

July 26, 2001 **Legislation Creating National Commission on Farmworkers' Access to Medicaid and SCHIP Introduced in House of Representatives**

**Legislation Creating National Commission on and SCHIP Introduced in House**

Representatives Fred Upton (R-MI) and Bart Stupak (D-MI) introduced H.R. 2642, the *National Commission on Farmworkers and Federal Health Coverage Act of 2001* on July 25, 2001. This legislation would establish a Commission that would operate for eighteen months and would examine the barriers faced by the nation's farmworker population in accessing Federal health care benefits to which they are entitled. The Commission will also make recommendations to Congress and the President on actions that could be taken to reduce those barriers.

The idea for the National Commission was first developed by NACHC's Farmworker Health Committee. The National Association of Community Health Centers wholeheartedly supports and endorses this legislation and calls on Congress to enact this legislation quickly.

To download a PDF copy of the text of the legislation, [click here](#)  
To download a PDF copy of a summary of the legislation, [click here](#)

## BACKGROUND

### Who are Farmworkers?

For more than 100 years, migrant and seasonal farmworkers (hereafter, farmworkers) have helped sustain and grow America's agricultural economy. Today, millions of farmworkers yield billions of dollars in production from the planting and harvesting of fruits, vegetables, and other specialty agricultural crops throughout the Nation. The "hand production" these workers provide is indispensable for the kind of quality that keeps the agriculture industry profitable and meets the high demands of today's consumers. Today, farmworkers are critical components of industries supplying apples, peaches, asparagus, chilies, tomatoes, potatoes, beets and strawberries to the American public.

Most farmworkers make their permanent homes throughout the South, Texas, Florida, and California, but travel within the State and throughout the country to work. Farmworkers come from diverse national and ethnic backgrounds. More than half of all farmworkers were born in the United States and the majority of foreign-born farmworkers are legal U.S. residents. While most are Latinos, people of African, Caribbean, and Asian descent are also among the farmworker population.

Farmworkers are extremely poor. A majority of farmworkers earns less than \$7,500 annually. Adjusted for inflation, wages for farmworkers have actually declined over the last 10 years.

### The Health of Farmworkers

Farmworkers are thought to have the worst overall health status in the nation. Many suffer from significant respiratory problems associated with exposure to fungus, dusts, and pesticides from the fields. Farmworkers also suffer from problems related to dehydration, heat stroke, and infection as well as high incidence of tuberculosis, diabetes, cancer, hypertension, and depression. Unfortunately, most do not have access to employer provided health insurance and do not make enough to pay for insurance. In addition, the mobile nature of this population leads to significant barriers in access to health care services that keep farmworkers healthy and productive. While the Public

Health Service provides funding to some health centers targeted to care for the farmworker population, funding is inadequate to meet the health care needs of this population.

Because of their extremely low incomes, most farmworkers (and their families) are eligible for coverage under Medicaid or the State Children's Health Insurance Program. However, eligible farmworkers underutilize these and other assistance programs. Of all the barriers that exist to prevent farmworkers from enrolling for or accessing benefits under Medicaid and SCHIP, many are simply not eligible for Medicaid because they do not meet Medicaid (State, and in some cases, county) residency requirements.

Even if farmworkers are enrolled in a State's Medicaid or CHIP program, their benefits are generally not portable from State to State when a farmworker moves for work. Currently out-of-state billing processes are slow and cumbersome, with the risk of not being paid at all, offering little incentive for providers to accept farmworkers as patients.

### The National Commission on Farmworkers and Federal Health Coverage

Congress should establish a national commission to study the problems of enrollment and access experienced by farmworkers that are eligible for Medicaid and SCHIP.

#### *Why is a National Commission needed?*

First, the diversity of the farmworker population requires a focused approach that the structure and charge of a National Commission can provide. Second, questions of Medicaid and SCHIP portability are complex and before any steps are taken, Congress and the Administration should fully understand the issues involved. The Commission would provide them with that information. Finally, because the health of these workers affects one of the largest economic sectors in the country, a nationwide assessment of the issues should be made.

#### *Structure of the Commission*

**1. Composition** -- The Commission would consist of 15 individuals, appointed by the Secretary of Health and Human Services, from among...

- a. Representatives with expertise in providing health care to farmworkers, including designees of national and local organizations representing migrant health centers and other providers; and
- b. Academicians who have expertise in health care financing;
- c. Representatives of foundations and other non-profit entities that have conducted or supported research on farmworker health care financial issues;
- d. Representatives of federal agencies which are involved in the provision or financing of care to farmworkers (including HCFA and HRSA);
- e. Representatives of state governments;
- f. Representatives from the farm and/or agricultural industries; and
- g. Designees of labor organizations representing farmworkers.

**2. Charge** -- The Commission would be charged with studying the issues experienced by farmworkers who are eligible for Medicaid and SCHIP, including:

- a. **Barriers to enrollment**, including a lack of outreach and outstationed eligibility workers, complicated application and eligibility determination procedures, and linguistic and cultural barriers;
- b. **The lack of portability of Medicaid and SCHIP coverage for**

**farmworkers** who are determined eligible in one state but move to other states on a seasonal or other periodic basis; and

- c. The development of possible solutions to increase enrollment and access to benefits for farmworkers** because of the problems identified under paragraphs (a) and (b), and the associated costs, if any, of each solution including the:

- (i) **Use of interstate compacts** establishing portability and reciprocity, and potential financial incentives for states that choose to enter into such compacts;
- (ii) **Use of multistate demonstration waiver projects under section 1115** of the Social Security Act to develop comprehensive migrant coverage demonstrations;
- (iii) **Use of existing Medicaid and SCHIP state plan provisions** relating to coverage of residents and out-of-state coverage;
- (iv) **Development of programs of national migrant family coverage** in which states could participate;
- (v) **Provision of incentives for public-private partnerships** to develop private coverage alternatives for farmworkers; and
- (vi) **Other solutions as the Commission may recommend.**

**3. Length of Service and Report** -- The Commission would be charged with conducting the study for a period of 18 months and submitting a report to the President, the Secretary of Health and Human Services, and the Congress making findings as to the issues and problems, as well as recommendations for legislative and administrative solutions to address these issues.

107TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

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IN THE HOUSE OF REPRESENTATIVES

Mr. UPTON introduced the following bill; which was referred to the Committee  
on \_\_\_\_\_

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**A BILL**

To establish a National Commission on Farmworkers and Federal Health Coverage to study the problems of farmworkers under the medicaid program and the State children's health insurance program (SCHIP).

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "National Commission  
5 on Farmworkers and Federal Health Coverage Act of  
6 2001".

1 **SEC. 2. ESTABLISHMENT.**

2 There is established a commission to be known as the  
3 National Commission on Farmworkers and Federal  
4 Health Coverage (in this Act referred to as the "Commis-  
5 sion").

6 **SEC. 3. DUTIES OF COMMISSION.**

7 (a) **IN GENERAL.**—The Commission shall examine  
8 problems experienced by farmworkers (including their  
9 families) under medicaid and SCHIP. Specifically, the  
10 Commission shall examine the following:

11 (1) **BARRIERS TO ENROLLMENT.**—Barriers to  
12 their enrollment, including a lack of outreach and  
13 outstationed eligibility workers, complicated applica-  
14 tions and eligibility determination procedures, and  
15 linguistic and cultural barriers.

16 (2) **LACK OF PORTABILITY.**—The lack of port-  
17 ability of medicaid and SCHIP coverage for farm-  
18 workers who are determined eligible in one State but  
19 who move to other States on a seasonal or other  
20 periodic basis.

21 (3) **POSSIBLE SOLUTIONS.**—The development of  
22 possible solutions to increase enrollment and access  
23 to benefits for farmworkers, because, in part, of the  
24 problems identified in paragraphs (1) and (2), and  
25 the associated costs of each of the possible solution  
26 described in subsection (b).

1 (b) POSSIBLE SOLUTIONS.—Possible solutions to be  
2 examined shall include each of the following:

3 (1) INTERSTATE COMPACTS.—The use of inter-  
4 state compacts among States that establish port-  
5 ability and reciprocity for eligibility for farmworkers  
6 under the medicaid and SCHIP and potential finan-  
7 cial incentives for States to enter into such com-  
8 pacts.

9 (2) DEMONSTRATION PROJECTS.—The use of  
10 multi-state demonstration waiver projects under sec-  
11 tion 1115 of the Social Security Act (42 U.S.C.  
12 1315) to develop comprehensive migrant coverage  
13 demonstration projects.

14 (3) USE OF CURRENT LAW FLEXIBILITY.—Use  
15 of current law medicaid and SCHIP State plan pro-  
16 visions relating to coverage of residents and out-of-  
17 State coverage.

18 (4) NATIONAL MIGRANT FAMILY COVERAGE.—  
19 The development of programs of national migrant  
20 family coverage in which States could participate.

21 (5) PUBLIC-PRIVATE PARTNERSHIPS.—The pro-  
22 vision of incentives for development of public-private  
23 partnerships to develop private coverage alternatives  
24 for farmworkers.

1 (6) OTHER POSSIBLE SOLUTIONS.—Such other  
2 solutions as the Commission deems appropriate.

3 (c) DEFINITIONS.—For purposes of this Act:

4 (1) FARMWORKER.—The term “farmworker”  
5 means a migratory agricultural worker or seasonal  
6 agricultural worker, as such terms are defined in  
7 section 330(g)(3) of the Public Health Service Act  
8 (42 U.S.C. 254c(g)(3)), and includes a family mem-  
9 ber of such a worker.

10 (2) MEDICAID.—The term “medicaid” means  
11 the program under title XIX of the Social Security  
12 Act.

13 (3) SCHIP.—The term “SCHIP” means the  
14 State children’s health insurance program under  
15 title XXI of the Social Security Act.

16 (4) SECRETARY.—The term “Secretary” means  
17 Secretary of Health and Human Services.

18 **SEC. 4. MEMBERSHIP.**

19 (a) NUMBER AND APPOINTMENT.—The Commission  
20 shall be composed of 15 members appointed by the Sec-  
21 retary of Health and Human Services from among the fol-  
22 lowing:

23 (1) Farmworkers affected by the lack of port-  
24 ability of coverage under the medicaid program or  
25 the State children’s health insurance program

1 (under titles XIX and XXI of the Social Security  
2 Act).

3 (2) Representatives with expertise in providing  
4 health care to farmworkers, including designees of  
5 national and local organizations representing mi-  
6 grant health centers and other providers.

7 (3) Researchers with expertise in health care fi-  
8 nancing.

9 (4) Representatives of foundations and other  
10 nonprofit entities that have conducted or supported  
11 research on farmworker health care financial issues.

12 (5) Representatives of Federal agencies which  
13 are involved in the provision or financing of health  
14 care to farmworkers, including the Health Care Fi-  
15 nancing Administration and the Health Research  
16 and Services Administration.

17 (6) Representatives of State governments.

18 (7) Representatives from the farm and agricul-  
19 tural industries.

20 (8) Designees of labor organizations rep-  
21 resenting farmworkers.

22 (b) TERMS.—Each member shall be appointed for the  
23 life of the Commission.

24 (c) CHAIRPERSON.—The Chairperson of the Commis-  
25 sion shall be designated by the Secretary of Health and



1 Human Services at the time of the appointment of mem-  
2 bers.

3 (d) MEETINGS.—The Commission shall meet at the  
4 call of the Chairperson or a majority of its members.

5 (e) QUORUM.—A majority of the members of the  
6 Commission shall constitute a quorum but a lesser number  
7 may hold hearings.

8 (f) COMPENSATION AND EXPENSES.—

9 (1) COMPENSATION.—Members of the Commis-  
10 sion shall receive no additional pay, allowances, or  
11 benefits by reason of their service on the Commis-  
12 sion, except that, to the extent or in the amounts  
13 provided in advance in appropriation Acts, farm-  
14 worker members described in subsection (a)(1) shall  
15 be entitled to receive reasonable compensation for  
16 lost wages for days (including travel time) during  
17 which they are engaged in the actual performance of  
18 duties vested in the Commission. In no case shall  
19 such reasonable compensation exceed the daily  
20 equivalent of the annual rate of basic pay for grade  
21 GS-15 of the General Schedule.

22 (2) TRAVEL EXPENSES.—Each member of the  
23 Commission shall receive travel expenses, including  
24 per diem in lieu of subsistence, in accordance with

1 applicable provisions under subchapter I of chapter  
2 57 of title 5, United States Code.

3 **SEC. 5. DIRECTOR AND STAFF OF COMMISSION; EXPERTS**  
4 **AND CONSULTANTS.**

5 (a) **DIRECTOR.**—The Commission shall have a Direc-  
6 tor who shall be appointed by the Commission. To the ex-  
7 tent or in the amounts provided in advance in appropria-  
8 tion Acts, the Commission shall establish the rate of pay  
9 for the Director, which shall not exceed the rate of basic  
10 pay for GS-15 of the General Schedule.

11 (b) **STAFF.**—With the approval of the Commission,  
12 the Director may appoint and fix the pay of such addi-  
13 tional personnel as the Director considers appropriate.

14 (c) **APPLICABILITY OF CERTAIN CIVIL SERVICE**  
15 **LAWS.**—The Director and staff of the Commission may  
16 be appointed without regard to the provisions of title 5,  
17 United States Code, governing appointments in the com-  
18 petitive service, and may be paid without regard to the  
19 provisions of chapter 51 and subchapter III of chapter 53  
20 of that title relating to classification and General Schedule  
21 pay rates, except that an individual so appointed may not  
22 receive pay in excess of the annual rate of basic pay for  
23 level GS-15 of the General Schedule.

24 (d) **EXPERTS AND CONSULTANTS.**—With the ap-  
25 proval of the Commission, Director may procure tem-

1 porary and intermittent services under section 3109(b) of  
2 title 5, United States Code.

3 (e) STAFF OF FEDERAL AGENCIES.—Upon request  
4 of the Commission, the head of any Federal department  
5 or agency may detail, on a reimbursable basis, any of the  
6 personnel of that department or agency to the Commission  
7 to assist it in carrying out its duties under this Act. Any  
8 such detail shall not interrupt or otherwise affect the civil  
9 service status or privileges of the Federal employee.

10 **SEC. 6. POWERS OF COMMISSION.**

11 (a) HEARINGS AND SESSIONS.—The Commission  
12 may, for the purpose of carrying out this Act, hold hear-  
13 ings, sit and act at times and places, take testimony, and  
14 receive evidence as the Commission considers appropriate.

15 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-  
16 ber or agent of the Commission may, if authorized by the  
17 Commission, take any action which the Commission is au-  
18 thorized to take by this section.

19 (c) OBTAINING OFFICIAL DATA.—The Commission  
20 may secure directly from any department or agency of the  
21 United States information necessary to enable it to carry  
22 out this Act. Upon request of the Chairperson, the head  
23 of that department or agency shall furnish that informa-  
24 tion to the Commission.

1 (d) GIFTS, BEQUESTS, AND DEVISES.—To the extent  
2 or in the amounts provided in advance in appropriation  
3 Acts, the Commission may accept, use, and dispose of  
4 gifts, bequests, or devises of services or property, both real  
5 and personal, for the purpose of aiding or facilitating the  
6 work of the Commission. Gifts, bequests, or devises of  
7 money and proceeds from sales of other property received  
8 as gifts, bequests, or devises shall be deposited in the  
9 Treasury and shall be available for disbursement upon  
10 order of the Chairperson.

11 (e) MAILS.—The Commission may use the United  
12 States mails in the same manner and under the same con-  
13 ditions as other departments and agencies of the United  
14 States.

15 (f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the  
16 request of the Commission, the Administrator of General  
17 Services shall provide to the Commission, on a reimburs-  
18 able basis, the administrative support services necessary  
19 for the Commission to carry out its responsibilities under  
20 this Act.

21 **SEC. 7. REPORT.**

22 Not later than 18 months after the date of the enact-  
23 ment of this Act, the Commission shall transmit a report  
24 to the President, the Secretary of Health and Human  
25 Services, and the Congress on the study conducted under

1 this Act. The report shall contain a detailed statement of  
2 the findings and conclusions of the Commission, together  
3 with its recommendations for such legislation and admin-  
4 istrative actions as the Commission considers appropriate.

5 **SEC. 8. TERMINATION.**

6 The Commission shall terminate 30 days after the  
7 date of submission of the report under section 7.

8 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

9 There are authorized to be appropriated such sums  
10 as may be necessary to carry out this Act.