

# Immigrant Eligibility in New Mexico

Serving Vulnerable and Underserved Populations: Part 4 of 5



# Introduction

Non-U.S. citizens and immigrants living in New Mexico may qualify for health insurance coverage in the state. There are policies in place that protect immigrants and their families when applying for health insurance through Marketplaces such as BeWell. This training covers important information to understand when helping these consumers.

# Important

Content in this training is provided for informational purposes only. Content related to eligibility for Medicaid is also provided for informational purposes only and may be subject to change. Comprehensive training on eligibility for Medicaid programs may be available through the New Mexico Health Care Authority (HCA).

None of the information provided here constitutes legal advice. For complete information and guidance on immigration issues, please contact an immigration attorney.

# Main Topics

- General immigrant eligibility
- Medicaid
- APTC/CSR
- Undocumented immigrants
- Mixed immigration status households
- Disclosure of immigration status
- Acceptable immigration documents
- Immigrants and sponsors
- Immigration enforcement concerns
- Discrimination is prohibited
- The “Public Charge” Rule

# General Immigrant Eligibility



- Most people in the following groups are eligible for coverage through BeWell (assuming they meet other eligibility requirements):
  - U.S. citizens
  - U.S. nationals
  - Lawfully present immigrants

# General Immigrant Eligibility (Continued)



- The term “lawfully present” includes immigrants who have:
  - “Qualified non-citizen” immigration status
  - Humanitarian statuses or circumstances (including Temporary Protected Status, Special Juvenile Status, asylum applicants, Convention Against Torture, victims of trafficking)
  - Valid non-immigrant visas
  - Legal status conferred by other laws (including temporary resident status, LIFE Act, Family Unity individuals)
- **Note:** Lawfully present immigrants may qualify for advanced payments of the premium tax credit (APTC) and income-based cost-sharing reductions (CSR) to lower the cost of their coverage if they meet the other eligibility requirements for these programs.

# Medicaid



When a consumer applies for financial assistance through the BeWell application, the system will first assess whether the applicant is potentially eligible for Medicaid programs. To receive an accurate assessment for those programs, and, therefore, an accurate determination of eligibility for financial assistance, the applicant must answer all application questions as thoroughly as possible. The application will dynamically display questions depending on the specific immigration situation the applicant reports.

# Medicaid Eligibility (1 of 3)

- Groups of non-citizens and immigrants who may be eligible for Medicaid includes, but is not limited to, Lawful Permanent Residents (LPR or green card holders) at the end of the 5-year waiting period (5-year bar) and qualified immigrants exempt from the 5-year waiting period. These qualified immigrants include:
  - Refugees;
    - **Note:** If someone was once a refugee, they remain exempt from the 5-year bar even if they become LPR.
  - Asylees;
  - Cuban/Haitian entrants;
  - Certain domestic violence and trafficking survivors;
  - U.S. Veteran families;
  - Lawfully present pregnant women (state-by-state but New Mexico allows); and
  - Lawfully present children (state-by-state but New Mexico allows).

# Medicaid Eligibility (2 of 3)



- The groups of non-citizens and immigrants who may be eligible for Medicaid also include qualified non-citizens who entered the U.S. before August 1996:
  - Asylees and refugees;
  - Cuban/Haitian entrants;
  - Parolees for more than one year;
  - Battered non-citizens, spouses, and children;
  - Victims of trafficking; and
  - Veterans and active military and their spouses and children.

# Medicaid Eligibility (3 of 3)



A broader list of Qualified Non-citizens includes:

- LPR
- Asylees
- Refugees
- Cuban/Haitian entrants
- Immigrants paroled into the U.S. for at least one year
- Conditional entrant granted before 1980
- Battered non-citizens, spouses, children, or parents
- Victims of trafficking and his or her spouse, child, sibling, or parent or individuals with a pending application for a victim of trafficking visa
- Granted withholding of deportation
- Member of a federally recognized Indian tribe or American Indian born in Canada
- Citizens of the Marshall Islands, Micronesia, and Palau who are living in one of the U.S. states or territories (referred to as Compact of Free Association or COFA migrants)

# APTC/CSR

- An applicant must be ineligible for Medicaid to be eligible for financial help, such as advance payments of the premium tax credit (APTC) and cost-sharing reductions (CSR), through BeWell.
- This includes consumers who are ineligible because they have not yet met the 5-year waiting period. This means that even though an individual may be within the income range for Medicaid, if the consumer has not met the 5-year bar and an exception does not apply, they will be denied for Medicaid. At that time, they may qualify for Marketplace coverage with APTC and/or CSR.

# APTC/CSR (Continued)

- Lawfully present consumers could be determined eligible for APTC or CSR.
- Eligible immigration statuses for APTC
  - Any visa status that is valid for the entire period for which enrollment is sought. Including, but not limited to:
    - Student visas
    - U-visas
    - T-visas
    - Workers visas (such as H1, H2A, H2B)
    - LPR/green card
- **Note:** Non-immigrant visa holders may be eligible for a Marketplace plan, APTC, and CSR if they meet all other eligibility criteria.

# Undocumented Immigrants



- Undocumented immigrants are not eligible to buy Marketplace health coverage or for the premium tax credit (PTC) and other savings on Marketplace plans.
- They may be able to find assistance with the New Mexico Medical Insurance Pool (NMIP).
  - See the [NMIP website](#) for more information.
- Effective November 1, 2024, DACA recipients will no longer be excluded from the definition of “lawfully present.” Therefore, recipients who meet all other eligibility requirements can enroll in a plan through the Marketplace with financial assistance (e.g., APTC and CSR).

# Mixed Immigration Status Households (1 of 3)

- A mixed immigration status household refers to households with members of different immigration and citizenship statuses.
  - These households may have both
    - Members who are not eligible for Marketplace coverage; and
    - Members who are lawfully present and therefore eligible for Marketplace coverage.

# Mixed Immigration Status Households (2 of 3)



- Family members who are not lawfully present (including those who are undocumented) can apply for Marketplace coverage through BeWell on behalf of other family members who are lawfully present.
- Mixed immigration households may also apply for APTC or income-based CSR for members of the household who are eligible for Marketplace coverage.
  - This can be done without providing a Social Security Number (SSN) or other proof of lawful presence. Assistors should not ask consumers applying on behalf of others any questions about their citizenship or immigration status.
  - This information is not relevant to the eligibility determination of the potential enrollee.

# Mixed Immigration Status Households (3 of 3)

- Best Practices: To effectively assist consumers who are part of a mixed immigration status household, assisters should:
  - Be mindful that a consumer's immigration status may be a sensitive topic.
  - Correctly identify the applicant by asking consumers whether they are seeking health coverage for themselves or on behalf of someone else.
  - Do not ask household members who are applying on behalf of others any questions about their citizenship, immigration status, or social security number (SSN).

# Disclosure of Immigration Status



- The “public charge” rule is no longer in effect. Applying for or receiving Medicaid benefits, or receiving savings for health insurance costs through BeWell, does not make someone a public charge.
- This means it will not affect their chances of becoming an LPR or U.S. citizen.

# Acceptable Immigration Documents (1 of 3)



- Assistors should review the available document types listed in the application with the consumer and help them determine which document attests to their specific immigration status.
- If the consumer has more than one current immigration document, they should select and input information from the document that contains an alien number, if possible (also called an “alien registration” or “USCIS number”). This number usually begins with an “A” and has 9 digits.

# Acceptable Immigration Documents (2 of 3)



- Consumers may need to have one or more of the following documents or identification numbers to attest to their lawfully present status:
  - Permanent Resident Card, “Green Card” (I-551)
  - Reentry Permit (I-327)
  - Refugee Travel Document (I-571)
  - Employment Authorization Document (I-766)
  - Machine Readable Immigrant Visa (with temporary I-551 language)
  - Temporary I-551 Stamp (on passport or I-94/I-94A)
  - Certificate of Eligibility for Nonimmigrant Student Status (I-20)
  - Certificate of Eligibility for Exchange Visitor Status (DS2019)

# Acceptable Immigration Documents (3 of 3)



- Consumers may need to have one or more of the following documents or identification numbers to attest to their lawfully present status (continued):
  - Notice of Action (I-797)
  - Document indicating membership in a federally recognized Indian tribe or American Indian born in Canada
  - Certification from U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR)
  - ORR eligibility letter (if under 18)
  - Alien number (also called alien registration number or USCIS number) or I-94 number
  - Arrival/Departure Record (I-94/I-94A)
  - Arrival/Departure Record in foreign passport (I-94)
  - Foreign Passport
  - Visit the BeWell [Knowledge-base Articles](#) for more information.

# Immigration and Sponsors

- Modified Adjusted Gross Income (MAGI) program eligibility, including for financial help and Medicaid, may not always include sponsor income.
- MAGI program eligibility does include tax household income, and, in some instances, the immigrant is a tax dependent of their sponsor. If an immigrant is a tax dependent of their sponsor, the tax filer must submit the application for financial help, such as APTC, and the tax filer income is included because of the tax household relationship.
- Non-MAGI public assistance programs may include sponsor income.

# Immigration Enforcement Concerns

- The ACA includes strong protections for Personally Identifiable Information (PII).
- Privacy provisions were written to encourage participation of eligible individuals in mixed-status immigrant families.
- Agencies may only collect, use, and disclose information necessary for enrollment in health coverage.
- The U.S. Immigration and Customs Enforcement (ICE) does not use information about applicants/households obtained for health insurance eligibility purposes for civil immigration enforcement purposes.

# Discrimination is Prohibited

- Title VI of the Civil Rights Act and Section 1557 of the ACA prohibit discrimination based on race, ethnicity, national origin, and language spoken. Applications, processes, and procedures that deter eligible immigrants from applying may violate Title VI and Section 1557.
- This prohibition applies to all entities receiving federal financial assistance, including:
  - Consumer assisters
  - Clinics
  - Hospitals
  - Carriers
  - Marketplace agencies
  - Medicaid
  - CHIP agencies, contractors, and health plans

# The "Public Charge" Rule or Test



- The "public charge" rule (a rule that required the Department of Homeland Security to review receipt of an expanded set of public programs when assessing immigration applications) is no longer in effect.
- This means that applying for or receiving Medicaid, or receiving financial help through a marketplace, does not make someone a "public charge," and therefore will not affect their chances of becoming a LPR or U.S. citizen.
- There is one exception for people receiving long-term care in an institution at government expense, like in a nursing facility.
- If assisters need additional information, they should contact an immigration attorney.

# Key Points

- Information about applicants/households obtained for health insurance eligibility will not be used for civil immigration enforcement purposes.
- Discrimination based on race, ethnicity, national origin, and language spoken is prohibited. Applications, processes, and procedures that deter eligible immigrants from applying may violate protections against discrimination.
- Applying for or receiving Medicaid (other than support for long-term institutional care), or receiving financial help through a marketplace, does not make someone a "public charge," and therefore, will not affect their chances of becoming a LPR or U.S. citizen.

# Key Points (Continued)



- Most people in the following groups are eligible for coverage through BeWell (assuming they meet other eligibility requirements): U.S. citizens, U.S. nationals, and lawfully present immigrants.
- Some immigrants and noncitizens may be eligible for Medicaid coverage.
- Undocumented immigrants are not eligible to buy Marketplace health coverage or for APTC and other savings on Marketplace plans.
- Family members who are not lawfully present can apply for Marketplace coverage through BeWell on behalf of other family members who are lawfully present without submitting proof of their own lawful presence.
- Assistors should not request information of lawful presence from anyone not applying for coverage.



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