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HEALTH CARE COVERAGE FOR LEGAL IMMIGRANTS

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You asked what health care coverage is available to legal immigrant adults who are state residents and have lived in the United States for less than five years. You are particularly concerned about coverage for people who have life threatening illnesses.

SUMMARY

In 1997, the state, through the State Medical Assistance for Noncitizens (SMANC) program, began offering state-funded health insurance coverage to legal immigrants who were ineligible for federal insurance (Medicaid) because they had lived in the country for less than five years. In 2009, the legislature eliminated coverage for virtually all adult immigrants. Court challenges temporarily halted the termination on constitutional grounds, but the Supreme Court has upheld the state's right to terminate these benefits. Currently, the only adult immigrants eligible for state-funded coverage are those who were receiving (1) home- and community-based care like that available under the Medicaid-funded portion of the Connecticut Home Care Program for Elders (CHCPE), (2) SMANC-funded nursing home care as of June 30, 2011, or (3) nursing home care and applied for SMANC before June 1, 2011. (Pregnant women and children up to age 21 who are recent legal immigrants qualify for federal coverage.)

A legal immigrant adult with a life threatening illness who does not meet any of the above criteria cannot get SMANC. But he or she can get coverage, with substantial cost sharing, under (1) the Charter Oak Health Plan (COHP) or (2) the state's new Pre-Existing Condition Insurance Plan (CT PCIP) once the individual has no health insurance coverage for six months before applying for coverage. Emergency medical assistance through the state's Medicaid program is available for emergency hospital admissions.

MEDICAL ASSISTANCE FOR NONCITIZENS

SMANC—State Response to Federal Welfare Reform Legislation

In 1996, Congress passed major welfare reform legislation that severely restricted legal immigrants' access to federal assistance programs. This included prohibiting Medicaid coverage for immigrants living in the United States for less than five years. In response, the 1997 legislature created the SMANC program to provide state-funded health insurance for those individuals until federal assistance became available (PA 97-2, June 18 Special Session, codified in [CGS § 17b-257b](#)).

2009 Legislation

In 2009, the legislature severely restricted coverage under the SMANC program. PA 09-5, September Special Session, eliminated the coverage for all adults, except for certain pregnant women and children up to age 21 (whose federal coverage under the federal Children's Health Insurance Program Reauthorization Act of 2009 had not yet begun) and individuals who were receiving long-term care as of September 8, 2009.

Specifically, long-term benefits would continue for those immigrants receiving (1) home care services or nursing home care under SMANC on September 8, 2009 or (2) nursing home care and who applied for SMANC before that date provided they met the Medicaid eligibility requirements but for their immigrant status.

The legislation also prevented people losing SMANC eligibility from moving into the then-State-Administered General Assistance (SAGA) medical assistance program

Court Challenge

On November 30, 2009, Greater Hartford Legal Aid filed a class action lawsuit alleging that the termination of SMANC eligibility violated the Equal Protection clauses of the state and federal constitutions by discriminating against a class of people based only on their citizenship status. It asked the court to stop the implementation of the new law. On December 18, 2009, the Superior Court agreed, ruling that the state could not constitutionally terminate SMANC benefits, and enjoined DSS from terminating them. DSS subsequently reinstated benefits and reopened SMANC to new applicants, retroactive to December 1, 2009, the date on which the program had been closed. Hence, the benefit remained available to all adults, not just those described above.

In April 2011, the state Supreme Court overruled the lower court's decision, ruling that the state could terminate benefits. In a unanimous ruling, the Court directed the trial court to rule for the state, saying that SMANC served only noncitizens. Thus, eliminating the program would not result in the state providing benefits to citizens but not noncitizens (*Pham v. Starkowski*, 300 Conn. 412 (2011)).

2011 Changes to Law

In light of the Supreme Court ruling, DSS moved forward with its plan to eliminate coverage for those legal immigrants whose coverage was scheduled to end starting on July 1, 2011. The legislature amended the law again in 2011 to reflect the delay in program termination.

Specifically, it (1) extended the grandfather period for individuals already receiving SMANC-covered nursing home care from September 8, 2009 to June 30, 2011, (2) allowed individuals receiving nursing home care to apply for the care by June 1, 2011 instead of September 8, 2009, and (3) clarified that the noninstitutional care for which SMANC would continue would be home- and community-based services equivalent to that under the CHCPE, not simply home care.

OTHER HEALTH CARE INSURANCE OPTIONS FOR A LEGAL IMMIGRANT WITH A SERIOUS ILLNESS

COHP and CT PCIP

A legal resident with a serious illness who has lost SMANC coverage could qualify for health insurance coverage from COHP or CT PCIP, both of which require monthly premiums, deductibles, and various co-payments for services.

The monthly premium for COHP is \$446 per person. Although the program has a six-month waiting period, exceptions are made, including for people who lose Medicaid coverage (including SMANC).

CT PCIP offers health insurance coverage for people who have been uninsured for at least six months and have one of several conditions, including cancer and heart disease. There are no exceptions to the six-month waiting period, per federal rules, according to the Department of Social Services (DSS). The monthly premium is \$381 per person.

Emergency Medicaid

A former SMANC recipient who cannot afford Charter Oak's cost sharing and cannot wait the six months for the PCIP could also get emergency medical care, which federal law allows the Medicaid program to cover.

The 1996 federal law required states to provide Medicaid coverage for "emergency medical conditions," defined as a medical condition manifesting itself by acute symptoms of sufficient severity (including extreme pain) such that the absence of immediate medical attention could reasonably be expected to (1) seriously jeopardize the patient's health, (2) cause serious impairment to bodily functions, or (3) cause serious dysfunction of any bodily organ or part (42 USC § 1396 (v)(3)).

DSS indicated that its medical staff determine what qualifies as medical emergency, and emergency Medicaid is used only for emergency hospital admissions. Emergency Medicaid does not provide coverage for ongoing outpatient procedures, such as dialysis and chemotherapy.

RC:ts