

TO: Local District Commissioners, Medicaid Directors

FROM: Judith Arnold, Director
Division of Health Reform & Health Insurance Exchange Integration

SUBJECT: Children's Health Insurance Program Reauthorization Act (CHIPRA)
Expanded Coverage for Certain Qualified and PRUCOL Aliens

EFFECTIVE DATE: Immediately

CONTACT PERSON: Local District Support Unit
Upstate (518)474-8887 NYC (212)417-4500

The purpose of this General Information System (GIS) message is to provide local departments of social services (LDSS) with guidance on the implementation of provisions in the Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009. CHIPRA provides states with the opportunity to provide health care coverage with federal funding in Medicaid and the Children's Health Insurance Program (CHIP), to certain immigrant children and pregnant women who are "lawfully residing" in the United States.

Section 214 of CHIPRA provides federal funding to states for pregnant women and children up to age 21, who are Permanently Residing Under Color of Law (PRUCOL) or qualified aliens within the five-year ban. An alien in the five-year ban has an Alien Citizenship Indicator (ACI) of B, F, G, K or S. The Centers for Medicare and Medicaid Services approved New York's State Plan Amendment, and the State began receiving federal financial participation (FFP) for these groups retroactive to April 1, 2009.

To be "lawfully residing in the United States", for purposes of claiming FFP under this recent CHIPRA option, an individual must be both "lawfully present" and meet the State's residency requirements. Pregnant women and children up to age 21 who fall into one of the categories listed below will be considered "lawfully present" for purposes of claiming FFP under this CHIPRA option.

1. A qualified alien with ACI "A*", "J*", "R*", "B", "F", "G", "K" and "S".

NOTE: *Please note that all qualified aliens with ACI codes of A, J or R, not just pregnant women and children, are lawfully present for purposes of claiming FFP and are not subject to the federal five year ban. See 06 OMM INF-5.

2. PRUCOL pregnant women and children up to age 21 who qualify for FFP under CHIPRA are:
 - Persons paroled into the U.S. for less than a year, except for persons who are paroled for prosecution, for deferred inspection or pending removal proceedings;
 - Persons under an Order of Supervision with employment authorization;
 - Persons on whose behalf an immediate relative petition has been approved and family members covered by the petition;

- Persons who have filed applications for adjustment to status of lawful permanent resident with employment authorization;
 - Persons granted deferred action status;
 - Persons who entered and continuously resided in the U.S. before January 1, 1972;
 - Person living in the U.S. with the knowledge and permission or acquiescence of the USCIS and whose departure the USCIS does not contemplate enforcing:
 - Applicants for asylum with employment authorization;
 - Applicants for withholding of removal with employment authorization;
 - Persons requesting a suspension of deportation/cancellation of removal with employment authorization;
 - Persons currently under deferred enforced departure due to conditions in home country;
 - Permanent non-immigrants(citizens of the Federated States of Micronesia, the Marshall Islands and the Republic of Palau);
 - Persons granted Temporary Resident Status as an Amnesty beneficiary;
 - Persons granted Temporary Resident Status as a Family Unity beneficiary;
 - Persons pending Temporary Protected Status - with employment authorization; and
 - Persons granted Temporary Protected Status;
 - Persons having a Special Immigrant Visa Status:
 - Special Immigrant Juvenile Status;
 - An individual in non-immigrant classifications under the Immigration and Nationality Act (INA) who is permitted to remain in the U.S. for an indefinite period:
 - K-1 Visa - a fiancé of a U.S. citizen;
 - N Visa - A parent or child of an individual with special immigrant status;
 - R Visa - A religious worker.
 - S Visa - An individual assisting the Department of Justice in a criminal investigation;
 - U Visa - an alien who has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity; and
 - V Visa - An individual with a petition pending for three years or more.
3. There are a few PRUCOL individuals who are not Lawfully Present. The following individuals are not eligible for FFP:
- Applicants for suspension of deportation/cancellation of removal without employment authorization;
 - Applicants for Asylum without employment authorization;
 - Applicants requesting deferred action;
 - Applicants for Temporary Protected Status (TPS) without employment authorization;
 - Persons granted indefinite stay of deportation;
 - Persons granted indefinite/other voluntary departure; and
 - Persons granted Deferred Action and applicants for Childhood Arrivals.

If otherwise eligible, PRUCOL pregnant women and children under age 21 who do not fall within one of the categories above, as well as non-pregnant PRUCOL women and PRUCOL men, may continue to be eligible for State and locally funded Medicaid.

Currently, State/federal(S/F) Charge Codes 60, 67 and 68 are used for Medicaid claims to be processed with State and local shares only. To systemically support the correct shares distribution for the CHIPRA changes contained in this GIS message, two new S/F Charge Codes, 65 and 66, and a new ACI value, "P", have been created. Effective immediately, at application and recertification, districts are to take the following actions. For PRUCOL individuals, listed in item 2 of this GIS, a worker must enter an ACI of "P" into WMS if the PRUCOL individual is under 21 years of age or pregnant with an Individual Categorical Code of 15, 42, 43, 48, 58, 59 or 73 (NYC-only). For individuals with an ACI of "P", WMS will automatically system generate either a S/F Charge Code of 65 or 66. A S/F Charge Code of 65 applies to FFP Pregnant PRUCOL 21 years of age or older. A S/F Charge Code of 66 applies to FFP PRUCOL child under age 21 or a Pregnant PRUCOL under age 21.

For Qualified Aliens in the five year ban with an ACI of B, F, G, K or S, WMS will automatically generate the appropriate S/F Charge Code of 65 or 66 for individuals who are under age 21 or have a pregnancy Individual Categorical Code. The worker will not have to change the ACI for these individuals.

Additionally, children up to age 19, who would have otherwise been subject to the five-year ban, are considered targeted low-income children under Section 2110(b) of CHIPRA. Medicaid claims paid on behalf of eligible children under age 19 may be matched at the enhanced Title XXI match rate of 65% FFP. For Medicaid eligible individuals for whom the State receives FFP at the enhanced rate and who would have been subject to the five-year ban must be claimed at the Medicaid FFP rate of 50% once such children have met the five-year ban.

NOTE: Effective August 15, 2012, the U.S. Department of Homeland Security (DHS) began accepting requests for Deferred Action for Childhood Arrivals (DACA). The DHS has decided to focus its attention on the removal of individuals who pose a danger to national security or a risk to public safety, including aliens convicted of crimes, with emphasis on violent criminals, felons and repeat offenders. The DHS will exercise prosecutorial discretion to ensure that enforcement resources are not expended on low-priority cases, such as individuals who were brought to this country through no fault of their own as children. To be eligible for DACA, these individuals cannot have been convicted of a felony offense, a significant misdemeanor or multiple misdemeanor offenses. Individuals applying for deferred action under DACA do not meet the "Lawfully Residing" criteria as outlined in the July 1, 2010, State Health Official Letter, the U.S. Department of Health and Human Services has determined that these individuals are not eligible for FFP Medicaid or CHIP. In New York State, these individuals will be PRUCOL, but are not eligible for FFP.