Medicaid Application & Renewal Guide for Immigration Attorneys

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Immigration attorneys, promotoras, community-based organizations (CBOs), and health advocates often receive questions from clients about Medicaid eligibility, the process for applying and maintaining benefits, and the impact of receiving Medicaid benefits has on their immigration status. This guide explains the steps an individual must take to apply for and renew their Medicaid coverage and how to challenge an incorrect denial or termination of coverage. At each stage we highlight concerns particular to immigrant and mixed-status families, including data privacy and public charge concerns.

Note: This guide provides general guidance about Medicaid coverage; specific application and renewal processes will differ among states. It may be useful to consult with state-based Medicaid advocates about individual cases.

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I. Medicaid Applications — Full Scope Medicaid

Overview of Medicaid Eligibility

What are Medicaid's financial eligibility criteria?

Medicaid financial eligibility requires that individuals fall below certain income thresholds. These thresholds vary by age and other characteristics. For some eligibility categories, states can set higher income limits that exceed federal minimums. Traditionally, individuals eligible for Medicaid have included low-income children, pregnant people, parents and caretakers, and most adults receiving Supplemental Security Income (SSI).[1]

Additionally, under the Affordable Care Act (ACA) states can expand Medicaid coverage to low-income adults. All but 10 states have expanded coverage and are considered "Medicaid Expansion" states.[2]

States cannot apply an asset or resource test for Medicaid Expansion populations.[3] However, every state imposes some asset limit on certain non-Expansion populations, often on people with disabilities and older adults.[4] Similar to income limits, Medicaid asset limits vary greatly by

[1] 42 U.S.C. §§ 1396a(a)(10)(A)(i)(II) – (VII) (explaining Medicaid income and eligibility rules for children, pregnant persons, and individuals receiving SSI); 42 U.S.C. § 1396u-1 (income eligibility rules for parents and caretakers). *See* CMS, *Medicaid, Children's Health Insurance Program, & Basic Health Program Eligibility Levels* (2023), https://www.medicaid.gov/medicaid/national-medicaid-chip-program-information/medicaid-childrens-health-insurance-program-basic-health-program-eligibility-levels.

[2] 42 U.S.C. § 1396a(a)(10)(A)(i)(VIII); 42 C.F.R. § 435.603. *See also* 42 C.F.R. § 435.119 (which defines the Medicaid Expansion adult group as adults under age 65 with income "at or below 133 percent of the federal poverty level." Because Medicaid rules require a standard 5% income disregard, the effective limit becomes 138% FPL.).

[3] 42 U.S.C. § 1396a(e)(14)(C). States cannot apply an asset test to populations whose eligibility is determined using Modified Adjusted Gross Income (MAGI), which includes most individuals under age 19, parents and caretaker relatives, pregnant people, and low-income adults aged 19 to 64 who qualify under Medicaid Expansion.

[4] Alice Burns et al., KFF, *Medicaid Eligibility Levels for Older Adults and People with Disabilities (Non-MAGI) in 2026* (2026), https://www.kff.org/medicaid/medicaid-eligibility-levels-for-older-adults-and-people-with-disabilities-non-magi-in-2026/#3acf901f-96a9-430c-a2c5-6bb3f092d08c;

state.[5] Asset limits range from a low of $2,000 in several states to as high as $130,000.[6] Importantly, Medicaid asset limits generally exempt the individual's primary residence and vehicle.[7]

Medicaid eligibility also considers non-financial criteria such as residency, household composition, and immigration status.[8]

What immigration statuses and categories are eligible for Medicaid?

Following the passage of H.R. 1, or the so-called "One Big Beautiful Bill" Act (OBBBA), effective October 1, 2026, only the following immigrant categories are considered to have "satisfactory immigration status" (or "SIS") and are eligible for federally funded Medicaid:

(1) lawful permanent residents (LPRs) who have met or are exempt from the 5-year waiting period;[9]
(2) Cuban and Haitian entrants; or
(3) persons residing under a Compact of Free Association (COFA).[10]

However, this does not prohibit states from offering health coverage through state-only funded programs that is similar, and in some cases virtually identical, to full scope Medicaid.[11]

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[5] 42 U.S.C. 1396a(r)(2) (explaining that states have the authority to apply less restrictive resource standards for some eligibility categories where resource limits apply).
[6] *See* Choice Mutual, *Medicaid Asset Limits by State: Eligibility Guidelines* https://choicemutual.com/original-research/medicaid-asset-limits-by-state (last visited May 29, 2026).
[7] 42 CFR § 435.840(b) (states cannot impose resource limits that are more restrictive than SSI limits, 42 U.S.C. § 1382b(a)).
[8] 42 U.S.C. § 1396a(a); 42 U.S.C. § 1396b(v); 42 C.F.R. §§ 435.401–435.406.
[9] *See* Cong. Rsch. Serv., *Noncitizen Eligibility for Federal Public Assistance: Policy Overview* at Appendix A (2016), https://www.congress.gov/crs-product/RL33809 (listing the immigration categories that are prohibited from receiving federal benefits for five years after their grant of status).
[10] Pub. L. No. 119-21, § 71109, 139 Stat. 72 (2025) ["OBBBA"] (codified at 42 U.S.C. § 1396b(v)(5)).
[11] Laura Buddenbaum, SHVS, *State-Funded Affordable Health Coverage for Non-Citizen Populations* (2025), https://shvs.org/resources/state-funded-health-coverage-programs-for-non-citizen-populations/; KFF, *More States Are Providing Fully State-Funded Health Coverage to Some Individuals Regardless of Immigration Status* (2024), https://www.kff.org/racial-equity-and-health-policy/more-states-are-providing-fully-state-funded-health-coverage-to-some-individuals-regardless-of-immigration-status/.

Additional eligibility for lawfully residing pregnant persons and children

One important exception to the eligibility rules above is the Children's Health Insurance Program Reauthorization Act (CHIPRA) option, which allows states to extend full scope Medicaid to lawfully residing immigrants who are under 19 or pregnant.[12] "Lawfully residing" is a broader category than the standard SIS categories, and includes several other categories of non–U.S. citizens who have permission to live or work in the U.S.[13] For example, states can extend coverage to LPRs that have not met their 5-year waiting period, refugees, asylees, and other "lawfully residing" immigrants that satisfy CHIPRA eligibility criteria.[14]

Most states have elected the CHIPRA option for both pregnant persons and children, and many states offer coverage to one group.[15] Relatedly, all states except Arkansas offer 12 months of Medicaid post-pregnancy coverage and this extended coverage also applies to pregnant people enrolled through the CHIPRA option.[16]

Applying for Medicaid

What is the process for applying for Medicaid?

Medicaid applications can be initiated in a variety of ways. States must accept Medicaid applications by phone, in person, by mail, online, or by other available electronic means.[17] Applications are screened for all Medicaid programs and, if necessary, Marketplace coverage offered through the Exchange. Applicants must be allowed to designate an individual as their authorized representative to assist with the application process, and applications must be

[12] The Legal Immigrant Children's Health Improvement Act (ICHIA), S. 764, H.R. 1308 (2009); Akash Pillai et al., KFF, *State Health Coverage for Immigrants and Implications for Health Coverage and Care* (2026), https://www.kff.org/racial-equity-and-health-policy/state-health-coverage-for-immigrants-and-implications-for-health-coverage-and-care/.
[13] CMS, SHO #10-006, *Medicaid and CHIP Coverage of "Lawfully Residing" Children and Pregnant Women* (2010), https://www.medicaid.gov/federal-policy-guidance/downloads/SHO10006.pdf.
[14] *See* Nat'l Immigr. Law Ctr (NILC), *"Lawfully Residing" Children and Pregnant Women Eligible for Medicaid and CHIP* (2021), https://www.nilc.org/resources/lawfully-residing-medicaid-chip/.
[15] Alice Burns et al., *supra* note 4.
[16] CMS, Dear State Health Official Letter SHO# 21-007, *Improving Maternal Health Coverage and Extending Postpartum Coverage in Medicaid and the Children's Health Insurance Program (CHIP)* (2021), https://www.medicaid.gov/federal-policy-guidance/downloads/sho21007.pdf; KFF, *Medicaid Postpartum Coverage Extension Tracker* (2026), https://www.kff.org/medicaid/medicaid-postpartum-coverage-extension-tracker/.
[17] 42 C.F.R. §§ 435.907(a), (f).

accessible to individuals with disabilities and limited English proficiency (see section VIII below for more details).[18]

Medicaid agencies are required to review and assess the information provided in the application and other sources available to the Medicaid agency to determine Medicaid eligibility before requesting additional information from an applicant.[19] If necessary, an agency can ask the applicant for additional eligibility-related information that it cannot obtain from reliable data sources, and states have the option to set a minimum number of days that an individual has to respond to requests for information.[20] Medicaid agencies will process the information and provide eligibility determination within 45 days for standard applications.[21] If denied, individuals have due process rights to challenge determinations (see section IV below).

Applicant Information

Medicaid agencies access and verify application information through various data sources to confirm the information and determine eligibility.

What residency and immigration information is required from the individual applying for Medicaid?

Residency information is required of all Medicaid applicants regardless of immigration status.[22] States have varying residency verification criteria and states may accept attestation of residency unless the State has information that is not reasonably compatible with the attested residency.[23] As of 2020, forty states allowed this type of self-attestation.[24] In states where applicants must provide a residential address, states must have a process for enrolling

[18] 42 C.F.R. §§ 435.908, 435.923. 29 U.S.C. § 794; 42 U.S.C. § 18116.
[19] 42 C.F.R. §§ 435.907(b), (c).
[20] OBBBA § 71102; CMS, *Medicaid Program; Streamlining the Medicaid, Children's Health Insurance Program, and Basic Health Program Application, Eligibility Determination, Enrollment, and Renewal Processes*, 89 Fed. Reg. 22780 (2024).
[21] *See* 42 U.S.C. § 1396a(a)(8). Agencies must offer Medicaid services to applicants with "reasonable promptness" and courts have held this to mean applications should be processed within 45 days for standard cases and within 90 days for applications requiring a disability determination.
[22] 42 C.F.R. § 435.403.
[23] *See* 42 C.F.R. §§ 435.403(h)(1)(i), (j)(3); 42 C.F.R. § 435.945(a).
[24] CCF, *Medicaid and CHIP Eligibility Verification Flexibilities Help States Keep up with Increased Application Volume due to COVID-19* (2020), https://ccf.georgetown.edu/2020/04/14/medicaid-and-chip-eligibility-verification-flexibilities-help-states-keep-up-with-increased-application-volume-due-to-covid-19.

individuals who have no fixed address.[25] Also, Medicaid enrollees are permitted to have different residence and mailing addresses. In addition to receiving communications by mail, enrollees can choose to receive communications electronically, and Medicaid agencies must provide enrollees the option to receive electronic redetermination and hearing notices.[26]

An applicant who is an immigrant must declare that they have SIS and can establish this by supplying their Alien Registration Number (A-number) or other identifier. Agencies then verify the declaration through the DHS Systematic Alien Verification for Entitlements (SAVE) database.[27]

What immigration-related documentation is required?

An applicant can establish SIS by presenting documentation showing their A-number, alien admission number, or alien file number.[28] Applicants must provide a Social Security Number (SSN) if they are eligible for one and have one.[29] The SSN requirement does not apply to individuals who are not eligible for an SSN or are only eligible for a non-work SSN (see below for more on non-applicants' information requirements).[30] Additionally, immigration status declarations and verifications are not required when an individual applies for Emergency Medicaid only (see section III below for more on Emergency Medicaid).[31]

Is an applicant's SSN information verified, reported, or shared with other entities?

Federal rules require that Medicaid agencies explain the legal authority under which they are requesting an applicant's SSN.[32] Medicaid agencies are also required to explain how they will use the SSN, including its use for verifying income, eligibility, and amount of medical assistance payments.[33] If the applicant has not been issued an SSN, agencies are required to assist the applicant in applying for an SSN and send the application to the Social Security

[25] *See* 42 C.F.R. § 435.945(a).
[26] 42 C.F.R. § 435.918(a).
[27] NILC, *FAQ: Navigating the DHS SAVE System* (2026), https://www.nilc.org/resources/faq-navigating-the-dhs-save-system/.
[28] 42 U.S.C. § 1320b-7(d)(2). *See* Sarah Grusin & Catherine McKee, Nat'l Health Law Program, *Medicaid Coverage for Immigrants* (2021), https://healthlaw.org/resource/medicaid-coverage-for-immigrants/.
[29] 42 U.S.C. § 1320b-7(a)(1).
[30] 42 C.F.R. § 435.910(h)(1)(ii).
[31] 42 U.S.C. § 1320b-7(f). Emergency Medicaid is a limited benefit that covers emergency medical care for individuals who are otherwise eligible for full scope Medicaid but are ineligible due to their immigration status.
[32] 42 C.F.R. § 435.910(b)(2).
[33] *Id.* at (b)(3).

Administration (SSA).[34] Agencies must request that SSA furnish the SSN if an applicant cannot recall their number.[35] Importantly, agencies cannot deny or delay services to an otherwise eligible individual pending SSA's issuance or verification of an applicant's SSN.[36]

Agencies must report enrollees' data including SSN, name, date of birth, address, case number, and other public benefits being received, to the Public Assistance Reporting Information System (PARIS).[37] PARIS is a federal-state data matching system that checks whether an individual is enrolled in public benefits, like Medicaid, in more than one state. States' Medicaid eligibility systems must report PARIS data matching to receive federal matching funds for their systems. Under OBBBA, starting January 1, 2027, states must create a process to verify Medicaid members' address information more frequently.[38] By October 1, 2029, states must begin submitting SSNs and other information the Health Secretary deems necessary at least monthly, and at every redetermination.[39] For more on enrollee data collection and sharing, including ongoing litigation challenging inter-agency Medicaid data sharing, see section VI.

What if SAVE cannot verify an applicant's information?

Not all immigration information can be verified through an initial SAVE search due to the system's limitations. A multi-step SAVE process ensues if an applicant's information cannot be verified initially. The agency may only request additional immigration documentation from the applicant if an applicant's immigration status cannot be verified through the initial SAVE search.[40] This extended verification process following an initial, unverified SAVE search is referred to as a "reasonable opportunity period."[41]

Importantly, states are required to provide Medicaid benefits to applicants during their reasonable opportunity period as long as they meet the other eligibility requirements.[42] Agencies must allow individuals at least 90 days to provide additional immigration information that confirms a satisfactory immigration status.[43] Access to benefits during this period is essential because obtaining updated immigration documentation can be time consuming and

[34] *Id.* at (e)(1).
[35] *Id.* at (e)(3).
[36] *Id.* at (f).
[37] QI Program Supplemental Funding Act of 2008, Pub. L. No. 110-379, 122 Stat. 4075 (2008).
[38] OBBBA § 77103.
[39] *Id.*
[40] 42 U.S.C. § 1320b-7(d)(4); 42 C.F.R. § 435.956(a)(5), (b).
[41] *See* 42 C.F.R. § 435.956(b).
[42] 42 U.S.C. § 1320b-7(d)(4).
[43] 42 C.F.R. § 435.956(b)(2).

complicated. The National Immigration Law Center's (NILC) explainer on navigating the SAVE process offers tips for individuals undergoing additional verifications, including what documents to obtain and how to correct outdated or incorrect immigration records.[44] An individual may still experience obstacles or delays when gathering documents and an agency may extend the reasonable opportunity period beyond 90 days if it determines that the individual is making a good faith effort to obtain any necessary documentation.[45]

This extended verification process is not uncommon because the SAVE system has several limitations and may rely on outdated or incomplete information.[46] Thus, reasonable opportunity safeguards are critical for advocates to enforce.

Example 1: SAVE Verifications when Applying for Medicaid

Grace, a legal permanent resident, applies for Medicaid to cover her pregnancy healthcare. She provides her SSN and other relevant immigration information in her application. Her Medicaid agency sends that information to SAVE but the system is unable to verify her immigration status. As a result, the Medicaid agency denies her application due to unsatisfactory immigration status. Was Grace potentially denied benefits improperly?

Yes. A non-response following an initial SAVE search requires that the agency advance to the next step of the verification process. In this case, the agency should contact Grace for more information or documentation.

Are other household members required to provide information if not applying for Medicaid?

No. Only Medicaid applicants are required to provide immigration status information. Non-applicant household members cannot be required to disclose their SSN or citizenship or immigration status. Agencies may *request* this information, but non-applicants are not obligated to provide it.[47] Additionally, agencies must provide information on how SSNs will be used with clear notice that providing a non-applicant's SSN is voluntary.[48] Agencies often

[44] *See, e.g.*, NILC *supra* note 14.
[45] 42 C.F.R. § 435.956(b)(2)(ii)(B).
[46] *See id.*
[47] 42 C.F.R. § 435.907(e)(3).
[48] *Id.* at (e)(3)(ii).

request this information because non-applicant SSNs make it easier for Medicaid agencies to verify household composition and income.[49]

Example 2: Providing SSN Information to Medicaid

Grace's Medicaid agency corrects its course and requests additional information. The agency asks Grace to provide documentation of her immigration status and SSNs of all household members. Grace is the only member in her household applying for Medicaid and is concerned about sharing SSN information when it is not required. How do you advise Grace?

Tips: The requirement to provide an SSN only applies to applicants who have an SSN or are eligible for one. While Medicaid agencies can ask for non-applicant SSNs, there is no requirement for the applicant to provide that information. In this case, only Grace is required to provide her own SSN.

Certain information from non-applicants may be required. For example, an applicant must explain their household composition because individuals that are part of an applicant's "household" are relevant to determining the applicant's income.[50] In those circumstances, non-applicants must provide income information to allow the agency to complete the applicant's eligibility determination.

Advocacy Tip: Federal Protections

Beginning in 2026, NHeLP has observed an increase in Medicaid agencies demanding applicant and non-applicant SSNs as a condition of Medicaid approval. In these scenarios, agencies may misstate or misapply rules and advocates must ensure agencies correctly apply the respective SSN rules and exceptions for applicants and non-applicants explained above (also see 42 C.F.R. § 435.910 (h)).

[49] *See* HHS, Dear State Health and Welfare Officials Letter #092100, *Policy Guidance Regarding Inquiries into Citizenship, Immigration Status and Social Security Numbers in State Applications for Medicaid, State Children's Health Insurance Program (SCHIP), Temporary Assistance for Needy Families (TANF), and Food Stamp Benefits* (2000), https://www.medicaid.gov/Federal-Policy-Guidance/downloads/sho092100.pdf.

[50] *See* CMS, *MAGI-Based Household Income Eligibility Training Manual* 8 (2020), https://www.medicaid.gov/state-resource-center/mac-learning-collaboratives/downloads/household-composition-and-income-training.pdf.

II. Medicaid Renewals – Full Scope Medicaid

The process of reevaluating an enrollee's eligibility for Medicaid is referred to as a redetermination.[51] Typically, states conduct redeterminations every 12 or 6 months depending on the category of Medicaid coverage in which an individual is enrolled. However, beginning in January of 2027, states are required to reevaluate Medicaid eligibility every six months for individuals enrolled in the adult Medicaid Expansion program.[52]

States are required to first redetermine eligibility based on information available to the state without requesting additional information from applicants.[53] This available information includes electronic data sources and information that has already been provided to other benefit programs such as a recent Supplemental Nutrition Assistance Program (SNAP) application or recertification.[54] This process of first using reliable information available to the state is called an ex parte review. If the state cannot determine continued eligibility from an ex parte review, the enrollee is sent a renewal form that requests additional information.[55]

Circumstances Related to Eligibility but Not Likely to Change

States are not permitted to require re-verification of citizenship or of immigration statuses that are unlikely to change, such as legal permanent residency, at 6- or 12-month redeterminations.[56] CMS has not provided much guidance on which statuses are likely or

[51] 42 C.F.R. § 435.916(a).
[52] KFF, *Status of State Medicaid Expansion Decisions* (2026), https://www.kff.org/medicaid/status-of-state-medicaid-expansion-decisions/#:~:text=The%20Affordable%20Care%20Act's%20(ACA,FMAP)%20for%20their%20expansion%20populations. Note also that certain groups are exempt for the 6-month renewal requirement: American Indians, Alaska natives, and individuals enrolled in other MAGI-based eligibility groups (including individuals described in section 1902(a)(10)(A)(i)(VIII) in a state that does not cover the entire section 1902(a)(10)(A)(i)(VIII) group under its state plan or a section 1115 demonstration). CMS, SMD 26-001, *Implementation of "Eligibility Redeterminations," Section 71107 of the "Working Families Tax Cut" Legislation (Public Law 119-21)* (2026), https://www.hhs.gov/guidance/document/implementation-eligibility-redeterminations-section-71107-working-families-tax-cut.
[53] 42 C.F.R. § 435.916.
[54] 42 C.F.R. §§ 435.948, 435.949, and 457.380.
[55] 42 C.F.R. § 435.916(b)(2).
[56] 42 C.F.R. § 435.956(a)(4)(ii). *See also* CMCS, CIB, *Medicaid and Children's Health Insurance Program (CHIP) Renewal Requirements* (2020), https://www.medicaid.gov/federal-policy-guidance/downloads/cib120420.pdf

unlikely to change except to note that individuals with Temporary Protected Status (TPS) must reverify their status at each renewal.[57]

> **Advocacy Tip: Immigration Status Verifications**
> If states are requiring re-verification of citizenship or satisfactory immigration status at redetermination, you should encourage the enrollee you are working with to seek assistance from a state-based Medicaid advocate.

III. Limited or Temporary Medicaid Options

Emergency Medicaid

For decades, federal Medicaid statutes have placed significant restrictions on both documented and undocumented immigrants' eligibility for full-scope Medicaid. Immigrants who meet all of the eligibility criteria for Medicaid except immigration status are still eligible for Emergency Medicaid.[58] Emergency Medicaid provides reimbursement of expenses incurred when providers treat emergency medical conditions of uninsured patients who are excluded from Medicaid programs because of their immigration status.[59]

The statute defines an "emergency medical condition" as a medical condition (including emergency labor and delivery) severe enough that failure to get immediate medical attention could reasonably be expected to result in either placing the patient's health in serious jeopardy, or in serious impairment to bodily functions, or in serious dysfunction of any bodily organ or part.[60]

There is some variation in how states administer Emergency Medicaid, depending on how broadly or how narrowly states have interpreted qualifying conditions establishing an emergency medical condition. For instance, in New York, the qualifying conditions for Emergency Medicaid allow patients to receive cancer care and routine dialysis in outpatient settings.[61] States that choose to similarly administer Emergency Medicaid can lessen the

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[57] CMCS, *supra* note 56.
[58] 8 U.S.C. § 1611 (b)(1)(A). *See also* 42 U.S.C. § 1396b(v)(3).
[59] 8 U.S.C. § 1611 (b)(1)(A). *See also* Jin K. Park et al., *State Flexibility in Emergency Medicaid to Care for Uninsured Noncitizens* 4 JAMA HEALTH FORUM e231997 (2023), https://jamanetwork.com/journals/jama-health-forum/fullarticle/2807182.
[60] 42 U.S.C. § 1396b(v)(3). *See Arellano v. Dep't of Hum. Serv.*, 943 N.E. 2d 631 (Ill. App. Ct. 2010).
[61] *See* Jin K. Park et al., *supra* note 58.

financial strain on hospitals and ameliorate the worsened clinical outcomes that typically occur when patients with serious medical conditions are only able to access care in emergency departments.

Some states allow individuals to apply for Emergency Medicaid before they begin treatment, while other states only approve applications for treatment that has already occurred (e.g., stabilizing care provided in an emergency department)."[62]

Individuals only applying for Emergency Medicaid cannot be required to attest to their citizenship or immigration status nor do they have to provide a social security number.[63] If applications for Emergency Medicaid are left pending or have been denied because the state is requiring an applicant to provide a social security number, those applicants should be referred to legal advocates in your state.

Example 3: Temporary Medicaid Options

Grace and her spouse, Bo, are admitted to the hospital for serious injuries that they suffered in an automobile accident. Grace is in her last trimester of pregnancy and delivers a child, Lisa.

Earlier, Grace applied for Medicaid for herself but her spouse and child are uninsured. All three family members have different immigration statuses. Grace recently became an LPR and entered the U.S. 4 years ago. Bo does not have any documented status. Lisa was born in the U.S. and is a U.S. citizen. Provided that the family meet all other eligibility criteria, what types of Medicaid could each family member receive?

Grace: As an LPR, Grace's Medicaid eligibility depends on her immigration status when adjusting to an LPR. Generally, LPRs are subject to a 5-year waiting period before being eligible for government benefits like Medicaid. Grace should consult with an immigration expert to determine whether she is exempt from the 5-year waiting period. Also, Grace might be eligible for full scope coverage under CHIPRA or CHIP From-Conception-to-End-of-Pregnancy if her state adopted these options (more information below).

Bo: Without further immigration documentation, Bo is only eligible for Emergency Medicaid. There may be state-funded health care options in his state.

Lisa: As a U.S. citizen, Lisa is eligible for full scope Medicaid.

[62] *Id.*
[63] 42 U.S.C. § 1320b–7(f).

Presumptive Eligibility

Presumptive eligibility (PE) is a policy that provides immediate, temporary Medicaid coverage to individuals who are likely eligible for full Medicaid coverage while their application is being processed.[64] Traditional PE is optional for states.[65] States authorize "qualified entities," like providers and community-based organizations, to make PE determinations and grant temporary Medicaid coverage.[66] States may offer PE to the following populations: children under age 19, pregnant women, individuals with breast or cervical cancer, certain individuals receiving family planning services and supplies, certain older adults and individuals with disabilities applying for home and community-based services; and in some cases parents and caretaker relatives, former foster care children under age 26, and other eligible adults between ages 19 and 64.[67]

The ACA extended PE to hospitals as a separate but related policy mandate called Hospital Presumptive Eligibility (HPE).[68] While traditional PE is optional, states are required to implement HPE.[69] A state must allow HPE for certain populations that are Medicaid-eligible in the state, including pregnant persons, children, and Medicaid Expansion adults.[70]

A PE or HPE application can be initiated at a qualified entity or qualified hospital. Individuals must provide preliminary information to the entity. If the individual appears to be eligible for Medicaid based on that information, they are granted temporary presumptive eligibility.[71]

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[64] 42 U.S.C. §§ 1396r-1.
[65] *See id.* (States "may provide" a PE period to temporarily cover Medicaid services for certain populations).
[66] *Id.*
[67] *Id.*; 42 C.F.R. § 435.1103(b).
[68] 42 U.S.C. § 1396a(a)(47)(B); 42 C.F.R. § 435.1110; CMS, *Implementation of Hospital Presumptive Eligibility* (2014), https://www.medicaid.gov/sites/default/files/Federal-Policy-Guidance/downloads/CIB-01-24-2014.pdf.
[69] 42 C.F.R. § 435.1110(a).
[70] 42 C.F.R. § 435.1110(c); Manatt Health, *Table 1: Key Requirements and Options for Medicaid Presumptive Eligibility*, https://web.archive.org/web/20240617093937/https://www.manatt.com/Manatt/media/Media/Media/PDF/Newsletters/Table-1-Key-Requirements-and-Options-for-Medicaid-Presumptive-Eligibility.pdf (last visited April 30, 2026).
[71] 42 U.S.C. §§ 1396r-1–1c; 42 C.F.R. § 435.1110(a).

Typically, the PE period ends when full Medicaid eligibility is approved or denied (i.e. the PE period generally lasts 1–2 months).[72]

Importantly, PE and HPE offer a number of documentation and verification protections for applicants. States cannot not require that individuals provide an SSN to receive a PE determination.[73] Additionally, states are not required to consider residency or immigration status for PE/HPE determinations.[74] If the state does require those criteria, the applicant's attestation is sufficient and the state may not require verification of residency or citizenship for PE.[75] However, applicants should be advised that verification will be required for a full Medicaid application.

CHIP From Conception to End of Pregnancy

Twenty-four states have taken up the From Conception to End of Pregnancy (FCEP) optional state coverage that offers prenatal and pregnancy-related benefits to unborn infants and children regardless of the pregnant person's immigration status.[76] FCEP coverage ends at the end of pregnancy and does not include 12-month post-pregnancy coverage.

Medicaid agencies cannot require FCEP applicants to provide documentation of their immigration status.[77] Pregnancy, residency, household income, and lack of insurance are the

[72] 42 U.S.C. §§ 1396r-1(b), (c); 42 C.F.R. § 435.1101. Individuals granted PE must apply for Medicaid separately in order to receive a full determination. For PE recipients who do not submit a full Medicaid application, PE ends the last day of the month following the month PE was granted.
[73] CMS, *Implementation Guide: Medicaid State Plan Eligibility - Presumptive Eligibility - Presumptive Eligibility by Hospitals* p. 3, https://www.medicaid.gov/resources-for-states/downloads/macpro-ig-presumptive-eligibility-by-hospitals.pdf.
[74] *Id.*
[75] 42 C.F.R. § 435.1102(d).
[76] *See* 42 C.F.R. § 457.10 (In 2002, HHS revised the definition of "child" eligible for the CHIP program to include unborn children. This resulted in a state option to provide CHIP coverage to children from conception to the end of pregnancy.); Akash Pillai et al., *supra* note 12 (States that have adopted the FCEP option are AL, AR, CA, CO, CT, DC, IL, LA, MA, ME, MI, MD, MN, MO, NE, NY, OK, OR, RI, SD, TN, TX, VI, WA, and WI).
[77] CMS, *State Children's Health Insurance Program; Eligibility for Prenatal Care and Other Health Services for Unborn Children*, 67 Fed. Reg. 61956 (2002) (explaining that an unborn child would be considered the Medicaid applicant under FCEP and have no immigration status to disclose; birthing parents would be considered non-applicants under FCEP and states cannot require non-applicants to disclose their immigration information under 42 C.F.R. § 435.907(e)).

only eligibility criteria for the program.[78] No other factors may be considered because agencies can only require the information necessary to make an eligibility determination.[79]

Again, some states use state-only funding to offer care options similar to FECP to immigrants who do not qualify for federally funded Medicaid.[80]

IV. Advance Notice

While OBBBA significantly restricts immigrants' eligibility for Medicaid, state implementation of these new restrictions must comply with Medicaid due process protections. Medicaid applicants and enrollees have the right to notice and administrative hearings when a Medicaid agency issues an adverse determination based on an ineligible immigrant status.[81]

Any Medicaid applicant or enrollee whose Medicaid eligibility is terminated or denied based on immigration status (or for other reasons) must be provided an advance notice at least 10 days before the date of that adverse action.[82]

Notices must be individualized and contain enough information to enable an individual to determine whether the agency has made a mistake and, if so, how to request a hearing.[83] Notices communicating eligibility changes based on immigration status should:

(1) clearly explain that the eligibility rules are changing and list which statuses remain eligible;
(2) list what status the state believes the individual has so the individual can identify whether the agency has made a mistake;
(3) provide information specific to each household member (including who in the household remains eligible — e.g. U.S. citizen children — which is especially critical for mixed-status families);
(4) specify whether individuals are ineligible because they do not have the required status or because they are an LPR but did not meet an exemption from or complete the five-year-bar, and identify available exemptions to the five-year bar; and

[78] CMS, *CHIP Eligibility & Enrollment*, https://www.medicaid.gov/chip/chip-eligibility-enrollment (last visited May 1, 2026).
[79] *See* 42 CFR § 435.907(e)(3).
[80] Akash Pillai et al., *supra* note 12.
[81] 42 U.S.C. § 1396a(a)(3); 42 C.F.R. §§ 431.200–431.250.
[82] 2 C.F.R. § 431.232(b)
[83] 2 C.F.R. § 431.206 (b)

(5) where applicable, include a statement that if a person is pregnant or a child, they may still qualify as a "lawfully residing" immigrant.

Notices are required to inform individuals that they have the right to challenge adverse decisions through an administrative hearing.[84] This information should also include instructions about how to request a hearing, the availability of interpreter services at no cost to the individual, and the right to select a hearing representative of their choice (e.g., a lawyer, a friend, or a relative).[85]

Actions and processes that improperly disrupt due process protections violate the constitutional rights of Medicaid applicants and enrollees. For example, if Medicaid applications remain pending because a non-applicant or an applicant who meets an exception is required to provide a social security number, the agency is using discouragement to interfere with due process rights.[86]

V. Fair Hearings

A request for a hearing means a clear expression by the applicant or recipient or his representative that she wants the opportunity to present her case to a reviewing authority. The right to a hearing also gives individuals the right to review the content of the applicant's or beneficiary's case file and electronic account.[87] This gives the enrollee the right to review the entire case file, including case notes and any information from SAVE that was used in the eligibility determination.

The hearing must be conducted at a reasonable time, date, and place by an impartial hearing official.[88] At the hearing, the claimant must be allowed to present witnesses, establish facts, present argument, and cross-examine adverse witnesses.[89]

The impartial hearing officer must draft a fair hearing decision. This decision must be based only on the evidence presented at the hearing, and a decision must be provided in writing to

[84] *Id*
[85] 42 C.F.R. § 431.206(b)(3).
[86] 42 C.F.R. § 435.907(e).
[87] 42 C.F.R. § 431.242.
[88] 42 C.F.R. § 431.240(a).
[89] 42 C.F.R. §§ 431.242(b)–(e).

the claimant within 90 days of the request for the hearing.[90] The decision must inform the individual of the reasons for the decision and any additional administrative or judicial review that is available.[91]

Example 4: Protecting One's Rights

Bo is released from the hospital before Grace and Lisa are. He has received several notices from the state Medicaid agency, so he made an appointment to speak to his case worker.

The case worker tells him that she is processing Lisa's application for Medicaid and she needs to have Bo's SSN since he is employed and his wages must be verified. She will also need the immigration status of both of Lisa's parents.

Bo states that the patient navigator at the hospital told him that he did not have to provide his SSN or immigration status when she helped Bo and Lisa apply for Medicaid. Bo then provides the case worker with documentation of his wages only.

The case worker replies that Bo did not need to provide his SSN at that time because he was applying for Emergency Medicaid where applicants did not need to provide immigration information or an SSN. The case worker then states that she will not process Lisa's application for full scope Medicaid until Bo and Grace provide their SSNs.

Bo states that it is not mandatory to provide a social security number. He asks for a hearing to address this issue.

Advocacy: The case worker has misapplied non-applicants' rights. As noted in section II above, Medicaid agencies can request SSN information of non-applicants but they cannot require it as a condition of an applicant's eligibility. In this case, Bo is considered a non-applicant with respect to Lisa's Medicaid application. And as a non-applicant, Bo is not required to provide his SSN or immigration information to process Lisa's application.

[90] 42 C.F.R. §§ 431.244(a), (f); CMS, *State Medicaid Manual* §§ 2902.10 (regarding 90-day limit)
[91] 42 C.F.R. §§ 431.244(d), (e), 431.245.

VI. Data Privacy

Federal law and policy have historically protected Medicaid enrollees' private information by prohibiting its use or disclosure for purposes other than administering the program. The Trump administration, however, is contradicting these historic practices by sharing Medicaid enrollee data with DHS for immigration enforcement purposes. The situation is rapidly changing, not transparent, and subject to ongoing legal challenges.[92] Thus, we cannot state with confidence that information provided to Medicaid (or other federal benefit agencies) will not be shared with immigration enforcement.

Potential applicants and enrollees may want to consider that there may be no additional risk to applying for or receiving Medicaid benefits if DHS already is aware of the individual's presence and has their address.[93] Additionally, disenrolling from Medicaid will not erase an individual's data. Thus, there may not be reason to disenroll if the individual is already receiving Medicaid and has not moved. In all, families must weigh the value of receiving health care against the possible risk that their information might be used by DHS for immigration enforcement purposes.

VII. Public Charge

Public charge is a longstanding legal term used to describe individuals who are primarily dependent on government resources to avoid destitution.[94] In the immigration context, the government has evaluated immigrants to determine if they were, or were likely to become, a public charge. Those labelled as a public charge have a negative weight on either their application for lawful permanent residence or visa entry through an outside port. Though the rule has undergone different interpretations over the years, it generally set clear limits on what

[92] Nat'l Health Law Prog., *NHeLP v. U.S. Department of Health and Human Services, D.D.C. (FOIA – Medicaid Data Sharing with ICE)* (2026), https://healthlaw.org/resource/hhs-ice-medicaid-data-sharing/.
[93] *See* Protecting Immigrant Families (PIF), *Medicaid and SNAP Data Sharing: What Advocates Need to Know* (2026). https://docs.google.com/document/d/1e45g2vMJusaraNxZcmH0F_I1T-RZ51CyLVdmUOrLxNc/edit?emci=31e30629-76fc-f011-8d4c-0022482d279b&emdi=fff139f7-77fc-f011-8d4c-0022482d279b&ceid=21102389&tab=t.0.
[94] PIF, *Public Charge: What Advocates Need to Know* (2026), https://pifcoalition.org/resources/library/public-charge-what-advocates-need-to-know/.

benefits are considered part of the test.[95] Non-cash benefits, including Medicaid and other routine health care, were excluded from the public charge test.[96]

DHS published a new rule in July 2026, which eliminated many long-standing limits of what public benefits immigration officers could and could not consider when making public charge determinations.[97] Without these previous guardrails, it is unclear which public benefits immigration officers can consider and how the use of benefits will be weighed. Even under previous versions of the public charge test, many immigrants who were not subject to the test avoided using government benefits out of fear or misinformation.[98] The chilling effect of the 2026 public charge rule is likely to be even greater than before because of its lack of clarity and consistency. Attorneys will need to understand how the rule applies and to whom, and explain the scope of the new rule to their clients. The resources cited here are designed to help advocates make sense of the changes.[99]

VIII. Language Access

The draconian cuts to Medicaid eligibility for immigrants under OBBBA will create confusion and gaps in care. One way to reduce confusion and help navigate these changes is to provide needed information in culturally & linguistically accessible formats.

Title VI of the Civil Rights Act of 1964 and Section 1557 of the Affordable Care Act both prevent discrimination against individuals who have limited English proficiency (LEP).[100] Medicaid applications and forms must also be accessible to individuals with disabilities.[101] These rules apply to virtually all entities that provide health insurance and care, and require "covered entities" take reasonable steps to provide meaningful access to each individual with

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[95] DHS, *Public Charge Ground of Inadmissibility*, 87 Fed. Reg. 10570 (2022); INS, *Field Guidance on Deportability and Inadmissibility on Public Charge Grounds*, 64 Fed. Reg. 28689 (1999).
[96] *See id.*
[97] DHS, *Public Charge Ground of Inadmissibility*, 91 Fed. Reg. 45324 (2026).
[98] *Id.*
[99] PIF, *Public Charge Regulation Toolkit*, https://pifcoalition.org/toolkits/public-charge-regulation (last visited July 23, 2026); PIF & NILC, *Public Charge: What Advocates Need to Know About the November 2025 Proposed Rule* (2026), https://docs.google.com/document/d/126CEM2jaUiXHoUuCPqrrMMS6Q2l7gN2m0bPjZKUoSQc/view?tab=t.0 (last visited September 9, 2026).
[100] 42 U.S.C. § 2000d; 42 U.S.C. § 18116; 42 C.F.R. § 435.905(b).
[101] *Id.*

LEP.[102] Meaningful access includes providing language access services free of charge; accurately and timely; and protecting the privacy and decision-making abilities of LEP individuals.[103] Federal regulations also require that all language assistance services be provided by only qualified interpreters, translators, and bi- and multi-lingual staff.[104]

Conclusion

Navigating Medicaid is difficult. There are many types of programs, with different eligibility criteria and a wide range of services. For immigrants and their families, the difficulty of navigating Medicaid programs is compounded by fear surrounding heightened immigration enforcement and concerns that the new public charge rule means that accepting any public benefits will negatively impact their immigration status.

Research shows that these fears create a "chilling effect' that deters many immigrants and their families from accessing Medicaid for themselves or even for citizen children in mixed status households. This leads to poor health outcomes and an increase in uncompensated medical care.[105]

Immigration attorneys and advocates need to be able to give clients accurate information about Medicaid programs. They should also be able to identify common issues that arise with immigrant Medicaid access so that they can refer their clients to Medicaid advocates to address to prevent unlawful deprivation of vital health benefits.

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[102] *See* HHS, *Nondiscrimination in Health Programs and Activities*, 89 Fed. Reg. 37522 (2024). A "covered entity" is a recipient of federal financial assistance, the Department of Health and Human Services, and entities established under Title I of the Affordable Care Act.
[103] 45 C.F.R. §§ 92.201(a), (b).
[104] 45 C.F.R. § 92.4.
[105] Samantha Artiga et al., KFF, *Potential "Chilling Effects" of Public Charge and Other Immigration Policies on Medicaid and CHIP Enrollment* (2025) https://www.kff.org/medicaid/potential-chilling-effects-of-public-charge-and-other-immigration-policies-on-medicaid-and-chip-enrollment/.