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Hawaii Attorney General Calls for Encouraging Access to Health Coverage During Pandemic

HONOLULU – Following an [alert from the Trump Administration](#) purporting to address the policy denying health care to lawful immigrants, Hawaii Attorney General Clare E. Connors joined a coalition led by Washington Attorney General Bob Ferguson calling on the Trump Administration to delay its “public charge” rule while the COVID-19 outbreak spreads across the nation.

Per the letter, the coalition asserts that while the COVID-19 public health crisis continues, the Trump Administration refuses to confirm that attempts by lawful immigrants to access health coverage will not impair their ability to stay in the country.

“The impacts of the COVID-19 outbreak are increasing day-by-day on our state,” said Attorney General Connors. “The administration’s rule discourages individuals from seeking medical care even though they are lawfully entitled to receive it. This is potentially devastating given our country’s current crisis situation.”

Federal law allows many lawful immigrants to apply for public benefits, such as health care, if they have been in the country for at least five years. The new rule creates a “bait-and-switch” — if immigrants use the public assistance to which they are legally entitled, they would jeopardize their chances of later renewing their visa or becoming permanent residents.

Today’s letter to Acting Homeland Security Secretary Chad Wolf and U.S. Citizenship & Immigration Services (USCIS) senior official Ken Cuccinelli, follows a March 6 letter the attorneys general sent to the same officials calling for the rule’s suspension. Though neither official responded to the initial letter, USCIS posted an “alert” on March 13 that said the government would not consider any form of testing or care related to COVID-19 in immigrants’ public charge assessment, “even if such treatment is provided or paid for by one or more public benefits, as defined in the rule (e.g. federally funded Medicaid).”

However, the letter points out that the alert contains confusing and internally contradictory statements about the impact using Medicaid will have on non-citizens.

“If DHS is attempting to ensure noncitizens in our communities remain enrolled in Medicaid so they can use Medicaid services should they have symptoms of COVID-19, the Alert fails to achieve this,” the attorneys general’s letter states. “And likewise, if DHS is attempting to ensure that noncitizens seek testing and treatment for COVID-19 without fear of public charge consequences, the Alert also utterly fails to achieve this.”

“The Alert fails to recognize that in order to receive adequate health services, our residents need adequate health insurance benefits,” the letter continues. “To achieve DHS’s stated goal of encouraging noncitizens to seek testing and treatment for COVID-19, noncitizens must be encouraged to enroll or remain enrolled in health insurance programs, including Medicaid, and they must be assured that such enrollment during this dire national health emergency will not be considered in any future public charge determination.”

The conflicting statements could cause immigrants to forgo medical treatment that could be critical to protecting our communities from the spread of the virus, the attorneys general write.

“Given the grave danger facing our nation’s health and economy, it is imperative that DHS not chill immigrants from enrolling in Medicaid or using Medicaid benefits for any purpose until the COVID-19 crisis is over. Under the Alert, however, noncitizens who remain enrolled in Medicaid continue to risk their green cards and visas. As DHS previously conceded, this will prompt immigrants to disenroll from Medicaid and lead to an ‘increased prevalence of communicable diseases,’ as the nation is now experiencing at a horrifying rate.

“To protect the residents of our states and the rest of the country, we ask that DHS immediately announce that the Rule is stayed pending successful containment of COVID-19. Short of that, however, it is imperative that DHS at least make clear that enrollment in Medicaid and the use of Medicaid benefits for any reason will not be considered in the public charge assessment. Given that these benefits were not considered in the public charge assessment for many years prior to DHS’s recent change of policy, it is inexplicably harmful for the agency to begin counting them now, during the outbreak of a lethal global pandemic.”

Joining Washington state on the letter are the attorneys general of California, Connecticut, Delaware, Hawaii, Iowa, Massachusetts, Michigan, Minnesota, Nevada, New Mexico, New Jersey, New York, Oregon, Pennsylvania, Vermont, Virginia and Washington, D.C.

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Department of the Attorney General
News Release 2020-33
Page 3

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