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# CONNECTICUT VOICES FOR CHILDREN



## Ensuring Health Care Coverage for All Pregnant Women and Their Babies

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Despite programs and policies that promote maternal and infant health in Connecticut, undocumented immigrant women in low income families are not eligible for the HUSKY health insurance program during pregnancy. This means that these expectant mothers are not covered for the preventive care---prenatal risk assessment and health promotion---that can improve maternal health and birth outcomes. While the hospital charges for care during labor and delivery can be covered with emergency Medicaid, babies born to undocumented women--new US citizens--are not automatically eligible for coverage during the first year of life, as are babies born to other mothers with Medicaid coverage. *Connecticut can fill this gap with state-funded coverage for undocumented immigrant mothers during pregnancy and with timely eligibility determination for their babies.*

### Medicaid Eligibility for Mothers

In Connecticut, pregnant women with family income less than 185% of the federal poverty level (FPL; under \$30,710 annually for a family of 2) are eligible for Medicaid coverage during pregnancy and up to 60 days after giving birth.<sup>1</sup> Nearly all pregnant women who are determined eligible for coverage are enrolled in HUSKY A, the Medicaid managed care program. In fact, some women are already in the HUSKY program when they become pregnant, either because they are adolescents in families with income below 185% FPL or because they are parents of HUSKY A children in families with income less than 150% FPL. Many other women become eligible for coverage when they are screened for eligibility during pregnancy (Table 1).

Pregnant women who are non-citizen legal residents of the United States and income-eligible for Medicaid are covered during pregnancy. In Connecticut, this coverage is available regardless of how long they have been in the US. State dollars pay for HUSKY coverage for pregnant women who have been in the US less than five years. Federal matching dollars are available for coverage of pregnant women who have been in the US five years or more.

The only exceptions to HUSKY managed care enrollment are made for women who do not apply for coverage until late in pregnancy *and* receive care from prenatal care providers who do not participate in the HUSKY Program. They are covered for duration of the pregnancy with fee-for-service (FFS) Medicaid.

In Connecticut, pregnant women who are undocumented immigrants are only eligible for coverage for care during labor and delivery ("emergency Medicaid"). They cannot get coverage for care during pregnancy or after giving birth. Applications for "emergency Medicaid" may be submitted after the services are provided, often by hospitals on behalf of the individual who received the services.

<sup>1</sup> For the purpose of determining eligibility in the HUSKY Program, a pregnant woman is counted as 2.

**Table 1. Medicaid Eligibility for Pregnant Women and Babies in Connecticut**

**Medicaid Eligible for:**

<b>Mother is:</b>	<b>Coverage for prenatal care?</b>	<b>Coverage for labor and delivery?</b>	<b>Coverage for baby for 1<sup>st</sup> year?</b>
<b>US citizen AND qualified for Medicaid</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Legal resident of US AND qualified for Medicaid</b>	<b>YES</b> with state dollars if in US <5 years	<b>YES</b> with state dollars if in US <5 years	<b>YES</b>
<b>Undocumented immigrant</b>	<b>NO</b>	<b>YES</b> emergency Medicaid	<b>YES</b> after application for coverage

**Medicaid Eligibility for Babies**

Under federal Medicaid law, babies born to pregnant women who were eligible for Medicaid at the time of the infant's birth are automatically eligible for Medicaid for one year so long as the infant continues to live with the mother and the mother remains eligible for Medicaid or would remain eligible for Medicaid if she were still pregnant.<sup>2</sup> Babies born to mothers in HUSKY A are automatically enrolled in their mothers' managed care plans and remain covered for the first year of life, regardless of changes in family income during that time period (Table 1).

According to longstanding federal guidance, babies born to mothers who received "emergency Medicaid" to cover the cost of labor and delivery should be automatically eligible for coverage for the first year of life.<sup>3</sup> However, Connecticut does not provide automatic coverage, so Medicaid eligibility and HUSKY enrollment are contingent upon completion and submission of a separate HUSKY application. Experience in Connecticut and elsewhere suggests that the application process can act as a barrier to coverage, especially if immigrant mothers are unaware that coverage is available, uninformed about the application process, or unable to complete the application due to language problems.<sup>4</sup> These mothers may also be fearful about the attention the application will draw to the family's immigration status and therefore be unwilling to complete an application, even with assurances that HUSKY coverage will not result in deportation or separation from their US citizen children.

**How Many Babies Are Born to Mothers With Emergency Medicaid?**

Connecticut birth certificates do not include information about mothers' citizenship status. In order to estimate the number of births to undocumented immigrant mothers who received emergency Medicaid for labor and delivery,

<sup>2</sup> Section 1902(e)(4) of the Social Security Act; 42 USC Sec. 1396a(e)(4).

<sup>3</sup> The federal Centers for Medicare and Medicaid Services (CMS) is charged with providing guidance to the states regarding the Medicaid program. CMS has written to several states in the past 13 years to clarify that "If Medicaid pays for the birth, the newborns have deemed eligible status" (Source: CMS clarification of eligibility policy for Nevada, in email from Susan Ruis dated July 20, 2004, citing CMS policy that dates back to 1993).

<sup>4</sup> Fremstad S, Cox L. Covering new Americans: A review of federal and state policies related to immigrants' eligibility and access to publicly funded health insurance. Washington, DC: Kaiser Commission on Medicaid and the Uninsured, November 2004. Available at: [www.kff.org/medicaid](http://www.kff.org/medicaid).

mother's birthplace was determined by analyzing Connecticut birth data linked with HUSKY A and FFS Medicaid data.<sup>5</sup> A disproportionate number of births to foreign-born mothers among those covered with FFS Medicaid provides an estimate of the number of women who need coverage for prenatal care. Had these foreign-born mothers been legal residents of the US or naturalized citizens, it is likely that they would have qualified for Medicaid and been enrolled in HUSKY A at some point during pregnancy.

In Connecticut, the percentage of births to foreign-born mothers in FFS Medicaid is disproportionately high. In 2003 and 2004, 70 to 75 percent of births to mothers in FFS Medicaid were births to foreign-born women, compared with just 13 percent of births to mothers in HUSKY A each of those years (Table 2). While some of these 1,800 to 1,900 babies were born to mothers who were naturalized citizens or otherwise categorically eligible for Medicaid, the very high percentage of births to foreign-born mothers in FFS Medicaid suggests that many of these babies were born to undocumented pregnant women.<sup>6</sup>

These births represent two significant health care coverage gaps: mothers who were not eligible for coverage of prenatal care and related health care during pregnancy; and babies who were not automatically eligible for coverage during the first year of life.

**Table 2. Connecticut Births by Maternal Birthplace and Payer Source: 2003, 2004**

	FFS Medicaid	HUSKY A	Other payers	Total
<b>2003 births</b>	2,620	9,561	30,645	42,826
<b>Foreign-born mothers<sup>a</sup></b>	1,944 74.7% <sup>c</sup>	1,272 <sup>d</sup> 13.4%	5,908 19.3%	9,124 21.4%
<b>US-born mothers<sup>b</sup></b>	659 25.3%	8,247 86.6%	24,631 80.7%	33,537 78.6%
<b>Unknown</b>	17	42	106	165
<b>2004 births</b>	2,535	10,373	29,096	42,004
<b>Foreign-born mothers<sup>a</sup></b>	1,776 70.6% <sup>c</sup>	1,368 <sup>d</sup> 13.2%	6,187 21.3%	9,331 22.3%
<b>US-born mothers<sup>b</sup></b>	741 29.4%	8,979 86.8%	22,811 78.7%	32,531 77.7%
<b>Unknown</b>	18	26	98	142

<sup>a</sup> Foreign-born mothers can be US citizens.

<sup>b</sup> US-born: maternal birthplace reported on birth certificate as one of 50 states, DC, or Puerto Rico.

<sup>c</sup> Includes undocumented immigrant women whose hospital charges were paid with emergency Medicaid.

<sup>d</sup> Foreign-born mothers in HUSKY A must be US citizens or legal permanent residents to qualify for coverage.

Note: Babies born to non-citizens are US citizens at birth.

<sup>5</sup> Connecticut Voices for Children links birth data with enrollment data annually to identify births to mothers in HUSKY A and fee-for-service Medicaid. For a description of methods and findings, see: Connecticut Voices for Children. Births to Mothers in HUSKY A: 2003, 2004. New Haven, CT: CT Voices, November 2006. Available at: [www.ctkidslink.org](http://www.ctkidslink.org).

<sup>6</sup> Recent data from the Census Bureau's American Community Survey show that about half the foreign-born residents of Connecticut are naturalized citizens.

## Do Other States Cover Immigrant Women and Babies?

Fifteen states provide Medicaid coverage for pregnant immigrant women.<sup>7</sup> In Connecticut and six other states, state-funded coverage is available for qualified immigrants who have been in the US less than five years. These states could claim federal matching dollars for “emergency Medicaid” coverage of hospital charges for care during labor and delivery.<sup>8</sup>

Twelve of these fifteen states provide coverage for prenatal care *regardless of immigration status*.<sup>9</sup> These states finance this coverage with state dollars in their Medicaid programs or with state dollars and federal matching funds under the State Children’s Health Insurance Program (SCHIP).<sup>10</sup>

## New Challenges to Covering Babies Born to Immigrant Women

Under the Deficit Reduction Act (DRA) of 2005, Congress enacted a new requirement that all US citizens prove citizenship and identity in order to qualify for Medicaid coverage.<sup>11</sup> Beginning July 1, 2006, parents of babies who were automatically eligible for coverage for the first year of life will have to prove that the babies are US citizens when renewing coverage one year later—even though the babies were born in US hospitals and the charges for the birth were paid by the state Medicaid agency.<sup>12</sup>

In an interpretation of the preamble to the DRA, the federal Centers for Medicare and Medicaid Services (CMS) has indicated that, contrary to longstanding policy, babies born to undocumented and legal immigrant women who received “emergency Medicaid” for labor and delivery will not be entitled to “deemed newborn eligibility.”<sup>13</sup> Their parents must complete new Medicaid applications and supply proof of citizenship to obtain coverage for these babies during the first year of life.

This interpretation of the DRA has led to an outcry from many different quarters. Leading members of Congress have pointed out to CMS that the citizenship documentation provisions in the DRA did not reverse the longstanding precedent on newborn eligibility.<sup>14</sup> Health policy analysts and legal experts have characterized CMS’ interpretation of the statute as “erroneous policy,” “inconsistent with longstanding federal

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<sup>7</sup> Fremstad S, Cox L. Covering new Americans: A review of federal and state policies related to immigrants’ eligibility and access to publicly funded health insurance. Washington, DC: Kaiser Commission on Medicaid and the Uninsured, November 2004. Available at: [www.kff.org/medicaid](http://www.kff.org/medicaid). The following states provide coverage under Medicaid: California, Missouri, New Jersey, New York, and Washington. The following states provide coverage under SCHIP: Arkansas, Illinois, Massachusetts, Michigan, Minnesota, Nebraska, and Rhode Island. The authors are currently in the process of updating the state-by-state information.

<sup>8</sup> We have been unable to determine whether Connecticut does in fact claim federal match for “emergency Medicaid” for labor and delivery care of legal immigrant women in the US less than five years whose prenatal care has been financed with state dollars.

<sup>9</sup> Fremstad S, Cox L. Covering new Americans: A review of federal and state policies related to immigrants’ eligibility and access to publicly funded health insurance. Washington, DC: Kaiser Commission on Medicaid and the Uninsured, November 2004. Available at: [www.kff.org/medicaid](http://www.kff.org/medicaid). The following states provide coverage under Medicaid: California, Missouri, New Jersey, New York, and Washington. The following states provide coverage under SCHIP: Arkansas, Illinois, Massachusetts, Michigan, Minnesota, Nebraska, and Rhode Island.

<sup>10</sup> In order to provide prenatal care and other health services, the definition of “targeted low income child” under the State Children’s Health Insurance Program was revised to include an unborn child. See State Children’s Health Insurance Program: Eligibility for prenatal care and other health services for unborn children (final rule) 67 Federal Register 61956 (October 2, 2002).

<sup>11</sup> P.L. 109-171, Section 6036, amending Section 1903 of the Social Security Act; 42 U.S.C. Sec. 1396b, which relates to payment of federal matching funds to states under the Medicaid Act.

<sup>12</sup> 71 Federal Register 39214 at page 39216 (July 12, 2006).

<sup>13</sup> *Id.*

<sup>14</sup> Letter to The Honorable Leslie V. Norwalk, Acting CMS Administrator, December 4, 2006, Representative Henry A. Waxman, Ranking Member of Committee on Government Reform, and Representative John D. Dingell, Ranking Member of Committee on Energy and Commerce.

law...[and]unconstitutional.”<sup>15</sup> The Editors of the New York Times decried what they called “a crackdown on newborns.”<sup>16</sup> Child health advocates have requested that “CMS inform states that it has not changed its policy on newborns and instruct the states that they should continue to deem them eligible if born to mothers receiving Emergency Medicaid.”<sup>17</sup> These advocates expressed fear that “[T]hose parents that do brave the process and apply for Medicaid coverage for their children will experience delays in coverage, pending completion of the Medicaid application, if they are not scared away by the threat of deportation and separation from their children.”<sup>18</sup> In an exchange with Dennis Smith, director of CMS’ Center for Medicaid and State Operations, Connecticut Medicaid Director David Parrella called the policy “very shortsighted,” citing the importance of early care to avert costly alternatives to preventive care.<sup>19</sup>

## Conclusions

- **Connecticut does not provide Medicaid coverage for prenatal care and other health care needs for undocumented immigrant women.**
- **Connecticut does not facilitate coverage for US citizen babies born to undocumented immigrant women whose hospital charges are covered with “emergency Medicaid.”**

## Recommendations

- **Provide state-funded coverage for as many as 1,800 undocumented pregnant women during the prenatal and postpartum periods. Seek federal matching dollars for “emergency Medicaid” coverage of hospital charges for care during labor and delivery.**
- **Use the existing presumptive eligibility, expedited eligibility and continuous eligibility processes and policies to ensure timely Medicaid coverage for babies born to mothers whose births were covered under “emergency Medicaid.”**
- **Urge members of Connecticut’s Congressional delegation to support legislation that will exempt infants born to mothers with any type of Medicaid coverage from the requirement that they prove citizenship and identity when applying for or renewing coverage.**

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Connecticut Voices for Children is a non-profit organization that conducts research and policy analysis on children’s issues. HUSKY Program monitoring is conducted under a contract between the Connecticut Department of Social Services and the Hartford Foundation for Public Giving, with a grant to Connecticut Voices from the Hartford Foundation. Performance monitoring in HUSKY A builds on work begun by the Children’s Health Council which was created by the Connecticut General Assembly in 1995 and charged with evaluating the impact of Medicaid managed care on children’s health services. Data for HUSKY B are not available for performance monitoring. Connecticut Voices for Children contracts with MAXIMUS, Inc. for data management and data analysis. This brief was prepared by Mary Alice Lee, Ph.D., and Sharon Langer, J.D., Senior Policy Fellows at Connecticut Voices.

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<sup>15</sup> DeLone S. Administration policy change threatens health care coverage for poor infants. Washington, DC: Center on Budget and Policy Priorities, November 14, 2006. Available at: [www.cbpp.org](http://www.cbpp.org). National Immigration Law Center. Access to Medicaid for newborns of immigrant mothers. Washington, DC: NILC, November 2006. Available at: [www.nilc.org](http://www.nilc.org).

<sup>16</sup> New York Times editorial, “A Crackdown on Newborns,” November 11, 2006.

<sup>17</sup> Letter to The Honorable Mark B. McClellan, MD, PhD, CMS Administrator, October 12, 2006, was signed by the American Academy of Pediatrics, National Association of Children’s Hospitals, March of Dimes, American Academy of Family Physicians, American College of Obstetricians and Gynecologists, and the Association of Women’s Health, Obstetric and Neonatal Nurses.

<sup>18</sup> *Id.*

<sup>19</sup> “CMS official defends Medicaid proof-of-citizenship for infant care.” Inside CMS, Vol. 9 No. 23, November 16, 2006.