



February 7, 2022

Ms. Steffanie Garrett
Acting General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

SENT VIA EMAIL TO: HFS.Rules@illinois.gov

Re: Proposed rules implementing Section 12-4.35(a-6) of the Public Aid Code that authorizes the Department to administer the Health Benefits for Immigrant Adults (HBIA) program. This program provides health benefits coverage to non-citizens 55-64 who are not eligible for medical assistance receiving federal financial participation due to their immigration status.

Dear Ms. Garrett:

The Healthy Illinois Campaign is a coalition comprised of over 70 organizations across diverse sectors committed to removing barriers to quality health coverage for all Illinoisans. We have worked with immigrant communities across the state for eight years to advocate for health coverage options for all Illinois residents regardless of immigration status. We were very pleased that Illinois became the first state in the nation to pass legislation to create the Health Benefits for Immigrant Seniors (HBIS) program providing healthcare coverage to the most vulnerable members of our communities. The HBIS program has been a resounding success, enrolling over 8,600 low-income seniors. We are now excited for the launch of the Health Benefits for Immigrant Adults (HBIA) program to further our goal of providing affordable comprehensive health coverage to all Illinoisians.

We applaud the legislature on passing this legislation during a continuing global pandemic to expand coverage to individuals ages 55-64 years old. We also commend the state agency for drafting the implementing rules and developing the data systems to accommodate applications by May 30, 2022, and to provide retroactive eligibility to February 1, 2022.

This HBIA program is of critical necessity given the current state of the pandemic and its impact on older adults. Illinois Department of Public Health (IDPH) data continue to show that older individuals are dying at higher rates from COVID-19.¹ Recent studies show that the risk of severe COVID-19 imperils millions of uninsured. For instance, March 2021 Families USA report revealed that between January 22, 2020, and August 31, 2020, there were 85,801 COVID-19 infections and 2,371 COVID-19 deaths due to the health insurance gap.² Additionally, the Kaiser Family Foundation estimated that 20-25% of adults under age 65 in Illinois are at higher risk of serious illness if infected by COVID-19 due to age or underlying health conditions.³ Moreover, many older adults have suffered job loss due to the economic downturn caused by the COVID-19 pandemic, forcing them to dip into retirement savings and undermining their future economic security. Ensuring access to comprehensive health coverage like the HBIA program amid the pandemic is critical, particularly for those who may become seriously ill if they are infected



with COVID-19 – which is more likely among older adults.⁴ Additionally, the pandemic has shown nothing more clearly than that our health is interrelated: when any community bears health inequities, the health of all communities diminishes.

We support the state agency’s decision to apply the same rules for eligibility, enrollment, income methodology, and other requirements to the newly covered population as are applied to the current 55-64 ACA Adult population on Medicaid. This decision is evidence of the state’s commitment to providing equitable seamless coverage to all persons over age 55 without regard to immigration status.

However, we are deeply concerned that the agency has chosen to restrict the service package for this population by disallowing Long-term Services and Supports (LTSS). We believe this decision is in contravention of the statute and not in accordance with legislative intent. The state seems to be attempting to save funds upfront by excluding long-term care services but is instead ultimately costing the state more in unnecessary and longer-term hospitalizations. The state is also forgoing the opportunity to preserve available hospital beds during a pandemic and to avoid readmissions that could have been prevented with less costly home and community-based care.⁵

We recommend the following changes to the rules as proposed to conform to the statute and the critical needs of this population.

- Create a service package in accordance with the legislative language and intent of 55-64 statutory language to provide equity with the ACA Adult program service package, especially given the ongoing need especially in the continued pandemic.⁶
- Acknowledge that the state does not have the statutory authority to put such a limit in this rule. The statutory language for HBIA is clear and states that those eligible to enroll, “shall receive benefits identical to the benefits provided under the” ACA Adult program service package.⁷
 - The state acknowledges this issue in the proposed rule itself, noting that they may not have authority to restrict the service package for HBIA.⁸
 - Although the state agency is given the flexibility to reduce medical services, “that is deemed necessary by the Department during a State fiscal year to assure that payments ...do not exceed available funds,”⁹ because enrollment has not even started for the HBIA program, there is no evidence that payments for HBIA will exceed available funds. Nor is there a public accounting of the amount of available funds.

As stated, our reading of the statutory language is that the state agency does not have the authority to restrict the service package for the HBIA program based solely on cost. However, even if JCAR finds that the state does have the authority, the state agency has never released cost data on covering Long-Term Services and Supports (LTSS) or Long-Term Care (LTC) or Home and Community Based Services (HCBS) for the HBIA program, and therefore has not provided a rationale for exclusion of the services due to expected cost.

There are many recipients who may be discharged from the hospital but still need significant care at home or in the community due to COVID or other health conditions. We therefore strongly support the inclusion of HCBS, and facility based LTSS -- both of which are critical for patients in the coverage package for all immigrants (55 and older) to provide equity and necessary medical care and avoid unnecessary rehospitalizations.



While we understand that the legislature and the state administrative agency have necessarily taken steps to manage their expenditures and budget due to necessity, we urge the state to fully administer the program to allow every eligible individual to enroll with no limitations on enrollment or coverage.

Thank you for your consideration of these comments.

Sincerely,

Healthy Illinois Campaign Steering Committee

cc. Joint Committee on Administrative Rules (icar@ilga.gov)
Members of the Joint Committee on Administrative Rules

¹ Last visited January 2022. Data available at: <https://dph.illinois.gov/covid19/data.html> and <https://www.kff.org/statedata/custom-state-report/?i=464095~464104&g=il&view=3>

² The Catastrophic Cost of Uninsurance: COVID-19 Cases and Deaths Closely Tied to America's Health Coverage Gaps, Families USA, March 2021, https://familiesusa.org/wp-content/uploads/2021/03/2021-37_Loss-of-Lives_Report_AnalysisStyleB_Final.pdf.

³ How Many Adults Are at Risk of Serious Illness If Infected with Coronavirus? Updated Data, Kaiser Family Foundation, April 2020, <https://www.kff.org/global-health-policy/issue-brief/how-many-adults-are-at-risk-of-serious-illness-if-infected-with-coronavirus/>

⁴ Id.

⁵ Harrington C, Ng T, Kitchener M. Do Medicaid home and community-based service waivers save money? Home Health Care Serv Q. 2011 Oct;30(4):198-213. doi: 10.1080/01621424.2011.622249. PMID: 22106902, available at: "<https://pubmed.ncbi.nlm.nih.gov/22106902/>"<https://pubmed.ncbi.nlm.nih.gov/22106902/>; <https://www.commonwealthfund.org/publications/newsletter-article/avoiding-preventable-hospital-readmissions-filling-gaps-care>

⁶ We are also deeply concerned that despite public statements from the Department, Home and Community-Based Services (HCBS) services are not being provided under HBIS, but we are focusing our comments here on the current proposed rulemaking. Our understanding from public statements of the state agency was that because the rules for the HBIS 65 and older program only excluded long term care in facilities, that the state would provide HCBS services. However, HCBS was never implemented for the HBIS 65 and older program, which was devastating given the ongoing need, especially in the pandemic.

⁷ 305 ILCS Sec. 12-4.35 (a-6): By May 30, 2022, notwithstanding Section 1-11 of this Code, the Department of Healthcare and Family Services may provide medical services to noncitizens 55 years of age through 64 years of age who (i) are not eligible for medical assistance under Article V of this Code due to their not meeting the otherwise applicable provisions of Section 1-11 of this Code and (ii) have income at or below 133% of the federal poverty level plus 5% for the applicable family size as determined under applicable federal law and regulations. Persons eligible for medical services under this amendatory Act of the 102nd General Assembly shall receive benefits identical to the benefits provided under the Health Benefits Service Package as that term is defined in subsection (m) of Section 5-1.1 of this Code. (305 ILCS 5/12-4.35)(a-6).



⁸ Ill Reg. December 27, 2021, at 16139, Section 118.850 Service Exclusions (b): Pursuant to Section 12-4.35(b) of the Code, health care services excluded under section 118.750 of Subpart G shall be excluded from this Subpart, *unless it is determined by the Department that Section 12-4.35(b) is not applicable.* (Italics added.)

⁹ 305 ILCS Sec. 12-4.35 (b): The Department is authorized to take any action, including without limitation cessation or limitation of a enrollment, reduction of available medical services, and changing standards for eligibility, that is deemed necessary by the Department during a State fiscal year to assure that payments under this Section do not exceed available funds.