

Preliminary Analysis of Selected Immigration-Related Provisions in the Reid Health Care Reform Bill

Last Updated: November 19, 2009 -- 6:15 pm

Ineligibility of Nonimmigrants and Persons Not Lawfully Present for Participation in Temporary High Risk Pool Program. Sec. 1102(d)(1) of the bill provides that nonimmigrants and persons not lawfully present in the United States would be ineligible for a new temporary high risk health insurance pool program that the bill would require be established. (Page 44)

Illegal Immigrants Barred From the Exchange. Sec. 1312(f)(3) generally bars persons who are not lawfully present in the United States from purchasing health insurance products that are listed on the Exchange.

It implements this with language that says, "if an individual is not, or is not reasonably expected to be for the entire period for which the enrollment is sought, a citizen or national of the United States, or an alien lawfully present in the United States, the individual shall not be treated as a qualified individual and may not be covered under a qualified health plan in the individual market that is offered through an Exchange. (Page 160)

Legal Immigrants and the Health Care Affordability Tax Credits. The new Sec. 36B(c)(1)(B) of the Internal Revenue Code that would be created by Section 1401(a) of the bill would provide that legal immigrants whose income is below the poverty line but who are not eligible for Medicaid because of their alienage are eligible to receive the health care affordability tax credits established by the bill. (Page 245)

Formula for Determining Eligibility for Affordability Tax Credits in Mixed Households. The new Sec. 36B(e) of the Internal Revenue Code that would be created by Section 1401(a) of the bill would modify the Senate Finance Committee's formula for determining whether households that include an illegal alien in it are eligible for affordability tax credits. The new formula would essentially prorate the income and premiums of the household and provide the Secretary of Health and Human Services the authority to modify the formula. (Pages 252- 254)

Formula for Determining Eligibility for Cost-Sharing Reduction in Mixed Households. Sec. 1402(e) of the bill would establish the same formula for formula for determining whether needy households that include an illegal alien are eligible for a cost-sharing reduction on their health insurance premiums as it would establish for determining whether such a household is eligible for affordability tax credits. The formula would, essentially, prorate the income and premiums of the household and provide the Secretary of Health and Human Services the authority to modify the formula. (Pages 266)

Citizenship and Immigration Status Verification Regime. Sec. 1411 of the bill would establish a regime for verifying the citizenship and immigration status of persons seeking to purchase health insurance on the Exchange, seeking a health care affordability tax credit, or seeking reduced cost-sharing. The regime would require persons seeking those benefits to attest to their citizenship and/or immigration status and provide information to document that status. Once the information is provided, verification would take place using Social Security and Department of Homeland Security databases. Under the provision, If inconsistencies are found and/or verification is not immediately possible, verification would take place using procedures established in the recently enacted Children's Health Insurance Program Reauthorization Act. (Page 269-290)

In addition--

- Section 1411(f) provides for an appeals and redetermination process.
- Section 1411(g) provides that information provided is to be used only for the purposes of providing eligibility determinations.
- Section 1411(h) provides for up to a \$250,000 civil penalty for the knowing and willful provision of false information in an attempt to get benefits under the bill.

General Prohibition on Payments for Individuals Not Lawfully Present. Sec. 1412(d) would provide that nothing in Subtitle E (relating to Affordable Coverage Choices for All Americans) allows Federal payments, credits, or cost-sharing reductions for individuals who are not lawfully present in the United States. (Page 294)

Exemption of Persons Not Lawfully Present from the Health Insurance Coverage Mandate. The proposed new Sec. 5000A(d)(3) of the Internal Revenue Code of 1986 that would be created by Sec. 1501(b) of the bill would exempt persons who are not lawfully present in the United States from the health insurance coverage mandate. (Page 331-332)