
 9 provide medical assistance to a category of
 10 aliens under subparagraph (A)” and inserting
 11 “individuals provided medical assistance pursu-
 12 ant to subparagraph (A)”; and

13 (B) by striking “such an alien on the basis
 14 of provision of assistance to such category” and
 15 inserting “such an individual on the basis of
 16 provision of assistance to such individual”; and

17 (3) in subparagraph (C)—

18 (A) by striking “an election by the State
 19 under subparagraph (A)” and inserting “the
 20 application of subparagraph (A)”; and

21 (B) by inserting “or be lawfully present”
 22 after “lawfully reside”; and

23 (C) by inserting “or present” after “law-
 24 fully residing” each place it appears.

1 (b) CHIP.—Subparagraph (N) of section 2107(e)(1)
 2 of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is
 3 amended to read as follows:

4 “(N) Paragraph (4) of section 1903(v) (re-
 5 lating to lawfully present individuals).”.

6 (c) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Except as provided in para-
 8 graph (2), the amendments made by this section
 9 shall take effect on the date of enactment of this Act
 10 and shall apply to services furnished on or after the
 11 date that is 90 days after such date of enactment.

12 (2) EXCEPTION IF STATE LEGISLATION RE-
 13 QUIRED.—In the case of a State plan for medical as-
 14 sistance under title XIX, or a State child health plan
 15 under title XXI, of the Social Security Act which the
 16 Secretary of Health and Human Services determines
 17 requires State legislation (other than legislation ap-
 18 propriating funds) in order for the plan to meet the
 19 additional requirements imposed by the amendments
 20 made by this section, the respective State plan shall
 21 not be regarded as failing to comply with the re-
 22 quirements of such title solely on the basis of its
 23 failure to meet these additional requirements before
 24 the first day of the first calendar quarter beginning
 25 after the close of the first regular session of the

1 State legislature that begins after the date of enact-
2 ment of this Act. For purposes of the previous sen-
3 tence, in the case of a State that has a 2-year legis-
4 lative session, each year of such session shall be
5 deemed to be a separate regular session of the State
6 legislature.

7 **SEC. 4. CONSISTENCY IN HEALTH INSURANCE COVERAGE**
8 **FOR INDIVIDUALS WITH FEDERALLY AU-**
9 **THORIZED PRESENCE, INCLUDING DE-**
10 **FERRED ACTION.**

11 (a) IN GENERAL.—For purposes of eligibility under
12 any of the provisions described in subsection (b), all indi-
13 viduals granted federally authorized presence in the
14 United States shall be considered to be lawfully present
15 in the United States.

16 (b) PROVISIONS DESCRIBED.—The provisions de-
17 scribed in this subsection are the following:

18 (1) EXCHANGE ELIGIBILITY.—Section 1311 of
19 the Patient Protection and Affordable Care Act (42
20 U.S.C. 18031).

21 (2) REDUCED COST-SHARING ELIGIBILITY.—
22 Section 1402 of the Patient Protection and Afford-
23 able Care Act (42 U.S.C. 18071).

1 (3) PREMIUM SUBSIDY ELIGIBILITY.—Section
 2 36B of the Internal Revenue Code of 1986 (26
 3 U.S.C. 36B).

4 (4) MEDICAID AND CHIP ELIGIBILITY.—Titles
 5 XIX and XXI of the Social Security Act, including
 6 under section 1903(v) of such Act (42 U.S.C.
 7 1396b(v)).

8 (c) EFFECTIVE DATE.—

9 (1) IN GENERAL.—Subsection (a) shall take ef-
 10 fect on the date of enactment of this Act.

11 (2) TRANSITION THROUGH SPECIAL ENROLL-
 12 MENT PERIOD.—In the case of an individual de-
 13 scribed in subsection (a) who, before the first day of
 14 the first annual open enrollment period under sub-
 15 paragraph (B) of section 1311(c)(6) of the Patient
 16 Protection and Affordable Care Act (42 U.S.C.
 17 18031(c)(6)) beginning after the date of enactment
 18 of this Act, is granted federally authorized presence
 19 in the United States and who, as a result of such
 20 subsection, qualifies for a subsidy under a provision
 21 described in paragraph (2) or (3) of subsection (b),
 22 the Secretary of Health and Human Services shall
 23 establish a special enrollment period under subpara-
 24 graph (C) of such section 1311(c)(6) during which
 25 such individual may enroll in qualified health plans

1 through Exchanges under title I of the Patient Pro-
 2 tection and Affordable Care Act and qualify for such
 3 a subsidy. For such an individual who has been
 4 granted federally authorized presence in the United
 5 States as of the date of enactment of this Act, such
 6 special enrollment period shall begin not later than
 7 90 days after such date of enactment. Nothing in
 8 this paragraph shall be construed as affecting the
 9 authority of the Secretary to establish additional
 10 special enrollment periods under such subparagraph
 11 (C).

12 **SEC. 5. REMOVING CITIZENSHIP AND IMMIGRATION BAR-**
 13 **RIERS TO ACCESS TO AFFORDABLE HEALTH**
 14 **CARE UNDER THE ACA.**

15 (a) IN GENERAL.—

16 (1) PREMIUM TAX CREDITS.—Section 36B of
 17 the Internal Revenue Code of 1986 is amended—

18 (A) in subsection (c)(1)(B)—

19 (i) by amending the heading to read
 20 as follows: “SPECIAL RULE FOR CERTAIN
 21 INDIVIDUALS INELIGIBLE FOR MEDICAID
 22 DUE TO STATUS”; and

23 (ii) in clause (ii), by striking “lawfully
 24 present in the United States, but” and in-
 25 serting “who”; and

1 (B) by striking subsection (e).

2 (2) COST-SHARING REDUCTIONS.—Section 1402
3 of the Patient Protection and Affordable Care Act
4 (42 U.S.C. 18071) is amended by striking sub-
5 section (e) and redesignating subsection (f) as sub-
6 section (e).

7 (3) BASIC HEALTH PROGRAM ELIGIBILITY.—
8 Section 1331(e)(1)(B) of the Patient Protection and
9 Affordable Care Act (42 U.S.C. 18051(e)(1)(B)) is
10 amended by striking “lawfully present in the United
11 States,”.

12 (4) RESTRICTIONS ON FEDERAL PAYMENTS.—
13 Section 1412 of the Patient Protection and Afford-
14 able Care Act (42 U.S.C. 18082) is amended by
15 striking subsection (d) and redesignating subsection
16 (e) as subsection (d).

17 (5) REQUIREMENT TO MAINTAIN MINIMUM ES-
18 SENTIAL COVERAGE.—Subsection (d) of section
19 5000A of the Internal Revenue Code of 1986 is
20 amended by striking paragraph (3) and by redesign-
21 ating paragraph (4) as paragraph (3).

22 (b) CONFORMING AMENDMENTS.—

23 (1) ESTABLISHMENT OF PROGRAM.—Section
24 1411 of the Patient Protection and Affordable Care
25 Act (42 U.S.C. 18081) is amended—

1 (A) in subsection (a)—

2 (i) by striking paragraph (1); and

3 (ii) redesignating paragraphs (2), (3),
4 and (4) as paragraphs (1), (2), and (3),
5 respectively;

6 (B) in subsection (b)—

7 (i) in paragraph (1)(A), by striking
8 “and date of birth” and inserting “date of
9 birth, and social security number (if appli-
10 cable)”;

11 (ii) by striking paragraph (2); and

12 (iii) by redesignating paragraphs (3)
13 through (5) as paragraphs (2) through (4),
14 respectively;

15 (C) in subsection (c)—

16 (i) by striking paragraph (2);

17 (ii) in paragraph (3), by striking
18 “subsection (b)(3)(A) provided under para-
19 graph (3), (4), or (5)” and inserting “sub-
20 section (b)(2)(A) provided under para-
21 graph (2), (3), or (4)”;

22 (iii) by redesignating paragraphs (3)
23 and (4) as paragraphs (2) and (3), respec-
24 tively;

25 (D) in subsection (e)—

(i) in paragraph (1), by striking “subsection (c)(4)” and inserting “subsection (c)(3)”;

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking “paragraphs (1), (2), (3), and (4)” and inserting “paragraphs (1), (2), and (3)”;

(II) in subparagraph (B), by striking “subsection (b)(5)” and inserting “subsection (b)(4)”;

(iii) by striking paragraph (3);

(iv) by redesignating paragraph (4) as paragraph (3); and

(v) in paragraph (3), as so redesignated—

(I) in subparagraph (A), by striking “(other than subsection (b)(2))”;

and

(II) in subparagraph (B)—

(aa) in clause (i)—

(AA) by striking “Except as provided in paragraph (3), the” and inserting “The”; and

1 (BB) by striking “para-
 2 graphs (2), (3), and (4)”
 3 and inserting “paragraphs
 4 (1), (2), and (3)”; and
 5 (bb) in clause (iv), by strik-
 6 ing “subsection (b)(5)” and in-
 7 serting “subsection (b)(4)”; and
 8 (E) in subsection (f)(2)(A), by striking
 9 “subsection (e)(4)(C)” and inserting “sub-
 10 section (e)(3)(C)”.

11 (2) QUALIFIED INDIVIDUALS.—Section 1312(f)
 12 of the Patient Protection and Affordable Care Act
 13 (42 U.S.C. 18032(f)) is amended—

14 (A) in the heading, by striking “; ACCESS
 15 LIMITED TO CITIZENS AND LAWFUL RESI-
 16 DENTS”; and

17 (B) by striking paragraph (3).

18 (c) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to years, plan years, and taxable
 20 years, as applicable, beginning after December 31, 2020.

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