NATIONAL LATINA INSTITUTE FOR REPRODUCTIVE HEALTH
Salud | Dignidad | Justicia

ISSUE BRIEF
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LATIN@S[1] AND THE AFFORDABLE CARE ACT (ACA)

BACKGROUND

President Obama signed the Patient Protection and Affordable Care Act (PPACA), commonly called the Affordable Care Act (ACA), into law on March 23, 2010. It represents the most significant regulatory overhaul of the United States healthcare system since the passage of Medicare and Medicaid in 1965.[2]

The ACA was enacted to increase both quality and affordability of health insurance, as well as to lower the uninsured rate by expanding public and private insurance coverage. The law requires insurance companies to cover all applicants within minimum standards of care and offer the same rates regardless of pre-existing condition or sex. Under the ACA, all plans must provide certain preventive health services for all adults, especially focusing on women and children without cost sharing or co-pay. Women's preventive services include services such as sexually transmitted infection (STI) screenings, contraceptive coverage, prenatal care, as well as a variety of vaccines and general health screenings. While the Supreme Court broadly upheld the ACA in 2012, the Court's decision has been interpreted by some states to allow the rejection of Medicaid expansion, a critical provision of the law.[3]

The National Latina Institute for Reproductive Health (NLIRH) supports full implementation and funding of the ACA to improve access to healthcare for Latin@s and lay the foundation to ensure health equity for all. In addition, NLIRH supports expanding the benefits of the ACA to include immigrant women and families and advocates for the elimination of barriers to abortion coverage.

BY THE NUMBERS *(as of January 2015)*

- **913,000** young Latin@s have been allowed to remain on their parent's plan until 26.
- **8.8 million** Latin@s and their families now lead healthier lives and are able to detect and treat diseases sooner thanks to preventive care without co-pays.
- **700,000** Latin@s do not have access to Medicaid because the state in which they live has refused to expand its Medicaid programs.
- Latin@s save up to **$1,200** per year because of the contraceptive mandate.

LEGACY OF INEQUITY: BARRIERS TO HEALTH FOR LATINAS

Latin@s experience disproportionately high rates of preventable health conditions and face formidable barriers to accessing the healthcare they need. Latin@s are more likely than non-Latin@ peers to live below the poverty line, be uninsured or underinsured, and be denied insurance based on their immigration status. Lesbian, gay, bisexual, transgender, and queer (LGBTQ) Latin@s face added healthcare discrimination, and are less likely to have access to insurance due to employment discrimination and lack of relationship recognition for partners and dependents. Because of this lack of access, and other root causes, Latin@s also suffer from disproportionately high rates of preventable diseases and treatable conditions. The reforms of the ACA have had a profound impact on these inequities.

Latin@s face barriers to accessing affordable insurance coverage and reproductive healthcare.

Latin@s are uninsured/underinsured at higher rates than any other racial or ethnic group, and more likely to live in poverty. After one enrollment period, 23 percent of Latin@s remain uninsured, compared to only 12 percent for their white counterparts.[4] Additionally, one in three is enrolled in a federal health insurance program,[5] such as Medicaid. One in four Latin@s live below the poverty level,[6] with a full 40 percent of Latin@s and their families below 150 percent of the federal poverty level (FPL).[7]

Many Latin@s are completely ineligible for the gains of the ACA because of their immigration status. Undocumented Latin@s and Latin@s who have been granted Deferred Action for Childhood Arrivals (DACA) and Defered Action for Parents of Americans and Legal Permanent Residents (DAPA), are barred from purchasing coverage on the exchanges or applying for Medicaid. Latin@s who are lawfully present on any number of immigrant or nonimmigrant visas are permitted to purchase plans on the exchanges, however remain ineligible for Medicare and Medicaid. Permanent residents (LPRs) can purchase plans on the exchanges, but are barred from Medicaid for the first five years.[8] For mixed status families, and in particular immigrant parents seeking to enroll eligible children, the confusion surrounding eligibility and enrollment serve as serious deterrents.

Latin@ communities suffer from disproportionately high rates of preventable diseases and treatable conditions.

Latin@s are among the most likely to suffer and die from cervical cancer, an almost entirely preventable and highly treatable disease.[9] In fact, Latin@s are diagnosed with cervical cancer at nearly twice the rate of non-Latina white women.[10] Latin@s also experience disproportionately high rates of unintended pregnancy,[11] sexually transmitted infections including HIV,[12] diabetes,[13] asthma,[14] and other negative health outcomes. Multiple factors contribute to these alarming statistics including less access to affordable preventive services, higher rates of poverty, less exposure to comprehensive sexuality education, less contraceptive education and use, and higher rates of contraceptive failure.

Latin@s continue to face barriers in consistently accessing contraception that is affordable and available, and as a consequence, experience unintended pregnancy at twice the rate of their white peers.[15]

Fifty-seven percent of young Latin@s between the ages of 18-34 have struggled with the cost of prescription birth control.[16] Historically, high cost has been a primary barrier that made it extremely difficult for Latin@s to access the birth control they need on a consistent basis. Currently, Latinas earned a meager 54 cents for every dollar earned by a white man, representing the largest wage gap of any other group of working women.[17] Over the course of a year, the gender wage-gap accounts for a $16,416 loss for Latin@ workers.

Before the contraceptive benefit went into effect in August of 2012, some Latin@s would have had to spend over $1,200 dollars a year,[18] forcing many to choose between putting food on the table or meeting their healthcare needs. Lack of affordable contraception directly affects unintended pregnancy, making it harder for Latin@s to plan their families and protect their health.

LANDMARK GAINS FOR LATINA HEALTH: THE AFFORDABLE CARE ACT

Latin@s now have greater access to public and private insurance thanks to Medicaid expansion, tax credits for insurance purchased on the Marketplace, and expansions in coverage for young people.

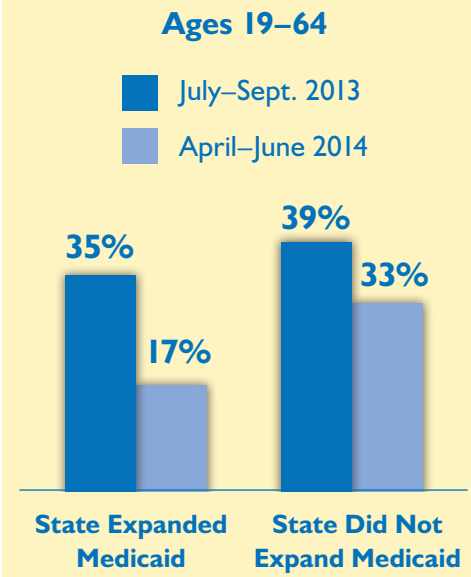
For decades, the rate of uninsured Latin@s has been higher than that of any other racial or ethnic demographic in the United States. After only one enrollment cycle of the ACA health insurance marketplace, the overall Latin@ uninsured rate dropped significantly—from 36 percent to 23 percent.[19]

10.2 million uninsured Latin@s are eligible to purchase health insurance through the health insurance marketplace,[20] of which over 3.9 million Latin@s qualify for marketplace premium tax credits (PTC), making health insurance more affordable and accessible.[21] Unfortunately, potentially eligible Latin@s were significantly less likely than their non-Latin@ counterparts to have gone to the market place: 3 of 10 Latin@s who were uninsured or had individual coverage visited the marketplace, compared with half of non-Hispanic whites (47 percent).[22]

An estimated 5.7 million eligible uninsured Latin@s have family incomes below 138 percent of the FPL, the threshold for qualifying for Medicaid in expansion states, but only three million live in states that have implemented Medicaid expansion.[23] So far, the steepest gains in enrollment for uninsured Latin@s have occurred for low-income Latin@s in Medicaid expansion states, where the Latin@ uninsured rate dropped to 17 percent.[24]

Additionally, the provision of the ACA that allows young adults to remain on their parents insurance until 26 has allowed 913,000 young Latin@s, including 375,000 Latinas, to remain insured.[25] Efforts need to continue in order to ensure that all eligible Latin@s enroll, and that the ACA is fully realized.

PERCENT OF UNINSURED LATINO ADULTS



Source: The Commonwealth Fund, www.commonwealthfund.org/~/media/files/publications/issue-brief/2014/sep/1775_doty_catching_up_latino_hlt_coverage_aca_tb_v3.pdf?la=en

Latin@s now have legal protection against discrimination based on sex, gender identity, and/or sexual orientation in healthcare services.

Section 1557 of the ACA is the first federal civil rights law to prohibit sex discrimination in healthcare. Section 1557 prohibits discrimination on the grounds of race, color, national origin, sex, age, or disability under "any health program or activity, any part of which is receiving Federal financial assistance … or under any program or activity that is administered by an Executive agency or any entity established under [Title I of ACA]."[26]

Prior to the ACA, Latinas were charged more for health insurance than their male counterparts; the ACA eliminates this discrimination.[27] In addition to making insurance more affordable, plans must now cover broad essential health services, including maternity care. Furthermore, under the ACA, transgender Latin@s will have legal protection from discrimination in receiving health services because of gender identity.

8.8 million Latin@s and their families now lead healthier lives and are able to detect and treat diseases sooner thanks to preventive care without co-pays.[28] The preventive services requirement of the ACA has expanded the world of health services available to Latinas. Health services that must be offered without cost-sharing include well-woman visits, mammograms, contraception, screening and counseling for intimate partner violence, and testing for STIs. Well-woman visits and STI testing alone will help with early detection and treatment of cervical cancer.

Furthermore, access to all Federal Drug Administration (FDA)-approved contraception without cost sharing or co-pay will allow Latin@s to plan and space pregnancies. This will improve the health of a woman and her children. Planning the number and spacing of children reduces the risk of maternal death, low birth weight, and infant mortality.[29] Despite challenges in the courts, it is imperative that all women are able to access this benefit, regardless of their employer or source of insurance (challenges discussed below).

Latin@s will increasingly be able to see healthcare providers who understand our culture, speak our language(s), and/or come from our communities. The ACA includes provisions to expand funding to community health centers, attract healthcare workers to underserved areas, and provides training for healthcare workers to better interface with diverse populations.

For many Latin@s, community health centers are the only location where they are able to obtain accessible and affordable healthcare. Through 2016, community health centers will receive $11 billion in funding allocated under the ACA to support existing operations and open new centers to deliver care to more communities,[30] which serve over one-third of Latin@s.[31] The ACA additionally creates and revitalizes a number of programs to enhance the healthcare workforce in order to better serve our communities, in particular to train community health workers and Promotores to work with Latin@ populations and to attract healthcare workers to low-income communities, communities of color, and those who live in areas with few providers.[32] The ACA provides grants for language and cultural competency training for healthcare workers, as well as incentives and loan repayment plans to help bring more underrepresented groups into healthcare fields.[33]

FULFILLING THE PROMISE OF THE ACA: RECOMMENDATIONS

Unfortunately, some politicians and policymakers want to roll back the gains of the ACA. State and federal efforts are underway to defund, repeal, or undermine key provisions, and private parties continue to file suit and litigate challenges to the constitutionality of multiple provisions of the ACA. Continued advocacy and vigilance is needed to realize the promise of the ACA and ensure our communities receive the healthcare they need.

> ***"Too many Latin@s are still without access to basic necessities of healthcare, and opponents are doing their best to roll back these recent gains."***
>
> — Jessica González-Rojas, Executive Director, NLIRH

Threats to Medicaid Expansion Endanger Latin@s' Health and Lives.

Medicaid expansion is a historic opportunity for all Latin@s to have affordable, quality healthcare. As part of the ACA, state leaders have the ability to expand their Medicaid programs to provide access to coverage for more low-income adults. However, a 2012 Supreme Court decision made it possible for states to reject Medicaid expansion.[34] At this moment, only 28 states and the District of Columbia have chosen to expand Medicaid. While 5.7 million eligible, uninsured Latin@s nationally have family incomes at or below 138 percent of the federal poverty level (the threshold to qualify for states who choose to expand Medicaid),[35] only half of these eligible Latin@s live in states that have expanded Medicaid.[36]

Medicaid covers a number of essential health services that are pivotal for the Latin@ community, including preventive health services, such as cervical cancer screenings and contraceptive coverage, and prenatal care. For the 1 in 4 Latinas who live in poverty,[37] Medicaid may be their only lifeline for basic, quality healthcare. If all state policy makers expanded Medicaid, 95 percent of Latin@s would qualify for Medicaid, Children's Health Insurance Program (CHIP), or tax credits on the Marketplace, making private health insurance plans more affordable. 4.6 million Latin@s would be able to obtain the care they need.[38]

Unfortunately, many states with growing Latin@ communities that would be eligible for Medicaid under the expansion model have rejected expansion, denying this important health coverage to millions. These include states such as Texas and Florida, who respectively each have 2.5 million and 1.1 million Latin@s who would benefit from Medicaid expansion.[39]

RECOMMENDATION: Fully implement Medicaid expansion.

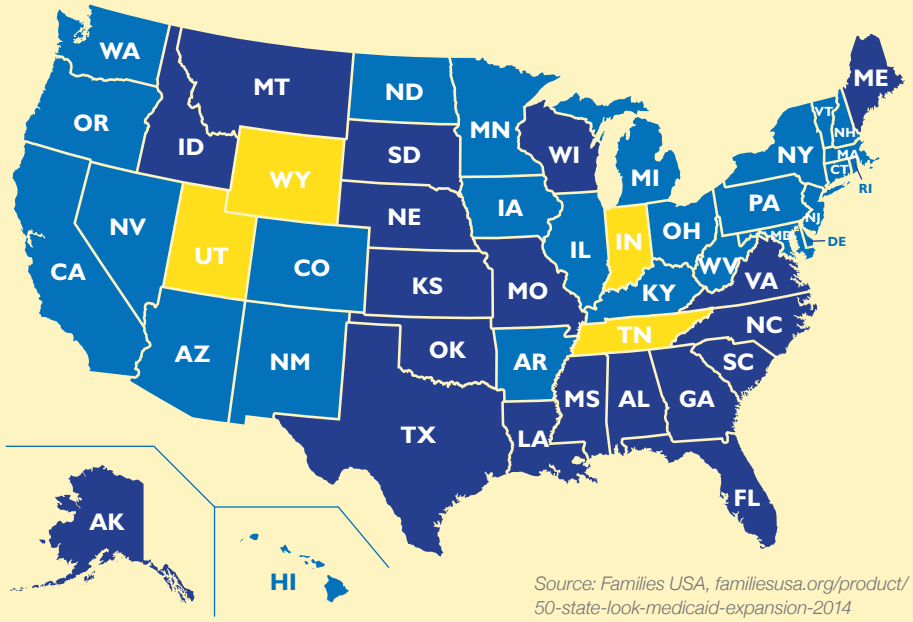
MEDICAID EXPANSION

28 **States Expanding Medicaid To Date** (including Washington D.C.)

19 **States Not Currently Expanding Medicaid**

4 **States to Watch**

Many states with growing Latin@ communities have rejected expansion, denying this important health coverage to millions. These include states such as **Texas and Florida,** who respectively each have **2.5 million** and **1.1 million Latin@s** who would benefit from Medicaid expansion.



Source: Families USA, familiesusa.org/product/50-state-look-medicaid-expansion-2014

Every Latina Should Have Contraceptive Coverage, No Matter her Employer or Source of Insurance.

Access to safe, effective, and affordable contraception, including emergency contraception, is good for the health of Latinas, good for the wellbeing of their families, and good for our communities. The ACA ensures that every woman can receive health insurance coverage for preventive health services, including contraception. The contraceptive coverage benefit allows women to receive all FDA-approved methods of contraception, contraceptive devices, and related education and counseling without having to pay a co-pay. This promise has been undermined administratively and in the courts ever since. Since 2010, the administration has granted an exemption for religious employers, and an accommodation to religiously affiliated non-profits. The Court has further extended the accommodation to for-profit employers in *Hobby Lobby v. Burwell,* and provided a further alternative process to the accommodation for religious employers.[40]

Religiously affiliated non-profit employers continue to want to use their personal beliefs to deny this benefit to their workers and have filed 48 lawsuits to do so.[41]

Ultimately, these efforts will have a devastating impact on low-income Latin@s, who already experience severe health disparities, and the promise of the ACA will not be fully realized in the Latin@ community.

RECOMMENDATION: Pass and fully implement the Protect Women's Health from Corporate Interference Act (also known as the "Not My Bosses Business Act"), first introduced in the 113th Congress. This Act would restore the original legal guarantee of the ACA that women have access to contraceptive coverage through their employment-based insurance plans.[42]

Efforts to Dismantle or Defund the ACA Pose a Threat to Historic Gains.

From 2010 to 2013, the House of Representatives has voted over fifty times to repeal, defund, delay, or otherwise amend the implementation of the ACA.[43] With an increasingly vocal opposition, efforts to defund and repeal the ACA will only continue. If partially or fully defunded, many positive gains in the lives of Latin@s will be lost. Defunding the ACA would affect millions of Latin@s by cutting back preventive services under Medicare, eliminating the preventive services requirement, reduce funding to community health centers, and cutting funding for CHIP.

RECOMMENDATION: Fully fund all provisions of the Affordable Care Act.

Nondiscrimination Provisions are Critical for Women's, LGBTQ Health.

Section 1557 of the ACA promises that Latin@s no longer face discrimination in services or benefits because of sex, gender identity, and/or sexual orientation. Under Section 1557, if transgender and gender non-conforming persons are denied treatment, health benefits, or coverage of health benefits by insurance companies, and/or are discriminated against by their providers on the basis of race, color, national origin, disability, age, or sex, the Department of Health and Human Services' Office of Civil Rights can investigate complaints. Section 1557 provides the opportunity for transgender and gender non-conforming persons to access care without fear of discrimination and to have the support of the federal government if they experience discrimination in the healthcare setting.

This groundbreaking provision has the potential to improve the healthcare and health outcomes of transgender and gender non-conforming persons of color. However, the Administration has stalled in introducing a regulatory mechanism for enforcing this provision. The Office for Civil Rights has announced that they are open to receiving and investigating complaints. But without further regulatory guidance, there is no streamlined process to facilitate complaints.

RECOMMENDATION: Implement section 1557 via an expedient administrative rule making process.

HEALTH FOR ALL: BUILDING ON THE GAINS OF THE ACA

Efforts to undermine the ACA threaten important gains for Latin@ health. With the ACA, Latin@s have access to quality, affordable healthcare, including reproductive healthcare. As a community, Latin@s deserve the full implementation of the ACA and will continue to work with policy makers to make this a reality for all Latin@s. However, in order to ensure that all people have access to high quality and affordable healthcare, Latin@s need additional legislative action.

The Health Equity and Accountability Act (HEAA), if passed and enacted into law, would build on the foundations of the ACA to eliminate health disparities for communities of color, and for the subpopulations that face additional barriers due to factors including, but not limited to, immigration status, age, sex, disability, sexual orientation, gender identity, and limited English proficiency. HEAA would provide federal resources, policies, and infrastructure to: improve data collection and reporting; advance culturally- and linguistically-appropriate healthcare; expand healthcare workforce diversity and training; improve access to healthcare coverage and services; improve healthcare outcomes for women, children, and families; address mental health and high-impact minorities diseases; support health information technology, enhance accountability and evaluation, improve environmental justice and address social determinants of health.

HEAA is a principled, strategic, and comprehensive bill to reduce ethnic and racial health disparities and achieve health equity. The bill has been introduced in every Congress since 2003 by the Congressional Tri-Caucus, which is comprised of the Congressional Asian Pacific American Caucus (CAPAC), the Congressional Black Caucus (CBC), and the Congressional Hispanic Caucus (CHC).

RECOMMENDATION: Pass the Health Equity and Accountability Act (HEAA).

The Health Equity and Access under the Law (HEAL) for Immigrant Women and Families Act would restore access to Medicaid and CHIP for all lawfully present immigrants who are otherwise eligible, by eliminating the five-year bar on enrollment and the outdated, restrictive list of "qualified" immigrants, both established by the 1996 welfare law. Further, the bill specifically enables lawfully present young people

(DREAMers) granted status under the DACA program to participate fully in the ACA—by allowing them to buy coverage on the health exchanges, obtain subsidies designed to make coverage affordable, and access care through the Basic Health Program—and to enroll in Medicaid or CHIP if they are otherwise eligible.

RECOMMENDATION: Pass the HEAL Immigrant Women and Families Act.

The Hyde Amendment, first attached to an annual appropriations bill in 1976, bans federal Medicaid insurance funds from covering for abortions, discriminates against low-income women, and functions to intentionally deny meaningful access to their constitutional right to decide to end a pregnancy. In order to ensure that all Latin@s are able to access the full range of pregnancy related services and make decisions about what is best for them and their families, it is imperative to repeal the Hyde Amendment. Congress must remove all language in annual appropriations legislations that restricts coverage for or provision of abortion care in public health insurance programs. This includes repealing Hyde, and all policies that restrict funding for abortion care and coverage for: Medicaid- eligible women and Medicare beneficiaries; federal employees and their dependents, Peace Corps volunteers; Native American women; women in federal prisons and detention centers, including those detained for immigration purposes; and use by the District of Columbia of its own funds for abortion coverage in private health insurance. Finally, it is imperative that Congress enacts proactive legislation to permanently repeal abortion coverage bans and prohibit states from interfering with abortion coverage in private insurance plans, including in state healthcare exchanges.

RECOMMENDATION: Repeal the Hyde Amendment and lift the bans on insurance coverage for abortion in Medicaid and ensure abortion coverage for all populations for whom the federal government acts as employer, insurer, or provider/facilitator of healthcare.

The National Latina Institute for Reproductive Health (NLIRH) is the only national reproductive justice organization dedicated to building Latina power to advance health, dignity, and justice for the 26 million Latinas, their families, and communities in the United States through leadership development, community mobilization, policy advocacy, and strategic communications.

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1 The authors of this fact sheet, conscious of the importance of gender inclusivity in the production of educational materials in the English language, have incorporated neutral terms throughout this document. Specifically, we have used the "@" sign to represent the diversity of our community and to include persons who do not conform to traditional gender identities. The term Latino or Latina is only used when citing data that utilizes the gender binary.

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