

## **Medicaid**

## **Aliens**

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## Overview

**Legal reference:** P. L. 99-603, Immigration Reform and Control Act of 1986 (IRCA); P. L. 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), 110 Stat. 2105; P. L. 104-208, Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA); Division C of the Defense Department Appropriations Act 1997, 110 Stat. 3008; P. L. 105-33, Balanced Budget Act of 1997 (BBA), 111 Stat. 251; P. L. 111-3, Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA); 42 CFR 435.956(c)(2)

This chapter contains Medicaid eligibility requirements for people who are not citizens or nationals of the United States. Federal law divides these people into two categories:

- ◆ Those legally qualified to live permanently or indefinitely in the United States are regarded as "qualified aliens."
- ◆ Those who are in the United States without having met legal conditions for permanent or indefinite residence are regarded as "nonqualified aliens."

Medicaid eligibility for aliens is based on whether the alien is a "qualified" or "nonqualified" alien and otherwise meets the Medicaid eligibility requirements. The requirements in this chapter are in addition to the Medicaid eligibility requirements explained in the rest of Title 8.

## Alien Categories

Any person who is not a citizen or national of the United States is termed an "alien." Alien status is governed by the U.S. Citizenship and Immigration Services (USCIS). The following are definitions for some of the different types of aliens:

- ◆ **"Nonimmigrant"** means an alien who seeks temporary entry to the United States for a specific purpose. Nonimmigrant alien classes include:
  - Temporary workers
  - Students and exchange visitors
  - Visitors for business or pleasure
  - Foreign government officials

**NOTE:** A person must meet Iowa residency requirements in order to qualify for Medicaid. When a person applies for a nonimmigrant visa, the USCIS generally requires the person to show intent to maintain and return to the person's residence abroad. Therefore, a nonimmigrant alien status is an indicator that a person might not meet Iowa residency requirements.

However, alien status may **not** be used to determine a person is not an Iowa resident. All policies found at [8-C](#), [Residency](#), and [Intent to Live in Iowa](#), must be applied when determining whether or not a nonimmigrant meets Iowa residency requirements.

NOTE: Some children under age 21 who have a “nonimmigrant” alien classification are “qualified aliens” and may be eligible for Medicaid if all other eligibility requirements (including state residency) are met. See the list of these alien statuses following the definition of “[lawfully residing](#).”

1. Mr. Z, age 20, applies for Medicaid. He is in the United States on a currently valid nonimmigrant student visa. Because he is under age 21, he is a qualified alien in the “lawfully residing” alien category.

The worker determines that Mr. Z entered Iowa seeking employment. Mr. Z is considered a resident of Iowa and may be eligible for Medicaid if all other eligibility requirements are met.

2. Same as Example 1, except Mr. Z did not enter Iowa for employment purposes. The worker evaluates all facts and circumstances surrounding Mr. Z’s living arrangement in order to establish whether Mr. Z is living in Iowa with the intent to remain here either permanently or indefinitely.

Mr. Z may be eligible for Medicaid if all eligibility requirements, including residency, are met.

3. Ms. K, age 25, applies for Medicaid. She is in the United States on a currently valid nonimmigrant student visa. She entered Iowa with a job as a graduate teaching assistant. Ms. K is potentially eligible for FMAP-related Medicaid because her son, age 4, is also in the household.

Ms. K is considered a resident of Iowa because she entered Iowa with a job commitment. Because she is over age 21, she is a nonqualified alien. She is ineligible for full Medicaid but may be eligible for limited Medicaid for emergency services if all other eligibility requirements are met.

4. Mr. and Mrs. G, both age 25, apply for Medicaid. They are in the United States on currently valid nonimmigrant student visas. Their daughter, age 2, is a U.S. citizen.

The worker evaluates all facts and circumstances about their living arrangements and determines that Mr. and Mrs. G do not meet Iowa residency requirements. The entire family, including the U.S. citizen child, is ineligible for Medicaid due to not being residents of Iowa.

5. Mr. W, age 25, and Mrs. W, age 20, are in the United States on currently valid nonimmigrant student visas. Mrs. W applies for Medicaid because she is pregnant.

Since she is under age 21, Mrs. W is a qualified alien in the “lawfully residing” alien category. Although Mr. W entered Iowa with a graduate teaching assistantship, Mrs. W is not working and has never intended to work.

Because Mrs. W did not enter Iowa for employment purposes, the worker evaluates all the circumstances of Mrs. W’s living arrangement and determines that Mrs. W is not living in Iowa with the intent to remain here permanently or indefinitely. Mrs. W is ineligible for Medicaid due to not being a resident of Iowa.

- ◆ **“Asylee”** means an alien living in the United States who is unable or unwilling to return to the country of the person’s nationality (or the place where the person last lived) or to seek the protection of that country because of persecution or a well-founded fear of persecution. Fear of persecution may be based on the alien’s race, religion, nationality, social status, or political opinion.  
See 6-D(1), [REFUGEE MEDICAL ASSISTANCE](#), for information on how to determine Medicaid eligibility for asylees.
- ◆ **“Refugee”** means an alien living outside the person’s country of nationality who is admitted into the United States because the person is unable or unwilling to return to that country (or to the place where the person last lived) because of fear of persecution. Fear of persecution may be based on the alien’s race, religion, nationality, social status, or political opinion.  
See 6-D(1), [REFUGEE MEDICAL ASSISTANCE](#), for information on how to determine Medicaid eligibility for refugees.
- ◆ **“Qualified alien”** means an alien who is lawfully admitted to the country and has the privilege of residing permanently or indefinitely in the United States. Qualified aliens may be in one of the following categories:
  - Lawful permanent residents (LPRs)
  - Refugees (includes certain Amerasians)
  - Asylees
  - Persons granted withholding of deportation or removal
  - Conditional entrants
  - Persons granted parole by the USCIS for a period of at least one year
  - Cuban or Haitian entrants
  - Certain abused immigrants, their children, and their parents

- Certain American Indians born outside the United States
- Victims of trafficking
- Iraqi and Afghan special immigrants
- Children under age 21 who are “lawfully residing” in the United States in either an immigrant or nonimmigrant status that permits the child to remain in the United States either permanently or indefinitely. See the list of these alien statuses following the definition of “[lawfully residing](#).”

Being “qualified” does not necessarily mean that the person is eligible for Medicaid. A qualified alien is ineligible for Medicaid unless the person has maintained the qualified status for at least five years, except when the person is exempt from the five-year bar.

Qualified aliens who entered the United States before August 22, 1996 (the effective date of PRWORA) generally are eligible for Medicaid providing other Medicaid eligibility criteria are met.

Qualified aliens who entered the United States on or after August 22, 1996, may either be subject to a five-year bar or be exempt from the five-year bar. See [Aliens Subject to Five-Year Bar](#) and [Aliens Exempt from Five-Year Bar](#) for more information.

Qualified aliens subject to the five-year bar are not eligible for Medicaid, except for emergency services, for five years from the date of entry. When these aliens have been in the United States in a qualified status for five years, they may become eligible if all other Medicaid eligibility requirements are met.

NOTE: Lawful permanent residents may have a “sponsor.” See [Sponsor Affidavits of Support and Deeming](#) for information on deeming a sponsor’s income and resources to the lawful permanent resident.

- ◆ **“Lawfully residing”** means an immigrant or nonimmigrant alien that the Department of Homeland Security considers as a long-term resident who has moved to the United States, is not required to maintain permanent residence in another country, and is allowed to remain in the United States either permanently or indefinitely.

Only children **under age 21** in a “lawfully residing” status are qualified aliens and may be eligible for Medicaid if all other eligibility requirements (including state residency) are met. Adults age 21 and over in a lawfully residing status are **not** considered qualified aliens for Medicaid eligibility purposes.

NOTE: A person **must meet Iowa residency requirements** in order to qualify for Medicaid. The USCIS may require persons in some alien statuses (e.g., nonimmigrants) to show they intend to maintain and return to their residences abroad. Therefore, such an alien status is an indicator that a person might not meet Iowa residency requirements.

However, alien status may **not** be used to determine a person is not an Iowa resident. All policies found at [8-C](#), [Residency](#), and [Intent to Live in Iowa](#), must be applied when determining whether or not a nonimmigrant meets Iowa residency requirements.

Mr. and Mrs. X have three children. Mrs. X (age 34), Mr. X (age 35), and Child 1 (age 14) each have an I-94, *Arrival/Departure Record*, showing their status as a "lawfully residing" nonimmigrant. Child 2 and Child 3 (ages 10 and 8) are United States citizens.

If all other Medicaid eligibility requirements are met, including state residency, all three children are eligible for Medicaid.

Mr. and Mrs. X are ineligible for full Medicaid because they are "lawfully residing" aliens age 21 and over. Limited Medicaid is available to cover treatment for an emergency medical condition if all other Medicaid eligibility requirements are met.

A **partial** list of "lawfully residing" class of admission and employment authorization codes is provided below. Additional alien categories and status codes may qualify. Contact SPIRS with questions.

- Aliens in a nonimmigrant status who have not violated the terms of the status under which they were admitted or to which they changed after admission. Such persons may include, **but are not limited to**:
  - A citizen of a Compact of Free Association States (e.g. Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau) who has been admitted to the United States as a nonimmigrant and is permitted by the Department of Homeland Security to reside permanently or indefinitely in the United States (A8 code on the *Employment Authorization Document* (EAD));
  - A parent or child of a person with special immigrant status under Section 101(a)(27) of the INA, as permitted under Section 101(a)(15)(N) of the INA (N8 or N9 visa, or A7 on EAD);
  - A fiancé of a citizen, as permitted under Section 101(a)(15)(K) of the INA (K1 visa or A6 on EAD);
  - A religious worker under Section 101(a)(15)(R) (R1 visa or B16 on EAD);
  - A person assisting the Department of Justice in a criminal investigation, as permitted under Section 101(a)(15)(S) of the INA (S visa or C21 on EAD);

- A battered alien under Section 101(a)(15)(U) (U1-U5 visa or A19 or A20 on EAD); and
- A person with a petition pending for three years or more, as permitted under Section 101(a)(15)(V) of the INA (V1-V3 visa).
- Aliens who have been paroled into the United States under section 212(d)(5) of the INA **for less than 1 year**, except for aliens paroled for prosecution, deferred inspection, or pending removal proceedings;
- Aliens belonging to one of the following classes:
  - Aliens whose visa petition has been approved and who have a pending application for adjustment of status (e.g., form I-485, *Application for Adjustment of Status*);
  - Aliens currently in temporary resident status as an amnesty beneficiary under Section 210 or 245A of the Immigration and Nationality Act (INA);
  - Aliens currently under temporary protected status under Section 244 of the INA, and pending applicants for temporary protected status who have been granted employment authorization (A12 on EAD);
  - Aliens who have been granted employment authorization under 8 CFR 274a.12(c)(9), (10), (16), (18), (20), (22), or (24) (C9, C10, C16, C18, C20, C22, or C24 on EAD);
  - Family unity beneficiaries under Section 301 of the Immigration Act of 1990 or Section 1504 of the Legal Immigrant Family Equity (LIFE) Act amendments (A13 or A14 on EAD);
  - Aliens currently under deferred enforced departure (DED) under a decision made by the President. (DED is not an immigration status. Persons under DED are allowed to remain in the United States during the period ordered by the President.);
  - Aliens currently in deferred action status. (This does not include aliens approved under the Deferred Action for Childhood Arrivals (DACA) process.);
  - Pending applicants for asylum under Section 208(a) of the INA or for withholding of removal under section 241(b)(3) of the INA or under the Convention Against Torture who has been granted employment authorization, and such an applicant under age 14 who has had an application pending for at least 180 days;



- Aliens who have been granted withholding of removal under the Convention Against Torture; and
  - Aliens who have a pending application for Special Immigrant Juvenile status under section 101(a)(27)(J) of the INA.
- ◆ **“Nonqualified alien”** means a noncitizen residing in the United States. This includes all other aliens whose classification is not specifically listed under either [Aliens Subject to Five-Year Bar](#) or [Aliens Exempt from Five-Year Bar](#).

A qualified alien or a nonqualified alien may be eligible for limited Medicaid for emergency services. See [Limited Eligibility for Certain Aliens](#).

### **Public Charge**

Most forms of Medicaid do not result in a “public charge” finding. The term “public charge” refers to an alien who:

- ◆ Has become, or is likely to become, dependent on the government for survival through receipt of public cash assistance, or
- ◆ Is institutionalized in a long-term care facility at the government’s expense.

“Cash assistance” includes receipt of:

- ◆ Supplemental Security Income (SSI)
- ◆ Temporary Assistance for Needy Families (TANF) (the Family Investment Program (FIP) in Iowa)
- ◆ State cash assistance programs, such as State Supplementary Assistance
- ◆ Local cash assistance programs

“Institutionalization in a long-term care facility” includes residing in a:

- ◆ Nursing home
- ◆ Mental health institution

The U.S. Citizenship and Immigration Services (USCIS) makes the “public charge” finding on a case-by-case basis.

## **Application Processing**

**Legal reference:** 441 IAC 75.11(1), (2), and (4)

### **Policy:**

Aliens must provide the following before being determined eligible for Medicaid:

- ◆ Documentation of their alien status.
- ◆ Photo identification. You may need to get another form of verification of a person's identity if:
  - The person does not have photo identification.
  - The person's photo does not allow for reasonable identification of the person.
  - The person's documentation contains the person's maiden name or a misspelling of the person's name.
- ◆ Verification of the entry or admission date from which the person's status started for qualified aliens who are:
  - Subject to the five-year bar, or
  - Exempt from the five-year bar

### **Procedure:**

Follow the procedures in 8-B, [APPLICATION PROCESSING](#), in handling Medicaid applications for aliens. See [Limited Eligibility for Certain Aliens](#) for information on Medicaid for emergency services.

If the alien does not have any documentation but should have documentation, refer the person to the U.S. Citizenship and Immigration Services (USCIS) to obtain proof of status. Pend the application under the anticipated Medicaid aid type. Instruct the person, in writing, to provide the necessary documentation within ten calendar days.

When the person is making every effort to obtain the information but is unable to do so in ten days and notifies you of the problem, you can allow additional time.

When you receive the necessary verification, you may approve Medicaid retroactive up to three months before the month of application, provided there is a need and all eligibility requirements have been met. See [8-B, Determining Eligibility for the Retroactive Period](#), and [8-A, Definitions, Retroactive Period](#).

If the applicant does not provide necessary documentation of alien status as requested, any person for whom documentation is not provided is eligible only for emergency medical assistance if the person would otherwise be eligible for Medicaid. You may process Medicaid for everyone else listed on the application, provided the necessary information is available for the remaining applicants.

If a Family Medical Assistance Program (FMAP)-related applicant who is not eligible for Medicaid is a mandatory member of the eligible group and is:

- ◆ An adult, include the person in the household size as a “considered person” and count the person’s income when determining eligibility for the Medicaid-eligible household members. See [8-E, Ineligible Parent Deductions](#), to determine allowable deductions from income.
- ◆ A child, do not include the person in the household size or count the person’s income when determining eligibility for the Medicaid-eligible household members. See [8-E, Ineligible or Voluntarily Excluded Child](#), to determine the allowable diversion for an ineligible alien child.

See [14-B\(7\), Approving a Case with an Ineligible Alien](#), for system coding instructions.

Household consists of:

- Mr. H A qualified alien who is in the United States legally but is barred for five years and has earnings.
- Mrs. H A U.S. citizen who has no income and is not pregnant.
- Juan Mr. H’s child by a previous relationship, age 16, an undocumented alien.
- Joe The common child, age 3, a U.S. citizen who has no income.

The Medicaid eligible group in this example is a household of three: Mr. H (ineligible, considered person), Mrs. H (eligible), and Joe (eligible). Juan is an ineligible alien and is not part of the FMAP household.

If an SSI-related alien is eligible for Medicaid, follow deeming policies located in [8-D, Deeming Resources](#), and [8-E, Deeming SSI-Related Income](#).

## **Alien Status and Verification Requirements**

**Legal reference:** Section 121 of the Immigration and Control Act of 1986 (P. L. 99-603), P. L. 104-193, P. L. 105-33; 42 U.S.C. 1396b(v) as amended by P. L. 111-3, Iowa Code 249A.3A, and 441 IAC 75.11(1) and (2)

### **Policy:**

An alien applicant must provide documentation of alien status before Medicaid is approved.

### **Comment:**

The Immigration and Nationality Act (INA) requires all aliens who are 18 or older to carry USCIS documentation on their persons at all times. USCIS requires children aged 14 through 17 to have USCIS documentation, but they are not required to carry it with them.

NOTE: USCIS does not require children under age 14 to have documentation of their alien status. Therefore, if the adult who is applying for benefits has a documented legal alien status and attests to the child's legal status, the adult's attestation is sufficient proof of the child's alien status.

### **Procedure:**

When an alien provides documentation, check the [Alien Documentation Chart](#) to determine if the person is eligible for Medicaid. The chart lists:

- ◆ The types of documentation that can be used to verify alien status.
- ◆ Additional verification that certain aliens must provide to prove they are eligible for Medicaid (such as the date they were admitted to the United States or the date a particular alien status was granted or adjusted).

Contact the USCIS through the Systematic Alien Verification for Entitlement (SAVE) Web site at <https://save.uscis.gov/web/vislogin.aspx?js=yes> if:

- ◆ Documentation does not have necessary coding to show the person's status, entry or admission date is missing, or documentation is questionable.
- ◆ You cannot identify the annotation codes on the document.
- ◆ You are doing an annual review and need to verify that legal permanent resident status continues for a child under age 21 who has been in legal permanent resident status less than five years.

- ◆ You are doing an annual review and need to verify that a child under age 21 continues to be lawfully residing in the U. S.
- ◆ You are doing an annual review and need to verify that a child under age 21 continues to have either a battered alien or a parolee status.
- ◆ A person presents USCIS Forms I-688B or I-766, *Employment Authorization Document*, or Form I-571, *Refugee Travel Document*, but does not have Form I-94, *Arrival/Departure Record*.
- ◆ A person has a grant letter or court order, but the letter or order does not include the date the status was granted.
- ◆ A person has a receipt card saying the person has applied for a replacement document.

Treat the person as an ineligible alien until USCIS verifies that the person is an eligible alien. When you receive verification from USCIS indicating that the person is an eligible alien, add the person to the Medicaid eligible group.

**Alien Documentation Chart**

Documentation of alien status is issued by the U.S. Citizenship and Immigration Services (USCIS), part of the Department of Homeland Security. Older documents were issued by the Immigration and Naturalization Service (INS).

This chart lists some documents commonly used to show alien status. Note that there may be **other** documents acceptable to show alien status that are **not listed** in this chart. See [Aliens Subject to Five-Year Bar](#) and [Aliens Exempt from Five-Year Bar](#) for complete explanation of Medicaid status.

Alien Status	Acceptable Documentation of Alien Status	Medicaid Status
<p><b>Amerasians treated as refugees</b></p>	<ul style="list-style-type: none"> <li>◆ Form I-551, <i>Permanent Resident Card</i> *</li> <li>◆ Temporary I-551 stamp in a passport</li> <li>◆ Form I-94, <i>Arrival/Departure Record</i></li> <li>◆ Any verification from the USCIS or other authoritative document</li> </ul> <p>All of these should have one of the following codes: AM-1, AM-2, AM-3, AM-6, AM-7, AM-8</p>	<p>Eligible regardless of entry date if all other eligibility factors are met</p>

Alien Status	Acceptable Documentation of Alien Status	Medicaid Status
<b>American Indians born outside the United States</b>	<ul style="list-style-type: none"> <li>◆ Member of a federally recognized Indian tribe as defined in Section 4(e) of the Indian Self-Determination and Education Assistance Act; or</li> <li>◆ Form I-551, <i>Permanent Resident Card</i>*, coded S1-3, born in Canada and at least 50% American Indian, to whom the provisions of section 289 of the Immigration and Nationality Act apply.</li> </ul> <p>For the list of federally recognized tribes, refer to <a href="https://www.gpo.gov/fdsys/pkg/FR-2016-05-04/pdf/2016-10408.pdf">https://www.gpo.gov/fdsys/pkg/FR-2016-05-04/pdf/2016-10408.pdf</a>.</p>	Eligible regardless of entry date if all other eligibility factors are met
<b>Asylee</b>	<ul style="list-style-type: none"> <li>◆ Form I-94, <i>Arrival/Departure Record</i>, or passport stamped "asylee" or section 208.</li> <li>◆ Order granting asylum issued by the USCIS, an immigration judge, the Board of Immigration Appeals, or a federal court.</li> <li>◆ Forms I-688B or I-766, <i>Employment Authorization Document</i>, coded 274a.12(a)(5) or A5(a)10 or (a)3.</li> <li>◆ <i>Refugee Travel Document</i> (Form I-571) along with another card identifying status.</li> <li>◆ Any verification from the USCIS or other authoritative document.</li> </ul> <p>NOTE: If adjusted to lawful permanent resident status, Form I-551, <i>Permanent Resident Card</i>, may be coded AS-6, AS-7, or AS-8.</p>	Eligible as of date asylum is granted if all other eligibility factors are met

Alien Status	Acceptable Documentation of Alien Status	Medicaid Status
<p><b>Battered alien</b>            (cannot live with abuser)</p>	<ul style="list-style-type: none"> <li>◆ Receipt or proof of filing visa petition Form I-130, <i>Petition for Alien Relative</i>, under immediate relative (IR) or second family preference (P-2) showing status as spouse;</li> <li>◆ Form I-360, <i>Petition for Amerasian, Widow(er), or Special Immigrant</i>, (application to qualify as abused spouse or child under Violence Against Women Act);</li> <li>◆ Form I-797, <i>Notice of Action</i>, referencing pending Form I-130, <i>Petition for Alien Relative</i>, or Form I-360, <i>Petition for Amerasian, Widow(er), or Special Immigrant</i>, or finding establishment of a prima facie case;</li> <li>◆ Receipt or other proof of filing Form I-485, <i>Application to Register Permanent Residence or Adjust Status</i>, (application for adjustment of status on basis of an immediate relative or family second preference petition or Violence Against Women Act application);</li> <li>◆ Form I-688B or I-766, <i>Employment Authorization Document</i>, coded 274a.12(a)(10) or A10 (applicant for suspension of deportation) or 274a.12(c)(14) or C14 (individual granted deferred action status);</li> <li>◆ Any documents indicating a pending suspension of deportation or cancellation of removal case, including a receipt from an immigration court indicating filing of Executive Office for Immigration Review:               <ul style="list-style-type: none"> <li>• Form EOIR-40, <i>Application for Suspension of Deportation</i> or</li> <li>• Form EOIR-42, <i>Application for Cancellation of Removal</i>; or</li> </ul> </li> <li>◆ Any verification from the USCIS or other authoritative document.</li> </ul>	<p>Children under age 21: eligible regardless of entry date if all other eligibility factors are met.</p> <p>Adults (age 21 and over):</p> <ul style="list-style-type: none"> <li>◆ With United States entry <b>on or after</b> 8/22/96, barred for five years from entry</li> <li>◆ With United States entry <b>before</b> 8/22/96, eligible if all other eligibility factors are met</li> </ul> <p>Verify continued battered alien status at each annual review. See <a href="#">Battered Aliens</a> for more information.</p>

Alien Status	Acceptable Documentation of Alien Status	Medicaid Status
<b>Conditional entrants</b> (not used since 1980)	<ul style="list-style-type: none"> <li>◆ Form I-94, <i>Arrival/Departure Record</i>, or other document indicating status as "conditional entrant," "Seventh Preference" Section 203(a)(7), or P7, or</li> <li>◆ Any verification from the USCIS or other authoritative document.</li> </ul>	Eligible if all other eligibility factors are met because entry date is before 8/22/96
<b>Cuban or Haitian entrants</b> (treated as refugees)	<ul style="list-style-type: none"> <li>◆ Form I-94, <i>Arrival/Departure Record</i>, with a stamp indicating "Cuban/Haitian entrant" (not used since 1980), a notation indicating "parole," or a document indicating pending exclusion or deportation proceedings;</li> <li>◆ Any document indicating a pending asylum application, such as a USCIS receipt for filing of Form I-589, <i>Application for Asylum and for Withholding of Removal</i>;</li> <li>◆ Form I-688B or I-766, <i>Employment Authorization Document</i>, coded 274a.12(c)(8) or CI; or</li> <li>◆ Any verification from the USCIS or other authoritative document.</li> </ul> <p>NOTE: Persons who have adjusted to lawful permanent resident status may have Form I-551, <i>Permanent Resident Card</i>, coded with CH-6, CU-6, CU-7, LB-2, LB-6, or LB-7.</p>	Eligible regardless of entry date if all other eligibility factors are met
<b>Deportation or removal withheld</b>	<ul style="list-style-type: none"> <li>◆ Form I-94, <i>Arrival/Departure Record</i>, or passport stamped "section 243(h)" or "section 241(b)(3)";</li> <li>◆ Order granting withholding of deportation or removal issued by USCIS, an immigration judge, the Board of Immigration Appeals, or a federal court;</li> <li>◆ Form I-688B or I-766, <i>Employment Authorization Document</i>, coded 274a.12(a)(10) or A10;</li> <li>◆ Form I-571, <i>Refugee Travel Document</i>, with another card showing status;</li> <li>◆ Any verification from the USCIS or other authoritative document.</li> </ul>	Eligible regardless of entry date if all other eligibility factors are met



Alien Status	Acceptable Documentation of Alien Status	Medicaid Status
<p><b>Iraqi or Afghan special immigrants</b>            (Lawful permanent residents, treated as refugees)</p>	<ul style="list-style-type: none"> <li>◆ Form I-551, <i>Permanent Resident Card*</i>, showing Iraqi or Afghan nationality with any of the following status codes:               <ul style="list-style-type: none"> <li>• SI1, SI2, SI3, SI6, SI7, SI9, or</li> <li>• SQ1, SQ2, SQ3, SQ6, SQ7, SQ9</li> </ul> </li> <li>◆ Iraqi or Afghan passport with an immigrant visa stamp noting admitted under a status code listed and date of entry noted on passport or Form I-94, <i>Arrival/Departure Record</i>.</li> </ul>	<p>Eligible regardless of entry date if all other eligibility factors are met</p>
<p><b>Lawfully residing immigrants or nonimmigrants</b></p>	<ul style="list-style-type: none"> <li>◆ Form I-94, <i>Arrival/Departure Record</i>;</li> <li>◆ Forms I-688B or I-766, <i>Employment Authorization Document</i>; or</li> <li>◆ Any verification from the USCIS or other authoritative document.</li> </ul> <p>NOTE: The specific section of the law or a designation by USCIS must appear on the document indicating the alien is in one of the statuses listed following the definition of "<a href="#">lawfully residing</a>."</p>	<p>Children under age 21 are eligible regardless of entry date if all other eligibility factors are met.</p> <p>Verify continued lawfully residing status at each annual review.</p> <p>Adults age 21 and over are ineligible regardless of entry date.</p>

Alien Status	Acceptable Documentation of Alien Status	Medicaid Status
<p><b>Lawful permanent residents (LPRs)</b></p>	<ul style="list-style-type: none"> <li>◆ Form I-551, <i>Permanent Resident Card</i>; *            NOTE: Form I-551 annotated with certain codes indicates the person originally entered the United States under another status and later adjusted to lawful permanent resident.            Eligibility for these persons must be determined based on the original status upon entry. These statuses and codes are:           <ul style="list-style-type: none"> <li>• Amerasian (AM-1, AM-2, AM-3, AM-6, AM-7, AM-8),</li> <li>• Asylee (AS-6, AS-7, AS-8),</li> <li>• Canadian-born American Indian (S1-3),</li> <li>• Cuban or Haitian (CH-6, CU-6, CU-7, LB-2, LB-6, LB-7),</li> <li>• Parolee (LA), or</li> <li>• Refugee (R8-6, RE-6, RE-7, RE-8, RE-9).</li> </ul> </li> <li>◆ Form I-327, <i>Permit to Reenter the United States</i>;</li> <li>◆ Form I-94, <i>Arrival/Departure Record</i>, with a temporary I-551 stamp;</li> <li>◆ Foreign passport stamped showing temporary evidence of lawful permanent resident or I-551 status;</li> <li>◆ Form I-181, <i>Memorandum of Creation of Lawful Permanent Residence</i>, with approval stamp;</li> <li>◆ Order issued by the USCIS, an immigration judge, the Board of Immigration Appeals, or a federal court granting registry, suspension of deportation, cancellation of removal, or adjustment of status; or</li> <li>◆ Any verification from the USCIS or other authoritative document</li> </ul>	<p>Children under age 21 are eligible regardless of entry date if all other eligibility factors are met.</p> <p>Adults (age 21 and over):</p> <ul style="list-style-type: none"> <li>◆ With United States entry <b>on or after</b> 8/22/96 are barred for five years from entry</li> <li>◆ With United States entry <b>before</b> 8/22/96 are eligible if all other eligibility factors are met</li> </ul> <p>Verify continued LPR status at each annual review.</p>

Alien Status	Acceptable Documentation of Alien Status	Medicaid Status
<p><b>Parolees</b>            NOTE: Must have been paroled for at least one year; for children, see one exception under the definition of "<a href="#">lawfully residing</a>"</p>	<ul style="list-style-type: none"> <li>◆ Form I-94, <i>Arrival/Departure Record</i>, indicating "parole" or "PIP" or "212(d)(5)," or other language indicating parole status;</li> <li>◆ Forms I-688B or I-766, <i>Employment Authorization Document</i>, coded A4 or C11 [274a.12(a)(4), 274a.12(c)(11)]; or</li> <li>◆ Any verification from the USCIS or other authoritative document.</li> <li>◆ If adjusted to lawful permanent resident status, may have Form I-551, <i>Permanent Resident Card</i>* (some may be coded LA).</li> </ul>	<p>Children under age 21 are eligible regardless of entry date if all other eligibility factors are met.</p> <p>Adults (age 21 and over):</p> <ul style="list-style-type: none"> <li>◆ With United States entry <b>on or after</b> 8/22/96, are barred for five years from entry</li> <li>◆ With United States entry <b>before</b> 8/22/96, are eligible if all other eligibility factors are met</li> </ul> <p>Verify continued parolee status at each annual review.</p>

Alien Status	Acceptable Documentation of Alien Status	Medicaid Status
<b>Refugees</b>	<ul style="list-style-type: none"> <li>◆ Form I-94, <i>Arrival/Departure Record</i>, or passport stamped "refugee" or section 207;</li> <li>◆ Forms I-688B or I-766, <i>Employment Authorization Document</i>, coded 274a.12(a)(3) or A3;</li> <li>◆ Form I-571, <i>Refugee Travel Document</i>, with another card verifying status; or</li> <li>◆ Any verification from the USCIS or other authoritative document.</li> </ul> <p>NOTE: If adjusted to lawful permanent resident status, Form I-551, <i>Permanent Resident Card</i>*, may be coded R8-6, RE-6, RE-7, RE-8 or RE-9.</p>	Eligible regardless of entry date if all other eligibility factors are met.
<b>Veterans or active duty military personnel</b> (lawful permanent residents) (Includes some family members of these persons. See <a href="#">Aliens Exempt from Five-Year Bar.</a> )	<p>Proof of veteran or active duty status:</p> <ul style="list-style-type: none"> <li>◆ Active duty: Original or notarized copy of current orders showing the person is on full-time duty in the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard, or a DD form 2 military ID card (active duty papers).</li> <li>◆ Honorably discharged veteran: Original or notarized copy of form DD214 (discharge papers). NOTE: This verification is sufficient when the veteran is a U.S. citizen, and the spouse or unmarried dependent children are aliens. It is also sufficient for the surviving spouse and unmarried dependent children.</li> </ul> <p>For proof of LPR status, see <a href="#">lawful permanent residents</a>, above.</p>	Eligible regardless of entry date if all other eligibility factors are met.
<b>Victims of Trafficking</b>	<ul style="list-style-type: none"> <li>◆ Office of Refugee Resettlement (ORR) certification letter, validated by calling the trafficking verification line at (866) 401-5510</li> </ul> <p>NOTE: SAVE does not have information about a person's status as a victim of trafficking.</p>	Eligible for the period certified.

Alien Status	Acceptable Documentation of Alien Status	Medicaid Status
<b>Other</b> (legal or illegal)	The person is undocumented or presents documents that indicate the person's alien status is one <b>other than</b> those specifically listed under <a href="#">Aliens Subject to Five-Year Bar</a> or under <a href="#">Aliens Exempt from Five-Year Bar</a> .	Ineligible regardless of U.S. entry date

\* In December 1998, the USCIS changed the name of Form I-551 from "Alien Registration Receipt Card" to "Permanent Resident Card."

### **Using SAVE (Systematic Alien Verification for Entitlements)**

**Legal reference:** IRCA, Section 121, as amended by PRWORA and IIRIRA and the Balanced Budget Act of 1997

**Policy:**

The USCIS shall provide status verification when necessary.

**Procedure:**

Contact the USCIS through its Systematic Alien Verification for Entitlement (SAVE) system when it is necessary to verify:

- ◆ A person's alien status, as described in [Alien Status and Verification Requirements](#).
- ◆ Sponsorship of a lawful permanent resident (LPR) alien, as described in [Verifying Sponsor's Information](#).
- ◆ Access SAVE's web site and instructions for its use at <http://dhssp/fo/IM/default.aspx>.

NOTE: Do **not** verify an alien's documentation with USCIS when the alien:

- ◆ Claims to be undocumented, or
- ◆ Provides acceptable documentation of an eligible or ineligible alien status. For example, do not contact USCIS if the person is not here legally or is a nonimmigrant here only temporarily.

If the person's documentation clearly shows that the person is not in a "qualified" status (which includes "lawfully residing" alien children):

- ◆ Deny Medicaid for the person (unless the requested assistance is for an emergency medical condition) and
- ◆ Determine eligibility for the remaining family members.

## **Nonfinancial Eligibility**

**Legal reference:** 441 IAC 75.11(1), (2), (3), and (4); 42 U.S.C. 1396b(v) as amended by P. L. 111-3

Aliens must meet the categorical, financial, and nonfinancial eligibility criteria of an existing FMAP-related or SSI-related coverage group. See 8-C, [NONFINANCIAL ELIGIBILITY](#), and 8-F, [COVERAGE GROUPS](#).

Additional requirements specific to aliens include the following:

- ◆ Applicants must provide documentation of qualified alien status for each person for whom Medicaid is being requested. (When this requirement is not met, see also [Limited Eligibility for Certain Aliens](#).)
- ◆ Lawful permanent resident (LPR) alien children under the age of 21 who have resided in the United States less than five years, lawfully residing alien children under the age of 21, and children with battered alien or parolee status must have their continued alien status verified at each annual review.
- ◆ If an alien has a sponsor, the sponsor's income and resources may be deemed available to the alien when determining eligibility.

The following sections address:

- ◆ [Declaration of citizenship or alienage](#)
- ◆ [Aliens subject to five-year bar](#)
- ◆ [Aliens exempt from five-year bar](#)
- ◆ [Migrants](#)
- ◆ [Social security numbers](#)
- ◆ [Victims of trafficking](#)
- ◆ [Iraqi and Afghan special immigrants](#)

## **Declaration of Citizenship or Alienage**

**Legal reference:** 42 CFR 435.406; 441 IAC 75.11(249A), Public Law 104-193, 42 U.S.C. 1396b(v) as amended by P. L. 111-3

As a condition of eligibility, all applicants and members must declare their citizenship or alien status. You must verify the alien status of aliens who appear to be eligible. Refer to [8-C, Citizenship](#), for more information on citizen/alien status declaration and citizenship verification requirements.

### **Citizenship**

**Legal reference:** 42 CFR 435.406; 441 IAC 75.11(249A); P. L. 104-193

Consider any person born in the United States a U.S. citizen. People born in the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands are U.S. citizens. People born abroad to U.S. citizen parents are generally, but not always, considered U.S. citizens.

A "U.S. national" is a person who is born in American Samoa (including Swains Island). Consider a person who is a noncitizen U.S. national the same as a citizen.

People who are not U.S. citizens or nationals can become citizens through a process called "naturalization."

NOTE: Persons from the Compact of Free Association States (CFAS) are **not** U.S. citizens or nationals. The CFAS include the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. Persons from the CFAS retain citizenship in their country of origin because they are allowed to enter and work in the United States without obtaining an immigration status.

Adult citizens of the CFAS (age 21 and over) are not eligible for full Medicaid unless they obtain a qualified alien status. They may be eligible for limited Medicaid for emergency services. See [Limited Eligibility for Certain Aliens](#).

NOTE: Children under age 21 who are citizens of the CFAS and are lawfully residing in the United States may be eligible for Medicaid. Refer to the list of alien statuses following the definition of "[lawfully residing](#)" for more information.

### **Children Born Outside of United States**

**Legal reference:** P. L. 106-395; 42 CFR 435.407

Under the Child Citizenship Act, children born outside the United States who were not U.S. citizens at the time of birth (international adoptions and certain children born abroad whose parents become naturalized citizens) may establish citizenship automatically.

A child under age 18 may establish citizenship by proving that at any time on or after February 27, 2001, the child met these conditions:

- ◆ At least one parent is a U.S. citizen by birth or naturalization.
- ◆ The child is residing in the United States in the legal and physical custody of the U.S. citizen parent after a lawful admission for permanent residence.
- ◆ If adopted, the child was admitted as having an alien status of either IR-3 (adopted outside the United States) or IR-4 (final adoption in the United States).

The U.S. citizenship of the parent must be verified according to regular citizenship guidelines. Admission of the child as lawful permanent resident must be verified according to guidelines for determining “qualified alien” status, including SAVE verification.

If proof of citizenship is needed but documentation is not available, refer the person to the USCIS for a determination of U.S. citizenship. See [8-C, Citizenship](#), for complete information about citizenship verification requirements and acceptable forms of documentation.

Refer to [Alien Status and Verification Requirements](#) for complete information on this nonfinancial eligibility criterion.



### **Aliens Subject to Five-Year Bar**

**Legal reference:** 441 IAC 75.11(249A), Public Law 104-193; 42 U.S.C. 1396b(v) as amended by P. L. 111-3 and Iowa Code 249A.3A

Aliens listed in this section who enter the United States **on or after** August 22, 1996, are barred from receiving Medicaid except emergency services for five years. The five-year period begins on the date the person enters the United States with one of the following statuses and retains a legal status:

- ◆ Aliens aged 21 or over who are lawfully admitted for permanent residency.  
NOTE: Lawful permanent residents (LPRs) may be required to have a sponsor and may be subject to deeming of income or resources from the sponsor. See [Sponsor Affidavits of Support and Deeming](#) for more information.
- ◆ Aliens ages 21 or over who are paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (INA) for a period of at least one year.
- ◆ Battered aliens ages 21 or over who are designated under 8 USC 1641(c). Refer to [Battered Aliens](#) for more information.

NOTE: The five-year bar does not apply to aliens in these categories who entered the U.S. before August 22, 1996. The five-year bar also does not apply to aliens in these categories who are children under the age of 21.

### **Aliens Exempt from Five-Year Bar**

**Legal reference:** 441 IAC 75.11(249A), P. L. 104-193 and 105-33; 42 U.S.C. 1396b(v) as amended by P. L. 111-3 and Iowa Code 249A.3A

Aliens with one of the following statuses are eligible for Medicaid from the date the person obtains the status:

- ◆ Qualified aliens who entered the United States before August 22, 1996, including conditional entrants under section 203(a)(7) of the Immigration and Nationality Act (INA) as in effect before April 1, 1980.  
NOTE: Contact SPIRS for help when an alien entered before August 22, 1996, but obtained a qualified status on or after that date.
- ◆ Refugees admitted under section 207 of the INA.
- ◆ Amerasian aliens treated as refugees.

- ◆ Aliens granted asylum under section 208 of the INA.
- ◆ Aliens whose deportation or removal is withheld under section 243(h) or section 241(b)(3) of the INA.
- ◆ Cuban or Haitian entrants under section 501(e) of the Refugee Education Assistance Act of 1980.
- ◆ Members of federally recognized American Indian tribes and Canadian-born American Indians who have treaty rights to cross the United States borders with Canada and Mexico. There is an extensive list of these tribes. Contact SPIRS if you question whether a tribe is included.
- ◆ Aliens lawfully admitted for permanent residence who are veterans honorably discharged for reasons other than alienage and their spouses, surviving unremarried spouses, and unmarried dependent children. This includes the alien spouses, surviving unremarried spouses, and unmarried dependent children of veterans who are U.S. citizens or deceased veterans.
- ◆ Aliens lawfully admitted for permanent residence who are active-duty personnel of the United States Armed Forces and their spouses, surviving unremarried spouses, and unmarried dependent children.

This includes the alien spouses, surviving unremarried spouses, and unmarried dependent children of active duty personnel who are U.S. citizens or of deceased active-duty personnel. "Active duty" excludes temporary full-time duty for training purposes performed by members of the National Guard or Reserves.

- ◆ Victims of trafficking with an ORR certification letter that has been verified by calling the trafficking verification line. Trafficking victims are eligible only for eight months from the entry date in the original ORR certification letter unless ORR issues a recertification letter.

Without the ORR certification or when the ORR certification expires, trafficking victims are not eligible for Medicaid unless another qualifying status is obtained. See [Victims of Trafficking](#) for additional information.

- ◆ Iraqi and Afghan special immigrants. See [Iraqi and Afghan Special Immigrants](#) for specific instructions. These special immigrants are lawful permanent residents but are eligible for Medicaid to the same extent as refugees.

- ◆ Alien children under the age of 21 who are:
  - Paroled into the United States under section 212(d)(5) of the INA for a period of at least one year;
  - Battered as defined in 8 USC 1641(c). Refer to [Battered Aliens](#) for more information; or
  - In one of the statuses listed after the definition of "[lawfully residing](#)."

NOTE: Verification that these children continue in one of these statuses is required at each annual review.

- Attempt to use the documentation presented at application to verify the child's continued lawfully residing status.
- If additional documentation is needed, the household must provide proof of continued lawfully residing status for the child.
- When continuation in one of these statuses cannot be verified, see also [Limited Eligibility for Certain Aliens](#) for benefits available to the child.

When these lawfully residing children reach age 21, they become ineligible for Medicaid other than limited Medicaid for emergency services unless they obtain another qualified alien status.

- ◆ Children under age 21 who have been lawfully admitted for permanent residence (LPR). To ensure correct funding and tracking of these children, enter the child's date of entry as an LPR into the LPR DT field on the child's TD03 screen in the ABC system.

NOTE: Verification that these children continue in LPR status is required at each annual review.

- Attempt to use the documentation presented at application to verify the child's continued LPR status.
- If additional documentation is needed, the household must provide proof of continued LPR status for the child.
- When continued LPR status cannot be verified, see also [Limited Eligibility for Certain Aliens](#) for benefits available to the child.

When LPR children reach age 21, they become subject to the five-year bar. They are ineligible for Medicaid other than limited Medicaid for emergency services until they meet the five-year requirement or meet another exemption.

A system-generated notice will be issued canceling the child at age 21 and recalculating eligibility for other household members based on the reduced household size.

1. Child A (age 20) is on the Family Medical Assistance Program (FMAP) with her 2-year-old son. She has been in the United States as an LPR for seven years. When she turns age 21, she can continue on FMAP with her child, if all other eligibility requirements are met.
2. Same as example 1, except Child A has been in the United States as an LPR for only two years. When she turns age 21, she is no longer eligible for Medicaid (except for emergency services) unless another exemption from the five-year bar applies.

NOTE: For FMAP-related cases when some mandatory members of the eligible group are ineligible aliens:

- ◆ See [8-E, Ineligible Parent Deductions](#), to determine allowable deductions from income of an ineligible adult who is a “considered person”;
- ◆ See [8-E, Ineligible or Voluntarily Excluded Child](#), to determine a diversion for an ineligible alien child who is not included in the household size.

### **Migrants**

**Legal reference:** 441 IAC 75.11(1), (2), and (3)

Migrants are people who travel between states or counties to find work on a seasonal basis. They are usually employed in agricultural situations. If the migrant is also an alien, verify the migrant’s alien status to determine Medicaid eligibility.

When a migrant enters Iowa for employment purposes, the person is considered a resident. This policy makes it possible for migrants to meet the residency requirement and to receive Medicaid, if otherwise eligible. The migrant must meet all other program eligibility requirements.

### **Social Security Number**

**Legal reference:** 42 CFR 435.910, IAC 75.7(249A)

Except for aliens in the United States unlawfully, each person applying for Medicaid must provide a social security number (SSN) or proof that an application for a number has been made as a condition of eligibility. See [8-C, Social Security Number](#).

Before an application for a SSN can be made, the Social Security Administration requires that aliens provide either a passport or a foreign birth certificate along with documentation verifying their status that was issued by the U.S. Citizenship and Immigration Services (USCIS).

Applicants who are not lawful residents do not have the documentation required to apply for a SSN. However, do not assume that an applicant currently with an unlawful resident status does not have a SSN.

Some unlawful aliens may have SSNs because they originally gained entrance to the United States with a lawful status, but their status has since changed to unlawful. Ask for the SSN from an unlawful alien, but do not deny assistance if the person fails to provide the number.

Victims of trafficking may not yet have a SSN or may not be able to get a SSN for work purposes. Assist these people in obtaining non-work SSNs by sending a letter to the Social Security Administration that:

- ◆ Is on letterhead.
- ◆ Includes the applicant's name.
- ◆ Mentions that this person is a trafficking victim.
- ◆ References that the number is required to receive Medicaid, not for work.
- ◆ States that the applicant meets the requirements to receive Medicaid except for the SSN.

Medicaid rules require applicants who do not have a SSN to apply for one. If the applicant provides proof of application for a SSN and all other eligibility factors are met, approve Medicaid pending the issuance of the SSN.

Proof of application for a SSN remains sufficient even if the SSN application is denied because the person is not eligible to receive a SSN, or may only be issued a SSN for a valid non-work reason, as long as the person reapplies when their eligibility for a SSN changes.

### **Victims of Trafficking**

**Legal reference:** The Trafficking Victims Protection Act of 2000 (TVPA), Public Law 106-386 {8U.S.C. 7105(b)(1)} and Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA), Public Law 108-193

Aliens who are certified as “victims of trafficking” by the Department of Health and Human Services’ Office of Refugee Resettlement (ORR) are “qualified aliens” for Medicaid. A victim of trafficking is eligible for Medicaid to the same extent as a person with refugee status for the period for which ORR certifies them.

The ORR certifies a victim of trafficking for eight-month periods. The person’s “entry date” is the certification date stated in the body of the ORR certification letter or letter for children under 18 years old.

When a victim of trafficking applies for Medicaid, follow normal procedures for determining eligibility for refugees, except:

- ◆ Accept the original ORR certification letter for adults or letter for children under 18 years old in place of USCIS documentation.

Although trafficking victims are not required to provide any documentation of their alien status for eligibility purposes, they may have various documents, such as Form I-94, *Arrival/Departure Record*, with a stamp showing parole under section 212(d)(5) of the INA, an employment authorization document, etc. The documentation may serve to verify identity.

- ◆ Contact the trafficking verification line at (866) 401-5510 to confirm the validity of the certification letter for adults or letter for children under 18 years old and to notify the ORR of the assistance for which the person has applied. Do not contact SAVE concerning victims of trafficking, because SAVE will not have this information.
- ◆ Track the expiration date of the certification letter or letter for children. Redetermine eligibility at that time. The expiration date of the ORR certification period is specified in the person’s certification letter.

Victims of trafficking may not yet have standard identity documents like driver's licenses. Do not automatically deny applications for people who cannot confirm their identity. Call the trafficking verification line at 866-401-5510 for assistance.

A victim of trafficking may have a "Derivative T visa." People who have a Derivative T visa are eligible for Medicaid provided they meet other program criteria. A Derivative T visa may have the following status:

- ◆ T1, principal alien
- ◆ T2, spouse
- ◆ T3, child
- ◆ T4, parent
- ◆ T5, sibling

Alternatively, a U visa (or code A19 or A20 on the *Employment Authorization Document* (EAD)) is an indication that a person might be a victim of trafficking. However, U visas are also issued to victims of other crimes, so a U visa does not automatically mean the adult is a victim of trafficking. If an adult provides a U visa (or EAD with code A19 or A20), follow up to find out if they are either a victim of trafficking or a battered alien.

NOTE: A child under age 21 with a U visa (or code A19 or A20 on the EAD) is a qualified alien under the definition of "[lawfully residing](#)."

Applicants without certification letters are subject to all the usual eligibility requirements of the Medicaid program. However, if you encounter a person you believe may meet the definition of a trafficking victim, go through the usual channels to obtain instructions on providing the person with assistance in contacting ORR for possible certification.

A recertification letter issued to the victim of trafficking by the ORR is required for the person to receive Medicaid beyond the eight-month ORR certification period. Cancel assistance at the end of the ORR-specified certification period, unless the household has received and provides a follow-up letter or the household otherwise meets alien eligibility requirements. You must give timely notice.

If a victim of trafficking becomes a qualified alien based on regular alien policies, use the new eligible alien status when redetermining eligibility for that person.

### **Iraqi and Afghan Special Immigrants**

**Legal reference:** Public Law 110-161 (December 26, 2007); Section 1244(g) of Public Law 110-181 (January 28, 2008); Public Law 110-329 at Section 101 of Division A (September 30, 2008); Section 602 of Public Law 111-08 (March 10, 2009); Section 8120 of Public Law 111-118 (December 19, 2009)

**Policy:**

Certain Iraqis and Afghans who have acted as interpreters for the U.S. military or who were employed by or on behalf of the U.S. government may be given a special immigrant status. The effective date of eligibility for these special immigrants can be no earlier than December 26, 2007.

Before December 19, 2009, Iraqi and Afghan special immigrants over the age of 21 were subject to the five-year bar after an eight-month initial Medicaid eligibility period.

Effective December 19, 2009, all Iraqi and Afghan aliens granted special immigrant status are lawful permanent residents (LPRs) and are exempt from the five-year bar on assistance. These Iraqi or Afghan special immigrants are eligible for assistance to the same extent as refugees.

**Procedure:**

Approve Medicaid for Iraqi and Afghan special immigrants if all other eligibility requirements are met.

**Comment:**

| Before March 11, 2009, the initial period for Afghans was limited to six months, and acceptable status codes for Afghan special immigrants did not include status codes beginning with SQ. Contact SPIRS Help Desk for assistance determining  
| eligibility for an Afghan whose special immigrant status began before March 11, 2009.



## **Sponsor Affidavits of Support and Deeming**

**Legal reference:** P. L. 104-193, P. L. 104-208, 8 U.S.C. §§ 1182(a)(4), 1183a(1996); 42 U.S.C. 1396b(v) as amended by P. L. 111-3; 20 CFR 416.1160(a) and 416.1166a(d)3; 441 IAC 75.11(3)

Aliens who seek admission to the United States as lawful permanent residents must establish that they will not become a “public charge.” (See [Public Charge](#).) Many aliens establish that they will not become public charges by having “sponsors” who pledge to support them. An alien may have more than one sponsor.

A sponsor is a person who signs an “affidavit of support” agreeing to support an alien to help the alien obtain lawful permanent resident status. There are three versions of the *Affidavit of Support*:

- ◆ Form I-864. This form is enforceable since December 19, 1997.
- ◆ Form I-134. This form is not enforceable.
- ◆ Form I-361. This form is enforceable and must be submitted with a petition for treatment as an Amerasian. However, deeming will not apply to persons with this type of support affidavit.

Sponsor deeming is the process of considering the income and resources of the sponsor to be available to the sponsored person, whether or not the income or resources are actually made available. The sponsor deeming rules apply **only** to persons who:

- ◆ Are lawful permanent residents (LPRs) age 21 and over,
- ◆ Applied for lawful permanent resident status on or after December 19, 1997, and
- ◆ Are sponsored by a person who signed Form I-864, *Affidavit of Support*.

NOTE: Sponsor deeming may still affect Medicaid eligibility of children under age 21 if an adult household member has a sponsor.

For deeming purposes, deeming will not apply when the sponsor is:

- ◆ An organization such as a church or service club.
- ◆ An employer who does not sign an affidavit of support.
- ◆ The alien’s eligible or ineligible spouse or a parent whose income is otherwise considered in determining the alien’s Medicaid eligibility.

If the eligible couple separates and begins living in separate households, then the sponsor-to-alien deeming rules apply.

The following sections explain:

- ◆ [Affidavits of support](#)
- ◆ [Verifying the sponsor's information](#)
- ◆ [Exceptions to deeming](#)
  - [Establishing qualifying quarters](#)
  - [Verifying qualifying quarters](#)
  - [Battered aliens](#)
  - [Indigent aliens](#)
- ◆ [Calculating deemed sponsor income and resources](#)

### **Affidavits of Support**

**Legal reference:** P. L. 104-193, P. L. 104-208; 8 U.S.C. §§ 1183a(1996);  
441 IAC 75.11(3)

All affidavits of support signed before December 19, 1997, are “old version” affidavits of support. Do not assume that because the person entered the United States after December 19, 1997, the person will have a new *Affidavit of Support*. The person may have entered the country **after** December 19, 1997, but applied for an immigrant visa **before** that date.

The following are affidavits of support:

- ◆ **Form I-134:** The USCIS will certify whether an applicant has a sponsor and, if so, what kind of affidavit the sponsor signed. Do **not** deem income or resources from a sponsor that has signed the *Affidavit of Support*, Form I-134, as these are not enforceable contracts.
- ◆ **Form I-361:** This is an enforceable contract for Amerasians for certain nationals of Korea, Vietnam, Laos, Kampuchea, or Thailand born after 1950 and before October 22, 1982. However, do **not** deem income or resources from a sponsor that has signed the Form I-361.
- ◆ **Form I-864:** For people who are applying for either an SSI-related or FMAP-related coverage group and have an *Affidavit of Support*, Form I-864, deem income and resources to the sponsored lawful permanent resident alien unless one of the exemptions under [Exceptions to Deeming](#) applies.

## **Verifying Sponsor's Information**

**Legal reference:** Section 421 of P. L. 104-193; 42 U.S.C. 1396b(v) as amended by P. L. 111-3

### **Policy:**

Verify sponsorship of any Medicaid applicant or member age 21 and over (including a "considered person") who became a lawful permanent resident (LPR) on or after December 19, 1997, unless the person is exempt from sponsor deeming. See [Exceptions to Deeming](#) later in this chapter for additional information on who is exempt from sponsor deeming.

When sponsor deeming applies, verify the sponsor's income and resources at the time of application and recertification.

### **Procedure:**

When the person provides *Affidavit of Support*, Form I-864, accept this as proof of sponsorship.

If the person does not have the *Affidavit of Support*, verify sponsorship through SAVE by selecting REQUEST ADDITIONAL VERIFICATION on the CASE DETAILS page. Complete the *Additional Verification Data Request* form and enter "sponsorship information request" in the SPECIAL COMMENTS field.

For complete instructions on using the SAVE system, see

<https://save.uscis.gov/web/media/resourcescontents/SAVEUserGuide.pdf>.

If the response from SAVE indicates the person was not sponsored on Form I-864, sponsor deeming does not apply. If the response verifies that the person has a sponsor who signed *Affidavit of Support*, Form I-864, the name, address, and social security number of the sponsor will be provided in the response from SAVE.

If it appears that deeming applies, ask the alien if their sponsor is providing support. See [Indigent Aliens](#) to determine if they are exempt from sponsor deeming based on the actual amount of income the sponsor is providing.

When sponsor deeming applies, request verification of the income and resources of the sponsor or sponsor's spouse from the sponsored alien. Do not approve Medicaid eligibility for the lawful permanent resident or members of the eligible group until you receive the sponsor's verification.

However, when the sponsored person needs more time or help obtaining information from a sponsor, follow the procedures in [8-B, Verification](#), for obtaining information from a third party.

An applicant or member who provides a signed release to a specific individual for specific information has met the requirement for supplying requested information or verification. If a third party does not provide the requested information, contact the applicant to obtain the best information available about the sponsor's income and resources and determine eligibility based on the information provided.

### **Exceptions to Deeming**

**Legal reference:** P. L. 104-193 as amended by Section 552 of P. L. 104-208;  
42 U.S.C. 1396b(v) as amended by P. L. 111-3;  
20 CFR 416.1166a and 416.1204

#### **Policy:**

Lawful permanent resident aliens whose sponsor signed a new version *Affidavit of Support*, Form I-864, are exempt from sponsor to alien deeming when the alien:

- ◆ Has attained citizenship.
- ◆ Can be credited with 40 qualifying quarters. See [Establishing Qualifying Quarters](#) and [Verifying Qualifying Quarters](#).
- ◆ Is a child under the age of 21. NOTE: Sponsor deeming may still affect the child's Medicaid eligibility if an adult household member has a sponsor.
- ◆ Entered the United States or applied for a visa or adjustment of status before December 19, 1997.
- ◆ Adjusted to lawful permanent resident (LPR) from an alien status that is not required to have an affidavit of support on file (refugees, asylees, parolees, etc.). Persons who adjusted from these statuses are exempt from sponsor deeming, even if they have sponsors.
- ◆ Does not have a sponsor. (This includes when a sponsor dies.)
- ◆ Has a sponsor who signed an *Affidavit of Support* other than Form I-864. Sponsor deeming does not apply if the sponsor signed Form I-134 or Form I-361, which are also affidavits of support.

- ◆ Is a victim of battering or extreme cruelty in the United States. The victim's children or parents are also exempt from sponsor deeming. This exception applies for 12 months from the date it is determined that the person qualifies as a battered alien. See [Battered Aliens](#) for more information.
- ◆ Is indigent. This exception applies for 12 months from the date it is determined that the person is indigent. See [Indigent Aliens](#).

In addition, end sponsor deeming:

- ◆ When the sponsored alien dies or permanently leaves the United States (Deeming stops effective with the month the change occurs.)
- ◆ For SSI-related Medicaid, if the sponsored alien becomes blind or disabled (at any age) after admission to the United States as an LPR. (Deeming stops effective with the month the person's disability or blindness begins.)
- ◆ For SSI-related Medicaid, three years after the date the sponsored alien was admitted to the United States as an LPR. (Deeming stops effective the month in which the third anniversary from admission to the United States occurs.)

**Procedure:**

Do not apply sponsor deeming to an LPR who is identified as exempt from deeming.

**Establishing Qualifying Quarters**

When a lawful permanent resident is not otherwise exempt from sponsor deeming, you must determine the number of qualifying quarters with which the person can be credited.

The following chart lists the amount a person had to earn to get one credit for the years 1978 and later. (For years before 1978, contact SPIRS for assistance.)

To calculate the number of quarters for a year, divide the person's total earnings for the year by the amount needed to get one credit. Use only full quarters. For example, 2.95 quarters are rounded down to 2 quarters.

For earnings from employment, use the gross amount of earnings. For earnings from self-employment, use the amount of earnings after allowable self-employment expenses have been deducted.

<b>Amount Needed to Earn a Qualifying Quarter</b>			
Year	Earnings Needed to Get One Credit	Year	Earnings Needed to Get One Credit
1978	\$250	1999	\$740
1979	\$260	2000	\$780
1980	\$290	2001	\$830
1981	\$310	2002	\$870
1982	\$340	2003	\$890
1983	\$370	2004	\$900
1984	\$390	2005	\$920
1985	\$410	2006	\$970
1986	\$440	2007	\$1,000
1987	\$460	2008	\$1,050
1988	\$470	2009	\$1,090
1989	\$500	2010	\$1,120
1990	\$520	2011	\$1,120
1991	\$540	2012	\$1,130
1992	\$570	2013	\$1,160
1993	\$590	2014	\$1,200
1994	\$620	2015	\$1,220
1995	\$630	2016	\$1,260
1996	\$640	2017	\$1,300
1997	\$670	2018	\$1,320
1998	\$700	2019	\$1,360

**Each** person can get up to a total of four qualifying quarters of credit each calendar year based on the person’s own earnings. (The person may be credited with additional quarters in a calendar year based on earnings of a parent or spouse, as described later in this section.)

Mr. G earned \$5,000 gross income in 1995. ( $\$5,000 \div \$630 = 7.936$ ) Although the result equals over seven quarters, he is credited with four qualifying quarters in 1995.

NOTE: Starting with January 1, 1997, do not count the income from any quarters in which an alien received any type of federal means-tested public assistance during the quarter. “Means-tested public assistance” includes FIP, SSI, Medicaid, and Food Assistance.

Medicaid received by an individual, household, or family eligibility unit (except for limited Medicaid for emergency services) counts as receipt of "means-tested public assistance."

Child A receives MAC and the parents are treated as "considered persons." Although the parents are not receiving Medicaid for themselves, they are part of the family eligibility unit that is receiving "means-tested public assistance." Do not count the parents' income from the quarter that the child received MAC for the 40-quarter determination.

The quarters in a calendar year are: January through March, April through June, July through September, and October through December.

This means if an alien received FIP, Food Assistance, Medicaid, or SSI in June 1997, you would subtract the person's April, May, and June earnings from the total 1997 earnings and divide the remainder to figure how many qualifying quarters the person has.

Lawful permanent residents can count their spouse's quarters earned during the marriage in addition to their own quarters in order to meet the 40-quarter requirement. For example, if each spouse had 20 quarters, you would add the quarters together. Both spouses would be counted as having 40 quarters and both would meet this requirement.

Use the same formula to calculate qualifying quarters earned by a parent or spouse. Count the spouse's quarters earned during the marriage, regardless of whether the spouse is a citizen or not, when:

- ◆ The couple is currently married, or
- ◆ A spouse is deceased and the surviving spouse is not remarried, or
- ◆ The couple is separated but not divorced.

Mr. and Mrs. L are working in 2004. Mr. L earned \$25,000 gross income and Mrs. L earned \$3,000 gross income.  $\$25,000 \div \$900 = 27.77$ , which is converted to the maximum allowable four quarters.  $\$3,000 \div \$900 = 3.33$ , which is converted to three quarters. Both Mr. and Mrs. L are credited with seven qualifying quarters for 2004.

When calculating creditable quarters for the year in which the couple became married, count all earnings received beginning with the date of marriage.

Mr. and Mrs. B married on May 25, 2006. Mr. B had no earnings in 2006. Mrs. B earned \$15,000 between May 25 and December 31, 2006.  $\$15,000 \div \$970 = 15.46$ , which is converted to four quarters. Both Mr. and Mrs. B are credited with four qualifying quarters for 2006.

If the couple divorces, any quarters earned by the spouse during marriage are lost. However, if the divorce occurs after the person has already been credited with the 40 quarters and determined eligible for Medicaid, do not subtract qualifying quarters earned by the former spouse.

1. Mr. and Mrs. J entered the United States in July 2006 as lawful permanent residents (LPRs). In July 2011, they apply for Medicaid. Although Mr. J has a sponsor, it is determined that sponsor deeming does not apply because Mr. J can be credited with 20 qualifying quarters of his own and 20 quarters of Mrs. J's.

Mr. J is exempted from sponsor deeming. All other eligibility factors are met, so Medicaid is approved. In October 2011, the couple divorces. The qualifying quarters previously credited to each spouse are not recalculated.

2. Same as Example 1 except the couple has already divorced by the time Mr. J applies for Medicaid in July 2011. Mr. J can be credited with his own qualifying quarters but not those of his former spouse.

Mr. J is not exempt from sponsor deeming until he has 40 creditable qualifying quarters. Eligibility for Mr. J's eligible group will be determined using the income deemed from the sponsor and any other countable income of the eligible group.

In some circumstances, lawful permanent residents can also count the quarters earned by a parent in addition to their own quarters to meet the 40-quarter requirement. For this policy, "parent" means the natural or adoptive parent or the stepparent.



A lawful permanent resident may be credited with any qualifying quarter earned by the person's parents while the person was under 18 years of age. This includes quarters worked by the parents before the person's birth. Count a parent's quarters regardless of whether the parent is a citizen or not.

When calculating creditable quarters for the year in which a child turned 18, count all earnings received by the person's parents while the child was less than 18 years of age.

Child D turned 18 on June 15, 2006. His mother earned \$12,000 between January 1, 2006, and June 14, 2006. Divide \$12,000 by \$970 = 12.37, converted to the maximum allowable four quarters. Child D is credited with four qualifying quarters from his mother in 2006.

Count the quarters earned by a stepparent during the stepparent relationship if the stepparent relationship still exists. Do not count quarters earned before the stepparent relationship began. Death of the stepparent does not end the relationship.

If the parent and stepparent divorce, any quarters earned by the stepparent are lost. However, if the divorce occurs after the person has already been credited with the 40 quarters and determined eligible for Medicaid, do not subtract qualifying quarters earned by the stepparent.

Do not count quarters earned by a child toward the eligibility of a parent.

### **Verifying Qualifying Quarters**

When an exception to sponsor deeming will affect the eligibility determination, the applicant or considered person is responsible for getting verification of qualifying quarters. This includes getting verification of the qualifying quarters earned by a spouse, parent, or stepparent.

In addition to verification from the Social Security Administration (SSA), you can use documentation such as:

- ◆ Wage stubs or W-2's
- ◆ Employer's statement
- ◆ Income tax forms

Do not request proof of qualifying quarters if an exception to sponsor deeming will have no impact on the Medicaid eligibility determination.

Ms. J is a sponsored LPR living with her two minor children. The IM worker determines Ms. J and her children are eligible for FMAP even if income and resources are deemed from her sponsor. Because an exception to sponsor deeming has no impact on Medicaid coverage for this eligible group, proof of qualifying quarters is not requested from Ms. J.

A person who does not have acceptable proof is responsible for obtaining necessary verification from the SSA. SSA can verify quarters starting with the year 1930. If the applicant provides verification from SSA of less than the required 40 qualifying quarters but disputes the SSA records, allow the applicant an opportunity to resolve the discrepancy.

In either situation:

1. Instruct the applicant in writing to obtain:
  - ◆ The necessary verification, or
  - ◆ Proof that the verification has been requested or that SSA is investigating the discrepancy.

Include in the note that income and resources will be deemed from the sponsor if the requested verification is not received within ten calendar days. Also ask that the applicant let you know if more time is needed to obtain the requested verification or proof of request for the verification.

2. Deem income and resources from the sponsor if you do not receive the requested verification or proof for requesting the SSA verification or investigation by the due date (or the extended due date, if applicable).
3. If the applicant provides the requested proof, pend the application until the SSA verification of qualifying quarters is received or until the SSA investigation is completed. Periodically contact the applicant to check on the status of the SSA verification or investigation of the disputed qualifying quarters.

However, do not delay the eligibility determination for household members who can be determined eligible without proof of 40 qualifying quarters and the resulting exception to sponsor deeming.

Mr. M is a sponsored LPR living with his two minor children. He applies for FMAP for the entire family. Proof of qualifying quarters is needed to determine eligibility because the household will be over income for FMAP if an exception to sponsor deeming is not allowed.

However, the IM worker determines that the two children are eligible for MAC even if income and resources are deemed from Mr. J's sponsor. MAC is approved for the children without waiting for proof of 40 qualifying quarters.

4. Process the application upon receipt of the SSA verification or the results of the completed investigation. Do not deem income from the sponsor if SSA verifies at least 40 qualifying quarters.

If the completed SSA investigation still verifies less than 40 qualifying quarters, continue to deem income from the sponsor.

### **Battered Aliens**

**Legal reference:** P. L. 104-193 as amended by Section 552 of P. L. 104-208

#### **Policy:**

A lawful permanent resident (LPR) alien whose sponsor signs *Affidavit of Support*, Form I-864, is exempt from sponsor deeming if it is determined that the sponsored person is a battered alien. To qualify for an exemption to sponsor deeming due to battery:

- ◆ The battered person may be the alien or the child or parent of the alien.
- ◆ The abuse may be perpetrated by a U.S. citizen or by a lawful permanent resident spouse or parent or their family members who are living in the same household in the United States.

NOTE: A U visa (or code A19 or A20 on the *Employment Authorization Document* (EAD)) is an indication that a person might be a battered alien. However, U visas are also issued to other categories of aliens, so a U visa does not automatically mean the adult is a battered alien. If an adult provides a U visa (or EAD with code A19 or A20), follow up to find out if they are either a victim of trafficking or a battered alien. A child under age 21 with a U visa (or code A19 or A20 on the EAD) is a qualified alien under the definition of "[lawfully residing](#)."

The battered alien may be Medicaid-eligible if the person entered the U.S. **before** August 22, 1996.

If the date of entry is **on or after** August 22, 1996, the battered alien or spouse age 21 or over is subject to the five-year bar for Medicaid purposes (except for emergency medical treatment). Battered alien children under age 21 are exempt from the five-year bar for Medicaid.

**Procedure:**

Determine if the alien has proof of a battered alien status as indicated in the [Alien Documentation Chart](#).

NOTE: Because of the abusive relationship, these aliens may not have copies of documents they filed themselves or that were filed on their behalf. Refer applicants who do not have any documentation or who are not certain that a petition for lawful permanent residency has been filed on their behalf to the USCIS Forms Request Line (1-800-870-3676).

Also refer these applicants to the National Domestic Violence Hotline (1-800-799-7233) or to the local domestic violence service provider. The local service provider may be able to assist the applicant in obtaining necessary documentation of alien status without jeopardizing the alien's safety or immigration efforts.

**Comment:**

For the alien or child to emigrate to or remain in the United States, the alien's spouse must file a petition for lawful permanent resident status by using the USCIS Form I-130, *Petition for Alien Relative*. Unless the spouse files this petition, the alien or child have no lawful alien status and face being deported.

Control over the alien immigration status strengthens the batterer's hold on the victims. For example, the batterer may threaten to stop the visa process if the abused alien spouse or child attempts to leave their common home or to report the abuse to authorities.

Since the 1994 enactment of the Violence Against Women Act, a battered alien may self-petition for lawful permanent residency by using the USCIS Form I-360, *Petition for Amerasian, Widow(er), or Special Immigrant*, without the cooperation or knowledge of the abuser.

### **Indigent Aliens**

**Legal reference:** P. L. 104-193 as amended by Section 552 of P. L. 104-208

#### **Policy:**

A lawful permanent resident (LPR) alien whose sponsor signs *Affidavit of Support*, Form I-864, is exempt from sponsor deeming if it is determined that the sponsored person meets indigent criteria of being unable to obtain food and shelter.

#### **Procedure:**

Explain to the applicant or member that income and resources will be deemed from the sponsor and will be considered the sponsored person's income and resources in determining eligibility, unless it is determined that the sponsored person meets indigent criteria of being unable to obtain food and shelter.

If the sponsored person is living with the sponsor, assume that the sponsor is providing food and shelter, so the need for food and shelter is being met. The indigence exception will not be granted and deeming will apply.

If the sponsored person is living apart from the sponsor, ask the sponsored person how much income the sponsor and others outside the household are making available.

Find the sponsored person unable to obtain food and shelter if the gross income of the sponsored person's household (including any income provided by others, including the sponsor) is less than 100% of the federal poverty level for the sponsored person's household size. (See [6-Appendix](#), [Desk Aid](#), [RC-0033](#).)

In determining whether the indigence exemption applies, count only the **actual** amount of income that the sponsor and others make available to the sponsored person.

#### **Comment:**

If the indigence exemption applies, there is no sponsor deeming. Actual income made available by the sponsor is still countable to the sponsored person when determining eligibility for the sponsored person's eligible group using policies for the applicable FMAP-related or SSI-related coverage group.

1. Mr. B is an LPR sponsored by an individual under Form I-864, *Affidavit of Support*. Mr. B does not live with his sponsor and does not have the 40 qualifying quarters needed to exempt him from sponsor deeming. Mr. B and his wife are qualified aliens who have met the five-year bar. Their children are U.S. citizens.

Mr. B applies for Medicaid for himself, his wife (not pregnant), and their two children, ages 2 and 3. The household's only income is Mr. B's gross monthly earnings of \$400, plus \$200 provided by his sponsor.

The \$600 total income of Mr. B's household is less than 100% of the federal poverty level for his household size of four persons. Mr. B is determined to be indigent, and sponsor deeming will not apply. However, the income actually provided by the sponsor is countable unearned income to Mr. B.

2. Same as Example 1 except that Mr. B is disabled. He receives \$900 Social Security Disability (SSD) income each month, and each of his two children receives \$100 social security because of his disability. Mr. B's sponsor also provides \$200 to him each month.

The total household income of \$1,300 is less than 100% of the federal poverty level for Mr. B's household size of four persons. Mr. B is determined to be indigent, therefore sponsor deeming will not apply. However, the income actually provided by the sponsor is countable unearned income to Mr. B.

3. Same as Example 2 except Mr. B has no earnings history, so neither he nor his children receive any social security income. Mr. B's only income is \$591 SSI and \$200 actually provided by his sponsor. A determination of indigence is not needed for Mr. B since he receives SSI.

The IM worker uses income as reported on Mr. B's State Data Exchange (SDX) to determine Mr. B's Medicaid eligibility.

If the worker is aware of income Mr. B is receiving from his sponsor that is not reported on the SDX, the worker reports this income to the Social Security Administration using form 470-0641, *Report of Change in Circumstances – SSI-Related Programs*.

Since Mr. B is on SSI, eligibility for Mrs. B and the two children is determined as an FMAP-related household of three without considering Mr. B's income.

### **Calculating Deemed Sponsor Income and Resources**

**Legal reference:** 441 IAC 75.11(3); 20 CFR 416.1166a and 416.1204; 42 U.S.C. 1396b(v) as amended by P. L. 111-3

#### **Policy:**

When a lawful permanent resident (LPR) alien age 21 or over is sponsored by a person who signed form I-864, *Affidavit of Support*, and sponsor deeming applies, income and resources are deemed to the sponsored alien after applying allowable deductions and diversions.

#### **Procedure:**

Calculate the amount of **income** to deem as follows:

1. Determine the amount of the sponsor or sponsor's spouse's monthly nonexempt gross earned and unearned income in accordance with either FMAP-related or SSI-related policies.
2. Allow deductions according to coverage group as follows:

If **FMAP-related** coverage group:

- ◆ Allow the same deductions from the income of the sponsor or sponsor's spouse that are allowed for ineligible stepparents. See [8-E, Treatment of Stepparent Income and Deductions](#). Divert for the needs of the sponsor and the sponsor's spouse and dependents.
- ◆ Divide the amount remaining by the number of aliens sponsored by this sponsor, if known; if not known, the entire amount counts.

If **SSI-related** coverage group:

- ◆ Allow a deduction equal to the full SSI amount for one person for the sponsor, or for each sponsor even if married.
- ◆ Allow a deduction equal to one half the SSI amount for one person for the sponsor's spouse (unless both spouses received the full SSI amount deduction because both are sponsors) and for each of the sponsor's dependents. Do not subtract the dependent's income from the amount allowed as a deduction for the dependent.

3. The result is the amount of income deemed to the sponsored person. Count this amount as unearned income when determining eligibility for the sponsored person's eligible group.

1. Mr. H is an LPR who is subject to sponsor deeming. Mr. H applies for Medicaid for himself, his wife (not pregnant), and their two children, ages 2 and 3, who are U.S. citizens.

Mr. H and his wife are qualified aliens who have met the five-year bar but do not have 40 qualifying quarters. Mr. H has gross monthly earnings of \$400. The sponsor has gross monthly earnings of \$3,000. The sponsor's household includes his wife and one child.

First, the amount of income to deem from the sponsor is calculated as follows:

\$ 3,000.00	Sponsor's gross earnings
- \$600.00	20% earned income deduction
- \$849.00	Divert for sponsor, wife, and child
- <u>\$899.58</u>	58% work incentive deduction
\$ 651.42	Countable as unearned income to the sponsored person

Next, FMAP income eligibility for Mr. H's household is calculated as follows:

Test 1:	\$ 651.42	Deemed from sponsor
	+ <u>400.00</u>	Mr. H earnings
	\$ 1,051.42	< 185% (Test 1) for 4 persons
Test 2:	\$ 400.00	Mr. H gross earnings
	- <u>80.00</u>	20% earned income deduction
	\$ 320.00	Mr. H net earnings
	+ <u>651.42</u>	Deemed from sponsor
	\$ 971.42	< Standard of need (Test 2) for 4 persons
Test 3:	\$ 320.00	Mr. H net earnings
	- <u>185.60</u>	58% work incentive deduction
	\$ 134.40	Mr. H countable income
	+ <u>651.42</u>	Deemed from sponsor
	\$ 785.82	> FMAP payment standard (Test 3) for 4 persons

Since Mr. H's household income exceeds the FMAP payment standard for four persons, eligibility is established under MAC for the children and Medically Needy for the adults.



2. Mr. N is an LPR who is subject to sponsor deeming. His sponsor is married with no children. The sponsor's income is \$1,000 social security and a \$300 monthly pension. The sponsor's wife has no income.

Mr. N applies for Medicaid for himself and his wife. Mr. and Mrs. N are both elderly and have no children living with them. Mr. N is a qualified alien who has met the five-year bar. His wife is a U.S. citizen. Mr. N receives \$200 social security per month. Mrs. N receives \$900 social security. Mr. N also receives \$100 per month from his sponsor.

The amount of income to deem from the sponsor is calculated as follows:

\$ 1,300.00	Sponsor's gross income
- 771.00	Diversion for sponsor
- <u>385.50</u>	Diversion for sponsor's wife
\$ 143.50	Countable as unearned income to the sponsored person

Next, SSI-related Medicaid income eligibility for Mr. N's household is determined as follows:

\$ 900.00	Mrs. N's social security
+ 200.00	Mr. N's social security
+ <u>143.50</u>	Deemed from Mr. N's sponsor
\$ 1,243.50	Countable income for Mr. N's household
- <u>20.00</u>	Deduction
\$ 1,223.50	> \$1,157 SSI limit for 2

Since \$1,223.50 exceeds the SSI income limit for 2 of \$1,157, eligibility would be determined under the Medically Needy coverage group.

Calculate the amount of **resources** to deem as follows:

1. Determine the amount of nonexempt resources of the sponsor and sponsor's spouse in accordance with either FMAP-related or SSI-related policies.
2. Allow deductions according to coverage group as follows:

If **FMAP-related** coverage group:

- ◆ Subtract \$1,500.
- ◆ Divide by the number of aliens sponsored by this sponsor, if known; if not known, the entire amount counts.

If **SSI-related** coverage group, subtract:

- ◆ \$2,000 if the sponsor does not live with a spouse,
  - ◆ \$3,000 if the sponsor lives with a spouse who is not a sponsor, or
  - ◆ \$4,000 if the sponsor lives with a spouse who is also the alien's sponsor.
3. The result is the amount of resources deemed to the sponsored member.
  4. Disregard the resources of all household members, including resources deemed to the sponsored adult, when determining eligibility for children in accordance with policies for the applicable Medicaid coverage groups.

**Comment:**

If the sponsor makes income or resources available to the sponsored person in excess of the deemed amount, also count this extra amount as unearned income.

An FMAP-related parent who is not eligible for Medicaid remains a mandatory member of the household and is treated as a "considered person."

For alien parents, this is true regardless of the reason for the parent's ineligibility (e.g. nonqualified alien, qualified alien under five-year-bar, qualified alien over income due to income deemed from sponsor). See [8-E, Ineligible Parent Deductions](#), for instructions on calculating income.

Mr. N is a sponsored LPR. He applies for Medicaid for his two children who are U.S. citizens. All the income deemed from Mr. N's sponsor is treated as unearned income of Mr. N. This income is added to any other income of the household and is used to determine eligibility for the children.

Do not include the sponsors in the household size unless they are required due to relationship. Determine the household composition according to policies for either SSI-related or FMAP-related coverage groups.

## **Limited Eligibility for Certain Aliens**

**Legal reference:** 42 CFR 440.255(b)-(c), 441 IAC 75.11(4)

Medicaid benefits are available to pay for the cost of emergency services for an alien who does not meet Medicaid citizenship or alien requirements or social security number requirements. However, the person must meet the financial and categorical eligibility requirements and state residency requirements of an FMAP-related or SSI-related coverage group.

Emergency medical coverage is also available to otherwise eligible people whose alien status cannot immediately be determined with documentation from USCIS or who do not claim to have a qualified alien status.

Categories of aliens who are potentially eligible for emergency medical coverage include:

- ◆ Qualified aliens not eligible for full Medicaid coverage due to the five-year bar.
- ◆ Nonqualified alien adults age 21 or over “lawfully residing” in the United States. This may include adults in a “nonimmigrant” alien status.
- ◆ Undocumented or illegal aliens.

NOTE: A person eligible only for limited Medicaid for emergency services must cure any prior noncooperation issues if cooperation is a requirement of the applicable coverage group. Inform the applicant in writing of any cooperation issue and allow the applicant ten calendar days to cooperate.

Sponsor deeming does not apply when determining eligibility for this coverage.

As a condition of eligibility, the applicant must have had or currently have an emergency medical condition (including labor and delivery). See [Existence of an Emergency Medical Condition](#). Limits of coverage are described under [Payment for Emergency Services](#).

A person must meet **Iowa residency requirements** to qualify for limited Medicaid for emergency services. The USCIS may require persons in some alien statuses (e.g., nonimmigrants) to show they intend to maintain and return to their residence abroad. Therefore, such an alien status is an indicator that a person might not meet Iowa residency requirements.

However, alien status may **not** be used to determine a person is not an Iowa resident. All policies found at [8-C, Residency](#) and [Intent to Live in Iowa](#), must be applied when determining whether or not an alien meets Iowa residency requirements.

The following categories of people may be ineligible, depending on their Iowa residency status:

- ◆ Crewmembers on shore leave.
- ◆ Aliens traveling through the United States.
- ◆ Treaty traders or investors and their families.
- ◆ Temporary workers, including agricultural contract workers.
- ◆ Visitors for business or pleasure, including exchange visitors.
- ◆ Members of foreign press, radio, film or other information media and their families.
- ◆ Foreign government representatives on official business, their families and servants.
- ◆ International organization personnel and their families and servants.
- ◆ Foreign students and their families who are here as dependents and are not otherwise eligible.

1. Mr. P, 40 years old, is unlawfully living in the United States. He received emergency medical care for treatment of a broken nose sustained in an auto accident. Mr. P has no income or resources, and he is not the parent of a child who would meet the definition of an FMAP-related dependent child. Since Mr. P is not categorically eligible under an existing coverage group, his application is denied.
2. Ms. D, age 36 and an LPR still within the five-year bar, is living in the United States with her 13-year-old daughter. Ms. D has received emergency medical care. Ms. D has no income or resources, but she is a parent of a child who meets the definition of an FMAP-related dependent child. Ms. D can be eligible for payment of emergency services.
3. Same as Example 2, but Ms. D. has a previous noncooperation with Child Support Recovery Unit (CSRU). The sanction was not imposed because she was not a Medicaid member at the time. Cooperation with CSRU is a requirement of FMAP, the applicable coverage group for Ms. D. She must cooperate with CSRU in order to be eligible for payment of emergency services.
4. Ms. G, 30 years old, is a nonqualified alien residing in Iowa with her 4-year old son. She has a previous noncooperation with CSRU that was not imposed due to her inactive Medicaid status. She receives emergency medical care related to a current pregnancy.

Because Ms. G meets the categorical eligibility requirement for MAC, and CSRU cooperation is not a requirement for the MAC group, the CSRU sanction does not affect her eligibility for Medicaid coverage of emergency services.

### **Existence of an Emergency Medical Condition**

**Legal reference:** 42 CFR 440.255(b)-(c), 441 IAC 75.11(1)

“Emergency medical condition” means a medical condition of sudden onset (including labor and delivery) manifesting itself by acute symptoms of such severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in:

- ◆ Placing the patient’s health in serious jeopardy, or
- ◆ Serious impairment of bodily function, or
- ◆ Serious dysfunction of any bodily part or organ.

The following medical conditions are not considered emergency medical conditions:

- ◆ Organ transplant procedure
- ◆ Routine prenatal care
- ◆ Routine postpartum care

Before granting eligibility, verify the existence of the emergency medical condition and that medical expenses were incurred. Send the *Verification of Emergency Health Care Services*, form 470-4299, to the medical provider who treated the applicant for the emergency medical condition. Either the provider or the provider’s designee may sign the form.

You may also use a signed statement from the medical provider containing the same information as requested by form 470-4299.

Mr. A, 17 years old, is unlawfully living in the United States. He has no income or resources and has filed an application for Medicaid. Mr. A has not been treated for an emergency medical condition. His application is denied, because unlawful aliens are eligible only for payment of medical expenses for treatment of any past or current emergency medical condition.

Keep form 470-4299 or the statement verifying the medical care was an emergency in the electronic case file and available for Iowa Medicaid Enterprise (IME) to identify payable claims to avoid overpayments.

### **Payment for Emergency Services**

**Legal reference:** 42 CFR 440.255(a), 441 IAC 75.11(1)

Payment for emergency services is limited to services necessary to treat an emergency medical condition for the dates of service of the emergency.

“Emergency services” means services provided in a hospital, clinic, office or other facility that is equipped to furnish the required care after the sudden onset of an emergency medical condition. Labor and delivery services are covered, including normal deliveries.

Payment may be made for covered services for an alien who requires emergency medical care more than once in a calendar month or in different months. NOTE: A new application is not required for any subsequent emergencies within the same month.

Send form 470-4299, *Verification of Emergency Health Care Services*, to the medical provider for each separate medical emergency, including multiple emergencies within the same month.

The IME Provider Services Unit will identify payable claims based on dates of service and services billed by the providers as indicated by the entry of the “C” code on either the Automated Benefit Calculation (ABC) system or the *Request for Special Update*, form 470-0397.

Do not approve emergency services for anyone who has received care related to an organ transplant procedure furnished on or after August 10, 1993.

When an application is approved for an alien who is eligible for emergency services only, it is approved for the months the emergency occurred. This may mean that a person is eligible for one month; if eligible under the Medically Needy coverage group, use a one-month certification period for ongoing eligibility. (Refer to [8-J, Retroactive Eligibility](#), for policy on retroactive eligibility certification periods).

If the dates of service of the emergency span more than one month, the person must be determined categorically and financially eligible for each month. This may mean that a person is eligible for one month and not the others, or the person may be eligible for all months. If eligible under the Medically Needy coverage group, this may mean a larger spenddown due to using income for more than a one-month certification period.

Manually issue a notice of decision for applications for cases process in ABC. For applications received and approved in the same month before timely notice day, make entries on ABC for Medicaid coverage of the emergency services. See [14-B\(7\), Emergency Medical Services for Aliens](#). Close the individual or the case effective the first of the month following the last date of service for the emergency. Suggested wording for the manual notice of decision:

Your application for Medicaid is approved for limited benefits only, because you do not meet Medicaid citizen/alien requirements. Payment for emergency services is limited to services necessary to treat an emergency medical condition for the dates of services of the emergency.

Su solicitud para recibir los servicios de Medicaid está aprobada solo para determinados beneficios debido a que usted no cumple con los requisitos respecto de la condición de ciudadano/extranjero de Medicaid. El pago de servicios de emergencia se limita a aquellos servicios que sean necesarios para el tratamiento de una emergencia médica en las fechas de prestación de dichos servicios.

EM 8-L, Existence of an Emergency Medical Condition; 441 Iowa Administrative Code 75.11(249A) and 76.13(3); EM 8-J, Who is Eligible for Medically Needy; 441 Iowa Administrative Code 75.1(35), 75.11(249A), and 76.13(3); EM 8-C, Citizenship; EM 6-B, Eligibility for Aliens; Iowa Administrative Code 50.2(1); 42 CFR 435.406; 42 CFR 440.255.

For applications approved after timely notice day, complete and submit form 470-0397, *Request for Special Update*, to update eligibility rather than make entries on the ABC system. EXCEPTION: For Medically Needy cases with spenddown, open all cases on the ABC system so that the Medically Needy subsystem can track spenddown.

For denials, make ABC system entries and send a system notice of decision.

1. Ms. Q, an LPR still in her five-year bar, delivers a baby on April 30. She applies for Medicaid on May 10. Form 470-4299, *Verification of Emergency Health Care Services*, shows the dates of service for treating her emergency medical condition are April 30 through May 5. She is categorically and financially eligible for both months.

The application is approved for emergency services for April and May. The baby, who is a U.S. citizen, is eligible under deemed newborn status through the month of the child's first birthday.

2. Mr. C, a 65-year-old nonqualified alien, has an emergency March 25. He files an application on March 27. Form 470-4299, *Verification of Emergency Health Care Services*, shows March 25 is the only date of service for treating his emergency medical condition. The application is approved for the month of March only.
3. Ms. W, an undocumented pregnant alien, applies for Medicaid on August 3. Form 470-4299, *Verification of Emergency Health Care Services*, shows she was treated for an emergency medical condition for the dates of service of July 25 through August 2. Ms. W is categorically eligible for Medicaid but exceeds the income limits except for Medically Needy.

Because the emergency spanned two months, the Medically Needy certification period will be August with a one-month retroactive certification for July.