

IMMIGRANTS' ELIGIBILITY FOR MEDICAID AND CHIP



The “Welfare Reform” law of 1996¹ dramatically restricted Medicaid eligibility for many legal immigrants who had formerly been eligible. These restrictions also apply to the Children’s Health Insurance Program (CHIP). Laws passed since welfare reform have restored benefits to some, but not all, of those affected by its restrictions. More legislation is pending. The following summarizes Medicaid and CHIP eligibility for immigrants in the aftermath of these legislative changes:

Immigrants Defined as “Qualified Aliens”

Mandatory Eligibility Groups:

Some groups of “qualified aliens” are *not* subject to the new restrictions. No matter when they entered the U.S., they remain eligible for Medicaid and CHIP, provided they meet their state’s financial and other criteria:

- veterans or persons on active military duty and their dependents;
- refugees, asylees, and Cuban and Haitian entrants for seven years after entry, and Amerasian immigrants for five years after entry;
- lawful permanent residents who can be credited with 40 quarters of Social Security coverage;² and
- Canadian-born immigrants of at least 50% North American Native heritage.³

Other “Qualified Aliens”:

For other “qualified aliens” who are not members of these Mandatory Eligibility Groups, eligibility depends, in part, upon whether they entered the country before or after August 22, 1996.

1. Those Residing in the U.S. Before August 22, 1996:

- Medicaid coverage of this group is now a *state option*, but all states except Wyoming have retained Medicaid eligibility for these immigrants.
- CHIP coverage for this group is *not* a state option. Children who fit the definition of “qualified aliens” and who lived in the U.S. prior to welfare reform *must be covered*, provided they meet their state’s CHIP eligibility criteria.

Qualified Aliens

- lawful permanent residents,
- refugees and asylees,
- persons who have had **deportation withheld** under certain provisions,
- persons granted **parole** for at least one year,
- persons granted **conditional entry** under certain provisions, and
- **battered immigrants** meeting certain criteria.

All other documented and undocumented immigrants are considered “non-qualified aliens.”

Another Barrier for Recent Immigrants: The New Affidavit of Support

There is another barrier that prevents many recent immigrants from being eligible for Medicaid and CHIP, even after their first five years of residency. Many immigrants come to the U.S. through sponsorship by a relative or spouse who is already a resident or citizen. Both the sponsor and the person seeking to immigrate are required to sign a legal document called an “affidavit of support.” The “immigration reform” law of

1996 creates a new affidavit of support with stricter regulations. For immigrants who have entered under the new affidavit, states are required to add the sponsor’s income to that of the immigrant when they determine eligibility for Medicaid and CHIP, but these new rules are just being implemented so it is not clear how they will work. Thus, most recent immigrants may not be eligible for Medicaid or CHIP until they attain citizenship.

Changes in Eligibility for Supplemental Security Income (SSI)— Some elderly and disabled individuals are eligible for Medicaid because they receive SSI cash benefits. New restrictions apply to immigrants’ eligibility for the SSI program, as well, affecting Medicaid eligibility for these individuals:

- The same Mandatory Eligibility Groups apply to SSI eligibility.
 - For other “qualified aliens” residing in the U.S. before welfare reform, eligibility is restricted to those who were receiving SSI at the time of welfare reform, and those who qualify now or in the future on the basis of **disability** only.⁴
2. Those Entering On or After August 22, 1996:
- These immigrants are **barred from receiving Medicaid, CHIP**, or any other designated “federal means-tested public benefit” (including SSI) **for 5 years** from their date of entry. They may receive Medicaid coverage of **emergency** medical services **only**, provided they meet their state’s eligibility criteria. However, many states with large immigrant populations have state-funded programs for some or all of their federally non-qualified immigrants.

Immigrants Defined as “Non-Qualified Aliens”

- Regardless of their entry date, this group is *barred* from receiving Medicaid, CHIP, SSI or any other designated “federal means-tested public benefit.” They may receive Medicaid coverage for *emergency* medical services, provided they meet their state’s eligibility requirements.⁵
- A 1998 law creates one exception to this rule. The law restores continued eligibility for SSI benefits to all “non-qualified aliens” who were receiving them on August 22, 1996. These immigrants will also retain SSI-linked Medicaid. (This is true except in a few states—209B states—that do not link Medicaid to receipt of SSI benefits.) On the other hand, non-qualified aliens cannot newly qualify for SSI or SSI-linked Medicaid, regardless of when they entered the U.S.⁶

“Non-qualified aliens” include:

- temporary resident aliens,
- those with temporary protected status,
- those receiving humanitarian parole for less than one year,
- those with pending applications for status, including the spouse or child of a U.S. citizen,
- some people allowed to stay in the U.S. for humanitarian reasons,
- undocumented immigrants.

Endnotes

¹ The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), signed on August 22, 1996.

² “Changes Due to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996,” State Medical Manual, HCFA PUB. 45-3, February 1997.

³ “The Balanced Budget Act of 1997: Reshaping the Health Safety Net for America’s Poor.” Special Joint Newsletter: Youth Law News, September-October 1997, and Health Advocate, Fall 1997.

⁴ Ibid; Families USA, “Health Legislation Enacted by the 104th Congress,” Field Report, December 1996.

⁵ “Changes Due to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996,” State Medicaid Manual, HCFA Pub. 45-3, February 1997.

⁶ Section 2, HR 4558, “Non-citizen Benefit Clarification and Other Technical Amendments Act of 1998”; Personal communication with Dinah Wiley, National Immigration Law Center, December 1998.