



Immigration Reform

Background

Momentum is growing for reforming our nation's complex immigration system. As Congress begins to debate immigration policy, one of the most contentious policy issues will be how to deal with the undocumented (non-legal) immigrant population residing in the U.S. – whether to “legalize” them, and the extent to which this legalization will include a “pathway to citizenship.” It is likely that any legalization process will include a long period of “provisional status,” which calls into question whether federal benefits will be provided to these individuals. While some undocumented immigrants may have access to health care coverage through their employers, many are likely to remain uninsured. In effect, this population may remain without coverage during a period of transition to permanent legal status. Federal budget constraints and potential negative public reaction will impact the coverage debate. Therefore, these individuals are likely to continue to lack health care coverage for a number of years to come. Meanwhile, they may be more likely to present themselves for treatment when they are in the legalization process, because they will no longer need to fear discovery and deportation.

The best estimate of the undocumented population today is 11 million, provided by Jeffrey Passel of the Pew Hispanic Center. Of these 11 million individuals, more than 7 million are adult workers. The most recent AHA data reflect that during 2011, U.S. hospitals provided approximately \$41.1 billion of uncompensated care. It is not known how much of that amount was care provided to undocumented immigrants.

AHA View

The AHA supports increased health care coverage for undocumented immigrants, and will work with Congress on the best method to extend coverage to this population. In addition, the AHA will urge Congress to streamline the visa process for qualified, internationally trained nurses and physicians.

HEALTH CARE COVERAGE

With the exception of health care services provided pursuant to the *Emergency Medical Treatment and Active Labor Act* (EMTALA), undocumented immigrants generally do not qualify for federal health care benefits. Even legal immigrants are restricted from Medicaid eligibility for at least five years under the 1996 welfare reform law, although a few states have opted to cover this population using state funds.

The Patient Protection and Affordable Care Act (ACA) extends insurance coverage to a substantial portion of currently uninsured populations starting in 2014. However, undocumented immigrants were specifically excluded from coverage under this law. They also are barred from any federally funded public health insurance, including Medicare, Medicaid and the Children's Health Insurance Program.

Emerging Immigration Reform “Plans.” In late January, both the president and a bipartisan group of senators announced separate plans that establish a framework for comprehensive immigration reform, including a legalization process for those now here illegally. Both plans address border security, worksite verification, employment-based immigration, family reunification, streamlining the immigration process, adjusting the number and distribution of visas available, and a host of other technical immigration issues. Additionally, both plans would allow individuals who are unlawfully present in the U.S. to remain in the country on a “probationary” status while they undergo background checks, the payment of fees, taxes and fines, and work to meet the requirements for citizenship or a more permanent status, such as a green card (lawful permanent residence) that can lead to citizenship. Current restrictions preventing immigrants from accessing federal health care benefits also will apply to lawful probationary immigrants under both the president’s and the bipartisan Senate plan.

As the debate on immigration reform moves forward, the AHA believes that immigration reform principles must address access to health care coverage for immigrants placed on a “probationary” status and assistance to hospitals to help defray the cost of uncompensated care that may result from treating this population under EMTALA.

VISAS FOR HEALTH CARE PROFESSIONALS

Registered Nurses (RNs). Despite the slight improvement due to the effects of the recession, shortages of RNs are predicted to continue, especially in light of ACA implementation. Internationally educated RNs have played a vital role in U.S. health care. In 2006, approximately 15 percent (roughly 15,000 per year) of newly licensed RNs were immigrants, most coming to the U.S. on an employment-based (EB) visa, which is available to a number of professionals and is also known as a “green card.” However, visa backlogs began in 2007, and the waiting period for a nurse currently applying for a visa is six years or more under current law. The limit on visa allocations (140,000 EB visas per fiscal year) is statutory, set by the *Immigration and Nationality Act*, and only Congress can change it.

In order to immigrate to the U.S., internationally educated RNs must meet stringent standards. Every nurse, whether they are educated in the U.S. or abroad, must take the same licensing exam and meet all state requirements in order to be licensed to practice as an RN. In addition, foreign-born RNs must obtain a VisaScreen certificate that ensures that the educational program attended by the foreign nurse meets U.S. standards, that the nurses’ foreign license is valid, and that the nurse has demonstrated a command of oral and written English.

The recent comprehensive immigration reform draft proposals are silent on nurse immigration, although there are statements of intention to liberalize skilled immigration rules, which would positively impact nurse immigration.

Physicians. About one quarter of physicians admitted to residency programs each year have been trained abroad. While many of these are U.S. citizens who attended off-shore medical schools, more than half (as many as 4,000 per year) are foreign nationals. Most of these foreign physicians come on J-1 exchange visas with a requirement to return home for two years after completing their post-graduate training. A high percentage elect to stay and must pursue an arduous waiver process. Immigration of foreign physicians is not addressed in either draft reform proposal.

The AHA supports streamlining the immigration process to remove impediments and increase the supply of well-qualified, internationally educated RNs and physicians who emigrate to the U.S.