



COMBINED MEDICAID 301-2

Noncitizen Status

Supersedes: CMA 301-2 (12/1/2024)

Reference: 42 CFR 435.406; 42 CFR 440.255; P.L. 104-193, P.L. 111-118; P.L. 119-21

Overview: Medicaid eligibility for noncitizens is based on whether they are qualified noncitizens and if all other program requirements are met. A qualified noncitizen is an individual who is legally present in the US based on their immigration status under various sections of the Immigration and Nationality Act (INA). Immigration status is determined by the Department of Homeland Security (DHS) and verified through the SAVE system administered by USCIS. A Qualified non-citizen includes individuals who are:

1. Lawfully admitted for permanent residence (LPR) (green card holders)
2. Citizens of the Compact of Free Association (COFA migrants)
3. Cuban/Haitian Entrant
4. Granted asylum
5. Admitted as a refugee
6. Paroled into the U.S. for at least one year
7. Individuals whose deportation is being withheld
8. Noncitizen subject to battery or extreme cruelty by spouse, child, or parent
9. Victim of trafficking
10. American Indian Born in Canada with at least 50% blood quantum in a US-recognized tribe.

Students, visitors, non-immigrant status (including worker visas), and undocumented individuals are not eligible for Medicaid.

Lawfully Residing Children. Medicaid is available for lawfully residing children who otherwise meet Medicaid or CHIP eligibility requirements. The federal guidelines allow expanded categories for children only. Children in the following statuses are considered lawfully residing:

1. A qualified non-citizen (see above);

2. An alien in nonimmigrant status who has not violated the terms of the status under which he or she was admitted or to which he or she has changed after admission;
3. An alien who has been paroled into the United States for less than 1 year, except for an alien paroled for prosecution, for deferred inspection or pending removal proceedings;
4. An alien who belongs to one of the following classes:
 - a. Aliens currently in temporary resident
 - b. Aliens currently under Temporary Protected Status (TPS), and pending applicants for TPS who have been granted employment authorization;
 - c. Aliens who have been granted employment authorization;
 - d. Family Unity beneficiaries;
 - e. Aliens currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President;
 - f. Aliens currently in deferred action status; or
 - g. Aliens whose visa petition has been approved and who have a pending application for adjustment of status;
5. A pending applicant for asylum or for withholding of removal or under the Convention Against Torture who has been granted employment authorization, and such an applicant under the age of 14 who has had an application pending for at least 180 days;
6. An alien who has been granted withholding of removal under the Convention Against Torture;
7. A child who has a pending application for Special Immigrant Juvenile status;
8. An alien who is lawfully present in the Commonwealth of the Northern Mariana Islands; or
9. An alien who is lawfully present in American Samoa under the immigration laws of American Samoa.

Exception: An individual with deferred action under the Department of Homeland Security's deferred action for the childhood arrivals process (DACA) shall not be considered lawfully present with respect to any of the above categories in paragraphs (1) through (9) of this definition.

Additional Verification for Lawful Permanent Resident (LPR)

LPR's must meet the Five-year waiting period (Five-Year Bar) or have 40 qualifying quarters of work (10 years) to meet the citizenship and immigration status requirement for Medicaid. If the qualifying quarters of work are not met and a noncitizen has a sponsor with an Affidavit of Support (I-864), then the sponsors' income and resources will be evaluated for determining eligibility.

- 1) Five-Year Bar. LPR's entering the U.S. on or after August 22, 1996, are NOT eligible for Medicaid for five (5) years after their date of entry and after being in a

qualified status for a period of five years. The date the five-year bar starts is the date on the noncitizen's USCIC alien registration card.

NOTE: The five-year bar does not apply to individuals who are not subject to the 5-year bar and later adjust to LPR status including; COFA migrants, Cuban Haitian Entrants, refugees, asylees, individuals granted withholding of deportation or removal, certain Ukrainian or Afghan parolees, Iraqi or Afghan special immigrant visa holders, Amerasian immigrants, veterans or active-duty service members and their families, certain American Indians born abroad, and others. Under current law, if these exempt individuals become LPRs (e.g., upon admission or after adjusting their status), they can continue to receive Medicaid or CHIP without the five-year bar applying.

The five-year bar does not apply to children in a lawfully residing status.

- 2) 40 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 noncitizen or the worker (the parent or spouse) received any Federal means-tested benefits during the period in which the work quarters were earned.

LPRs who have been in the U.S. for 10 years or more are not required to have 40 qualifying work quarters to qualify for Medicaid. The eligibility requirements have been updated to allow LPRs to be eligible after five years of U.S. residency, regardless of whether they have any qualifying work quarters.

- 3) Sponsor Deeming of Income and Resources apply to some LPR individuals.

- Sponsor deeming applies when:
 - -The sponsor signed Form I-864 or I-864A
 - -The form was signed on or after December 19, 1997
 - Income and resources of the sponsor will be used to determine eligibility if there is not 40 quarters of work after the five-year bar. See CMA 603-1 Deeming
- Sponsor Deeming ends when one of the following occurs:
 - -The LPR has 40 qualifying work quarters
 - -The LPR becomes a U.S. citizen
 - -The reason for termination of sponsor's responsibilities occurs (e.g., death of sponsor, divorce in special cases, etc.).

Emergency Medicaid: Remains available for services necessary to treat an emergency medical condition, regardless of noncitizen status. See CMA 301-3 Emergency Medicaid

Immigration Status Verification

Immigration status must be verified through electronic data sources. When an electronic data source cannot validate immigration status or if it differs from the documentation provided to the OPA, additional verification is required. Acceptable verifications include current unexpired documents that verify entry date, status, document or ID numbers, and identifying information.

See: Verify Lawful Presence Business Process

REASONABLE OPPORTUNITY:

If citizenship or satisfactory immigration status cannot be verified within the 45-day application processing time frame, the state must provide a 90-day reasonable opportunity period to allow an individual who has made a signed declaration of citizenship or satisfactory immigration status, and the state has not been able to verify with electronic sources, is allowed so the client can either provide proof of U.S. citizenship, national status, or satisfactory immigration status, or to provide evidence that they are trying to obtain that proof (such as providing a copy of the application requesting their birth certificate from another state). Reasonable opportunity is also allowed when a new immigration status is reported.

The individual must respond to the initial request for verification of information and inform the state that they need additional time to complete the request if they are unable to provide the documentation. If the requested information is not returned, Medicaid is denied.

The 90-day period starts when the person receives the notice requesting verification, which is 5 days after it is mailed. If the person is otherwise eligible, Medicaid coverage begins on the first day of the application that includes their statement about citizenship or immigration status.

During the reasonable opportunity period, the state must continue efforts to complete verification of the individual's citizenship or satisfactory immigration status, or request documentation if necessary. If satisfactory proof of U.S. citizenship or immigration status is not provided by the end of the reasonable opportunity period, Medicaid coverage is closed, with timely notice provided.

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