



## Checklist: Reviewing State Policies Implementing OBBBA's Medicaid Immigrant Eligibility Changes

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The One Big Beautiful Bill Act (OBBBA) made changes to Medicaid eligibility, which take effect October 1, 2026. Starting then, immigrants will not be eligible for full-scope Medicaid coverage unless they have 1 of 3 statuses:

- Lawful Permanent Resident (LPR, also known as green card holders)
- Cuban/Haitian entrants
- People from the Federated States of Micronesia, Republic of the Marshall Islands, or Republic of Palau who live and work in the United States under Compacts of Free Association (COFA), often referred to as COFA migrants.<sup>1</sup>

Critically, OBBBA did not amend the existing rules on the 5-year bar or the availability of the reasonable opportunity period.<sup>2</sup> Nor did it eliminate optional coverage of other immigrants who are children or pregnant.<sup>3</sup>

States are in the process of revising their policy manuals to reflect changes to immigrant eligibility for Medicaid as a result of OBBBA's restrictions.

This checklist can be used to ensure that state policies preserve existing eligibility rules and

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<sup>1</sup> 42 U.S.C. § 1396b(v)(5).

<sup>2</sup> For a description of immigrant eligibility for Medicaid before the passage of OBBBA, including additional detail regarding the five-year bar, its application and exemptions *see generally* Sarah Grusin & Catherine McKee, National Health Law Program, Medicaid Coverage for Immigrants: Eligibility and Verification (2021), <https://healthlaw.org/resource/medicaid-coverage-for-immigrants/>.

<sup>3</sup> For a list of states who have elected to cover children, pregnant people, or both, *see* KFF, State Health Coverage for Immigrants and Implications for Health Coverage and Care (May 19, 2026), <https://www.kff.org/racial-equity-and-health-policy/state-health-coverage-for-immigrants-and-implications-for-health-coverage-and-care/>.

protections.<sup>4</sup>

## 1. Confirm the state preserves all 5-year bar exemptions for LPRs

While COFA migrants and Cuban/Haitian entrants have no waiting period, LPRs remain subject to the five-year bar established by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).<sup>5</sup>

But all pre-existing exemptions to the 5-year bar continue to apply, including:

- Individuals who entered as a refugee, asylee, or other humanitarian entrant that is treated as a refugee or asylee.<sup>6</sup> While OBBBA means they are no longer eligible while in the humanitarian status, when these individuals adjust to LPR status they are immediately eligible for Medicaid with no waiting period.<sup>7</sup>
- Individuals who entered the United States before August 22, 1996 (and have been “continually present”);<sup>8</sup>

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<sup>4</sup> For more suggestions on how to mitigate the harms from OBBBA’s restrictions, see NHeLP & NILC, Top 10 Suggestions for State Advocacy Regarding H.R.1 Changes to Medicaid Eligibility for Immigrants (Dec. 10, 2025), <https://healthlaw.org/resource/top-10-suggestions-for-state-advocacy-regarding-h-r-1-changes-to-medicaid-eligibility-for-immigrants/>.

<sup>5</sup> See 8 U.S.C. § 1613(b).

<sup>6</sup> 8 U.S.C. § 1613(b)(1) lists five humanitarian statuses. In addition, victims of human trafficking, certain Afghan, Iraqi, Ukrainian, and Amerasian immigrants are treated as refugees. For Afghan and Iraqi special immigrants see Pub. L. 110-181, § 1244(g) (2008) (codified at 8 U.S.C. 1101 note); Pub. L. 111-9, § 602(b)(8) (2009), Pub. L. 111-118, § 8120(b) (2010), and Pub. L. 113-291, § 1227 (2014) (codified at 8 U.S.C. § 1101 note). For Amerasian immigrants, see Pub. L. 100-202, § 101(e) (codified at 8 U.S.C. § 1101 note). For Afghan parolees, see Pub. L. 117-43, § 2502(b)(1) (codified at 8 U.S.C. § 1101 note).. For Ukrainian parolees, see Pub. L. 117-128, § 401(b)(1) (codified at 8 U.S.C. § 1101 note).

<sup>7</sup> 8 U.S.C. § 1613(b)(1); Ctrs. for Medicare & Medicaid Servs. SHO 26-001, 6 (April 8, 2026), <https://www.medicaid.gov/federal-policy-guidance/downloads/sho26001.pdf>.

<sup>8</sup> 8 U.S.C. § 1613(a); Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 62 Fed. Reg. 61344, 61414-61416 (Nov. 17, 1997).

- Qualifying military connections (honorably discharged veteran; on active duty in the armed forces; or spouse or child of an individual with such military connections);<sup>9</sup>
- Survivors of severe forms of trafficking and their family members;<sup>10</sup>
- Individuals born in Canada who are at least 50 percent American Indian, or a member of a tribe recognized by the federal government;<sup>11</sup>
- Individuals who have 40 qualifying quarters of work, which can include credit for quarters worked by parents or spouses.<sup>12</sup>
- A child receiving federal foster care or adoption assistance.<sup>13</sup>

## 2. Confirm that your state is still counting all qualified statuses towards the 5-year bar

States may incorrectly believe that individuals must hold 1 of the 3 eligible statuses listed above for 5 years to meet the 5-year bar. The statute, however, requires only that an individual hold a *qualified* status for 5 years.<sup>14</sup> With OBBBA's changes, the list of qualified statuses is now broader than the list of statuses that make someone eligible for federal-Medicaid funding.<sup>15</sup> Individuals may continue to count years in a qualified status toward the 5-year bar even if that qualified status no longer qualifies for Medicaid eligibility.

**Example:** An individual self-petitions under the Violence Against Women Act (VAWA), holds that status for three years, and then adjusts to LPR status. Both her VAWA status and LPR status are "qualified" statuses. So, she is eligible for Medicaid two years after she obtained LPR status.

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<sup>9</sup> 8 U.S.C. § 1613(b)(2).

<sup>10</sup> See 8 U.S.C. § 1101(a)(15)(T)(i)-(ii); 22 U.S.C. § 7105(b)(1)(A), (C); 8 U.S.C. § 1641(c)(4).

<sup>11</sup> 8 U.S.C. § 1613(d)(1).

<sup>12</sup> 8 U.S.C. §§ 1612(b)(2)(B).

<sup>13</sup> See Dep't of Health & Human Servs., Admin. for Children & Families, Child Welfare Policy Manual § 8.4B, [https://www.acf.hhs.gov/cwpm/public\\_html/programs/cb/laws\\_policies/laws/cwpm/policy\\_dsp.jsp?citID=45](https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=45).

<sup>14</sup> 8 U.S.C. § 1613(a).

<sup>15</sup> Compare 8 U.S.C. § 1641 with 42 U.S.C. § 1396b(v)(5); See also Sarah Grusin, National Health Law Program, "Qualified" vs. "Satisfactory" Immigration Status Chart (Feb. 27, 2026), <https://healthlaw.org/resource/qualified-vs-satisfactory-immigration-status-chart/>.

### **3. Confirm that your state is not asking for non-applicant immigration status information**

The citizenship or immigration status of non-applicant household members is not relevant to the eligibility determination, and states are prohibited from requiring individuals to disclose the status of non-applicants.<sup>16</sup>

Moreover, while states may ask for non-applicant SSNs to facilitate income-verification, they may not require non-applicant household members to supply it.<sup>17</sup>

States should ensure that policies continue to reiterate these limits.

### **4. Confirm your state preserves the reasonable opportunity period**

If an individual declares that they hold 1 of the 3 newly satisfactory immigration statuses under OBBBA, but either lacks the necessary documentation when the application is submitted, or the verification cannot be completed in real time through the federal database, SAVE, the state must provide a “reasonable opportunity” for the individual to submit evidence showing a satisfactory immigration status.<sup>18</sup> An initial failure to verify using SAVE should never be treated as proof of ineligibility or the absence of status.

Crucially, during this time, if the individual otherwise meets the eligibility criteria, the state “may not delay, deny, reduce, or terminate the individual’s eligibility for benefits . . . on the basis of the individual’s immigration status.”<sup>19</sup> In addition, states must provide the applicant notice of the reasonable opportunity period, information on how to contact SAVE to correct any discrepancies, and an opportunity to provide other documentation of their immigration status.<sup>20</sup>

Policy manuals should continue to reiterate the availability of the reasonable opportunity period, including for individuals who provide a declaration of a satisfactory immigration status in advance of the October 1, 2026 restrictions.<sup>21</sup>

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<sup>16</sup> 42 CFR § 435.907(e); see also Medicaid Program; Eligibility Changes Under the Affordable Care Act, 77 Fed. Reg. 17144, 17164 (Mar. 23, 2012).

<sup>17</sup> 42 CFR § 435.907(e).

<sup>18</sup> 42 U.S.C. § 1320b-7(d)(4)(A)(i); 42 C.F.R. § 435.956(b)(1). *See also* CMS, SHO 26-001 at 9.

<sup>19</sup> 42 U.S.C. § 1320b-7(d)(4)(A)(ii); 42 C.F.R. § 435.956(a)(5)(ii).

<sup>20</sup> 42 C.F.R. § 435.956(b)(1)(ii), (iii).

<sup>21</sup> *See* CMS, SHO 26-001 at 9.