



COMBINED MEDICAID 301-2

Alien Status

Supersedes: FMA 301-2 (03/01/15), MA 301-2 (07/01/11)

Reference: 42 CFR 435.406; 440.255; P.L. 104-193, P.L. 111-118

Overview: Medicaid eligibility for aliens is based on whether they are a qualified alien and if all other program requirements are met. A qualified alien is an alien who is lawfully admitted for permanent residence under various sections of the Immigration and Nationality Act (INA). Alien status is normally established by the United States Citizenship and Immigration Services (USCIS) or the written decision of an immigration judge.

When the VLP cannot validate alien/immigration status, the eligibility staff member sends the household a system notice requesting additional information necessary to verify their alien/immigration ACA/Family: Alien/immigration status must be verified through the VLP (Verify Lawful Presence). If the VLP verification differs from what is entered in the system, VLP verification overrides all other documentation, including SVES. Hard copy proof is requested only when the VLP cannot verify alien/immigration status. When the household provides the information, the eligibility staff member updates the system with the new information, which resends it to the VLP. If there is a subsequent mismatch, the current SAVE process (see 'Alien Status Verification/ SAVE' caption in this manual section) is used to validate the reported status.

QUALIFIED ALIENS:

Qualified aliens include the following:

1. **Afghan and Iraqi Special Immigrants** – An alien who is admitted as a Special Immigrant under Section 602 of P.L. 111-08 or under Section 1059 of P.L. 111-118 as amended.
 - a. Apply the “Seven-year Limited Eligibility” policy.
 - b. Document status with
 - i. Afghan Special Immigrant passport with immigrant visa stamp noting admission under IV Category SI1-SI3 AND
 - ii. DHS stamp or notation on passport, or
 - iii. Form I-94 showing date of entry; or
 - iv. Form I-551 showing Afghan nationality with IV code of SI6-7 or SI9; or
 - v. Afghan passport with IV code of SI6-7 or SI9

- c. Iraqi and Afghani aliens and family members who enter the U.S. as refugees with their alien status verified by SAVE, have "Refugee" listed as their "Immigration Status" for Medicaid. If SAVE documentation shows two statuses, Medicaid will allow the most liberal. For example, if SAVE shows both refugee and LAPR status, Medicaid will record refugee status if that is better for the individual. If only LAPR status is reported on a SAVE document or the persons' status is later changed to LAPR status, then the person's "Immigration Status" in the system must show as LAPR.
2. **Amerasian Immigrant** – an alien who is admitted to the U.S. pursuant to section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988.
 - a. Apply the 'Seven-year Limited Eligibility' policy.
 - b. Document Amerasian immigrant status with:
 - i. I-94 annotated with code AM1, AM2, or AM3; or
 - ii. Unexpired temporary I-551 stamp in foreign passport.
3. **American Indians** - An American Indian born in Canada who is at least 50% American Indian is considered to be Lawfully Admitted for Permanent Residence (LAPR).
 - a. The 'Five-year Ban' and the 'Seven-year Limited Eligibility' policies do not apply to American Indians born in Canada.
 - b. American Indians born in Canada do **not** have to meet the 40 qualifying work quarters requirement.
 - c. This policy does not include a child of such an American Indian nor a non-citizen whose membership in an Indian tribe or family is created by adoption, unless such person is at least 50% American Indian blood.
 - d. Document American Indian born in Canada status with:
 - i. A statement from the Tribe; or
 - ii. A letter from the Canadian Department of Indian Affairs; or
 - iii. Form IA- 236 - Canadian Certificate of Indian Status; or
 - iv. Form I-181; or
 - v. Form I-551 annotated with KIC, KIP, or S13.
4. **Asylee** - An alien who was granted asylum under section 208 of the Immigration and Nationality Act (INA).
 - a. Apply the 'Seven-year Limited Eligibility' policy.
 - b. Document asylee status with:
 - i. Form I-94 showing grant of asylum under Section 208; or
 - ii. Grant letter from Asylum Office of the USCIS; or
 - iii. Order from immigration judge granting asylum; or
 - iv. Form I-688B annotated 274.a12(a)(5); or
 - v. Form I-766 annotated A5
5. **Battered Spouse or Child** - An alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the United States under the requirements of 8 USC 1641(c).
 - a. Apply the 'Five-year Ban' policy;
 - b. 40 qualifying work quarters required;

- c. Must no longer be residing with the abuser
 - d. Document battered spouse or child status with:
 - i. Form I-551 annotated with IB5, IB7, or IB8; or
 - ii. Form I-797 if it is a Notice of Approval or Notice of Prima Facie Determination; or
 - iii. Other USCIS documentation of battered status (such as an approved self-petition or cancellation of removal or suspension of deportation filed as a victim of domestic violence).
6. **Conditional Entry** - An alien granted conditional entry under Section 203(a)(7) of the immigration law in effect before April 1, 1980.
- a. Apply the 'Five-year Ban' policy;
 - b. 40 qualifying work quarters required;
 - c. Document conditional entry status with:
 - i. Document conditional entry status with:
 - ii. Form I-668B annotated 274a.12(a)(3); or
 - iii. Form I-766 annotated A3.
7. **Cuban/Haitian Entrant** – an alien who is granted status of Cuban and Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.
- a. Apply the 'Seven-year Limited Eligibility' policy;
 - b. Document Cuban/Haitian entrant status with:
 - i. Form I-94 annotated with code CU6 or CU7, or stamped Cuban/Haitian Entrant under Section 212(d)(5) of the INA; or
 - ii. Unexpired temporary I-551 stamp in foreign passport.
8. **Deportation Withheld** - An alien whose deportation is being withheld under Section 243(h) of the INA status granted prior to 09/30/1996, or under section 241(b)(3) after 09/30/1996.
- a. Apply the 'Seven-year Limited Eligibility' policy
 - b. Document deportation withheld status with:
 - i. An order from an immigration judge showing deportation has been withheld;
 - ii. Form I-688B annotated 274a.12(a)(10); or
 - iii. Form I-766 annotated A-10; or
 - iv. Form I-94 alien stamped "Deportation Withheld".
9. **Enrolled Member of an Indian Tribe** - Any member of a federally-recognized Indian tribe under Section 4(e) of the Indian Self Determination and Education Assistance Act is considered to be a LAPR.
- a. The 'Five-year Ban' and the 'Seven-year Limited Eligibility' policies do **not** apply to an enrolled member of an Indian tribe.
 - b. 40 qualifying work quarters NOT REQUIRED;
 - c. Document enrolled member of an Indian tribe status with:
 - i. Tribal membership document, or
 - ii. A statement from the Tribe, or
 - iii. Form I-181, or

iv. Form I-551 annotated with KIC, KIP, or S13.

10. **Lawfully Admitted to the United States for Permanent Residence (LAPR)** - An alien who is lawfully admitted for permanent residence under the INA may be eligible if he or she:

- a. entered the U.S. before 8/22/96;
- b. entered the U.S. on or after 8/22/96; and
 - i. Apply the 'Five-year Ban' policy;
 - ii. Has 40 qualifying work quarters.
- c. Has 40 qualifying work quarters.
 - i. I-151; or
 - ii. I-551; or
 - iii. I-94 with class codes AM1, AM2, or AM3

11. **Parolee** - An alien who is paroled into the US under Section 212(d)(5) of the INA for at least one year.

- a. Apply the 'Five-year Ban' policy.
- b. Have meet the 40 qualifying work quarters requirement.
- c. Document parolee status with form I-94 stating the alien has been paroled under Section 212(d)(5) and a date showing granting of parole for at least one year -or stamped "Cuban/Haitian Entrant (Status Pending) Reviewable January 15, 1981."

12. **Refugee** - An alien who is admitted as a refugee under section 207 of the Immigration and Nationality Act (INA).

- a. Apply the 'Seven-year Limited Eligibility' policy
- b. Document refugee status with form:
 - i. I-94 showing entry as refugee under Section 207; or
 - ii. I-688B annotated 274a.12(a)(3); or
 - iii. I-766 annotated A3; or
 - iv. I-571.

13. **SSI Determined Qualified Alien** - Anyone who receives a SSI benefit retains derivative eligibility for Medicaid regardless of whether he or she is otherwise ineligible for Medicaid.

14. **Veteran or Active Duty Military Personnel** - An alien who is:

- a. A veteran of the U.S. Armed Forces and received a discharge characterized as honorable and not because of alienage;
- b. An active duty member in the U.S. Armed Forces who is not on active duty for training purposes only (i.e., Reserves, National Guard);
- c. A Hmong and other Highland Laotian veterans who fought on behalf of the U.S. Armed Forces during the Vietnam conflict (considered veterans for purposes of determining qualified alien status);
- d. The spouse, unmarried child or unremarried widow of a Veteran or Active Duty Military Personnel as described in a., b. and c. above.

All veterans or active duty military personnel listed in a – d above:

- e. Do not have to meet the 'Five-year Ban' or the 'Seven- year Limited Eligibility' policies.

- f. Have to meet the 40 qualifying work quarters requirement unless entered the U.S. before 8/22/96.
 - g. Document the veteran status; the active duty member status; the spouse, unmarried child or unremarried widow of a veteran or active duty member status with:
 - i. Original copy of the veteran's most recent discharge papers; or
 - ii. Original copy of active duty military personnel's current order.
 - h. Hmong and other Highland Laotian veteran status is documented with:
 - i. Form I-94 showing entry as refugee under Section 207 INA; or
 - ii. I-551 or I-151 unless it states the individual entered under section 249 and entered after 1/1/1972; or
 - iii. State Office master list showing the individual as a Hmong/Highland Laotian refugee; or
 - iv. An affidavit signed under penalty of law that he/she was a member of the tribe between 08/05/1964 – 05/07/1975.
15. Victim of a Severe Form of Trafficking - An alien who has been a victim of a severe form of trafficking as determined by the U.S. Department of Health and Human Services (HHS).
- a. Apply the 'Seven-year Limited Eligibility' policy
 - b. Document victim of severe form of trafficking status with:
 - i. A certification form from HHS for adult victims of trafficking.
 - ii. A letter from HHS for children who are victims of trafficking.

FIVE-YEAR BAN:

The five-year ban runs for an exact 1825 days (365 days/year x 5 years) from the date the individual obtains qualified alien status. Therefore, the "five-year ban" may end in the middle of a month. The date the ban ends should be determined to the exact day by determining the date qualified alien status was granted, and then moving forward five years. Otherwise eligible alien children lawfully residing in the U.S. are not subject to the five-year ban.

The following qualified aliens entering the U.S. on or after August 22, 1996 are NOT eligible for Medicaid for five (5) years after their date of entry into the United States:

1. Battered Spouse/Child
2. Conditional Entry Alien
3. Lawfully Admitted to the United States for Permanent Residence (LAPR)
4. Parolee

Use the actual date of entry only to determine whether or not the five-year ban applies. This may or may not be the date on the person's USCIS alien registration card. Once it has been determined that the five-year ban applies, the alien is not eligible for Medicaid services for five years from the date that he or she obtained qualified alien status. This will be the date on the alien's USCIS alien registration card, which may be different from the actual date of entry.

Qualified aliens who are subject to the five-year ban may be eligible for Emergency Medical Assistance (see CMA 301-3).

QUARTERS OF WORK:

If unable to verify work quarters through the system, the individual must provide verification of 10 or more years of earnings with employer statements, income tax forms, wage stubs, etc., or obtain verification from the regional SSA office. No work quarters are creditable for any period beginning after December 31, 1996, if either the alien or the worker (the parent or spouse) received any Federal means-tested benefits during the period in which the work quarters were earned.

NOTE: Federal means-tested benefits include Medicaid, TANF Cash Assistance and SSI cash benefits. Federal means-tested benefits do not include LIEAP (Low Income Energy Assistance Program), any other food assistance, child care or housing assistance.

SEVEN-YEAR LIMITED ELIGIBILITY:

The following qualified aliens who meet all financial and non-financial eligibility criteria may receive Medicaid benefits for only seven years after date of entry/designation by the USCIS:

1. Refugees
2. Asylee
3. Deportation withheld under section 243(h) of the INA
4. Cuban/Haitian Entrants
5. Amerasian Immigrants
6. Victim of a severe form of trafficking
7. Afghan and Iraqi Special Immigrants

NOTE: If an alien eligible in one of these seven categories adjusts to another status (e.g., LAPR) during the seven-year period, eligibility may continue during the entire seven years after the date of entry. After the seven years have expired, the individual must qualify under another eligible category to continue receiving assistance.

An alien in one of the above seven categories who does not otherwise meet the citizenship/alien status requirements (based on adjustment to LAPR status with 40 qualifying quarters, naturalization, being the child of an active duty member of the military or veteran or meet other criteria for qualified aliens) loses eligibility under this provision effective with the first month beginning seven years after their date of entry/date of designation.

LOSS OF ELIGIBILITY DUE TO STATUS CHANGE:

The USCIS can rescind an alien's status, not renew a time-limited status, or adjust the alien's status to a different status. An individual who ceases to meet Medicaid eligibility requirements because of a change in alien status will lose benefits effective the month following the status change. The USCIS makes changes in the following situations:

1. **Status Change of an Unmarried Dependent Child of a Veteran or Active Duty Member of the Armed Forces** - Status as an unmarried dependent child ends the month following these events:
 - a. Child gets married;
 - b. Loss of dependent status;
 - c. Legal adoption by someone other than the veteran or active duty member of the Armed Forces or his/her spouse; or
 - d. Separation of the active duty member from the military if the discharge is not characterized as honorable or is based on alienage.
2. **The parent or stepparent's status as a spouse of a veteran or active duty member of the Armed Forces** ends with the month following the month of:
 - a. Divorce or annulment of the marriage; or
 - b. A determination that a marital relationship does not exist.
3. **Battered Alien and Batterer Resume Living in the Same Household** - The status of an alien who is a qualified alien based on battery ends the month after the month the person responsible for the battery or extreme cruelty and the alien resume living in the same household.

ASSIGNING NON-WORK SSNs:

An SSN will not be assigned or a replacement card issued to an alien who does not have USCIS authorization to work in the U.S. unless the alien has a valid non-work reason for needing an SSN. (Reference: SSA POMS RM 00203.510)

Meeting TANF, SNAP and/or Medicaid eligibility requirements (i.e., the individual needs to provide his or her SSN to receive benefits) is a valid reason for needing a non-work SSN. The alien needs agency documentation to establish that the individual meets all other requirements to receive benefits except for an SSN.

SPONSOR'S INCOME AND RESOURCES:

Income and resources of the alien's sponsor are considered when determining a qualified alien's eligibility (after applicable five-year ban has been served, or before the seven-year limit has expired, if applicable). A sponsor is an individual who is:

1. A U.S. citizen, U.S. National or an alien who is lawfully admitted to the U.S. for permanent residence;
2. 18 years old or older;
3. Residing in any of the 50 states or the District of Columbia; and
4. Petitioning for the admission of the alien under section 213 of the Immigration and Petitioning for the admission of the alien under section 213 of the Immigration and Nationality Act (INA) (Affidavit of Support, Form I-134).

The income and resources of the alien's sponsor and sponsor's spouse are deemed to be available to the alien until such time as the alien:

1. Achieves U.S. citizenship through naturalization, or
2. Has worked 40 qualifying quarters.

NOTE: Refugees do not have sponsors.

ALIEN STATUS VERIFICATION (SAVE):

Immigration status of all alien applicants is verified with USCIS. **The eligibility determination process is not delayed pending USCIS verification of the alien’s documents, provided all other eligibility criteria have been met.**

Effective Date: July 01, 2016

IMMIGRATION STATUS	POTENTIALLY ELIGIBLE	40 QUARTERS OF WORK (if in the US on or After 08/22/1996)	5-YEAR BAN (if in the US on or after 08/22/1996)	7-YEAR LIMIT ELIGIBILITY	REQUIRED DOCUMENTATION
Active Duty Member of the U.S. Military	Yes	Yes	No	Yes	Current orders posting the individual to the military
Amerasian Immigrant	Yes	No	No	Yes	Form I-94 annotated w/AM1, AM2, or AM3; or Unexpired temporary i-551 stamp in foreign passport
American Indians born in Canada (50%+)	Yes	No	No	No	Tribal Records; or Letter from the Canadian Department of Indian Affairs; or Form IA-236; or Form I-181; or Form I-551 annotated with KIC, KIP, or S13
Afghan Special Immigrants	Yes	No	No	Yes	Passport with immigrant visa stamp noting admission under IV Category SI1-SI3 AND DHS Stamp or notations on passport; or Form I-94 showing date of entry; or Form I-551 showing Afghan nationality with IV code of SI6-7 or SI9; or Afghan passport with IV coed of SI6-7 or SI9
Asylee	Yes	No	No	Yes	Form I-94 showing grant under Section 208; or Grant letter from Asylum Office of the USCIS; or Order from Immigration judge granting asylum; or Form I-688B annotated 274.a12(a)(5); or Form I-766 annotated A5
Battered Spouse/Child	Yes	Yes	Yes	No	Form I-551 annotated with IB5, IB7, or IB8; or Form I-797 if it is a notice of Approval or Notice of Prima Facie Determination; or

IMMIGRATION STATUS	POTENTIALLY ELIGIBLE	40 QUARTERS OF WORK (if in the US on or After 08/22/1996)	5-YEAR BAN (if in the US on or after 08/22/1996)	7-YEAR LIMIT ELIGIBILITY	REQUIRED DOCUMENTATION
					Other USCIS documentation of battered status.
Conditional Entry	Yes	Yes	Yes	No	Form I-94 stamped "Refugee-Conditional Entry"; or Form I-668B annotated 274a.12(a)(3); or Form I-766 annotated A3
Cuban/Haitian Entrant	Yes	No	No	Yes	Form I-94 annotated with code CU6 or CU7, or stamped Cuban/Haitian Entrant under Section 212(d)(5) of the INA; or Unexpired temporary I-551 stamp in foreign passport
Current Spouse of a Veteran of the U.S. Military	Yes	Yes	No	No	Original copy of the veteran's more recent discharge papers and documentation of marriage
Deportation Withheld	Yes	No	No	Yes	An order from an immigration judge showing deportation has been withheld; or Form I-688B annotated 274a.12(a)(10); or Form I-766 annotated A-10; or Form I-94 alien stamped "Deportation Withheld".
Diplomats and their families	No				
Enrolled Member of an Indian Tribe	Yes	No	No	No	Tribal membership document, or a statement from the Tribe, or Form I-181, or Form I-551 annotated with KIC, KIP, or S13
Lawfully Admitted Permanent Resident (LAPR)	Yes	Yes	Yes	No	Form I-151; or Form I-551; or Form I-94 with class codes AM1, AM2, or AM3.
Parolee	Yes	Yes	Yes	No	Form I-94 stating the alien has been paroled under Section 212(d)(5) and a date showing granting of parole in <u>at least</u> one year –or– stamped "Cuban/Haitian Entrant (Status Pending) Reviewable January 15, 1981".
Refugee	Yes	No	No	Yes	Form I-94 showing entry as refugee under Section 207; or Form I-688B annotated 274a.12(a)(3); or Form I-766 annotated A3; or Form I-571.
SSI Determined Qualified Alien	Yes	No	No	No	SOLQ printout; or Social Security Statement
Students (Temporary Stay)	No				

IMMIGRATION STATUS	POTENTIALLY ELIGIBLE	40 QUARTERS OF WORK (if in the US on or After 08/22/1996)	5-YEAR BAN (if in the US on or after 08/22/1996)	7-YEAR LIMIT ELIGIBILITY	REQUIRED DOCUMENTATION
Unmarried child of an Veteran of the U.S. Military	Yes	Yes	No	No	Original copy of the veteran's most recent discharge papers and child's birth certificate
Unmarried Child of an Active Duty Member of the U.S. Military	Yes	Yes	No	No	Current orders posting the individual to the military and child's birth certificate
Un Remarried widow of a Veteran of the U.S. Military	Yes	Yes	No	No	Original copy of the veteran's most recent discharge papers, documentation of veteran's death, and documentation of marriage
Undocumented Alien	No				
Veteran of the U.S. Military	Yes	Yes	No	No	Copy of veteran's most recent discharge papers issued by the military
Victim of Trafficking	Yes	No	No	Yes	Certification form from HHS
Visitors/Tourists/Guest Workers	No				