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GIS 03MA/011 - Temporary Protected Status (TPS)

TO: Local District Commissioners, Medicaid Directors

FROM: Kathryn Kuhmerker, Deputy Commissioner
Office of Medicaid Management

SUBJECT: TEMPORARY PROTECTED STATUS (TPS)

EFFECTIVE DATE: Immediately

CONTACT PERSON: Local District Support Unit
Upstate (518)474-8216 NYC (212)268-6855

The purpose of this GIS message is to clarify that aliens who have been granted temporary protected status (“TPS”) may be eligible for Medicaid, Family Health Plus (FHP) or Child Health Plus A (CHPlus A) based on their status as permanently residing in the United States under color of law (PRUCOL) if they meet such programs’ requirements. Aliens who have applied for TPS may also be considered to be PRUCOL and may thus be eligible for Medicaid, Family Health Plus or Child Health Plus A if otherwise eligible.

Aliens Granted Temporary Protected Status (TPS): These aliens should be treated as PRUCOL for purposes of their eligibility for Medicaid, FHP or CHPlus A. “Temporary protected status” is a temporary immigration status granted under federal law at 8 U.S.C. 1254a to aliens who are physically present in the United States and who are from certain countries designated by the U.S. Attorney General as unsafe to accept their return because of ongoing environmental disasters or other extraordinary and temporary conditions. At present, the following countries have TPS designation: Angola, Burundi, El Salvador, Honduras, Liberia, Montserrat, Nicaragua, Sierra Leone, Somalia, and Sudan. [A list of countries designated for TPS is located at the federal Bureau of Citizenship and Immigration Services’ (BCIS) (formerly the Immigration and Naturalization Service-INS) website, at www.immigration.gov/graphics/services/tps]. Persons granted TPS are authorized to remain in the United States for a specific limited period; the U. S. Attorney General can extend it for a further specified period. Prior to 1990, a similar status called “Extended Voluntary Departure” was used in the same way to provide relief to particular nationalities. Aliens who have been granted TPS will have the following documentation:

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IMMIGRATION CATEGORY	TYPICAL DOCUMENTS
Persons granted temporary protected status (TPS)	<ul style="list-style-type: none"> • Form I-688B; or • Form I-766 EAD coded 274a.12(a)(12) or A12; or • Any letter, verification or correspondence from BCIS (INS) or U.S. Postal return receipt

Applicants who have applied for Temporary Protected Status (TPS): These aliens should be treated as PRUCOL for purposes of their eligibility for Medicaid, Family Health Plus or Child Health Plus A if it reasonably appears, based on all the facts and circumstances of the case, that they are present in the United States with the knowledge and permission or the acquiescence of the federal immigration agency and that such agency is not presently contemplating deporting them. Social services districts should request proof from the alien that he or she filed the Application for Temporary Protected Status (Form I-821) **and** the Application for Employment Authorization (Form I-765) to the BCIS or its predecessor, the INS. For example, the alien may have a receipt or letter from the federal immigration agency that shows that such agency received these documents. However, the alien does not need to have written confirmation from the federal immigration agency acknowledging its receipt of these documents. An alien can be considered PRUCOL if the alien can prove that he or she mailed these documents to the federal immigration agency on a certain date. When the federal immigration agency has not acted on the application after a reasonable period of time after mailing, the district may reasonably presume that the applicant is PRUCOL.

An applicant for TPS should have a receipt, letter, or other written proof showing that the applicant mailed or otherwise submitted the following documents to the federal immigration agency and that it is reasonable to conclude that such agency received these documents and is not presently planning to deport the applicant.

IMMIGRATION CATEGORY	TYPICAL DOCUMENTS
Applicants for temporary protected status (TPS)	<ul style="list-style-type: none"> • Receipt or notice showing filing of Form I-821 (Application for Temporary Protected Status) and Form I-765 (Application for Employment Authorization); or • Form I-688B; or • Form I-766 EAD coded 274a.12(c)(19) or C19; or • Any letter, verification or correspondence from BCIS (INS) or U.S. Postal return receipt