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**THE LAW & YOU**

**IS THIS THE AMERICAN DREAM?  
Challenges facing illegal Indians in America  
Part II**

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In numbers larger than ever before in American history, undocumented immigrants are defying authorities and making the United States their home. The Center for Immigration Studies estimates that there are currently ten million undocumented immigrants in the United States, and approximately 700,000 more arrive each year. Recent changes in federal/state laws and public policies have resulted in confusion and uncertainty for immigrants trying to achieve the American “dream”.

In a two part series of articles, issues affecting the day to day lives of illegal or “undocumented” aliens are being addressed. Last week’s article focused on changing federal and state requirements for obtaining driver’s licenses and undocumented immigrants’ abilities to secure home mortgages. This article will examine health insurance coverage and college tuition for undocumented immigrants.

**Health Insurance:** According to the Kaiser Commission, one out of every four uninsured persons in the United States is an immigrant. The key factors behind immigrants not receiving health insurance coverage are that they generally hold low-paying jobs where employers do not offer insurance, have barriers to language, and have a fear of being reported to authorities.

Until 1996, immigrants legally admitted to the United States were eligible for Medicaid benefits just like US Citizens. The Professional Responsibility and Work Opportunity Reconciliation Act (PROWRA) changed an immigrants’ access to public health insurance by denying Medicaid benefits to certain “unqualified” immigrants who arrived in the US after August 1996 and limited their participation in the Temporary Aid to Needy Families program. “Unqualified” immigrants included undocumented immigrants, or those with temporary visas for studies or work. However, while PROWRA barred unqualified immigrants from non-emergency coverage, it specifically required that emergency Medicaid be available to all, regardless of immigration status, as long as other Medicaid eligibility requirements were met.

Since undocumented immigrants are excluded from private health insurance coverage, they do not seek preventive medical care, but rather use the hospital emergency room for medical treatment when there is no alternative. The cost to the state governments and taxpayers for emergency room services is higher than the cost of preventive maintenance care. Some states are trying to develop new programs to provide health care coverage for undocumented immigrants. Washington and Illinois allow health insurance coverage for

children regardless of immigration status. Connecticut and New York provide funding to community health centers and clinics that do not require proof of legal immigration status to receive vaccinations, family planning, prenatal care, and HIV testing. And while undocumented immigrants may not be able to get health insurance collectively, it is important to remember that children born in the US are citizens and therefore fully eligible for health insurance in every state. Rather than silently enduring health problems, undocumented immigrants are urged to seek out possible alternatives for their general well being.

**College Tuition:** In *Plyer v. Doe (1982)*, the US Supreme Court ruled that under the Equal Protection Clause of the Constitution, all children have the right to attend and receive education in a public school, regardless of immigration status. The Court did not indicate if the ruling also applied to colleges and universities where tuition costs are at an all time high and the undocumented immigrants do not have access to financial resources to pay for the higher education.

Generally, federal financial aid is unavailable for undocumented aliens since proof of legal residency is required. Section 505 of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act prohibits illegal aliens from receiving lower in-state tuition rates at public colleges. However, increasing populations of undocumented students and a progressive public policy has led several states to allow undocumented students to qualify for in-state tuition charges by simply not inquiring about an applicant's immigration status or basing eligibility on attendance of an in-state high school. Specifically, Texas, California, New York, Utah, Illinois, Delaware, Washington, New Mexico, Oklahoma, and Kansas have passed laws that provide in-state tuition benefits to undocumented aliens who have attended high school in the state for three or more years. In states without a specific regulation, the decision is left to the individual institution. The pending DREAM Act would permit states to utilize state residency for higher education purposes and allow students of good moral character to become legal permanent residents and therefore qualify for federal student aid.

Another source of financial aid is scholarships offered by private organizations that do not require proof of legal residency or a social security number. Students should contact private organizations or community groups for available scholarships.

It should be noted that if the parents are undocumented, but the student is a US citizen, the student is eligible for federal student aid. But, if the parents list a social security number that is valid for work purposes only or a fraudulent social security number, the student's application will be rejected since the parent's social security number will fail to match with records.

In conclusion, despite the constantly changing public policy and immigration laws, the American "dream" is still within reach of all who come to the land of opportunity. For undocumented immigrants, the road may just have a few more twists and turns.