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Noncitizen Eligibility for Medicaid and CHIP

Medicaid and the State Children's Health Insurance Program (CHIP) provide a health care safety net for low-income populations. Noncitizen (i.e., *alien* in immigration law) eligibility for these programs depends on the noncitizen's immigration status and certain other factors. According to KFF, eligible noncitizens represented 6% of Medicaid enrollees under age 65 in 2023. This In Focus provides an overview of Medicaid/CHIP eligibility rules for noncitizens.

Medicaid and CHIP Background

Medicaid, authorized in Title XIX of the Social Security Act (SSA), is a joint federal-state program that finances the delivery of primary and acute medical services—as well as long-term services and supports—to a diverse, low-income population, including children, pregnant women, adults, individuals with disabilities, and people aged 65 and older. CHIP, authorized in SSA Title XXI, provides health insurance coverage to low-income, uninsured children in families with incomes above applicable Medicaid income standards, as well as to certain pregnant women. Participation in both programs is voluntary for states, though all states, the District of Columbia (DC), and the U.S. territories (i.e., American Samoa, the Commonwealth of the Northern Mariana Islands [CNMI], Guam, Puerto Rico, and the U.S. Virgin Islands) choose to participate.

States must follow broad federal rules to receive federal matching funds, but they have flexibility to design their own versions of Medicaid and CHIP within the federal statute's basic framework. The U.S. territories operate their Medicaid and CHIP programs under rules that differ from those applicable to the 50 states and DC (e.g., capped Medicaid funding, eligibility flexibilities). Both programs include several statutory waiver and demonstration authorities that allow states to operate their programs outside of certain federal rules. This flexibility results in variability across state Medicaid and CHIP programs in factors such as eligibility and covered benefits.

Medicaid and CHIP Eligibility

There are a number of eligibility pathways through which individuals may qualify for Medicaid. (An *eligibility pathway* is the specific federal statutory reference[s] that extends Medicaid coverage to certain groups of individuals.) Often, an enrollee's eligibility pathway dictates the Medicaid state plan services they are entitled to. In general, individuals must meet both categorical (e.g., children, pregnant women) and financial (i.e., income and sometimes asset limits) criteria. Some eligibility pathways are mandatory, meaning that all states with a Medicaid program must cover them; others are optional. Subject to federal minimum standards, states have discretion in determining certain eligibility criteria for both mandatory

and optional eligibility groups, which results in substantial variability across states. Under CHIP, states have broad discretion in setting their income eligibility standards, and eligibility varies by state.

Medicaid and CHIP applicants must also meet federal and state requirements regarding

- **State Residency:** SSA §§1902(a)(16), 1902(a), 1902(b)(2), and 2102(b)(1)(A) [42 U.S.C. §§1396a(a)(16), 1396a(a), 1396a(b)(2), and 1397bb(b)(1)(A)];
- **Documentation of U.S. Citizenship:** SSA §§1137(d)(2), 1902(a)(46), 1902(ee), 1903(x), and 2105(c)(9)(A) [42 U.S.C. §§1320b-7(d)(2), 1396a(a)(46), 1396a(ee), 1396b(x), and 1397ee(c)(9)(A)]; and
- **Immigration Status:** SSA §§1902(b)(3) and 2105(a)(3)(F) [42 U.S.C. §§1396a(b)(3) and 1397ee(a)(3)(F)]; and Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA; P.L. 104-193), as amended, §§401, 402, 403, 421, and 431 [8 U.S.C. §§1611, 1612, 1613, 1631, and 1641].

While most Medicaid and CHIP eligibility rules reside within SSA Titles XIX and XXI, noncitizen eligibility for these programs is largely governed by provisions within (1) SSA Title XI and (2) PRWORA, as amended. The intersection of these laws establishes the rules for noncitizen eligibility under Medicaid and CHIP, as summarized below.

Medicaid and CHIP Noncitizen Eligibility Rules

Noncitizens' eligibility for Medicaid and CHIP largely depends on (1) applicants' immigration status; (2) whether they arrived in the United States (or were enrolled in Medicaid) before August 22, 1996 (the date PRWORA was enacted); and (3) how long they have lived and worked in the United States. In addition, alien applicants must meet the programs' other eligibility requirements (e.g., financial, categorical, state residency).

Qualified and Nonqualified Aliens

In general, with respect to an applicant's immigration status, noncitizen eligibility for most federal public benefits—including Medicaid and CHIP—is governed by the term *qualified alien* (8 U.S.C. §1641), which was created in PRWORA, as amended. Qualified aliens include lawful permanent residents (LPRs), refugees, aliens granted parole for at least one year, aliens granted asylum or related relief, certain abused spouses and children, Cuban-Haitian entrants, and Citizens of the Freely Associated States (FAS) residing in the U.S. states and territories (see text box

below). (For more information on these statuses, see CRS Report R47351, *Noncitizens' Access to Health Care*.) Certain victims of human trafficking, Iraqi and Afghan special immigrants, and certain Afghan and Ukrainian parolees are not necessarily qualified aliens but are treated like refugees for purposes of federal public benefits. Qualified aliens who are otherwise eligible may be covered by Medicaid and CHIP, with certain specified restrictions discussed below (42 C.F.R. §435.406).

Nonimmigrants, those with Temporary Protected Status (TPS), short-term parolees (those granted parole for less than one year), asylum applicants, those granted Deferred Action for Childhood Arrivals (DACA), unauthorized immigrants, and various other classes of noncitizens granted temporary permission to remain in the United States are *nonqualified aliens*. Individuals with these statuses are generally barred from Medicaid and CHIP (8 U.S.C. §1611), with three exceptions (see “Medicaid and CHIP Exceptions for Nonqualified Aliens”).

Medicaid Eligibility for Citizens of the Freely Associated States (FAS)

In the 1980s and 1990s, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau signed Compacts of Free Association with the United States. FAS citizens are afforded certain immigration-related benefits that permit them to live, study, and work in the United States. Since the compacts went into effect, thousands of FAS migrants have established residence in U.S. states and territories. Prior to 1996, FAS citizens residing in the United States were eligible for federal public benefits. However, PRWORA (P.L. 104-193) barred FAS citizens, among others, from most federal public benefits, including Medicaid.

The Consolidated Appropriations Act, 2021 (P.L. 116-260) modified PRWORA by adding FAS citizens who are lawfully residing in the United States to the list of qualified aliens, but only with respect to Medicaid. This provision was later expanded by P.L. 118-42 to add FAS migrants to the list of qualified aliens under PRWORA for public benefit programs generally. P.L. 118-42 also exempted them from certain other restrictions, including the five-year bar. The law requires the 50 states and DC to add FAS citizens as a mandatory Medicaid eligibility pathway and permits the governors of the U.S. territories to elect to extend Medicaid eligibility to FAS citizens who are lawfully residing in their respective territories. In the territories that make this election, FAS citizens are considered a new Medicaid mandatory eligibility pathway. In addition, Medicaid services provided to program enrollees eligible through this pathway are not subject to the annual federal Medicaid capped funding that is otherwise applicable in each such territory. CNMI and Guam expanded eligibility to FAS citizens, as of March 6, 2025.

Eligibility Restrictions for Qualified Aliens

There are additional Medicaid eligibility restrictions for qualified aliens. Many qualified aliens are prohibited from receiving Medicaid for the first five years after entry/grant of status (often referred to as the *five-year bar*), such as certain LPRs, parolees, and abused spouses and children (8 U.S.C. §1613). However, other qualified aliens are exempt from the five-year bar, including LPRs with a substantial

(i.e., 10-year) U.S. work history or a military connection, refugees, asylees, Cuban-Haitian entrants, and FAS migrants (8 U.S.C. §1612). Certain qualified aliens, such as refugees, asylees, and Cuban-Haitian entrants, are eligible for Medicaid for the first seven years after arrival (8 U.S.C. §1612).

States may cover ineligible noncitizens (whether nonqualified aliens or qualified aliens within the five-year bar or who have exceeded the seven-year time limit) using state-only funds.

Medicaid and CHIP Exceptions for Nonqualified Aliens

Three exceptions allow nonqualified aliens to be eligible for Medicaid and CHIP:

- **Emergency Medicaid.** Under emergency Medicaid (§1903(v)(3) [42 U.S.C. §1396b(v)(3) and 8 U.S.C. §1611(b)(1)(A)], states are required to provide limited Medicaid services for the treatment of an emergency medical condition for aliens who meet Medicaid’s other eligibility requirements, regardless of their immigration status or lack of immigration status. For pregnant women, emergency Medicaid includes services covered under the state plan (e.g., routine prenatal care, labor and delivery, and routine postpartum care) (42 C.F.R. §440.255(b)(2)).
- **From-Conception-to-End-of-Pregnancy (FCEP) Option.** In 2002, the U.S. Department of Health and Human Services promulgated regulations to revise the definition of *child* for the purposes of the CHIP program to include fetuses (42 C.F.R. §457.10). This change allows states to provide CHIP coverage to children from conception to the end of pregnancy. States use this option to provide prenatal care services to pregnant women, regardless of their age or immigration status. According to the Medicaid and CHIP Payment and Access Commission, 23 states and DC adopted the FCEP option, as of July 2024.
- **Medicaid and CHIP Coverage of Lawfully Residing Children and Pregnant Women.** The State Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA; P.L. 111-3) option allows states to provide Medicaid and CHIP coverage to certain “lawfully residing” children and/or pregnant women who would otherwise be eligible for coverage through these programs within the five-year bar when certain conditions are met. (CMS has broadly defined *lawfully residing* to include qualified aliens, aliens in valid nonimmigrant statuses, and many *quasi-legal* populations, such as TPS holders and DACA recipients.) As of January 2025, 29 states and DC extend Medicaid to lawfully residing children *and* pregnant women, 8 states cover lawfully residing children, and 2 states cover lawfully residing pregnant individuals. As of May 2023, 28 states and DC extend CHIP coverage to lawfully residing children, and 6 states cover lawfully residing pregnant women.

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