

Medicaid/SCHIP Screening Questions: Special Situations

14. Is the person an immigrant?

Generally, immigrants are divided into two groups: A) “qualified aliens” and B) “nonqualified aliens.”

A) Qualified aliens include lawful permanent residents, refugees, and asylees; some people who have had their deportation withheld; some people granted parole; some people granted conditional entry; and battered spouses. Among these qualified aliens, some are immediately eligible for full Medicaid benefits, provided they meet other program requirements; others are subject to a five-year waiting period after they enter the country before they can qualify for full Medicaid benefits (42 CFR §§ 435.406 and 435.408 and Social Security Act § 1903(v)):

- If they meet other program requirements, veterans or people on active duty in the U.S. Armed Services and their dependents; refugees; asylees; Cuban, Haitian, and Amerasian entrants; lawful permanent residents with 40 work quarters of Social Security coverage; and Canadian-born immigrants with at least 50 percent North American Native heritage are immediately eligible for Medicaid coverage.

§ Other qualified aliens who entered the country prior to August 1996 are eligible for full Medicaid if they meet the other eligibility standards for the Medicaid program. Those who entered after August 1996 are eligible for Medicaid coverage of emergency services (including labor and delivery) during their first five years in this country (42 CFR § 435.139 and Social Security Act § 1903(v)) but are banned from getting full Medicaid benefits for a period of five years. A number of states, however, use state-only funds to provide coverage for those banned from the federal program. See the National Immigration Law Center’s “Resource Manual: Low-Income Immigrant Rights Conference” online at http://www.nilc.org/immspbs/special/pb_issues_ovrww_042005.pdf) and table of immigrant eligibility guidelines at http://www.nilc.org/pubs/guideupdates/tbl1_ovrww_fed_pgms_032505.pdf. These resources provide an overview of federal benefits available to immigrants. A list of state-funded programs (updated between 2005 and 2007) is available at http://www.nilc.org/pubs/Guide_update.htm.

B) Nonqualified aliens include those visiting the country for a temporary period, people who have been granted temporary protected status, people with pending applications for status, undocumented immigrants, and some people allowed to stay in the United States for humanitarian reasons. These aliens are eligible only for Medicaid coverage of emergency treatment if they meet other Medicaid guidelines.

Immigrants may be afraid to apply for Medicaid because they are under the impression that they will be considered “public charges” and that this will adversely affect their application for U.S. citizenship. This is not correct, and the U.S. Citizenship and Immigration Service has issued specific guidance about this. The U.S. Citizenship and Immigration Services has replaced the Immigration and Naturalization Service (INS). See: <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=c215c9f3743ff010VgnVCM1000000ecd190aRCRD&vgnnextchannel=4f719c7755cb9010VgnVCM10000045f3d6a1RCRD>. Another problem that may concern immigrants is how their Medicaid application will affect their sponsors. While sponsors sign a legally binding document promising to be financially responsible for an immigrant, there is as yet no federal guidance about how or whether the cost of most Medicaid benefits will be collected from the sponsor. See National Immigration Law Center (<http://www.nilc.org>) for updates. Sponsors are *not* liable for emergency Medicaid services. In some situations, only some members of an immigrant family will be eligible for Medicaid. Immigrants applying for Medicaid are not required to list the social security numbers of family members who are not applying for Medicaid.

For more information, see Families USA, *Immigrants' Eligibility for Medicaid and CHIP*, February 2001, available online at <http://www.familiesusa.org/assets/pdfs/immigrantsb676.pdf>.

15. Is the person homeless, or has the person recently moved into the state?

States cannot exclude people from Medicaid based on their having a fixed address or the length of time they have lived in a state. State residency means that a person is physically present in the state and intends to remain indefinitely. Emancipated minors can declare their own state of residency. For other minor children and for people unable to form or express their intent (such as adults with diminished cognitive capacity), caretaker relatives or guardians or other substitute decision-makers described in the federal Medicaid regulations may establish the intent of the person to reside in the state. When one state arranges to place a person in an out-of-state institution, the state that arranged the placement is considered the state of residence and is responsible for Medicaid payments (42 CFR § 435.403).

16. Did the person leave a job that offered COBRA benefits?

People who have group health insurance through an employer with 20 or more workers may be eligible for continued health insurance through that employer when they leave the job. If the person's income is under the poverty level and his or her resources are less than twice the SSI resource thresholds, states can elect to pay for the continued cost of the COBRA premiums (Social Security Act §§ 1902(u)(1) and 1905(a)(x)).