MEMORANDUM

House Bill 1868 by Coleman:
Medicaid for Recent Legal Immigrants

HB 1868 would ensure that Texas exercises all available options under federal law to option to draw federal Medicaid and CHIP matching dollars for otherwise-eligible LEGAL immigrants who entered the U.S. on or after 8/22/96.

The bill has 2 components:

Medicaid for Recent Legal Immigrants, after a 5-Year Bar

HB 1868 directs the Texas Medicaid program to exercise the federal law option to allow otherwise-eligible **legal** immigrants who entered the U.S. on or after 8/22/96, **and** who have completed a 5-year federal bar on use of Medicaid, to enroll in Medicaid, and draw the usual federal matching dollars.

Texas is one of 9 states which have not exercised this option. Texas has the third largest number of immigrant residents in the U.S., after California and New York. The other states which have not accepted this federal option are Alabama, Idaho, Indiana, Mississippi, North Dakota, Ohio, Virginia, and Wyoming. Unlike Texas, all of these states have small numbers and percentages of legal immigrant residents, and none of them have fast-growing immigrant populations. Thus, while the decision to forgo federal funding for health care for low-income legal immigrants has little fiscal impact on their states, the same cannot be said of Texas.

Pregnancy Medicaid Benefits for Recent Legal Immigrants

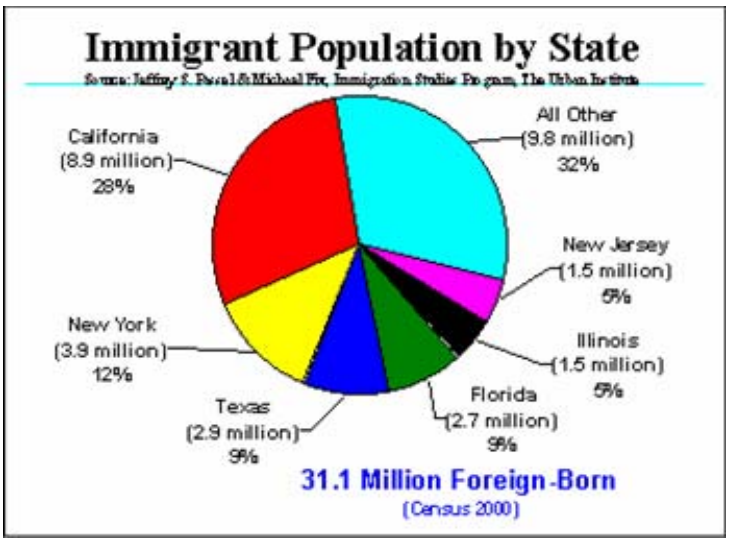
In the event that Congress creates such an option (*see below: ICHIA, Proposed Federal Legislation*), HB 1868 directs the Texas Medicaid program to exercise any federal law option to allow otherwise-eligible pregnant **legal** immigrants who entered the U.S. on or after 8/22/96 to access Medicaid Maternity benefits, without imposing a 5-year waiting period. This coverage would draw the usual federal Medicaid matching dollars.

Fiscal Impact

Current federal law requires all states to pay for emergency care for these immigrants under the "Emergency Medicaid" program, so opting to provide full benefits allows the states to draw federal funds to cover prenatal care prevention, primary care, and chronic care.

The fiscal note for HB 1422 in the 77th Legislature (and the identical SB 1156 provisions) projected a net GR cost to Texas in the first biennium of $2.9 million, and $6.9 million in the second biennium of implementation. **Of this, very little is due to the pregnancy coverage: about $625,000 is in the first biennium, and just $56,000 in the second** (the higher cost at start-up is due to one-time computer programming costs). Because Texas already must provide for Emergency Medicaid coverage of the labor and delivery for legal immigrant women, LBB charges only the costs of prenatal care against the bill. LBB assumed prenatal services would total $450 per woman per pregnancy.

Some of these post-1996 legal immigrants will be subject to the so-called "deeming" of sponsor income, meaning that the income of the relative who sponsored their entry into the US will be counted as though available to them. As a result, substantially fewer immigrants will be likely to qualify for Medicaid than was true before the 1996 law. Also, under PRWORA (the 1996 federal welfare act) **no SSI is available** to poor aged or disabled legal immigrants who entered US after 8/22/96, and SSI clients accounted for over 60% of legal immigrants enrolled in Texas Medicaid in 1996. As a result, the post-1996 legal immigrant population qualifying for Medicaid would be much smaller than was true before PRWORA.



Background

Prior to PRWORA (the 1996 federal welfare act), legal immigrants were treated the same as citizens with respect to Medicaid eligibility. PRWORA allowed states to choose whether or not to continue Medicaid and TANF for legal immigrants ("qualified aliens" in federal terminology). States are allowed to make distinct decisions regarding the pre-PRWORA immigrants, and those arriving on/after 8/22/96 (the date PRWORA was signed). Only one state (Wyoming) did not continue Medicaid for the "before" 8/22/96 immigrants. **Thus, Legal Immigrants in Texas who were in the U.S. before 8/22/96 are currently eligible for Medicaid on the same basis as U.S. citizens.**

The 5-Year Bar. The "after" 8/22/96 immigrants are subject to a mandatory 5-year bar on Medicaid participation; full, federally-funded Medicaid may only be granted after that bar is exhausted. (Federal Medicaid funds are available to pay for emergency care only during this period.) Forty-one states have chosen to provide Medicaid after the five year bar. Nine states (AL, ID, IN, MS, ND, OH, TX, VA, and WY) have not elected to provide the benefits.

Current federal law requires all states to pay for emergency care for these immigrants under the "Emergency Medicaid" program, so opting to provide full benefits allows the states to draw federal funds to cover prevention, primary care, and chronic care.

Action by the 77th Legislature

The 77th Texas Legislature passed SB 1156, establishing a clear directive of Legislative support for this policy. Because legal immigrants who arrived in the U.S. after August 22, 1996 began completing their 5-year bar in August 2001, Texas health care providers and local taxpayers a re now losing out on the benefit of federal matching dollars for care provided to the legal immigrants. After the veto of this omnibus bill, 38 Texas organizations co-signed a letter to Governor Perry in July 2001 requesting that this coverage be implemented through administrative action.

Why Provide Medicaid to Legal Immigrants?

- **Not taking this option means Texas leaves federal dollars on the table, and shifts costs of Immigrants' care to County and City governments.** Financing this care through Medicaid brings "Homesick Texas Dollars" back to Texas to pay 60¢ out of each health care dollar, instead of pushing the entire cost onto local property and sales taxpayers, or cash-strapped local private charities.
- **Texas Medicaid is required by federal law to pay for Emergency Care (including labor and delivery) for Legal Immigrants who otherwise qualify for Medicaid. By choosing to provide full Medicaid benefits, Texas will improve access to prenatal care, preventive care, and care for chronic illnesses, reducing costly emergency hospitalization costs.** For example, full Medicaid coverage would allow management of diabetes to avoid serious complications, instead of paying later for amputations, organ failure, etc.
- **The majority of Legal Immigrants eventually naturalize to become U.S. citizens, and ALL their U.S.-born children are U.S. citizens.** Texas should make this investment today to give these future citizens a healthy start.
- **Only the neediest of immigrants will be eligible for most Medicaid assistance, due to new federal policy and minimum income requirements for the sponsors of legal immigrants.** For example, an immigrant whose sponsoring family member has died, lost his job, or become disabled might need Medicaid. Or, immigrants who are victims of domestic violence at the hands of their sponsor may need Medicaid.
- **This coverage will improve access to prenatal care, improving birth outcomes for U.S. citizen children, and will reduce the burden on health care providers.** Texas Medicaid pays for labor and delivery for these women under Emergency Medicaid, but this does not cover prenatal care. An inadequate and declining amount of Title V (Maternal and Child Health Block Grant) funds are available for prenatal care for uninsured women in some locales, and many Texas communities have no Title V provider. Texas needs to maximize Medicaid maternity coverage, to make these limited Title V dollars go further. Lack of prenatal care funding for these women creates a hardship for health care providers, and increases the likelihood of poor birth outcomes due to lack of, or delay of prenatal care.

ICHIA, Proposed Federal Legislation

Immigrant Children's Health Improvement Act (ICHIA, S 582/HR 1143of 107th Congress, expected to be filed for the 108th in March 2003). Simply put, this bill gives states the OPTION to treat post-PRWORA legal immigrant children and pregnant women just like citizens (e.g., with no more 5-year waiting period for Medicaid or CHIP). The pregnant women and child options are separate; the state could cover one group but not the other. For the children's option, the state must provide the Medicaid option before it can elect the CHIP option. **Texas has already committed to accept this option for kids, as outlined in the Texas Health and Safety Code provision cited below.** Section (b) of HB 1868 would ensure that Texas would also take advantage of this option for pregnant women.

Related Provision in Existing Texas CHIP Statute

The following language was included in SB 445, the CHIP legislation of the 76th Legislature, to direct HHSC to exercise any new federal option Congress might create to allow Texas draw down federal matching funds in Medicaid and CHIP for children, without the imposition of a 5-year bar (i.e., to convert the current purely state-funded coverage during the 5-year bar into federally-matched coverage).

Health and Safety Code

§ 62.105. Coverage for Qualified Aliens

The commission shall provide coverage under the state Medicaid program and under the program established under this chapter to a child who is a qualified alien, as that term is defined by 8 U.S.C. Section 1641(b), if the federal government authorizes the state to provide that coverage. The commission shall comply with any prerequisite imposed under the federal law to providing that coverage.

Added by Acts 1999, 76th Leg., ch. 235, § 1, eff. Aug. 30, 1999.

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