

# **EXHIBIT 14**



*The Commonwealth of Massachusetts  
Commonwealth Health Insurance Connector Authority  
100 City Hall Plaza  
Boston, MA 02108*

CHARLES D. BAKER  
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Board Chair

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Executive Director

October 31, 2019

Edward J. Ramotowski  
Deputy Assistant Secretary  
Office of Visa Services  
Bureau of Consular Affairs  
U.S. Department of State  
600 19<sup>th</sup> Street, NW  
Washington, DC 20036

Department of State Desk Officer  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
725 17th Street, NW  
Washington, DC 20503

**Re: Notice of Information Collection Under OMB Emergency Review: Immigrant Health Insurance Coverage (Published in Federal Register Volume 84, Number 210, page 58199 on October 30, 2019)**

Dear Mr. Ramotowski:

The Massachusetts Health Connector respectfully avails itself of the opportunity provided by the U.S. Department of State to comment on the **“Notice of Information Collection Under OMB Emergency Review: Immigrant Health Insurance Coverage.”**

The Massachusetts Health Connector (“Health Connector”) is a state-based Marketplace (“SBM”) authorized under state law and the Affordable Care Act (ACA). The Health Connector is designed to connect Massachusetts residents with high quality, affordable health coverage and to promote universal health coverage in the Commonwealth. Today, the Health Connector serves over a quarter-million Massachusetts residents, including approximately 290,000 individuals as well as over 7,000 small business employees. The Health Connector’s efforts have contributed to the Commonwealth’s status as one of the healthiest states in the nation,<sup>1</sup> with a

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<sup>1</sup> See [www.mass.gov/news/massachusetts-named-healthiest-state-in-the-nation](http://www.mass.gov/news/massachusetts-named-healthiest-state-in-the-nation).

nation-leading health insurance rate of over 97 percent,<sup>2</sup> and the lowest-cost average Marketplace premiums in the country for the past three consecutive years.<sup>3</sup>

In 2006, Massachusetts enacted a landmark package of health care reforms, including state subsidy programs for low- and moderate-income individuals, including for lawfully present immigrants, as well as a state-level individual mandate to have health insurance, which is also applicable to lawfully present immigrants.

The Presidential Proclamation on the Suspension of Entry of Immigrants Who Will Financially Burden the United States Healthcare System (“PP 9945”) will introduce significant risks to the Commonwealth’s hard-won progress over the past 13 years to ensure all lawful residents have access to affordable health care and prevent the Commonwealth from maintaining its steady and high insurance rate and limits access to health coverage supports our Commonwealth has worked to make available for immigrants. As such, **we strongly object to the Proclamation in principle and for the infeasibility and lack of care contemplated in its implementation. Further, we strongly object to the clearly inadequate public comment period being made available, particularly in light of the significant implications of this proposal.** Specifically:

**1. As a practical matter, PP 9945 effectively precludes visa-seeking immigrants from gaining access to health insurance coverage through Marketplaces, in contravention of the Affordable Care Act and the stated purpose of the Proclamation.**

The Proclamation and Notice of Information Collection suggest insufficient thought has gone into contemplating the practical details of how such a policy would be carried out for affected individuals, and it shows little understanding of procedural norms or requirements in the health benefits arena. For example, while the Proclamation contemplates that unsubsidized commercial coverage obtained through a Marketplace (like the Health Connector) would qualify as adequate coverage, it fails to recognize the practical difficulty, if not impossibility, of establishing proof of such coverage while abroad. Under federal law and regulation associated with the Affordable Care Act, an individual applying for commercial unsubsidized coverage through a Marketplace must show proof of residency in that state as well as lawful presence, which contradicts the Proclamation’s supposition that the individual could have already obtained such coverage or be able to prove that it is forthcoming.

PP 9945 creates a Catch-22: Under existing federal law, immigrants cannot access insurance through Marketplaces without verifying residency and lawful presence through a strict eligibility process this federal Administration has championed. Yet under PP 9945, those seeking to establish residency and lawful presence through proper immigration channels cannot do so without verifying insurance status. As a result, individuals who otherwise could become lawfully present immigrants and qualify for health insurance under federal law will be barred from both aims. This paradox is contrary to federal law and illogical in its practical result.

**2. PP 9945 shows disregard for the economic and health benefits of ensuring health insurance coverage for all immigrant residents, including the working poor who are still in progress on the path to economic security.**

The Commonwealth has maintained a requirement for over a decade that all adults have access to health insurance if affordable. This approach to promoting widespread coverage was developed with careful consideration and coordination with subsidy supports and public coverage to ensure that lower-income residents can access coverage that is affordable and comprehensive. In Massachusetts, we have a longstanding array of public coverage programs, like the Health Connector’s ConnectorCare program which lowers the premiums and cost sharing for eligible individuals and families that are at or below 300 percent of the federal poverty level (FPL). These affordability supports are available to lawfully present immigrants, at the direction of the United States Congress when it passed the Affordable Care Act, and at the direction of Massachusetts

<sup>2</sup> U.S. Census Bureau, at [www2.census.gov/programs-surveys/demo/tables/p60/264/table6.pdf](http://www2.census.gov/programs-surveys/demo/tables/p60/264/table6.pdf).

<sup>3</sup> Analysis of CMS Public Use Files, at [www.cms.gov/CCIIO/Resources/Data-Resources/marketplace-puf.html](http://www.cms.gov/CCIIO/Resources/Data-Resources/marketplace-puf.html).

state law. This Proclamation risks undermining those legal rights by introducing countervailing requirements blocking access to such coverage. To do so undermines the health and economic security of those immigrants, and their communities and the state economy. Massachusetts’s experience demonstrates that providing affordable coverage opportunities along with requiring coverage is an effective way to reduce uncompensated care costs. The Proclamation fails to acknowledge the criticality of affordable options to increasing insurance coverage rates.

**3. Because immigrants will not be able to seek health insurance through Marketplaces, PP 9945 undermines the health of Massachusetts’s insurance market, potentially affecting coverage for immigrants and non-immigrants alike.**

Beyond the immediate harms to lawfully present immigrants being barred from accessing insurance through Marketplaces like the Health Connector, the Proclamation undermines our commercial insurance market by seeking to excise lawfully present immigrants from the coverage to which they are legally entitled. Lawfully present immigrants in Massachusetts are more likely to represent “favorable” insurance risk, because they are often younger, healthier, or lower-than-average utilizers of health care services when compared to the general insured population. Several studies have concluded that immigrants are net contributors to both private coverage and Medicare, paying more in insurance premiums than they receive in benefits.<sup>4</sup> Similarly, the Health Connector’s own data demonstrates that its immigrant enrollees, on average, have 25% lower medical claims than its citizen members, a variance attributable both to the lower age of immigrant enrollees as well as lower utilization of medical services.<sup>5</sup> As a result, declines in take-up or retention of immigrant coverage related to the proposed rules could have an impact on the overall risk pool—in turn leading to commercial market premium increases for citizens and immigrants alike. Increased premiums will lead to higher rates of uninsurance among all Americans, increasing the uncompensated care burden the Proclamation purports to address.

By attempting to discourage immigrants from enrolling in coverage to which they are legally entitled, the federal Administration is likely to increase commercial market premiums in Massachusetts, hurting individuals as well as small businesses because of our unique “merged market” structure. In Massachusetts, individuals and small businesses share a risk pool, insurance products, and premiums. As a result, changes to the Health Connector’s individual enrollment can extend to a broader pool that includes Massachusetts’s small business community, potentially increasing premiums across the board.

Of further concern, the proclamation seeks to permit Short-Term Limited Duration Plan (STLDP) coverage, which do not comply with the Affordable Care Act’s consumer protections, nor those codified in Massachusetts General Laws, to qualify as “acceptable” coverage. Such plans have been widely demonstrated to lack critical comprehensive coverage<sup>6</sup> and can be prohibitively expensive for individuals with pre-existing conditions. Further, such plans do not satisfy Massachusetts’s own individual mandate requirements or meet state-based legal requirements governing the sale of insurance coverage to individuals in the Commonwealth of Massachusetts. Diverting qualified legal immigrants from meaningful, comprehensive coverage to which they are legally entitled and instead directing them towards companies that engage in medical underwriting, spend

<sup>4</sup> Zallman, L., Woolhandler, S., Touw, S., Himmelstein, D.U., and Finnegan K.E. (2018). Immigrants pay more in private insurance premiums than they receive in benefits. *Health Affairs* 2018 37:10, 1663-1668.

<sup>5</sup> Health Connector analysis of claims data.

<sup>6</sup> A Kaiser Family Foundation analysis of STLDI sold in 2018 shows that 43% did not cover mental health services, 62% did not cover services for substance abuse treatment, and 71% did not cover outpatient prescription drugs. No plans covered maternity care, and, in seven states, STLDI covered none of these four benefit categories. These policies had out-of-pocket maximums as high as \$30,000 and lifetime limits on care ranging from \$250,000 to \$2 million. A separate study from Georgetown University found that the best-selling STLDI policies in five states had out-of-pocket maximums from \$7,000 to \$20,000 for only three months (compared to the maximum of \$7,150 for 12 months for an ACA-compliant plan that year). See: Karen Pollitz et al., *Understanding Short-Term Limited Duration Health Insurance*, Kaiser Family Foundation (Apr. 2018). Even when these benefits are covered by STLDI, they are subject to a number of limitations and exclusions, such as dollar limits on care; and Dania Palanker et al., *New Executive Order: Expanding Access to Short-Term Health Plans is Bad for Consumers and the Individual Market*, The Commonwealth Fund (Oct. 2017).

the majority of premium revenue on non-medical expenses<sup>7</sup>, and are known to exclude core benefits like maternity, mental health, and substance use disorder treatment threatens both individuals' health and financial well-being. Further, it encourages insurers to profit off of immigrants seeking a new life in the United States, and sets affected immigrants up for failure to meet Massachusetts's individual mandate requirements, interfering with our long-standing stewardship of health coverage options for our residents, including lawfully present immigrants.

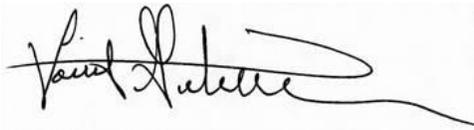
In addition to these specific concerns with the implementation and policy shortcomings of the subject Proclamation, we wish to voice our fundamental opposition to a policy that is designed to exclude lower-income immigrants from entering the United States and accessing meaningful health coverage. This policy is counter to the mission of the Health Connector, which is to ensure that all Massachusetts residents have access to affordable, comprehensive health coverage to ensure their ability to live safe, productive, and fulfilling lives in our Commonwealth and in our nation.

Finally, we strongly object to the two-day comment period afforded to the public on this proposal, which will profoundly affect our immigration and health care systems. Two days is wholly inadequate to allow for the sufficient public consideration that a policy of this significance merits, and this policy in no way constitutes an emergency.

We therefore urge you to withdraw and reconsider this policy, and we request that reasonable time be provided for public analysis and comment on any subsequent related proposal.

We thank you for consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Louis Gutierrez", with a long horizontal flourish extending to the right.

Louis Gutierrez  
Executive Director

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<sup>7</sup> Data from the National Association of Insurance Commissioners (NAIC) shows that STLDI insurers had an average loss ratio of 64.6% in 2017 (compared to 80% for ACA-compliant individual market policies). The three largest insurers offering STLDI had even lower loss ratios of 43.7%, 34.0%, and 52.1%. In other words, the majority of STLDI premium revenue for those insurers went to profit, marketing, and other expenses unrelated to medical care. See: National Association of Insurance Commissioners, *2017 Accident and Health Policy Experience Report*, at 83 (2018).