

# MEDICAL SERVICES POLICY MANUAL, SECTION D

## D-200 General Citizenship and Alien Status Requirements

### D-210 Citizenship

#### Citizenship

MS Manual 3/2/2021

48 U.S.C. 1806e

Consider any person born in the United States to be a citizen. People born abroad are considered U.S. citizens when at least one of the parents is a U.S. citizen. Also, consider a person who is a U.S. national the same as a U.S. citizen. A U.S. national is a person who is born in one of the U.S. territories. The U.S. territories include:

- Puerto Rico
- Guam
- The Virgin Islands
- The Northern Mariana Islands
- American Samoa
- The Swains Island

People who are not citizens or nationals can become citizens through the process of naturalization.

~~**NOTE:** Citizens of the Marshal Islands including Palau and Micronesia are under a Compact of Free Association with the United States. They are free to travel to and from the U.S. without a visa. They are not U.S. citizens, nor are they under an alien status. Marshall Island pregnant women and children who are lawfully residing in the United States may be approved for Medicaid if they meet all other eligibility criteria for the category being applied for (MS D-224). However, other Marshall Island individuals are not eligible for Medicaid except for Emergency Medicaid Services (MS B-500).~~

Citizenship must be verified for all Medicaid applicants declaring to be U.S. citizens or nationals. Refer to [MS G-130](#) for verification requirement.

# MEDICAL SERVICES POLICY MANUAL, SECTION D

## D-200 General Citizenship and Alien Status Requirements

### D-224 Aliens Exempt from Five-Year Bar

#### D-224 Aliens Exempt from Five-Year Bar

MS Manual ??/??/??3/2/2021

431 of PRWORA

Aliens with the following statuses are potentially eligible for Medicaid from the date the status is obtained:

- **Refugees** admitted under section 207 of the Immigration and Nationality Act (INA).
- **Iraqi and Afghan Special Immigrants** admitted as lawfully permanent residents but treated as refugees.
- Aliens granted **asylum** under section 208 of the INA.
- Aliens lawfully living in United States in accordance with the Compacts of Free Association. This only applies to: Governments of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. (116HR133SA-RCP-116-68).
- Aliens whose **deportation or removal is withheld** under section 243(h) or section 241(b) (3) of the INA.
- **Cuban** or **Haitian** entrants under section 501(e) of the Refugee Education Assistance Act of 1980.
- **Cuban** or **Haitian** entrants in the Haitian Family Reunification Program.
- **Amerasian** immigrants.
- **Canadian born American Indians** who have treaty rights to cross the U.S. borders with Canada and Mexico.
- Aliens lawfully living in the United States on 8/22/96 who were receiving AABD Medicaid at that time may continue to receive Medicaid benefits. This applies only to AABD categories.
- Aliens lawfully living in the United States on 8/22/96 who subsequently become blind or disabled may receive Medicaid benefits in the future.
- Aliens lawfully admitted for permanent residence who are **veterans** honorably discharged for reasons other than alienage, and their spouses, surviving un-remarried spouses, and unmarried dependent children. This includes alien spouses, surviving un-remarried spouses, and unmarried dependent children of veterans who are U.S. citizens or deceased veterans.
- Aliens lawfully admitted for permanent residence who are **active-duty personnel of**

# MEDICAL SERVICES POLICY MANUAL, SECTION D

## D-200 General Citizenship and Alien Status Requirements

### D-224 Aliens Exempt from Five-Year Bar

**the United States Armed Forces** and their spouses, surviving un-remarried spouses, and unmarried dependent children. This includes alien spouses, surviving un-remarried spouses, and unmarried dependent children of active duty personnel who are U.S. citizens or deceased active duty personnel. Active duty excludes temporary full-time duty for training purposes performed by members of the National Guard or Reserves.

- Pregnant Women and Children who are lawfully present. This includes but is not limited to pregnant women and children in the following statuses:
  - 1) A qualified alien as defined in 8 U.S.C. 1641 (b) and (c)
  - 2) An alien in a valid non-immigration status, as defined in 8 U.S.C. 1101 (a)(15) or otherwise under the immigration laws as defined in 8 U.S.C. 1101 (a) (17);
  - 3) An alien who has been paroled into the United States in accordance with 8 U.S.C. 1182 (d)(5) for less than 1 year, except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings;
  - 4) An alien who belongs to one of the following classes:
    - Granted temporary resident status in accordance with 8 U.S.C. 1160 or 1255a, respectively;
    - Granted Temporary Protected Status (TPS) in accordance with 8 U.S.C. 1254a, and individuals with pending application for TPS who have been granted employment authorization;
    - Granted employment authorization under 8 CFR 274a. 12c;
    - Family Unity beneficiaries in accordance with section 301 of Pub. L. 101-649, as amended;
    - Under Deferred Enforced Departure (DED) in accordance with a decision made by the President;
    - Granted Deferred Action status;
    - Granted an administrative stay of removal under 8 C.F.R.241;
    - Beneficiary of approved visa petition who has a pending application for adjustment of status;

# MEDICAL SERVICES POLICY MANUAL, SECTION D

## D-200 General Citizenship and Alien Status Requirements

### D-224 Aliens Exempt from Five-Year Bar

- 5) An alien with a pending application for asylum under 8 U.S.C. 1158, or for withholding of removal under 8 U.S.C. 1231, or under the Convention Against Torture who:
  - Has been granted employment authorization; or
  - Is under the age of 14 and 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 Immigration Juvenile status as described in 8 U.S.C. 1101(a)(27)(J);
- 8) Is lawfully present in the Commonwealth of the Northern Mariana Islands under 48 U.S.C. 1806(e); or
- 9) Is lawfully present in American Samoa under the immigration laws of American Samoa.

**EXCEPTION:** An alien with deferred action under the USDHS's deferred action for childhood arrivals process, as described in the Secretary of Homeland Security's June 15, 2012 memorandum, shall not be considered lawfully present with respect to any of the above categories.



**NOTE:** Documentation that is required to verify lawfully residing status is found at [Appendix C.](#)

# MEDICAL SERVICES POLICY MANUAL, SECTION D

## D-200 General Citizenship and Alien Status Requirements

### D-210 Citizenship

#### Citizenship

MS Manual 03/02/2021

48 U.S.C. 1806e

Consider any person born in the United States to be a citizen. People born abroad are considered U.S. citizens when at least one of the parents is a U.S. citizen. Also, consider a person who is a U.S. national the same as a U.S. citizen. A U.S. national is a person who is born in one of the U.S. territories. The U.S. territories include:

- Puerto Rico
- Guam
- The Virgin Islands
- The Northern Mariana Islands
- American Samoa
- The Swains Island

People who are not citizens or nationals can become citizens through the process of naturalization.

Citizenship must be verified for all Medicaid applicants declaring to be U.S. citizens or nationals. Refer to [MS G-130](#) for verification requirement.

# MEDICAL SERVICES POLICY MANUAL, SECTION D

## D-200 General Citizenship and Alien Status Requirements

### D-224 Aliens Exempt from Five-Year Bar

#### D-224 Aliens Exempt from Five-Year Bar

MS Manual 03/02/2021

431 of PRWORA

Aliens with the following statuses are potentially eligible for Medicaid from the date the status is obtained:

- **Refugees** admitted under section 207 of the Immigration and Nationality Act (INA).
- **Iraqi and Afghan Special Immigrants** admitted as lawfully permanent residents but treated as refugees.
- Aliens granted **asylum** under section 208 of the INA.
- Aliens lawfully living in United States in accordance with the **Compacts of Free Association**. This only applies to: Governments of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau ([116HR133SA-RCP-116-68](#)).
- Aliens whose **deportation or removal is withheld** under section 243(h) or section 241(b)(3) of the INA.
- **Cuban** or **Haitian** entrants under section 501(e) of the Refugee Education Assistance Act of 1980.
- **Cuban** or **Haitian** entrants in the Haitian Family Reunification Program.
- **Amerasian** immigrants.
- **Canadian born American Indians** who have treaty rights to cross the U.S. borders with Canada and Mexico.
- Aliens lawfully living in the United States on 8/22/96 who were receiving AABD Medicaid at that time may continue to receive Medicaid benefits. This applies only to AABD categories.
- Aliens lawfully living in the United States on 8/22/96 who subsequently become blind or disabled may receive Medicaid benefits in the future.
- Aliens lawfully admitted for permanent residence who are **veterans** honorably discharged for reasons other than alienage, and their spouses, surviving un-remarried spouses, and unmarried dependent children. This includes alien spouses, surviving un-remarried spouses, and unmarried dependent children of veterans who are U.S. citizens or deceased veterans.
- Aliens lawfully admitted for permanent residence who are **active-duty personnel of**

# MEDICAL SERVICES POLICY MANUAL, SECTION D

## D-200 General Citizenship and Alien Status Requirements

### D-224 Aliens Exempt from Five-Year Bar

**the United States Armed Forces** and their spouses, surviving un-remarried spouses, and unmarried dependent children. This includes alien spouses, surviving un-remarried spouses, and unmarried dependent children of active duty personnel who are U.S. citizens or deceased active duty personnel. Active duty excludes temporary full-time duty for training purposes performed by members of the National Guard or Reserves.

- Pregnant Women and Children who are lawfully present. This includes but is not limited to pregnant women and children in the following statuses:
  - 1) A qualified alien as defined in 8 U.S.C. 1641 (b) and (c)
  - 2) An alien in a valid non-immigration status, as defined in 8 U.S.C. 1101 (a)(15) or otherwise under the immigration laws as defined in 8 U.S.C. 1101 (a) (17);
  - 3) An alien who has been paroled into the United States in accordance with 8 U.S.C. 1182 (d)(5) for less than 1 year, except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings;
  - 4) An alien who belongs to one of the following classes:
    - Granted temporary resident status in accordance with 8 U.S.C. 1160 or 1255a, respectively;
    - Granted Temporary Protected Status (TPS) in accordance with 8 U.S.C. 1254a, and individuals with pending application for TPS who have been granted employment authorization;
    - Granted employment authorization under 8 CFR 274a. 12c;
    - Family Unity beneficiaries in accordance with section 301 of Pub. L. 101-649, as amended;
    - Under Deferred Enforced Departure (DED) in accordance with a decision made by the President;
    - Granted Deferred Action status;
    - Granted an administrative stay of removal under 8 C.F.R.241;
    - Beneficiary of approved visa petition who has a pending application for adjustment of status;

# MEDICAL SERVICES POLICY MANUAL, SECTION D

## D-200 General Citizenship and Alien Status Requirements

### D-224 Aliens Exempt from Five-Year Bar

- 5) An alien with a pending application for asylum under 8 U.S.C. 1158, or for withholding of removal under 8 U.S.C. 1231, or under the Convention Against Torture who:
  - Has been granted employment authorization; or
  - Is under the age of 14 and 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 Immigration Juvenile status as described in 8 U.S.C. 1101(a)(27)(J);
- 8) Is lawfully present in the Commonwealth of the Northern Mariana Islands under 48 U.S.C. 1806(e); or
- 9) Is lawfully present in American Samoa under the immigration laws of American Samoa.

**EXCEPTION:** An alien with deferred action under the USDHS's deferred action for childhood arrivals process, as described in the Secretary of Homeland Security's June 15, 2012 memorandum, shall not be considered lawfully present with respect to any of the above categories.



**NOTE:** Documentation that is required to verify lawfully residing status is found at [Appendix C.](#)

1 **SEC. 207. CLARIFYING AUTHORITY OF STATE MEDICAID**  
2 **FRAUD AND ABUSE CONTROL UNITS TO IN-**  
3 **VESTIGATE AND PROSECUTE CASES OF MED-**  
4 **ICAID PATIENT ABUSE AND NEGLECT IN ANY**  
5 **SETTING.**

6 (a) IN GENERAL.—Section 1903(q)(4)(A)(ii) of the  
7 Social Security Act (42 U.S.C. 1396b(q)(4)(A)(ii)) is  
8 amended by inserting after “patients residing in board  
9 and care facilities” the following: “and of patients (who  
10 are receiving medical assistance under the State plan  
11 under this title (or waiver of such plan)) in a noninstitu-  
12 tional or other setting”.

13 (b) AVAILABILITY OF FUNDING.—Section 1903(a)(6)  
14 of the Social Security Act (42 U.S.C. 1396b(a)(6)) is  
15 amended, in the matter following subparagraph (B), by  
16 striking “(as found necessary by the Secretary for the  
17 elimination of fraud in the provision and administration  
18 of medical assistance provided under the State plan (or  
19 waiver of such plan))”.

20 **SEC. 208. MEDICAID COVERAGE FOR CITIZENS OF FREELY**  
21 **ASSOCIATED STATES.**

22 (a) IN GENERAL.—Section 402(b)(2) of the Personal  
23 Responsibility and Work Opportunity Reconciliation Act  
24 of 1996 (8 U.S.C. 1612(b)(2)) is amended by adding at  
25 the end the following new subparagraph:

1                   “(G) MEDICAID EXCEPTION FOR CITIZENS  
2                   OF FREELY ASSOCIATED STATES.—With respect  
3                   to eligibility for benefits for the designated Fed-  
4                   eral program defined in paragraph (3)(C) (re-  
5                   lating to the Medicaid program), paragraph (1)  
6                   shall not apply to any individual who lawfully  
7                   resides in 1 of the 50 States or the District of  
8                   Columbia in accordance with the Compacts of  
9                   Free Association between the Government of  
10                  the United States and the Governments of the  
11                  Federated States of Micronesia, the Republic of  
12                  the Marshall Islands, and the Republic of Palau  
13                  and shall not apply, at the option of the Gov-  
14                  ernor of Puerto Rico, the Virgin Islands, Guam,  
15                  the Northern Mariana Islands, or American  
16                  Samoa as communicated to the Secretary of  
17                  Health and Human Services in writing, to any  
18                  individual who lawfully resides in the respective  
19                  territory in accordance with such Compacts.”.

20               (b) EXCEPTION TO 5-YEAR LIMITED ELIGIBILITY.—  
21               Section 403(b) of such Act (8 U.S.C. 1613(b)) is amended  
22               by adding at the end the following new paragraph:

23                   “(3) EXCEPTION FOR CITIZENS OF FREELY AS-  
24                   SOCIATED STATES.—An individual described in sec-  
25                   tion 402(b)(2)(G), but only with respect to the des-

2259

1       ignated Federal program defined in section  
2       402(b)(3)(C).”.

3       (c) DEFINITION OF QUALIFIED ALIEN.—Section  
4       431(b) of such Act (8 U.S.C. 1641(b)) is amended—

5               (1) in paragraph (6), by striking “; or” at the  
6       end and inserting a comma;

7               (2) in paragraph (7), by striking the period at  
8       the end and inserting “, or”; and

9               (3) by adding at the end the following new  
10      paragraph:

11              “(8) an individual who lawfully resides in the  
12      United States in accordance with a Compact of Free  
13      Association referred to in section 402(b)(2)(G), but  
14      only with respect to the designated Federal program  
15      defined in section 402(b)(3)(C) (relating to the Med-  
16      icaid program).”.

17      (d) CONFORMING AMENDMENTS.—Section 1108 of  
18      the Social Security Act (42 U.S.C. 1308) is amended—

19              (1) in subsection (f), in the matter preceding  
20      paragraph (1), by striking “subsection (g) and sec-  
21      tion 1935(e)(1)(B)” and inserting “subsections (g)  
22      and (h) and section 1935(e)(1)(B)”; and

23              (2) by adding at the end the following:

24              “(h) EXCLUSION OF MEDICAL ASSISTANCE EXPEND-  
25      ITURES FOR CITIZENS OF FREELY ASSOCIATED

1 STATES.—Expenditures for medical assistance provided to  
2 an individual described in section 431(b)(8) of the Per-  
3 sonal Responsibility and Work Opportunity Reconciliation  
4 Act of 1996 (8 U.S.C. 1641(b)(8)) shall not be taken into  
5 account for purposes of applying payment limits under  
6 subsections (f) and (g).”.

7 (e) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to benefits for items and services  
9 furnished on or after the date of the enactment of this  
10 Act.

11 **SEC. 209. MEDICAID COVERAGE OF CERTAIN MEDICAL**  
12 **TRANSPORTATION.**

13 (a) CONTINUING REQUIREMENT OF MEDICAID COV-  
14 ERAGE OF NECESSARY TRANSPORTATION.—

15 (1) REQUIREMENT.—Section 1902(a)(4) of the  
16 Social Security Act (42 U.S.C. 1396a(a)(4)) is  
17 amended—

18 (A) by striking “and including provision  
19 for utilization” and inserting “including provi-  
20 sion for utilization”; and

21 (B) by inserting after “supervision of ad-  
22 ministration of the plan” the following: “, and,  
23 subject to section 1903(i), including a specifica-  
24 tion that the single State agency described in  
25 paragraph (5) will ensure necessary transpor-