

GIS 16 MA/02

TO: Local District Commissioners, Medicaid Directors

FROM: Judith Arnold, Director
Division of Eligibility and Marketplace Integration

SUBJECT: Changes in Medicaid Coverage for Temporary Non-Immigrants

ATTACHMENTS: Attachment I - Residency Review Worksheet
Attachment II - Temporary Non-Immigrant Document Types and Visa Codes

EFFECTIVE DATE: Immediately

CONTACT PERSON: Local District Support
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The purpose of this General Information System (GIS) message is to inform local departments of social services of changes made to Medicaid coverage for temporary non-immigrants. This GIS also introduces a new worksheet, "Residency Review Worksheet" (see Attachment I). The worksheet is to be completed when a temporary non-immigrant applies for Medicaid coverage, or upon renewal, for individuals with coverage for Emergency Services Only (Coverage Code 07). These changes apply to all temporary non-immigrants whether they are in a Modified Adjusted Gross Income (MAGI) category of assistance or a non-MAGI category.

Temporary non-immigrants are individuals who are allowed to enter the United States temporarily for a specific purpose and for a specific period of time. They are commonly referred to as short-term visa holders. There are more than two dozen temporary non-immigrant categories. A few of the more common temporary non-immigrant categories are tourists, students and visitors for business. Please refer to Attachment II of this GIS for a list of temporary non-immigrant categories and the non-immigrant codes applicable to that category as well as examples of the types of documentation that temporary non-immigrants will typically possess.

In general, temporary non-immigrants have been eligible only for coverage of medical care and services necessary to treat an emergency medical condition. An exception applied to certain temporary non-immigrant pregnant women and children under 21. Under Section 214 of the Children's Health Insurance Program Reauthorization Act of 2009, state Medicaid programs may cover temporary non-immigrant and certain other groups of pregnant women and children who are "lawfully residing" in the United States. The Centers for Medicare & Medicaid Services (CMS) has interpreted the term "lawfully residing" to mean individuals who are "lawfully present" in the United States and who are state residents. [See State Health Official Letter #10-006, issued July 1, 2010, entitled "Medicaid and CHIP Coverage of "Lawfully Residing" Children and Pregnant Women"].

To be eligible for non-emergency care and services, temporary non-immigrants must thus be “lawfully present” in the U.S. and residents of New York State, in addition to meeting all other Medicaid eligibility requirements. This includes temporary non-immigrant pregnant women and children as well as temporary non-immigrants who are adult men or non-pregnant women.

To be “lawfully present,” the temporary non-immigrant must be in a valid non-immigrant category, such as a category listed in Attachment II to this GIS, and must not have violated the terms of the status under which he or she was admitted to the U.S. (i.e., the individual must not have overstayed his or her visa).

Effective immediately, to determine whether the individual is a New York State resident, the “Residency Review Worksheet” must be given to all temporary non-immigrants applying for Medicaid. Although it is highly unlikely that short-term visa holders, including tourists, would be able to establish State residency, they must still complete the “Residency Review Worksheet.”

At renewal, the “Residency Review Worksheet” must also be given to all recipients with Coverage Code 07 - Emergency Services Only. This is to ensure that recipients who only have Emergency Services Only and have not had the opportunity to complete the Residency Review Worksheet are given the appropriate coverage. In addition, an individual’s circumstances may change which require a change from Emergency Services Only to Medicaid for all care and services.

Temporary non-immigrants will be required as a condition of their eligibility, to answer the questions on the “Residency Review Worksheet.” Documentation will need to be provided for any question with a “Yes” response.

1. If the answer to question number one, “Have you or your child(ren) applied to adjust your status or to get an immigration status (such as legal permanent resident, asylee or filed a VAWA Petition)?” is “YES,” then the temporary non-immigrant automatically passes the New York State residency review, and no more questions on the form need to be answered.
2. If the answer to question number one is “No,” then at least one of the answers to the remaining questions (2-5) must be “Yes” to pass the residency review. The questions are:
 2. Do you currently work in New York State? __Yes __ No
 3. Does your child(ren) go to school in New York State? __ Yes __No
 4. Do you own your own home in New York State? __Yes __No
 5. Do you rent a house or apartment in New York State? __Yes __No

If the individual answers “YES,” provides documentation and is otherwise eligible, the individual will be eligible for Medicaid for all care and services, Coverage Code “01”, “11” or “30” and Alien Citizenship Indicator (ACI) of “O” – PRUCOL. In this instance, CNS Reason Code C50 (Accept All Covered Care and Services) should be used.

NOTE: There are no changes with regard to temporary non-immigrant pregnant women and children, who should continue to be coded pursuant to GIS 13 MA/011.

Applicants are given 15 days to provide proof of residency pursuant to answers provided on the "Residency Review Worksheet." If an applicant does not provide proof within the required time, the case should be denied for failure to provide the required documentation using CNS Reason Code U20 (Failure to Provide Verification of Factors Which Affect Eligibility).

3. If the responses to all questions are "NO," then the temporary non-immigrant fails the New York State residency test. If the temporary non-immigrant fails the residency test then he/she would only be eligible for Medicaid for the treatment of an emergency medical condition (Coverage Code "07"), if otherwise eligible. Upstate the applicable CNS Reason Code is C22 (Accept Non-Immigrant/Undocumented Immigrants – Emergency Coverage Only). In New York City Manual Notice MAP-2151b(E) (Notice of Eligibility for MA Coverage for the Treatment of an Emergency Medical Condition).

It should be noted that, temporary non-immigrants who are determined to be lawfully present, a New York State resident, and who meet all the other eligibility requirements, are allowed to participate in the Excess Income (Spendedown) program. The spenddown provisions apply to temporary non-immigrants in the same manner as they apply to United States citizens.

Please direct any questions to your Local District Support Liaisons.