

## Still Missing: Undocumented Immigrants in Health Care Reform

Charlene Galarneau, PhD

*Abstract:* The health care reform signed by President Obama in March 2010 mirrors the Clinton reform proposal of 1993 in that both excluded undocumented immigrants from federal insurance coverage. In both cases substantive discussion of their possible inclusion was stifled by political timidity. This paper begins with a brief descriptive overview of undocumented immigrants in the U.S. and their health care and insurance coverage. It highlights the most common moral, economic, and public health arguments made for and against the inclusion of undocumented immigrants in the 2010 health care reform. The paper then asserts that undocumented immigrants are part of the U.S. health care community and urges health care workers to become more active participants in this policy arena.

*Key words:* Immigrants, health care reform, social justice, insurance coverage.

In September 1993, then President Clinton addressed a joint session of Congress and the public in a televised speech about his proposed “universal” health care plan—“universal” except for the 3.2 million undocumented immigrants it excluded. The potential consequences of the plan included higher health care costs for these immigrants as well as reduced access to care related to the dismantling of key safety net programs that served them.<sup>1</sup>

In September 2009, President Obama similarly spoke to Congress and the public about his health care reform proposal, a proposal that would also exclude, among others, undocumented immigrants. It was in response to his emphatic statement that “. . . the reforms I’m proposing would not apply to those who are here illegally,” that a U.S. Representative shouted his now-infamous, “You lie!” interjection.<sup>2</sup>[p.1] Indeed, the Patient Protection and Affordability Care Act signed months later by President Obama does not cover the now near 11 million undocumented immigrants in the U.S.

Also in the fall of 2009, high-profile media attention was given to the fates of the several dozen undocumented patients whose kidney dialysis was to end with a unit closure at Atlanta’s Grady Memorial Hospital.<sup>3</sup> Although the debate over health care reform was full-blown when this story appeared, the place of undocumented immigrants in health care reform never truly played a central role in it.

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**CHARLENE GALARNEAU** is an Assistant Professor at Wellesley College. Please address correspondence to her at the Women’s and Gender Studies Department, Wellesley College, 106 Central Street, Wellesley, MA 02481; (781) 283-2598; [cgalarne@wellesley.edu](mailto:cgalarne@wellesley.edu).

This omission was hardly an oversight. Senator Max Baucus, chair of the Senate Finance Committee, ensured the relative silence of politicians when he warned, “We’re not going to cover undocumented workers, because that’s too politically explosive.”<sup>4</sup>[p.17] When pressed on this, he reiterated, “That’s very politically charged. And I don’t want to take on something that’s going to sidetrack us.”<sup>4</sup>[p.31]

That said, some groups attempted to bring public and elected officials’ attention to the consequences of the proposed reform bills for undocumented immigrants. Primarily religious, Latino/a groups, and health/health care organizations argued for the inclusion of these immigrants, while anti-immigration groups posed vocal opposition to any potential benefits for them. This paper begins with a brief descriptive overview of undocumented immigrants in the U.S. and their health care and insurance coverage. It highlights the most common moral, economic, and public health arguments made for and against the inclusion of undocumented immigrants in the 2010 health care reform. The paper then asserts that undocumented immigrants are part of the U.S. health care community and urges health care workers to become more active participants in this policy arena.

## **Demographic Characteristics of Undocumented Immigrants in the U.S., Including Health Care and Insurance Coverage**

Imprecision and inaccuracies abound in the discourse and in the data about immigrants in the U.S., so it should be noted that the focus here is on *undocumented immigrants*: foreign-born people who reside in the U.S. but are not legally-recognized residents. These people are sometimes also referred to as *unauthorized immigrants*, *illegal aliens*, *illegal immigrants*, or *people without authorized presence*.

In January 2010, the U.S. Department of Homeland Security estimated that there were 10.8 million undocumented immigrants in the U.S. as of January 2009.<sup>5</sup> Pew Hispanic Center research based on 2008 Census data shows that these immigrants make up 4% of the U.S. population and 5.4% of the workforce. Most are Hispanic (76%), 59% are from Mexico, and two-thirds (68%) reside in eight states: California, Texas, New York, Florida, New Jersey, Arizona, Georgia, and Illinois. Nearly half (47%) of undocumented immigrant households comprise an adult couple with children. Seven of every 10 children of undocumented immigrants are U.S. citizens by birth. The median annual household income of undocumented immigrants in 2007 was \$36,000, notably lower than the \$50,000 of U.S.-born residents.<sup>6</sup>

Many undocumented immigrants who receive health care services receive them from safety-net providers: community and migrant health centers, public health clinics, hospital emergency departments, and out-patient clinics as well as some private providers. The numbers of immigrants served by each type of provider are unknown but the data do show that the common assumption that undocumented immigrants lack all health insurance is an overly simplistic view. The Migration Policy Institute reports that in 2007, 59% of undocumented adults had no health insurance, (four times the rate of U.S.-born adults) and 55% of the children of undocumented immigrants were uninsured. Yet, 31% of undocumented immigrants were covered by employer-based insurance, despite the fact that undocumented immigrants tend to work for smaller

employers and are less likely to be offered health insurance benefits. Perhaps surprisingly, 3% of undocumented immigrants are covered by privately purchased insurance.<sup>7</sup>

Although undocumented immigrants are ineligible for regular Medicaid services or the Children's Health Insurance Program, the emergency Medicaid program pays hospitals for some services dispensed in emergency departments. National estimates of the number of undocumented immigrants currently served by emergency Medicaid are unknown.<sup>7</sup>

The Patient Protection and Affordable Care Act offers no federal health care benefits to undocumented immigrants. These 11 million people are excluded from the mandate to have health care insurance and are ineligible for the Act's expanded Medicaid eligibility provisions. Undocumented immigrants are barred from purchasing private insurance through the new insurance exchanges—even at their own expense (which an earlier House bill had allowed), and they are ineligible for federal subsidies of insurance premiums.<sup>8</sup> Regardless of what its name might suggest, the Act neither protects these patients nor makes their care more affordable.

## Arguments for Exclusion

Typically, the opponents of including undocumented immigrants in health care reform were groups who oppose current U.S. immigration policy and who were, and are, working to reduce significantly the number of immigrants in the U.S. Two vocal examples, quite prominent in the national media, are the Federation for American Immigration Reform (FAIR) and the Center for Immigration Studies (CIS). Their discussions of health care reform were characteristically woven into broader concerns about immigration. In a CIS-sponsored panel presentation, CIS Director of Research, Steve Camarota asked, “. . . [C]an we have health-care reform without immigration reform?” He replied, “. . . the answer is almost certainly no.”<sup>9</sup>[p.5]

Economic and political arguments dominate the American citizen-only perspectives. The leading economic argument asserts that the health care of undocumented immigrants is a financial burden on U.S. taxpayers.<sup>10</sup> Excluding undocumented immigrants would save American taxpayer dollars, says FAIR, whereas including them would increase state and federal deficits.<sup>10</sup> Furthermore, CIS asserts that including undocumented immigrants would enlarge the government's role in health care (apparently problematically).<sup>11</sup> Some exclusionists have targeted the health care costs of pregnant undocumented immigrant women who birth in the U.S., calling these U.S. citizen newborns “anchor babies,” for the supposed security and opportunity citizenship brings, not only to the babies, but to their families.<sup>12</sup>

The central political reason given for exclusion is the claim that the inclusion of undocumented immigrants in health care reform would encourage more immigration to the U.S. Referring to both House and Senate health care reform bills, CIS Fellow James Edwards maintains that “. . . the legislation amounts to a reward for illegal aliens and another power boost to the magnet that draws illegal aliens.”<sup>13</sup>[p.1]

FAIR has raised concerns about health care quality and access if undocumented immigrants are cared for: “Greater utilization by illegal aliens could impact health care

quality for all Americans, resulting in longer waits at the doctor's office and reduced access to services."<sup>14</sup>[p.1]

Edwards also poses a moral question: "Shouldn't immigrants be expected to abide by our American core principles like individual responsibility? Is it too much to ask of those who live here, even illegally, that they act responsibly in this one area and obtain health coverage, rather than risk imposing a burden on society?"<sup>15</sup>[p.1]

Finally, Edwards claims that health care is not a priority for undocumented immigrants: "Many could (and do) find some form of affordable health insurance today if they were willing to buy it. But many would apparently rather spend their money on other things, including remittances of amounts about equal to the premiums of low-cost insurance policies of health savings accounts."<sup>15</sup>[p.1] He adds, ". . . pretty much every medical screening and routine service is available to anyone, including illegal aliens, at no or nominal cost almost anywhere in America. Seeking out such medical attention rests with the person who needs it, and again, this seems a lower priority to illegal aliens."<sup>15</sup>[p.1]\*

## Arguments for Inclusion

The majority of those arguing for the inclusion of undocumented immigrants in health care reform fall into three groups: Christian organizations, most notably the U.S. Conference of Catholic Bishops (USCCB); Latino/a groups including National Council of La Raza and the Congressional Hispanic Caucus, and organizations of health care professionals, such as the American College of Obstetricians and Gynecologists. Moral, economic, and public health arguments dominate their perspectives.

The moral arguments for inclusion are typically straightforward: undocumented immigrants are human beings with health care needs and a right to health care. As the USCCB put it, "In the Catholic tradition, health care is a basic human right not a privilege. It is a fundamental issue of human life and dignity."<sup>16</sup>[p.1] They add, "All people need and should have access to comprehensive, quality health care that they can afford, and it should not depend on their stage in life, where or whether they or their parents work, how much they earn, where they live, or where they were born."<sup>16</sup>[p.1] Similarly Bioethicist Ruth Faden has argued that entering the U.S. without permission does not justify withholding one's human rights, including access to health care.<sup>17</sup>

Economic arguments for inclusion recognize undocumented immigrants as monetary contributors to society through their labor, tax payments, and market participation. The Center for American Progress disputes the notion that undocumented people are "free riders" noting that ". . . workers without valid social security numbers contribute \$7 billion in Social Security tax revenues and roughly \$1.5 billion in Medicare taxes annually, yet elderly immigrants rarely qualify for Medicare or long-term care services

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\* The statement that "pretty much every medical screening and routine service is available to anyone, including illegal aliens, at no or nominal cost almost anywhere in America" is a fine example of the misinformation found in the health care reform debate.

provided through Medicaid.”<sup>18</sup>[p.8] These workers contribute financially to these public benefits despite being ineligible to receive them.

In a somewhat more philosophical economic argument, the National Immigration Law Center notes that American free market principles are violated when people are prohibited from purchasing private health insurance.<sup>8</sup>

Some inclusionists take a more pragmatic economic perspective: If undocumented immigrants can't buy insurance, they will continue to rely on safety net providers including emergency care, and everyone pays for this care.<sup>19</sup> Additionally, insuring the undocumented would enlarge the insured pool with relatively young and healthy people, spreading the risks and costs for all.<sup>8</sup>

The central public health argument for including undocumented immigrants rests on the reality that any individual's health depends in part on the health of others. As one county health director plainly put it, “. . . to have a healthy community, we can't have subset of people who don't have access to health care.”<sup>20</sup>[p.3] Another observer noted, undocumented people “can't afford to practice social distancing.”<sup>21</sup>[p.11] In other words, undocumented workers may continue to work when sick absent paid sick days and job security. President Obama recognized this social nature of health when he suggested that undocumented children may need insurance coverage “because if you've got children who may be here illegally but are still in playgrounds or at schools, and potentially are passing on illnesses and communicable diseases, that aren't getting vaccinated, that I think is a situation where you may have to make an exception [to excluding them under the reform].”<sup>22</sup>[p.1]

## Still Missing

Despite the many arguments made by these organizations on both sides of the issue, elected officials paid little substantive attention to them. As Senator Baucus illustrated, officials feared that addressing undocumented immigrants would “sidetrack” their reform work. “Sidetrack” perhaps, because to debate the issue would require explicitly addressing the tough fundamental questions posed by a commentator back during the 1990s reform debate: who are “we” as a health care community? Who are community members and what rights and responsibilities do “we” have?<sup>1</sup> Instead the recent Congressional debate largely ignored such questions and maintained the *status quo*.

The nearly 11 million undocumented immigrants are, I assert, members of this country's health care community even if they aren't legally-recognized as citizens. No one argues that undocumented immigrants do not contribute to this country or that they do not benefit from it, though there is certainly disagreement about how much of each they do, and whether they should at all. Their simple presence, not to mention their multi-faceted social integration—occupational, economic, educational, religious, and health-related—makes them health care community members in fact and thus entitles them to care like other community members. To the extent that health care is a social and relational good, then all residents belong to the country's health care community and have rights and responsibilities associated with it.<sup>23</sup>

I suggest that in any *just* health care system—regardless on one's definition of justice—the burden rests with those who would exclude some of us from health care

coverage to demonstrate convincingly why that exclusion would be just rather than simply politically or economically advantageous. The current legislation does not justify its exclusion. It never had to, and that suggests a role for health care practitioners.

Health care practitioners have unique relationships with undocumented immigrants, and rare insights into their lives. Some practitioners and professional societies have spoken about the need to include undocumented immigrants in reform efforts, countering the dominant political voices that assume the health care of undocumented immigrants is a burden or even that the mention of it, would divert the reform discussion.<sup>24,25</sup> Determinations about who belongs in our health care community and who ought to receive care are ultimately moral decisions about which health care practitioners have relevant knowledge and experience. Stronger health care voices are needed to help ensure that the exclusion of undocumented immigrants is not assumed by elected officials the next time health care reform is debated.

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## Notes

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