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## Introduction

Access to affordable health coverage and healthcare is critical for pregnant individuals and translates to better outcomes for their children. Immigrants who are subject to Medicaid's five-year bar or who are undocumented are less likely than U.S. citizens or those with a legal status to have health coverage, including **adequate prenatal care**, in part due to more limited interactions with the healthcare system as a result of previous public charge and other exclusionary immigration policies. Healthcare for *all* immigrants is imperative to advancing health equity and reducing disparities between immigrant and U.S. born individuals.

Under federal **regulations**, states may provide pregnancy-related care through the Children's Health Insurance Program (CHIP) state plan to targeted low-income children from conception to birth (the so called "unborn child" option). This option—referred to in this brief as the *CHIP coverage option for pregnant immigrants and their children*—enables states to provide prenatal, labor and delivery, and postpartum services to pregnant individuals, regardless of immigration status. As of January 2021, approximately **one-third** of states had pursued this coverage mechanism, meaning many more states could still elect to draw down available federal funding to strengthen access to care for their pregnant residents and prioritize the health of children who will become U.S. citizens at birth. This issue brief—the second in a series, "*Supporting Health Equity and Affordable Health Coverage for Immigrant Populations*"—offers considerations for policymakers around the CHIP coverage option for pregnant immigrants and their children, regardless of immigration status.

## Considerations Related to the CHIP Coverage Option for Pregnant Immigrants and their Children

We describe below key considerations for policymakers as they consider whether to pursue the CHIP coverage option for pregnant immigrants and their children. For states that have already implemented this option, we include considerations related to programmatic changes that may expand coverage and access (e.g., covering individuals at higher income levels, providing more robust benefits, or extending the postpartum period).

**Authority.** In order to adopt this option and receive funds under Title XXI, states must submit a CHIP state plan amendment (SPA). A Section 1115 waiver is not required, making the process of obtaining Centers for Medicare & Medicaid Services (CMS) approval relatively straightforward.

**Eligibility and Enrollment.** Under this option, states are able to extend coverage to pregnant individuals who are not otherwise eligible for Medicaid or CHIP, regardless of immigration status. States establish specific eligibility income levels **ranging** anywhere from 138 percent to 322 percent of the federal poverty level. In selecting the eligibility income level, some states choose to align with the upper income band for Medicaid/CHIP pregnant individuals, while others, like California, choose to cover residents with incomes *above* those of their Medicaid/CHIP enrollees in an effort to promote coverage. States can also opt to provide presumptive and/or continuous eligibility. In this context, continuous eligibility could be assured until the time of birth in the event of a change in household size or income. At the time of birth, states must conduct a **redetermination** for the newborn if they are using a bundled payment (discussed in more detail below).<sup>1</sup> States are expected to deploy the same processes that are used to consider changes in circumstances for other CHIP children, such as "ex parte" or relying on existing information to the extent it is available, rather than requiring a new application.

<sup>1</sup> Newborns under this option are not eligible to be "deemed" as they would be if the mother's delivery had been covered under emergency Medicaid. This is because CMS considers the eligible individual to be the "unborn child," rather than the mother.

**Communication and Outreach.** Once states adopt this option, they will need to engage in targeted, community-based outreach to address barriers to enrollment. While the rollback of Trump era public charge may help mitigate the climate of fear that has led to **postponement** of prenatal care among immigrant populations, there are still steps that states can take to reassure their residents that it is safe to apply for and receive public benefits, including optional CHIP coverage for pregnant immigrants and their children.<sup>2</sup>

**Benefits and Cost-Sharing.** The majority of states that have taken up this option offer comprehensive Medicaid/CHIP-like benefits; states can, however, elect to offer services that are less generous in scope. Prenatal and labor/delivery services are available until the child is born; but, in order to provide postpartum services for the mother and child, states must utilize a bundled payment.<sup>3</sup> Among the states that offer postpartum care, the scope of services varies. **Massachusetts** and **South Dakota**, for example, cover limited postpartum visits (billed on the date of birth), while other states (like **Virginia**) cover the full range of services during the postpartum period. From an operational and administrative standpoint, aligning the benefit package with that provided to Medicaid/CHIP pregnant individuals may be most efficient for states. **Cost-sharing** is permissible under this option, though most states do not require it. Among states that do **impose** cost-sharing, co-payments tend to be fairly nominal and may be tiered based on income.

**Financing Postpartum Coverage.** While CHIP federal financial participation (FFP) is not available outside of the **bundled payment** for the provision of postpartum services, states have considerable flexibility in the way in which they develop/design the bundled payment methodology, as long as services are tied to the health of the child. As an alternative to the bundled payment, states can leverage CHIP Health Services Initiative (HSI) authority to offer postpartum care—including **extended** postpartum coverage, as **Illinois** has done for a period of 12 months. States will, however, need to contend with HSI limitations, including limited FFP.<sup>4</sup>

## Conclusion

Effectuating the CHIP coverage option for pregnant immigrants and their children is a key step that states can take to address the nation's maternal/infant mortality and morbidity crisis as well as to combat the systemic denial of access to care among immigrant populations. Indeed, **research** has established increased prenatal care utilization associated with this policy option. With the increasing likelihood of the American Rescue Plan Act's **postpartum SPA option** becoming permanent (and perhaps a federal requirement as proposed under the Build Back Better Act) for Medicaid/CHIP populations, states can look to this CHIP coverage option to provide equitable pregnancy-related care to their immigrant populations, alike.

<sup>2</sup> As of March 9, 2021, the United States Citizenship and Immigration Service (USCIS) stopped applying the 2019 public charge final rule. Instead, USCIS has returned to applying longstanding public charge guidance that was in effect between 1999 and when the 2019 rule went into effect. That means that USCIS is not considering an applicant's receipt of CHIP in public charge determinations.

<sup>3</sup> Per CMS State Health Official (SHO) #02-004, a "bundled payment" is a global fee made for prenatal care, labor/delivery, and postpartum care.

<sup>4</sup> Federal regulation (42 CFR 457.10) defines CHIP HSIs as "activities that protect public health, protect the health of individuals, improve, or promote a state's capacity to deliver public health services, and strengthen the human and material resources necessary to accomplish public health goals relating to improving the health of children (including targeted low-income children and other low-income children)."

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