



DEPARTMENT OF HEALTH & HUMAN SERVICES
Health Care Financing Administration

Center for Medicaid and State Operations
7500 Security Boulevard
Baltimore, MD 21244-1850

December 8, 1997

Dear State Medicaid Director:

This letter and its attachment are another in a series of letters that provide guidance on changes to Medicaid made by the Balanced Budget Act (BBA). The enactment of the BBA on August 5, 1997, produced a number of changes to the immigrant eligibility provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (welfare reform). The attachment to this letter describes in some detail the changes affecting the Medicaid eligibility of qualified aliens and what actions you need to take right away.

The changes made by the BBA protect the eligibility for SSI of qualified aliens who were receiving SSI on August 22, 1996. The effect of this change is to assure Medicaid eligibility for aliens in States that provide Medicaid based on receipt of SSI benefits. The changes also permit qualified aliens who were living in the United States on August 22, 1996 and subsequently become disabled to obtain SSI and Medicaid. Some other changes also expand Medicaid eligibility for qualified aliens.

Additional guidance on this subject is contained in the attachment. The changes described in points 1 through 7 of the attachment will be incorporated in the State Medicaid Manual in the near future.

If you have any questions about these changes to Medicaid eligibility, please write to us.

Sincerely,

/s/

Sally K. Richardson

Director

Center for Medicaid and State Operations

Attachment

cc:

All Regional Administrators

All Associate Regional Administrators for Medicaid and State Operations

Lee Partridge, APWA

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ATTACHMENT

This attachment provides general guidance on the eligibility of non-citizens for Medicaid and the changes in such eligibility made as part of the Balanced Budget Act. More detailed instructions will be forthcoming through State Medicaid Manual issuances.

1. Medicaid Eligibility Based on SSI.

- Section 5305 of the Balanced Budget Act creates a new section 436 in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 effective August 22, 1996, which provides that an alien receiving SSI will be eligible for Medicaid to the same extent as any other SSI recipient is eligible for Medicaid under the State's approved Title XIX plan. The effect of this provision is to assure Medicaid eligibility for aliens in States that provide Medicaid based on receipt of SSI benefits.

2. SSI Eligible Qualified Aliens Living in the United States on August 22, 1996.

Because the original SSI termination date for qualified aliens in the U.S. on August 22, 1996 established by welfare reform was delayed by previous legislation to September 30, 1997, and the Balanced Budget Act extended that termination date to September 30, 1998, no currently SSI eligible non citizen has lost SSI benefits due to immigration status. Consequently, no Medicaid eligible individual who is also an SSI recipient should have lost Medicaid due to immigration status. The amendments to SSI eligibility, as described below, will affect non citizen SSI recipients and applicants in the future.

- Section 5301(c) of the Balanced Budget Act provides that all aliens, including non qualified aliens lawfully residing in the U.S. and receiving SSI on August 22, 1996 will continue to receive such SSI benefits until September 30, 1998. Consequently, no alien receiving SSI on August 22, 1996 who was also receiving Medicaid should be terminated before September 30, 1998 solely on the basis of immigration status.
- Section 5304 provides that those SSI recipients receiving SSI benefits for months after July 1996 based on an application filed before January 1, 1979, about whom the Commissioner of Social Security lacks credible evidence that the individual is not a qualified alien eligible for continued SSI, will remain eligible for SSI. The restriction in section 402(a) of welfare reform does not apply to these individuals and therefore, they will remain SSI eligible after September 30, 1998. These individuals will also be eligible for Medicaid as provided in point number 1.
- Section 5301(a) provides that all qualified aliens who are lawfully residing in the U.S. and receiving SSI on August 22, 1996 will continue to be eligible for SSI after September 30, 1998. Such recipients will also be eligible for Medicaid in those States which base Medicaid eligibility on the receipt of SSI.
- Section 5301(b) provides that qualified aliens lawfully residing in the U.S. as of August 22, 1996 who are, or become, disabled may apply for and be found eligible for SSI and Medicaid. These individuals will be eligible for SSI and Medicaid if they meet the eligibility requirements of these programs. The date of onset of the disability has no effect on eligibility.
- Qualified aliens who are not disabled will be eligible for SSI only if they meet one of the exceptions from the ban on SSI eligibility. For example, a 65 year old qualified alien credited with 40 quarters can establish SSI eligibility if the alien meets the other eligibility criteria.

3. Qualified aliens arriving in the United States after August 22, 1996.

- These aliens were unaffected by the Balanced Budget Act, except where noted in items 4 through 7.

4. American Indians Born Outside the U.S. Recognized as Lawful Permanent Residents.

- Section 5303 amends sections 402 and 403 of welfare reform, effective August 22, 1996, to exempt from the limitations on SSI and Medicaid, American Indians born outside the U.S.. These Indians are allowed to enter and re-enter the U.S., are considered lawful permanent residents, and are exempt from the 40 quarters of work requirement.
- The provision affecting American Indians born outside the U.S., in addition to reflecting existing HCFA policy, also provides for coverage of an individual "who is a member of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act). To be eligible, the Indian must have been born outside the U.S. and meet one of the following criteria in addition to all other Medicaid eligibility criteria.
 1. American Indians born in Canada who are at least 50% American Indian blood to whom the provisions of section 289 of the Immigration and Nationality Act apply; or
 2. The Indian is a member of a Federally recognized tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act.

The next three changes made by the Balanced Budget Act, items 5,6, and 7, require that you redetermine, and where appropriate, reinstate the eligibility of any affected individual who after enactment of welfare reform was either denied Medicaid eligibility or was terminated from Medicaid because the individual did not meet the immigration criteria contained in the original welfare reform law.

5. Extension from 5 to 7 Years of the Exception to the Ban or Limitation on SSI or Medicaid Eligibility for Refugees, Asylees and Persons whose Deportation has been Withheld.

- Section 5302 extends from 5 to 7 years the eligibility period for qualified aliens who are refugees, Asylees, or whose deportations have been withheld. This provision is effective August 22, 1996 and affects both those qualified aliens living in the U.S. on August 22, 1996 and those who arrive in the U.S. after August 22, 1996.

6. Inclusion of Cuban/Haitian Entrants as Qualified Aliens and Refugees.

- Effective August 22, 1996, Cuban/Haitian Entrants are now included in the list of Qualified Aliens in Section 431 of Welfare Reform and are to be treated as refugees who are excepted from the limitations on SSI and Medicaid eligibility in sections 402 and 403. Therefore, Cuban/Haitian Entrants are Medicaid eligible as provided in sections 3211.2 and 3211.3 of the State Medicaid Manual, as long as they meet all other eligibility criteria for Medicaid.

7. Amerasians Treated as Refugees for Purposes of Means Tested Benefits.

- Section 5306 amends section 402(b)(2)(A) of welfare reform to exempt Amerasian immigrants from the limitation on Medicaid eligibility and to treat such immigrants as refugees for eligibility purposes. Therefore, Amerasian immigrants who meet all other eligibility criteria are Medicaid eligible for 7 years from the date of entry the same as other refugees. This applies to refugees entering the United States either before August 22, 1996 or who arrive in the United States on or after that date. The 5 year ban on eligibility in section 403 of welfare reform (P.L. 104-193) does not apply to refugees, including Amerasian immigrants.

8. Authorization for States to Verify Eligibility for State and Local Public Benefits.

- The Balanced Budget Act adds a new section 413 to welfare reform authorizing States to verify the eligibility of aliens for State and local public benefits. Section 411 restricts eligibility to qualified aliens unless the State after August 22, 1996 enacts a law specifically providing for eligibility of nonqualified or illegal aliens for State or local public benefits. Therefore, a State can use the verification system which INS has been directed to establish to verify the eligibility of qualified and non qualified aliens.

9. Impact of Immigration Changes in Section 1902(f) States.

- A State exercising the option under section 1902(f) of the Act is affected by the changes made by the Balanced Budget Act to the extent a qualified alien described in this letter also meets the State's eligibility criteria.