Erickson Column: Immigration and the health care debate

JERRY ERICKSON

Published: September 2, 2009

You've likely read by now that immigration issues have become part of the national dialogue in the health care reform debate. The primary issue concerns who will benefit if a national plan is put in place. It's not difficult to conclude that many health care reform advocates hoped that President Obama would deal with immigration first, and then tackle the equally explosive issue of national health care.

The reason is clear. Providing free medical care to illegal immigrants is just something that hasn't won much support on Main Street. Without first resolving the immigration debate, many thought that health care reform could go down in flames because the public would simply not support illegal immigrants receiving free medical care. The solution: Pass reform laws that provide illegal immigrants with a lawful status and the health care concern becomes less of an issue.

However, as we've seen, it didn't quite happen that way. The administration decided to roll up its sleeves and come out swinging on the health care issues first.

There has been some misunderstanding as to who will be afforded coverage if universal care is approved. In terms of proposed legislation, House bill, H.R. 3200, excludes from coverage those persons who are not legal residents of the United States. Section 246 of the bill provides:

"Nothing in this subtitle shall allow Federal payments for affordability credits on behalf of individuals who are not lawfully present in the United States."

Congressman John Hall (D-NY) states on his Web site via, a "myths vs. facts" page, that the main healthcare bill in the House of Representatives specifically excludes illegal immigrants from coverage:

"MYTH: HR 3200 subsidizes health insurance for illegal aliens.

FACT: HR 3200 explicitly prohibits illegal aliens from receiving any Federal dollars to subsidize health insurance. 'Nothing in this subtitle shall allow Federal payments for affordability credits on behalf of individuals who are not lawfully present in the United States,' is the direct quote found in

Section 246. Section 242 also explicitly limits eligibility for subsidies to individuals who are lawfully present in the US. Some opponents are distorting a provision in this section that ensures that all of the income earned by members of a family is counted for the purpose of determining eligibility for subsidies, to falsely suggest that illegal aliens in a family would be eligible. This is a phony and a blatantly wrong reading of HR 3200."

President Obama has also taken the opportunity to be clear in terms of who is going to benefit if health care reform is passed. The president has recently confirmed that it is not his administration's intent to offer health care to illegal immigrants. During a recent interview as a guest on Michael Smerconish's radio show last week, President Obama said:

"None of the bills that have been voted on in Congress, and none of the proposals coming out of the White House propose giving coverage to illegal immigrants — none of them," he said. "That has never been on the table; nobody has discussed it. So everybody who is listening out there, when you start hearing that somehow this is all designed to provide health insurance to illegal immigrants, that is simply not true and has never been the case."

The president also said during the Smerconish radio show that:

"I think there is a basic standard of decency where if somebody is in a death situation or a severe illness, that we're going to provide them emergency care. But nobody has talked about providing health insurance to illegal immigrants. I want to make that absolutely clear."

Immigration reform has yet to be taken up by the White House, but that fight is on the horizon. However, in the present health care debate, it is clear that illegal immigrants will not benefit from any health care reform that gains approval. This is one issue which should no longer cloud the health care debate.

Jerry Erickson is the managing partner of Szabo, Zelnick, & Erickson, P.C. (www.szelaw.com), in Woodbridge, Virginia. He is the senior attorney in the firm's Business Immigration Section. He has practiced law for over 20 years and represents clients in numerous complex areas of immigration law. He can be reached at jerickson@szelaw.com or (703) 494-7171.

The above information is provided for informational purposes only. The information should not be construed as legal advice and does not constitute an engagement of the Szabo, Zelnick & Erickson, P.C. law firm or establish an attorney-client relationship with any of its attorneys. An attorney-client relationship with our firm is only created by signing a written agreement with our firm.