



U.S. Immigration and Customs Enforcement

Oct. 25, 2013

Clarification of Existing Practices Related to Certain Health Care Information

Purpose

The Patient Protection and Affordable Care Act (ACA), Pub. L. No. 111-148, 124 Stat. 224, and the Social Security Act (SSA) require that individuals¹ seeking coverage under a qualified health plan offered on a Health Insurance Marketplace or through an insurance affordability program (i.e., premium tax credits, cost sharing reductions, Medicaid, Children's Health Insurance Program, or Basic Health Program) provide information regarding their immigration status and certain information about their household members to determine eligibility for such coverage. This memorandum sets forth U.S. Immigration and Customs Enforcement (ICE) civil immigration enforcement policy regarding information concerning such individuals and their household members obtained during the eligibility determination process for such coverage.

Background

The ACA, the SSA, and implementing regulations outline procedures for determining eligibility for coverage under a qualified health plan offered on a Marketplace or through an insurance affordability program. Under the laws and implementing regulations, information provided by individuals for such coverage may not be used for purposes other than ensuring the efficient operation of the Marketplace or administering the program, or making or verifying certain eligibility determinations, including verifying the immigration status of such individuals.

Agency Policy

Consistent with the ACA's, the SSA's, and implementing regulations' limitations on the use of information provided by individuals for such coverage, and in line with ICE's operational focus, ICE does not use information about such individuals or members of their household that is obtained for purposes of determining eligibility for such coverage as the basis for pursuing a civil immigration enforcement action against such individuals or members of their household, whether that information is provided by a federal agency to the Department of Homeland Security for purposes of verifying immigration status information or whether the information is provided to ICE by another source.

¹ For purposes of this statement, "individuals" means certain applicants for, beneficiaries of, and enrollees in coverage under a qualified health plan offered on a Health Insurance Marketplace or through an insurance affordability program.

No Private Right of Action

This document, which is intended only as internal ICE policy, is not intended to, does not, and may not be relied upon to create any rights or benefits, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.