



# Health Coverage Eligibility Based on Immigration Status

September 19, 2023

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- After the webinar, we'll circulate the slides, a video recording of this presentation, and other resources. We'll also post everything to the Beyond the Basics website.
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- All participants are muted and in listen-only mode. If you'd like to ask a question:
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  - We will be monitoring questions and will pause for Q&A during the presentation.
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Households and Income  
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**Immigrant Eligibility Part 1 (Tues. 9/19)**

Plan Design  
(Tues. 10/3)

Auto-Renewal Process on HealthCare.gov  
(Thurs. 10/12)

Tying It All Together  
(Tues. 10/24)

The Premium Tax Credit  
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Seminario para asistentes bilingües (delivered in Spanish; Thurs. 10/26)

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<https://www.healthreformbeyondthebasics.org/category/webinars/>

# Agenda

We'll discuss:

- Immigration-Related Eligibility for Health Coverage Programs
- Other Important Eligibility Rules for Families that Include Immigrants
- Options for People Ineligible for Insurance Affordability Programs Due to Immigration Status

# Celebrating 10 Years of Coverage



**Kevin Wehner, B.A., NAV**

*Benefit Enrollment Center Counselor, Missouri SHIP / Navigator,  
Missouri Connections for Health*

**Years in Role: 10**

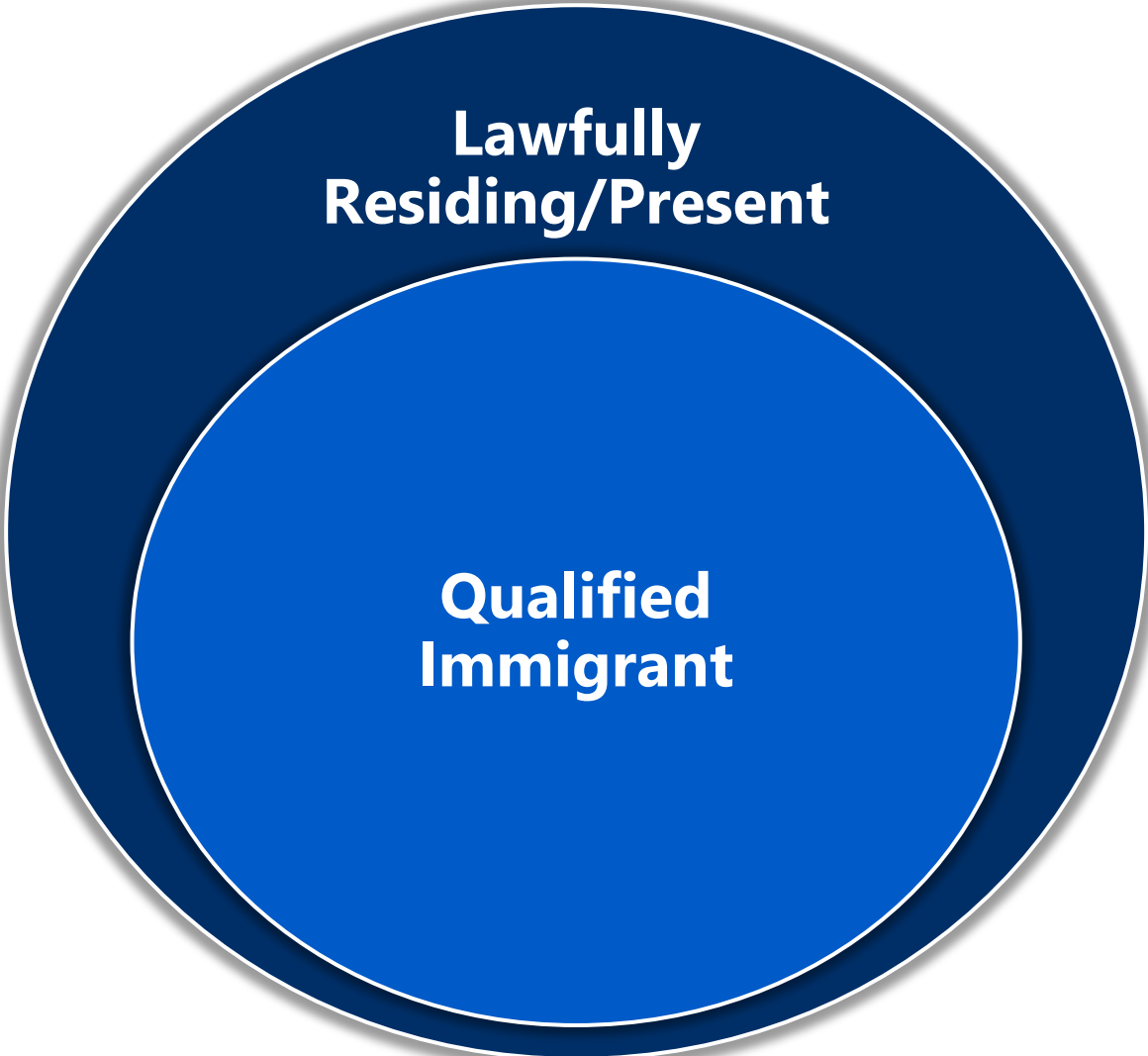
## ***Advice to New Assisters***

*“Learn as much as you can about the Affordable Care Act and how the healthcare law intersects with the Health Insurance Marketplace website. Learn about tax rules: What income counts as MAGI? What is the difference between a Qualifying Child tax dependent and a Qualifying Relative tax dependent? Reach out to healthcare providers and other agencies that work with low-income individuals in order to develop connections with the uninsured and underinsured.”*

# Immigration-Related Eligibility for Health Coverage Programs



# Insurance Affordability Programs' Immigration-Related Eligibility Standards



# Medicaid & CHIP Use "Qualified" Immigrant Eligibility Standard

## **"Qualified" immigrants include:**

- 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
- Compact of Free Association (COFA) (For Medicaid only)

## **Not "Qualified" immigrants, but meet the eligibility standard :**

- Member of a federally-recognized Indian tribe or American Indian born in Canada
- Iraq/Afghan Special Immigrant Visas



# Many People Are Barred from Medicaid & CHIP for 5 Years

Many people who have a “qualified” immigration status are subject to a five-year waiting period: (The five years begin when a person obtains a qualified immigration status.)<sup>1</sup>

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

- People who have refugee or asylee statuses and people granted withholding of deportation/removal
- People with one of the "Cuban/Haitian entrant" statuses listed in 45 C.F.R. 401.2
- People with LPR status with 10 years credit for working in the U.S.
- People arriving from Iraq or Afghanistan who have or are in the process of applying for special immigrant visa status
- Some people from Afghanistan or Ukraine who were granted parole into the U.S.<sup>2</sup>
- Survivors of trafficking
- Compact of Free Association (COFA) (For Medicaid only)
- Qualified immigrants who are U.S. veterans or on active military duty and their spouses or children
- People who physically entered the U.S. before 8/22/96 and remained in the U.S. continuously until obtaining a qualified status
- Children and pregnant people who are lawfully residing in the US (at state option)

1. People who adjust to LPR status after having a status not subject to the 5-year bar continue to be exempt from the bar.  
2. People arriving from Afghanistan with a Special Immigrant Visa or through a grant of parole are not subject to the 5-year bar until March 21, 2023 or for the term of parole granted, whichever is later ([CMS Guidance](#)). People arriving from Ukraine are not subject to the 5-year bar for the term of parole granted ([Additional Ukraine Supplemental Appropriations Act, Sec. 401.](#))

# States Have Flexibility to Vary from Federal Eligibility Rules

## Federal Medicaid/CHIP Options

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- States have the option to cover children and/or pregnant people who are lawfully residing in the U.S., with federal participation in funding. This includes:
  - People with a qualified immigration status, without a waiting period
  - People with an immigration status that is considered lawfully residing/present (A broader group than “qualified” immigration statuses; see Slides 11-12)
  - *35 states have taken up this option for children and 26 for pregnant people*
- Through CHIP, states can provide prenatal care regardless of the pregnant person's immigration status

## State-Funded Options

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- Using state-only funds, many states have opted to cover individuals who do not meet the restrictive immigration-related federal eligibility standard.

To find out more info on state options in your state, see NILC's [Medical Assistance Programs for Immigrants in Various States](#)

# The ACA Marketplace Uses the Lawfully Present/Residing Standard for Enrollment Eligibility

Lawfully Present/Residing Statuses that Also Meet the More Restrictive Federal Medicaid Standard	Other Lawfully Present/Residing Statuses
<p>“Qualified” Immigrants:</p> <ul style="list-style-type: none"> <li>• Lawful Permanent Resident (LPR/green card holder)</li> <li>• Refugee</li> <li>• Asylee</li> <li>• Cuban/Haitian Entrant</li> <li>• Paroled into the U.S. for at least one year</li> <li>• Conditional Entrant</li> <li>• Granted Withholding of Deportation or Withholding of Removal</li> <li>• Battered Spouse, Child and Parent</li> <li>• Trafficking Survivor and his/her Spouse, Child, Sibling or Parent</li> <li>• Compact of Free Association (COFA)</li> </ul> <p>Others:</p> <ul style="list-style-type: none"> <li>• Member of a federally-recognized Indian tribe or American Indian born in Canada</li> <li>• Iraq/Afghan Special Immigrant Visas</li> </ul>	<ul style="list-style-type: none"> <li>• Granted relief under the Convention Against Torture (CAT)</li> <li>• Temporary Protected Status (TPS)</li> <li>• Deferred Enforced Departure (DED)</li> <li>• Deferred Action (except DACA)*</li> <li>• Paroled into the U.S. for less than one year</li> <li>• Individual with Nonimmigrant Status (includes worker visas; student visas; U visas; and many others)</li> <li>• Administrative order staying removal issued by the Department of Homeland Security</li> <li>• Lawful Temporary Resident</li> <li>• Family Unity</li> </ul>

*\*EXCEPTION: Individuals granted deferred action under the 2012 Deferred Action for Childhood Arrivals (DACA) program are not eligible to enroll in coverage in the ACA marketplace, this exclusion is subject to change under a rule proposed in April of 2023.*

The ACA  
Marketplace  
Uses the  
Lawfully  
Present/Residing  
Standard for  
Enrollment  
Eligibility

**APPLICANT for Any of These Statuses:**

- Lawful Permanent Resident (with an approved visa petition)
- Special Immigrant Juvenile Status
- Victim of Trafficking Visa (T visa)
- Withholding of deportation or withholding of removal, under the immigration laws or under the Convention Against Torture (CAT)\*

**Must Also Have Employment Authorization:**

- 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
- Applicants for asylum\*

*\*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*

**New**  
**Proposed**  
**Changes to**  
**Eligibility**  
**Based on**  
**Immigration**  
**status**

# HHS proposed changes to Lawfully Present/Residing (may be in effect as soon as November 1, 2023)

## **New statuses listed in the Lawfully Present/Residing eligibility standards:**

- People granted Deferred Action for Childhood Arrivals (DACA)
- People granted Special Immigrant Juvenile Status (SIJS)

## **Simplification in eligibility parameters for statuses already listed in the Lawfully Present/Residing eligibility standards:**

- Children under 14 applying for asylum, withholding of removal, or relief under the Convention Against Torture (CAT): eliminates the 180 day waiting period
- Nonimmigrant Visa Holders: eliminating the “not in violation of status language”
- People with employment authorization documents (EADs): eliminates specifications, and clarifies that all people with EADs meet the standard
- People applying for adjustment to LPR status: eliminates requirement for ‘approved visa petition’

The ACA Marketplace Uses the Lawfully Present/Residing Standard for Enrollment Eligibility

<b>Lawfully Present/Residing Statuses that Also Meet the More Restrictive Federal Medicaid Standard</b>	<b>Other Lawfully Present/Residing Statuses</b>
<p>“Qualified” Immigrants:</p> <ul style="list-style-type: none"><li>• Lawful Permanent Resident (LPR/green card holder)</li><li>• Refugee</li><li>• Asylee</li><li>• Cuban/Haitian Entrant</li><li>• Paroled into the U.S. for at least one year</li><li>• Conditional Entrant</li><li>• Granted Withholding of Deportation or Withholding of Removal</li><li>• Battered Spouse, Child and Parent</li><li>• Trafficking Survivor and his/her Spouse, Child, Sibling or Parent</li><li>• Compact of Free Association (COFA)</li></ul> <p>Others:</p> <ul style="list-style-type: none"><li>• Member of a federally-recognized Indian tribe or American Indian born in Canada</li><li>• Iraq/Afghan Special Immigrant Visas</li></ul>	<ul style="list-style-type: none"><li>• Granted relief under the Convention Against Torture (CAT)</li><li>• Temporary Protected Status (TPS)</li><li>• Deferred Enforced Departure (DED)</li><li>• Deferred Action (including DACA)</li><li>• Paroled into the US for less than one year</li><li>• Individual with Nonimmigrant Status (includes worker visas; student visas; U visas; and many others)</li><li>• Administrative order staying removal issued by the Department of Homeland Security</li><li>• Lawful Temporary Resident</li><li>• Family Unity</li><li>• Special Immigrant Juvenile Status</li><li>• Others granted employment authorization</li></ul>



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- Applicant for Legalization under IRCA
- Applicant for LPR under the LIFE Act
- Applicants for asylum\*

*\*Only those who are under age 14 or people who have been granted employment authorization*

# Eligibility for Health Coverage Programs Based on Immigration Status





# Example: Eligibility Based on Citizenship & Immigration Status Rules



Ricky and Eva are married and have a daughter, Karina

- Ricky has temporary protected status
- Eva has Deferred Action for Childhood Arrivals (DACA)
- Karina has U.S. citizenship

## **Who is applying for coverage?**

Ricky, Eva and Karina

# Example: Eligibility Based on Citizenship & Immigration Status Rules



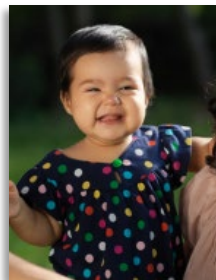
Applying for coverage:	<b>YES</b>	Subject to 5-year bar:	----
U.S. Citizen:	<b>NO</b>	Satisfied 5-year bar:	----
Immigration status:	<b>TPS</b>	Lawfully residing/present:	<b>YES</b>
Qualified immigrant:	<b>NO</b>		

**MAY BE ELIGIBLE FOR:**  
 ✓ Marketplace coverage



Applying for coverage:	<b>YES</b>	Subject to 5-year bar:	----
U.S Citizen:	<b>NO</b>	Satisfied 5-year bar:	----
Immigration status:	<b>DACA</b>	Lawfully residing/present:	<b>No</b>
Qualified immigrant:	<b>NO</b>		

**MAY BE ELIGIBLE FOR:**



Applying for coverage:	<b>YES</b>	Subject to 5-year bar:	----
U.S Citizen:	<b>YES</b>	Satisfied 5-year bar:	----
Immigration status:	----	Lawfully residing/present:	----
Qualified immigrant:	----		

**MAY BE ELIGIBLE FOR:**  
 ✓ Medicaid/CHIP  
 ✓ Marketplace coverage



## With HHS Proposed Rule Changes

# Example: Eligibility Based on Citizenship & Immigration Status Rules



Applying for coverage:	<b>YES</b>	Subject to 5-year bar:	----
U.S. Citizen:	<b>NO</b>	Satisfied 5-year bar:	----
Immigration status:	<b>TPS</b>	Lawfully residing/present:	<b>YES</b>
Qualified immigrant:	<b>NO</b>		

**MAY BE ELIGIBLE FOR:**

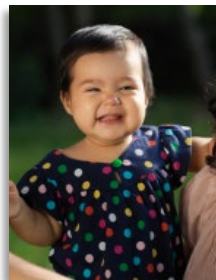
✓ Marketplace coverage



Applying for coverage:	<b>YES</b>	Subject to 5-year bar:	----
U.S Citizen:	<b>NO</b>	Satisfied 5-year bar:	----
Immigration status:	<b>DACA</b>	Lawfully residing/present:	<b>YES</b>
Qualified immigrant:	<b>NO</b>		

**MAY BE ELIGIBLE FOR:**

✓ Marketplace coverage



Applying for coverage:	<b>YES</b>	Subject to 5-year bar:	----
U.S Citizen:	<b>YES</b>	Satisfied 5-year bar:	----
Immigration status:	----	Lawfully residing/present:	----
Qualified immigrant:	----		

**MAY BE ELIGIBLE FOR:**

✓ Medicaid/CHIP  
✓ Marketplace coverage



# Other Important Eligibility Rules for Families that Include Immigrants



# Special PTC Rule

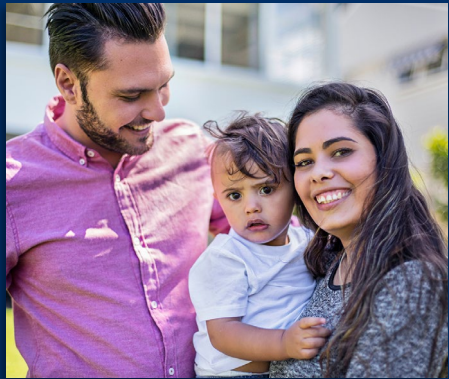
The PTC income floor of 100% FPL does **not** apply to people who have a lawfully residing/present status but are not eligible for Medicaid due to their immigration status

This includes people who have a lawfully residing/present status who:

- Do not have a “qualified” immigration status
- Have a “qualified” immigration status who are subject to and have not met the 5-year bar

Bottom line: **Many people who have a lawfully residing/present status and incomes in the Medicaid range or below 100% FPL are eligible for PTC and CSR**

# Example: Eligibility Based on Citizenship & Immigration Status Rules



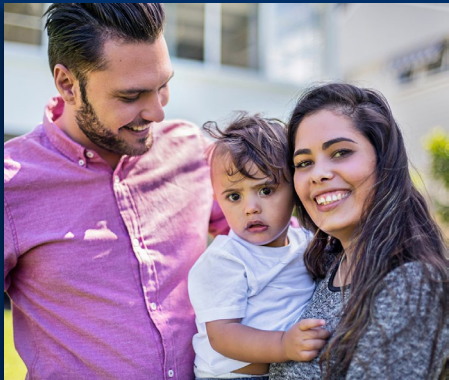
Gina and Adnan are married and have a son named Sam

- Gina has had LPR status for 2 years
- Adnan entered the U.S. as a refugee
- Sam has U.S. citizenship and already has Medicaid coverage

## **Income**

- Both Gina and Adnan are full-time college students and both work part-time jobs
- They projected their income will be \$22,375 for 2024 (90% FPL)

# Example: Eligibility Based on Citizenship & Immigration Status Rules



Applying for coverage:	<b>YES</b>	Subject to 5-year bar:	<b>NO</b>	<b>MAY BE ELIGIBLE FOR:</b> ✓ Medicaid ✓ Marketplace coverage
U.S. Citizen:	<b>NO</b>	Satisfied 5-year bar:	<b>----</b>	
Immigration status:	<b>REFUGEE</b>	Lawfully residing/present:	<b>YES</b>	
Qualified immigrant:	<b>YES</b>			



Applying for coverage:	<b>YES</b>	Subject to 5-year bar:	<b>YES</b>	<b>MAY BE ELIGIBLE FOR:</b> ✓ Marketplace coverage
U.S. Citizen:	<b>NO</b>	Satisfied 5-year bar:	<b>NO</b>	
Immigration status:	<b>LPR</b>	Lawfully residing/present:	<b>YES</b>	
Qualified immigrant:	<b>YES</b>			



# Example: Eligibility for PTC & Medicaid



## In a State that has expanded Medicaid

- Adnan has refugee status, income is at 90% FPL, he is eligible for Medicaid based off:
  - Having a qualified immigration status that is not subject to the five-year bar
  - Having income 138% FPL
- Gina has had LPR status for two years, her income is at 90% FPL, she is eligible for enrollment in the marketplace with PTCs based off:
  - Having a lawfully present immigration status but ineligible for Medicaid due to her immigration status

	Medicaid/CHIP				Premium Tax Credits			
	Eligible?	HH	Income	FPL	Eligible?	HH	Income	FPL
<b>Adnan</b>	Yes	3	\$22,375	90%	----	--	--	--
<b>Gina</b>	No	--	--	--	Yes	3	\$22,375	90%
<b>Sam</b>	N/A	--	--	--	N/A	--	--	--



# Example: Eligibility for PTC & Medicaid



## In a State that has not expanded Medicaid

- Adnan has refugee status, income is at 90% FPL, he is:
  - ineligible because his state did not expand Medicaid
  - Ineligible for PTCs in the marketplace because his income is below 100% FPL
- Gina has had LPR status for two years, her income is at 90% FPL, she is eligible for enrollment in the marketplace with PTCs based off:
  - Having a lawfully present immigration status but ineligible for Medicaid due to her immigration status

	Medicaid/CHIP				Premium Tax Credits			
	Eligible?	HH	Income	FPL	Eligible?	HH	Income	FPL
<b>Adnan</b>	<b>No</b>	3	\$22,375	90%	<b>No</b>	3	\$22,375	90%
<b>Gina</b>	<b>No</b>	3	\$22,375	90%	<b>Yes</b>	3	\$22,375	90%
<b>Sam</b>	N/A	--	--	--	N/A	--	--	--

# Special Marketplace Rules for Older Adults

Older adults who are not eligible for premium-free Medicare Part A may be eligible for enrollment in marketplace plans and PTC/CSR

To qualify for premium-free Medicare Part A, individuals must have met the applicable work history requirement as measured by Social Security quarters of earnings (QE):

- QE are earned by paying Social Security and Medicare payroll taxes; people working full-time generally earn four QE in a year
- People can get quarters of earnings based on their own work history or in some cases the work history of their spouse

**Note:** People who plan on enrolling in Medicare should pay close attention to deadlines. Fees associated for not enrolling by certain deadlines are steep and permanent.

# Example: Tax Dependents & Applying for PTC



Lin, 74, lives with his daughter, Mei, and grandson, Michael

Lin:

- has had a lawful permanent resident status for 4 years
- has never worked in the U.S.
- receives \$2,500 a year from a pension for work completed abroad
- is not enrolled in Medicare Part A

Mei:

- provides more than 50% of Lin's support
- claims Lin and Michael as tax dependents
- has a household income of \$49,720 a year (200% FPL)

- 
- ✓ Lin is eligible for marketplace coverage → Lin is eligible to enroll in a marketplace plan with subsidies even though he is over 65. He is not eligible for premium-free Medicare Part A based on his work history

# Example: Tax Dependents & Applying for PTC



*If a person can be claimed as a tax dependent, they must indicate that when applying for PTC*

## **Can Lin apply on his own for PTC?**

- Lin qualifies as Mei's dependent:
  - Lin lives with Mei (and is also her relative)
  - Mei pays for more than half of his support
  - Lin's gross income is less than \$4,700

Lin is Mei's tax dependent, so he **cannot** apply for PTC on his own as a household of 1

- He may be eligible for PTC, but must include Mei (and her income) on his application for health coverage

**IMPORTANT:** If Lin receives PTC, **Mei** must file a tax return and reconcile his PTC on her tax return

# State Residency for Marketplace, Medicaid, & CHIP

In general, for ACA marketplaces and Medicaid/CHIP, residency is the state in which an individual lives and:

- Intends to reside, including without a fixed address; or
- Has entered with a job commitment or is seeking employment (whether or not currently employed)

To verify residency, states and marketplaces:

- Can accept self-attestation
- Can use HHS approved electronic sources to the extent that they exist
- Can't use evidence of immigration status

# PTC-Related Rules for Married People Who Have Nonresident Status

To qualify for PTC, an applicant that is married must file taxes jointly with their spouse

Certain people who are immigrants file taxes on Form 1040-NR

- Some people who have non-immigrant visas (often students who have an F visa or people with J, M, or Q visas) must file taxes on Form 1040-NR because they can't meet the "substantial presence test" in their first five years in the U.S.
- Form 1040-NR doesn't allow most people who are married and have nonresident immigration status to file jointly with a spouse so they can't meet the joint filing requirement to claim a PTC

# Options for People Ineligible for Insurance Affordability Programs Due to Immigration Status



# People Who Don't Meet Immigration-Related Requirements

They are ineligible to purchase qualified health plans in the individual marketplaces, even at full price

Can purchase private coverage outside the marketplace or can get coverage through their employer

- People who are undocumented may not have a Social Security Number (SSN) but may be asked to provide an SSN or other tax identification numbers. They don't have to provide these and not providing them should not prevent them from enrolling or staying enrolled.



# People Who Do Not Meet the Immigration-Related Requirements for Medicaid, CHIP or Marketplace

Although they are ineligible to purchase marketplace coverage, they can apply for ACA health insurance for eligible family members, and be part of household of eligible family members

- If a tax filer is applying for PTC on behalf of eligible family members, they must file a tax return
- If they are not eligible for a Social Security number (SSN), they may file a tax return using an Individual Taxpayer Identification Number (ITIN)

# Medicaid Payment for Emergency Services

**Medicaid payment for services related to an emergency medical condition** is available to providers to cover the cost of medical services provided to people who meet all the state's Medicaid eligibility requirements except for immigration status.

This may include:

- People who have a qualified immigration status but have not met the five-year wait requirement
- People who have a lawfully residing/present status but do not have a qualified immigration status, such as persons with Temporary Protected Status (TPS) and many others
- People who do not have a documented immigration status

# Programs That Don't Restrict Eligibility Based on Status

- Programs using federal health care block grants: mental health, maternal and child health, family planning, communicable diseases, immunizations
- Programs providing health services necessary to protect life or safety: emergency medical, food or shelter, mental health crisis, domestic violence, crime victim assistance, disaster relief
- Hospital financial assistance programs or charity care
- Community Health Centers/FQHCs, Migrant Health Centers
- Additional programs in some states

For more information on where to find FQHCs, see [findahealthcenter.hrsa.gov](https://findahealthcenter.hrsa.gov)

Q&A



# Resources

## **Beyond the Basics:**

Reference Guide: [Immigration Documents Used in Healthcare.gov](#)

Key Facts:

- [Immigrant Eligibility for Health Insurance Affordability Programs](#)
- [Helping Families that Include Immigrants Apply for Health Coverage](#)

## **National Immigration Law Center (NILC) Resources:**

[“Lawfully Present” Individuals under the Affordable Care Act](#)

[Update on Access to Healthcare for Immigrants and Their Families](#)

## **Protecting Immigrant Families Resources:**

[“Know Your Rights” Materials for Consumers](#)

## **Healthcare.gov Marketplace Resources:**

Assister Guide to Immigration Section of Healthcare.gov:

[\*marketplace.cms.gov/technical-assistance-resources/assister-guide-to-immigration-section.PDF\*](#)

Eligible Immigration Statuses for Marketplace Coverage:

[\*www.healthcare.gov/immigrants/immigration-status\*](#)

Immigration Document Types:

[\*www.healthcare.gov/help/immigration-document-types\*](#)

# Contact

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A very special thanks to the National Immigration Law Center (NILC) who partnered with us to present and develop this presentation



*This is a project of the Center on Budget and Policy Priorities*  
[www.cbpp.org](http://www.cbpp.org)

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