STATE OF RHODE ISLAND
DEPARTMENT OF HUMAN SERVICES

PUBLIC NOTICE OF PROPOSED RULE-MAKING

In accordance Rhode Island General Laws (RIGL) 42-35, notice is hereby given that the Department of Human Services proposes to amend the following DHS rule:

MEDICAL ASSISTANCE PROGRAM
SECTIN 0304 – TECHNICAL ELIGIBILITY REQUIREMENTS

This amended rule provides procedures to implement state-funded Medical Assistance, effective April 1, 2010, to non-citizen children under the age of 19 who are otherwise eligible aliens lawfully residing in the United States. Such aliens consist of qualified aliens subject to the 5-year bar, aliens described in 8 CFR 103.12(a) (4), and legal non-immigrants whose admission to the U.S. is not conditioned on having a permanent residence in a foreign country (such non-immigrants include citizens of the Compact of Free Association States who are considered permanent non-immigrants but does not include visitors for business or pleasure or students). The proposed amendments have been approved by CMS.

In the development of this rule, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This proposed rule is accessible on the R.I. Secretary of State website (http://www.sec.state.ri.us/ProposedRules/) and the DHS website (www.dhs.ri.gov) or available in hard copy upon request (401 462-2018 or RI Relay, dial 711). Interested persons should submit data, views or written comments by Friday March, 12, 2010 to Kimberly Merolla-Brito, Office of Policy Development, Department of Human Services, Louis Pasteur Building, Bldg. 57, Howard Avenue, Cranston, RI 02920.

In Accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

The Department of Human Services does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief or handicap in acceptance for or provision of services or employment in its programs or activities.

Gary D. Alexander, Director

0304 TECHNICAL ELIGIBILITY REQUIREMENTS

0304.05 REQUIREMENTS OF CITIZENSHIP/ALIENAGE

REV: 04/2010~~10/2009~~

A. An individual must meet the requirement for citizenship or immigration status in order to qualify for Medical Assistance (MA). An otherwise eligible individual must be a member of one of the following categories:

   1. Eligibility Factors of Citizenship/Alienage (Section 0104 of DHS General Provisions)

   2. A qualified non-citizen (Section 0304.05.15)
      a. Exempt from the five (5) year ban
      b. Subject to the five (5) year ban

   3. A lawfully residing member of the state-funded coverage group described in Sections 0304.05.45 and 0304.05.45.05

   4. A pregnant woman as described in Section 0348

   5. A child under 19 as described in Section 0304.05.45

B. The Federal Deficit Reduction Act (DRA) of 2005 (Public Law 109-171) as well as Public Laws (PL) 104-193, 104-208 and 105-33 restricts eligibility for federally reimbursed Title XIX Medical Assistance to U.S. citizens and certain qualified non-citizens. PL 105-306 restricts eligibility to lawfully residing non-citizens who receive SSI.

   1. Individuals who are not U.S. citizens must comply with the alienage requirements of the Personal Responsibility and Work Opportunity Act of 1996 (PL 104-193) (PRWOA) and may not be eligible for Title XIX Medical Assistance benefits.

   2. Non-qualified non-citizens are not eligible for Title XIX Medical Assistance benefits.

C. The Federal Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009 (PL 111-3) authorized States to elect the CHIPRA option to provide full Medicaid coverage to otherwise eligible aliens under the age of nineteen (19) lawfully residing in the United States. RIGL 40-8.4-2 provides State authority to implement the CHIPRA option.

   1. Such aliens consist of:
      a. qualified aliens subject to the 5-year bar
      b. aliens described in 8 CFR 103.12 (a)(4)
      c. legal non-immigrants whose admission to the U.S. is not conditioned on having a permanent residence in a foreign country

   2. Such non-immigrants include citizens of the Compact of Free Association States who are considered permanent non-immigrants

but does not include visitors for business or pleasure or students

D. Title XIX Medical Assistance for emergency services as stated in DHS Policy Section 0316.10 is accessible to individuals regardless of immigration status, provided they are residents of Rhode Island and meet all other financial and non-financial criteria for the Medical Assistance Program. This includes persons who, but for citizenship status, meet the criteria for MA under SSI-related, family-related, or RIte Care rules.
~~An individual must meet the requirement for citizenship or immigration status in order to qualify for Medical Assistance.~~

~~The Federal Deficit Reduction Act of 2005 as well as Public Laws 104-193, 104-208 and 105-33 restricted eligibility for federally reimbursed Title XIX Medical Assistance to U.S. citizens and certain "qualified" non-citizens. Public Law 105-306 restricted eligibility to lawfully residing non-citizens who receive SSI.~~

~~The Federal Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA or Public Law 111-3) authorized States to elect the CHIPRA option to provide full Medicaid coverage to otherwise eligible aliens under the age of 19 lawfully residing in the United States (pending approval from the Centers for Medicaid and Medicare Services): such aliens consist of qualified aliens subject to the 5-year bar, aliens described in 8 CFR 103.12(a)(4), and legal non-immigrants whose admission to the U.S. is not conditioned on having a permanent residence in a foreign country (such non-immigrants include citizens of the Compact of Free Association States who are considered permanent non-immigrants but does not include visitors for business or pleasure or students).~~

~~R.I.G.L. 40-8-1 and 42-12.3 provide the legal authority to extend State-funded Medical Assistance to pregnant women and to certain lawfully residing groups of non-citizens, who are ineligible for Title XIX solely due to immigration status requirements. R.I.G.L. 40-8-1 and 40-8.4-2 also provide State authority to implement the CHIPRA option to provide full Medicaid coverage to otherwise eligible alien children under the age of 19 lawfully residing in the United States, including alien children subject to the 5-year bar.~~

~~To meet the citizenship/immigration status requirement for Medical Assistance, an otherwise eligible individual must be a member of one of the following categories:~~

- ~~o U.S. citizen or national (Title XIX);~~

- ~~o (A) a qualified non-citizen described in Section 0304.05.15 (sub-section A), and~~

  ~~(B) who entered the U.S. prior to 8/22/96 (Title XIX);~~

- ~~o A qualified non-citizen described in Section 0304.05.15(A) who entered the country on or after 8/22/96, and is exempt from the five (5) year ban (Title XIX);~~

~~o After the five (5) year ban, a qualified non-citizen described in Section 0304.05.15(B), who entered the U.S. on or after 8/22/96 (Title XIX);~~

~~o A lawfully residing member of the state-funded coverage group described in Sections 0304.05.45 and 0304.05.45.05 (State-funded); or~~

~~o A pregnant woman as described in Section 0348~~

~~o A child under 19 as described in Section 0304.05.45, pending approval from the Centers for Medicaid and Medicare Services(CMS)~~

~~Note: Title XIX Medical Assistance for emergency services as stated in DHS Policy Section 0316.10 is accessible to individuals regardless of immigration status, provided they are residents of Rhode Island and meet all other financial and non-financial criteria for the Medical Assistance Program. This includes persons who, but for citizenship status, meet the criteria for MA under SSI related, family related, or RIte Care rules. In addition, each applicant must have a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that inpatient hospital or hospital emergency room treatment is required.~~

0304.05.05 The SAVE Program

REV: 04/2010~~01/2007~~

A. The Immigration Reform and Control Act of 1986 mandated the establishment of the Systematic Alien Verification for Entitlements (SAVE) Program. SAVE enables states and federal assistance programs to exchange information regarding the immigration status of aliens applying for benefits from federally-funded programs (Refer to DHS Rule 0104.40 General Provisions).

B. Unless exempt, applicants for Medical Assistance programs must declare in writing that they are United States citizens or nationals, or that they are in satisfactory immigration status.

1. The DHS/SAV-1 is used for the declaration of citizenship or alienage.

2. Applicants for emergency services only and undocumented pregnant women and children under the age of nineteen (19) who are applying for state-funded RIte Care or RIte Share coverage only are exempt from the SAVE requirement.

~~An individual must meet the requirement for citizenship or immigration status in order to qualify for Medical Assistance.~~

~~The Federal Deficit Reduction Act of 2005 as well as Public Laws 104-193, 104-208 and 105-33 restricted eligibility for federally reimbursed Title XIX Medical Assistance to U.S. citizens and certain "qualified" non-citizens. Public Law 105-306 restricted eligibility to lawfully residing non-citizens who receive SSI.~~

~~Pending approval from the Centers for Medicaid and Medicare Services (CMS),~~
~~The Federal Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA or Public Law 111-3) authorized States to elect the CHIPRA option to provide full Medicaid coverage to otherwise eligible aliens lawfully residing in the United States: such aliens consist of qualified aliens subject to the 5-year bar, aliens described in 8 CFR 103.12(a)(4), and legal non-immigrants whose admission to the U.S. is not conditioned on having a permanent residence in a foreign country (such non-immigrants include citizens of the Compact of Free Association States who are considered permanent non-immigrants but does not include visitors for business or pleasure or students) as described in Section 0304.05.15.~~

~~R.I.G.L. 40-8-1 and 42-12.3 provide the legal authority to extend State-funded Medical Assistance to pregnant women and to certain lawfully residing groups of non-citizens, who are ineligible for Title XIX solely due to immigration status requirements. Pending approval from the Centers for Medicaid and Medicare Services (CMS), R.I.G.L. 40-8-1 and 40-8.4-2 also provide State authority to implement the CHIPRA option to provide full Medicaid coverage to otherwise eligible alien children under the age of 19 lawfully residing in the United States, including alien children subject to the 5-year bar.~~

~~To meet the citizenship/immigration status requirement for Medical Assistance, an otherwise eligible individual must be a member of one of the following categories:~~

- ~~o U.S. citizen or national (Title XIX);~~

- ~~o (A) a qualified non-citizen described in Section 0304.05.15 (sub-section A), and~~

  ~~(B) who entered the U.S. prior to 8/22/96 (Title XIX);~~

- ~~o A qualified non-citizen described in Section 0304.05.15(A) who entered the country on or after 8/22/96, and is exempt from the five (5) year ban (Title XIX);~~

- ~~o After the five (5) year ban, a qualified non-citizen described in Section 0304.05.15(B), who entered the U.S. on or after 8/22/96 (Title XIX);~~

- ~~o A lawfully residing member of the state-funded coverage group described in Sections 0304.05.45 and 0304.05.45.05(State-funded);~~

- ~~o Pending approval from the Centers for Medicaid and Medicare Services (CMS), a child under age nineteen (19) who is lawfully residing in the United States as described in Section 0304.05.15;~~

- ~~o A pregnant woman or child under the age of nineteen (19) as described in Section 0348~~

~~Note: Title XIX Medical Assistance for emergency services as stated in DHS Policy Section 0316.10 is accessible to individuals regardless of immigration status, provided they are residents of Rhode Island and meet all other financial and non-financial~~

~~criteria for the Medical Assistance Program. This includes persons who, but for citizenship status, meet the criteria for MA under SSI-related, family-related, or RIte Care rules. In addition, each applicant must have a medical condition including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that inpatient hospital or hospital emergency room treatment is required.~~

0304.05.10 Eligibility as a United States Citizen

REV: 06/1994

A United States citizen is defined in the Immigration and Nationality Act as any person born in any of the 50 States, the District of Columbia, Puerto Rico, Guam or the United States Virgin Islands. Nationals from American Samoa or Swain's Island are also regarded as United States citizens, as are those persons who are naturalized U.S. Citizens.

0304.05.10.05 Verification of Citizen Status

REV: 04/2010~~10/2009~~

In compliance with the Federal Deficit Reduction Act (DRA) of 2005 (PL 109-171), applicants and recipients for Medical Assistance must submit verification of citizenship and identity.

A. CITIZENSHIP - Acceptable verification of citizenship is divided into four (4) tiers.

1. FIRST LEVEL (PRIMARY DOCUMENTATION)
   a. The following forms of documentation qualify as both proof of citizenship and identity:
      i. A U.S. Passport
         * Passport does not have to be currently valid to be accepted as proof of citizenship
         * Passports issued with a limitation are not considered evidence of U.S. citizenship but is considered proof of identity.
      ii. A Certificate of Naturalization (Forms N-550 or N-570)
      iii. A Certificate of U.S. Citizenship (Form N-560 or N-561)
   b. Applicants and recipients born outside of the United States who were not U.S. citizens at birth, must submit First Level documentation as evidence of U.S. citizenship.
   c. If the applicant/recipient does not possess any of the above forms of documentation, then documentation of both the individual's citizenship (preferably from the Secondary tier of documentation) and identity is necessary.

2. SECOND LEVEL (SECONDARY)
   a. If documentation from the First Level (Primary Documentation) of citizenship is not available, the applicant/recipient must submit both a document from one of the lower levels of citizenship documentation as well as a document from the list of acceptable forms of identity documentation.
   b. Secondary level documentation includes:

i. A U.S. Birth Certificate
ii. A Certification of Birth Issued by the Department of State (Form DS-1350)
iii. A Report of Birth Abroad of a U.S. Citizen (Form FS-240)
iv. A Certification of Birth Issued by the Department of State (Form FS-545 or DS-1350)
v. A U.S. Citizens I.D. Card (Form I-197 or prior version I-179)
vi. An American Indian Card, I-872 issued by the Department of Homeland Security with the classification code "KIC" issued to identify U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border
vii. Final Adoption Decree showing the child's name and U.S. birthplace
viii. Evidence of Civil Service employment by the U.S. government before June 1976
iv. An official military record of service showing a U.S. place of birth
x. A Northern Mariana Identification Card, I-873 (issued by the INS to a collectively naturalized citizen of the United States who was born in the Northern Mariana Islands before November 4,1986)

3. THIRD LEVEL
a. Primary and Secondary levels of documentation must be exhausted before third level documentation is used to verify citizenship as third level documentation is only acceptable if primary and secondary documentation cannot be obtained or does not exist.
b. Third level documentation includes:
i. Extract of a hospital record on hospital letterhead established at the time of the person's birth and was created at least five (5) years before the initial application date and that indicates a U.S. place of birth. (For children under sixteen (16) years old, the document must have been created at or near the time of birth or five (5) years before the date of application.)
ii. Life or health or other insurance record showing a U.S. place of birth created at least five (5) years before the initial application day.

4. FOURTH LEVEL
a. Fourth level documentation should only be used under the rarest of circumstances. It is only to be used when absolutely no other documentation exists that will establish the individual's U.S. citizenship.
b. Fourth level documentation includes:
i. Federal or state census record showing U.S. citizenship or a U.S. place of birth
ii. Institutional admission papers from a nursing home, skilled nursing care facility, or other institution created at least five (5) years before the initial application date and indicates a U.S. place of birth.
iii. Medical (clinic, doctor, or hospital) record created at least five (5) years before the initial application date that indicates a U.S. place of birth. (For children under sixteen (16) years old the document must have been created near the time of birth or five (5) years before the date of

application.) An immunization record is not considered a medical record for purposes of establishing U.S. citizenship.

iv. Other documents that were created at least five (5) years before the application for Medicaid. These documents include:
   * Seneca Indian Tribal Census Report,
   * Bureau of Indian Affairs Tribal Census Records of the Navajo Indians,
   * U.S. State Vital Statistics Official nomination of birth registration,
   * An amended U.S. public birth record that is amended more than five (5) years after the person's birth or statement signed by the physician or midwife who was in attendance at the time of birth.

v. A written affidavit may be used only in rare circumstances when the state cannot prove evidence of citizenship in any other way.
   * Affidavits must be given by at least two individuals - one must be of no relation to the applicant.
   * Each person must attest to having personal knowledge of the events establishing the applicant is a citizen, and must also prove their own citizenship and identity.
   * If the person knows why documentary evidence establishing the applicant's claim of citizenship is not available, the affidavit should contain that information as well.
   * The State must obtain a separate affidavit from the applicant/recipient or other knowledgeable individual explaining why the evidence does not exist or cannot be obtained. It must be signed under penalty of perjury by the person making the affidavit.

B. IDENTITY

1. The following forms of documentation qualify as proof of identity and must accompany any documents establishing citizenship that were submitted from the second, third, or fourth levels of citizenship documentation.
   a. A current U.S. state or territory driver's license bearing the individual's picture or other identifying information such as name, age, sex, race, height, weight, or eye color
   b. Certificate of Indian Blood, or other U.S. American Indian/ Alaska Native tribal document
   c. Any identity document described in Section 274A(b)(1)(D) of the Immigration and Nationality Act
   d. School identification card with a photograph of the individual
   e. U.S. military card or draft record
   f. Identification card issued by the Federal, State, or local government with the same information included on the driver's license issued by the Federal, State, or local government.
   g. Military dependent's identification card
   h. Native American tribal document
   i. U.S. Coast Guard Merchant Mariner card
   j. Cross match with federal or state government agency, including but not limited to Vital Statistics and Division of Motor Vehicles.

k. In addition to the above identity documents, children who are sixteen (16) years of age or younger may prove their identity through the use of the following documents:
   i. School records including nursery or day care records
   ii. Affidavit signed under penalty of perjury by a parent or guardian attesting to the child's date and place of birth. This cannot be used if an affidavit was submitted to document citizenship.

l. Various "documents" issued by an organization called the World Council of Washington, D.C. are considered bogus and unacceptable as evidence of identity, citizenship, age, etc., for enumeration or other official purposes. These "documents" include: World Birth Certificates, World Citizen Cards, World Identity Cards, and World Marriage Certificates.

C. REASONABLE OPPORTUNITY

1. Applicants/recipients will be given a reasonable opportunity to present documents that establish U.S. citizenship and identity.

2. Applicants will not be eligible to receive Medical Assistance benefits until they have presented the required documentation of citizenship and identity.
   a. Applicants have thirty (30) days from the time the application is filed to submit documentation of citizenship and identity.
   b. After the thirty (30) day period, eligibility will be denied for applicants who did not submit acceptable proof of citizenship and identity.

3. The agency will assist an applicant or recipient to document their U.S. citizenship and identity if they:
   a. Are unable to obtain the required documents, and
   b. Require assistance (i.e. are homeless, mentally impaired, or physically incapacitated), and
   c. Do not have someone who can act on their behalf.

4. Medicaid applicants and recipients are allowed to submit proof of citizenship and identity documentation to the DHS through an authorized representative. Authorized representatives transmit such documentation to DHS. Authorized representatives include:
   a. Family resource counselors
   b. Hospitals
   c. Community health centers

~~Effective July 1, 2006, in conformance with the federal Deficit Reduction Act of 2005, both applicants and recipients for Medical Assistance must submit verification of both citizenship and identity.~~

~~This policy does not apply to persons receiving SSI, Medicare, or who are not US Citizens.~~

~~Individuals who are not U.S. citizens must comply with the alienage requirements of the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) (PRWOA) and may not be eligible for Title XIX Medical Assistance benefits. Unless exempt, qualified non-citizens entering the U.S. on or after August 22, 1996 are subject to a five (5) year ban during which they are ineligible for full Title XIX Medical Assistance benefits. Pending approval from the Centers for Medicaid and~~

~~Medicare Services (CMS), aAs authorized under the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), children under the age of nineteen (19) who are otherwise eligible aliens lawfully residing in the United States as described in Section 0304.05.15 are eligible for Medical Assistance under Title XIX or XXI and are not subject to the five year ban. Unless exempt, qualified non-citizens entering the U.S. on or after August 22, 1996 are subject to a five (5) year ban during which they are ineligible for full Title XIX Medical Assistance benefits. Non-qualified non-citizens are not eligible for Title XIX Medical Assistance benefits.~~

~~Acceptable verification of citizenship is divided into four (4) tiers.~~

~~Applicants/recipients submitting documentation from the First Level (Primary documentation) satisfy both the citizenship and identity requirements. Applicants and recipients born outside of the United States who were not U.S. citizens at birth, must submit a document listed under the First Level (Primary documentation) as evidence of U.S. citizenship.~~

~~If documentation from the First Level of citizenship documentation is not available, then the applicant/recipient must submit both a document from one of the lower levels of citizenship documentation as well as a document from the list of acceptable forms of identity documentation. Primary and Secondary levels of documentation must be exhausted before third level documentation is used to verify citizenship as third level documentation is only acceptable if primary and secondary documentation cannot be obtained or does not exist.~~

~~Fourth level documentation should only be used under the rarest of circumstances. It is only to be used when absolutely no other documentation exists that will establish the individual's U.S. citizenship.~~

~~CITIZENSHIP~~

~~FIRST LEVEL (PRIMARY)~~

~~The following forms of documentation qualify as both proof of citizenship and identity:~~

~~o A U.S. Passport~~

~~NOTE: U.S. Passport does not have to be currently valid to be accepted as proof of citizenship. However, do not accept any passport as evidence of U.S. citizenship if it was issued with a limitation. Passports possessing a limitation may only be used for proof of identity.~~

~~o A Certificate of Naturalization (Forms N-550 or N-570)~~

~~o A Certificate of U.S. Citizenship (Form N-560 or N-561)~~

~~If the applicant/recipient does not possess any of the above forms of documentation, then documentation of both the individual's citizenship (preferably from the Secondary tier of documentation) and identity is necessary.~~

~~SECOND LEVEL (SECONDARY)~~

- ~~o A U.S. Birth Certificate~~

- ~~o A Certification of Birth Issued by the Department of State (Form DS-1350)~~

- ~~o A Report of Birth Abroad of a U.S. Citizen (Form FS-240)~~

- ~~o A Certification of Birth Issued by the Department of State (Form FS-545 or DS-1350)~~

- ~~o A U.S. Citizens I.D. Card (Form I-197 or prior version I-179)~~

- ~~o An American Indian Card, I-872 issued by the Department of Homeland Security with the classification code "KIC" issued to identify U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border~~

- ~~o Final Adoption Decree showing the child's name and U.S. birthplace~~

- ~~o Evidence of Civil Service employment by the U.S. government before June 1976~~

- ~~o An official military record of service showing a U.S. place of birth~~

- ~~o A Northern Mariana Identification Card, I-873 (issued by the INS to a collectively naturalized citizen of the United States who was born in the Northern Mariana Islands before November 4,1986)~~

~~THIRD LEVEL~~

- ~~o Extract of a hospital record on hospital letterhead established at the time of the person's birth and was created at least five (5) years before the initial application date and that indicates a U.S. place of birth. (For children under sixteen (16) years old, the document must have been created at or near the time of birth or five (5) years before the date of application.)~~
- ~~o Life or health or other insurance record showing a U.S. place of birth and was created at least five (5) years before the initial application day.~~

~~FOURTH LEVEL~~

- ~~o Federal or state census record showing U.S. citizenship or a U.S. place of birth~~

- ~~o Institutional admission papers from a nursing home, skilled nursing care facility, or other institution and was created at least five (5) years before the initial application date and indicates a U.S. place of birth.~~

- ~~Medical (clinic, doctor, or hospital) record created at least five (5) years before the initial application date that indicates a U.S. place of birth. (For children under sixteen (16) years old the document must have been created near the time of birth or five (5) years before the date of application.) NOTE: An immunization record is not considered a medical record for purposes of establishing U.S. citizenship.~~

- ~~Other documents that were created at least five (5) years before the application for Medicaid. These documents include:~~

  - ~~Seneca Indian Tribal Census Report,~~

  - ~~Bureau of Indian Affairs Tribal Census Records of the Navajo Indians,~~

  - ~~U.S. State Vital Statistics Official nomination of birth registration,~~

  - ~~An amended U.S. public birth record that is amended more than five (5) years after the person's birth or statement signed by the physician or midwife who was in attendance at the time of birth.~~

- ~~A written affidavit which may be used only in rare circumstances when the state cannot prove evidence of citizenship in any other way. Affidavits must be given by at least two individuals-one must be of no relation to the applicant. Each person must attest to having personal knowledge of the events establishing the applicant is a citizen, and must also prove their own citizenship and identity. If the person knows why documentary evidence establishing the applicant's claim of citizenship is not available, the affidavit should contain that information as well. The State must obtain a separate affidavit from the applicant/recipient or other knowledgeable individual explaining why the evidence does not exist or cannot be obtained. It must be signed under penalty of perjury by the person making the affidavit.~~

~~IDENTITY~~

~~The following forms of documentation qualify as proof of identity and must accompany any documents establishing citizenship that were submitted from the second, third, or fourth levels of citizenship documentation.~~

- ~~A current U.S. state or territory driver's license bearing the individual's picture or other identifying information such as name, age, sex, race, height, weight, or eye color~~

- ~~Certificate of Indian Blood, or other U.S. American Indian/ Alaska Native tribal document~~

- ~~Any identity document described in Section 274A(b)(1)(D) of the Immigration and Nationality Act~~

- ~~School identification card with a photograph of the individual~~

~~o U.S. military card or draft record~~
~~o Identification card issued by the Federal, State, or local government with the same information included on the driver's license issued by the Federal, State, or local government.~~

~~o Military dependent's identification card~~

~~o Native American tribal document~~

~~o U.S. Coast Guard Merchant Mariner card~~

~~o Cross match with federal or state government agency, including but not limited to Vital Statistics and Division of Motor Vehicles.~~

~~In addition to the above identity documents, children who are sixteen (16) years of age or younger may prove their identity through the use of the following documents:~~

~~o School records including nursery or day care records~~

~~o Affidavit signed under penalty of perjury by a parent or guardian attesting to the child's date and place of birth. NOTE: This cannot be used if an affidavit was submitted to document citizenship.~~

~~Various "documents" issued by an organization called the World Council of Washington, D.C. are considered bogus and unacceptable as evidence of identity, citizenship, age, etc., for enumeration or other official purposes. These "documents" include: World Birth Certificates, World Citizen Cards, World Identity Cards, and World Marriage Certificates.~~

~~REASONABLE OPPORTUNITY~~

~~Applicants/recipients will be given a reasonable opportunity to present documents that establish U.S. citizenship and identity.~~

~~Recipients will not have their Medical Assistance terminated for failure to provide the required documentation of citizenship and identity so long as they demonstrate a good faith effort to present satisfactory documentation. Reasonable opportunity period for recipients is defined as 90 days after first date of redetermination after July 1, 2006.~~

~~Applicants will not be eligible to receive Medical Assistance benefits until they have presented the required documentation of citizenship and identity. Applicants have thirty (30) days from the time the application is filed to submit documentation of citizenship and identity. After the thirty (30) day period, eligibility will be denied for applicants who did not submit acceptable proof of citizenship and identity.~~

~~The agency will assist an applicant or recipient to document their U.S. citizenship and identity if they:~~

~~o Are unable to obtain the required documents, and~~

~~o Require assistance (i.e. are homeless, mentally impaired, or physically incapacitated), and~~

~~o Do not have someone who can act on their behalf.~~

~~Medicaid applicants and recipients are allowed to submit proof of citizenship and documentation to the Department of Human Services (DHS) through an authorized representative. Authorized representatives are defined as Family Resource Counselors, hospitals, community health centers and Medical Assistance providers. Authorized representatives who accept documentation of citizenship and identity will transmit this documentation to DHS.~~

~~CHILDREN~~

~~Children born to foreign diplomats residing in the United States and/or its territories are not citizens of the United States.~~

0304.05.15 Eligibility as a Qualified Non-Citizen

REV: 04/2010~~10/2009~~

A. QUALIFIED NON-CITIZENS EXEMPT FROM THE FIVE (5) YEAR BAR:

1. The following "qualified" non-citizens are exempt from the five (5) year bar and meet immigration requirements for Title XIX Medical Assistance regardless of date of entry into the U.S.:
   a. Refugees admitted under Section 207 of INA including Afghan and Iraqi Special Immigrants (SIV's) as permitted under PL 111-118;
   b. Non-citizens granted Asylum under Section 208 of INA;
   c. Non-citizens who have had deportation withheld under 243(h) of INA;
   d. Amerasian entrants pursuant to Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988 (as contained in Section 101(e) of PL 100-202 and amended by the 9th provision under Migration and Refugee Assistance in Title II of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988, PL 100-461 as amended);
   e. Cuban or Haitian entrants as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;
   f. Lawfully residing honorably discharged veterans (except one discharged for reasons of immigration status), non-citizens on active duty in the U.S. Armed forces, their lawfully residing spouses and unmarried dependent children, and the unremarried widow or widower of the veteran;
   g. Certain battered spouses, battered children or parents, or children of a battered person with a petition approved or pending under Section 204(a)(1)(A) or (B) or Section 244(a)(3) of INA;
   h. An American Indian born outside the U.S. who:
      i. was born in Canada and is at least fifty percent 50% American Indian blood and to whom the provisions of Section 289 of the INA apply; or
      ii. is a member of a federally recognized tribe as defined in

Section 4(e) of the Indian Self-Determination and Education Act.

i. An individual certified by the U.S. Department of Human Services (HHS) Office of Refugee Resettlement pursuant to Section 107(b.) of the Victims of Trafficking and Violence Protection Act of 2000, as a victim of a severe form of trafficking.

j. Disability Assistance for any qualified non-citizen, subject to the five (5) year bar, who legally entered the U.S. on or after 8/22/96 and received disability related benefits for a condition that is a disability or is pending a disability determination in accordance with 42 USC Sub Section 1381.

k. Under provisions of PL 105-306, SSI benefits, and associated Title XIX Medical Assistance, were continued for "non-qualified" aliens who were lawfully residing in the U.S. and receiving SSI on 8/22/96.

B. QUALIFIED NON-CITIZENS ABOVE AGE NINETEEN (19) SUBJECT TO THE FIVE (5) YEAR BAR:

1. The following "qualified" non-citizens who are age nineteen (19) or above are subject to the five (5) year bar. They meet the immigration requirement and are potentially eligible for Title XIX benefits if they entered the U.S. prior to 8/22/96. When entering the U.S. on or after 8/22/96, they meet the immigration requirement for Title XIX Medical Assistance only after the five (5) year bar described in Section 0304.05.15.05.

   a. Lawful permanent residents (LPRs);

   b. Non-citizens granted parole for at least one (1) year under 212(d)(5) of the Immigration and Nationality Act (INA);

   c. Non-citizens granted conditional entry under 203(a)(7) of immigration law in effect before April 1, 1980.

2. Under provisions contained in PL 105-306, Title XIX Medical Assistance is also provided to certain SSI recipients who were lawfully residing in the U.S. and receiving SSI on 8/22/96.

C. QUALIFIED NON-CITIZEN CHILDREN UNDER AGE NINETEEN (19)

1. The following qualified non-citizen children are NOT subject to the five (5) year bar regardless of date of entry in the U.S.and are potentially eligible for Title XIX or XXI benefits.

   a. Lawful permanent residents (LPRs)

   b. Non-citizens granted parole for at least one (1) year under 212(d)(5) of the Immigration and Nationality Act (INA);

   c. Non-citizens granted conditional entry under 203(a)(7)of immigration law in effect before April 1, 1980.

   d. Legal non-immigrants whose admission to the United States is not conditioned on having a permanent residence in a foreign country (such immigrants include citizens of the Compact of Free Association States who are considered permanent non-immigrants but does not include visitors for business or pleasure or students) as described in Section 0304.05.15.

2. In addition, the following categories of children under age nineteen (19) are eligible for Medical Assistance under Title XIX or XXI as authorized under the Children’s Health Insurance

Program Reauthorization Act of 2009 (CHIPRA) and as described in 8 CFR 103.12(a)(4).

a. Aliens currently in temporary resident status pursuant to Section 210 or 245A of the Immigration and Nationality Act (INA)
b. Aliens currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA
c. Cuban-Haitian entrants, as defined in section 202(b) P. L. 99-603, as amended
d. Family Unity beneficiaries pursuant to section 301 of P. L. 101-649, as amended, as well as pursuant to section 1504 of PL 106-554
e. Aliens currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President
f. Aliens currently in deferred action status pursuant to Service Operations Instructions at OI 242.1(a)(22)
g. Aliens who are the spouse or child of a United States citizen whose visa petition has been approved and who have a pending application for adjustment of status.

3. In addition, the following categories of non-immigrant children under age nineteen (19) are eligible for Medical Assistance under Title XIX or XXI as authorized under the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) and as specified in section 101(a)(15) of the Immigration and Nationality Act (INA).

a. Parents or children of individuals with special immigration status under section 101(a)(27) of the INA as permitted under section 101(a)(15)(N) of the INA
b. Fiancés of a citizen as permitted under section 101(a)(15)(K)of the INA
c. Religious workers under section 101(a)(15)(R)
d. Aliens who the Attorney General of the United States has determined are in possession of critical reliable information concerning a criminal or terrorist organization, enterprise or operation as permitted under section 101(a)(15)(S) of the INA
e. Aliens who are or have been victims of trafficking as permitted under section 101(a)(15)(T) of the INA
f. Individuals assisting the Department of Justice in a criminal investigation as permitted under section 101(a)(15)(U) of the INA
g. Battered aliens
h. Individuals with a petition pending for 3 years or more as permitted under section 101(a)(15)(V) of the INA

~~A. QUALIFIED NON-CITIZENS EXEMPT FROM THE FIVE (5) YEAR BAN:~~

~~The following "qualified" non-citizens are exempt from the five (5) year ban and meet immigration requirements for Title XIX Medical Assistance regardless of date of entry into the U.S.:~~

- ~~o Refugees admitted under Section 207 of INA; including Afghan and Iraqi Special Immigrants (SIV"s) as permitted under Public Law 111-118;~~

- ~~o Non-citizens granted Asylum under Section 208 of INA;~~

- ~~o Non-citizens who have had deportation withheld under 243(h) of INA;~~

- ~~Amerasian entrants pursuant to Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988 (as contained in Section 101(e) of Public Law 100-202 and amended by the 9th provision under Migration and Refugee Assistance in Title II of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 19889, Public Law 100-461 as amended);~~

- ~~Cuban or Haitian entrants as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;~~

- ~~Lawfully residing honorably discharged veterans (except one discharged for reasons of immigration status), non-citizens on active duty in the U.S. Armed forces, their lawfully residing spouses and unmarried dependent children, and the unremarried widow or widower of the veteran;~~

- ~~Certain battered spouses, battered children or parents, or children of a battered person with a petition approved or pending under Section 204(a)(1)(A) or (B) or Section 244(a)(3) of INA;~~

- ~~An American Indian born outside the U.S. who:~~

  a) ~~was born in Canada and is at least fifty percent 50% American Indian blood and to whom the provisions of Section 289 of the INA apply; or~~

  b) ~~is a member of a federally recognized tribe as defined in Section 4(e) of the Indian Self-Determination and Education Act.~~

- ~~An individual certified by the U.S. Department of Human Services (HHS) Office of Refugee Resettlement pursuant to Section 107(b.) of the Victims of Trafficking and Violence Protection Act of 2000, as a victim of a severe form of trafficking.~~

- ~~Disability Assistance for any qualified non-citizen, subject to the five (5) year bar, who legally entered the U.S. on or after 8/22/96 and received disability related benefits for a condition that is a disability or is pending a disability determination in accordance with 42 USC Sub Section 1381.~~

- ~~Under provisions of Public Law 105-306, SSI benefits, and associated Title XIX Medical Assistance, were continued for "non-qualified" aliens who were lawfully residing in the U.S. and receiving SSI on 8/22/96.~~

~~B. QUALIFIED NON-CITIZENS ABOVE AGE NINETEEN (19) SUBJECT TO THE FIVE (5) YEAR BAN:~~

~~The following "qualified" non-citizens who are age nineteen (19) or above are subject to the five (5) year ban. They meet the immigration requirement and are potentially eligible for Title XIX benefits if they entered the U.S. prior to 8/22/96. When entering the U.S. on or after 8/22/96, they meet the immigration requirement for Title XIX Medical~~

Assistance only after the five (5) year ban described in Section 0304.05.15.05.

- o Lawful permanent residents (LPRs);

- o Non-citizens granted parole for at least one (1) year under 212(d)(5) of the Immigration and Nationality Act (INA);

- o Non-citizens granted conditional entry under 203(a)(7) of immigration law in effect before April 1, 1980.

Under provisions contained in Public Law 105-306, Title XIX Medical Assistance is also provided to certain SSI recipients who were lawfully residing in the U.S. and receiving SSI on 8/22/96.

C. QUALIFIED NON-CITIZEN CHILDREN UNDER AGE NINETEEN (19)Qualified Non-Citizen Children under age nineteen (19)

The following qualified non-citizen children are NOT subject to the five (5) year ban regardless of date of entry in the U.S.and are potentially eligible for Title XIX or XXI benefits., pending approval from the Centers for Medicaid and Medicare Services (CMS)

- o Lawful permanent residents (LPRs)

- o Non-citizens granted parole for at least one (1) year under 212(d)(5) of the Immigration and Nationality Act (INA);

- o Non-citizens granted conditional entry under 203(a)(7)of immigration law in effect before April 1, 1980.

- o Legal non-immigrants whose admission to the United States is not conditioned on having a permanent residence in a foreign country (such immigrants include citizens of the Compact of Free Association States who are considered permanent non-immigrants but does not include visitors for business or pleasure or students) as described in Section 0304.05.15.

In addition, the following categories of children under age nineteen (19) are eligible for Medical Assistance under Title XIX or XXI as authorized under the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) and as described in 8 CFR 103.12(a)(4)., pending approval from the Centers for Medicaid and Medicare Services (CMS)

- o Aliens currently in temporary resident status pursuant to Section 210 or 245A of the Immigration and Nationality Act (INA)Social Security Act

- o Aliens currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA Social Security Act

- o Cuban-Haitian entrants, as defined in section 202(b) P.ub. L. 99-603, as amended

- o Family Unity beneficiaries pursuant to section 301 of P.ub. L. 101-649, as amended, as well as pursuant to section 1504 of P.L.

106-554

- o Aliens currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President

- o Aliens currently in deferred action status pursuant to Service Operations Instructions at OI 242.1(a)(22)

- o Aliens who are the spouse or child of a United States citizen whose visa petition has been approved and who have a pending application for adjustment of status.

In addition, the following categories of non-immigrant children under age nineteen (19) are eligible for Medical Assistance under Title XIX or XXI as authorized under the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) and as specified in section 101(a)(15) of the Immigration and Nationality Act (INA).

- o Parents or children of individuals with special immigration status under section 101(a)(27) of the INA as permitted under section 101(a)(15)(N) of the INA

- o Fiancés of a citizen as permitted under section 101(a)(15)(K)of the INA

- o Religious workers under section 101(a)(15)(R)

- o Aliens who the Attorney General of the United States has determined are in possession of critical reliable information concerning a criminal or terrorist organization, enterprise or operation as permitted under section 101(a)(15)(S) of the INA

- o Aliens who are or have been victims of trafficking as permitted under section 101(a)(15)(T) of the INA

- o Individuals assisting the Department of Justice in a criminal investigation as permitted under section 101(a)(15)(U) of the INA

- o Battered aliens
- o Individuals with a petition pending for 3 years or more as permitted under section 101(a)(15)(V) of the INA

0304.05.15.05 Five Year Ban

REV: 04/2010~~10/2009~~

A. Unless exempt, qualified non-citizens who are age nineteen (19) or older, entering the U.S. on or after 8/22/96 are subject to a five (5) year bar during which they are ineligible for full Title XIX Medical Assistance.

B. The five (5) year period of ineligibility begins on the date the qualified non-citizen entered the U.S., or the date a previously unqualified non-citizen attained qualified non-citizen status.

1. To determine the five (5) year bar:

a. From USCIS Form I-94, the date of the qualified non-citizen's admission is the start of the five (5) year bar on Title XIX eligibility;
b. If the non-citizen presents a USCIS grant letter or court order, derive the date qualified non-citizen status was granted from the date of the letter or court order. This date starts the five (5) year bar.
c. If the non-citizen presents an employment authorization document, ask the individual to present Form I-94. If Form I-94 is not available, further contact with USCIS will be needed to ascertain the date status was granted. Obtain signed release or signed SAVE-1 before contacting USCIS.

2. Eligibility for Title XIX emergency services may be established during the five (5) year bar period.

3. Pregnant women who are ineligible for full Title XIX benefits due to the five (5) year bar, may establish eligibility for state-funded coverage. (See Sections 0305.05.45 and 0348.)

~~Unless exempt, qualified non-citizens who are age nineteen (19) or older, entering the U.S. on or after 8/22/96 are subject to a five (5) year ban during which they are ineligible for full Title XIX Medical Assistance.~~

~~Qualified non-citizens subject to the five (5) year ban are ineligible for Title XIX Medical Assistance (except for emergency services) for a period of five (5) years. The five (5) year period of ineligibility begins on the date the qualified non-citizen entered the U.S., or the date a previously unqualified non-citizen attained qualified non-citizen status.~~

~~To determine the five (5) year ban:~~

- ~~From USCIS Form I-94, the date of the qualified non non-citizen's admission is the start of the five (5) year ban on Title XIX eligibility;~~

- ~~If the non-citizen presents a USCIS grant letter or court order, derive the date qualified non-citizen status was granted from the date of the letter or court order. This date starts the five (5) year ban.~~

- ~~If the non-citizen presents an employment authorization document, ask the individual to present Form I-94. If Form I-94 is not available, further contact with USCIS will be needed to ascertain the date status was granted. Obtain signed release or signed SAVE-1 before contacting USCIS.~~

~~Note: Eligibility for Title XIX emergency services may be established during the five (5) year ban period.~~

~~Pregnant women who are ineligible for full Title XIX benefits due to the five (5)year ban, may establish eligibility for state-funded coverage. (See Sections 0305.05.45 and 0348.)~~

~~EXAMPLES:~~

1. Mr. W, age 67, was admitted to the U.S. as an LPR on August 29, 2006. He is ineligible for full Title XIX benefits for a period of five (5) years, beginning August 29, 2006.

2. Mr. W, age 67, was admitted to the U.S. as a refugee on August 29, 2004. On January 1, 2006 his status was adjusted to LPR. As a refugee Mr. W was exempt from the five (5) year ban and potentially eligible for MA regardless of his date of entry into the U.S. He retains that exemption for a period of five (5) years even though his status has been adjusted to that of LPR. Mr. W is not subject to the five (5) year ban and is potentially eligible for full Title XIX benefits.

3. Mrs. P entered the U.S. on 7/15/96 with Temporary Protected Status. She adjusted to LPR status on 9/15/98. Since she entered the U.S. prior to 8/22/96, she is not subject to the five(5) year ban imposed on LPRs. She is potentially eligible for Title XIX MA on 9/15/98.

0304.05.20 Eligibility as an Amerasian

REV: 01/2007

Amerasians born in Vietnam between January 1, 1962 and January 1, 1976 and residing in Vietnam as of December 1987 who were fathered by an identified U.S. citizen may be granted immigrant visas and may have a claim to U.S. citizenship under Section 301(g) of the Immigration and Nationality Act, as made applicable by Section 309(a) (amended November 14, 1986). These individuals meet the Title XIX immigration status requirement regardless of date of entry into the U.S.

0304.05.20.05 Verification of Amerasian Status

REV: 04/2010~~01/2007~~

A. Verification of Amerasian immigrant status includes:

1. Unexpired temporary I-551 stamp in a foreign passport or on USCIS Form I-94 with code AMI, AM2 or AM3i or

2. USCIS Form 551 annotated with code AM6, AM7 or AM8.~~Verification of Amerasian immigrant status includes:~~

~~o Unexpired temporary I-551 stamp in a foreign passport or on USCIS Form I-94 with code AMI, AM2 or AM3i or~~

~~o USCIS Form 551 annotated with code AM6, AM7 or AM8.~~

0304.05.21 Eligibility as a Lawful Permanent Resident (LPR)

REV: 04/2010~~10/2009~~

A. A lawful permanent resident (LPR) is one who was lawfully admitted for permanent residence in accordance with the immigration laws.

1. LPRs who entered the U.S. prior to 8/22/96 meet the immigration status requirement for Medical Assistance and are not subject to

the deeming of income and/or resources from their sponsor(s).

2. LPRs who entered the U.S. on or after 8/22/96 (except honorably discharged veterans, members of the U.S. Armed Forces, their spouses and unmarried dependent children) are ineligible for Title XIX Medical Assistance benefits (except for emergency services) for five (5) years from their date of entry. Non-citizens who entered the U.S. with a non-qualified immigration status (or no immigration status) but who later adjust to an LPR status are ineligible for five (5) years from the date LPR status was granted.

3. Eligibility for refugees, asylees, Amerasians, and individuals whose deportation has been withheld under Section 243(h) of INA whose status is subsequently adjusted to LPR is determined under the original status. That is, they are not subject to the five (5)year bar.

B. Otherwise eligible pregnant women may receive state funded Rite Care or Rite Share benefits during the five (5) year bar. Otherwise eligible lawfully residing children under the age of nineteen (19) may receive Medical Assistance coverage under Title XIX or Title XXI and are not subject to the five (5) year bar.

~~A lawful permanent resident (LPR) is one who was lawfully admitted for permanent residence in accordance with the immigration laws.~~

~~LPRs who entered the U.S. prior to 8/22/96 meet the immigration status requirement for Medical Assistance and are not subject to the deeming of income and/or resources from their sponsor(s).~~

~~LPRs who entered the U.S. on or after 8/22/96 (except honorably discharged veterans, members of the U.S. Armed Forces, their spouses and unmarried dependent children) are ineligible for Title XIX Medical Assistance benefits (except for emergency services) for five (5) years from their date of entry. Non-citizens who entered the U.S. with a non-qualified immigration status (or no immigration status) but who later adjust to an LPR status are ineligible for five (5) years from the date LPR status was granted.~~

~~Example: John entered the U.S. on September 20, 1996 and was granted Temporary Protected Status. On March 20, 1997, he was granted LPR status. If otherwise eligible, he qualifies for Title XIX MA beginning March 20, 2002, five (5) years from the date LPR status was granted.~~

~~Eligibility for refugees, asylees, Amerasians, and individuals whose deportation has been withheld under Section 243(h) of INA whose status is subsequently adjusted to LPR is determined under the original status. for five (5) years from their date of entry in the U.S. That is, they are not subject to the five (5)year ban.~~

~~Example: Sally entered the U.S. with refugee status on August 30, 1996. On January 1, 2000, her status was adjusted to LPR. For purposes of determining eligibility for MA, she is treated as a refugee for five (5) years from her date of entry. As such, she is not subject to~~

~~the five(5) year ban; and if otherwise eligible, qualifies for Title XIX MA from date of entry.~~

~~Otherwise eligible pregnant women may receive state funded Rite Care or Rite Share benefits during the five (5) year ban. Pending approval from the Centers for Medicaid and Medicare Services (CMS), oOtherwise eligible lawfully residing children under the age of nineteen (19) may receive Medical Assistance coverage RIte Care or RIte Share benefits under Title XIXXXI or Title XXIXIX and are not subject to the five (5) year ban.~~

~~SPONSOR DEEMING~~

~~Lawful permanent residents, sponsored by an individual or individuals, entering the U.S. on or after 12/19/97 under the new, legally binding affidavit of support (I-864), must, as a condition of eligibility for MA, provide information and documentation from their sponsor(s) in support of their immigration application and are subject to the deeming of the sponsor's income and resources in the determination of eligibility for MA. Deeming provisions apply only to LPRs sponsored by individuals (family based and some employment based immigrants) applying for Title XIX or State Funded Medical Assistance. Deeming provisions do not apply to dependent children of the sponsor or of the sponsor's spouse, to immigrants sponsored by organizations, or with regard to eligibility for emergency services. (See Section 0304.05.90 for a more detailed discussion on deeming.)~~

0304.05.21.05 Verification of LPR Status

REV: 04/2010~~01/2007~~

A. Any of the following USCIS forms may be used as evidence to determine whether an alien is lawfully admitted for permanent residence:
   1. For recent arrivals, a temporary I-551 stamp in a foreign passport or on USCIS Form I-94;
   2. Form I-551, Resident Alien Card. This is the current document given to a lawful permanent resident non-citizen and is valid indefinitely. It is commonly referred to as a "green card";
   3. Unexpired Re-entry Permit (Form I-327). This document is issued to lawful permanent residents before leaving the U.S. for a one (1) to two (2) year period; or
   4. Forms AR-3 and AR-3a, Alien Registration Receipt Card. This document was issued between 1941 and 1949 and pertains to lawful permanent resident status. If an applicant presents an expired USCIS document or is unable to present any document demonstrating immigration status, refer the person to the Providence USCIS office to obtain evidence of status unless he or she can provide an alien registration number. If the applicant provides an alien registration number, request permission to send USCIS Form G-845 along with the alien registration number to USCIS, to verify status. The application may be held in a pending status for up to thirty (30) days awaiting verification of status.

~~Any of the following USCIS forms may be used as evidence to determine whether an alien is lawfully admitted for permanent residence:~~

~~o For recent arrivals, a temporary I-551 stamp in a foreign~~

~~passport or on USCIS Form I-94;~~

~~o Form I-551, Resident Alien Card. This is the current document given to a lawful permanent resident non-citizen and is valid indefinitely. It is commonly referred to as a "green card";~~

~~o Unexpired Re-entry Permit (Form I-327). This document is issued to lawful permanent residents before leaving the U.S. for a one (1) to two (2) year period; or~~

~~o Forms AR-3 and AR-3a, Alien Registration Receipt Card. This document was issued between 1941 and 1949 and pertains to lawful permanent resident status. If an applicant presents an expired USCIS document or is unable to present any document demonstrating immigration status, refer the person to the Providence USCIS office to obtain evidence of status unless he or she can provide an alien registration number. If the applicant provides an alien registration number, request permission to send USCIS Form G-845 along with the alien registration number to USCIS, to verify status. The application may be held in a pending status for up to thirty (30) days awaiting verification of status.~~

0304.05.25 Eligibility as an Amer Indian Born Outside the US

REV: 04/2010~~01/2007~~

A. Certain American Indians born outside of the U.S. meet the immigration requirement for Title XIX benefits regardless of date of entry into the U.S. To qualify under this category the American Indian must be:
   1. Born outside of the U.S. in Canada with at least fifty percent (50%) American Indian blood. (This category does not include the non-citizen spouse or dependent child of such Indians, unless such person is at least fifty percent (50%) or more American Indian Blood.) OR
   2. A member of a federally recognized tribe as defined in Section 4(e) of the Indian Self-Determination and Education Assistance Act.

~~Certain American Indians born outside of the U.S. meet the immigration requirement for Title XIX benefits regardless of date of entry into the U.S. To qualify under this category the American Indian must be:~~

~~o Born outside of the U.S. in Canada with at least fifty percent (50%) American Indian blood. (This category does not include the non-citizen spouse or dependent child of such Indians, unless such person is at least fifty percent (50%) or more American Indian Blood.) OR~~

~~o A member of a federally recognized tribe as defined in Section 4(e) of the Indian Self-Determination and Education Assistance Act.~~

0304.05.25.05 Verification of Status as American Indian Born Outside the US

REV: 04/2010~~01/2007~~

A. Verification of American Indian Status includes:

1. Birth or baptismal certificate issued on a reservation;
2. Tribal records;
3. Letter from the Canadian Department of Indian Affairs; or
4. School records.

~~Verification of American Indian Status includes:~~

~~o Birth or baptismal certificate issued on a reservation;~~

~~o Tribal records;~~

~~o Letter from the Canadian Department of Indian Affairs; or~~

~~o School records.~~

0304.05.30 Eligibility as a Conditional Entrant

REV: 04/2010~~10/2~~

A. Conditional entrants are generally granted conditional entry into the U.S. because of a fear of persecution in their home country due to race, religion, political opinion, or because of a natural disaster.

1. An individual who entered the U.S. prior to 8/22/96 and was granted conditional entry under the immigration law in effect before April 1, 1980 meets the immigration status requirement for Title XIX Medical Assistance.

2. A conditional entrant entering the U.S. on or after 8/22/96 is subject to a five (5) year bar on receiving Title XIX Medical Assistance (except for emergency services), in the same manner as an LPR. After the five (5) year bar, the individual, who entered the U.S. on or after 8/22/96 and was granted conditional entry under the immigration law in effect before April 1, 1980, may receive Title XIX benefits if otherwise eligible.

B. State funded RIte Care or RIte Share benefits are available to otherwise eligible pregnant women in this category who are ineligible for Title XIX benefits due to the five year bar. Otherwise eligible Conditional Entrant children under the age of nineteen (19) may receive RIte Care or RIte Share benefits under Title XIX or Title XXI and are not subject to the five (5) year bar.

~~Conditional entrants are generally granted conditional entry into the U.S. because of a fear of persecution in their home country due to race, religion, political opinion, or because of a natural disaster.~~

~~An individual who entered the U.S. prior to 8/22/96 and was granted conditional entry under the immigration law in effect before April 1, 1980 meets the immigration status requirement for Title XIX Medical Assistance.~~

~~A conditional entrant entering the U.S. on or after 8/22/96 is subject to a five (5) year ban on receiving Title XIX Medical Assistance (except for emergency services), in the same manner as an LPR. After the five (5) year ban, the individual, who entered the U.S. on or after 8/22/96 and was granted conditional entry under the immigration law in~~

~~effect before April 1, 1980, may receive Title XIX benefits if otherwise eligible.~~

~~State funded RIte Care or RIte Share benefits are available to otherwise eligible pregnant women in this category who are ineligible for Title XIX benefits due to the five year ban. Pending approval from the Centers for Medicaid and Medicare Services (CMS), oOtherwise eligible Conditional Entrant children under the age of nineteen (19) may receive RIte Care or RIte Share benefits under Title XIX or Title XXI and are not subject to the five (5) year ban.~~

0304.05.30.05 Verification of Conditional Entry

REV: 04/2010~~01/2007~~

A. Acceptable verification of conditional entrant status includes:
   1. USCIS Form I-94 with stamp showing admission under 203(a)(7) of the INA, refugee-conditional entry;
   2. USCIS Form I-688B (or USCIS employment authorization card) annotated "274a.12(a)(3); or
   3. USCIS Form I-766 annotated A3.

~~Acceptable verification of conditional entrant status includes:~~

~~o USCIS Form I-94 with stamp showing admission under 203(a)(7) of the INA, refugee-conditional entry;~~

~~o USCIS Form I-688B (or USCIS employment authorization card) annotated "274a.12(a)(3); or~~

~~o USCIS Form I-766 annotated A3.~~

0304.05.35 Eligibility as a Battered Non-Citizen

REV: 04/2010~~01/2007~~

A. A battered non-citizen is one who meets the following four (4) requirements:

   1. USCIS has granted a petition on behalf of the battered non-citizen, the non-citizen's child, or the non-citizen child's parent; or has found that a pending petition sets forth a prima facie case under Section 204(a)(1)(A) or 244(a)(3) of the INA

   2. The non-citizen, the non-citizen's child or the non-citizen child's parent has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the non-citizen, or by a member of the spouse or parent's family residing in the same household as the non-citizen, if the spouse consents to or acquiesces in the abuse and, in the case of the non-citizen's child, the non-citizen did not actively participate in the abuse

   3. The Department determines, based on guidance issued by the U.S. Attorney General, that there is a substantial connection between the abuse and the need for Medical Assistance

   4. The battered non-citizen, child or parent no longer resides with the abuser

B. Such individuals meet the immigration requirement for Title XIX Medical Assistance regardless of date of entry into the U.S.

C. Battered LPRs are exempt from the sponsor deeming requirements in certain circumstances. See Section 0304.05.90 for information about deeming.

~~A battered non-citizen is one who meets the following four (4) requirements:~~

~~o USCIS has granted a petition on behalf of the battered non-citizen, the non-citizen's child, or the non-citizen child's parent; or has found that a pending petition sets forth a prima facie case under Section 204(a)(1)(A) or 244(a)(3) of the INA ; and~~

~~o The non-citizen, the non-citizen's child or the non-citizen child's parent has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the non-citizen, or by a member of the spouse or parent's family residing in the same household as the non-citizen, if the spouse consents to or acquiesces in the abuse and, in the case of the non-citizen's child, the non-citizen did not actively participate in the abuse; and~~

~~o The Department determines, based on guidance issued by the U.S. Attorney General, that there is a substantial connection between the abuse and the need for Medical Assistance; and~~

~~o The battered non-citizen, child or parent no longer resides with the abuser.~~

~~Such individuals meet the immigration requirement for Title XIX Medical Assistance regardless of date of entry into the U.S.~~

~~Note: Battered LPRs are exempt from the sponsor deeming requirements in certain circumstances. See Section 0304.05.90 for information about deeming.~~

0304.05.35.05 Verification - Battered Immigrant

REV: 04/2010~~01/2007~~

A. Anyone of the following documents are acceptable as verification of battered non-citizen status:

1. For lawful permanent residents who are victims of domestic violence - IRS form I551 or I551B coded IB1 through IB3, IB6 through IB8, B11, B12, B16, B17, B20 through B29, B31 through B33, B36 through B38, BX1 through BX3, BX6, BX7 or BX 8.

2. For victims of domestic violence petitioning for legal status who are considered as "qualified aliens" under PROWORA - IRS Form 797 showing an approved 1-360 or 1-13 self petitioning as a spouse or child of a U.S. citizen or lawful permanent resident; OR USCIS Form 797 showing a Notice of Prima Facie Determination.

~~Anyone of the following documents are acceptable as verification of battered non-citizen status:~~

~~o For lawful permanent residents who are victims of domestic violence - IRS form I551 or I551B coded IB1 through IB3, IB6 through IB8, B11, B12, B16, B17, B20 through B29, B31 through B33, B36 through B38, BX1 through BX3, BX6, BX7 or BX 8.~~

~~o For victims of domestic violence petitioning for legal status who are considered as "qualified aliens" under PROWORA - IRS Form 797 showing an approved 1-360 or 1-13 self petitioning as a spouse or child of a U.S. citizen or lawful permanent resident; OR USCIS Form 797 showing a Notice of Prima Facie Determination.~~

0304.05.45 State-Funded Coverage Group Defined

REV: 04/2010~~10/2009~~

A. The state-funded alien group is comprised of lawfully residing non-citizens who do not meet the citizenship/alienage criteria under Title XIX or XXI. This group includes:

1. Persons with a pending application for political asylum or withholding of deportation who have employment authorization or if under age fourteen (14) have an application pending for at least one hundred eighty (180) days;

2. Deportable non-citizens residing in the U.S. pursuant to an indefinite stay of deportation;

3. Non-citizens granted suspense of deportation pursuant to Section 244 of the INA (8 USC 1254) whose departure the USCIS does not contemplate enforcing;

4. Non-Citizens residing in the U.S. pursuant to an Order of Supervision;

5. Non-citizens residing in the U.S. prior to January 1, 1972;

6. Western Hemisphere non-citizens, who applied for a residency visa between July 1, 1968 and December 31, 1976 but entered the U.S. before their visa was granted and whose last entry was before March 11, 1977, allowed to remain in the U.S. until further notice under a temporary restraining order granted in the U.S. District Court, Northern District, Illinois (Silva v. Levi);

7. Lawful Temporary Residents (under the Immigration Reform and Control Act of 1986)

8. RIGL 40-8-1 provides the legal authority to extend State-funded Medical Assistance to pregnant women

~~The state-funded alien group is comprised of lawfully residing non-citizens who do not meet the citizenship/alienage criteria under Title XIX or XXI.~~

~~This group includes:~~

- ~~Persons with a pending application for political asylum or withholding of deportation who have employment authorization or if under age fourteen (14) have an application pending for at least one hundred eighty (180) days;~~

- ~~Deportable non-citizens residing in the U.S. pursuant to an indefinite stay of deportation;~~

- ~~Non-citizens granted suspense of deportation pursuant to Section 244 of the INA (8 USC 1254) whose departure the USCIS does not contemplate enforcing;~~

- ~~Non-Citizens residing in the U.S. pursuant to an Order of Supervision;~~

- ~~Non-citizens residing in the U.S. prior to January 1, 1972;~~

- ~~Western Hemisphere non-citizens, who applied for a residency visa between July 1, 1968 and December 31, 1976 but entered the U.S. before their visa was granted and whose last entry was before March 11, 1977, allowed to remain in the U.S. until further notice under a temporary restraining order granted in the U.S. District Court, Northern District, Illinois (Silva v. Levi);~~

- ~~Lawful Temporary Residents (under the Immigration Reform and Control Act of 1986);~~

- ~~Other non-citizens who are permitted to remain in the U.S. for humanitarian or other public policy reasons including:~~

  - ~~Non-citizens in Temporary Protected Status;~~
  - ~~Family Unity Beneficiaries;~~
  - ~~Non-citizens granted Deferred Action Status;~~
  - ~~Non-citizens under Deferred Enforced Departure; and~~
  - ~~Non-citizens who are the spouses or children of citizens with approved visa petitions pending adjustment of status applications.~~
  - ~~Pregnant women possessing a "qualified" non-citizen immigration status as defined in Section 0304.05.15, who are ineligible for Title XIX benefits due to the five (5) year ban. (Subject to sponsor deeming of income and resource provisions for LPRs sponsored by an individual or individuals under the new legally binding affidavit of support on or after 12/19/97.)~~
  - ~~Pending approval from the Centers for Medicaid and Medicare Services (CMS),children under the age of nineteen (19) possessing a qualified" non-citizen immigration status as defined in Section 0304.05.15 may be eligible for Title XIX or Title XXI benefits and are not subject to the five (5) year ban. (Subject to sponsor deeming of income and resource provisions for LPRs sponsored by an individual or individuals under the new legally binding affidavit of support on or after 12/19/97.)~~

0304.05.45.05 Eligibility as a State Funded Non-Citizen

REV: 04/2010

A. RIGL 40-8-1 and 42-12.3-3 provide the legal authority for state-funded Medical Assistance for non-citizens.

B. Members of the state-funded non-citizen group may establish eligibility for State-funded MA under SSI-related, family-related, or RIte Care rules.

C. Otherwise eligible persons must possess a lawfully residing immigration status (See 0304.05.45) AND show that they were:

1. lawfully residing in the U.S. prior to 8/22/96; and,

2. a RI resident prior to 7/1/97.

~~R.I.G.L. 40-8-1 and 42-12.3-3 provide the legal authority for state-funded Medical Assistance for non-citizens.~~

~~Members of the state-funded non-citizen group may establish eligibility for State-funded MA under SSI-related, family-related, or RIte Care rules.~~

~~Otherwise eligible persons must possess a lawfully residing immigration status (See 0304.05.45) AND show that they were:~~

~~(1) lawfully residing in the U.S. prior to 8/22/96; and,~~

~~(2) a RI resident prior to 7/1/97.~~

~~Pregnant women who do not qualify for Title XIX due to immigration status requirements may establish eligibility for state-funded MA (RIte Care or RIte Share) under RIte Care provisions contained in Section 0348. This includes pregnant women who are undocumented.~~

0304.05.45.10 Verification of Lawfully Residing Status

REV: 04/2010~~01/2007~~

A. Documents which may be used to verify alien status include:

1. In general,
   a. USCIS Form I-94 with date of admission and annotated with unexpired status as listed in Section 0304.05.45.05;
   b. Dated USCIS letter or court order indicating a lawfully residing status listed in Section 0304.05.45.05; and/or
   c. An unexpired USCIS employment authorization document (I-688-B) annotated with status code.

2. More specifically,
   a. Applicants for asylum: I-94, I-589 on file, I-688B coded 274a.12(c)(8).
   b. Applicants for suspension of deportation: I-94, I-256A on file, I-688B coded 274a.12(c)(10);
   c. Non-citizens granted stays of deportation by court order statute or regulation or by individual determination of USCIS whose departure the USCIS does not contemplate enforcing: letter or Granted a stay of deportation, I-688B coded 274.12(c)(12);

d. Non-citizens granted suspension of deportation pursuant to Section 244 of INA (8 USC 1254) whose departure the USCIS does not contemplate enforcing: letter/order from the immigration judge and a Form I-94 showing suspension of deportation granted;
e. Non-citizens residing in the U.S. pursuant to an Order of Supervision: USCIS Form I-220B, I-688B coded 274a.12(c)(18);
f. Temporary Protected Status: I-94 "Temporary Protected Status" and/or I-688B employment authorization coded 274a.12(a)(12);
g. Deferred Enforced Departure: Letter from USCIS; I-688B coded 274a.12(a)(11);
h. Family Unity: USCIS approval notice, I-797, and/or I-688B coded 274a.13;
i. Non-citizens granted deferred action status: Letter indicating that the non-citizen's departure has been deferred and/or I-688B coded 274a.12(c)(14).
j. Non-citizens who have filed applications for adjustment of status whose departure the USCIS does not contemplate enforcing: Form I-94 or I-181 or passport stamped with either of the following : "adjustment application" or "employment authorized during status as adjustment applicant"; and/or I-688B coded 274a.12(c)(9).

3. To determine if the applicant was lawfully residing in the U.S. prior to 8/22/96 use the following:
   a. Form I-94, date of admission;
   b. If an applicant presents an USCIS grant letter or court order, derive date status was granted from the date of the letter or court order. If missing, contact USCIS to verify date of grant by filing Form G-845, attaching copy of document.
   c. If employment authorization documents are presented, ask for I-94 or other USCIS documentation showing effective date of status. If not available contact USCIS by submitting Form G-845, attaching a copy of the document presented.

4. Expired or absent documentation:
   a. If an applicant presents an expired USCIS document, a receipt indicating that s/he applied to USCIS for a replacement document, or is unable to present any document demonstrating his or her immigration status, further verification of current alien status must be obtained before eligibility can be established. The DHS worker offers to assist the applicant in obtaining the required documentation from USCIS. The applicant may decline this assistance, in which case eligibility is denied. Otherwise, the worker completes and files USCIS Form G-845 (secondary verification) along with the alien registration number, a copy of the expired document and a copy of photo I.D. (if available) with the USCIS office to verify status.
   b. Pregnant women may qualify for Medical Assistance under the RIte Care waiver even when undocumented.

~~Documents which may be used to verify alien status include:~~

~~In general,~~

~~o USCIS Form I-94 with date of admission and annotated with unexpired status as listed in Section 0304.05.45.05;~~

- ~~o Dated USCIS letter or court order indicating a lawfully residing status listed in Section 0304.05.45.05; and/or~~

- ~~o An unexpired USCIS employment authorization document (I-688-B) annotated with status code.~~

~~More specifically,~~

- ~~o Applicants for asylum: I-94, I-589 on file, I-688B coded 274a.12(c)(8).~~

- ~~o Applicants for suspension of deportation: I-94, I-256A on file, I-688B coded 274a.12(c)(10);~~
- ~~o Non-citizens granted stays of deportation by court order statute or regulation or by individual determination of USCIS whose departure the USCIS does not contemplate enforcing: letter or Granted a stay of deportation, I-688B coded 274.12(c)(12);~~

- ~~o Non-citizens granted suspension of deportation pursuant to Section 244 of INA (8 USC 1254) whose departure the USCIS does not contemplate enforcing: letter/order from the immigration judge and a Form I-94 showing suspension of deportation granted;~~

- ~~o Non-citizens residing in the U.S. pursuant to an Order of Supervision: USCIS Form I-220B, I-688B coded 274a.12(c)(18);~~

- ~~o Temporary Protected Status: I-94 "Temporary Protected Status" and/or I-688B employment authorization coded 274a.12(a)(12);~~

- ~~o Deferred Enforced Departure: Letter from USCIS; I-688B coded 274a.12(a)(11);~~

- ~~o Family Unity: USCIS approval notice, I-797, and/or I-688B coded 274a.13;~~

- ~~o Non-citizens granted deferred action status: Letter indicating that the non-citizen's departure has been deferred and/or I-688B coded 274a.12(c)(14).~~

- ~~o Non-citizens who have filed applications for adjustment of status whose departure the USCIS does not contemplate enforcing: Form I-94 or I-181 or passport stamped with either of the following : "adjustment application" or "employment authorized during status as adjustment applicant"; and/or I-688B coded 274a.12(c)(9).~~

~~To determine if the applicant was lawfully residing in the U.S. prior to 8/22/96 use the following:~~

- ~~o Form I-94, date of admission;~~

- ~~o If an applicant presents an USCIS grant letter or court order, derive date status was granted from the date of the letter or court order. If missing, contact USCIS to verify date of grant by filing Form G-845, attaching copy of document.~~

- ~~o If employment authorization documents are presented, ask for I-94~~

~~or other USCIS documentation showing effective date of status. If not available contact USCIS by submitting Form G-845, attaching a copy of the document presented.~~

~~Expired or absent documentation:~~

~~If an applicant presents an expired USCIS document, a receipt indicating that s/he applied to USCIS for a replacement document, or is unable to present any document demonstrating his or her immigration status, further verification of current alien status must be obtained before eligibility can be established. The DHS worker offers to assist the applicant in obtaining the required documentation from USCIS. The applicant may decline this assistance, in which case eligibility is denied. Otherwise, the worker completes and files USCIS Form G-845 (secondary verification) along with the alien registration number, a copy of the expired document and a copy of photo I.D. (if available) with the USCIS office to verify status.~~

~~Note: Pregnant women may qualify for Medical Assistance under the RIte Care waiver even when undocumented.~~

0304.05.45.15 Documentation of RI Residency Before 7/1/97

REV: 04/2010~~01/2007~~

A. Anyone of the following documents which are dated prior to 7/1/97 and contain the applicant's address at that time will meet the verification requirement:
   1. Utility/telephone bills;
   2. Rent receipt, lease, mortgage bill/receipt;
   3. Tax receipts or tax records;
   4. Insurance policy or insurance records;
   5. Employment records/pay stubs;
   6. USCIS documents;
   7. Court records;
   8. State agency records;
   9. Medical dental records;
   10. State-issued I.D. or license (drivers, professional, or recreational) showing issuance date;
   11. School records; and
   12. Other legal document; such as marriage license, will, etc.

B. Also acceptable as verification are contemporary documents attesting to the alien's residency prior to 7/1/97 signed by an authorized person. (Two collateral sources are necessary to meet verification requirement.)
   1. Employer letter on company letterhead;
   2. Agency (government or private) letter on agency letterhead;
   3. Doctor/health care provider on appropriate letterhead;
   4. Religious institution letter from authorized person;
   5. Third party affidavit attesting to alien's residency prior to 7/1/97 and the basis for that knowledge.

C. Verification of RI residence at any time prior to 7/1/97 is sufficient; residence in RI need not be continuous.

~~Anyone of the following documents which are dated prior to 7/1/97 and contain the applicant's address at that time will meet the verification requirement:~~

~~o Utility/telephone bills;~~
~~o Rent receipt, lease, mortgage bill/receipt;~~
~~o Tax receipts or tax records;~~
~~o Insurance policy or insurance records;~~
~~o Employment records/pay stubs;~~
~~o USCIS documents;~~
~~o Court records;~~
~~o State agency records;~~
~~o Medical dental records;~~
~~o State-issued I.D. or license (drivers, professional, or recreational) showing issuance date;~~
~~o School records; and~~
~~o Other legal document; such as marriage license, will, etc.~~

~~Also acceptable as verification are contemporary documents attesting to the alien's residency prior to 7/1/97 signed by an authorized person. (Two collateral sources are necessary to meet verification requirement.) For example:~~

~~o Employer letter on company letterhead;~~
~~o Agency (government or private) letter on agency letterhead;~~
~~o Doctor/health care provider on appropriate letterhead;~~
~~o Religious institution letter from authorized person;~~
~~o Third party affidavit attesting to alien's residency prior to 7/1/97 and the basis for that knowledge.~~

~~Verification of RI residence at any time prior to 7/1/97 is sufficient; residence in RI need not be continuous.~~

0304.05.50 Eligibility as a Refugee

REV: 04/2010~~01/2007~~

A. Under Section 207 of the INA, refugees are granted permission to enter and reside in the U.S. due to a well-founded fear of persecution in their home countries. Individuals apply for refugee status prior to entering the U.S. Refugees can apply for a status adjustment to LPR after one (1) year.

B. Refugees meet the immigration status requirement for Title XIX MA regardless of date of entry into the U.S. Individuals who enter the U.S. as a refugee are not subject to the five (5) year bar~~n~~ on Title XIX eligibility, even if immigration status is subsequently adjusted to LPR.

0304.05.50.05 Verification of Refugee Status

REV: 04/2010~~01/2007~~

A. Verification of refugee status includes:

1. USCIS Form I-94 annotated with stamp showing entry as a refugee under Section 207 of the INA and date of entry;

2. USCIS Form I-688B (or USCIS Employment Authorization Card) annotated 274a.12(a)(3);

3. USCIS Form I-766 annotated A3;

4. USCIS Form I-571;

5. USCIS Form 551 (Resident Alien Card) coded RE-6, RE-7, RE-8, or RE-9.

~~Verification of refugee status includes:~~

~~o USCIS Form I-94 annotated with stamp showing entry as a refugee under Section 207 of the INA and date of entry;~~

~~o USCIS Form I-688B (or USCIS Employment Authorization Card) annotated 274a.12(a)(3);~~

~~o USCIS Form I-766 annotated A3;~~

~~o USCIS Form I-571;~~

~~o USCIS Form 551 (Resident Alien Card) coded RE-6, RE-7, RE-8, or RE-9.~~

0304.05.55 Eligibility as an Asylee

REV: 01/2007

Individuals already in the U.S. who have a well founded fear of persecution in their home countries may apply for asylum. A person granted asylum under Section 208 of the INA meets the immigration requirements for Title XIX MA regardless of date of entry in to the U.S.

0304.05.55.05 Verification of Asylee Status

REV: 04/2010~~01/2007~~

A. Anyone of the following unexpired forms is acceptable verification of asylee status:

1. USCIS Form I-94 annotated with stamp showing a grant of asylum;

2. Grant letter from the Asylum Office of the USCIS;

3. USCIS Form I-688B annotated with 274a.12.(a)(S);

4. USCIS Form I-766 annotated AS; or

5. Order from Immigration Judge granting asylum.

~~Anyone of the following unexpired forms is acceptable verification of asylee status:~~

~~o USCIS Form I-94 annotated with stamp showing a grant of asylum;~~

~~o Grant letter from the Asylum Office of the USCIS;~~

~~o USCIS Form I-688B annotated with 274a.12.(a)(S);~~

~~o USCIS Form I-766 annotated AS; or~~

~~o Order from Immigration Judge granting asylum.~~

0304.05.60 Eligibility as Deportation Withheld

REV: 01/2007

An individual whose deportation is withheld under Section 243(h) of the INA meets the immigration status requirement for Title XIX benefits regardless of date of entry into the U.S. The USCIS withholds deportation of these individuals because of a threat to life or freedom in the person's home country.

0304.05.60.05 Verification of Deportation Withheld

REV: 04/2010~~01/2007~~

A. Verification of deportation withheld includes any of the following unexpired documents:

1. Order from an Immigration Judge showing the date of a grant of deportation withheld under Section 243(h) of the INA;

2. USCIS Form I-688B (or USCIS employment authorization card) annotated 274a.12(a)(10); or

3. USCIS Form I-766 annotated A10.

~~Verification of deportation withheld includes any of the following unexpired documents:~~

~~o Order from an Immigration Judge showing the date of a grant of deportation withheld under Section 243(h) of the INA;~~

~~o USCIS Form I-688B (or USCIS employment authorization card) annotated 274a.12(a)(10); or~~

~~o USCIS Form I-766 annotated A10.~~

0304.05.65 Eligibility as a Cuban/Haitian Entrant

REV: 01/2007

Certain immigrants from Cuba and Haiti are granted special status as Cuban or Haitian Entrants. A Cuban or Haitian entrant as defined in Section 50l(e) of the Refugee Education Assistance Act of 1980 meets the immigration status requirement for Title XIX Medical Assistance regardless of date of entry into the U.S.

0304.05.65.05 Verification of Cuban/Haitian Status

REV: 04/2010~~01/2007~~

A. Verification of Cuban/Haitian Entrant Status includes:

1. USCIS Form 551 with codes CU6, CU7, or CH6.

2. Unexpired temporary I-551 stamp in a foreign passport or USCIS Form I-94 with codes CU6 or CU7.

3. USCIS Form I-94 with stamp showing the individual paroled as a Cuban/Haitian Entrant under Section 212(d)(5) of the INA.

~~Verification of Cuban/Haitian Entrant Status includes:~~

~~o USCIS Form 551 with codes CU6, CU7, or CH6.~~

~~o Unexpired temporary I-551 stamp in a foreign passport or USCIS Form I-94 with codes CU6 or CU7.~~
~~o USCIS Form I-94 with stamp showing the individual paroled as a Cuban/Haitian Entrant under Section 212(d)(5) of the INA.~~

0304.05.70 Eligibility as a Member of US Armed Forces/Veteran

REV: 04/2010~~01/2007~~

A. Honorably discharged veterans and members of the U.S. Armed forces, their spouses and their unmarried dependent children meet the immigration status for Title XIX Medical Assistance regardless of date of entry into the U.S.

B. ~~Exception:~~ Veterans honorably discharged due to immigration status do not qualify under this category.

C. LPRs who are honorably discharged veterans, members of the U.S. Armed forces, or the spouse or unmarried dependent child of an honorably discharged veteran or member of the U.S. Armed Forces, are not subject to the five (5) year ban on Title XIX eligibility, but are subject to the deeming of income and/or resources from their sponsor(s) when entering the U.S. on or after 8/22/96 under the new affidavit of support. See Section 0304.05.90 for a detailed discussion on deeming.

0304.05.70.05 Verification of Veteran/US Armed Forces

REV: 04/2010~~01/2007~~

A. Verification of veteran/U.S. Armed Forces status includes:

1. Original or notarized copy of U.S. discharge certificate (DD Form 214) that shows CHARACTER OF SERVICE as "Honorable" and does not show in the NARRATIVE REASON FOR DISCHARGE entry, that the discharge was based on immigration or alien status, lack of U.S. citizenship, or other reasons related to "alienage."

2. Original or notarized copy of current orders showing full time duty in the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard; or

3. Current Military Identification Card.

B. Verification for spouse or unmarried dependent child includes:

1. Anyone of the above together with proof of relationship

(e.g., marriage certificate, birth certificate, baptismal certificate, or medical or school records).

~~Verification of veteran/U.S. Armed Forces status includes:~~

~~o Original or notarized copy of U.S. discharge certificate (DD Form 214) that shows CHARACTER OF SERVICE as "Honorable" and does not show in the NARRATIVE REASON FOR DISCHARGE entry, that the discharge was based on immigration or alien status, lack of U.S. citizenship, or other reasons related to "alienage."~~

~~o Original or notarized copy of current orders showing full time duty in the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard; or~~

~~o Current Military Identification Card.~~

~~Verification for spouse or unmarried dependent child includes:~~

~~o Anyone of the above together with proof of relationship (e.g., marriage certificate, birth certificate, baptismal certificate, or medical or school records).~~

0304.05.75 Eligibility as a Parolee

REV: 04/2010~~10/20~~

A. Individuals who have been paroled into the U.S. for at least one (1) year have authorization to remain in the U.S. at the discretion of the U.S. Attorney General. Generally, parole is granted for emergency reasons, such as to obtain medical care or for other reasons determined to be in the public interest.

1. Individuals paroled into the U.S. for at least one (1) year prior to 8/22/96 meet the immigration status for Title XIX Medical Assistance.

2. ~~Pending approval from the Centers for Medicaid and Medicare Services (CMS), p~~Parolees entering the U.S. on or after 8/22/96 are subject to the five (5) year ban on Title XIX eligibility and are ineligible for Title XIX benefits (with the exception of emergency services) for a period of five (5) years from their date of entry. After the five (5) year ban, they meet the Title XIX immigration status requirement, and if otherwise eligible, may receive benefits.

B. Parolees under the age of nineteen (19) who are otherwise eligible aliens lawfully residing in United States may be eligible for Medical Assistance under Title XIX or XXI and are not subject to the five (5) year ban.~~Pregnant women who do not qualify for Title XIX benefits due to the five (5) year ban may receive state funded RIte Care or RIte Share benefits, if otherwise eligible.~~

0304.05.75.05 Verification of Parolee Status

REV: 01/2007

An USCIS Form I-94 annotated with a stamp showing grant of parole under 212(d)(5) of the INA and a date showing granting of parole for at least one (1) year is acceptable verification of this status.

0304.05.80 Eligibility as an SSI Recipient

REV: 01/2007

Under provisions of Public Law 105-306, SSI benefits, and associated Title XIX Medical Assistance, were continued for "non-qualified" aliens who were lawfully residing in the U.S. and receiving SSI on 8/22/96.

0304.05.85 Eligibility as a Victim of Trafficking

REV: 04/2010~~01/2007~~

A. The Victims of Trafficking and Violence Protection Act of 2000 (PL 106-38) was enacted in October 2000 to combat, through increased law enforcement, the trafficking of human beings:

   1. To ensure effective punishment of traffickers,

   2. To protect victims, and

   3. To provide certain Federal and State assistance to victims.

B. An individual certified by the U.S. Department of Human Services (HHS) Office of Refugee Resettlement pursuant to Section 107(b) of the Victims of Trafficking and Violence Protection Act of 2000, as a victim of a severe form of trafficking meets the citizenship/immigration status requirement for Title XIX Medical Assistance. Individuals so certified may qualify for MA without regard to the victim's actual immigration status or date of entry into the U.S.

~~The Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-38) was enacted in October 2000 to combat, through increased law enforcement, the trafficking of human beings:~~

~~o To ensure effective punishment of traffickers,~~

~~o To protect victims, and~~

~~o To provide certain Federal and State assistance to victims.~~

~~An individual certified by the U.S. Department of Human Services (HHS) Office of Refugee Resettlement pursuant to Section 107(b) of the Victims of Trafficking and Violence Protection Act of 2000, as a victim of a severe form of trafficking meets the citizenship/immigration status requirement for Title XIX Medical Assistance. Individuals so certified may qualify for MA without regard to the victim's actual immigration status or date of entry into the U.S.~~

0304.05.85.05 Verification of Victim of Trafficking Status

REV: 04/2010~~01/2007~~

A. The HHS Office of Refugee Resettlement is responsible for

determining that an individual is a victim of a severe form of trafficking and, therefore, potentially eligible for MA.

1. ORS issues a certification letter to adults and a letter of benefit eligibility pursuant to Section 107(b) of the Trafficking Victims Protection Act of 2000 to children under eighteen (18) years of age.
   i. For adult, the ORS certification letter is proof of qualified non-citizen status.
   ii. For children under age eighteen (18), the ORS letter of benefit eligibility is proof of qualified non-citizen status.

0304.05.90 Sponsor Deeming

REV: 04/2010~~01/2007~~

A. Under deeming provisions, the income and resources of the sponsor(s) are counted as available and received, even if not in fact received, by the applicant. Income and resources of the sponsor(s) and of the sponsor's spouse (when living together) are counted when determining the income and resources of the non-citizen applicant.

   1. Deeming applies ONLY to Lawful permanent residents (LPR) who:
      a. Entered the U.S. or were granted LPR status on or after 12/19/97; and
      b. Were sponsored by an individual or individuals (family-based immigrants and some employment based immigrants whose employer is a family owned business); and
      c. Whose sponsors signed new, legally binding affidavits of support (USCIS form 1-864).

   2. Deeming continues until the individual:
      a. Attains U.S. citizenship; or
      b. Can be credited with forty (40) quarters of work as defined under Title II of the Social Security Act, provided that no credit is given for any quarter after 12/31/96 in which any federal means tested benefit was received. Immigrants may be credited with quarters from their own employment, their spouse's employment, and their parent's employment. Verification of qualifying quarters must be obtained from Social Security Administration records. A written statement, signed by the applicant under penalty of perjury, may be used as temporary verification of quarters worked while awaiting information requested from Social Security.

B. Deeming provisions may be waived for a period for one (1) year when sponsored immigrant can demonstrate that:

   1. They or their children have been battered or subjected to extreme cruelty while in the U.S. by certain persons who were living in the same household
      a. Documentation of abuse in the U.S. includes but is not limited to:
         i. an approved USCIS petition
         ii. restraining order
         iii. third party affidavit, signed affidavit from the

applicant, or school
iv. medical, public or private agency records.

2. The battery has a substantial connection to the need for Medical Assistance benefits
   a. to enable the immigrant or the immigrant's child to become self-sufficient following separation from the abuser;
   b. to enable the immigrant or immigrant's child to escape the abuser or the community where the abuser lives, or to ensure the safety of the immigrant or child from the abuser;
   c. due to a loss of income suffered as a result of separation from the abuser;
   d. because the immigrant or child is disabled as a result of the abuse;
   e. to provide medical care for pregnancy resulting from the abuser's sexual assault of, or relationship with the immigrant, the immigrant's child or to care for any resulting children; or
   f. to replace medical coverage or resources the immigrant or child had when living with the abuser.

C. A twelve month waiver can be renewed in the following situation:

1. if the immigrant demonstrates that the battery or cruelty has been recognized in the order of a judge or administrative law judge or a prior determination of the USCIS and the Department agrees that the need for MA benefits remains the same.

2. when the sponsored immigrant is determined by the department to be indigent, defined as unable to obtain food and shelter (taking into account the immigrant's income, plus any cash, food, housing or other assistance provided by the sponsor or another individual).
   a. In this case, only the income and resources actually provided by the sponsor or the sponsor's spouse are counted in the determination of MA eligibility.
   b. However, DHS must provide the Attorney General with the name of the sponsor and the sponsored immigrants receiving MA under this provision, and the sponsor has the obligation to reimburse the Department for any benefits paid, with the exception of payments made for emergency services.

D. Deeming provisions do not apply to eligibility determinations for emergency services.

E. The methodologies for determining the amount of income and resources deemed to the sponsored immigrant are described in Sections 0330 (family related income), 0366 (SSI related-income), 0388 (LTC-income), 0338 (family related resources), 0356 (SSI related resources), 0382 (LTC resources).
~~Under deeming provisions, the income and resources of the sponsor(s) are counted as available and received, even if not in fact received, by the applicant. Income and resources of the sponsor include those of the sponsor's spouse, when living together.~~

~~Qualified non-citizens who entered the U.S. prior to 12/19/97 are not subject to sponsor deeming provisions. Non citizens who entered the~~

~~U.S. on or after 12/19/97 are subject to deeming of income and resources from their sponsor(s) as follows:~~

~~1. Deeming applies only to LPRs:~~

~~o Who are sponsored by an individual or individuals. (This groups includes family based immigrants and some employment based immigrants whose employer is a family owned business. It does not include non-citizens who are sponsored by agencies or organizations.) AND~~

~~o Whose sponsors signed new, legally binding affidavits of support (USCIS form I-864).~~

~~2. Deeming provisions may be waived for a period for one (1) year in the following situations:~~

~~o When sponsored immigrant can demonstrate that:~~

~~a)they or their children have been battered or subjected to extreme cruelty while in the U.S. by certain persons who were living in the same household; and~~

~~b)the battery has a substantial connection to the need for Medical Assistance benefits; and~~

~~c)the immigrant no longer resides in the same household with the abuser.~~

~~Documentation of abuse in the U.S. includes but is not limited to: an approved USCIS petition, restraining order, third party affidavit, signed affidavit from the applicant, or school, medical, public or private agency records.~~

~~There is a substantial connection between battery suffered by the immigrant or the immigrant's child if Medical Assistance benefits are needed:~~

~~o to enable the immigrant or the immigrant's child to become self-sufficient following separation from the abuser;~~

~~o to enable the immigrant or immigrant's child to escape the abuser or the community where the abuser lives, or to ensure the safety of the immigrant or child from the abuser;~~

~~o due to a loss of income suffered as a result of separation from the abuser;~~

~~o because the immigrant or child is disabled as a result of the abuse;~~

~~o to provide medical care for pregnancy resulting from the abuser's sexual assault of, or relationship with the immigrant, the immigrant's child or to care for any resulting children; or~~

~~o to replace medical coverage or resources the immigrant or child had when living with the abuser.~~

~~This twelve month waiver can be renewed if the immigrant demonstrates that the battery or cruelty has been recognized in the order of a judge or administrative law judge or a prior determination of the USCIS and the Department agrees that the need for MA benefits remains the same.~~

~~o OR when the sponsored immigrant is determined by the department to be indigent, defined as unable to obtain food and shelter (taking into account the immigrant's income, plus any cash, food, housing or other assistance provided by the sponsor or another individual). In this case, only the income and resources actually provided by the sponsor or the sponsor's spouse are counted in the determination of MA eligibility. However, DHS must provide the Attorney General with the name of the sponsor and the sponsored immigrants receiving MA under this provision, and the sponsor has the obligation to reimburse the Department for any benefits paid, with the exception of payments made for emergency services.~~

~~This twelve (12) month waiver can be renewed if the Department determines that the immigrant continues to meet the above criteria.~~

~~o If a waiver is granted, only the income and resources actually provided to the applicant by the sponsor are considered in the determination of eligibility for MA.~~

~~3. Deeming provisions do not apply to eligibility determinations for emergency services only.~~

~~4. Deeming continues until the earlier of:~~

~~o Naturalization (i.e., the individual attains U.S. citizenship); or~~

~~o The qualified non-citizens being credited with forty (40) hours of work as defined under Title II of the Social Security Act, providing that no credit is given for any quarter after 12/31/96 in which any federal means tested benefit was received. Immigrants may be credited with quarters from their own employment, their spouse's employment, and their parent's employment. Verification of qualifying quarters must be obtained from Social Security Administration records. A written statement, signed by the applicant under penalty of perjury, may be used as temporary verification of quarters worked while awaiting information requested from Social Security.~~

~~5. The methodologies for determining the amount of income and resources deemed to the sponsored immigrant are described in Sections 0330 (family related income), 0366 (SSI related-income), 0388 (LTC-income), 0338 (family related resources), 0356 (SSI related resources), 0382 (LTC resources) .~~

0304.10 RESIDENCY REQUIREMENT

REV: 06/1994

The Medical Assistance Program exists primarily to meet the needs of residents of the Rhode Island. Therefore, as a factor of eligibility, an individual who is applying for eligibility must be a resident of the state. Any person living in the state voluntarily and intending to make Rhode Island his/her home, for whatever reason, is a resident of the state.

0304.10.05 MA Residency Requirements

REV: 01/2002

The residency definitions apply to SSI individuals, MA families, MA individuals age 21 and over, MA individuals under twenty one (21), and institutionalized MA individuals.

0304.10.05.05 SSI Individual

REV: 06/1994

For an individual eligible for SSI and receiving a State Supplementary Payment (SSP), the State of Residence is the state paying the SSP. (In some instances, a person may have sufficient income to receive only the State Supplement.)

0304.10.05.10 MA Families

REV: 04/2010~~01/2002~~

A. For individuals and families applying for MA based on family-related (formerly AFDC-related) rules, a resident of the state is a person:

1. Who is living in Rhode Island voluntarily with the intention of making his/her home there, and not for a temporary purpose. A child is a resident of the state in which (s)he is living other than on a temporary basis. (Residence may not depend on the reason for which the individual entered the state except insofar as it may bear upon whether the individual is there voluntarily or for a temporary purpose); or,

2. Who, at the time of application, is living in the state, is not receiving assistance from another state, and entered the state with a job commitment or seeking employment in the state whether or not currently employed). Under this definition, the child is resident of the state in which the caretaker relative is a resident.

~~For individuals and families applying for MA based on family-related (formerly AFDC-related) rules, a resident of the state is a person:~~

~~o Who is living in Rhode Island voluntarily with the intention of making his/her home there, and not for a temporary purpose. A child is a resident of the state in which (s)he is living other than on a temporary basis. (Residence may not depend on the reason for which the individual entered the state except insofar~~

~~as it may bear upon whether the individual is there voluntarily or for a temporary purpose); or,~~

~~o Who, at the time of application, is living in the state, is not receiving assistance from another state, and entered the state with a job commitment or seeking employment in the state (whether or not currently employed). Under this definition, the child is a resident of the state in which the caretaker relative is a resident.~~

0304.10.05.15 MA Individual Over 21

REV: 04/2010~~06/1994~~

A. For an individual over age 21 applying for MA, not living in an institution, the State of Residence is the state where the individual is:

1. Living voluntarily with the intention to remain permanently or for an indefinite period (or if incapable of stating intent, where (s)he is living); or,

2. Living voluntarily, is not receiving assistance from another state, and which (s)he entered with a job commitment or seeking employment (whether or not currently employed).

~~For an individual over age 21 applying for MA, not living in an institution, the State of Residence is the state where the individual is:~~

~~o Living voluntarily with the intention to remain permanently or for an indefinite period (or if incapable of stating intent, where (s)he is living); or,~~

~~o Living voluntarily, is not receiving assistance from another state, and which (s)he entered with a job commitment or seeking employment (whether or not currently employed).~~

0304.10.05.20 MA Individual Under 21

REV: 06/1994

For an individual under 21 applying for MA, not living in an institution, the State of Residence is the state in which the caretaker relative is a resident unless Medicaid eligibility is based on blindness or disability, then the State of Residence is the state in which (s)he is living.

0304.10.05.25 Institutionalized MA Individual

REV: 04/2010~~06/1994~~

A. For MA individuals living in institutions, applying for MA (Public, Medical or Group Care Facilities), the State of Residence is as follows

1. If a state places an individual in an institution in another state, the state making the placement is the State of Residence,

irrespective of the individual's indicated intent or ability to indicate intent; otherwise,

2. If over 21, the State of Residence is the state where the individual is living with the intention to remain there permanently or for an indefinite period; however,

3. If the individual is under 21 (or is age 21 or older and became incapable of indicating intent before age 21), the State of Residence is:
   a. that in which his/her parent(s) or legal guardian, if one had been appointed, resides; or,
   b. that of the parent applying on the individual's behalf if the parents reside in separate states and no legal guardian has been appointed.

4. If the individual became incapable of indicating intent at, or after age 21, the State of Residence is the state in which the individual was living when (s)he became incapable of indicating intent. If this cannot be determined, the State of Residence is the state in which the individual was living when (s)he was first determined to be incapable of declaring intent.

B. In any case, the state in which the institution is located is the State of Residence unless that state determines that the individual is a resident of another state according to the above rules.

~~For MA individuals living in institutions, applying for MA (Public, Medical or Group Care Facilities), the State of Residence is as follows~~

- ~~If a state places an individual in an institution in another state, the state making the placement is the State of Residence, irrespective of the individual's indicated intent or ability to indicate intent; otherwise,~~

- ~~If over 21, the State of Residence is the state where the individual is living with the intention to remain there permanently or for an indefinite period; however,~~

- ~~If the individual is under 21 (or is age 21 or older and became incapable of indicating intent before age 21), the State of Residence is:~~
  - ~~that in which his/her parent(s) or legal guardian, if one had been appointed, resides; or,~~
  - ~~that of the parent applying on the individual's behalf if the parents reside in separate states and no legal guardian has been appointed.~~
- ~~If the individual became incapable of indicating intent at, or after age 21, the State of Residence is the state in which the individual was living when (s)he became incapable of indicating intent. If this cannot be determined, the State of Residence is the state in which the individual was living when (s)he was first determined to be incapable of declaring intent.~~

~~In any case, the state in which the institution is located is the State of Residence unless that state determines that the individual is a resident of another state according to the above rules.~~

0304.15 REQUIREMENT FOR SOCIAL SECURITY NUMBER

REV: 04/2010~~06/1994~~

A. Section 2651 of the Deficit Reduction Act (DEFRA) of 1984 (PL 98-369) requires that each individual (including children) requesting Medical Assistance furnish his or her own Social Security Number (SSN) as a CONDITION OF ELIGIBILITY for the program.
   1. Applicants/recipients receiving Social Security benefits through claim numbers, the Social Security number of a parent or spouse with a letter(s) suffix, must procure their own SSNs.
   2. Applicant/recipient must be notified that the furnishing of the SSN is a condition of eligibility and that the number will be utilized only in the administration of the MA Program, including its use in verifying income and eligibility.

~~Section 2651 of the Deficit Reduction Act (DEFRA) of 1984 (P.L. 98-369) requires that each individual (including children) requesting Medical Assistance furnish his or her own Social Security Number (SSN) as a CONDITION OF ELIGIBILITY for the program. Since many MA applicants/recipients are receiving Social Security benefits through claim numbers, which may be the Social Security number of a parent or spouse, with a letter(s) suffix, they must now procure their OWN SSNs. The applicant or recipient must be notified that the furnishing of the SSN is a condition of eligibility and that the number will be utilized only in the administration of the MA Program, including its use in verifying income and eligibility.~~