

HOW TO STOP ABUSE OF MEDICAID REASONABLE OPPORTUNITY PERIODS



LIESEL CROCKER
Senior Research Fellow

FGA

OCTOBER 24, 2025

TheFGA.org/research/MedicaidReasonableOpportunityPeriods

Key Findings



- 1** FEDERAL LAW PROHIBITS ILLEGAL ALIENS FROM RECEIVING PUBLIC BENEFITS, INCLUDING MEDICAID.
- 2** ABUSE OF REASONABLE OPPORTUNITY PERIODS HAS ALLOWED ILLEGAL ALIENS **TO REMAIN ENROLLED IN MEDICAID FOR MONTHS OR YEARS ON END.**
- 3** THE NUMBER OF APPLICANTS ENROLLED IN MEDICAID WITHOUT VERIFICATION OF CITIZENSHIP OR IMMIGRATION STATUS **SKYROCKETED DURING THE BIDEN ADMINISTRATION, COSTING MILLIONS.**

THE BOTTOM LINE:

To curb abuse, the Trump administration should limit reasonable opportunity periods to one 30-day window, and states should require welfare agencies to refer illegal aliens to immigration enforcement.

Background

The Medicaid program was designed to provide a safety net for the truly needy—children from low-income households, individuals with disabilities, and the elderly.¹ Unfortunately, Medicaid has expanded well beyond its purpose, and has become a sprawling, budget-busting welfare program.² In recent years, more and more Medicaid dollars have been diverted to paying for illegal aliens, despite the fact that they are ineligible to enroll in Medicaid.³

It is longstanding federal policy that illegal aliens should not be eligible to receive taxpayer-funded benefits and support. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 prohibits illegal aliens from receiving most forms of welfare.⁴ Additionally, federal law specifically prohibits federal Medicaid funding for those without a lawful immigration status, with an exception for treatment of emergency medical conditions.⁵

President Biden's open-border policies led to an explosion of illegal immigration.⁶ Between 2017 and 2020, only three million encounters were recorded.⁷ But from 2021 to 2024, Customs and Border Patrol recorded more than 10.8 million encounters with illegal aliens.⁸ As of 2022, the Department of Homeland Security estimated that there were more than 11 million illegal aliens living in the United States, though due to the nature of lacking lawful immigration status, it is difficult to estimate and the total could be much higher.⁹

Since 2017, federal and state governments have shelled out \$27 billion on emergency medical care for individuals who do not qualify for Medicaid due to immigration status.¹⁰ These costs more than doubled during the Biden administration.¹¹

Medicaid is diverting resources to illegal aliens at the expense of the truly needy. Abuse of eligibility laws have allowed illegal aliens to enroll in Medicaid without penalty for years.

Reasonable opportunity periods allow illegal aliens to enroll in Medicaid

Abuse of reasonable opportunity periods has allowed illegal aliens to remain enrolled in Medicaid for months or years on end despite being ineligible.¹² To enroll in Medicaid, an individual must be a citizen or have a lawful immigration status such as being a green card holder, a victim of trafficking, or a refugee.¹³ Federal law requires states to verify citizenship or legal immigration status when determining Medicaid eligibility.¹⁴ State agencies are required to request documentation of citizenship or immigration status, and use an electronic system to verify the accuracy of the documentation.¹⁵

If an applicant is unable to provide documentation of citizenship status, federal law requires that states provide a reasonable opportunity period during which the applicant is allowed to enroll in Medicaid.¹⁶ Currently, federal regulations stipulate that a reasonable opportunity period should be 90 days from the date than an applicant receives the notice that their immigration status has not been verified.¹⁷ **During this time, the applicant is supposed to acquire any missing documentation and the state agency is supposed to verify citizenship or immigration status.**¹⁸

The regulations allow for the reasonable opportunity period to be extended.¹⁹ Additionally, **states are granting new reasonable opportunity periods to the same applicants over and over**, allowing those without verified citizenship or immigration status to remain on Medicaid indefinitely.²⁰



STATES ARE GRANTING NEW REASONABLE OPPORTUNITY PERIODS TO THE SAME APPLICANTS OVER AND OVER.

Abuse of reasonable opportunity periods has skyrocketed

The intent behind the reasonable opportunity period is to allow a short window of time during which citizenship or immigration documentation can be provided by the applicant and verified by the agency. However, the explosion in illegal immigration is correlated with a surge in the use of reasonable opportunity periods. In a review of data provided by 10 states, there was a **45 percent increase in the number of Medicaid enrollees who were in a reasonable opportunity period from 2019 to 2023.**²¹ In just eight states, Medicaid expenditures for those in a reasonable opportunity period enrollment status was more than \$45 million over four years.²²

In Texas, there was a tenfold increase in Medicaid enrollees covered by a reasonable opportunity period, rising from 542 in 2019 to nearly 5,200 in 2022.²³ Kentucky reported zero Medicaid enrollees on a reasonable opportunity period in 2019, and more than 13,000 in 2023.²⁴

Even more alarming, the number of those covered under reasonable opportunity periods who were unable to provide proof of citizenship or lawful immigration status increased by more than 400 percent during the same period.²⁵

Due to extensions or states giving multiple reasonable opportunity periods to the same applicant, 70 percent of reasonable opportunity periods lasted longer than 90 days in 2023.²⁶ In one state, some applicants were allowed to remain enrolled in Medicaid for 14 years without providing verification of citizenship or immigration status.²⁷

Only three out of 10 reasonable opportunity periods WERE 90 DAYS OR LESS.

Source: State Medicaid Agencies



In 2024, President Biden finalized a new regulation that made it even more difficult for states to enforce the law that requires proof of citizenship or lawful immigration status to enroll in Medicaid.²⁸ The Medicaid “streamlining” rule removed the option for states to cap the number of

reasonable opportunity periods that can be given to the same applicant.²⁹ Fortunately, Congress passed, and President Trump signed, the One, Big, Beautiful Bill, which paused enforcement of the Biden-era rule, allowing states to cap the number of reasonable opportunity periods that an applicant can receive.³⁰

It is crucial to crack down on waste, fraud, and abuse in Medicaid to ensure that resources are available for the truly needy. Even though federal law requires reasonable opportunity periods, the Trump administration and states can work to limit abuse and ensure that those who are unable to demonstrate eligibility are swiftly removed from Medicaid.

Reasonable opportunity periods should be limited, and states should work with immigration enforcement

States are permitted to accept self-attestation for certain Medicaid eligibility criteria.³¹ Citizenship or lawful immigration status must be verified through documentation, but federal law also requires a reasonable opportunity period to be provided by the state agency, and for the applicant to be enrolled during the reasonable opportunity period.³² This means that if a state agency is unable to verify citizenship or immigration status, but the applicant attests to being eligible, they must be enrolled in Medicaid. Current regulations state that a reasonable opportunity period should last 90 days, and extensions should be given if needed.³³

To crack down on abuse of reasonable opportunity periods, **the Trump administration should update the regulations to limit a reasonable opportunity period to 30 days.** Additionally, states should limit each applicant to one reasonable opportunity period and end the practice of allowing someone without verified immigration status to remain enrolled in Medicaid for months or years on end.

If an applicant's verification fails or if they fail to resolve their status during the reasonable opportunity period, states should require that this information be shared with immigration enforcement. For example, Louisiana requires state agencies to report applicants for any welfare program, including Medicaid, to Immigration and Customs Enforcement if the individual is not a citizen or if they fail to verify their citizenship status.³⁴ More states should follow Louisiana's lead and ensure that welfare programs are not being exploited by those who are ineligible.

TO CRACK DOWN ON ABUSE

- Update the regulations to limit a reasonable opportunity period to **30 DAYS.**
- Limit each applicant to **ONE** reasonable opportunity period.
- End the practice of allowing someone without verified immigration status to remain enrolled in Medicaid **FOR MONTHS OR YEARS ON END.**

THE BOTTOM LINE: To curb abuse, the Trump administration should limit reasonable opportunity periods to one 30-day window, and states should require welfare agencies to refer illegal aliens to immigration enforcement.

Federal law prohibits illegal aliens from receiving federally funded Medicaid. Yet, the law also requires states to provide a reasonable opportunity period and enroll applicants before verifying citizenship or lawful immigration status.

The Trump administration and states can work together to ensure that reasonable opportunity periods are not being abused to allow illegal aliens to remain on Medicaid for months, diverting funds from the truly needy. By limiting reasonable opportunity periods to 30 days and referring illegal aliens to immigration enforcement, the federal government and states can improve Medicaid program integrity, save taxpayer dollars, and ensure that welfare programs are not incentivizing illegal immigration.

References

1. Paige Terryberry and Addison Scherler, "House-proposed work requirements would protect the truly needy, reduce dependency, and grow the economy," Foundation for Government Accountability (2025), <https://thefga.org/research/house-proposed-work-requirements-protect-the-needy>.
2. Ibid.
3. Hayden Dublois and Addison Scherler, "How Congress can stop states from diverting Medicaid resource to illegal aliens," Foundation for Government Accountability (2025), <https://thefga.org/research/stop-states-from-diverting-medicaid-resources-to-illegal-aliens>.
4. Public Law 104–193 (1996), <https://www.govinfo.gov/content/pkg/PLAW-104publ193/pdf/PLAW-104publ193.pdf>.
5. 42 U.S.C. 1396b (1996), https://www.govinfo.gov/content/pkg/USCODE-1996-title42/html/USCODE-1996-title42-chap6-subchapXIX_2-sec1396b.htm.
6. House Committee on Homeland Security, "Border crisis: Startling stats," House Committee on Homeland Security (2024), <https://homeland.house.gov/wp-content/uploads/2024/10/September-24-Startling-Stats.pdf>.
7. Ibid.
8. Homeland Security Committee, "Startling stats factsheet: Fiscal year 2024 ends with nearly 3 million inadmissible encounters, 10.8 million total encounters since FY 2021," U.S. House of Representatives (2024), <https://homeland.house.gov/2024/10/24/startling-stats-factsheet-fiscal-year-2024-ends-with-nearly-3-million-inadmissible-encounters-10-8-million-total-encounters-since-fy2021>.
9. Bryan Baker and Robert Warren, "Estimates of the unauthorized immigrant population residing in the United States: January 2018–January 2022," U.S. Department of Homeland Security (2024), https://ohss.dhs.gov/sites/default/files/2024-06/2024_0418_ohss_estimates-of-the-unauthorized-immigrant-population-residing-in-the-united-states-january-2018%25E2%2580%2593january-2022.pdf.
10. Congressional Budget Office, "Emergency Medicaid services for certain non-U.S. nationals," Congressional Budget Office (2024), https://www.cbo.gov/system/files/2024-10/Arrington_Letter_EmergencyMedicaid_Immigration_final.pdf.
11. Ibid.
12. Hayden Dublois and Addison Scherler, "How Congress can stop states from diverting Medicaid resource to illegal aliens," Foundation for Government Accountability (2025), <https://thefga.org/research/stop-states-from-diverting-medicaid-resources-to-illegal-aliens>.
13. Centers for Medicare and Medicaid Services, "Coverage for lawfully present immigrants," U.S. Department of Health and Human Services (2025), <https://www.healthcare.gov/immigrants/lawfully-present-immigrants>.
14. 42 U.S.C. 1320b-7 (2010), <https://www.govinfo.gov/content/pkg/USCODE-2010-title42/html/USCODE-2010-title42-chap7-subchapXI-partA-sec1320b-7.htm>.
15. 42 C.F.R. 435.956 (2025), <https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-C/part-435/subpart-J/subject-group-ECFRc649656b2ed45a8/section-435.956>.
16. 42 U.S.C. 1320b-7 (2010), <https://www.govinfo.gov/content/pkg/USCODE-2010-title42/html/USCODE-2010-title42-chap7-subchapXI-partA-sec1320b-7.htm>.
17. 42 C.F.R. 435.956 (2025), <https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-C/part-435/subpart-J/subject-group-ECFRc649656b2ed45a8/section-435.956>.
18. Ibid.
19. Ibid.
20. Hayden Dublois and Addison Scherler, "How Congress can stop states from diverting Medicaid resource to illegal aliens," Foundation for Government Accountability (2025), <https://thefga.org/research/stop-states-from-diverting-medicaid-resources-to-illegal-aliens>.
21. Ibid.
22. Author's calculations based on data provided by the states of Arizona, Kentucky, Missouri, North Dakota, South Carolina, Oklahoma, Texas, and Utah.
23. Author's calculations based on data provided by the Texas Department of Health and Human Services.
24. Author's calculations based on data provided by the Kentucky Cabinet for Health and Family Services.
25. Ibid.
26. Hayden Dublois and Addison Scherler, "How Congress can stop states from diverting Medicaid resource to illegal aliens," Foundation for Government Accountability (2025), <https://thefga.org/research/stop-states-from-diverting-medicaid-resources-to-illegal-aliens>.
27. Ibid.
28. Centers for Medicare and Medicaid Services, "Medicaid program; Streamlining the Medicaid, Children's Health Insurance Program, and Basic Health Program application, eligibility determination, enrollment, and renewal process," Federal Register Vol. 89, No 64: 22780-22878 (2024), <https://www.govinfo.gov/content/pkg/FR-2024-04-02/pdf/2024-06566.pdf>.
29. Ibid.
30. Public Law No: 119-21 (2025), <https://www.congress.gov/bill/119th-congress/house-bill/1/text>.
31. Liesel Crocker, "States should resist CMS schemes that keep Medicaid enrollment high," Foundation for Government Accountability (2025), <https://thefga.org/research/states-should-resist-cms-schemes-to-keep-medicaid-enrollment-high>.
32. 42 U.S.C. 1320b-7 (2010), <https://www.govinfo.gov/content/pkg/USCODE-2010-title42/html/USCODE-2010-title42-chap7-subchapXI-partA-sec1320b-7.htm>.
33. 42 C.F.R. 435.956 (2025), <https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-C/part-435/subpart-J/subject-group-ECFRc649656b2ed45a8/section-435.956>.
34. House Bill 307, Louisiana State Legislature (2025), <https://legis.la.gov/legis/ViewDocument.aspx?d=1425956>.



**15275 Collier Boulevard | Suite 201-279
Naples, Florida 34119
(239) 244-8808**

TheFGA.org | X @TheFGA | @ TheFGA | f TheFGA