### Lawfully Present Immigration Status

**Statuses eligible for enrollment in a QHP through the Marketplace**

- Individuals with valid nonimmigrant status (includes worker visas (e.g., H-1, H-2A, H-2B), student visas, U-visas, T-visas, and other visas; also includes citizens of Micronesia, the Marshall Islands, and Palau)
- Immigrants whose visa petitions have been approved and who have pending applications for adjustment of status
- Individuals granted employment authorization
  
  **Exception:** Deferred Action for Childhood Arrivals (DACA), as described in June 2012 Department of Homeland Security (DHS) policy, are not considered lawfully present
- Temporary Protected Status (TPS)
- Paroled into the U.S.
- Deferred Action Status
  
  **Exception:** DACA, as described in June 2012 DHS policy, are not considered lawfully present
- Deferred Enforced Departure (DED)
- A child who has a pending application for Special Immigrant Juvenile status
- Granted relief under the Convention Against Torture (CAT)
- Lawful Temporary Resident
- Family Unity beneficiaries
- **All of the Medicaid-eligible statuses listed below**

### “Qualified Non-Citizen” Statuses

**Eligible for Medicaid/CHIP if consumer meets the five year requirement**

- Lawful Permanent Resident (LPR/Green Card holder)
- Paroled into the U.S. for 1 year or more
- Battered spouse, child, or parent who has a pending or approved petition with DHS
- Applicants for Victim of Trafficking Visa
- Conditional Entrant (granted before 1980)

**Eligible for Medicaid/CHIP-five-year bar does not apply**

- Lawful Permanent Residents who adjusted from a status exempt from the 5-year bar
- Veterans or active duty military, and their spouses or unmarried dependents who also have “qualified non-citizen” status
- Refugees
- Asylees
- Cuban/Haitian entrants
- Consumers granted Withholding of Deportation or Withholding of Removal
- Trafficking Survivors and their spouses, children, siblings, or parents
- Member of a federally recognized Indian tribe or American Indian born in Canada
- Amerasian Immigrants
- Iraqi and Afghani Special Immigrants

For more lawfully present immigration statuses, visit: [http://healthcare.gov/immigrants/immigration-status/](http://healthcare.gov/immigrants/immigration-status/)

*Children and/or pregnant women with listed statuses may be eligible for Medicaid or CHIP in certain states. For more information, visit: [http://www.medicaid.gov/medicaid-chip-program-information/by-topics/outreach-and-enrollment/lawfully-residing.html](http://www.medicaid.gov/medicaid-chip-program-information/by-topics/outreach-and-enrollment/lawfully-residing.html)*

*Indicates lawfully present immigration statuses that are considered qualified non-citizen statuses for purposes of Medicaid and CHIP eligibility. These statuses are subject to the Medicaid five-year bar.

**Indicates lawfully present immigration statuses that are considered qualified non-citizen statuses for purposes of Medicaid and CHIP eligibility and that are not subject to the Medicaid five-year bar.

This chart represents a summary of complex federal statutes relating to immigration status. As a summary, it does not include all relevant detail. This publication is not a legal document and does not grant rights or impose obligations. It is not intended to take the place of either the written law or regulations.
Exhibit 2: Process for Determining a Non-Citizen Applicant’s Eligibility for Medicaid, CHIP, and Marketplace Coverage

1. Is the applicant lawfully present? See Exhibit 1
   - NO: Not eligible for full Medicaid, CHIP, or Marketplace coverage
   - YES: What is the applicant's income?

2. Under 100% FPL
   - NO: Is the applicant a child or pregnant women in a state that has extended Medicaid or CHIP coverage to lawfully present children and/or pregnant women? See Exhibit 1
     - NO: Not eligible for full Medicaid or CHIP. Eligible for Marketplace coverage with financial assistance.¹
     - YES: Does the applicant have a “qualified non-citizen” immigration status? See Exhibit 1
       - NO: Not eligible for full Medicaid or CHIP. Eligible for Marketplace coverage with financial assistance.²
       - YES: Is the applicant’s immigration status subject to the 5-year waiting period? See Exhibit 1
         - NO: Not eligible for full Medicaid or CHIP. Eligible for Marketplace coverage with financial assistance.³
         - YES: Has the applicant met the 5-year waiting period?
           - NO: Not eligible for full Medicaid or CHIP. Eligible for Marketplace coverage with financial assistance.³
           - YES: Eligible for full Medicaid or CHIP.¹

3. Between 100-400% FPL
   - NO: Is the applicant a child or pregnant women in a state that has extended Medicaid or CHIP coverage to lawfully present children and/or pregnant women? See Exhibit 1
     - NO: Not eligible for full Medicaid or CHIP. May be eligible for “Emergency Medicaid.”¹
     - YES: Does the applicant have a “qualified non-citizen” immigration status? See Exhibit 1
       - NO: Not eligible for full Medicaid or CHIP. May be eligible for “Emergency Medicaid.”¹
       - YES: Is the applicant’s immigration status subject to the 5-year waiting period? See Exhibit 1
         - NO: Not eligible for full Medicaid or CHIP. May be eligible for “Emergency Medicaid.”¹
         - YES: Has the applicant met the 5-year waiting period?
           - NO: Not eligible for full Medicaid or CHIP. May be eligible for “Emergency Medicaid.”¹
           - YES: Eligible for full Medicaid or CHIP.³

4. Over 400% FPL
   - NO: Not eligible for full Medicaid or CHIP. Eligible for Marketplace coverage without financial assistance.⁴
   - YES: Not eligible for full Medicaid or CHIP. Eligible for Marketplace coverage without financial assistance.⁴

¹ i.e., Payment for treatment of an emergency medical condition. Applicant must meet income, residency, and other Medicaid eligibility rules, other than immigration eligibility requirements.
² Applicant must meet all other eligibility requirements.
³ Applicant must meet all other eligibility requirements. Note: in some states, certain non-citizens must meet the following additional eligibility requirements for Medicaid: Lawful Permanent Residents (LPRs) may be required to have 40 work quarters, and some non-citizens such as refugees and asylees may be limited to 7 years of coverage. (See 8 USC 1612(b)(2)(A) for a complete list of immigration status subject to a 7-year limit on coverage).
⁴ State Medicaid and CHIP programs have different eligibility categories with different income requirements. Visit http://www.medicaid.gov/Medicaid-CHIP-program-information/by-state-by-state.html to see your state’s eligibility rules.
⁵ In some states, lawfully present children and pregnant women are eligible for Medicaid and/or CHIP coverage without having a “qualified non-citizen” immigration status or having to meet the 5-year bar. Visit http://www.medicaid.gov/Medicaid-CHIP-program-information/by-topics/outreach-and-enrollment/lawfully-reading.html to see your state’s rules.