



THE TRUTH ON COVERING ILLEGALS

By KRIS W. KOBACH

September 19, 2009

THE House of Representatives has rebuked Rep. Joe Wilson (R-SC) for shouting out, "You lie!" during President Obama's speech to Congress last week. It was certainly a breach of decorum and House rules -- but it's well worth noting that Wilson had a substantial point.

What prompted the exclamation, after all, was the president's assertion: "There are also those who claim that our reform efforts would insure illegal immigrants. This too is false."

If only. In fact, the House's lead health-reform bill (HR 3200), *would* give taxpayer-paid insurance to illegal aliens.

Of course, to realize this, you have to actually read the bill, and many members of Congress haven't.

To disguise the facts, supporters of health "reform" point to Section 246 of the bill, which reads: "Nothing in this subtitle shall allow Federal payments for affordability credits on behalf of individuals who are not lawfully present in the United States."

But this is a huge bill, and such disclaimers must be read in context. In fact, the bill lets illegal aliens get subsidized care in two ways.

Section 246 applies only to the subtitle of the bill concerning "individual affordability credits" -- insurance subsidies to help people earning up to 400 percent of the poverty level who don't qualify for Medicaid.

That section's disclaimer doesn't cover the taxpayer-subsidized "public option" policies -- which are described in Section 221, a subtitle that contains *no* language excluding illegal aliens.

Thus, any illegal alien may sign up for health insurance under the public option -- which will inevitably be massively subsidized by the taxpayers.

In any case, even the Section 246 disclaimer is utterly toothless: It's simply a hopeful statement, lacking any enforcement mechanism to screen applicants and prevent illegal aliens from getting the taxpayer-paid benefits.

And enforcement mechanisms are essential. Numerous government reports have found that despite statutory prohibitions to the contrary, illegal aliens already get all sorts of public benefits whenever enforcement mechanisms are absent.

Take the Earned Income Tax Credit -- now the government's largest cash-transfer program. By federal law, illegal aliens aren't eligible -- but there's no requirement that the IRS verify EITC recipients as eligible, so illegal-alien households get millions under the program every year. Without question, the same would be true with health credits under the House bill.

There is an easy fix for these two loopholes -- just require aliens applicants to be verified as lawfully present through the Systematic Alien Verification for Entitlements.

SAVE is a Web-based program developed by the federal government in the 1990s to keep illegal aliens from getting public benefits. Some 32 states now use it to keep illegal aliens from getting driver's licenses. It works extremely well.

Rep. Dean Heller (R-Nev.) tried to get this fix into the House health-reform bill in July: He offered an amendment to require alien beneficiaries to be verified through SAVE -- but the Democratic majority rejected the amendment on a party-line vote.

There's only one possible explanation for that vote to reject enforcement: The Democratic leadership of the House plainly wants to keep both of these loopholes wide open, thereby *ensuring* that illegal aliens get health coverage.

Until the bill is amended and SAVE verification is required, Wilson will be right and Obama will be wrong.

The White House seemed to acknowledge this fact last Friday, by quietly issuing a statement saying that it would be open to including SAVE verification in the bill. Then, this week, Sen. Max Baucus (D-Mont.) unveiled his plan for "reform" -- and he too endorsed such an enforcement mechanism.

It would appear that Joe Wilson's shout has changed the debate.

Kris W. Kobach, a law professor at the University of Missouri (Kansas City), served as Attorney General John Ashcroft's chief adviser on immigration law, 2001-03.