



TOBY DOUGLAS
Director

State of California—Health and Human Services Agency
Department of Health Care Services



EDMUND G. BROWN JR.
Governor

June 21, 2013

Gloria Nagle, PhD, MPA
Associate Regional Administrator
Centers for Medicare and Medicaid Services
Division of Medicaid and Children's Health
90 Seventh Street, Suite 5-300 (5W)
San Francisco, CA 94103-6707

STATE PLAN AMENDMENT (SPA) 13-016

Dear Ms. Nagle:

The Department of Health Care Services (DHCS) is submitting the enclosed State Plan Amendment (SPA) 13-016, which updates the definition of "lawfully residing" for purposes of providing full Medicaid coverage to lawfully residing pregnant women and children. SPA 09-014, provided approval for the option authorized by the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) to provide full scope Medi-Cal to pregnant women and children, who are qualified aliens subject to the five-year bar or are lawfully residing in the United States (US) as defined in the SPA.

On July 1, 2010, the Center for Medicare and Medicaid Services (CMS) provided guidance to state Medicaid programs to more precisely define which immigrants are considered to be lawfully residing in the US for purposes of covering pregnant women and children under the CHIPRA option. The enclosed SPA, if approved, would update the definition of "lawfully residing in the United States," provided in SPA 09-014, to reflect the definition provided in the CMS guidance. The guidance specified that immigrants in the following statuses are considered to be lawfully present:

- A qualified alien as defined in section 431 of Personal Responsibility and Work Opportunity Act (8 U.S.C. §1641);
- An alien in non-immigrant status, who has not violated the terms of the status under which he or she was admitted or to which he or she has changed after admission;
- An alien, who has been paroled into the US pursuant to section 212(d)(5) of the Immigration and Nationality Act (INA) (8 U.S.C. §1182(d)(5)) for less than one year, except for an alien paroled for prosecution, for deferred inspection or pending removal proceedings;

- An alien who belongs to one of the following classes:
 - Aliens currently in temporary resident status pursuant to section 210 or 245A of the INA (8 U.S.C. §§1160 or 1255a, respectively);
 - Aliens currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 U.S.C. §1254a), and pending applicants for TPS, who have been granted employment authorization;
 - Aliens, who have been granted employment authorization under 8 CFR 274a.12(c)(9), (10), (16), (18), (20), (22), or (24);
 - Family Unity beneficiaries pursuant to section 301 of Pub. L. 101-649, as amended;
 - Aliens currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President;
 - Aliens currently in deferred action status; or
 - Aliens whose visa petition has been approved and who have a pending application for adjustment of status;
- A pending applicant for asylum under section 208(a) of the INA (8 U.S.C. § 1158) or for withholding of removal under section 241(b)(3) of the INA (8 U.S.C. § 1231) or under the Convention Against Torture, who has been granted employment authorization, and such an applicant under the age of 14, who has had an application pending for at least 180 days;
- An alien, who has been granted withholding of removal under the Convention Against Torture;
- A child, who has a pending application for Special Immigrant Juvenile status as described in section 101(a)(27)(J) of the INA (8 U.S.C. § 1101(a)(27)(J));
- An alien, who is lawfully present in the Commonwealth of the Northern Mariana Islands under 48 U.S.C. § 1806(e); or
- An alien, who is lawfully present in American Samoa under the immigration laws of American Samoa.

Gloria Nagle, PhD, MPA
Page 3
June 21, 2013

DHCS intends to provide full scope Medi-Cal coverage to all eligible pregnant women and children, who are lawfully residing as authorized by this SPA. For purposes of this SPA, children are defined as individuals up to age 21. Because California already has approval to provide full scope Medi-Cal with Federal Financial Participation to eligible lawfully residing pregnant women and children, we do not anticipate a significant fiscal impact as a result of this update to that definition.

If you have any questions regarding this issue, please contact Ms. Tara Naisbitt, Chief, Medi-Cal Eligibility Division, at (916) 552-9450 or by email at tara.naisbitt@dhcs.ca.gov.

Sincerely,

Original document signed by

Toby Douglas
Director

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL	1. TRANSMITTAL NUMBER: 13-016	2. STATE California
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
FOR: HEALTH CARE FINANCING ADMINISTRATION	4. PROPOSED EFFECTIVE DATE July 01, 2013	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		

5. TYPE OF PLAN MATERIAL (*Check One*):

- NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate Transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION: 42 USC 1396b(v)(4)(A)	7. FEDERAL BUDGET IMPACT: a. FFY 2013 \$0 b. FFY 2014 \$0
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 2.6-A, Pages 2a, 2b	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): Attachment 2.6-A, Pages 2a, 2b

10. SUBJECT OF AMENDMENT:

Covering New Qualified Immigrant and Lawfully Present Pregnant Women and Children

11. GOVERNOR'S REVIEW (*Check One*):

- GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED:
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED The Governor's Office does not
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL wish to review the State Plan Amendment.

12. SIGNATURE OF STATE AGENCY OFFICIAL: Original document signed by	16. RETURN TO: Department of Health Care Services Attn: State Plan Coordinator 1501 Capitol Avenue, MS 4506 P.O. Box 997413 Sacramento, CA 95899-7413
13. TYPED NAME: Toby Douglas	
14. TITLE: Director	
15. DATE SUBMITTED: June 20, 2013	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:	18. DATE APPROVED:
PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL:	20. SIGNATURE OF REGIONAL OFFICIAL:
21. TYPED NAME:	22. TITLE:

23. REMARKS:

State: CALIFORNIA

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Citation(s)

Condition or Requirement

- ~~(1) — A “Qualified alien” otherwise subject to the 5-year waiting period per section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;~~
- ~~(2) — A citizen of a Compact of Free Association State (i.e., Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau) who has been admitted to the U.S. as a non-immigrant and is permitted by the Department of Homeland Security to reside permanently or indefinitely in the U.S.;~~
- ~~(3) — An individual described in 8 CFR section 103.12(a)(4) who does not have a permanent residence in the country of their nationality and is in a status that permits the individual to remain in the U.S. for an indefinite period of time, pending adjustment of status. These individuals include:

 - ~~(a) — An individual currently in temporary resident status as an Amnesty beneficiary pursuant to section 210 or 245A of the Immigration and Nationality Act (INA);~~
 - ~~(b) — An individual currently under Temporary Protected Status pursuant to section 244 of the INA;~~
 - ~~(c) — A family Unity beneficiary pursuant to section 301 of Public Law 101-649 as amended by, as well as pursuant to, section 1504 of Public Law 106-554;~~
 - ~~(d) — An individual currently under Deferred Enforced Departure pursuant to a decision made by the President; and~~
 - ~~(e) — An individual who is the spouse or child of a U.S. citizen whose visa petition has been approved and who has a pending application for adjustment of status; and~~~~
- ~~(4) — An individual in non-immigrant classifications under the INA who is permitted to remain in the U.S. for an indefinite period, including the following as specified in section 101(a)(15) of the INA:

 - ~~• A parent or child of an individual with special immigrant status under section 101(a)(27) of the INA, as permitted under section 101(a)(15)(N) of the INA;~~
 - ~~• A Fiancé of a citizen, as permitted under section 101(a)(15)(K) of the INA;~~
 - ~~• A religious worker under section 101(a)(15)(R);~~~~

TN No: 09-014 Approval Date _____ Effective Date _____

Supersedes

TN No. 92-19

State: CALIFORNIA

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Citation(s)

Condition or Requirement

- ~~• An individual assisting the Department of Justice in a criminal investigation, as permitted under section 101(a)(15)(S) of the INA;~~
- ~~• A battered alien under section 101(a)(15)(U) (see also section 431 as amended by PRWORA); and~~
- ~~An individual with a petition pending for 3 years or more, as permitted under section 101(a)(15)(V) of the INA.~~

f. (1) A qualified alien as defined in section 431 of PRWORA (8 U.S.C. §1641);

(2) An alien in nonimmigrant status who has not violated the terms of the status under which he or she was admitted or to which he or she has changed after admission;

(3) An alien who has been paroled into the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act (INA) (8 U.S.C. §1182(d)(5)) for less than 1 year, except for an alien paroled for prosecution, for deferred inspection or pending removal proceedings;

(4) An alien who belongs to one of the following classes:

(i) Aliens currently in temporary resident status pursuant to section 210 or 245A of the INA (8 U.S.C. §§1160 or 1255a, respectively);

(ii) Aliens currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 U.S.C. §1254a), and pending applicants for TPS who have been granted employment authorization;

(iii) Aliens who have been granted employment authorization under 8 CFR 274a.12(c)(9), (10), (16), (18), (20), (22), or (24);

(iv) Family Unity beneficiaries pursuant to section 301 of Pub. L. 101-649, as amended;

(v) Aliens currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President;

(vi) Aliens currently in deferred action status; or

(vii) Aliens whose visa petition has been approved and who have a pending application for adjustment of status;

(5) A pending applicant for asylum under section 208(a) of the INA (8 U.S.C. § 1158) or for withholding of removal under section 241(b)(3) of the INA (8 U.S.C. § 1231) or under the Convention Against Torture who has been granted employment authorization, and such an applicant under the age of 14 who has had an application pending for at least 180 days;

(6) An alien who has been granted withholding of removal under the Convention Against Torture;

(7) A child who has a pending application for Special Immigrant Juvenile status as described in section 101(a)(27)(J) of the INA (8 U.S.C. § 1101(a)(27)(J));

(8) An alien who is lawfully present in the Commonwealth of the Northern Mariana Islands under 48 U.S.C. § 1806(e); or

(9) An alien who is lawfully present in American Samoa under the immigration laws of American Samoa.

X Elected for pregnant women.
 X Elected for children under age 21 .

g. X The State provides assurance that for an individual whom it enrolls in Medicaid under the CHIPRA section 214 option, it has verified, at the time of the individual's initial eligibility determination and at the time of the eligibility redetermination, that the individual continues to be lawfully residing in the United States. The State must first attempt to verify this status using information provided at the time of initial application. If the State cannot do so from the information readily available, it must require the individual to provide documentation or further evidence to verify satisfactory immigration status in the same manner as it would for anyone else claiming satisfactory immigration status under section 1137(d) of the Act.

TN No: 09-01413-016

Approval Date _____

Effective Date

Supersedes

TN No. 09-014

State: CALIFORNIA

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Citation(s)	Condition or Requirement
42 CFR 435.406	<p>f. (continue) (1) A qualified alien as defined in section 431 of PRWORA (8 U.S.C. §1641);</p> <p>(2) An alien in nonimmigrant status who has not violated the terms of the status under which he or she was admitted or to which he or she has changed after admission;</p> <p>(3) An alien who has been paroled into the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act (INA) (8 U.S.C. §1182(d)(5)) for less than 1 year, except for an alien paroled for prosecution, for deferred inspection or pending removal proceedings;</p> <p>(4) An alien who belongs to one of the following classes:</p> <ul style="list-style-type: none">(i) Aliens currently in temporary resident status pursuant to section 210 or 245A of the INA (8 U.S.C. §§1160 or 1255a, respectively);(ii) Aliens currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 U.S.C. §1254a), and pending applicants for TPS who have been granted employment authorization;(iii) Aliens who have been granted employment authorization under 8 CFR 274a.12(c)(9), (10), (16), (18), (20), (22), or (24);(iv) Family Unity beneficiaries pursuant to section 301 of Pub. L. 101-649, as amended;(v) Aliens currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President;(vi) Aliens currently in deferred action status; or(vii) Aliens whose visa petition has been approved and who have a pending application for adjustment of status;

State: CALIFORNIA

ELIGIBILITY CONDITIONS AND REQUIREMENTS

<u>Citation(s)</u>	<u>Condition or Requirement</u>
42 CFR 435.406	(5) A pending applicant for asylum under section 208(a) of the INA (8 U.S.C. § 1158) or for withholding of removal under section 241(b)(3) of the INA (8 U.S.C. § 1231) or under the Convention Against Torture who has been granted employment authorization, and such an applicant under the age of 14 who has had an application pending for at least 180 days;
	(6) An alien who has been granted withholding of removal under the Convention Against Torture;
	(7) A child who has a pending application for Special Immigrant Juvenile status as described in section 101(a)(27)(J) of the INA (8 U.S.C. § 1101(a)(27)(J));
	(8) An alien who is lawfully present in the Commonwealth of the Northern Mariana Islands under 48 U.S.C. § 1806(e); or
	(9) An alien who is lawfully present in American Samoa under the immigration laws of American Samoa.
	<u> X </u> Elected for pregnant women.
	<u> X </u> Elected for children under age <u> 21 </u> .
	g. <u> X </u> The State provides assurance that for an individual whom it enrolls in Medicaid under the CHIPRA section 214 option, it has verified, at the time of the individual's initial eligibility determination and at the time of the eligibility redetermination that the individual continues to be lawfully residing in the United States. The State must first attempt to verify this status using information provided at the time of initial application. If the State cannot do so from the information readily available, it must require the individual to provide documentation or further evidence to verify satisfactory immigration status in the same manner as it would for anyone else claiming satisfactory immigration status under section 1137(d) of the Act.