



Health Reform: **Beyond the Basics**

healthreformbeyondthebasics.org

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

Step 1: Identify Medicaid Eligibility Based on Status



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)



Step 1: Identify Medicaid Eligibility Based on Status



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



Step 2: Identify Eligibility for Marketplace Enrollment

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

Immigration Statuses Eligible for Marketplace Enrollment	
Statuses Eligible for Medicaid:	Other "Lawfully Present" Immigrants:
<ul style="list-style-type: none">• 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 Spouse, Child, Sibling or Parent• Member of a federally-recognized Indian tribe or American Indian born in Canada	<ul style="list-style-type: none">• Granted relief under the Convention Against Torture (CAT)• Temporary Protected Status (TPS)• Deferred Enforced Departure (DED)• Deferred Action (except DACA)*• Paroled into the US for less than one year• Individual with Nonimmigrant Status (includes worker visas; student visas; U visas; citizens of Micronesia, the Marshall Islands, and Palau; and many others)• Administrative order staying removal issued by the Department of Homeland Security• Lawful Temporary Resident• Family Unity

***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

Step 2: Identify Eligibility for Marketplace Enrollment

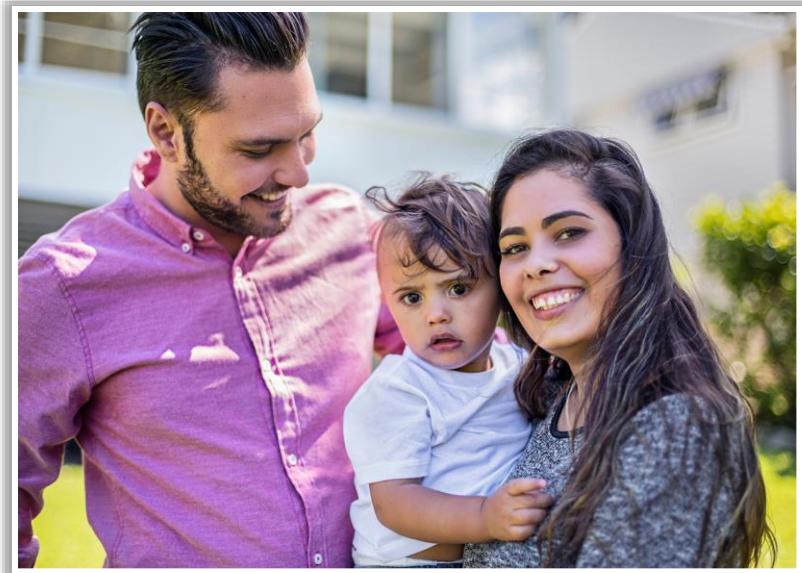
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If not eligible for Medicaid due to immigration status, figure out if eligible for Marketplace enrollment

Immigration Statuses Eligible for Marketplace Enrollment	
<i>APPLICANT for any of the following:</i>	<i>Must Also Have Employment Authorization:</i>
<ul style="list-style-type: none">• Lawful Permanent Resident (with an approved visa petition)• Asylum*• Special Immigrant Juvenile Status• Victim of Trafficking Visa• Withholding of deportation or withholding of removal, under the immigration laws or under the Convention Against Torture (CAT)*	<ul style="list-style-type: none">• Applicant for Temporary Protected Status• Registry Applicants• Order of Supervision• Applicant for Cancellation of Removal or Suspension of Deportation• Applicant for Legalization under IRCA• Applicant for LPR under the LIFE Act

**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 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*

Eligibility Based on Citizen/Immigration Status

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Adnan's eligibility based on immigration status



Applying for coverage:	YES	Subject to 5-year bar:	NO	MAY BE ELIGIBLE FOR:
Citizen:	NO	Satisfied 5-year bar:	----	✓ Medicaid
Immigration status:	REFUGEE LPR	Lawfully present:	----	✓ QHP Enrollment
Qualified immigrant:	YES			

Gina's eligibility based on immigration status



Applying for coverage:	YES	Subject to 5-year bar:	----	MAY BE ELIGIBLE FOR:
Citizen:	NO	Satisfied 5-year bar:	----	✓ QHP Enrollment
Immigration status:	COFA	Lawfully present:	YES	
Qualified immigrant:	No			



Gina is lawfully present, but not eligible for Medicaid due to her immigration status



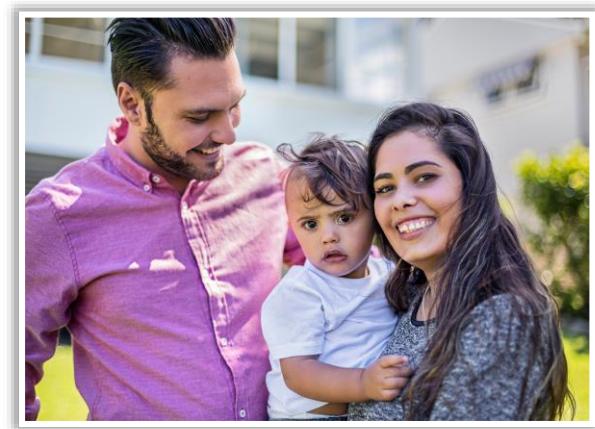
Steps 1: Identify Medicaid Eligibility Based on Status



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

	Medicaid/CHIP				Premium Tax Credits			
	Eligible?	HH	Income	FPL	Eligible?	HH	Income	FPL
Adnan	Yes	3	\$18,800	92%	No	--	--	--
Gina	No	--	--	--	Yes	3	\$18,800	92%

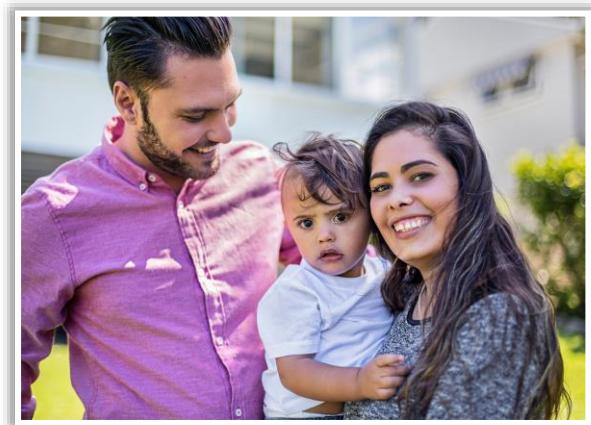
Steps 2: Identify Eligibility for Marketplace Enrollment



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



	Medicaid/CHIP				Premium Tax Credits			
	Eligible?	HH	Income	FPL	Eligible?	HH	Income	FPL
Adnan	Yes	3	\$18,800	92%	No	--	--	--
Gina	No	--	--	--	Yes	3	\$18,800	92%

Step 3: Help Consumer Complete the Application



On the application:

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

You don't have to be a U.S. citizen or U.S. national to qualify for health coverage. Select "no" to view a list of other eligible immigration statuses, and choose the status that best describes yours.

Is Gina a U.S. citizen or U.S. national?

[Learn more about immigration status](#)

- Yes
 No

Check here if Gina has eligible immigration status

If this person's immigration status isn't listed here, he or she may still be able to get help paying for emergency services, including for labor and delivery if they have a baby. In some states, pregnant women may also be able to get health care coverage.

Document type *(Select one)*

[Learn more about document types](#)

Select...

Select...

- Permanent Resident Card ("Green Card", I-551)
- Temporary I-551 Stamp (on passport or I-94, I-94A)
- Machine Readable Immigrant Visa (with temporary I-551 language)
- Employment Authorization Card (EAD, I-766)
- Arrival/Departure Record (I-94, I-94A)
- Arrival/Departure Record in foreign passport (I-94)
- Foreign passport
- Reentry Permit (I-327)
- Refugee Travel Document (I-571)
- Certificate of Eligibility for Nonimmigrant (F-1) Student Status (I-20)
- Certificate of Eligibility for Exchange Visitor (J-1) Status (DS2019)
- Notice of Action (I-797)
- Other documents or status types

CONTINUE

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

Document type *(Select one)*
[Learn more about document types](#)

Arrival/Departure Record (I-94, I-94A) ▾

The I-94 Arrival/Departure Record is issued to individuals when they enter the U.S. The bottom portion of the I-94 should be stapled to the person's passport. Enter the I-94 number usually found on the top left side of the form.

I-94 number *optional*

XXXXXX

Sample Electronic Arrival/Departure Record

 U.S. Customs and Border Protection
Securing America's Borders

Get I-94 Number I-94 FAQ

Admission (I-94) Number Retrieval

I-94 number → **Admission (I-94) Record Number: 69000888062**

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

Details provided on Admission(I-94) form:

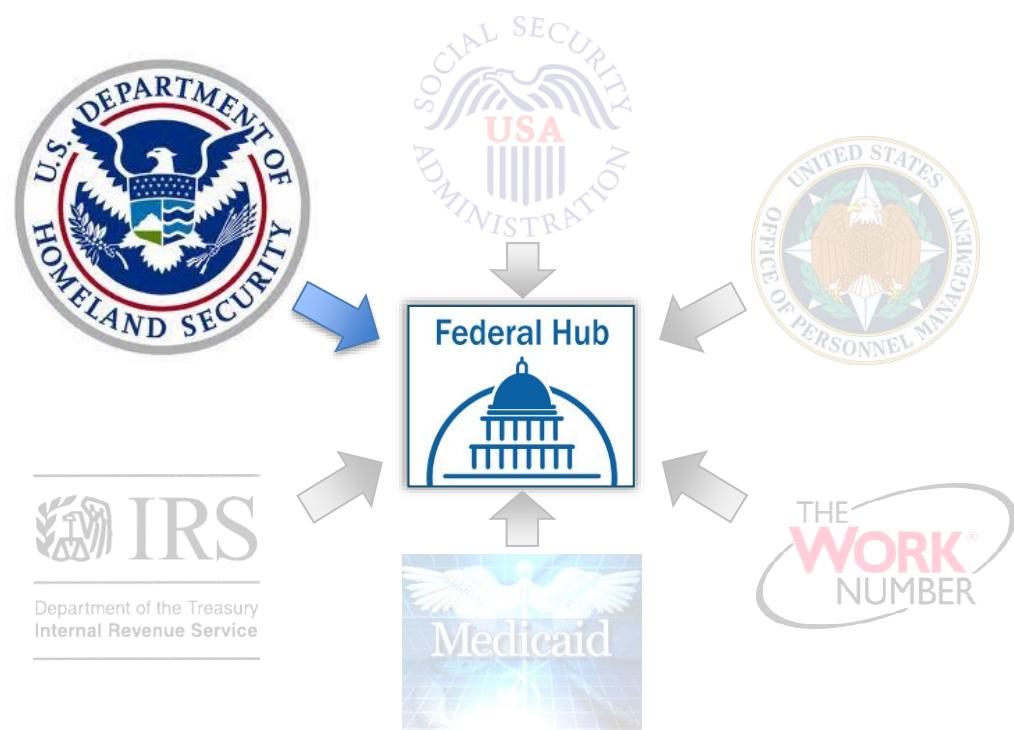
Family Name:	LI
First (Given) Name:	LYDIA
Birth Date (MM/DD/YYYY):	01/01/1990
Passport Number:	P123123213
Passport Country of Issuance:	Mexico
Date of Entry (MM/DD/YYYY):	04/11/2012
Class of Admission:	B1



Step 3: Help Consumer Complete the Application

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- Healthcare.gov will use information Gina provided to attempt to electronically verify Gina's immigration status



Step 4: Help Complete Extra Steps to Get Correct Eligibility

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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)

Application Date: [Date]
2018 Application ID: [Number]

Eligibility notice: You may be eligible for free or low-cost coverage through Medicaid or the Children's Health Insurance Program (CHIP)

Family member(s)	Results	Next steps
Susan Griffith	<ul style="list-style-type: none">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.	<ul style="list-style-type: none">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.

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.

Step 4: Help Complete Extra Steps to Get Correct Eligibility

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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

Sample Inbound Account Transfer Notice

Application ID: [number]

Dear Susan:

Complete your application for Marketplace coverage

You recently submitted an application to your state Medicaid or Children's Health Insurance Program (CHIP) agency or made a change to your eligibility information for health coverage. Your state Medicaid or CHIP agency sent your application in a secure transaction to the Health Insurance Marketplace because you or someone on your application doesn't qualify for Medicaid and CHIP. We used the information from your state Medicaid or CHIP agency to start an application for you on HealthCare.gov. You'll need to complete and submit this application to see if you or someone on your application qualifies to get Marketplace coverage and help paying for health coverage and health services through the following:

- A new tax credit that can be used right away to lower your monthly health insurance premium costs
- Health plans specifically designed to lower your out-of-pocket costs

If we don't hear from you, we won't be able to determine your eligibility based on the application we started for you.

Note: If you already have an eligibility determination from the Marketplace for a tax credit and plan with lower out-of-pocket costs, you don't need to complete and submit an application. Your eligibility and coverage (if you've enrolled already) won't change.

How to complete your application

To complete your application, you can do one of the following:

- Log in to your HealthCare.gov account

When you log in or call, you'll be asked to provide the application ID number listed at the top of this letter. You and anyone on your application who received a denial of eligibility for Medicaid and CHIP are eligible for a Special Enrollment Period to choose a health plan through the Marketplace if you originally applied on or before Jan 31, 2017 and we determine that you're eligible to purchase coverage through the Marketplace. You'll also get a Special Enrollment Period if you had Medicaid or CHIP and lost it because you're no longer eligible. When you review your information, you'll be asked if someone in your household applied before Jan 31, 2017. Make sure to identify the appropriate family members. After you complete your application, you'll receive an eligibility notice with more information about whether you and anyone in your household qualifies for a Special Enrollment Period.

For more information about how to complete the application we started for you, go to www.healthcare.gov/help/statetransfer to read "What if my state application was transferred to the Marketplace?"

Step 4: Help Complete Extra Steps to Get Correct Eligibility

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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

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

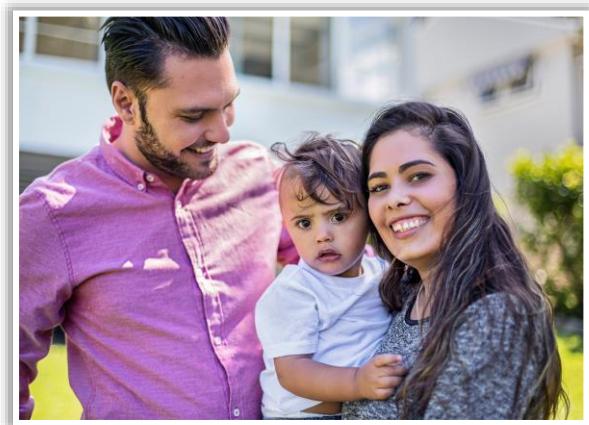


Adnan:

- 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



	Medicaid/CHIP				Premium Tax Credits			
	Eligible?	HH	Income	FPL	Eligible?	HH	Income	FPL
Adnan	No	3	\$18,800	92%	No	--	--	--
Gina	No	--	--	--	Yes	3	\$18,800	92%



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

Document type *(Select one)*
[Learn more about document types](#)

Arrival/Departure Record (I-94, I-94A) ▾

The I-94 Arrival/Departure Record is issued to individuals when they enter the U.S. The bottom portion of the I-94 should be stapled to the person's passport. Enter the I-94 number usually found on the top left side of the form.

I-94 number *optional*

XXXXXX

Sample Electronic Arrival/Departure Record

 U.S. Customs and Border Protection
Securing America's Borders

Get I-94 Number I-94 FAQ

Admission (I-94) Number Retrieval

I-94 number → **Admission (I-94) Record Number: 69000888062**

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

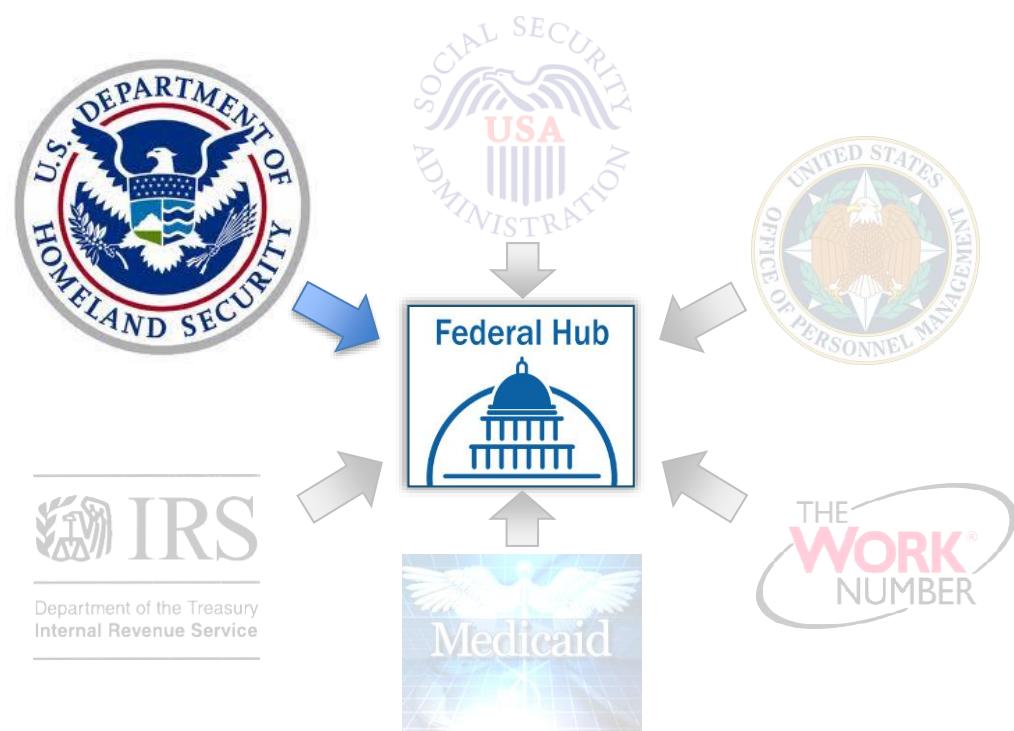
Details provided on Admission(I-94) form:

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



Step 4: Help Complete Extra Steps to Get Correct Eligibility

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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

Applicant:	Eligible for:	Next steps:
Gina	<ul style="list-style-type: none">• 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.	<ul style="list-style-type: none">• 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

Sample Upload Documents Screen (citizenship DMI)

Upload documents

You need to send the Marketplace more information to either prove you're eligible for a Special Enrollment Period or resolve a data matching issue. You can upload documents here.

Use "Expand" and "Collapse" for each item to see a list of documents and upload files.

Verify Karen's citizenship or immigration status [Collapse -](#)

Karen - You need to send the Marketplace proof that you are a citizen. Send a copy of a document proving you are a citizen.

Examples of documents proving citizenship can include:

- U.S. passport
- U.S. public birth record
- Certification of Report of Birth
- Consular Report of Birth Abroad
- Certification of Birth Abroad
- U.S. Citizen Identification Card
- American Indian Card (I-872)
- Certificate of Naturalization
- Certificate of Citizenship

Document type:



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

Is Kelly Johnson the same name that appears on her document?

Yes
 No

Enter the same name as shown Kelly Johnson's document.

First name	Middle <small>optional</small>	Last name	Suffix <small>optional</small>
Kellyann		Johnson	Select... ▾

- 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

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

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



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**