

## SUMMARY

Access to health care for immigrants and their families has been undermined for decades due to arbitrary barriers that have resulted in a patchwork of health care services immigrants can access. One of the unnecessary barriers placed on immigrants is the five-year waiting period where lawfully present immigrants must wait five years before they can enroll in federally funded programs, such as Medicaid and CHIP that they are otherwise eligible for.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) limited immigrants' access to federally-funded benefits by establishing an arbitrary waiting period and creating two categories of immigrants known as "[Qualified Immigrants](#)" and "[Not qualified Immigrants](#)." Qualified Immigrants include lawful permanent residents (LPR/Green Card holders) and other lawfully present immigrants.<sup>1</sup> "Qualified Immigrants" can access federally funded programs if they meet the eligibility requirements but only after a five-year waiting period, also known as the five-year bar, from the day they acquire their "qualified" immigration status to become eligible to apply for federally funded programs. "Not qualified immigrants" include undocumented immigrants and other noncitizens. People categorized as "not qualified immigrants" are never able to access federally funded programs regardless of time of residency.

[Major federal programs](#) that are directly impacted by the five-year bar are:

- [Medicaid](#)
- [Medicare](#)
- [Children's Health Insurance Program \(CHIP\)](#)
- [Supplemental Nutrition Assistance Program \(SNAP\)](#)
- [Temporary Assistance for Needy Families \(TANF\)](#)
- [Supplemental Security Income \(SSI\)](#)

Some states have already taken action and played a key role in ensuring that residents who are lawfully present immigrants do not have to wait five years to receive some health care benefits by adopting the Children's Health Insurance Program Reauthorization Act ([CHIPRA](#)) option.

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1. The five-year waiting period affects certain "Qualified Immigrants" that entered the United States on or after August 22, 1996, including: Lawful Permanent Resident (LPR/Green Card Holder); Parolees, if granted parole for one year or more; Battered spouse, child, or parent who has a pending or approved petition with DHS; Conditional Entrants (granted before 1980).

Now, Congress has the opportunity to remove this barrier for lawfully present immigrants to access affordable health care with the reintroduction of the Health Equity and Access under the Law for Immigrant Families Act (HEAL Act), as well as improve access for all federally funded programs with the Lifting Immigrant Families Through Benefits Access Restoration Act (LIFT the BAR Act).

### **PROBLEM**

Non-citizens in the United States are more likely to be uninsured compared to citizens. To compare, [in 2019](#), lawfully present nonelderly immigrants were estimated to have an uninsured rate of 25 percent, while nonelderly citizens had an uninsured rate of 9 percent. Immigrants accounted for nearly a quarter of the entire nonelderly uninsured population in the United States.

Immigrants subject to the five-year bar have few options for health insurance, which often results in delayed care. They may access health care through community health centers that offer services at a sliding scale-fee or through the ACA Marketplace. However, these routes present challenges such as limited services available and long wait times at community health centers, a reduced ability to access specialized care, and high out-of-pocket costs associated with private health insurance, which are particularly difficult on immigrants and their families with low or moderate incomes.

The five-year bar also causes confusion among lawfully present immigrants and public benefits agency workers, as eligibility varies from [state-to-state and from program-to-program](#). This has resulted in immigrants forgoing services they are eligible for even after they have met the five-year bar requirement period.

Furthermore, the Trump administration's [proposed public charge rule](#)- which is permanently blocked- instilled fear and confusion about the services immigrants can utilize or risk becoming a "[public charge](#)." Though the proposed public charge rule is blocked nationally, it has had a lasting impact on immigrant communities and their comfort in utilizing services.

The fear and confusion surrounding access to coverage among immigrants also has a direct impact on U.S. Citizen family members part of [mixed-status families](#) who may be too afraid to enroll into benefits, confused by eligibility rules, or may be a citizen child whose parents are too confused or afraid to interact with government agencies. Studies show that children with at least one non-citizen parent have [higher uninsured rates](#). Conversely, when parents are insured, children are more likely to be [insured](#) and get the [primary care](#) they need.

In addition to the five-year bar, some states also require immigrants to have proof of 40-quarters of work to become eligible for federally funded programs. Hence, lawfully present immigrants would need to have proof of 10 years' worth of work to apply for federally funded programs.<sup>2</sup> Therefore, even after they have met the initial five-year bar requirement period, lawfully present immigrants may have to continue to wait to become eligible for enrollment until they meet the 40-quarters work requirement.

Presently, even with the disproportionate impact the pandemic has had on immigrant communities, all of these barriers continue to contribute to [many families](#) avoiding public benefits and other safety net programs they may be [eligible for](#). Taken all of this into account, it has allowed for health disparities to persist for decades among immigrant communities, including during the pandemic.

## THE SOLUTION

Congress now has the opportunity to make health care more equitable, accessible and affordable to immigrants, especially as we strive to recover from the COVID-19 pandemic. The Health Equity and Access under the Law for Immigrant Families Act of 2021 ([HEAL Act](#)) was reintroduced in May 2021 and would address the five-year bar in three ways:

1. It would eliminate the five-year bar.
2. It would ensure all lawfully present immigrants are eligible for Medicaid and CHIP.
3. It would eliminate states' ability to further restrict eligibility for Medicaid enrollment for immigrant communities.

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<sup>2</sup> Three months of work equals one quarter; therefore, in one year one can accumulate up to four quarters. 40-quarters is the equivalent of ten years of work.

Representative Jayapal is scheduled to release the Lifting Immigrant Families Through Benefits Access Restoration Act of 2021 ([LIFT the BAR Act](#)) which would eliminate the five-year waiting period for all lawfully present immigrants for all federally funded public benefits programs and eliminate the 40-Quarters Rule.

Therefore, the HEAL Act and LIFT the BAR Act would make health care more affordable and accessible (alongside other benefits) to lawfully present immigrants who are otherwise eligible to enroll into federally-funded public benefits programs without first being subject to the five-year waiting period.<sup>3</sup>

## IN SUMMARY, CONGRESS SHOULD

- Pass and implement the HEAL for Immigrant Families Act of 2021 and LIFT the BAR Act of 2021 immediately
- Incorporate immigrants' increased access to all benefits in future reconciliation packages

## STATE ACTIONS: ADDITIONAL STEPS THAT CAN BE TAKEN

While the HEAL Act and LIFT the Bar Act awaits action in Congress, states can play a key role in taking additional steps to reduce the impact and barriers immigrants face as a result of the five-year bar and other arbitrary barriers. States currently have the flexibility to implement less restrictive eligibility requirements for Medicaid and CHIP for lawfully present children and/or pregnant people by adopting the Immigrant Children's Health Insurance Program Reauthorization Act ([CHIPRA](#)) option. Presently, [35 states](#) have eliminated the five-year bar for lawfully residing immigrant children for Medicaid and CHIP coverage and [twenty-five states](#) have eliminated the five-year bar for lawfully-residing pregnant immigrants to provide prenatal care and postnatal coverage up to 60 days' or [12 months postpartum](#).

[States](#) can also consider using state and local funds to expand Medicaid and CHIP eligibility for all immigrants. [Six states](#), plus the District of Columbia, provide coverage to income-eligible children regardless of their immigration status by using state-only funds. [Illinois](#)' provides coverage to noncitizen older adults, through a Medicaid-like program paid entirely by state funds. State-only funds can also be used to create [substitutes](#) for SNAP and TANF benefits.

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<sup>3</sup> While lawfully present immigrants are the primary focus, it is important to note that both the HEAL Act and LIFT the BAR Act also include provisions which would open up access to federally-funded programs to undocumented communities and other immigrant populations, too.

## GO DEEPER

- [NAPAWF HEAL Fact Sheet 2021](#)
- [PIF LIFT the BAR Act One Pager](#), August 2021
- [Immigrant Eligibility for Public Programs During COVID-19](#)
- [Top Three State Policy Priorities to Support Immigrants and Their Families During the COVID-19 Pandemic](#), July 2020 Blog

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