Special Subsidy Eligibility
Assisting Lawfully Present Individuals Who Don’t Qualify for Medicaid Based on Immigration Status

Center on Budget and Policy Priorities
An Explanation Video: November 2017
Marketplace Subsidy Eligibility for Lawfully Present Individuals Who Do Not Qualify for Medicaid Based on Immigration Status

- Lawfully present individuals are eligible for PTC if they are not eligible for Medicaid due to their immigration status even if their income is below 100% FPL
- This includes lawfully present people who are:
  - Not “qualified” immigrants
  - Qualified immigrants who are subject to and have not met the 5-year bar

**Bottom line:** Many lawfully present individuals with incomes in the Medicaid range or below 100% FPL are eligible for PTC and CSR
Extra Steps Are Often Needed to Get Correct Eligibility Determination for Premium Tax Credits

- Step 1: Identify Medicaid Eligibility Based on Status
- Step 2: Identify Eligibility for Marketplace Enrollment
- Step 3: Help Consumer Complete the Application
- Step 4: Help Complete Extra Steps to Get Correct Eligibility
  - Process when the application incorrectly determines the consumer is eligible for Medicaid
  - Process when the application incorrectly determines the consumer is not eligible for Medicaid or premium tax credits (PTC)
Step 1: Identify Medicaid Eligibility Based on Status

Figure out if the consumer is eligible for Medicaid based on immigration status: **Statuses Eligible for Medicaid**

“Qualified” Immigrants:
- Lawful Permanent Resident (LPR/green card holder)
- Refugee
- Asylee
- Cuban/Haitian Entrant
- Paroled into the U.S. for at least one year
- Conditional Entrant
- Granted Withholding of Deportation or Withholding of Removal
- Battered Spouse, Child and Parent
- Trafficking Survivor and his/her Spouse, Child, Sibling or Parent

Others:
- Member of a federally-recognized Indian tribe or American Indian born in Canada
Figure out if the consumer is eligible for Medicaid based on immigration status: **Five Year Waiting Period**

- “Qualified” immigrants are subject to a five-year waiting period (also known as the “5-year bar”)
  - The five years begin when an immigrant obtains a “qualified” immigration status

**Some people with a “qualified” immigration status are not subject to the 5-year bar:**

- Immigrants who physically entered the U.S. before 8/22/96 and remained in the U.S. continuously until obtaining a qualified status
- Refugees, asylees, persons granted withholding of deportation/removal (even if they later become LPRs)
- Cuban/Haitian entrants, certain Amerasian immigrants, individuals granted Iraqi or Afghan special immigrant status, trafficking survivors (even if they later become LPRs)
- Qualified immigrants who are U.S. veterans or on active military duty and their spouses or children
- Children (at state option)
- Pregnant women (at state option)
Figure out if the consumer is eligible for Medicaid based on immigration status: **State Flexibility**

- States have the option to cover lawfully residing children and/or pregnant women. This includes:
  - Qualified immigrants, without the 5-year bar restriction
  - **Lawfully present** people, a broader group than “qualified” immigrants

* Two-thirds of states have taken up this option for children and nearly half for pregnant women

! **Note:** But certain states have *restricted* eligibility beyond the federal floor

To find out more info on state options in your state, see NILC’s [Medical Assistance Programs for Immigrants in Various States](#)
Step 2: Identify Eligibility for Marketplace Enrollment

If not eligible for Medicaid due to immigration status, figure out if eligible for Marketplace enrollment

<table>
<thead>
<tr>
<th>Immigration Statuses Eligible for Marketplace Enrollment</th>
</tr>
</thead>
<tbody>
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<td><strong>Statuses Eligible for Medicaid:</strong></td>
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<tr>
<td><strong>Other “Lawfully Present” Immigrants:</strong></td>
</tr>
<tr>
<td>• Granted relief under the Convention Against Torture (CAT)</td>
</tr>
<tr>
<td>• Temporary Protected Status (TPS)</td>
</tr>
<tr>
<td>• Deferred Enforced Departure (DED)</td>
</tr>
<tr>
<td>• Deferred Action (except DACA)*</td>
</tr>
<tr>
<td>• Paroled into the US for less than one year</td>
</tr>
<tr>
<td>• Individual with Nonimmigrant Status (includes worker visas; student visas; U visas; citizens of Micronesia, the Marshall Islands, and Palau; and many others)</td>
</tr>
<tr>
<td>• Administrative order staying removal issued by the Department of Homeland Security</td>
</tr>
<tr>
<td>• Lawful Temporary Resident</td>
</tr>
<tr>
<td>• Family Unity</td>
</tr>
</tbody>
</table>

*EXCEPTION: Individuals granted deferred action under the 2012 Deferred Action for Childhood Arrivals (DACA) program are not eligible to enroll in coverage in the Marketplace*
If not eligible for Medicaid due to immigration status, figure out if eligible for Marketplace enrollment

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<th>Immigration Statuses Eligible for Marketplace Enrollment</th>
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<tr>
<td><strong>APPLICANT</strong> for any of the following:</td>
</tr>
<tr>
<td>• Lawful Permanent Resident (with an approved visa petition)</td>
</tr>
<tr>
<td>• Asylum*</td>
</tr>
<tr>
<td>• Special Immigrant Juvenile Status</td>
</tr>
<tr>
<td>• Victim of Trafficking Visa</td>
</tr>
<tr>
<td>• Withholding of deportation or withholding of removal, under the immigration laws or under the Convention Against Torture (CAT)*</td>
</tr>
<tr>
<td>• Applicant for Cancellation of Removal or Suspension of Deportation</td>
</tr>
<tr>
<td>• Applicant for Legalization under IRCA</td>
</tr>
<tr>
<td>• Applicant for LPR under the LIFE Act</td>
</tr>
</tbody>
</table>

*Only those who have been granted employment authorization or are under the age of 14 and have had an application pending for at least 180 days are eligible*
Example: Gina, Adnan, and Sam

Citizenship/immigration status

• Gina is from Republic of Marshall Islands, which is a nation covered under the Compact of Free Association (COFA)
• Adnan entered the U.S. as a refugee 4 years ago
  → He gained LPR status last year

Income

• Both Gina and Adnan are full-time college students and both work part-time jobs
• They project their income will be $18,800 for 2018 (92% FPL)

Who’s applying for coverage?

• Gina and Adnan are applying for coverage
  → Their son, Sam, is a U.S. citizen and is already enrolled in CHIP
### Gina’s eligibility based on immigration status

<table>
<thead>
<tr>
<th>Applying for coverage:</th>
<th>YES</th>
<th>Subject to 5-year bar:</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Citizen:</td>
<td>NO</td>
<td>Satisfied 5-year bar:</td>
<td>----</td>
</tr>
<tr>
<td>Immigration status:</td>
<td>COFA</td>
<td>Lawfully present:</td>
<td>YES</td>
</tr>
<tr>
<td>Qualified immigrant:</td>
<td>No</td>
<td></td>
<td></td>
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**MAY BE ELIGIBLE FOR:**
- ✓ Medicaid
- ✓ QHP Enrollment

**Gina is lawfully present, but not eligible for Medicaid due to her immigration status**
### Steps 1: Identify Medicaid Eligibility Based on Status

**In Medicaid Expansion State**

**Adnan:**
- Adnan is LPR and entered the U.S. as refugee → He is not subject to the 5-year bar
- His household income is below 138% FPL → He is eligible for Medicaid

**Gina:**
- Gina has an eligible immigration status for marketplace coverage (i.e. she is lawfully present), but does not have a “qualified” status for Medicaid

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<td>Income</td>
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<td>Adnan</td>
<td>Yes</td>
<td>3</td>
<td>$18,800</td>
<td>92%</td>
<td>No</td>
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Steps 2: Identify Eligibility for Marketplace Enrollment

In Medicaid Expansion State

Gina:
- Gina has an eligible immigration status for marketplace coverage (i.e. she is lawfully present), but does not have a “qualified” status for Medicaid.
- She is eligible for PTC even though her income is below 100% FPL because she is ineligible for Medicaid based on immigration status.

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On the application:

- Gina has an electronic Arrival/Departure Record and a foreign passport
Step 3: Help Consumer Complete the Application

On the application:

- Gina has an electronic Arrival/Departure Record and a foreign passport

- Gina selects the Arrival/Departure Record and inputs her I-94 number

Sample Electronic Arrival/Departure Record

Admission (I-94) Record Number: 89000888062

Admit Until Date (MM/DD/YYYY): 10/10/2012

Details provided on Admission(I-94) form:

- Family Name: LI
- First (Given) Name: LYDIA
- Birth Date (MM/DD/YYYY): 01/01/1990
- Passport Number: P123123213
- Passport Country of Issuance: Mexico
- Date of Entry (MM/DD/YYYY): 04/11/2012
- Class of Admission: B1
Step 3: Help Consumer Complete the Application

- Healthcare.gov will use information Gina provided to attempt to electronically verify Gina’s immigration status
Gina’s Eligibility Results:

- Gina’s income makes her appear eligible for Medicaid
  - However, she is not eligible because of her immigration status
- Healthcare.gov cannot determine this because it is not able to verify her immigration status
  - Sends her application to Medicaid
- Medicaid will ask her to submit documentation to review eligibility
  - She is likely not eligible and will be denied

Sample Eligibility Notice (assessed Medicaid eligible)

<table>
<thead>
<tr>
<th>Family member(s)</th>
<th>Results</th>
<th>Next steps</th>
</tr>
</thead>
<tbody>
<tr>
<td>Susan Griffith</td>
<td>May be eligible for free or low-cost coverage through [state program name] (Medicaid). This result is based on the monthly household income of that you provided on your Marketplace application.</td>
<td>You’ll get a final decision from the [state agency name]. If you qualify for [state program name] (Medicaid), you don’t qualify for advance payments of the premium tax credit or other help with the cost of Marketplace plans.</td>
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If your "Results" say you're eligible for advance payments of the premium tax credit or cost-sharing reductions, it means that you don't appear to be eligible for Medicaid based on your application information. However, you could still be eligible for Medicaid if you have a disability or special health care needs that you didn’t report on your application. To learn more, visit HealthCare.gov/people-with-disabilities or call your state Medicaid agency to ask about rules for your state.

Why don’t I qualify for other programs?

Susan Griffith – Your yearly household income ([$amount]) is too low for advance payments of the premium tax credit. Generally, households whose income for the year is between 100% and 400% of the federal poverty level for their family size may be eligible.
Next Steps:
• Once the state Medicaid agency denies eligibility, Gina’s application will be sent back to the Marketplace.
• She will receive a notice from the Marketplace explaining how to enroll in coverage with PTC.
**Step 4: Help Complete Extra Steps to Get Correct Eligibility**

*Indicating ineligibility for Medicaid based on status*

- Question Gina will use to indicate she’s been determined ineligible for Medicaid based on their immigration status
- This will also trigger a special enrollment period

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**Were any of these people denied coverage through Virginia Medicaid (Medicaid) or Family Access to Medical Insurance Security (FAMIS) (CHIP) since June 10, 2017? Or, were any of them denied coverage through these programs due to their immigration status since October 1, 2013?**

Check the box only if a person was found not eligible for this coverage by their state, not by the Marketplace.

[Learn more about how to answer this question](#)

- Adnan
- Gina

**Was this person found not eligible by their state because of their immigration status?**

- [ ] Yes
- [ ] No
- [ ] None of these people
Process A: Appears Eligible for Medicaid

Appears Eligible for Medicaid Based on Income & Other Factors

Marketplace assesses or determines the applicant is eligible for Medicaid

Case sent to state Medicaid agency for further eligibility review including verification of immigration status

Medicaid agency notifies applicant that proof is needed including but not limited to immigration status

If applicant sends in proof, and is determined ineligible for Medicaid based on status, the Medicaid agency sends applicant denial notice

Case referred back to Marketplace

Marketplace notifies applicant to come back to the Marketplace with instructions on how to get correct eligibility determination

Applicant returns to Marketplace, indicates that has been denied Medicaid and provides other needed information to establish eligibility

Correct eligibility determination for PTC and CSR
What happens when individuals don’t appear eligible for Medicaid and have income below the poverty line?
Steps 1 and 2: Identifying Eligibility

In Medicaid Non-Expansion State

Adnan:
- Adnan falls into the coverage gap

Gina:
- Gina’s eligibility has not changed
- She is eligible for PTC even though her income is below 100% FPL because she is ineligible for Medicaid based on immigration status

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Step 3: Help Consumer Complete the Application

On the application:

- Gina has an electronic Arrival/Departure Record and a foreign passport

- She selects the Arrival/Departure Record and inputs her I-94 number
Step 3: Help Consumer Complete the Application

- Healthcare.gov will use information Gina provided to attempt to electronically verify Gina’s immigration status
Gina’s Eligibility Results:

- In the notice, Gina is told that she should be eligible for Medicaid, but her state is not offering it at this time.
- She is eligible to enroll in Marketplace coverage without subsidies.
  - However, she has a data-matching issue.
  - She may qualify for subsidies, but needs to submit documents to prove her immigration status.

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<th>Eligible for</th>
<th>Next steps:</th>
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| Gina      | - Eligible to buy a 2018 Marketplace plan  
- May be eligible for PTC, but we need more information about your immigration status. This is because some consumers who aren’t eligible for Medicaid because of immigration status may be eligible for help paying for coverage if income is below 100% of poverty line, are considered lawfully present, and meet all other requirements. | - Choose a plan and pay full premium. If you send more information, you may get APTC to help lower costs in the future.  
- If you’re eligible for APTC, you may also be eligible for an SEP to enroll or change plans.  
- By February 2018, send documents to confirm Gina’s immigration status. |

Documents to confirm your immigration status:
- Permanent Resident Card, “Green Card” (I-551)
- Reentry Permit (I-327)
- Refugee Travel Document (I-571)
- Employment Authorization Card (I-766)
- Machine Readable Immigrant Visa (with temporary I-551 language)
- Temporary I-551 stamp (on Passport or I-94/I-94A)
- Foreign passport
- Arrival/Departure Record (I-94/I-94A)
- Arrival/Departure Record in foreign passport (I-94)
- Certificate of Eligibility for Nonimmigrant Student Status (I-20)
- Certificate of Eligibility for Exchange Visitor Status (DS-2019)
- Notice of Action (I-797)
- Document indicating a member of a federally recognized Indian tribe or American Indian born in Canada
- Certification from U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR)
- Document indicating withholding of removal (or withholding of deportation)
- Administrative order staying removal issued by the Department of Homeland Security
- Office of Refugee Resettlement (ORR) eligibility letter (if under 18)
- Resident of American Samoa Card
Step 4: Help Complete Extra Steps to Get Correct Eligibility

Extra Steps:
• Gina uploads a copy of her electronic Arrival/Departure Record
Process B: Treated As If in Medicaid Coverage Gap

Income is Below 100% FPL and Not Otherwise Eligible for Medicaid

Marketplace determines applicant can enroll in coverage without PTC and notifies applicant that he may qualify for help paying for coverage but that proof of status is needed to make that determination.

If applicant sends in proof, case is sent to special unit to determine if eligible under Medicaid rules.

If determined ineligible for Medicaid based on status, Marketplace notifies applicant about eligibility for subsidies and special enrollment period (as applicable).

Applicant returns to Marketplace to select a plan with PTC and CSR (and will be granted a SEP, as applicable).
Tips to Prevent Extra Work For Eligible Consumers

• Answer as many questions on the application as possible

• Double check how the immigrant document numbers were entered

• Compare spelling of names on the application to spelling on documents
  → Use the option to write in name as it appears on the document when necessary

• Complete ID proofing process for full access to online account
  → Ex: Pick person in family most likely to have credit history to be the first person entered into the application

For a reference guide to documents used to verify immigration status, see www.healthreformbeyondthebasics.org/reference-guide-to-immigration-documents
Tips to Prevent Extra Work For Eligible Consumers

• Ask applicants if they have been denied Medicaid eligibility due to immigration status since Oct. 1, 2013

• If they have and continue to be ineligible they can answer application question accordingly

  ! Consumers may have become eligible since the last time they applied for Medicaid → Exercise caution when answering this question to only use it for individuals who continue to be ineligible
In States With More Restrictive Medicaid Eligibility

• Certain states have restrictions on Medicaid eligibility for immigrants that go beyond the federal standard
  → Work history requirements
  → Limits on refugees

• If Healthcare.gov does not accurately verify this and does not send them the notice indicating that they may qualify for PTC but must turn in proof of immigration status:
  → Get a denial of Medicaid eligibility from the state