Immigrant Eligibility for Public Health Insurance in NYS
What will we cover?

- **Definitions and Concepts**
  - Citizenship and immigration statuses
  - Benefits-related immigration classifications

- **Immigration Status and Marketplace Programs**
  - Medicaid, Essential Plan and Child Health Plus
  - Qualified Health Plans with or without federal subsidies
  - Emergency Medicaid

- **Some Non-Marketplace Programs for Immigrants**
  - Medicaid ("non-MAGI") – including Emergency Medicaid
  - ADAP
  - Medicare
How do you become a U.S. citizen?

- **By Birth:** a person who is born in the U.S., Puerto Rico, the U.S. Virgin Islands or Guam.

- **Through Acquisition:** a person who is born abroad but one or both of whose parents are U.S. citizens (automatic, by operation of law).

- **Through Derivation:** a person who is under 18 years old and a permanent resident when the parent with whom he or she is living naturalizes (also automatic, by operation of law)

- **Through Naturalization:** a person who applies for citizenship after having been in lawful permanent resident status (LPR) for a minimum of 5 years (3 for spouses of USC)
Proof of US Citizenship

- Birth Certificate
- US Passport (for all circumstances)
- Certificate of Naturalization (Application form N-400)
- Certificate of Citizenship (Application form N-600 for citizenship through acquisition or derivation)
- Consular Report of a Birth Abroad (Form FS-240)
Lost Citizenship Documents

- Lost Certificates of Naturalization/Citizenship: check “U.S. Citizen” on application and provide copy of biographic page of passport.

- If no passport, apply for a replacement of Certificate of Naturalization or Citizenship with form N-565 (available on USCIS website).

- File fee waiver (Form I-912) with application if low income (in receipt of means tested benefit or with income at or below 150% of the poverty line) or experiencing financial hardship and

- Submit proof to the Marketplace that the application has been received by USCIS (I-797 Notice of receipt of the N-565).
Who is not a U.S. citizen?

- “Alien” - someone who is not a citizen or national (born in American Samoa or the Northern Mariana Islands)
  - Aliens are classified as either immigrants or nonimmigrants

- Non-immigrants: permission to enter the U.S. for a particular purpose for a *specific period of time* – not for permanent residence

- Immigrants: everyone else who is not a U.S. citizen or national and who does not fall into one of more than dozens of non-immigrant categories (alphabet soup)
The Nonimmigrant Alphabet

- B visa: visitor for business or pleasure
- F and M visas: students
- H visas: workers
- O and P: people with special abilities-artists, scientists, athletes, etc.
- J visa: cultural exchange
- K visas (fiancé, spouse, child of USC)
- T visa: trafficking victim
- U visa: victim of crime
- V visa: spouse of LPR
Defining “Immigrant”

- The Immigration and Nationality Act provides a definition of exclusion...everybody who is **not a nonimmigrant** is an immigrant

- The term “immigrant” is sometimes used more narrowly by government agencies (e.g. IRS) to refer to someone who has lawful permanent residence, can work without restriction and travel.

- **NOTE:** permanent residence is not entirely permanent. It can be lost if the LPR stays out of the country for longer than 6 months or is convicted of a particularly serious crime.
What Are the Benefits Related Categories?

- **Qualified Aliens**: the noncitizen eligibility category established by the 1996 welfare reform law to list (and limit) the classes of noncitizens who are considered eligible for federal public benefits (including Medicaid).

- **PRUCOL** (permanently residing under color of law): a kind of “catch all” category of immigrants used in New York and some other states to describe those who fall into none of the “qualified alien” immigrant classifications but are here with the knowledge and permission or acquiescence of USCIS/ICE.

- **“Lawfully Present”**: the noncitizen eligibility classification first introduced in 2008 for covering children and pregnant women at state option in CHP and Medicaid and later, in the ACA, as the immigrant eligibility classification for QHP’s in the Marketplace.
Who are “qualified aliens”?

- Permanent residents (including conditional residents)
- Refugees, asylees, granted withholding of removal
- (Cuban/Haitian Entrants) Cubans and Haitians who entered the US with parole status after October of 1980
  - Granted parole status of at least one year
  - Victims of a severe form of trafficking
  - Battered spouses and children of USC or LPR petitioning under VAWA
  - Lawfully residing armed service members and veterans
Parole status

- Humanitarian parole allows a person to enter the US who would otherwise not be allowed to enter, due to a compelling humanitarian or public safety emergency
  - Anyone can apply, but must submit evidence and explanation
  - Time period is no longer than a year, and it coincides with the emergency; can be renewed
    - “Re-parole Request” – must submit no fewer than 90 days before expiration of parole
  - No appeal rights
  - Must leave before expires
What Marketplace programs are qualified aliens eligible for?

- Medicaid
- Essential Plan
- Child Health Plus
- Qualified Health Plans with or without
  - Advance Premium Tax Credits
    - Helps pay cost of monthly premiums
  - Cost Sharing Reductions
    - Reduces co-pays and deductibles
Lawfully Present

- Noncitizens in a “qualified alien” status
- Nonimmigrants
- Deferred Action
- Deferred Enforced Departure (Liberians)
- TPS status
- Parole of less than 1 year
- Stay of removal
- Applicant for Special Immigrant Juvenile (SIJ)

- Approved immigrant visa and pending adjustment of status application
- Order of Supervision with EAD
- Applicants for the following who have EAD:
  - For withholding of removal or cancellation
  - For Asylum
  - For TPS
  - For registry
Marketplace Coverage for Lawfully Present Noncitizens

- Medicaid
  - Noncitizens with nonimmigrant visas will have to answer a series of questions that show they are residing in the US and are not here only temporarily, such as a tourist.

- Child Health Plus
- Essential Plan
- QHP, APTC and CSR
Noncitizens who are PRUCOL Only

- PRUCOL Only are:
  - Applicants for an immigration benefit who do **not** have employment authorization
  - “Registry aliens” who do not have an application for permanent residence pending
  - Individual with Deferred Action under DACA Individual under an Order of Supervision but without employment authorization
    - Individuals who were under 31 years of age on June 15, 2012, who entered the U.S. before June 15, 2007, and who were under 16 years old when they entered. The relief (including work authorization) is granted two years at a time.
  - Rescission of DACA does not change PRUCOL status for Medicaid under New York State Law. Individuals with DACA status and those with rescinded DACA status may be eligible for state-funded Medicaid.
  - Certain immigrants who are not considered “lawfully present” under the Affordable Care Act, but are still eligible for some benefits.
Marketplace Coverage for PRUCOL Only Noncitizens

- PRUCOLs can get
  - Medicaid
  - Child Health Plus
- They are NOT eligible for
  - QHP, APTC, CSR, Essential Plan
Immigrants Without Status

- Includes those who came into the U.S. at a place other than a port of entry and entered without inspection (EWI)
- Also includes those who originally entered with a visa but then their visa expired (overstays)
- They are eligible only for EMERGENCY MEDICAID unless they are
  - A child (can get CHP through age 18) OR
  - Pregnant (can get Medicaid)
- Pre-certification for Emergency Medicaid through the Marketplace
Applying for Coverage through NYS Marketplace

- NY State of Health is our Marketplace: www.nystateofhealth.gov

- Can apply
  - Online
  - Via phone (1-855-355-5777)
  - Through in-person assister (navigator, certified application counselor, broker)

- Single application for all programs
  - Medicaid, CHP, EP, QHP (with or without APTC/CSR)
  - APTC available up to 400% FPL; 250% FPL for CSR
  - Adults with incomes up to 138% FPL qualify for Medicaid
    - Higher limits for children and pregnant women
Families with Marketplace-Eligible and -Ineligible Members

- An ineligible family member (non-applicant) may complete an application on behalf of eligible family members (applicants);
- Applicants and non-applicants will be asked for their SSN but will not have to provide one if one was not issued to them.
- People who file income tax returns with an ITIN (Individual Taxpayer Identification Number) are not required to provide their ITIN since IRS will not verify their income or the fact that they filed a return.
- By law, applications may not request the citizenship or immigration status of an individual who is not seeking coverage for himself or herself.
Verification of status through the Federal Data Hub

- Verification of status through the Marketplace: matching information on immigration document with data in the records maintained by the DHS
- The matching is done through the SAVE system
- The most common documents are:
  - I-94 Arrival Departure record
  - Permanent resident card
  - Employment Authorization card
  - Visa in a foreign passport
  - I-797 Notice of Action
- The codes on these various documents are the key to understanding the applicant’s immigrant/nonimmigrant status
- Applicants for Emergency Medicaid only DO NOT have their immigration status verified
Current Limited Immigration
Consequences of Accessing & Using
Marketplace Coverage

- Under a 2013 policy, U.S. Immigration and Customs Enforcement currently does not use information provided to the SAVE system for civil immigration enforcement.

- Currently only a person who uses federal Medicaid to pay for long term institutional care (e.g., nursing home) may be considered a “public charge.”

- Receipt of community-based Medicaid, EP, CHP, tax subsidies, or cost sharing reduction are not currently considered in “public charge” determinations.

- A recent change in State Department policies regarding “public charge” may allow the consideration of non cash benefits and the family members status. However, this rule does not yet apply to lawfully residing immigrants.
Sample Green Card (Refugee)
Sample I-797 for Nonimmigrant Worker with I-94
Non-Marketplace Programs: “Non-MAGI” Medicaid

- Non-MAGI Medicaid
  - Apply at local department of social services
  - Same immigration rules as Marketplace Medicaid
  - Different financial eligibility criteria
  - Available to:
    - Immigrants age 65 and older (can’t get Medicaid through Marketplace unless caretaker relative)
    - Disabled immigrants
    - Immigrant families with children
  - Can provide “spenddown” coverage
Non-Marketplace Programs: ADAP

- ADAP – health coverage for people w/ HIV (can be asymptomatic)
  - Must be NYS resident
    - No immigration requirement
  - Incomes up to 433% FPL
  - [http://www.health.ny.gov/diseases/aids/general/resources/adap/eligibility.htm](http://www.health.ny.gov/diseases/aids/general/resources/adap/eligibility.htm) or call 1-800-542-2437
  - [https://www.health.ny.gov/diseases/aids/general/resources/adap/](https://www.health.ny.gov/diseases/aids/general/resources/adap/)
Non-Marketplace Programs: Medicare

- Medicare is a federal health insurance program for:
  - Older adults (age 65 and up)
  - Social Security Disability recipients
    - Most have a 24-month waiting period
  - People with End Stage Renal Disease (ESRD)
    - Must be insured through SSA or Railroad Retirement system OR be the spouse or dependent child of insured
    - Recipient must be lawfully present

- Apply through the Social Security Administration
Non-Marketplace Programs: Medicare for Elderly Immigrants

- Older adults (age 65+)
  - Qualify for free Part A if insured through SSA (can be insured through spouse), plus Parts B and D
  - If not insured, can still qualify if person has LPR status and 5 years of continuous residence
    - Must pay for Part A

- Other programs can help with Medicare cost sharing
  - Medicare Savings Programs
  - Part D “Extra Help” (Low Income Subsidy)
  - NYS EPIC
Questions?

For help on immigrant-related health insurance questions, contact us at

1 (800) 724-0490 ext. 5822 or

health@empirejustice.org