



THE LEGISLATURE  
STATE OF NEW YORK  
ALBANY

September 2, 2021

The Honorable Charles E. Schumer  
Majority Leader  
United States Senate  
322 Hart Senate Office Building  
Washington, D.C. 20510

**Re: Expanding Access to Health Care Via Modification to the Patient Protection and Affordable Care Act**

Dear Senator Schumer:

Over a decade has passed since the Patient Protection and Affordable Care Act (PPACA) became law. While millions of Americans have been helped during this time, there are many others, including many in New York State, who have been barred from participating in the New York health exchange marketplace due to restrictions Congress put in place in 2010.

Specifically, we are referring to a provision in the PPACA that makes it a felony for an undocumented immigrant to participate in the health exchange marketplace, even if they can pay out-of-pocket and without any subsidy.

We write to you to ask that you correct this problem by rescinding this language as part of the federal budget that the Senate and House of Representative is in the process of crafting. The solution to the exclusion of tens of thousands of hardworking, undocumented immigrants from access health care can be resolved in two ways:

1. Removing the felony provision in federal law limiting access; and
2. Authorizing states to seek an exemption for citizenship requirement through a waiver from the Department of Health and Human Services (DHHS).

It is time that the section of federal law that makes it a felony to seek healthcare coverage is removed from existence. That provision is an abomination that should have never been included in the PPACA. Unfortunately, we will likely never know the extent of the damage or how many immigrants living in our country without legal status have lost their lives or the lives of their loved ones because they were refused access to needed healthcare, even when they could pay out-of-pocket to access the healthcare marketplace.

New York codified the State Health Benefit Exchange several years back. At the time, legal experts concluded that the federal felony provision restricting access to the undocumented needed to be included in the language of the New York law, or else federal subsidies could be lost. Unless Congress removes that provision from existing law, New York and other states will continue to prevent undocumented immigrants, who can afford to pay the monthly premiums and without any federal or state subsidy, the ability to do so.

Allowing undocumented immigrants to buy into the health benefit exchange and without needing any subsidy is part of a set of solutions New York should be allowed to engage in immediately as it strives to provide health care for all. We currently have a bill that would allow undocumented New Yorkers to purchase into this state system, but we cannot move forward without federal action first.

Over one million residents of New York are undocumented immigrants. Many are able to buy into the health benefit exchange without a federal or state subsidy. Currently, the NYS Health Benefit Exchange offers a range of health insurance policy options. The most inexpensive covering a family of three costs as little as \$110 per month for primary and preventive care coverage. This is affordable buy-in coverage for the poorest of immigrants and their families.

The power of the health benefit exchange is that it uses the power of economies of scale to make health insurance more affordable. By opening up enrollment, even without any subsidy to undocumented immigrants, we increase the pool of participants in the exchange that maintain its affordability for all other participants and future participants.

The simple changes we have proposed above need to be included in the federal budget language that will be adopted by Congress and signed into law later this year. New York State will then be able to operate its health insurance exchange in a manner that is fair for the tens of thousands of immigrants who currently do not have access to health care or preventive health services. Being able to access preventive health services and wellness visits will prevent the development of chronic illnesses, which force many immigrants into emergency rooms for basic care at a huge expense to New York to the tune of tens of millions of dollars yearly.

We look forward to working with you to help ensure that this simple solution is made a reality this year in Washington. Thank you for your attention to this matter.

Sincerely,



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Assembly Task Force on New Americans  
New York State Assembly



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