Healthy Families and Medi-Cal for Children Enrollment Issues
Testimony before the California Legislature, Joint Oversight Hearing of the Assembly Committees on Health and Insurance and Senate committee Health and Human Services and Insurance
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My name is Michael Fix and I direct the Immigration Studies Program at the Urban Institute, a nonpartisan public policy research institution in Washington D.C. I would like to address today some of the immigration and immigrant policies that may be serving as barriers to California’s efforts to expand health care coverage for poor children.

Changing norms and practices that discourage immigrant benefit use. Despite recent trends toward restoring benefit eligibility for many immigrants at the federal and state levels, it should not be surprising that immigrant families appear reluctant to use public benefits. After all, noncitizens’ use of public benefits has been discouraged by a number of new state and federal laws and practices over the past several years. Indeed, I can think of few policy domains that have been the subject of so many overlapping dictates. These include:

- A complex array of changes in noncitizens' eligibility for public benefits introduced by the 1996 welfare reform act—most notably the barring of legal immigrants arriving after August 22, 1996 from Medicaid, CHIP and other "federal means tested" public benefits, as well as continuing bars to federal Food Stamps for working age immigrants who arrived before August 22, 1996;
- A broad expansion in the application of public charge doctrine by federal and state actors—most notably its application to immigrants' efforts to reenter the country, naturalize, to sponsor a relative, as well as its more traditional role of governing who should get a green card. The goal of public charge doctrine has been to exclude or remove immigrants who are likely to, or have become, dependent on public benefits;
- New state policies of scrutinizing immigrant entrants for having fraudulently received Medicaid benefits;
- New federal and state verification requirements for applicants seeking selected public benefits and licenses;
- New reporting requirements dictating that agencies administering federal housing, TANF and SSI programs report to the INS any individuals that the state knows to be illegally present, as well as policies that leave ambiguous when reporting and verification by agency officials is required, optional or prohibited;
- The imposition of new income requirements on immigrants' sponsors (i.e. that their incomes exceed 125 percent of poverty), and new requirements that they support the sponsored immigrant until naturalization, and be liable for repayment of most benefits the immigrant might use;
- The devolution of immigrant policy to the states, leading to a proliferation of state and county-specific rules and practices—making it even harder to identify and communicate clear, universal rules.

New, more inclusionary policies. While new exclusionary immigrant policies proliferated during the mid 1990s, few areas of policy have been the subject of such sharp reversals borne of political second thoughts as restrictions on legal immigrants’ access to benefits. In the past two years alone we have seen:

- The restoration of many immigrants' eligibility for SSI, including many vulnerable immigrants classified as PRUCOL;
- The extension of federal Food Stamps to the elderly, children and the disabled in the U.S. as of August 22, 1996;
- The disbanding of the Public Charge Look-out Program by the INS and the State Department;
- Efforts on the part of some states, notably California, to replace many of the federal benefits formerly received by legal noncitizens. (These replacement programs represent a direct intergovernmental cost shift.) The Urban Institute's survey of state policies regarding immigrant access to benefits in the wake of welfare reform reveals that California is one of the most generous states in the nation.

It goes without saying that this policy volatility makes determining who is and is not eligible remarkably
complex, complicating efforts to overcome fears created by earlier policies and rhetoric.

**Evidence of apparent chilling effects.** My colleague Wendy Zimmermann and I recently tried to assess the existence and scope of these potential chilling effects on eligible immigrants' use of benefits in Los Angeles County, using a unique data set provided by the County Department of Social Services.

During the period we studied: January 1, 1996 to January 1, 1998, there was no change in legal immigrants' eligibility for CalWorks and Medi-Cal in the County. Moreover, agency denial rates held steady. Nonetheless, we found that:

- newly approved applications for Calworks and Medi-Cal for households headed by legal noncitizens had fallen by 71 percent from 1545 to 450 applications per month between January 1996 and January, 1998.
- at the same time newly approved applications for Calworks and Medi-Cal filed by households headed by citizens were virtually unchanged.
- although not as steep, we also see a decline in applications from households headed by illegal immigrants applying for benefits for their citizen children.

Our results also reveal that this drop in applications from noncitizens—which began soon after the passage of welfare reform—represents a steady month to month decline over the two year period, and not a one-time drop. What accounts for these results? We believe that there are three explanations: (1) some misunderstanding of eligibility; (2) fears regarding the impact of benefits use on the right to remain in the U.S., get a green card, re-enter the country, naturalize or sponsor a relative; and (3) the fact that some immigrants who might have applied for benefits as noncitizens before welfare reform had in the interim naturalized, and were applying as citizens.

**Impacts felt by mixed status families and citizen children.** We also found that families composed of members in differing legal statuses—i.e. those with noncitizen parents and citizen children—appear to be feeling these chilling effects. The number of newly approved applications for CalWorks and Medi-Cal from citizen children of noncitizen parents fell by 48 percent from January 1996 to January 1998. During the same period there was virtually no change for citizen children of citizen parents.

In general, these so called mixed status families are far more common than many citizens and policy-makers believe. Nationwide, one in ten American children live in a mixed status family—that is one where one or more of the parents is a noncitizen and one or more of the children is a citizen. In California, almost half (46 percent) of all families with incomes below 200 percent of the poverty line live in such mixed status families. Two thirds of families below 200 percent of poverty in Los Angeles live in mixed families. In fact, most children in immigrant families are citizens.

This predominance of mixed status families has several policy implications. First, even when immigrant parents apply for benefits on behalf of their citizen children, there will be fewer resources in the household because of the parents' ineligibility. Second, it appears that the chilling effect of welfare reform has discouraged some immigrant parents from even applying for benefits for their eligible citizen children. Third, outreach programs under the Healthy Families Program should not only target legal immigrant families that arrived before August 22, 1996 (and who are eligible for Healthy Families), but also those who arrived after, because many may include citizen children born in the United States.

**Reform option: simplify public charge doctrine.** One policy response that I would like to address is the need to fashion an accurate, simple message that will overcome immigrants' fears of being deemed public charge because they enroll their children in Health Families Program.

This is, of course, easier said than done. There remains a structural tension between the essentially exclusionary goals of public charge doctrine and the inclusionary goals of the Healthy Families Program. This tension leads to complexity and mixed, legalistic messages that do little to allay fears. The centrality of public charge because they enroll their children in Healthy Families must occur in federal and not state policy.

Public charge has recently been applied—correctly and incorrectly—in five differing contexts: (1) admission (i.e. getting a green card); (2) legal immigrants' reentry after more than six months' continuous absence from the country; (3) removal or deportation within five years of authorized admission; (4) qualifying for sponsorship; and (5) naturalization.

Several general propositions about public charge can be framed:

- Public charge is a federal doctrine, enforced by federal officials, and unlike welfare policy, the state role in its application is minimal to nonexistent.
- The doctrine has been found to have no role in the naturalization process.
- Repayment is limited to the removal process, and, within that context, is further limited to benefits that create "debts"—many public assistance programs, such as Medi-Cal, do not accrue debt.
- Receipt of Medicaid benefits by U.S. citizen children has been largely exempted from consideration for public charge in all contexts except when it has served "as the sole source of support."
- Several types of benefits are now exempted from public charge consideration including: WIC, emergency health services, school lunch, and child vaccinations. A federal interagency committee is now deciding which, if any, other benefit programs and users should be exempt from public charge considerations.

What realistic changes in public charge doctrine, then, might make it possible to send the kind of clear, unambiguous message to the immigrant community that could expand enrollment in programs like Healthy Families? I suggest several below that would not eviscerate public charge's historic goal of regulating
admission of those who are likely to become dependent on public resources:

- Determine and communicate the fact that the use of health benefits by citizen children will not be taken into consideration in determining whether their parents are admissible (i.e. eligible for green cards). This requires that minor qualifying caveats such as "unless they represent the family's sole source of support" be dropped in favor of more categorical statements;
- Following established law and policy, broadly communicate the fact that use of public benefits should play no role in determining eligibility for naturalization;
- Eliminate in all contexts the authority of the state to demand the repayment of properly awarded public benefits to immigrants as a condition of admissibility, reentry or removal. In point of fact, current public charge rules regarding repayment which bear only on removal, restrict it so severely that it is almost meaningless;
- Clarify the fact that efforts to obtain repayment of benefits within the contexts of admission, reentry or removal must be premised upon fraud—making clear what kinds of activities fall under that rubric; and
- Finalize the set of programs and program users that will not be taken into account in public charge determinations of admissibility.

Finally, stepping back, it strikes me that the proliferation of recent laws and practices that I described at the outset and that have been specifically designed to ensure that immigrants do not become dependent on public benefits begs the larger question: What is the abiding role of public charge doctrine in the post welfare reform era? How does it fit with the new restrictions and where does it retain its validity?

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**Notes**

1. California now requires, for example, that immigration status be verified before any professional or commercial license is issued.

2. In 1994 the U.S. Department of State and the Immigration and Naturalization Service began a program in conjunction with the states to collect public assistance data on immigrants to determine if their relatives seeking visas would be potential public charges.


5. Deportation or removal for public charge has been quite rare in the 20th Century.

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**Other Publications by the Authors**

- Michael E. Fix

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