

Congress of the United States
Washington, DC 20515

April 22, 2020

The Honorable Alex M. Azar II
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar:

We write to request that the U.S. Department of Health and Human Services (HHS), in response to the ongoing COVID-19 crisis, provide access to benefits under the Patient Protection and Affordable Care Act (ACA) for Deferred Action for Childhood Arrivals (DACA) recipients. Access to health coverage for DACA recipients and their U.S. citizen children is absolutely critical during this pandemic in order to ensure that they have access to COVID-19 testing and treatment, particularly for the over 200,000 DACA recipients that the U.S. Department of Homeland Security classifies as 'essential critical infrastructure workers,' including the 29,000 DACA recipients employed as healthcare practitioners and supporting occupations on the front lines of responding to COVID-19.

Specifically, we request that HHS issue a Notice of Proposed Rule Making (NPRM) that would repeal 45 C.F.R. § 152.2(8), which excludes DACA recipients from the definition of “lawfully present” and, consequently, benefits under the ACA. As a result of the current regulation, DACA recipients cannot:

- a. Generally obtain comprehensive health insurance under Medicaid or CHIP in their state;
- b. Purchase health insurance in the ACA’s health insurance marketplace, even at full cost using their own funds; and
- c. Obtain federal tax credits to make private health insurance affordable (even though DACA recipients still file and pay federal taxes) in the marketplace.

Leaving these young people uninsured, especially during a world-wide pandemic, simply does not advance the goals of the ACA nor benefit the American people. Without access to affordable health care, DACA recipients are left without the ability to receive testing and treatment for COVID-19, driving up health care costs on to our own safety net providers and increasing premiums for everyone. Additionally, this regulation runs counter to HHS’ purpose by precluding health care access for long-term residents of our country and encouraging negative public health outcomes.

Repealing this harmful regulation would ensure access to health care for the approximately 650,000 current DACA recipients and could ultimately benefit a total of 1.3 million individuals if DACA resumes in the future. The regulation excludes a significant pool of young, healthy adults—the *exact* type of participants that Congress sought to encourage to secure and purchase

health insurance under the ACA. We urge you to act immediately by repealing this regulation to help promote healthy outcomes for all DACA recipients and their families.

We strongly encourage HHS to honor our country's promise of full integration and support of DACA recipients, including access to affordable health care through the ACA by repealing this regulation. We anticipate your response within 30 days, and we thank you for your attention and prompt response. If you have any questions regarding this request, please contact Kaitlyn Montan at Kaitlyn.Montan@mail.house.gov.

Sincerely,



Chairman Joaquin Castro
Congressional Hispanic Caucus

Additional Co-signers:

Frederica S. Wilson
Jesús G. "Chuy" García
James P. McGovern
Gwen Moore
Alcee L. Hastings
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