

Immigrant Victim Access to Health Care: U
visa Immigration Status' Impact on Access to
Health Care for Victims of Dating Violence

Family Violence Prevention Fund's National
Conference on Health & Domestic Violence
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Legal Momentum

Learning Objectives

- Understand how immigration status impacts access to healthcare for victims of dating violence
- Learn about federal healthcare access for immigrant victims, including undocumented immigrant victims
- Learn about additional health care access offered in some states for immigrant victims (Forensic Exams; Post assault health care; Prenatal care; and Emergency Medicaid)
- Understand how obtaining u visa immigration status may provide additional health care access to victims of dating violence

Materials Overview

- SA Manual Health Chapter
- LM Health Care Charts
 - Forensic Exams
 - Emergency Medicaid
 - Post Rape-Post Assault Health Care
 - Prenatal Care
- NILC Charts

Underlying Premises

- Increased rate of domestic violence/sexual assault among immigrants
- Reduced access to health care among immigrants

Immigration Status and Affect on Prevalence of Dating Violence/Sexual Assault

- Lack of immigration status can exacerbate dating violence
- “Immigrant women are a particularly vulnerable group of domestic violence victims due to the unique nature of their situation - the dependence of their immigration status on that of their abuser. Research shows that immigrant battered women stay longer in an abusive relationship and sustain greater physical and psychological abuse than other battered women in the United States. Further, the incidence of domestic abuse among immigrant women is much higher than that among other victims of domestic abuse.” (Giselle Aguilar Hass et al., Battered Immigrants and U.S. Citizen Spouses, Legal Momentum, Apr. 24, 2006, at 2-3)

Immigration Status and Affect on Prevalence of Dating Violence/Sexual Assault

Study published in Violence Against Women Journal called “Sexual Violence against Adolescent Girls; Influences of Immigration and Acculturation” demonstrated “An increased vulnerability to recurring sexual assault based on immigrant status was detected among adolescents aged 15 and younger.”

Lack of immigration status and impact on health of immigrants

- Urban Institute Study on the Health and Well-being of Young Children of Immigrants
 - children of immigrants less likely to receive public benefits, including healthcare benefits
 - children of immigrants twice as likely to be in fair or poor health and lack a usual source of care
 - children of immigrants twice as likely to be uninsured
- Mind the Gap: Parent's Citizenship as Predictor of Latino Children's Health Insurance
 - Parents' citizenship appears to be correlated with high rates of uninsurance

Lack of immigration status and impact on health of immigrants continued

- Community Lawyering: An Approach to Addressing Inequalities in Access to Health Care for Poor, of Color and Immigrant Communities discussed the unequal access to health care and quality health care services.
- Due to a number of reasons, including:
 - Poorer quality of care on the basis of race and ethnicity
 - Language access barriers result in poorer quality of care
 - High numbers of uninsured in immigrant and of color communities
 - Fear of being reported to immigration authorities and being deported

Immigrant Benefit Classifications

- 1996 Federal Welfare Law created benefit classifications
- Citizens
- Qualified Immigrants
 - Entering US before Aug. 22, 1996
 - Entering US on or after Aug. 22, 1996 must fit into category
- Not Qualified Immigrants
- Prucol (Permanently Residing Under Color of Law)
 - Check state law for continued relevance
 - NILC charts
- Undocumented Immigrants

Qualified Immigrants

- Lawful Permanent Resident (LPR)
- Refugee, Asylee, Withholding of Deportation/ Removal, Conditional Entrant status
- Paroled into U.S. for at least 1 Year
- Cuban/Haitian Entrant
- Amerasians
- Veterans of certain US military Action
- Battered Spouse and Children with pending or approved
 - Visa petition filed by US Citizen or lawful permanent resident spouse/parent
 - Self-petition under VAWA
 - Application for cancellation of removal/suspension of deportation under VAWA
 - includes parent of battered child and child of battered spouse

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Victim of Severe Form of Trafficking

- If 18 or over, must be certified by HHS
 - Continued presence
 - T visa cases
- Children under 18 need HHS “eligibility letter”
- Eligible for all benefits that are administered by federal agency or federally funded to the same extent as refugees
 - Children of T- Visa victims also eligible for federal benefits

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**Not Qualified Immigrants:
Programs Barred**

Federal

- “Public Benefits” barred (Medicaid and State Children’s Health Insurance Program, or SCHIP)

State or Local

- “Public Benefits” Barred
- *unless* state passes new law
- 22 states offer some access to state funded benefits
 - Which benefits depends on the state

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PRUCOL (Persons Residing Under the Color of Law)

- not an immigration status, but a benefit eligibility category
- May include persons:
 - with approved immediate relative visa petition
 - who filed application for adjustment to LPR status
 - in deferred action status
 - granted Family Unity status
 - granted a stay of deportation
 - who have lived in the US continuously since before January 1, 1972
 - certain battered immigrants
 - Other persons in the US with the knowledge of DHS whose departure that agency does not contemplate enforcing

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Health Care For Non-Qualified and Undocumented Immigrants

- Services necessary to protect life and safety
- Community health clinics
- State funded programs
- Post assault health care paid by VOCA funds
- Emergency Medicaid

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Programs Necessary to Protect life and Safety

- Attorney General's List of Required Services necessary to protect life and safety
- Available to ALL immigrants regardless of status
- Includes:
 - Crisis counseling and intervention
 - Violence and abuse prevention
 - Treatment of mental illness or substance abuse
 - Immunizations, testing, and treatment of communicable diseases
 - Emergency Medicaid
 - Senior nutrition programs for those requiring special assistance

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Federally Qualified Health Centers

- Community Health Centers
- Migrant Health Centers

See National Association of Community Health Center's website for a list of federally qualified health centers. www.nachc.com

Federally Qualified Health Centers Offer

- Primary care
- Diagnostic, laboratory and radiological services
- Prenatal care
- Post-assault health care
- Cancer and other disease screening
- Well child services
- Immunizations
- Blood test screening
- Eye, ear and dental screenings for children
- Family planning services
- Preventative dental services
- Pharmaceutical services
- Emergency medical and dental services

Victims of Crime Act

- Provides grants to states for eligible crime victim compensation programs (Some states cover medical expenses)
- Generally need to report within 72 hours
- Generally victim must cooperate with law enforcement
- Covers post-assault health care for:
 - All victims without regard to status
 - Non-residents of State
 - If victim in state and otherwise qualify
 - Includes federal crimes that occur in state
 - Victim can be a family member of the perpetrator

Post Assault Health Care: Forensic Exams

- Covers initial forensic exams in most states
 - If the victim reports crime within a specific time frame (see charts) – creates barrier
- Few states bill victim, but are required to provide reimbursement instructions
- Worst policies bill victims directly for any services not directly related to the criminal investigation
- Knowledge of manner of reimbursement in your state key to helping victims

Post Assault Health Care: Forensic Exams Continued

- Varying policies
 - Follow-up exams
 - Psychological treatment
 - Prescribed medicines

Pre-Natal Care

- Qualified Immigrants: Eligible for Medicaid which provides pre-natal care, including early risk assessment, health promotion and medical monitoring.
- Non-qualified Immigrants: Some states offer pre-natal care, like DC, CA & MA, depending on Immigrant woman's residency and income levels
- Funding for these programs may be provided by SCHIP or Medicaid

Emergency Medicaid

- Every state enacted Emergency Medicaid Program
- Conceptual uniformity
- Governed by federal law
- Federal definition of “emergency medical condition” used in most state law

Definition of Emergency Medicaid

- Available only in cases where the person needs treatment for medical conditions with acute symptoms that could:
 - place the patient’s health in serious jeopardy;
 - result in serious impairment of bodily functions;
 - or
 - cause dysfunction of any bodily organ or part.

What Various States Offer Under Federal Emergency Medicaid

- Labor and Delivery (emergency and most states normal)
- Severe and acute
- Urgent pharmacy needs
- Mental health
- Inpatient substance abuse
- 72 hour release of drugs without prior approval
- Not covered:
 - continuation of services
 - Limited to current medical condition
 - Some states mental health care or chronic conditions explicitly excluded

State by state charts

- Must consider
 - Eligibility
 - Availability
 - Possibility
 - Application
 - Appeals
 - Details

Forensic Charts State-by-State

- Federal law encourages states to cover this
- State by state summary of
 - Laws
 - Procedures
 - Who pays based on immigration status
 - Extent of coverage

Post Assault Health Care

- Includes VOCA crime victim compensation
- Medicaid funded health care
 - Describes eligibility criteria
 - Amount of Compensation
 - Scope
 - Amount
 - Crimes
 - Application Process
 - Appeals Process

Prenatal Care Chart

- Who is covered
- What is covered
- Eligibility
- Application process

Emergency Medicaid Chart

- Contain each state's procedures
 - Follow procedures
 - Meet stated deadlines
- State laws summarized
- Describes coverage and
- Application process

Qualified Immigrant Access to Public Benefits

Also depends on:

- Immigrant eligibility rules
- State residency and other eligibility rules
- Privacy, confidentiality and verification
- "Public charge" concerns
- Sponsor deeming and liability
- Linguistic and cultural competence
- Logistical barriers
- The "climate" regarding immigrants

Immigration Relief

- Immigration relief can improve access to immigrant victim access to health care by changing the benefit category they fall in
- Screen for potential VAWA, T, & U cases
- Focus on U visa today since we are talking about dating violence.

Immigrant Crime Victim Visas "U"

- Non immigrant visa (PRUCOL)
- Employment authorization
- Path to permanent residency (Qualified Immigrant)
- Includes family members
- Can be undocumented or enter without inspection and apply

Crime Victim ("U") Visa Requirements

- Substantial physical or emotional abuse from criminal activity
- Possesses information about criminal activity
- Criminal activity must have occurred in U.S. or otherwise violate U.S. law
- Victim has been, is likely to be or is being helpful to an investigation or prosecution of criminal activity

What criminal activities are covered under the “U” visa?

- Rape
- Torture
- Trafficking
- Incest
- Domestic violence
- Sexual assault
- Prostitution
- FGM
- Involuntary servitude
- Slave trade
- Being held hostage
- Kidnapping
- Abduction
- Peonage
- False Imprisonment

Criminal Activities Covered -- Continued

- Blackmail
- Extortion
- Manslaughter
- Murder
- Felonious assault
- Witness tampering
- Obstruction of justice
- Perjury
- Attempt, conspiracy or solicitation to commit any of these crimes

Collaboration

- Collaboration between the health care community and legal/advocacy community for immigrants
- Immigrant Victims may be eligible for immigration relief/services by virtue of being a victim
- Reporting requirements: Important to recognize that law enforcement is not always trained on available immigration relief/services

Hypothetical

Mariela is an undocumented 17 year old girl who was raped by her drunk boyfriend one night in an upstairs bedroom at a party. During the rape, she managed to free herself but fell down the stairs breaking her arm and seriously injuring her neck. She may be eligible for the u-visa if she reports the crime, but she is unsure she wants to report it. What healthcare benefits can she access without reporting the crime? What health care benefits is she eligible for if she reports the crime and subsequently becomes a u-visa holder?

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Contact Information for Remaining Questions & Comments

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