No. 19-36020

IN THE

United States Court of Appeals for the Ninth Circuit

JOHN DOE #1, *ET AL.*,

Plaintiffs-Appellees,

v.

DONALD TRUMP, *ET AL.*,

Defendants-Appellants.

On Appeal from Decision of the United States District Court
for the District Court of Oregon
No. 3:19-CV-1743-SI

BRIEF OF AMERICAN MEDICAL ASSOCIATION AND AMERICAN ACADEMY OF PEDIATRICS AS *AMICI CURIAE* IN SUPPORT OF THE PETITION FOR REHEARING EN BANC

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CORPORATE DISCLOSURE STATEMENT

Amici are non-profit organizations that do not have parent corporations or issue stock.

INTEREST OF *AMICI CURIAE*[1]

The American Medical Association ("AMA") is the largest professional association of physicians, residents, and medical students in the United States. Through state and specialty medical societies and other physician groups seated in its House of Delegates, substantially all United States physicians, residents and medical students are represented in the AMA's policymaking process. The AMA was founded in 1847 to promote the science and art of medicine and the betterment of public health, and these remain its core purposes. AMA members practice in every state and in every medical specialty. The AMA remains deeply committed to ensuring the health and safety of all individuals regardless of immigration status.

The Oregon Medical Association ("OMA") is Oregon's largest professional society engaging in advocacy, policy, community-building,

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[1] No counsel for a party authored this brief in whole or in part. No party, counsel for a party, or any person other than *amici* and its counsel made a monetary contribution intended to fund the preparation or submission of the brief.

All parties consented to the filing of this brief.

and networking opportunities for Oregon's physicians, medical students, physician assistants, and physician assistant students. OMA strives to serve and support physicians in their efforts to improve the health of all Oregonians.

The AMA and OMA appear on their own behalves and as representatives of the AMA Litigation Center. The Litigation Center is a coalition among the AMA and the medical societies of every state. The AMA Litigation Center is the voice of America's medical profession in legal proceedings across the country. The mission of the Litigation Center is to represent the interests of the medical profession in the courts. It brings lawsuits, files *amicus* briefs, and otherwise provides support or becomes actively involved in litigation of general importance to physicians. Together, *Amici* represent hundreds of thousands of doctors across the nation.

The American Academy of Pediatrics ("AAP") is a non-profit professional membership organization of 67,000 primary care pediatricians, pediatric medical subspecialists, and pediatric surgical specialists dedicated to the health and well-being of infants, children, adolescents, and young adults. AAP believes that the future prosperity

and well-being of the United States depends on the health and vitality of all of its children, without exception. AAP is committed to protecting the well-being of America's children, including by engaging in broad and continuous efforts to prevent harm to the health of infants, children, adolescents, and young adults caused by a lack of access to health coverage and care.

Amici believe that "health care is a fundamental human good" and "[a]s professionals, physicians individually and collectively have an ethical responsibility to ensure that all persons have access to needed care regardless of their economic means."[2] Presidential Proclamation No. 9945 is antithetical to the goals of *amici*. The Proclamation will negatively impact the ability of individuals, children and families who are legally immigrating to the United States to access health care services. Impeding prospective immigrants' access to comprehensive health benefits will not only adversely impact the health and safety of those individuals but also adversely impact the entire United States

[2] AMA Code of Medical Ethics, Opinion 11.1.4, *Financial Barriers to Health Care Access*, *available at* https://policysearch.ama-assn.org/policyfinder/detail/access%20to%20care?uri=%2FAMADoc%2FEthics.xml-E-11.1.4.xml.

health care system, affecting citizens as well as immigrants. For these reasons, *amici* must oppose the Proclamation and now submit this brief in support of a rehearing *en banc*.

INTRODUCTION

Presidential Proclamation No. 9945 ("the Proclamation") suspends the entry of immigrants into the United States unless they can prove they will be covered by approved health insurance within 30 days of entry or that they have financial resources to pay for reasonably foreseeable medical costs. 84 Fed. Reg. 53992, §1. Approved insurance options would include employer-sponsored and other private coverage, including unsubsidized coverage through Affordable Care Act ("ACA") Marketplaces, short-term plans, traveler plans, or catastrophic plans. *Id*. However, subsidized ACA Marketplace coverage and Medicaid for adults would not qualify nor would state or local programs or other programs such as the Ryan White HIV/AIDS Programs.[3] As the

[3] The Ryan White HIV/AIDS Program provides comprehensive HIV primary care including essential support services and medication to low-income, uninsured and underserved people living with HIV. This Program serves over half of all people living in this United States with HIV and proves to be an essential resource in the public health response to HIV. *About the Ryan White/HIV AIDs Program* (Feb.

District Court recognized when it enjoined the Proclamation in 2019, "[m]any of the approved plans are legally or practically unavailable to intending, or prospective immigrants." *Doe #1 v. Trump*, No. 3:19-cv-1743-SI, 2019 WL 6324560 at *9 (D. Or. Nov. 26, 2019).

Defendants filed a notice of appeal to this Court on December 4, 2019, arguing that the district court had incorrectly assessed the merits of Plaintiffs' claims. On January 9, 2020, the motions panel heard arguments on Appellants' motion for administrative stay and denied the motion. The merits panel issued an opinion on December 31, 2020 reversing the preliminary injunction. Plaintiffs-Appellees are now petitioning for a rehearing *en* banc, arguing in part – and the AAP agrees – that the national public interest is best served by preventing the implementation of the Proclamation. The Proclamation rests upon the unsubstantiated claim that immigrants pose an outsized burden on the U.S. health care system. If implemented, the Proclamation is likely to result in the very effect it purports to discourage—restricting recent

2019), https://hab.hrsa.gov/about-ryan-white-hivaids-program/about-ryan-white-hivaids-program.

immigrants' access to sufficient health care coverage will negatively impact the stability of this country's health care system.

ARGUMENT

Presidential Proclamation No. 9945 is predicated upon an alleged connection between unreimbursed costs in the U.S. health care system and immigrants' insurance coverage. However, the data demonstrate not only that such a connection does not exist but, in fact, that immigrants contribute to the financial wellbeing of the health care economy overall. Further, and perhaps even more concerning, the Proclamation's most immediate effect will be immigrants receiving limited coverage and care, with the subsequent effect of destabilizing the health care system. Given these likely outcomes, the Court should grant a rehearing *en banc* and ensure that the Proclamation is not enforced.

I. The Proclamation's Claims That Uninsured Immigrants Are a Burden on the U.S. Health Care System Are Unsubstantiated and Such Claims Are Insufficient to Warrant a Drastic Change to Immigration Policy

The Proclamation claims that "uncompensated care costs – the overall measure of unreimbursed services that hospitals give their patients – have exceeded $35 billion in each of the last 10 years" and

that "lawful immigrants are about three times more likely than United States citizens to lack health care insurance." 84 Fed. Reg. 53991. However, the Government fails to point to any evidence connecting uncompensated care costs to the insurance status of lawful immigrants.

In fact, contrary to the Proclamation's assertions, immigrants tend to make higher health care contributions than costs they utilize in care. Looking at Medicare specifically, immigrants, including both lawfully present and undocumented immigrants, have consistently paid more into the Medicare Health Trust Insurance Fund than they utilized, generating an annual surplus of $11-17 billion from 2002 to 2009.[4] Data indicate that, in 2014, all immigrants contributed 12.6% of premiums paid to private insurers yet only accounted for 9.1% of expenditures.[5] The cumulative surplus resulting from all immigrants' premiums in 2008 through 2014 was $174.4 billion.[6] This surplus

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[4] Lila Flavin, Leah Zallman, Danny McCormick, and J. Wesley Boyd, *Medical Expenditures on and by Immigrant Populations in the United States: A Systematic Review*, p. 16 INT'L J. OF HEALTH SERVS., 2008.
[5] Leah Zallman, Steffie Woolhandler, Sharon Touw, David U. Himmelstein, and Karen E. Finnegan, *Immigrants Pay More In Private Insurance Premiums That They Receive In Benefits* (Oct. 2018), https://www.healthaffairs.org/doi/10.1377/hlthaff.2018.0309.
[6] *Id.*

resulting from immigrant premiums assists in offsetting the higher costs associated with insuring high-risk individuals.[7] Therefore restricting immigrants' entry into the country would decrease low-risk individuals in the insurance market and reduce the funds available to offset the financial risks of other consumers, creating financial instability in the health care system.[8]

Further, evidence shows immigrants represent a small number of the uninsured and have coverage rates just shy of their U.S.-born counterparts.[9] Non-citizens, including lawfully present and undocumented immigrants, account for just 24% of the entire uninsured population and recent immigrants account for only 2.9% of all

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[7] *Medical Expenditures on and by Immigrant Populations in the United States: A Systematic Review*, *supra* note 4 at 17-18.
[8] *Id*.
[9] It bears noting that the higher uninsured rates among noncitizens can be attributed to already limited access to employer-sponsored coverage, Medicaid, CHIP, and ACA Marketplace coverage restrictions, and enrollment barriers eligible individuals experience –all of which would be exacerbated by the Proclamation. *See* Kaiser Family Foundation, *President Trump's Proclamation Suspending Entry for Immigrants without Health Coverage* (Oct. 10, 2019), https://www.kff.org/disparities-policy/fact-sheet/president-trumps-proclamation-suspending-entry-for-immigrants-without-health-coverage/.

uninsured adults in the United States.[10] What's more, documented immigrants are only slightly less likely to have health insurance coverage than their U.S.-born counterparts. As of 2017, 57% of documented immigrants and 69% of U.S.-born citizens had private health insurance.[11] And 30% of documented immigrants had public health insurance compared to 36% of U.S.-born citizens.[12] Some individuals have coverage under both private and public insurance.[13]

The Proclamation's supposed justification is further undermined by the fact that immigrant health care expenditures are minimal. Data show that immigrants' overall health expenditures are generally one-half to two-thirds of U.S.-born individuals, across all age groups,

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[10] Jennifer Tolbert, Kendal Orgera, Natalie Singer, and Anthony Damico, *Key Facts about the Uninsured Population* (Dec. 13, 2019), https://www.kff.org/uninsured/issue-brief/key-facts-about-the-uninsured-population/; Leighton Ku, *Assessing the Presidential Proclamation On Visas And Health Insurance* (Dec. 17, 2019), https://www.healthaffairs.org/do/10.1377/hblog20191217.16090/full/.

[11] Swapna Reddy, Nina Patel, Mary Saxon, Johanny Lopez Dominguez, Shetal Vohra-Gupta, *Proclamation On Health Insurance Requirements: The Administration's Latest Attack on Immigration* (Oct. 30, 2019), *https://www.healthaffairs.org/do/10.1377/hblog20191028.484680/full/*

[12] *Id.*

[13] *Id.*

regardless of immigration status.[14] Recent immigrants have even lower expenditures in comparison to more established immigrants. Expenditures for average, uninsured, recent immigrants are less than one-fifth the average of an insured non-recent immigrant and the average per-person emergency care expenses are lower for uninsured, recent immigrants.[15] The lower expenditures of recent immigrants can be attributed to the fact that immigrants tend to be younger and healthier than nonimmigrants, a difference that narrows the longer an immigrant is in the United States.[16] Although medical spending in 2016 was $3.3 trillion, "immigrants accounted for less than 10% of the overall spending and recent immigrants were responsible for only 1% of total spending."[17] When all factors are controlled for, immigrants' costs average between 14% to 20% less than U.S. born citizens.[18] Because

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[14] *Medical Expenditures on and by Immigrant Populations in the United States: A Systematic Review*, *supra* note 4 at 1.
[15] *Assessing the Presidential Proclamation On Visas And Health Insurance*, *supra* note 9.
[16] *President Trump's Proclamation Suspending Entry for Immigrants without Health Coverage supra* note 9.
[17] *Medical Expenditures on and by Immigrant Populations in the United States: A Systematic Review*, *supra* note 5 at 17.
[18] Leighton Ku, *Health Insurance Coverage and Medical Expenditures of Immigrants and Native-Born Citizens in the United States,* AM. J. PUBLIC HEALTH, July 2009.

immigrants, and particularly recent immigrants which the Proclamation specifically targets, are such a minimal portion of U.S. medical spending, "it is unlikely that restrictions on immigration into the United States would result in a meaningful decrease in health care spending."[19] Based on the available data, it is clear that the Proclamation's premise that immigrants constitute an outsized portion of uncompensated care costs is baseless.

II. The Proclamation Would Have a Negative Impact on the Health Care System As a Whole and Access to Care

Given the restricted options that would qualify as approved coverage under the Proclamation, prospective immigrants could obtain insufficient coverage through short-term, limited-duration insurance plans ("STLDIs") resulting in possible harm to the consumers in the ACA-compliant market. Further, the Proclamation would result in fewer individuals utilizing health-related benefits to which they are fully entitled.

[19] *Medical Expenditures on and by Immigrant Populations in the United States: A Systematic Review*, *supra* note 5 at 17.

A. The Proclamation Would Push Immigrants Towards Short-Term Limited Duration Insurance Resulting in Harm to the Consumers in the ACA-Compliant Market and Immigrants Obtaining Inadequate Coverage

Based on the limited approved options, the Proclamation directs intending immigrants toward inadequate STLDIs, which can cause harmful long-term repercussions. Currently, lawful immigrants can obtain coverage in the ACA Marketplace, including through subsidies applied to this coverage. Subsidies are available for lawful immigrants whose incomes are below 400% of the federal poverty line, including those who are ineligible for Medicaid or Children's Health Insurance Program ("CHIP") because of the required five-year waiting period or because they do not have "qualified status."[20] As the District Court recognized, "[m]any of the approved plans are legally or practically unavailable to intending, or prospective, immigrants" and the Proclamation does not include subsidized ACA-compliant plans. *Doe #1 v. Trump*, No. 3:19-cv-1743-SI, 2019 WL 6324560 at *9 (D. Or. Nov. 26,

[20] Kaiser Family Foundation, *Health Coverage of Immigrants* (Feb. 15, 2019), https://www.kff.org/disparities-policy/fact-sheet/health-coverage-of-immigrants/; *Coverage for Lawfully Present Immigrants*, https://www.healthcare.gov/immigrants/lawfully-present-immigrants/, (last visited Feb. 6, 2020).

2019). Because of the limitations of the approved plans under the Proclamation, STLDI plans may be the only available option for certain intending immigrants.

1. The Expansion of STLDI Will Undermine the Individual Insurance Market

The use of STLDI by healthy immigrants instead of ACA-compliant plans will ultimately undermine the individual insurance market. STLDI plans predate the ACA and were originally intended to provide coverage for short periods in standard coverage. These short-term plans became more prevalent after the ACA's implementation because STLDI plans are not required to provide ACA consumer protections including pre-existing condition coverage, Essential Health Benefits, and abolishment of annual benefit caps. 83 Fed. Reg. 38212 at 38213 (Aug. 3, 2018). Regulations were immediately implemented to limit STLDI coverage to less than three months, including renewals, so that they could not be a substitute for ACA-compliant plans. However, in 2018 this Administration passed a rule permitting STLDI plans to last up to 364 days, with the option to extend coverage to 36 months and multiple 36 month plans to be purchased at once. *Id* at 38216, 38220. The 2018 STLDI Rule effectively permits permanent coverage

under STLDI plans and introduced non-compliant plans into the insurance market.

The Proclamation only considers ACA-compliant plans as approved coverage if they are unsubsidized. Without a subsidy, coverage through STLDI is considerably less expensive than the approved ACA-compliant plans. Given the price differential, healthy recent immigrants who believe they require less coverage are likely to be drawn away from ACA-compliant plans towards STLDI.[21] Dividing the individual market between healthier consumers willing to enroll in less comprehensive plans and individuals with diagnosed health issues that require more comprehensive coverage could result in increasing premiums for those in need of more comprehensive insurance. As one expert testified before the House Ways and Means Committee, individuals with pre-existing conditions can "continue to rely on ACA-compliant plans, but will have to pay even higher premiums . . . due to the worsening of the risk pool as a result of STLDI plans pulling

[21] Karen Pollitz, Michelle Long, Ashley Semanskee, and Rabah Kamal, *Understanding Short-Term Limited Duration Health Insurance* (Apr. 23, 2018), https://www.kff.org/health-reform/issue-brief/understanding-short-term-limited-duration-health-insurance/.

healthier than average people out of the ACA-compliant market."[22] In fact, the Administration itself has recognized that the extension of STLDI plans will have a market-wide consequence, acknowledging that "[a]llowing [young or healthy] individuals to purchase policies that do not comply with PPACA, but with term lengths that may be similar to those in the PPACA-compliant plans with 12-month terms, could potentially weaken States' individual market single risk pools." 83 Fed. Reg. 7437 at 7443 (Feb. 21, 2018). Without healthy individuals paying premiums into the ACA-compliant marketplace, those obtaining care through ACA-compliant plans, particularly those in the middle class who do not qualify for ACA subsidies, will bear the weight of increased insurance costs.[23] The Proclamation will, therefore, not only result in

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[22] *Hearing on Protecting Americans with Pre-existing Conditions Before the H. Comm. on Ways and Means*, 116th Cong. 1 (Jan. 29, 2019). (testimony of Karen Pollitz) available at: http://files.kff.org/attachment/Testimony-of-Karen-Pollitz-Committee-on-Ways%20and-Means-Pre-existing-Conditions-and-Health-Insurance.

[23] *Understanding Short-Term Limited Duration Health Insurance, supra* note 21; *see also* American Medical Association, *Comment Letter on Notice of Proposed Rulemaking, Short-Term, Limited Duration Insurance* (CMS-9924-P) (Apr. 23, 2018) at 3, https://www.regulations.gov/document?D=CMS-2018-0015-8708.

limited coverage options for intending immigrants but also potentially increase the financial burden on current citizens.[24]

2. The Expansion of STLDI Will Result in Intending Immigrants Receiving Inadequate Coverage

The likely expansion and increased usage of STLDI under the Proclamation can result in consumers purchasing inadequate coverage and can reverse progress that has been made in expanding meaningful coverage to all Americans. STLDI does not need to provide essential health benefits, can have high out of pocket expenses for patients, and is permitted to have significant exclusions.[25] Based on these limitations, STLDI offers less effective coverage than other plans and may not protect against uncompensated care costs.[26] For example, many STLDI plans do not cover mental health services, substance

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[24] Illustrating the impact STLDI plans have on the stability of the insurance market, one study estimated that the 2018 STLDI Rule's implementation would result in an average of premiums increasing by 18% in states that do not limit or prohibit STLDI plans. *Comment Letter on Notice of Proposed Rulemaking, Short-Term, Limited Duration Insurance*, supra note 23 at 3. Another study projected that, as a result of the Rule, premiums for the remaining individual market participants would increase by 6.6%. *Id.*

[25] *Assessing the Presidential Proclamation On Visas And Health Insurance*, *supra* note 9.

[26] *Id.*

abuse treatment, outpatient prescription drugs, or maternity care.[27] In instances where STLDI does cover these conditions, exclusions and limitations apply, for example a $3,000 maximum on prescription drug coverage or a $50 maximum for outpatient visits for mental health and substance abuse patients.[28] What's more, STLDI plans are not required to comply with the ACA's requirement of coverage for pre-existing conditions.[29] Immigrants obtaining STLDI devoid of meaningful long-term coverage can easily find themselves without access to the care they need.

Encouraging intending immigrants to enroll in insufficient STLDI coverage may result in the unintended consequence of increasing uncompensated costs in the long run. Enrolling in these more limited STLDI plans increases the risk for immigrants that they will be left with uncovered bills or become uninsurable under similar plans after their current coverage expires.[30] If a patient develops a condition while covered by STLDI, it can be considered a pre-existing condition upon

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[27] *Understanding Short-Term Limited Duration Health Insurance*, *supra* note 21.
[28] *Id.*
[29] *Id.*
[30] *Id.*

reapplying for coverage when the current plan expires.[31] Since STLDI does not require pre-existing condition coverage, this can preclude a patient from qualifying for coverage under a similar plan. Funneling intending immigrants toward STLDI can leave those immigrants who develop or are diagnosed with health conditions shortly after lawfully immigrating unable to obtain affordable, long-term coverage and would only serve to increase uncompensated care costs.

3. Vulnerable Populations Would Be Particularly Harmed By The Proclamation's Enforcement

If implemented, the Proclamation would have a particularly negative impact on certain vulnerable populations including pregnant women and children under 18 years old. In half of all states, pregnant women lawfully immigrating to the United States are currently eligible for Medicaid;[32] however, because under the Proclamation Medicaid is not approved coverage for people over the age of 18, (84 Fed. Reg. 53992, §1), many women would be forced to find other coverage before immigrating, such as STLDI. STLDI plans are exempt from the ACA consumer protection provisions and benefit standards including the

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[31] *Id.*

[32] *Coverage for Lawfully Present Immigrants*, *supra* note 20.

prohibition of pre-existing condition exclusions. 83 Fed. Reg. 38212 at 38213 (Aug. 3, 2018). Since STLDI plans do not typically cover maternity care, they provide inadequate coverage for pregnant women.[33] Not only would the inadequate coverage result in putting the expectant mothers and their newborn children's health at risk, but it could also result in even greater costs in uncompensated care.

Under the Proclamation, children under 18 would be subject to the Proclamation if they are traveling with a parent who is also subject to the requirements. 84 Fed. Reg. 53992, §2. Currently, lawful immigrant children qualify for health services through Medicaid and CHIP.[34] CHIP benefits were specifically designed with children in mind and generally cover prescriptions, inpatient and outpatient hospital care, and emergency services and is available to children in families whose income is too high to qualify for Medicaid[35] However, CHIP is not approved coverage under the Proclamation and therefore, children

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[33] *Understanding Short-Term Limited Duration Health Insurance*, *supra* note 21.
[34] *Coverage for Lawfully Present Immigrants*, *supra* note 20.
[35] The Children's Health Insurance Program, https://www.healthcare.gov/medicaid-chip/childrens-health-insurance-program/ (last visited Jan. 31, 2020).

under 18 whose families earn too much money to qualify for Medicaid may find themselves enrolled in STLDI and receiving insufficient coverage.

B. The Proclamation Would Exacerbate the Already-Present Chilling Effect on Utilization of Health-Related Benefits

Because of the Proclamation's vague language and unclear terms of enforcement, the Proclamation's enforcement will likely serve to cause greater confusion and decrease the number of non-citizens applying for certain public benefits they are entitled to, ultimately resulting in even fewer individuals receiving the coverage and care they need.[36] Recent reports show that adults in immigrant families with children are already more than twice as likely to report chilling effects on enrollment in public benefit programs for fear of losing their legal status under similar immigration policies as compared to adults without children (17% compared to approximately 9%).[37] This chilling effect of dissuading lawfully present, eligible individuals from enrolling

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[36] *See President Trump's Proclamation Suspending Entry for Immigrants without Health Coverage, supra* note 9.

[37] Hamutal Bernstein, Dulce Gonzalez, Michael Karpman, Stephen Zuckerman, *One in Seven Adults in Immigrant Families Reported Avoiding Public Benefit Programs in 2018*, URBAN INSTITUTE, May 2019.

in health insurance programs achieves the opposite of the purported intended impact of the Proclamation of encouraging coverage for all lawfully present immigrants.

This effect may be particularly pronounced for children under 18 years old. Although the Proclamation recognizes Medicaid as approved coverage for legal immigrants under 18 years of age, Medicaid along with Supplemental Nutrition Assistance Program ("SNAP") and CHIP were the three most common programs that immigrants reported either not enrolling in or terminating as a result of fear stemming from new federal immigration policies.[38] The potential impact of this effect on children is immense, since one out of four children in the United States lives with immigrant parents.[39] The chilling effect of the fear and misinformation surrounding immigration is already present with evidence showing a reduction in public health and preventative services in immigrant families, 90% of whose children are U.S. citizens.[40] In fact, from 2017 to 2018, Medicaid and CHIP saw an enrollment

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[38] *Id.*
[39] *Proclamation On Health Insurance Requirements: The Administration's Latest Attack on Immigration*, *supra* note 11.
[40] *Id.*

decrease of more than 828,000, or 2.2 percent of children.[41] Similarly, recently released data from the U.S. Census Bureau shows that in 2018, 4.3 million children in the United States were uninsured – an increase of 425,000 uninsured children in a single year.[42] According to Census data, this decline is not due to commensurate gains in private coverage and can instead be largely attributed to the decline in Medicaid enrollment. In contributing to the deterrence of young immigrants or children of immigrants from accessing the benefits they are entitled to and therefore to the services they need, the Proclamation serves only to increase the obstacles to obtaining adequate health care coverage.

CONCLUSION

This Court should grant a rehearing *en banc*.

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[41] *State Medicaid and CHIP Applications, Eligibility Determinations, and Enrollment Data*, https://data.medicaid.gov/Enrollment/State-Medicaid-and-CHIP-Applications-Eligibility-D/n5ce-jxme/data, (last visited Feb. 6, 2020).

[42] Edward R. Berchick and Laryssa Mykyta, *Children's Public Health Insurance Coverage Lower Than in 2017* (Sept. 10, 2019), https://www.census.gov/library/stories/2019/09/uninsured-rate-for-children-in-2018.html.

Respectfully submitted,

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January 29, 2021

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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