



Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

August 20, 2026

DAL: NH #26-13

Subject: Nursing Home Coverage for Undocumented
Consumers Aged 65 and Older

Dear Nursing Home Administrator:

The purpose of this letter is to inform you of a recent change to New York State law, impacting undocumented non-citizens aged 65 and older who became eligible to enroll in mainstream Medicaid managed care plans on January 1, 2024. Social Services Law (SSL) § 364-j(3)(d-4) specifies that consumers who have been permanently placed in a nursing home for at least three consecutive months will be disenrolled from their mainstream Medicaid managed care plan. Disenrollment will begin on September 30, 2026, and continue monthly for consumers who meet the criteria.

Following disenrollment from their mainstream Medicaid managed care plan, undocumented non-citizens aged 65 and older will qualify for Medicaid coverage of services for the treatment of an emergency medical condition, only. Nursing home coverage is not a covered service under Medicaid for the treatment of an emergency medical condition. Federal regulation 42 Code of Federal Regulations (CFR) §440.255 defines emergency medical services as “services required after the sudden onset of a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- Placing the patient’s health in serious jeopardy;
- Serious impairment to bodily function; or
- Serious dysfunction of any bodily organ or part.”

The care and services related to an organ transplant procedure are not included in the definition of treatment of an emergency medical condition.

The New York State Department of Health will begin sending correspondence to impacted consumers in August 2026. Consumers permanently residing in a nursing home will receive advanced correspondence and a subsequent eligibility determination notice after their disenrollment. Attached is a copy of the notice consumers will receive.

Please direct any questions regarding eligibility to MCfor65PlusUndoc@health.ny.gov.

Sincerely,

Kathleen Johnson, Deputy Director
Division of Eligibility and Marketplace Integration
Office of Health Insurance Programs