



Health Reform: **Beyond the Basics**

healthreformbeyondthebasics.org

Immigrant, Refugee, Asylee Eligibility and Enrollment

Building Better Health 2018

Shelby Gonzales, Center on Budget and Policy Priorities

October 15, 2018

Part I:

Eligibility for Medicaid and CHIP Based on Immigration Status

“Qualified” Immigrants:

- Lawful Permanent Resident (LPR/green card holder)
- Refugee
- Asylee
- Cuban/Haitian Entrant
- Paroled into the U.S. for at least one year
- Conditional Entrant
- Granted Withholding of Deportation or Withholding of Removal
- Battered Spouse, Child and Parent
- Trafficking Survivor and his/her Spouse, Child, Sibling or Parent

Others:

- Member of a federally-recognized Indian tribe or American Indian born in Canada

- “Qualified” immigrants are subject to a five-year waiting period (also known as the “5-year bar”)
 - The five years begin when an immigrant obtains a “qualified” immigration status

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

- ✓ Immigrants who physically entered the U.S. before 8/22/96 and remained in the U.S. continuously until obtaining a qualified status
- ✓ Refugees, asylees, persons granted withholding of deportation/removal (even if they later become LPRs)
- ✓ Cuban/Haitian entrants, certain Amerasian immigrants, individuals granted Iraqi or Afghan special immigrant status, trafficking survivors (even if they later become LPRs)
- ✓ Qualified immigrants who are U.S. veterans or on active military duty and their spouses or children
- ✓ Children (at state option)
- ✓ Pregnant women (at state option)

Federal Medicaid/CHIP Options

- Colorado has implemented the option to cover lawfully residing children and/or pregnant women → this includes:
 - Qualified immigrants, without the 5-year bar restriction
 - **Lawfully present** people, a broader group than “qualified” immigrants
- * *Two-thirds of states have taken up this option for children and nearly half for pregnant women*

- **Medicaid payment for limited services related to an emergency medical condition** is available to people who meet all the state's Medicaid eligibility requirements except for immigration status, including:
 - ✓ Qualified immigrants who have not met the 5-year waiting period
 - ✓ Lawfully present but not qualified immigrants, such as persons with Temporary Protected Status (TPS) and many others
 - ✓ Undocumented immigrants
 - ✓ DACAmented immigrants

Part II:

Eligibility for Marketplace Coverage Based on Immigration Status

Statuses Eligible for Medicaid:	Other “Lawfully Present” Immigrants:
<p>“Qualified” Immigrants:</p> <ul style="list-style-type: none">• Lawful Permanent Resident (LPR/green card holder)• Refugee• Asylee• Cuban/Haitian Entrant• Paroled into the U.S. for at least one year• Conditional Entrant• Granted Withholding of Deportation or Withholding of Removal• Battered Spouse, Child and Parent• Trafficking Survivor and his/her Spouse, Child, Sibling or Parent <p>Others:</p> <ul style="list-style-type: none">• Member of a federally-recognized Indian tribe or American Indian born in Canada	<ul style="list-style-type: none">• Granted relief under the Convention Against Torture (CAT)• Temporary Protected Status (TPS)• Deferred Enforced Departure (DED)• Deferred Action (except DACA)*• Paroled into the US for less than one year• Individual with Nonimmigrant Status (includes worker visas; student visas; U visas; citizens of Micronesia, the Marshall Islands, and Palau; and many others)• Administrative order staying removal issued by the Department of Homeland Security• Lawful Temporary Resident• Family Unity
<p>*EXCEPTION: Individuals granted deferred action under the 2012 Deferred Action for Childhood Arrivals (DACA) program are <u>not</u> eligible to enroll in coverage in the Marketplace.</p>	

APPLICANT for Any of These Statuses:	Must Also Have Employment Authorization:
<ul style="list-style-type: none">• Lawful Permanent Resident (with an approved visa petition)• Asylum*• Special Immigrant Juvenile Status• Victim of Trafficking Visa• Withholding of deportation or withholding of removal, under the immigration laws or under the Convention Against Torture (CAT)*	<ul style="list-style-type: none">• Applicant for Temporary Protected Status• Registry Applicants• Order of Supervision• Applicant for Cancellation of Removal or Suspension of Deportation• Applicant for Legalization under IRCA• Applicant for LPR under the LIFE Act
<p><i>*Only those who have been granted employment authorization or are under the age of 14 and have had an application pending for at least 180 days are eligible</i></p>	

- Ineligible to purchase qualified health plans in the individual Marketplaces, even at full price
 - Can purchase private coverage outside the Marketplace or through employer
- Exempt from the individual mandate
- Can apply for health insurance for eligible family members, and be part of household of eligible family members
 - If applying for PTC on behalf of eligible family members, must file a tax return
 - If not eligible for a Social Security number (SSN), may file a tax return using an Individual Taxpayer Identification Number (ITIN)
- May be eligible for health programs available to ALL, regardless of immigration status



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

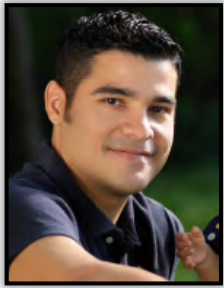


- Ricky and Eva are married and have a daughter, Karina
- Ricky became a lawful permanent resident (LPR) 2 years ago
- Eva is a naturalized citizen
- Karina is a U.S. citizen



Who is applying for coverage?

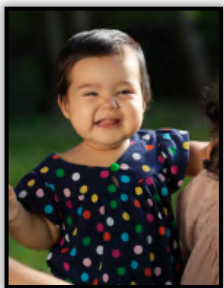
- Ricky, Eva and Karina



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



Applying for coverage:	YES	Subject to 5-year bar:	----	MAY BE ELIGIBLE FOR: ✓ Medicaid ✓ QHP Enrollment
Citizen:	YES	Satisfied 5-year bar:	----	
Immigration status:	----	Lawfully present:	----	
Qualified immigrant:	----			



Applying for coverage:	YES	Subject to 5-year bar:	----	MAY BE ELIGIBLE FOR: ✓ Medicaid/CHIP ✓ QHP Enrollment
Citizen:	YES	Satisfied 5-year bar:	----	
Immigration status:	----	Lawfully present:	----	
Qualified immigrant:	----			

Part III:

Special Marketplace and PTC Eligibility

- Seniors who are not eligible for premium-free Medicare Part A may be eligible for enrollment in Marketplace plans and PTC/CSR
- To qualify for premium-free Medicare Part A, individuals must have met the applicable work history requirement or quarters of coverage (QC):
 - QC are earned by paying Social Security and Medicare payroll taxes; people working fulltime generally earn four QC in a year
 - People can get quarters of coverage based on their own work history or in some cases the work history of their spouse



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

- Lin, 74, lives with his daughter, Mei and grandson, Michael
- More about Lin:
 - has been a lawful permanent resident for 4 years
 - has never worked in the U.S.
 - receives a \$2,500 a year from a pension related to work completed abroad
 - is not enrolled in Medicare Part A
- More about Mei:
 - provides more than 50% of Lin's support
 - claims Lin and Michael as tax dependents
 - household income is \$40,840 a year (200% FPL)



-
- ✓ **Lin is eligible for QHP enrollment** → Lin is eligible to enroll in a Marketplace plan with subsidies even though he is over 65 because he is not eligible for Medicare Part A based on his work history

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

Can Lin apply on his own for PTC?

- Lin qualifies as Mei's dependent:
 - Lin lives with Mei (and is also her relative)
 - Mei pays for more than half his support
 - Lin's annual income is less than \$4,050
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- ✗ **NO:** He cannot apply for PTC as a household of 1
→ He must include Mei (and her income) on his application for health coverage

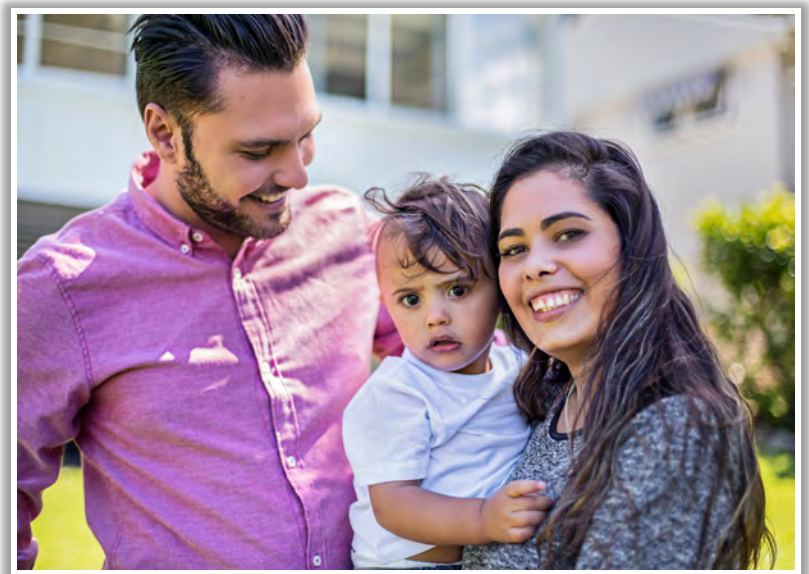


IMPORTANT: If Lin receives PTC, Mei must file a tax return and reconcile his PTC on her tax return

- Lawfully present people are eligible for PTC if they are not eligible for Medicaid due to their immigration status even if their income is below 100% FPL
- This includes lawfully present people who are:
 - ✓ Not “qualified” immigrants
 - ✓ Qualified immigrants who are subject to and have not met the 5-year bar

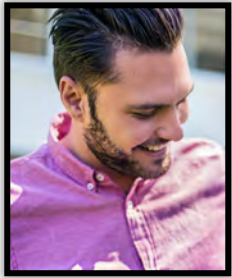
Bottom line: Many lawfully present people with incomes in the Medicaid range or below 100% FPL are eligible for PTC and CSR

- Gina and Adnan are married
- Gina is from Republic of Marshall Islands, which is nation covered under the Compact of Free Association (COFA)
- Adnan entered the U.S. as a refugee 4 years ago
 - He gained LPR status last year
- Sam is a U.S. citizen and is enrolled in CHIP



Income

- Both Gina and Adnan are full-time college students and both work part-time jobs
- They project their income will be \$18,800 for 2018 (92% FPL)

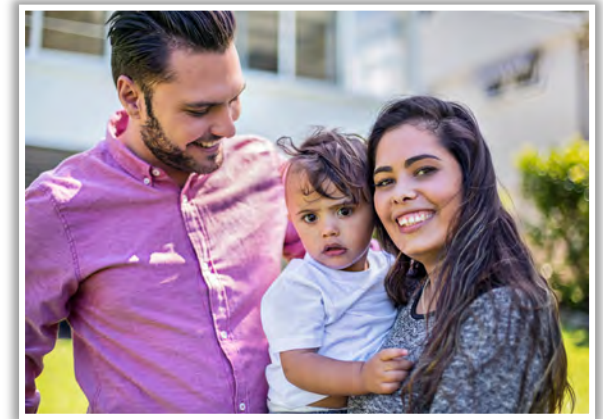


Applying for coverage:	YES	Subject to 5-year bar:	NO	MAY BE ELIGIBLE FOR: ✓ Medicaid ✓ QHP Enrollment
Citizen:	NO	Satisfied 5-year bar:	----	
Immigration status:	REFUGEE LPR	Lawfully present:	----	
Qualified immigrant:	YES			



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

- Adnan is LPR and entered the U.S. as refugee → He is not subject to the 5-year bar
- His household income is below 138% FPL → He is eligible for Medicaid
- Gina has an eligible immigration status for marketplace coverage (i.e. she is lawfully present), but does not have a “qualified” status for Medicaid → She is eligible for PTC even though her income is below 100% FPL because she is ineligible for Medicaid based on immigration status



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

Part IV:

Understanding & Addressing Concerns Immigrants May Have When Applying for Health Programs

Miami Herald

Proposed change to immigration rule may push Florida kids out of safety net

BY DANIEL CHANG

THE TRIBUNE

Proposed rule for public charge causes fear and confusion

Oct 09, 2018

Mario Gonzalez, who would be considered a public charge, is seen in a photo. By Yesenia Amaro

Vox

THE GOODS EXPLAINERS POLITICS & POLICY WORLD CULTURE SCIENCE & HEALTH MORE

Trump is proposing a regulation that could change the face of legal immigration — by restricting low-income immigrants

Immigrants could be barred from green cards based on use of food stamps or Medicaid.

By Dara Lind | dara@vox.com | Sep 24, 2018, 9:50am EDT

THE NEW YORKER

DISPATCH

TRUMP'S PUBLIC-CHARGE RULE IS A ONE-TWO PUNCH AGAINST IMMIGRANTS AND PUBLIC ASSISTANCE



By Jonathan Blitzer September 28, 2018

USA TODAY

Immigration attorneys counsel worried clients amid confusion over Trump's planned green card rules

Alan Gomez, USA TODAY Published 5:45 a.m. ET Oct. 9, 2018 | Updated 10:03 a.m. ET Oct. 10, 2018

Proposed Changes to "Public Charge" Policies Could Lead to Declines in Medicaid and CHIP Enrollment as Immigrant Families Face Rising Fear and Uncertainty About Using Public Programs

Published: Oct 12, 2018

TIME

U.S. POLITICS WORLD TECH ENTERTAINMENT

POLITICS • IMMIGRATION

Trump Administration Targets Immigrants Who Receive Public Benefits

'FAMILIES ARE LIVING IN FEAR': HOW A TRUMP ADMINISTRATION PROPOSAL IS HARMING IMMIGRANTS

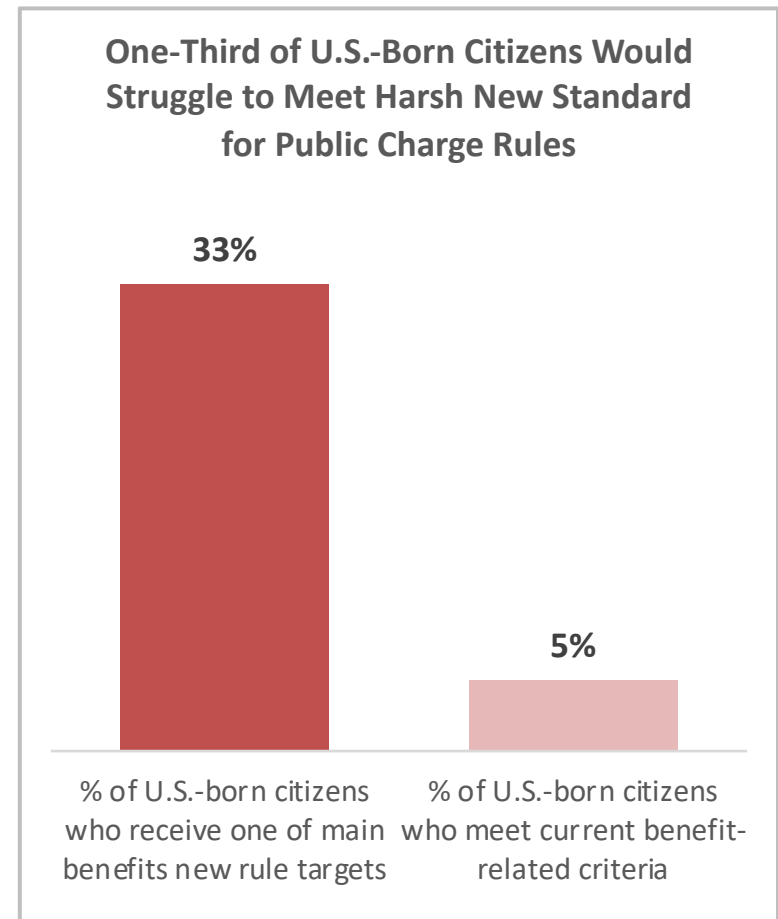
Fear of repercussions is keeping immigrant families from using public benefit programs like the Special Supplemental Nutrition Program for Women, Infants, and Children.

EMILY MOON • OCT 2, 2018

- Certain people undergo a “public charge” determination when seeking to become lawful permanent residents and/or enter the U.S.
- Immigration officials can reject applications if they believe the person is likely to become a “public charge”:
 - Primarily reliant on the government for support by receiving cash assistance (aid under TANF, SSI, or state or local General Assistance programs) or receiving long-term care benefits under Medicaid.
 - The assessment looks at past or current receipt of above mentioned benefits, as well as other factors including age, health status, financial status, etc.



- A proposed rule would greatly expand the definition of what a “public charge” can mean
- Instructs immigration officials to determine if the individual is likely to receive in the future:
 - Most of Medicaid
 - SNAP (food stamps)
 - Housing assistance
 - Subsidies to help Medicare beneficiaries of modest means afford prescription drugs
 - All programs currently used under public charge determinations



Important Takeaways

Timing of When the Proposed Rule Would Go Into Effect

- The rule has a long way to go before there is any policy change
 - It was just posted for comment
- ! It would not take effect until **after the rule is finalized**—many months from now

Who is NOT Subject to Public Charge Determination

- Many immigrants are not subject to public charge determinations
→ Ex: Refugees, asylees
- People do not undergo a public charge determination when going through the process to become a U.S. citizen (naturalization process)

Important Takeaways

Benefits that won't count under the proposed rule

- Benefits that are received by a person other than the person undergoing a public charge determination
- Any program not listed in the rule
 - Ex: marketplace subsidies

- Some immigrants fear that completing an application for health coverage — even for a U.S. citizen child — could expose that there are non-citizens in the household
- Strong privacy rules protect families applying for health insurance, including families whose members have different immigration statuses

The Marketplace, Medicaid, and CHIP laws limit the use of information collected during the marketplace application processes: it can only be used to make eligibility determinations and must be protected from unauthorized disclosure for other purposes.

Citations: 42 U.S.C. § 18081(g)(1); 42 U.S.C. § 1320b-7(a)(5); 42 U.S.C. § 1396a(a)(7)

State workers, Marketplace employees and assister groups are required to keep information private and secure.

Citations: 42 U.S.C. § 18081(g)(2); 42 C.F.R. § 457.1110; 45 C.F.R. § 155.260(a)

- Households may include applicants and non-applicants:
 - **Applicants** are seeking enrollment and/or eligibility
 - **Non-applicants** are part of the households of an applicant but are not seeking enrollment or eligibility for themselves
- Non-applicants do not have to share information about their citizenship or immigration status
 - But they may have to provide other information such as income

Who needs coverage

Who are you applying for health coverage for?

- ☐ Jane Taxpayer only
- ☐ Jane Taxpayer & other family members
- ☒ Other family members, not Jane Taxpayer

Add these people

Review the information you entered so far.

You've added this person who isn't applying for coverage

Gloria Taxpayer
02/13/1950

Remember: The person listed above is in your household, but isn't applying for coverage. We need some information about them to determine your eligibility for help paying for coverage.

Is this information correct?

- ☒ Yes.
- ☐ No. I need to make changes to this information.

Medicaid and CHIP

SSNs are generally required of Medicaid applicants

- Coverage cannot be denied or delayed pending issuance or verification of SSN
- Medicaid agencies must help individuals apply for an SSN if they are eligible and don't have one, or if they don't know their SSN

Some applicants do not have to provide Social Security numbers (SSN), including:

- Newborns in process of obtaining an SSN
- Persons who have a religious objection
- Certain lawfully present immigrants who are not eligible for an SSN or can only get an SSN for a non-work purpose such as certain domestic violence survivors, trafficking survivors, asylum applicants, and others

Marketplace

Only applicants who have an SSN are required to provide one.

Medicaid and CHIP

Non-applicant household members do not have to provide an SSN for Medicaid and CHIP.

Marketplace

Non-applicant household members should not be required to provide an SSN unless **ALL** of the following are true:

- ✓ The non-applicant is a tax filer (SSN not required for non-applicant tax dependent)
- ✓ The non-applicant has a SSN
- ✓ The non-applicant filed a federal tax return in the last year

NOTE

Providing an SSN when available, may increase the likelihood that information consumers provide in the application can be verified electronically, which can reduce the amount of paper documentation consumers may have to turn in to prove their circumstances.

People who are not eligible for SSNs may use Individual Taxpayer Identification Numbers (ITINs) to file taxes, but health insurance affordability program applications should not request ITINs.

- Do not ask non-applicants to disclose their citizenship or immigration status
- Use broad questions and share general information about immigrant eligibility to help people identify who may want to apply for insurance while providing other welcoming messages

FOR EXAMPLE:

“ We keep your information private and safe. The application asks for some information about everyone in your family, but only a family member seeking coverage for him or herself has to answer questions about immigration or citizenship. ”

“ The Marketplace provides coverage to citizens and noncitizens who are lawfully present. Here’s a list of immigration statuses that are eligible for Marketplace coverage. ”

- When asking questions about immigration and citizenship status of applicants:
 - Avoid asking if individuals are “undocumented” or “not legally in the U.S.”
 - Instead use words like “eligible immigration status” or “statuses considered eligible for the marketplace”

- Jane would like to find out health coverage options for her family
- She is not sure if they are eligible for health insurance because she and her husband are immigrants
- She shares that she is worried that immigration authorities could use information in her application to separate her family



How do you start the conversation with Jane?

Starting the Conversation:

- Tell her that the conversation is confidential and information she provides in the application may only be used for enrollment purposes
- Explain that the marketplace provides coverage to citizens and many immigrants, and show her the list of immigrants who may be eligible for marketplace coverage
- Share that only family members seeking coverage for themselves have to answer questions about immigration or citizenship status



- Reference Guide: [Immigration Documents Used in Healthcare.gov](#)
- Key Facts:
 - [Immigrant Eligibility for Health Insurance Affordability Programs](#)
 - [Helping Families that Include Immigrants Apply for Health Coverage](#)
- Paper: [Remote ID Proofing: Impacts on Access to Health Insurance](#)

National Immigration Law Center (NILC) Resources:

- [Tips for Addressing Immigrant Families' Concerns When Applying for Health Coverage Programs](#)
- [How to Talk with Immigrant Families about "Public Charge"](#)
- Know Your Rights: Is it Safe to Apply for Health Insurance or Seek Health Care? ([English](#)) ([Spanish](#))
- [Trump's Executive Orders and Immigrants' Access to Health, Food and Other Public Programs, Things to Keep in Mind When Talking with Immigrants](#)
- [Health Care Providers and Immigration Enforcement: Know Your Rights, Know Your Patients' Rights](#)
- [Frequently Asked Questions About DACA](#)
- ["Lawfully Present" Individuals under the Affordable Care Act](#)

Marketplace Resources:

- Assister Guide to Immigration Section of Healthcare.gov: marketplace.cms.gov/technical-assistance-resources/assister-guide-to-immigration-section.PDF
- Eligible immigration statuses for marketplace coverage: www.healthcare.gov/immigrants/immigration-status
- Immigration Document Types: www.healthcare.gov/help/immigration-document-types

- Shelby Gonzales, gonzales@cbpp.org
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For more information and resources, please visit:
www.healthreformbeyondthebasics.org

This is a project of the Center on Budget and Policy Priorities, www.cbpp.org