

PRESIDENT TRUMP'S BAN ON ENTRY BY IMMIGRANTS "BURDENING" THE U.S. HEALTHCARE SYSTEM

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On October 4, 2019, President Trump issued a Proclamation suspending the entry by immigrants who would supposedly "financially burden" the U.S. healthcare system, in his latest attempt to undermine the U.S. immigration system.

What does the Proclamation require?

Individuals who are abroad and seeking to enter the U.S. with immigrant visas to become lawful permanent residents (LPRs, or green card holders) must show they either (a) will be covered by approved health insurance within 30 days of entry or (b) have the financial resources to pay for their reasonably foreseeable medical costs. Otherwise, they are presumed to be a "financial burden."

What is "approved health insurance"?

Any of the following:

- an employer-sponsored plan, including a retiree plan, association health plan, and COBRA coverage;
- an **unsubsidized** health plan offered in the individual market within a State;
- a short-term limited duration health policy effective for a minimum of 364 days — or until the beginning of planned, extended travel outside the United States;
- a catastrophic plan;
- a family member's plan;
- a medical plan under chapter 55 of title 10, United States Code, including coverage under the TRICARE program;
- a visitor health insurance plan that provides adequate coverage for medical care for a minimum of 364 days — or until the beginning of planned, extended travel outside the United States;
- a medical plan under the Medicare program; or
- any other health plan that provides adequate coverage for medical care as determined by the Secretary of Health and Human Services or his/her designee.

What about Medicaid?

Medicaid is not considered "approved health insurance" for anyone over 18 years of age. Young people under 18 years of age are exempt from the Proclamation, unless they are a derivative child accompanying an immigrating parent (see below), and presumably can use Medicaid. The Proclamation is ambiguous as to someone who is exactly 18 years old.

Who is affected by the Proclamation?

Only individuals outside the U.S. seeking to enter the U.S. with immigrant visas, to become lawful permanent residents (LPRs, or green card holders); but see exceptions below.

Who is NOT affected by the Proclamation?

It does not apply to anyone who is:

- already inside the U.S., unless they will be traveling abroad to seek an immigrant visa through consular processing.
- outside the U.S. but seeking to enter on a **non**-immigrant visa (e.g., tourist, student, etc.).
- outside the U.S. but has a valid immigrant visa issued before the effective date of the Proclamation (November 3, 2019).
- an Afghani or Iraqi seeking to enter on a Special Immigrant Visa.
- a U.S. citizen's child seeking to enter on an immigrant visa in category IR-2, IR-3, IR-4, IH-3, or IH-4.
- a U.S. citizen's parent seeking to enter on an immigrant visa in category IR-5, if the parent or sponsor can satisfy the consular officer that the parent's healthcare will not be a substantial "burden" on the U.S. healthcare system.
- a returning LPR seeking to enter on a SB-1 visa after being abroad for more than a year.
- under 18 years of age, except for a derivative child accompanying an immigrating parent.
- someone whose entry would further U.S. law enforcement objectives.
- someone whose entry would be in the national interest.

What health care in New York is considered subsidized (and therefore not "approved")?

- Medicaid
- Essential Plans 1-4
- Children's Health Insurance Program (CHIP) - called Child Health Plus (CHP) in New York. This program is available only to those 18 and under (see age exemption, above). CHP plans are subsidized for those up to 400% of the Federal Poverty Level.
- Qualified Health Plans (QHPs) whose premiums are partially subsidized through Advance Premium Tax Credits and/or Cost Sharing Reductions; applies to those up to 400% of the Federal Poverty Level.

Since New York Medicaid is usually provided by a private Medicaid managed care plan, and Essential Plan and CHP are always provided by plans, individuals may be unaware of the particular program they are in and whether their coverage is subsidized. Anyone who is unaware of their insurance type should call the plan's phone number listed on their health plan card.

When will the Proclamation be effective?

November 3, 2019, unless it is blocked by a court order before then.

If you have any questions or for assistance, please call our Immigration Helpline at 844-955-3425 Monday through Friday from 9:00am – 5:00pm.