

Delivered electronically to [Secretary@HHS.gov](mailto:Secretary@HHS.gov)

May 6, 2020

The Honorable Alex M. Azar II  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

**RE: REQUEST TO RESTORE ACA ACCESS FOR DACA RECIPIENTS IN LIGHT OF COVID-19**

Dear Secretary Azar:

The 284 undersigned national, state, and local organizations in the areas of immigration, health, civil rights, human rights, labor, faith, and education respectfully request that you direct the U.S. Department of Health and Human Services (HHS) to restore access to benefits under the Patient Protection and Affordable Care Act (ACA) for Deferred Action for Childhood Arrivals (DACA) recipients in light of the COVID-19 pandemic. Access to COVID-19 testing and treatment for DACA recipients and their U.S. citizen children is absolutely critical during this pandemic, particularly for the 27,000 DACA recipients employed as healthcare practitioners and supporting occupations on the front lines of responding to COVID-19.<sup>1</sup> Specifically, we request that you direct HHS to issue a Notice of Proposed Rule Making (NPRM) that would repeal 45 C.F.R. § 152.2(8), which excludes DACA recipients from the definition of “lawfully present” and, consequently, benefits under the ACA.<sup>2</sup> As a result of the regulation, DACA recipients cannot: (a) generally obtain comprehensive health insurance under Medicaid or CHIP in their state; (b) purchase health insurance in the ACA’s health insurance marketplace, even at full cost using their own funds; and (c) obtain federal tax credits to make private health insurance affordable (even though DACA recipients still file and pay federal taxes) in the marketplace.

Under DACA, immigrant youth with long-term residency in the United States who satisfy a strict set of criminal background and educational criteria are eligible for employment authorization and protection from deportation.<sup>3</sup> Rescission of the regulation, originally implemented under the Obama administration, would restore access to the ACA for approximately 650,000 current DACA recipients and would ultimately benefit a total of 1.7 million if DACA resumes in the

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<sup>1</sup> Nicole Prechal Svajlenka, “What We Know About DACA Recipients in the United States,” Center for American Progress, Sept. 5, 2019, <https://www.americanprogress.org/issues/immigration/news/2019/09/05/474177/know-daca-recipients-united-states/>.

<sup>2</sup> The language in question reads as follows: “An individual with deferred action under the Department of Homeland Security’s deferred action for childhood arrivals process, as described in the Secretary of Homeland Security’s June 15, 2012, memorandum, shall not be considered to be lawfully present . . .” 45 C.F.R. § 152.2(8) (2012).

<sup>3</sup> Janet Napolitano, Dep’t of Homeland Security, Memorandum Letter on Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children (June 15, 2012), <https://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf>.

future.<sup>4</sup> The regulation unnecessarily excludes a significant pool of young, healthy adults—the exact type of participants that Congress sought to encourage to participate in the ACA—in the midst of a global pandemic. The regulation promotes worse health outcomes for DACA recipients and their families by foreclosing access to health care, including unsubsidized purchases on health care exchanges, and creates counterproductive barriers to COVID-19 testing and treatment.

In furtherance of this administration’s commitment to reduce regulatory burden and expand access to health care, we ask that you undo this misguided regulation. Thank you for your consideration of this request. If you have any questions, please contact Jose Magaña-Salgado at (480) 678-0040 or at [jose@masadc.com](mailto:jose@masadc.com).

Sincerely,

**National**

Adorers of the Blood of Christ  
Adrian Dominican Sisters  
Alianza Americas  
America’s Voice  
American Federation of State, County & Municipal Employees  
American Federation of Teachers  
American Friends Service Committee  
American Psychological Association  
Asian & Pacific Islander American Health Forum  
Asian American Legal Defense and Education Fund (AALDEF)  
Asian Pacific Institute on Gender-Based Violence  
AsylumConnect  
Autistic Self Advocacy Network  
Bend the Arc Jewish Action  
Blevins Strategies LLC  
Boston University International Human Rights Clinic  
Carmelite Sisters, Vedruna  
CASA  
Center for Law and Social Policy  
Center for Popular Democracy  
Centro de los Derechos del Migrante, Inc.  
Chinese American Progressive Action  
Chispa LCV  
Christian Reformed Church Office of Social Justice  
Church World Service

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<sup>4</sup> *Immigration and Citizenship Data*, U.S. Cit. & Immigr. Servs., <http://bit.ly/38SKZbh> (last visited Jan. 29, 2020); *Deferred Action for Childhood Arrivals (DACA) Data Tools*, Migration Policy Institute, <https://www.migrationpolicy.org/programs/data-hub/deferred-action-childhood-arrivals-daca-profiles> (last visited Jan. 29, 2020).

Coalition for Disability Health Equity  
Congregation of Our Lady of the Good Shepherd, U.S. Provinces  
Congregation of Sisters of St. Agnes  
Congregation of St. Joseph Justice Team  
Daughters of Charity  
Daughters of Charity USA  
Disciples Refugee & Immigration Ministries  
Doctors for Camp Closure  
Dominican Leadership Conference  
Dominican Sisters of MSJ  
Dominican Sisters of Sinsinawa  
Dominican Sisters of Sparkill  
Empowering Pacific Islander Communities (EPIC)  
Evangelical Lutheran Church in America  
Faith in Public Life  
Families Belong Together (FBT)  
Franciscan Action Network  
Franciscan Sisters of the Poor  
Freedom Network USA  
Freedom To Thrive  
Girls Inc.  
Grey Nuns of the Sacred Heart  
Hispanic Federation  
Holy Union Sisters - U.S. Province  
Ignatian Solidarity Network  
Intercommunity Peace & Justice Center  
International American Relief society IARS  
International Refugee Assistance Project  
International Rescue Committee  
Japanese American Citizens League  
Jesuit Social Research Institute  
Lawyers for Good Government  
Leadership Conference of Women Religious  
League of Conservation Voters  
Maryknoll Office for Global Concerns  
Medical Mission Sisters  
MoveOn  
NAPAFASA  
National Advocacy Center of the Sisters of the Good Shepherd  
National Asian Pacific American Women's Forum (NAPAWF)  
National Center for Transgender Equality  
National Council of Jewish Women  
National Education Association

National Immigration Law Center  
National Korean American Service & Education Consortium (NAKASEC)  
National Latina Institute for Reproductive Health  
National Network for Immigrant and Refugee Rights  
National Organization for Women  
National Partnership for New Americans  
NETWORK Lobby for Catholic Social Justice  
Next100  
Our Lady of Victory Missionary Sisters  
People's Action  
Poder Latinx  
Provincial Council Clerics of St. Viator (Viatorians)  
Roman Union Ursulines in the United States  
School Sisters of Notre Dame - Atlantic Midwest Province  
School Sisters of Notre Dame - Central Pacific Province  
Service Employees International Union (SEIU)  
Sisters of Bon Secours USA  
Sisters of Charity of Nazareth Congregational Leadership  
Sisters of Charity of Nazareth Western Province Leadership  
Sisters of Charity, BVM  
Sisters of Christian Charity  
Sisters of Mercy of the Americas - Justice Team  
Sisters of Mercy of the Holy Cross USA Province  
Sisters of Notre Dame de Namur  
Sisters of Providence, Saint Mary-of-the-Woods, Indiana  
Sisters of Saint Francis, Rochester, Minnesota  
Sisters of Saint Joseph of Carondelet  
Sisters of St. Benedict of Ferdinand, Indiana  
Sisters of St. Francis Justice, Peace and Care for Creation Committee  
Sisters of St. Francis of Philadelphia  
Sisters of St. Francis of the Providence of God  
Sisters of St. Francis, Clinton, Iowa  
Sisters of St. Francis, Sylvania OH  
Sisters of St. Jose[h of Carondelet  
Sisters of St. Joseph of Carondelet  
Sisters of St. Joseph of Carondelet  
Sisters of St. Joseph of Carondelet - HI  
Sisters of St. Joseph of Chambery  
Sisters of St. Joseph of Carondelet  
Sisters of the Holy Cross  
Sisters of the Presentation of the Blessed Virgin Mary, New Windsor, NY  
Society of Jesus  
Sojourners

South Texas Human Rights Center  
Sugar Law Center for Economic and Social Justice  
T'ruah: The Rabbinic Call for Human Rights  
Tahirih Justice Center  
Teach For America  
The Confess Project  
The Jus Semper Global Alliance  
The Leadership Conference on Civil and Human Rights  
U.S. Federation of the Sisters of St. Joseph  
UFW Foundation  
UMC Board of Church and Society RRT  
UndocuBlack Network  
Union for Reform Judaism  
United Church of Christ Justice and Witness Ministries  
Voices for Progress  
Women's Alliance for Theology, Ethics, and Ritual (WATER)  
YWCA USA

**State or Local**

AB540 Ally Training Project  
Adhikaar  
Advocates for Immigrant Rights  
Advocating Opportunity  
AIDS Foundation of Chicago  
Alianza  
American Friends Service Committee Colorado  
ARISE Adelante  
Arkansas United  
Asian Americans Advancing Justice - Los Angeles  
Association of Mexicans in North Carolina, Inc. (AMEXCAN)  
Ayuda  
Benedictine Sisters of Baltimore  
Benedictine Sisters of Chicago  
Benedictine Sisters of Colorado Springs, Benet Hill Monastery  
Benedictine Sisters of Elizabeth, NJ  
Benedictine Sisters of Erie  
Benedictine Sisters of FL  
Benedictines for Peace, Local Chapter at St. Scholastica Monastery in Chicago  
Benet Hill Monastery  
Cabrini Immigrant Services of NYC, Inc.  
California Immigrant Policy Center  
Caminando Juntos - Presentation Sisters Hispanic Ministry  
Canal Alliance

Capuchin Franciscans, Prov. of St. Joseph  
Casa San Jose  
Catholic Charities of Central & Northern Missouri/Refugee & Immigration Services  
Catholic Charities of SW Kansas  
Catholic Charities of West TN  
Chesapeake Multicultural Resource Center  
Church of Our Saviour/La Iglesia de Nuestro Salvador  
Church Women United in New York State  
Clergy and Laity United for Economic Justice of Ventura County  
Cleveland Jobs with Justice  
Coalición de Derechos Humanos  
Coalition for Humane Immigrant Rights (CHIRLA)  
Community Legal Access  
Convencion Bautista Hispana de Texas  
Crossing Borders - Dubuque  
CT Shoreline Indivisible  
Delaware Civil Rights Coalition  
Doctors for Camp Closure Oregon Chapter (D4CC Oregon)  
Dominican Sisters ~ Grand Rapids  
Dominican Sisters of Houston  
Dominican Sisters of Mission San Jose  
Dominican Sisters of San Rafael  
Education and Leadership Foundation  
El Vínculo Hispano/The Hispanic Liaison  
End Domestic Abuse Wisconsin  
Equality California  
EverThrive Illinois  
Franciscan Sisters of Allegany, New York  
Franciscans for Justice  
Greater New York Labor Religion Coalition  
Guatemala Solidarity Committee  
Haitian Americans United Inc.  
Heartland Alliance  
HIAS Pennsylvania  
IHM Sisters of Monroe, Michigan - Leadership Council  
Illinois Coalition for Immigrant and Refugee Rights  
Immaculate Heart of Mary Sisters, Immaculata, PA  
Immigrant and Refugee Committee, Sisters of the Most Precious Blood, O'Fallon, MO  
Immigration Institute of The Bay Area  
Immigration Refugee Covenant Group, United Churches Olympia WA  
Indivisible Chicago-South Side  
Indivisible Illinois  
Intercommunity Justice and Peace Center

International Center of Kentucky  
Jewish Voice for Peace, Atlanta Chapter  
Kentucky Coalition for Immigrant and Refugee Rights  
Kids for College  
L.O.I.R.A. Lorain Ohio Immigrants assoc.  
La Union Del Pueblo Entero  
Latino Pastoral Action Center  
Lowcountry Immigration Coalition  
LUCHA Arizona  
LUCHA Ministries, Inc.  
Lutheran Episcopal Advocacy Ministry NJ  
Michigan Immigrant Rights Center  
Michigan United  
Migrant and Immigrant Community Action Project  
MinKwon Center for Community Action  
Mission Graduates  
Mississippi Center for Justice  
Mother of God Monastery  
Mount St. Scholastica Monastery, Atchison, Kansas  
Nationalities Service Center  
Nebraska Appleseed  
New York Immigration Coalition  
Newark, De Benedictine Sisters  
NHCUCC Immigrant and Refugee Support Group  
North Carolina Conference of the United Methodist Church  
North Carolina Justice Center  
Northeast Iowa Peace and Justice Center  
NOVA Catholic Community  
OneAmerica  
Opening Doors International Services, Inc.  
Our Lady of Guadalupe Monastery  
Pennsylvania Council of Churches  
Pennsylvania Immigration and Citizenship Coalition  
Pittsburgh LCLAA  
Progressive Leadership Alliance of Nevada  
Proyecto Santo Nino de Atocha  
Refugee Support Network  
Rian Immigrant Center  
Rio Grande Valley Equal Voice Network  
SC Appleseed Legal Justice Center  
Seattle Immigrant Rights Action Group  
Servants of Mary US/Jamaica Community Council  
Services, Immigrant Rights & Education Network (SIREN)

Silver State Equality-Nevada  
Sintsirmas & Mueller Co LPA  
SIREN  
Sisters of Charity of New York  
Sisters of Saint Francis  
Sisters of Saint Joseph of Chestnut Hill, Philadelphia, PA  
Sisters of St. Dominic of Blauvelt, New York  
Sisters of St. Francis, Dubuque  
Sisters of St. Francis, St. Francis Province  
Sisters of St. Joseph of Baden, PA  
Sisters of St. Joseph of Boston  
Sisters of St. Joseph of Carondelet, Albany Province  
Sisters of St. Joseph of Carondelet, LA  
Sisters of St. Joseph of Orange  
Sisters of St. Joseph of Rochester  
Sisters of St. Joseph of Springfield  
Sisters of St. Joseph, Brentwood NY  
Sisters of the Most Precious Blood of O'Fallon, MO  
Sisters of the Presentation of the BVM of Aberdeen, SD  
Sisters of the Presentation, Dubuque, Iowa  
Sisters of the Presentation of the Blessed Virgin Mary  
Social Justice Coalition, Central Lutheran Church  
Southeast Sustainability Directors Network  
Srs. of St. Joseph of Carondelet, LA Province  
St. John of God Church  
St. Paul's Lutheran Church  
St. Paul's Monastery  
St. Placid Priory  
St. Scholastica Monastery  
Texas Civil Rights Project  
The Children's Partnership  
The Legal Project  
The Semilla Center for Healing and the Arts  
Thresholds  
True Alliance Center, Inc / GBNCC  
U Md Carey Immigration Clinic  
Unitarian Universalist Mass Action  
United Action for Idaho  
United Vision for Idaho  
University Legal Assistance (Gonzaga University School of Law)  
University YMCA New American Welcome Center  
Ursuline Sisters of Cleveland  
Wallingford Indivisible

Wayne Action for Racial Equality  
Western North Carolina Sanctuary Movement  
Wilco Justice Alliance (Williamson County, Texas)