

0304 Citizenship and Immigration Status Requirements

0304.05 Requirements of Citizenship and Immigration Status

REV: October 2013

A. Immigration Status -- An individual must meet the requirement for citizenship or immigration status in order to qualify for Medicaid. An otherwise eligible individual must be a member of one of the following categories:

1. A qualified non-citizen (Section 0304.05.15)
 - a. Exempt from the five (5) year ban
 - b. Subject to the five (5) year ban
2. A lawfully residing member of the state-funded coverage group described in Section 0304.05.45
3. A pregnant woman as described in Section 0304.05.15 and 1305.05
4. A child under 19 as described in Section 0304.05.45 and 1305.05

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 Medicaid 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 requirements for non-citizen eligibility established in the Personal Responsibility and Work Opportunity Act of 1996 (PL 104-193) (PRWOA) and may not be eligible for Title XIX Medicaid benefits.
2. Non-qualified non-citizens are not eligible for Title XIX Medicaid 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:

1. Qualified non-citizens under the age of nineteen (19) who are lawfully present in the United States as identified in Section 0304.05.15, paragraph B, if otherwise eligible under Section 1305.
2. Non-citizen pregnant women, without regard to immigration status, who are residents of Rhode Island including qualified non-citizen pregnant women identified in Section 0304.05.15 and both lawfully present and non-immigrant non-citizen pregnant women who are otherwise eligible under Section 1305.

D. Title XIX Medicaid for emergency services as stated in EOHHS 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 Medicaid Program. This includes persons who, but for citizenship status, meet the criteria for Medicaid under any of the coverage groups identified in Sections 1303 and 0351.15.

0304.05.05 The SAVE Program

REV: October 2013

- 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 non-citizens applying for benefits from federally-funded programs (Refer to MCAR Sections 0104.40 and 1308 as appropriate).
- B. Unless exempt, applicants for Medicaid programs must declare in writing that they are United States citizens or nationals, or that they are in satisfactory immigration status.

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: October 2013

If the state is unable to verify citizenship and identity via the State Verification and Exchange System (SVES) interface with the Social Security Administration, it is the responsibility of the applicant/recipient to provide the required verification as follows:

A. CITIZENSHIP – Effective January 1, 2014, acceptable verification for MACC groups identified in Section 1303 are as set forth in Section 1308.04. For all other Medicaid coverage groups, appropriate documentation of citizenship is as follows until further notice:

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)

B. IDENTITY -- Effective January 1, 2014, the verification provisions set forth in Section 1308.04 apply for the MACC groups identified in Section 1303. Until further notice, for all other Medicaid coverage groups the following forms of documentation qualify as proof of identity and must accompany any documents establishing citizenship that were submitted from the second level 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 -- Effective January 1, 2014, the eligibility verification provisions set forth in Section 1308.04 apply to MACC groups. For all other Medicaid coverage groups appropriate documentation of citizenship is as follows until further notice:

- 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 Medicaid 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 Medicaid agency through an authorized representative. Authorized representatives transmit such documentation to the Department of Human Services (DHS) field offices or other authorized representatives.

Authorized representatives include:

- a. Navigators
- b. Hospitals
- c. Community health centers
- d. Contact Center personnel.

0304.05.15 Eligibility as a Qualified Non-Citizen

REV: October 2013

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 Medicaid 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 Medicaid 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

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 Medicaid 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 Medicaid 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) AND PREGNANT WOMEN EXEMPT FROM THE BAR

1. The following qualified non-citizen children and pregnant women 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) and pregnant women are eligible for Medicaid 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. The following categories of non-immigrant children and pregnant women under 101(a)(15) of the immigration and Nationality Act (INA) are also eligible for coverage under Title XXI.
 - 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. Fiance(ee) 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

0304.05.15.05 Five Year Ban

REV: October 2013

- 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 Medicaid.
- 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.)

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

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.

0304.05.21 Eligibility as a Lawful Permanent Resident (LPR)

REV: October 2013

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 Medicaid 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 Medicaid 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 Medicaid coverage under Title XIX or Title XXI and are not subject to the five (5) year bar.

0304.05.21.05 Verification of LPR Status

REV: October 2013

Effective January 1, 2014, acceptable verification is as set forth in Section 1308.04 for MACC groups identified in Section 1303. For all other Medicaid coverage groups appropriate documentation is as follows until further notice.

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.

0304.05.25 Eligibility as an American Indian Born Outside the US

REV: October 2013

Effective January 1, 2014, acceptable verification is as set forth in Section 1308.04 for MACC groups identified in Section 1303. For all other Medicaid coverage groups appropriate documentation is as follows until further notice.

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.

0304.05.25.05 Verification of Status as American Indian Born Outside the US

REV: October 2013

Effective January 1, 2014, acceptable verification is as set forth in Section 1308.04 for MACC groups identified in Section 1303. For all other Medicaid coverage groups appropriate documentation is as follows until further notice.

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.

0304.05.30 Eligibility as a Conditional Entrant

REV: October 2013

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 Medicaid.
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 Medicaid (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.

0304.05.30.05 Verification of Conditional Entry

REV: October 2013

Effective January 1, 2014, acceptable verification is as set forth in Section 1308.04 for MACC groups identified in Section 1303. For all other Medicaid coverage groups appropriate documentation is as follows until further notice.

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.

0304.05.35 Eligibility as a Battered Non-Citizen

REV: October 2013

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 state determines, based on guidance issued by the U.S. Attorney General, that there is a substantial connection between the abuse and the need for Medicaid
4. The battered non-citizen, child or parent no longer resides with the abuser

B. Such individuals meet the immigration requirement for Title XIX Medicaid 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.

0304.05.35.05 Verification - Battered Immigrant

REV: October 2013

Effective January 1, 2014, acceptable verification is as set forth in Section 1308.04 for MACC groups identified in Section 1303. For all other Medicaid coverage groups appropriate documentation is as follows until further notice.

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.

0304.05.45 State-Funded Coverage Group Defined

REV: October 2013

- 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)

0304.05.45.05 Eligibility as a State Funded Non-Citizen

REV: October 2013

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.

0304.05.45.10 Verification of Lawfully Residing Status

REV: October 2013

Effective January 1, 2014, acceptable verification is as set forth in Section 1308.04 for MACC groups identified in Section 1303. For all other Medicaid coverage groups appropriate documentation is as follows until further notice.

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: 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.

0304.05.45.15 Documentation of RI Residency Before 7/1/97

REV: October 2013

Effective January 1, 2014, acceptable verification is as set forth in Section 1308.04 for MACC groups identified in Section 1303. For all other Medicaid coverage groups appropriate documentation is as follows until further notice.

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.

0304.05.50 Eligibility as a Refugee

REV: October 2013

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 Medicaid 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 on Title XIX eligibility, even if immigration status is subsequently adjusted to LPR.

0304.05.50.05 Verification of Refugee Status

REV:04/2010

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.

0304.05.55 Eligibility as an Asylee

REV: October 2013

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 Medicaid regardless of date of entry in to the U.S.

0304.05.55.05 Verification of Asylee Status

REV:04/2010

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.

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: October 2013

Effective January 1, 2014, acceptable verification is as set forth in Section 1308.04 for MACC groups identified in Section 1303. For all other Medicaid coverage groups appropriate documentation is as follows until further notice.

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.

0304.05.65 Eligibility as a Cuban/Haitian Entrant

REV: October 2013

Certain immigrants from Cuba and Haiti are granted special status as Cuban or Haitian Entrants. A Cuban or Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980 meets the immigration status requirement for Title XIX Medicaid regardless of date of entry into the U.S.

0304.05.65.05 Verification of Cuban/Haitian Status

Effective January 1, 2014, acceptable verification is as set forth in Section 1308.04 for MACC groups identified in Section 1303. For all other Medicaid coverage groups appropriate documentation is as follows until further notice.

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.

0304.05.70 Eligibility as a Member of US Armed Forces/Veteran

REV: October 2013

- 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 Medicaid regardless of date of entry into the U.S.
- B. 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

October 2013

Effective January 1, 2014, acceptable verification is as set forth in Section 1308.04 for MACC groups identified in Section 1303. For all other Medicaid coverage groups appropriate documentation is as follows until further notice.

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).

0304.05.75 Eligibility as a Parolee

REV: October 2013

- 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 Medicaid.
 2. 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 Medicaid under Title XIX or XXI and are not subject to the five (5) year ban.

0304.05.75.05 Verification of Parolee Status

REV: October 2013

Effective January 1, 2014, acceptable verification is as set forth in Section 1308.04 for MACC groups identified in Section 1303. For all other Medicaid coverage groups appropriate documentation is as follows until further notice.

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: October 2013

Under provisions of Public Law 105-306, SSI benefits, and associated Title XIX Medicaid 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: October 2013

- 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 Medicaid. Individuals so certified may qualify for Medicaid 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: October 2013

Effective January 1, 2014, acceptable verification is as set forth in Section 1308.04 for MACC groups identified in Section 1303. For all other Medicaid coverage groups appropriate documentation is as follows until further notice.

- 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 Medicaid.
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: October 2013

Effective January 1, 2014, sponsor deeming is no longer required for MACC groups identified in Section 1303. For all other Medicaid coverage groups sponsor deeming is as follows until further notice.

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 Medicaid 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.
 - 3. He/she is indigent, meaning that the immigrant's own income and assistance provided by the sponsor or any other individuals is not enough for the immigrant to obtain food and shelter without assistance. An immigrant is considered "indigent" if the sum of the immigrant's household's own income and any cash or in-kind assistance provided by the sponsor or others is less than one hundred thirty percent (130%) of the poverty income line. The amount of the

income and resources attributed to the non-citizen through deeming cannot exceed the amount actually provided for up to a twelve (12) month period.

- 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 Medicaid eligibility.
- b. However, DHS must provide the United States Citizenship and Immigration Services (USCIS) with the name of the sponsor and the sponsored immigrants receiving Medicaid 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.

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 Medicaid benefits remains the same.
2. If the immigrant continues to present that he/she is indigent, as defined in B-3 above.

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 (LTCincome), 0338 (family related resources), 0356 (SSI related resources), 0382 (LTC resources).

0304.10 Residency Requirement

REV: October 2013

The Medicaid 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 Medicaid Residency Requirements

REV: October 2013

The residency definitions apply to SSI individuals, Medicaid individuals who are aged, blind or disabled age 21 and over, Medicaid individuals under twenty one (21), and institutionalized Medicaid 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 Medicaid Affordable Care Coverage Groups

REV: October 2013

See MCAR Section 1305 for the applicable residency requirements for the Medicaid Affordable Care Coverage groups identified in MCAR Section 1303, effective January 1, 2014. Verification procedures are set forth in MCAR Section 1308.

0304.10.05.25 Institutionalized Medicaid Individual

REV: October 2013

- A. For Medicaid individuals living in institutions, applying for Medicaid (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.

0304.15 Requirement for Social Security Number

REV: October 2013

- A. Section 2651 of the Deficit Reduction Act (DEFRA) of 1984 (PL98-369) requires that each individual (including children) requesting Medicaid 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 Medicaid Program, including its use in verifying income and eligibility.

0304.16 Severability

If any provisions of these regulations or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of these regulations which can be given effect, and to this end the provisions of these regulations are declared to be severable.