

## **Q1. Who is a qualified alien?**

The Personal Responsibility and Work Opportunity and Reconciliation Act of 1996, P.L. 104-193 (PRWORA) substantially restricted immigrants' eligibility for means-tested benefits programs, including Medicaid and the State Children's Health Insurance Program (SCHIP). In particular, with few exceptions, PRWORA restricts eligibility for such programs to "qualified aliens." Qualified aliens, defined in §431 of PRWORA, as amended, include:

1. Aliens lawfully admitted for permanent residence under the Immigration and Nationality Act (INA), 8 USC 1101 et seq.;
2. Refugees, admitted under §207 of the INA;
3. Aliens granted asylum under §208 of the INA;
4. Cuban and Haitian Entrants, as defined in §501(e) of the Refugee Education Assistance Act of 1980;
5. Aliens granted parole for at least one year under §212(d)(5) of the INA;
6. Aliens whose deportation is being withheld under (1) §243(h) of the INA as in effect prior to April 1, 1997; or (2) §241(b)(3) of the INA, as amended;
7. Aliens granted conditional entry under §203(a)(7) of the INA in effect before April 1, 1980;
8. Battered aliens, who meet the conditions set forth in §431(c) of PRWORA, as added by §501 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L. 104-208 (IIRIRA), and amended by §5571 of the Balanced Budget Act of 1997, P.L. 105-33 (BBA), and §1508 of the Violence against Women Act of 2000, P.L. 106-386. Section 431(c) of PRWORA, as amended, is codified at 8 USC 1641(c).<sup>1</sup>
9. Victims of a severe form of trafficking, in accordance with §107(b)(1) of the Trafficking Victims Protection Act of 2000, P.L. 106-386.<sup>2</sup>

The Immigration and Nationality Act can be located on INS' Website, at <http://www.ins.gov>.

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<sup>1</sup> Battered aliens were not initially included in PRWORA's definition of qualified aliens. In passing §501 IIRIRA, Congress added a new §431(c) to PRWORA, which provides that term "qualified alien" shall include such immigrants. Section 431(c) of PRWORA subsequently was amended by §5571 of the BBA and §1508 of the Violence against Women Act of 2000.

<sup>2</sup> Trafficking victims are not included in the statutory definition of qualified alien. Under §107(b)(1)(A) of the Trafficking Victims Protection Act, however, they are eligible for means-tested benefits to the same extent as refugees.

In states that confer automatic eligibility to SSI recipients, non-qualified aliens who are receiving SSI also are eligible for Medicaid. In addition, certain non-citizen Native Americans are exempt from the requirement that non-citizens be a qualified alien in order to be eligible for SSI, Food Stamps and Medicaid. Those subject to this exemption include (1) members of a Federally-recognized Indian tribe, as defined in §4(e) of the Indian Self-Determination and Education Assistance Act, 25 USC 450b(e), and (2) American Indians born in Canada to whom §289 of the INA applies (“§289 Native Americans”). Finally, undocumented immigrants and other non-qualified aliens are eligible under Medicaid for treatment of emergency medical conditions, provided that they otherwise meet the eligibility criteria for the state’s Medicaid program.

For general information on immigrant eligibility, states and other readers also may consult sections 3210 and 3211 of the State Medicaid Manual and the letter to State Medicaid Directors dated December 8, 1997. The State Medicaid Manual and the December 8, 1997 letter can be found on the CMS Website at <http://www.cms.gov>. Note that, although the State Medicaid Manual and December 8, 1997 letter only discuss immigrant eligibility for Medicaid, the definition of “qualified alien” for purposes of Medicaid and SCHIP is the same.

**Q2. Are “PRUCOL” immigrants eligible for coverage?**

No. Prior to PRWORA, only immigrants lawfully admitted for permanent residence and immigrants permanently residing in the United State under color of law (so-called “PRUCOL” immigrants) were eligible for full Medicaid coverage. (The legislation creating SCHIP was passed after PRWORA, so there were no pre-PRWORA rules governing immigrants’ eligibility for SCHIP.) PRWORA created new eligibility criteria for immigrants. The previous “PRUCOL” categories are no longer relevant to determining an immigrant’s eligibility for benefits.