



## STATE MEDICAL ASSISTANCE FOR NON-CITIZENS

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### FEDERAL MEDICAID LAW

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 imposed a ban on federal public assistance eligibility for qualified immigrants (i.e., non-U.S. citizens with permission to live or work in the United States) who have lived in the U.S. for less than five years. The act exempts certain individuals from the five-year ban, including (1) refugees, asylees, and other immigrants exempt on humanitarian grounds and (2) veterans, active members of the military, and their spouses and children ([8 USC § 1613](#)).

The Children's Health Insurance Program Reauthorization Act of 2009 allowed states to make exceptions to the five-year eligibility ban for pregnant women and children up to age 21 ([42 USC § 1396b](#)).

### ISSUES

What is the legislative history of the law that eliminated the State Medical Assistance for Non-Citizens Program (SMANC)? Prior to the program's elimination, how much did it cost the state to pay for services to eligible individuals through SMANC? How many lawfully present immigrants are currently affected by the program's elimination?

### SUMMARY

In 1997, the state, through SMANC, began offering state-funded health insurance coverage to qualified immigrants who were ineligible for Medicaid because they had lived in the country for less than five years (see sidebar). In 2009, the legislature eliminated most of the program. Court challenges temporarily halted the termination on constitutional grounds, but the state Supreme Court upheld the state's right to terminate these benefits.

A 2009 federal law allowed states to provide exceptions to this Medicaid ban for pregnant women and children up to age 21. Connecticut provides such exceptions to the ban.

According to the Office of Fiscal Analysis, the state spent approximately \$24 million per year on SMANC before the program was eliminated.

According to the Department of Social Services (DSS), when the program was eliminated in 2011, 4,889 individuals lost health insurance coverage. However, we were unable to obtain data on the number of lawful immigrants currently residing in Connecticut who would qualify for SMANC had it not been eliminated.

Certain individuals who would have been eligible for SMANC may be eligible for other medical coverage under certain circumstances. Federal Medicaid is available to lawful immigrants as well as undocumented non-citizens if they require emergency medical assistance. Additionally, certain lawfully present immigrants can qualify for health insurance coverage with tax credit and cost sharing reductions through Access Health CT, the state's health insurance exchange, even if they have lived in the United States for less than five years.

## **SMANC HISTORY**

In 1996, Congress passed welfare reform legislation that severely restricted qualified immigrants' access to federal assistance programs. This included generally prohibiting Medicaid coverage for immigrants living in the United States for less than five years. In response, in 1997, the Connecticut 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 eliminated coverage for all adults under the SMANC program, except for: (1) 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 (2) individuals who were receiving long-term care as of September 8, 2009 ([PA 09-5](#), September Special Session).

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 otherwise met the Medicaid eligibility requirements.

The legislation also prevented people losing SMANC eligibility from moving into the State-Administered General Assistance medical assistance program (SAGA Medical), which at the time provided coverage to certain low-income individuals who did not qualify for Medicaid. (Upon federal approval, DSS expanded state Medicaid coverage in 2010 to include individuals who were eligible for SAGA Medical; thus, the program was eliminated.)

## ***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 Connecticut Home Care Program for the Elderly, not simply home care.

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