Roadmap

I. Immigration Status as a Social Determinant of Health
II. Immigrant Access to Health Care
III. Fear of Immigration Surveillance
IV. Impacts of the COVID-19 Pandemic
V. The Medical-Legal Partnership Clinic’s Work on Behalf of Immigrants
I. Immigration Status as a Social Determinant of Health
# Social Determinants of Health Domains and Indicators

**Source:** Gurrola & Ayón

<table>
<thead>
<tr>
<th>Education</th>
<th>Economic Stability</th>
<th>Social &amp; Community Context</th>
<th>Health &amp; Health Care</th>
<th>Neighborhood &amp; Built Environment</th>
</tr>
</thead>
</table>
| • High school graduation rates  
• School policies  
• School environments  
• Enrollment in higher education | • Poverty  
• Employment Status  
• Access to Employment  
• Housing Stability | • Family structure  
• Social cohesion  
• Perceptions of discrimination and equity  
• Civic participation  
• Incarceration | • Access to health services  
• Access to primary care  
• Health technology | • Quality housing  
• Crime and violence  
• Environmenta l conditions  
• Access to healthy foods |
II. Immigrant Access to Health Care
Eligibility for Newcomers: 1965-1973

- 1965: Establishment of Medicaid and Medicare
  - No immigration status-based restrictions
Eligibility for Newcomers: Restrictionism (1973-Present)

- **Eligibility for Newcomers:**
  - **1973:** Medicaid restricted to citizens and immigrants with legal status
  - **1996:** PRWORA restricts access to Medicaid and other federal public benefits
  - **2010:** ACA permits lawfully present immigrants to receive tax credits
# Lawfully Present Immigrants by Qualified Status

**Source:** HealthCare.gov

<table>
<thead>
<tr>
<th>Qualified Immigrant Categories</th>
<th>Other Lawfully Present Immigrants</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Lawful permanent resident (LPR or green card holder)</td>
<td>• Granted Withholding of Deportation or Withholding of Removal, under the immigration laws or under the Convention Against Torture (CAT)</td>
</tr>
<tr>
<td>• Refugee</td>
<td>• Individual with Non-Immigrant Status, including worker visas, student visas, U visa, and other visas, and citizens of Micronesia, the Marshall Islands, and Palau</td>
</tr>
<tr>
<td>• Asylee</td>
<td>• Temporary Protected Status (TPS)</td>
</tr>
<tr>
<td>• Cuban/Haitian entrant</td>
<td>• Deferred Enforced Departure (DED)</td>
</tr>
<tr>
<td>• Paroled into the US for at least one year</td>
<td>• Deferred Action Status, except for Deferred Action for Childhood Arrivals (DACA) who are not eligible for health insurance options</td>
</tr>
<tr>
<td>• Conditional entrant granted before 1980</td>
<td>• Lawful Temporary Resident</td>
</tr>
<tr>
<td>• Granted withholding of deportation</td>
<td>• Administrative order staying removal issued by the Department of Homeland Security</td>
</tr>
<tr>
<td>• Battered non-citizen, spouse, child, or parent</td>
<td>• Resident of American Samoa</td>
</tr>
<tr>
<td>• Victims of trafficking and his/her spouse, child, sibling, or parent or individuals with pending application for a victim of trafficking visa</td>
<td>• Applicants for certain statuses</td>
</tr>
<tr>
<td>• Member of a federally recognized Indian tribe or American Indian born in Canada</td>
<td>• People with certain statuses who have employment authorization</td>
</tr>
</tbody>
</table>
PRWORA: 1996 Welfare Law

• Federal Government
  • Substantial authority to discriminate against undocumented immigrants in the provision of public benefits like Medicaid.

• State & Local Governments
  • May not expand federally funded public benefits eligibility to undocumented immigrants (preempted by PRWORA).
  • May expand eligibility to undocumented immigrants using state funds (authorized by PRWORA)
Other Federal Programs Subsidizing Health Care for Undocumented Immigrants (Patchwork)

- Emergency Medical Assistance – state variation in definition of EMC
- Federally Qualified Health Centers
- Migrant Health Care Centers
- Public Health Services
Uninsured Rates among Nonelderly Adults by Immigration Status, 2017

Source: Kaiser Family Foundation

- **Citizens Lawfully Present**: 10%
- **Lawfully Present Immigrants**: 24%
- **Undocumented Immigrants**: 47%
III. Fear of Immigration Surveillance
Concrete Problem

Noncitizens are choosing to delay or avoid seeking health care based on a fear of immigration consequences. This creates health risks in the larger community, decreases the efficiency of the health care system, and intensifies health inequities in the noncitizen population.

Interrogation and arrest of noncitizens at health care sites

Information-gathering about noncitizens from agencies that administer publicly funded health programs.
Healthcare System Harms

- Increased risk of infectious disease
- Decreased cost-effectiveness
- Creation of humanitarian crises in the noncitizen population
- Exacerbation of racial disparities / stratification in health care
Ethical Harms

Forces providers to alter clinical risk calculations and clinical recommendations for reasons relating to immigration enforcement.

Threatens to make providers into agents of the state, contradicting their professional duties to their patients.
System Avoidance

A Behavior Response: Deliberate and systematic avoidance of institutional contact because of concerns about coming under heightened surveillance.

Consequence: Suppression of socially valuable behavior.

**Undocumented and Pregnant: Why Women Are Afraid to Get Prenatal Care**

Undocumented women are risking their health by postponing prenatal care and giving birth at home in response to the Trump administration’s immigration enforcement policies.
Immigration Crackdown

Chilling Effect on Public Benefits Access

Erosion of Trust

Immigration Crackdown

Increased Stress

Social Exclusion
U.S. frees 10-year-old undocumented immigrant with cerebral palsy

By Mario Saccofili
November 9, 2017

Federal officials on Friday released a 10-year-old girl with cerebral palsy who was detained in Texas Oct. 25 after undergoing surgery because she was an undocumented immigrant traveling without her

Border Patrol Arrests Parents While Infant Awaits Serious Operation

September 20, 2017 7:06 PM ET
Heard on All Things Considered

JOHN BURNETT

Irina and Oscar Sanchez were apprehended by the Border Patrol when they took their infant son, Isaac, to a children's hospital to have emergency surgery.

John Burnett/NPR

NATIONAL
1. Undocumented Noncitizens – including people who hold liminal or “in-between” statuses.
2. Noncitizens with Legal Status – public charge, deportation risk
3. Naturalized U.S. Citizens – specter of denaturalization

Who is affected by immigration surveillance in health care?
What is Public Charge?

Immigration law restricting admission of noncitizens based on their likelihood to become dependent on the U.S. government.
Definition of Public Charge

A person who is “primarily dependent on the government for subsistence, as demonstrated by either (1) the receipt of public cash assistance for income maintenance or (ii) institutionalization for long-term care at government expense.”

INS, Field Guidance on Deportability and Inadmissibility on Public Charge Grounds, 64 Fed. Reg. 28689 (May 26, 1999)
Exemptions

- Refugees
- Asylees
- Special Immigrant Juveniles
- VAWA petitioners
- U- and T-Visas
- And some others
Totality of the Circumstances Test

- Age
- Health
- Family Status
- Resources
- Financial Status
- Education / Skills

- Affidavit of Support
- Past or current use of certain public benefits
Benefits Considered in Public Charge Determination

- Cash Assistance
- TANF
- SSI
- General Assistance
- Institutionalization for Long-Term Care
- Medicaid for Long-Term Care
Benefits NOT Considered in Determination

- “Regular” Medicaid
- Emergency Medicaid
- CHIP
- Marketplace subsidies
- SNAP
- WIC
- School meals

- LIHEAP
- Housing assistance
- Child care subsidy
- Unemployment benefits
- Foster care and adoption subsidies
- Everything else that isn’t cash assistance or LTC Medicaid.
The New Public Charge Policy

Expands public charge inadmissibility

• Use of public benefits is a more significant negative factor

• More types of public benefits considered, including Medicaid, SNAP, and housing assistance
Noncitizens disenrolling from or forgoing enrollment in public benefits out of fear and confusion.

Migration Policy Institute analysis estimates it will chill 10 million noncitizens, affecting 12 million U.S. citizen family members.

Chilling effect persists during the pandemic.
Existing laws and policies only partially protect noncitizens from immigration surveillance in health care.

Apprehension at health care sites is still a risk under exceptions to and “gray areas” of the sensitive locations policy.

Enrollment in publicly funded health care is generally no longer a risk under the public charge rule.

But FEARS of immigration surveillance in health care may be greater than the actual risks.
IV. Impacts of the COVID-19 Pandemic
POLL
Reduced Access to Health Care

Noncitizens with COVID-19 symptoms who decline to enroll in Medicaid and cannot pay out of pocket may not seek testing and treatment →

• Disproportionate suffering
• Uncontrolled spread of the virus
Reduced Access to Income Supports that Enable Compliance with Social Distancing

- Noncitizens, even those at high-risk, may continue to work
- Housing instability → doubling up, shelters
- Food insecurity → reduced immune response, visits to food pantries
V. The MLP Clinic’s Work on Behalf of Immigrants
Penn State Dickinson Law: Medical-Legal Partnership Clinic

- Mission: Address the root causes of health disparities in our society
- Method: Incorporate attorneys into a health care team that is treating a patient in need
- Focus on helping immigrants access public benefits
- Contact: mlpclinic@psu.edu / (717) 243-2968
Our Advocacy Model

- Screening for legal issues
- Negative health impact

Training

Referral
- Case referrals
- Consultation

Advocacy
- Individual
- Systemic
Innovative, Interdisciplinary Model

• Traditional legal services is “the legal emergency room for the poor in Pennsylvania.” Rhodia Thomas, Executive Director of MidPenn Legal Services

• MLP, by contrast:
  • Identifies legal needs before they become legal and health crises.
  • Focuses on the holistic needs of clients.
## Income & Insurance

### Legal Intervention
- Appeal denial of food stamps, health insurance, cash benefits, LIHEAP, etc.

### Related Social Determinant of Health
- Increase the availability of resources to meet daily basic needs

### Impact on Health
- Fewer trade-offs between affording food and health care, including medications.
- Being able to afford enough food helps people manage chronic diseases and helps children grow and develop.
# Immigration Status

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<th>Related Social Determinant of Health</th>
<th>Impact on Health</th>
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<td>• Assist with applications for employment authorization, immigration status, or citizenship; defend against deportation.</td>
<td>• Create equal access to the opportunity to work and participate in civil society.</td>
<td>• Legal status helps make consistent employment and access to public benefits possible.</td>
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<tr>
<td></td>
<td></td>
<td>• Consistent employment provides money for food and safe housing, which helps people avoid costly emergency health care services.</td>
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</tbody>
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References


