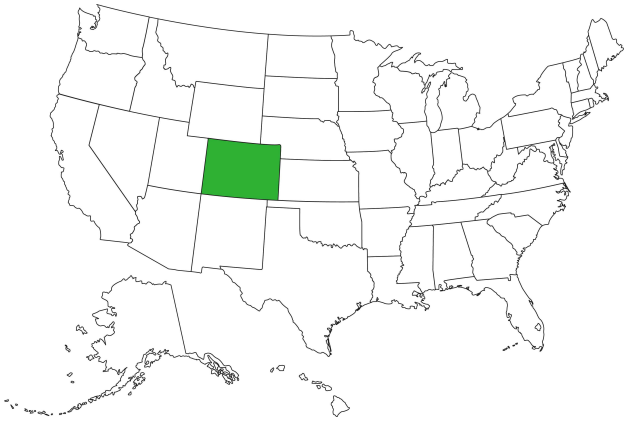
EXPANDING ACCESS TO HEALTH CARE FOR ALL: COVERING ALL COLORADANS

Expanding access to health care for all, regardless of immigration status, is a racial and health equity priority.



This case study is part of a set of resources that provides deeper insights into state policy levers to expand access to full health care for all. This set includes case studies for California, Colorado, Illinois, and Oregon that describe:

- data about the state's immigrant populations, and their access to health care coverage;
- the policy approach;
- key components of laws, including actionable and innovative provisions, and limits;
- actual or expected outcomes;
- political pushback;
- related laws; and
- key takeaways and lessons learned to help inform efforts in Minnesota and other states.

The other resources can be found at https://www.publichealthlawcenter.org/health-equity-and-policy.

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Introduction

Immigrants are vital members of thriving communities and contribute to the social and economic wellbeing of the U.S. across all sectors and walks of life. Yet, immigrants, and people with undocumented status in particular, are forced to navigate profound and unnecessary barriers to being able to live healthy lives. Immigration status has a major impact on both individual and family health outcomes. This in part because a person's status, and whether they are documented or undocumented, shapes when, where, and how they and their family members can access health care services. Numerous studies and reports show that:

- Structural racism and xenophobia are root causes of undocumented immigrants' lack of access to comprehensive health care coverage in the United States;
- Inequities in access to coverage contribute to significant disparities in health; and
- Indigenous, Black, Latine, Asian American/Pacific Islander, and other people of color* experience disproportionately negative health outcomes compared to white people, as borne out in the COVID-19 pandemic.[1]

Thus, expanding access to health care for all, regardless of immigration status, is a racial and health equity priority. This case study describes how Colorado is working towards implementing a vision for health care for all.

Background

On June 7, 2022, Colorado Governor Jared Polis signed HB 22-1289,[2] known as the *Cover All Coloradans* legislation, into law. This legislation provides full scope health insurance coverage for undocumented immigrants in certain age groups, including children under the age of 19 and people who are pregnant or up to 12 months postpartum, based on income guidelines, using state funds, beginning no later than January 1, 2025. As explained below, this law works in tandem with an amendment the state requested (and was granted) to its federal Section 1332 Innovation Waiver under the Affordable Care Act allowing Colorado to implement a plan to

* For this resource, we have used the collective labels listed here as much as possible when referring to various political, racial, and ethnic groups. We occasionally have used alternative labels when appropriate, based on terminology used in source material, such as cited research reports, quotes, terminology used in a particular jurisdiction's materials, etc. We recognize that the language of equity is constantly evolving and no one label can capture the complexities of racial and ethnic identities. We also understand that there may be political implications regarding the use of labels. We do not wish to perpetuate insensitivity associated with any of these labels. We recommend that labels preferred by community members in the specific community or region be used whenever possible.

recoup Medicaid cost savings it generates for the federal government that can be used to fund this coverage.

Approximately 9.5% of Colorado's population is foreign-born, including about 162,000 undocumented immigrants.[3] Nearly half of all immigrants in Colorado are naturalized U.S. citizens.[4] Latine people comprise the great majority of Colorado's undocumented immigrants, with Mexicans accounting for 71% of this population, and people from other Central and South American countries accounting for another 13% (10% and 3%, respectively).[5] An estimated 30% of Latine adults in Colorado have no health care coverage, compared with 12% of Colorado adult residents overall.[6] Also, similar to national statistics, a large portion of Colorado's immigrant families living together consist of persons with mixed statuses — immigrants with legal status as well as undocumented residents.[7] Approximately 59% of Colorado's undocumented population is uninsured.[8]

The Approach: Focus on Inequities for Children and Pregnant People

The Colorado Immigrant Rights Coalition (CIRC), which consists of over 60 community and about 16 national partners,[9] was deeply engaged in laying groundwork for the Colorado legislation. CIRC describes the road to legislation as having been decades in the making. The push for this legislation involved a tailored campaign[10] that was led by a steering committee, with support from a cross-section of community members and endorsing organizations. Health policy, reproductive rights, and immigrant rights organizations collaborated on the effort. *The Cover All Coloradans* legislation was enacted with bipartisan support and was described as a win for families, communities, and Colorado's future.[11] The campaign's rallying messages included the following:[12]

- "Every family deserves a healthy start."
- "All people need access to health insurance, regardless of where they work, how much money they make, their age, medical conditions, marital status, family composition, or immigration status. Health care access is especially critical to health and wellbeing during childhood and pregnancy."
- "Insurance access improves physical and mental health, and lowers infant, child, and adult mortality rates. Medicaid and the Children's Health Insurance Program (CHIP+) are critical for the health access of pregnant people, new parents, and children."

The campaign placed considerable emphasis on exposing disparities and inequities and drawing attention to routine and systemic denial of access to care for communities of color. A campaign fact sheet[13] (made available in English and Spanish) included the rallying messages above, provided data from a 2021 Colorado Health Access Survey showing disparities in uninsured rates affecting Hispanic/Latinx women and children, and provided information about the enactment of similar policies in other states.

One of the chief bill authors, Rep. Serena Gonzales-Gutierrez (D), commented on the bill, stating: "Expanding health-care coverage to all children, pregnant and postpartum people, regardless of immigration status, is fundamental to correcting the root causes of health inequities in Colorado; this law will be life-changing for undocumented children and pregnant people who call Colorado home and deserve to have access to the healthcare they need."[14]

Key Policy Components

Findings. The findings in HB 22-1289 (2022) provide support and justification for the legislation, including specific references to:

- Social determinants of health;
- Research demonstrating that health care coverage is associated with improved access to health care services, use of preventive services, and health outcomes and well-being, as well as a greater likelihood of children completing high school and college and having higher incomes as adults;
- COVID-19's disproportionate harm to immigrant communities within the state, "exposing the dual impacts of racism and xenophobia on access to health care;" and
- Colorado's commitment to addressing inequities "to build a more inclusive state" and "ensuring health equity … allowing all parents and children to thrive."

Actionable Provisions. HB 22-1289 includes many important provisions designed to expand eligibility and access to health care coverage and services, improve care, actively engage affected communities in pertinent decision-making processes, and improve health outcomes.[15] According to the enacted bill summary, the legislation:

- Provides full scope health insurance coverage for Colorado pregnant people who would be eligible for Medicaid and the federal Children's Basic Health Plan (CHIP) but for their immigration status, and extends coverage to 12 months postpartum at the CHIP federal matching rate;[16]

- Provides comprehensive health insurance coverage for all Colorado children under the age of 19 who would be eligible for Medicaid and CHIP but for their immigration status;[17]
- Requires the Colorado Department of Health Care Policy and Financing (DHCPF) to create an outreach and enrollment strategy for enrolling eligible groups;[18]
- Requires the DHCPF to report information concerning the state-funded health and medical care program, the state children's basic health plan, and its plans for and progress on implementing the coverage expansion to the Joint Budget Committee in its 2024 presentation, as well as in its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" reports, which are to be made annually after starting in 2026;[19]
- Authorizes the state controller to allow the DHCPF to spend more than the amount authorized if the amount is for the state medical assistance program or the state children's basic health plan;[20]
- Provides comprehensive lactation support services, supplies and equipment, and maintenance of multi-use loaned equipment. Removes the annual enrollment fee for families with incomes at or below 150% of the Federal Poverty Level (FPL) and for pregnant enrollees;[21]
- Draws down federal funds to improve perinatal and postpartum support and requires that priorities for the funds be determined through establishment of a stakeholder process in collaboration with DHCPF staff, and further requires that DHCPF's mandated reporting on the selected priorities describe the ways in which they are inclusive of stakeholders' input;[22]
- Creates a special enrollment period for health insurance coverage due to pregnancy so that an eligible person can sign up for insurance as soon as they become pregnant;[23] and
- Improves the quality of coverage available through the health insurance affordability enterprise.[24]

To this end, the legislation:

- Creates a *state medical assistance* program that will provide all benefits and services at the same cost to beneficiaries as are available under the equivalent federal Medical Assistance program, effective no later than January 1, 2025;[25]
- Creates a *state children's basic health plan* that will provide all benefits and services at the same cost to beneficiaries as are available under the equivalent federal program, effective no later than January 1, 2025;[26]

- Establishes financial thresholds for eligibility. For example, for pregnant/postpartum people and children, family income must not exceed 250% of the FPL, adjusted for family size;[27]
- Requires a parent or legal guardian of a presumptively eligible child to provide all pertinent income and assets information in order to enable the child to receive state's medical assistance and/or the state's children's basic health plan;[28]
- Requires the state's medical assistance and the state's children's basic health plan to be funded only through state dollars unless federal funds are made available through express written authorization via a federal waiver, state plan amendment, or another way;[29]
- Requires the DHCPF to maximize any available federal financial participation in implementing the legislation;[30]
- Requires the DHCPF, to the maximum extent allowed under federal law, to use the same infrastructure and provider network to deliver the state's medical assistance as it uses to deliver federal Medical Assistance and requires the same for the state's children's basic health plan;[31]
- Authorizes the DHCPF to apply for health insurance flexibility and accountability waivers that will support cost-effective methods of providing health-care services to all Coloradans;[32]
- Defines eligibility for a state reproductive health-care program to include persons with reproductive capacity, regardless of gender.[33]

The policy is expected to cost slightly less than 27 million dollars. After federal funds, the state will incur costs of about 9.4 million dollars per year by 2025. The required FY 2022-23 appropriation was two million dollars to multiple state agencies. *See* Revised Fiscal Note, HB 22-1289.[34]

Innovative Provisions. The legislation requires specific, detailed processes that are intended to advance racial and health equity aims relating to outreach, enrollment, access to services, use of services, active roles in programmatic and funding decision-making processes, and health outcomes. These include:

- Requires the DHCPF to develop and institute an annual health survey for a state cohort of birthing parents to share their opinions and experiences during the first few years of their babies' lives (up to a child's third birthday) to inform Colorado policies and programs designed to advance health equity. The survey must address how participants

feel physically and emotionally after giving birth, and any mental health and substance abuse before, during, and after pregnancy. It must request their opinions about childhood vaccinations and other important health decisions; ability to take leave from work; ability to feed their babies in their preferred ways; experiences with doctors and other health care professionals, including any experiences of discrimination; and family access to health care and services, including behavioral health and oral health services, and other resources necessary for the family to be healthy and happy. The survey must oversample in groups that comprise a small percentage of the state's population and disproportionately experience health inequities, including African Americans and Native Americans, and make the data public while protecting personally identifying information about race, ethnicity, sexual orientation, and gender.[35]

- Requires provision of comprehensive lactation support services, supplies, and equipment to all enrollees. Prioritizes access to multi-user loaned breast pumps for persons with premature, medically fragile, low birth weight infants and those with lactation complications. Prohibits requiring enrollment in separate or additional programs as a prerequisite for receiving services or equipment.[36]
- Requires the DHCPF to consult with stakeholders, including people with lived experiences, immigrants' rights advocates, health care advocates, and immigration lawyers, to provide clear and accurate information and referrals regarding current federal public charge policies.[37]
- Requires the DHCPF to develop and implement an outreach strategy to reach eligible persons and report on its implementation.[38] The DHCPF must:
    - Fund community-based organizations to enable their participation;[39]
    - Develop outreach methods to reach nonprofits, school districts, and charter schools;[40]
    - Provide eligibility and coverage information in English, Spanish, and "in each language spoken by at least two-and-one-half percent of the population of any county who speak English less than very well, as defined by the US Bureau of the Census American Community Survey, and who speak the minority language at home;"[41]
    - Convene stakeholders at the one-year and two-year mark after implementation of the strategy, including directly impacted persons, service providers, and advocacy organizations that are "diverse with regard to race, ethnicity, immigration status, sexual orientation, and gender identity" and are affected by higher rates of health disparities and inequities;[42] and

- Report on the outcomes of the outreach strategy, including enrollment of eligible persons compared to eligible, unenrolled persons.[43]

- Related to this, to the extent federal financial dollars are available, the DHCPF must establish a stakeholder process to collaborate with the Department's staff to determine additional priorities and budget allocations that draw down on at least 50% of remaining health services initiative funds to expand access to perinatal and postpartum supports. To this end, the legislation requires the DHCPF to:
  - Engage directly with impacted persons, service providers, and advocacy organizations, as described above;
  - Publicize, conduct, and report on meeting outcomes in multiple languages;
  - Provide meeting opportunities outside normal work hours;
  - Conduct at least five stakeholder meetings, plus additional meetings to gather constituencies' input;
  - Consider research and information reports by the maternal mortality review committee and health survey for birthing parents to inform stakeholder decision-making; and
  - Consider initiatives to accomplish specific purposes including reducing diaper needs, expanding access to group-based prenatal and pediatric care models, and expanding home visitation programs such as voluntary newborn nurse visitation programs (universally offered to all families in a given community, providing at least one nurse visit within the first three months after birth).[44]

Limitations

As in other states, Colorado's legislation has several limitations, such as:

- As is true of nearly all jurisdictions that have enacted this type of legislation thus far, the Colorado legislation covers some, but not all, age groups. That said, the *Cover All Coloradans* campaign has a long-term vision. It appears likely that advocates will push for universal coverage, taking incremental steps toward reaching that goal, as was done in California.
- Some undocumented immigrants in the specified age groups may continue to fall through the cracks in ways that have not yet been identified.

- Income and asset checking requirements may impede enrollment of children who are otherwise eligible. Elimination or minimization of paperwork promotes enrollment and use of services.
- Children are not guaranteed continuity of coverage throughout childhood, once enrolled.
- Legislation provides for robust community engagement yet stops short of establishing an ongoing community advisory group, a structural option that could strengthen equity-specific guidance to the DHCPF and movement toward achievement of equity goals.
- Expansion of enrollment, in and of itself, is insufficient to resolve coverage inequities. A comprehensive strategy, involving multiple policy initiatives, over time, will be needed to achieve long-term equity goals for health status and health outcomes.

Actual or Anticipated Outcomes

This legislation is expected to lead to better health and well-being outcomes for undocumented children and pregnant people who have been ineligible for access to health care in Colorado due to their immigration status. In addition, the legislation is poised to advance systemic racial and health equity aims regarding governance and related decision-making processes by embedding many equity-driven requirements and process steps into its implementation.

Political Pushback

At the federal level, U.S. Representative Ken Buck (R, Colorado's 4th Dist.) and co-sponsors introduced a *federal* bill, H.R. 8441,[45] which they have called the *No Federal Tax Dollars for Illegal Aliens Health Insurance Act of 2022*, seeking to prohibit using federal funds to offset the cost of health care coverage (e.g., through premium or cost-sharing reductions) or to provide any other benefits to undocumented people. Colorado had requested and was granted an amendment to its existing federal waiver known as a Section 1332 Innovation Waiver, which enabled the state to implement a new health care plan under the Affordable Care Act, effective January 1, 2023, that the state is encouraging insurers to offer at lower costs to consumers in the individual and small-group market.[46] The waiver will allow the state to keep the savings from reducing the cost of health insurance; if the state reduces the cost (saving the federal government money), it can keep these "pass-through" dollars. Colorado plans to use the savings to subsidize care for undocumented immigrants by covering premiums. The state expected to receive about $1.5 billion in federal dollars over the course of the five year waiver.[47] U.S. Rep. Buck describes the federal bill as a "direct response" to the approval of the waiver.[48]

A spokesperson for Colorado Governor Jared Polis described the federal bill as "misguided," "simply reckless," and "disappointing" — commenting that prohibiting the use of federal funds for such purposes would drive up, not reduce, costs, over time.[49]

Related Legislation

Below are brief descriptions of other recently enacted legislation in Colorado, removing barriers that previously prevented undocumented immigrants' access to health care and/or other government benefits or services, or establishing programs or activities that otherwise support access.

- SB 20-215 (2020 reg. session):[50] This legislation creates a health insurance affordability enterprise, which is authorized to assess an insurer fee and a hospital assessment to support activities, including increased enrollment in health benefit plans and increased ability of individuals to be able to access and afford coverage.
- SB 21-199 (2021 reg. session):[51] Effective July 1, 2022, this legislation repealed existing laws that required people to demonstrate their lawful presence in the U.S. to be eligible for certain state or local public benefits, including contracts, grants, loans and professional or commercial licenses, as well as human services benefits. Verification of lawful presence is no longer required for any purpose that lawful presence is not required by state or local law, ordinance, or rule to receive benefits under a federal stimulus law or rule. As such, this legislation repeals state laws that prohibited state agencies or political subdivisions from contracting with employers who knowingly hire or contract with people who are undocumented. The law also appropriated funds for implementation.
- SB 21-009 (2021 reg. session):[52] This legislation creates a reproductive health care program that addresses the provision of contraceptive methods and counseling services to eligible participants, including undocumented immigrants. Beginning FY 2023-24, the legislation requires DHCPF to analyze and report the cost-effectiveness of the program to the public during its annual SMART Act hearing. It appropriates over $4 million from the general fund for implementation. The bill contains helpful findings addressing undocumented immigrants' barriers to health care and contraception specifically, both nationally and within Colorado.
- SB 21-233 (2021 reg. session):[53] This legislation requires a feasibility study and recommendations regarding a possible contract with a non-profit to establish an alternative wage replacement program that will provide the equivalent of unemployment

insurance coverage for persons who are unemployed through no fault of their own and are ineligible for existing unemployment benefits due to immigration status. It appropriates $75,000 for the study.

Key Takeaways and Lessons Learned

This legislation is part of a long-term, sustained strategy involving enactment of multiple pieces of inter-related legislation over time. The initiative has been aided by the participation of a strong, broad-based coalition that unites immigrant communities with experts, allies, partners, and supporters representing interests in advancing racial and health equity, immigrant rights, reproductive care and related public health advocacy concerns, including equitable health care finance, systems, and services.

As in other states seeking to provide undocumented immigrants with access to health care coverage, this legislation demonstrates investment in taking an incremental approach, starting with children and with people who are pregnant or postpartum. Proponents succeeded in enacting this legislation with bipartisan support. They also succeeded in embedding process steps in the legislation that will help advance racial and health equity aims. Further consultation with leaders of this advocacy initiative would likely yield additional valuable insights and guidance, providing additional lessons learned from their experiences.

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Endnotes

1 *See, e.g.*, Monika Damle et al., *Racism and Health Care: Experiences of Latinx Immigrant Women in NYC During COVID-19*, SSM - QUALITATIVE RESEARCH IN HEALTH CARE vol. 2 (2022): 100094. doi:10.1016/j.ssmqr.2022.100094, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9095080/; Supriya Misra et al., *Structural Racism and Immigrant Health in the United States*, 48 HEALTH EDUCATION BEHAVIOR 332 (2021), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8935952/; and Ruqaiijah Yearby et al., *Structural Racism in Historical and Modern U.S. Health Care Policy*, 41 HEALTH AFFAIRS 187, 187 (2022), https://www.healthaffairs.org/doi/epdf/10.1377/hlthaff.2021.01466.

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