TESTIMONY BEFORE THE UNITED STATES SENATE COMMITTEE ON THE JUDICIARY

FOR THE HEARING ENTITLED "THE BORDER SECURITY, ECONOMIC OPPORTUNITY, AND IMMIGRATION MODERNIZATION ACT, S.744"

April 22, 2013

BY THE

ASIAN & PACIFIC ISLANDER AMERICAN HEALTH FORUM AND UNDERSIGNED ORGANIZATIONS

The Asian & Pacific Islander American Health Forum (APIAHF) and sixty-eight undersigned organizations committed to improving the health and well-being of Asian Americans, Native Hawaiians, and Pacific Islanders (AAs and NHPIs) and advancing health equity submit this written testimony for the record for the April 22, 2013 hearing before the Senate Committee on the Judiciary entitled "The Border Security, Economic Opportunity, and Immigration Modernization Act, S.744."

The "Border Security, Economic Opportunity, and Immigration Modernization Act of 2013" (S. 744) is a major step forward for the nation, offering a sensible, comprehensive, bipartisan overhaul to our immigration system. While the bill makes substantial inroads, the compromised positions affecting access to care threaten the health, safety and economic future of the entire nation for short-term cost-savings. Most importantly, cementing these barriers to affordable health care is an affront to our American values of responsibility, fairness and unity and is out of step with the desires of the majority of Americans who have made it clear that they are ready for a sensible and sustainable fix to our immigration system.

The guiding principle behind any improvements to our immigration laws must be unity for immigrants, unity for families and unity for the entire nation. The following testimony addresses one of the

cornerstones of these values: access to affordable health care. It is critical that this committee not view health care access in a vacuum. Right now, federal agencies and states are rapidly implementing the Affordable Care Act and other initiatives to combat uninsurance and mitigate the massive toll that uninsurance takes on the nation.

While these initiatives have the potential to drastically reduce uninsurance, S.744 and proposals being debated in the House will undermine these efforts and threaten the nation's health and economy in the long run.

I. Americans and Aspiring Americans Alike Need Affordable Health Insurance and Care Options that Allow them to Take Responsibility for their Health, and a Majority of Americans Agree

Immigration reform proponents often argue that immigrants must be responsible for their actions. The primary reason most immigrants come to the U.S. is to better their lives and that of their children through hard work and sacrifice. Those two principles are one of the many reasons the U.S. is seen as a nation built by immigrants.

Recent polling conducted by the Kaiser Family Foundation found that most Americans support offering the same opportunities for accessing affordable health care and insurance to aspiring Americans.[1] The poll found that six out of ten Americans surveyed believed that immigrants on the path to legalization should be able to fully participate in health reform and qualify for Medicaid coverage. Overwhelming majorities of Blacks and Latinos surveyed agreed with providing equal access to health care.

While the Kaiser survey did not provide disaggregated data on the views of Asian Americans surveyed, the 2012 National Asian American Survey found that one in six Asian American voters placed health care as a top issue and Asian Americans overwhelmingly supported the Affordable Care Act.[2] These numbers are telling as Asian Americans and Latinos supported progressive policies during the 2012

[1] "Kaiser Health Tracking Poll: Public Opinion on Health Care Issues," Kaiser Family Foundation, February 2013, *available at* http://www.kff.org/kaiserpolls/upload/8418-F.pdf.
[2] "The Policy Priorities and Issue Preferences of Asian Americans and Pacific Islanders," National Asian American Survey, September 2012, *available at* http://www.naasurvey.com/.

election by substantial margins. As Asian Americans continue to be the fastest growing racial group in the nation, Asian American voters will continue to demand policies that serve their communities.

II. Federal Laws Already Restrict Access to Care for Immigrants. S.744 Would Cement these Barriers and Contribute to Costly and Unnecessary Health Disparities

The complex interplay between existing federal health programs and immigration laws already restricts access for many immigrants and families, including the over 4 million citizen children living with undocumented parents. S.744 offers an estimated 11 million undocumented immigrants the chance at legal status and earned citizenship, but unfortunately cements existing federal laws that could have disastrous consequences.

The ACA already maintains existing immigration-based restrictions and goes even further and affirmatively bars undocumented immigrants from purchasing private health insurance coverage in the newly created insurance marketplaces, even at full price and with their own funds. S.744 goes further than current federal law and creates a new exclusion for persons who are "lawfully present" or those who are Registered Provisional Immigrant (RPI) status and excludes them largely from the benefits of health reform. RPIs, including DREAMers, are ineligible for the affordability programs including advance premium tax credits and subsidies that would make health insurance more affordable, despite the fact that these individuals would be legal and paying taxes. At the same time, they are subjected to the individual mandate.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, also known as the "welfare reform" law), created arbitrary and inhumane time limits and other restrictions for lawfully present immigrants to become eligible for federal means-tested public programs. As a result, legal aspiring citizens are barred from critical safety net programs for a minimum of five years. S.744 reaffirms this exclusion. The result is that, under the pathway to citizenship outlined in S.744, a newly legalized immigrant going through the ten year process to adjust from RPI to legal permanent resident would have to wait an additional five years after adjusting to LPR status to become eligible for safety-

net health programs like Medicaid. This—what effectively amounts to a bar of 15 years or more—occurs during a time when the legalized individual is residing in the country and paying into the system.

PRWORA also bars citizens from the freely associated states of Micronesia, Republic of the Marshall Islands and Republic of Palau from the Medicaid program. These individuals, known as COFA (Compact of Free Association) migrants, are persons who are free to enter and work in the U.S. without restriction under long-standing agreements between the U.S. and pacific jurisdictions. COFA migrants suffer from a number of serious health disparities caused by America's militarization of the pacific islands, nuclear test bombing and lack of economic supports, including high rates of cervical cancer and other chronic diseases. The 1996 law revoked Medicaid coverage for COFA migrants, and, coupled with existing disparities and failure on the part of the U.S. to provide required supports, has created serious economic consequences for states like Hawaii and the territory of Guam, who have shouldered the burden of providing health care to this population.

These federal policies undermine America's values, further health disparities and put the entire nation's health at risk. These disparities will only worsen in 2014, when the ACA is fully implemented and the gap between the health of immigrants and those who qualify for new coverage options widens. As a result, immigration status will become one of the leading social determinants of health—affecting everything from whether or not a person can buy health insurance, whether a sick child can see the doctor, and whether a low-income worker can afford the treatment they need.

III. America Cannot Afford the Long Term Economic and Human Costs for a Short Term Compromise that Erects Barriers to Affordable Care

The U.S. cannot afford to continue the unsustainable health care path the nation is currently on. This was one of the reasons lawmakers and President Obama prioritized the Affordable Care Act (ACA). While the ACA provides new, affordable insurance options for many of the currently 50 million uninsured individuals in the U.S., America will continue to have a population of uninsured workers, children and families even after full implementation of the law.

Uninsurance leads to poor health outcomes, but the opposite is true when an individual is insured. Individuals with health coverage, including Medicaid, report better physical and mental health.[3] They are more likely to have routine access to medical care, less likely to rely on expensive emergency room visits and have better access to essential preventive services, reducing the incidence of chronic diseases that take a major toll on the U.S. health care system. In contrast, research shows that the uninsured have significantly worse health outcomes across a number of chronic diseases including cancer and diabetes. [4]

The nonpartisan Institute of Medicine (IOM) has studied the issue extensively and their report, *America's Uninsured Crisis: Consequences for Health and Health Care*, outlines the resulting lack of access to routine preventive care. In addition to the physical toll, there are major economic costs. Shorter lifespans and worse health outcomes result in a loss of $65 - 130 billion annually[5] and translate into lost economic productivity and threaten economic security as families live in fear of what might happen if they get sick.

The consequences are not limited to the individual, but impact communities and state economics and put America's security at risk. Expanding access to affordable health insurance would help to relieve overburdened safety net hospitals and clinics and reduce uncompensated care costs, which often falls to states and the federal government to pick up the tab. In total, eighty-five percent of the costs for uncompensated care fall on the government. [6]

While the initial cost of extending coverage to the newly legalized (RPIs) may be significant, the amount is an investment that is needed and cannot be avoided. Health costs will become due now or later. The need for any uninsured individual—regardless of immigration status—for basic health care will not disappear regardless of the number of complex restrictions put forth. Health care is out of

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[3] "What is the link between having health insurance and enjoying better health and finance?" Robert Wood Johnson Foundation, January 2012, *available a*t http://www.rwjf.org/content/dam/farm/reports/issue_briefs/2012/rwjf72145.
[4] "American's Uninsured Crisis: Consequences for Health and Health Care," Institute of Medicine, February 2009, *available at* http://www.iom.edu/~/media/Files/Report%20Files/2009/Americas-Uninsured-Crisis-Consequences-for-Health-and-Health-Care/Americas%20Uninsured%20Crisis%202009%20Report%20Brief.pdf.
[5] "Hidden Costs, Value Lost: Uninsurance in America," National Academies Press, 2003, *available at* http://www.nap.edu/openbook.php?record_id=10719&page=1.
[6] "The Cost of Care for the Uninsured: What do We Spend, Who Pays and What Would Full Coverage Add to Medical Spending?" Kaiser Family Foundation, May 2004, *available at* http://www.kff.org/uninsured/upload/the-cost-of-care-for-the-uninsured-what-do-we-spend-who-pays-and-what-would-full-coverage-add-to-medical-spending.pdf.

reach for most of the uninsured. The average hospital stay in the U.S. costs over $15,000 and the average cost for a doctor's visit is $89—expenses that can add up quickly.[7]

Racial and ethnic minorities and other underserved populations are particularly impacted by access and cost barriers, resulting in expensive health disparities. Asian Americans and Pacific Islanders, for example, are overwhelmingly immigrant and account for 40% of recent immigrants to the United States. As of 2011, there are over 17.6 million Asian Americans living in the United States, and over 1.2 million Native Hawaiians and Pacific Islanders. These communities, like many other racial and ethnic minorities, are disproportionately uninsured for a number of reasons, including cost, challenges navigating enrollment and eligibility processes, and importantly for this Committee—the intersection of immigration-based eligibility restrictions on access to health insurance and health programs.

The choice is clear; America cannot afford the human or economic toll that access barriers have. Putting up roadblocks to good health risks individual, family and community health and the safety and security of the entire nation.

IV. Offering Immigrants the Same Opportunities for Affordable Health Care and Coverage is Fiscally Responsible and Promotes Full Integration

Providing equal access to affordable, quality care and insurance for immigrants is sound fiscal policy. Immigrants are often younger, healthier and have lower health care expenses than native-born Americans.[8] A recent report by leading health researcher Leighton Ku and Brian Bruen found that, analyzing the Census Bureau's March 2012 Current Population Survey, immigrants have lower utilization rates for public benefits and the value of those benefits received is less than that for native-born individuals.[9] In addition, the report found that analysis of the 2010 Medical Expenditure Panel Survey (MEPS), costs for immigrants under Medicaid were substantially lower compared to native-born

[7] "Survey Shows that Americans Pay a Lot More for Healthcare," National Journal, March 25, 2012, *available at* http://www.nationaljournal.com/healthcare/survey-shows-americans-pay-a-lot-more-for-health-care-20120304.
[8] "Health Insurance Coverage and Medical Expenditures of Immigrants and Native-Born Citizens in the United States," Am J Public Health, Leighton Ku, 2009 July; 99(7):1322-1328, *available at* http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2696660/.
[9] "The Use of Public Assistance Benefits by Citizens and Non-Citizen Immigrants in the United States," CATO Institute, Leighton Ku and Brian Bruen, February 2013, *available at* http://www.cato.org/sites/cato.org/files/pubs/pdf/workingpaper-13_1.pdf.

adults and for immigrant children, costs were less than half that of native-born children. Prior analysis has conclusively shown that immigrants as a whole underutilize health care compared to the U.S. born and, when they participate in federal and state funded health programs, use fewer resources.[10]

America needs commonsense immigration policies that align with our values, protect all families and communities, and put the nation on a path to a better, healthier future. Our laws should make health care more affordable and accessible for both Americans and aspiring Americans alike. Immigrants already feel the pain when archaic eligibility laws, language barriers and access challenges converge. We cannot afford to create new barriers to good health for anyone.

The undersigned organizations recommend the following four reforms to ensure that immigration policies support the full integration of immigrants and encourage all Americans to take responsibility for their health.

a. Young Adults Granted Deferred Action Must be Allowed Access to Health Reform

Including DACA-eligible youth and young adults in health reform is sound policy and fiscally responsible. DACA-eligible youth, commonly known as DREAMers, are a sizable population, with recent estimates suggesting that as many as 1.76 million young adults could be eligible for administrative relief.[11] An estimated 9% of these youth come from Asian countries, comprising over 170,000 individuals. These young adults are already part of America's fabric, having lived in the country for years, and share the same hopes and aspirations as all young Americans.

There is no principled reason to treat young people who receive deferred action through DACA differently from any other person who has received deferred action. In fact, until HHS decided to carve out DACA beneficiaries, they were covered by the ACA like all other persons who have been granted deferred action. Restoring eligibility for DACA-eligible young adults in health reform would allow these individuals to purchase coverage in the new health insurance marketplaces, pay their fair share of

[10] "Health Insurance Coverage and Medical Expenditures of Immigrants and Native-Born Citizens in the United States," Am J Public Health, Leighton Ku, 2009 July; 99(7):1322-1328, *available at* http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2696660/.

[11] "Relief from Deportation: Demographic Profile of the DREAMers Eligible Under the Deferred Action Policy," Migration Policy Institute, August 2012, *available at* http://www.migrationpolicy.org/pubs/fs24_deferredaction.pdf.

health care costs and see a doctor on a regular basis, instead of remaining uninsured. Including this population of overall younger and healthier individuals in the marketplace creates a more sustainable and robust risk pool and ensures that these young people are able to continue to work, pay taxes and build the nation's economy.

Shutting them out could increase costs for everyone. Excluding a large population of relatively healthy young adults from the insurance marketplaces increases the risk of adverse selection and ultimately drives up premiums for everyone. Even more worrisome is the fact that if premiums rise, citizens and lawfully present individuals alike may find it too costly to purchase coverage through the marketplace and instead choose to remain uninsured, further reducing the marketplace population and in turn driving up costs.

Finally, including DACA-eligible youth and young adults in health reform supports administrative efficiency. As states develop processes to facilitate seamless eligibility determinations and enrollment for individuals in private insurance plans, Medicaid and CHIP, they are faced with yet another complicated process. Treating DACA-eligible youth like all other immigrants granted deferred status would ease this process.

b. All Immigrants Must be Allowed the Same Opportunity to Take Responsibility for their Health by Being Able to Purchase Coverage in the Insurance Marketplaces

Federal law currently excludes undocumented immigrants from purchasing private health insurance in the newly created insurance marketplaces. This policy undermines our country's efforts to reduce the number of uninsured and prevents a large population of mostly healthy, working adults from being included in state insurance risk pools. It is also the first known statutory prohibition on a private market transaction based on an individual's immigration status. It's good fiscal policy to offer health coverage to the largest number of people. Allowing everyone to pay in increases competition and spreads risks and costs across a larger population. As these immigrants continue to contribute to the U.S. economy, support their families and work toward a path of obtaining legal status, they must be able to take responsibility for their health by having the same opportunity to purchase affordable insurance.

c. End Arbitrary and Inhumane Time Limits that Put Legal Aspiring Citizens at Risk

Congress should remove the arbitrary time limits imposed on lawfully present immigrants whose taxes help support the social safety net programs they are barred from participating in. The arbitrary time limits currently in place create substantial barriers for low-income immigrants from being able to benefit from the same support systems critical to preventing needy individuals and families from slipping into poverty. As a result, eligible immigrants have lower rates of enrollment in federally supported programs than their citizen counterparts. This disparity is also true among citizen children living in immigrant households, putting these low-income children at risk of food insecurity and poor health outcomes.

States already recognize the importance of keeping women, children and families healthy. Four states and the District of Columbia use their own funds to provide health care for children regardless of their immigration status, and twenty states use the option under the Children's Health Insurance Program Reauthorization Act of 2009 to provide health coverage for lawfully present children subject to the five-year bar. Fourteen states and the District of Columbia provide CHIP or other medical coverage for pregnant immigrant women, regardless of immigration status, and an additional thirteen states provide Medicaid coverage for lawfully present pregnant women through the CHIPRA option.

We urge Congress to act again to permanently eliminate this arbitrary restriction for all lawfully present immigrants.

d. America Must Uphold its Commitment to the Freely Associated States and Provide Parity in Health Care

Migrants from the Compact territories should be able to access the federal health programs they pay into. COFA migrants are part of the fabric of America and share a complex relationship with the U.S. government, one in which the U.S. government has certain responsibilities. They contribute to the economy and pay taxes and therefore should be eligible for state funded programs. Lifting the current bar on eligibility will provide needed fiscal relief for states like Hawaii and the territory of Guam, which,

as a result of the federal government's failure to provide economic supports for this population, have shouldered a disproportionate burden of this population's health care expenses.

V. Conclusion

Every individual, regardless of immigration status, should have a fair opportunity to attain optimal health and well-being. Any fix to the nation's immigration system must include access to health care. The alternative risks putting recent reforms and advances at risk, potentially shifts costs to states and safety net providers, and puts the entire nation's physical health and economic well-being at risk.

For more information or questions, please contact Priscilla Huang, APIAHF Policy Director at phuang@apiahf.org or (202) 466-3550.

Signing organizations:
APAIT Health Center, Asian & Pacific Islander National Cancer Survivors Network, Asian & Pacific Islander Wellness Center, Asian American Health Coalition of Greater Houston, Asian Americans for Change, Asian and Pacific Islander Obesity Prevention Alliance, Asian Health Coalition, Asian Health Services, Asian Pacific American Labor Alliance, AFL-CIO, Asian Pacific American Network of Oregon, Asian Pacific Community in Action, Asian Pacific Islander American Public Advocacy Association, Asian Pacific Partners for Empowerment, Advocacy and Leadership, Asian Services In Action, Inc., Asian Women for Health, Inc., Association of Asian Pacific Community Health Organizations, BPSOS Inc., BPSOS California, Breast Cancer Action, California Healthy Nail Salon Collaborative, Center for Pan Asian Community Services, Inc., CHOW Project, Coalition for Asian American Children & Families , Empowering Pacific Islander Communities, Field Research Corporation, Health Through Action Arizona, Hep Free Hawaii, Hmong National Development, Inc., Island Liaison, Japanese American Citizens League, Japanese American Citizens League, Arizona, Kalusugan Coalition, Inc., Lao Assistance Center of MN, Laotian American National Alliance, Light and Salt Association, Malama Pono Health Services, Micronesian Islander Community, Midwest Asian Health Association, MQVN Community Development Corporation, National Asian Pacific American Families Against Substance Abuse, National Asian Pacific American Women's Forum, National Asian Pacific American Women's Forum, Arizona Chapter, National Council of Asian Pacific Islander Physicians, National Pacific Islander Educator Network, National Tongan American Society, OCA, One Global Family Foundation, Orange County Asian and, Pacific Islander Community Alliance, Inc., Pacific American Foundation
Pacific Islander Community Partnership, PELE, The Sorority of Oceania, Philipino Senior Resource Center, Project CHARGE, Restaurant Opportunities Centers United, Saath USA, Samoan Community Development Center, Samoan National Nurses Association, SEAMAAC, Inc., Socio-Economic Development Center for Southeast Asians, Southeast Asia Resource Action Center (SEARAC), Tanusia Ma'a Tonga, Taulama for Tongans, The HYPE Movement, Tongan American Youth Foundation, Vietnamese American Young Leaders Association of New Orleans, Vietnamese Health Project at Mercy Medical Center, West Michigan Asian American Association, Inc., and Worksafe, Inc.