



October 31, 2019

Edward J. Ramotowski
Deputy Assistant Secretary
Office of Visa Services
Bureau of Consular Affairs
U.S. Department of State
600 19th Street, NW
Washington, DC 20036

Dear Mr. Ramotowski:

With this letter, Covered California respectfully provides comments regarding the “Notice of Information Collection Under OMB Emergency Review: Immigrant Health Insurance Coverage.” Covered California is California’s state-based Marketplace through which consumers can purchase affordable, high-quality health coverage. Central to Covered California’s mission are efforts to enroll eligible Californians into coverage to help reduce the state’s uninsured rate and maintain a healthy risk pool that makes coverage more affordable for the entire market including consumers who purchase coverage outside of Covered California. As such, Covered California has significant concerns with the recent Presidential Proclamation on the Suspension of Entry of Immigrants who will Financially Burden the United States Healthcare System (PP 9945 or Proclamation).

Since the launch of the Affordable Care Act, California has made remarkable progress in reducing the rate uninsured individuals, which has reached historic lows. Over 1.4 million California consumers are enrolled in coverage through Covered California. The strong, stable enrollment in Covered California has contributed to the state’s standing as having one of the healthiest risk pools in the nation, and some of the lowest average premium rate changes in the country. This year, California enacted a landmark package of health reforms creating a state subsidy program for low- and middle-income individuals (including lawfully present immigrants) and restoring the individual mandate and penalty at the state level which is also applicable to lawfully present immigrants. These investments demonstrate California’s continued commitment to expanding access to affordable coverage.

We are strongly concerned that the federal policy set forth in the PP 9945 would not only take California backward, but also the nation as a whole. The PP 9945 will undermine and introduce significant risks to efforts made to ensure all lawful residents have access to comprehensive affordable health care in California and states across the country.

Below is an outline of significant implications of the PP 9945 that merit serious consideration:

1. ***PP 9945 effectively precludes visa-seeking immigrants from gaining access to health insurance coverage through Marketplaces, directly contravening the Affordable Care Act and the stated purpose of the Proclamation itself.***

PP9945 does not contemplate its practical details of how such a policy would be carried out and does not demonstrate sufficient consideration for the procedural norms and requirements that must be carried out in the health coverage arena. For example, while the Proclamation contemplates that unsubsidized commercial coverage obtained through a Marketplace like Covered California would qualify as adequate coverage, it fails to recognize the practical challenges, if not impossibility, of establishing proof of such coverage while abroad. Under federal law and regulations associated with the Affordable Care Act, an individual applying for commercial unsubsidized coverage through a Marketplace must show proof of residency in that state, as well as lawful presence. This contradicts PP 9945's supposition that the individual could have already obtained such coverage or be able to prove that it is forthcoming in order to obtain a visa to enter the country.

PP 9945 also creates a catch-22. Under existing federal law, immigrants cannot access insurance through Marketplaces without verifying residency and lawful presence through a strict eligibility process. However, under PP 9945, those seeking to establish residency and lawful presence through proper immigration channels cannot do so without verifying insurance status. As a result, individuals who otherwise could become lawfully present immigrants and qualify for health insurance under federal law will be barred from both aims. This paradox is contrary to federal law and does not logically follow in its practical result.

2. ***PP 9945 does not hold regard for the economic and health benefits of ensuring health insurance coverage for all immigrant residents, including the working poor who are working toward economic security.*** California has a longstanding array of public coverage programs, including the recently enacted Individual Market Assistance Program which reduces premium costs for eligible individuals with household incomes at or below 600 percent of the federal poverty level (FPL). This affordability support is available to lawfully present immigrants, at the direction of the Affordable Care Act and now under the direction of California state law. PP 9945 risks undermining those legal rights by introducing countervailing requirements potentially blocking access to such coverage. To do so undermines the health and economic security of those immigrants, their communities, and the state economy at large. Covered California's experience demonstrates that providing affordable coverage opportunities along with requiring coverage is an effective way to reduce uncompensated care costs. The Proclamation fails to acknowledge the criticality of affordable options to increasing insurance coverage rates.

- 3. *Because immigrants will not be able to seek health insurance through Marketplaces, PP 9945 undermines the health of California's insurance market, potentially affecting coverage for immigrants and non-immigrants alike.*** Beyond the immediate harms to lawfully present immigrants being barred from accessing insurance through Marketplaces like Covered California, the Proclamation undermines our commercial insurance market by seeking to excise lawfully present immigrants from the coverage to which they are legally entitled. Lawfully present immigrants in California are more likely to represent “favorable” insurance risk, because they are often younger, healthier, or lower-than-average utilizers of health care services when compared to the general insured population. Several studies have concluded that immigrants are net contributors to both private coverage and Medicare, paying more in insurance premiums than they receive in benefits.

Similarly, Covered California's own data demonstrates that its immigrant enrollees, on average, have 10 percent lower medical claims than its citizen members, a variance attributable both to the lower age of immigrant enrollees as well as lower utilization of medical services. As a result, declines in take-up or retention of immigrant coverage related to the proposed rules could have a negative impact on the overall risk pool—in turn leading to commercial market premium increases for citizens and immigrants alike. Increased premiums will lead to higher uninsured rates among all Americans, increasing the uncompensated care burden the Proclamation purports to address. By attempting to discourage immigrants from enrolling in coverage to which they are legally entitled, the action of the federal Administration and result of this Proclamation is likely to hurt Californians through increases in commercial market premiums.

Of further concern, the proclamation seeks to permit Short-Term, Limited Duration Insurance (STLDI) coverage, which does not comply with the Affordable Care Act's consumer protections.¹ California law prohibits carriers from offering or selling STLDI in California because such products have been widely demonstrated to lack critical comprehensive coverage and can be prohibitively expensive for individuals with pre-existing conditions, and often exclude coverage of pre-existing conditions altogether. PP 9945 will divert qualified legal immigrants from meaningful, comprehensive coverage to which they are legally entitled and direct them towards companies that engage in medical underwriting, spend the majority of premium revenue on non-medical expenses, and are known to exclude core benefits like maternity, mental health, and substance use disorder treatment threatens both the individual health and financial well-being of this population. STLDI can also lead to increased uncompensated care costs when the care consumers need is not covered or exceeds their coverage limits.

¹ Because visa applicants residing abroad cannot obtain even unsubsidized health insurance through the Marketplace until they arrive in the United States, STLDI may well be the only option available to consumers in states that allow such plans.

4. A two-day comment period is not sufficient for a Presidential Proclamation of this magnitude. PP 9945 would profoundly affect our immigration and health care systems. Two days is wholly inadequate to allow for sufficient public consideration of a policy with of this significance. The policies set forth in the Proclamation are not rooted in an emergency; and, given its sweeping impacts and likely detriments to access to coverage and market impact, the public deserves to have sufficient time to understand and accordingly comment on PP 9945.

Given all of these concerns, Covered California urges the withdrawal of PP 9945 for reconsideration of the policies therein. This policy would significantly and negatively impact California and the rest of the nation by deterring eligible individuals from getting the health care coverage they need.

Sincerely,



Peter V. Lee
Executive Director

cc: Covered California Board of Directors