

## **EXHIBIT 6**

CENTER FOR ELDER LAW AND JUSTICE PUBLIC COMMENT IN RESPONSE TO  
 PRESIDENTIAL PROCLAMATION 9945 REGARDING  
 IMMIGRANT HEALTH INSURANCE AND 2-DAY COMMENT PERIOD

The Center for Elder Law and Justice strongly opposes both Presidential Proclamation 9945 requiring that immigrants provide proof of acquisition of health insurance, or of funds sufficient to acquire health insurance after arriving in the US, and the 2 day “emergency” comment period enacted by the Department of State with regard to the Presidential Proclamation. The Proclamation itself is overbroad and unduly vague, and also places an unjustified burden on immigrants to obtain only limited types of health insurance plans. The 2-day “emergency” comment period is an affront to due process and an unfair limitation on all Americans’ First Amendment rights to petition the government for redress of grievances.

The Proclamation, set to go into effect in a matter of days, sets hasty and ill-thought-out limitations on immigrants with respect to health insurance without proper guidance as to how these immigrants can abide by the new rule. In this respect it is arbitrary and capricious. The Proclamation requires, for example, immigrants who do not already have health insurance in the United States to provide evidence of funds sufficient to purchase insurance. Nowhere in the Proclamation does it state how much money is needed to be deemed “sufficient.” It also does not state how long an immigrant needs to prove that he or she can afford to maintain health insurance. Immigrants will appear for their visa interviews not knowing how much money they should have saved up in the one-month period of time between the issue of the Proclamation and the date it is set to take effect. Nor will they know whether they need to prove that they can buy one month, one year, or a lifetime’s worth of health insurance in order to come to the United States. For immigrants who are coming to the United States on employment visas, they may not yet have information from their employers on the specific health insurance plans that will be available to them from their new employers, if their new employers offer coverage. Since the Proclamation offers no guidance as to how immigrants can demonstrate compliance, it should be repealed in its entirety.

Further, the Proclamation does nothing to achieve its stated “justification” that the government needs to lessen the number of immigrants who require Medicaid coverage or other

government-subsidized care. Although the Proclamation seeks to achieve this goal by forbidding immigrants from using Medicaid eligibility or eligibility for subsidies to purchase coverage on Affordable Care Act exchanges, in reality the Proclamation does nothing to prevent immigrants from using those products once they arrive in the United States. Although the Proclamation states that coverage through Medicaid or the Affordable Care Act subsidized plans is not adequate to demonstrate compliance with the health insurance rule, it does allow the purchase of short-term plans that do not meet the ACA's health insurance plan requirements to qualify. These "junk plans," as they are more commonly known, provide almost no realistic coverage. Once immigrants who have purchased these plans (or demonstrated the financial ability to do so) have arrived in the United States, they will still need comprehensive health insurance in order to secure their access to health care. This means they will still need to sign up for either Medicaid or plans on ACA exchanges, as Congress has not passed any law forbidding immigrants from accessing these products. Thus, the only real achievement of the Proclamation is to funnel unnecessary spending into "junk plan" markets by immigrants. The government will still subsidize their eventual Medicaid or ACA exchange health insurance plans, after a *de facto* kickback to the companies that issue "junk plans." Since the Proclamation does nothing to meet its stated goal of reducing government spending on immigrant health insurance, it should be repealed in its entirety.

Finally, the 2 day comment period set by the Department of State is an affront to the public's right to respond. Since this was not a law duly passed by our elected officials, a comment period is the only way in which the public can petition the government for redress in response to this Proclamation. Offering a comment period of merely 2 days, with little public notice of said comment period, is the functional equivalent to offering no comment period at all. Drafting well-researched and thoughtful commentary to new regulations is a process that takes time and effort. Allowing only 2 days for public comment on such a flawed regulation effectively violates the public's First Amendment rights to adequately respond to the Proclamation. Putting aside the glaring flaws in the Proclamation itself, the fact that it was issued with only a 2 day "emergency" comment period is reason enough for it to be repealed until the American people can have adequate time to properly express their opinions on this issue.