

Implementation Guide: Medicaid State Plan Eligibility Non-financial Eligibility State Residency

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State Residency

POLICY CITATION

Statute: 1902(b)(2)

Regulations: 42 CFR 435.403

BACKGROUND

Overview

This reviewable unit (RU) describes specific requirements for what constitutes state residency. It includes mandatory residency requirements and state options regarding individuals who are temporarily out of the state or temporarily living in the state as a student. The RU also describes any interstate agreements related to state residency established by the state.

As described in 42 CFR 435.403, states are required to provide Medicaid to residents of the state, including residents absent from the state under certain circumstances, who are otherwise eligible for Medicaid. State residency for individuals who are not living in an institution and are age 21 or over is generally defined as the state in which the individual is living and intends to reside. An individual does not need to have a fixed address. Individuals age 21 or over are also considered state residents if they entered the state with a job commitment or seeking employment (regardless of whether currently employed). A child is a resident of the state in which the child resides or where the child's parent or caretaker is a resident.

The residency requirements at 42 CFR 435.403 also specify the following:

- An individual of any age who is receiving payments under title IV-E of the Social Security Act for foster care or adoption assistance is a resident of the state where the child lives (42 CFR 435.403(g)).
- If a state arranges for an individual to be placed in an institution located in another state, the individual is considered a resident of the state arranging or actually making the placement (42 CFR 435.403(e)(1)).
- The residency of an individual who is emancipated from his or her parent or who is married is determined in accordance with applicable rules governing individuals age 21 and over (42 CFR 435.403(i)(1)).

Other individuals are considered to be residents of the state under specific conditions which vary by age, institutional status, and ability to indicate intent, as described at 42 CFR 435.403.

Interstate Agreements

States may enter into interstate agreements with other states to assure the continuity of coverage for low-income children under Medicaid and CHIP. Interstate agreements ensure coordination of enrollment, retention, and coverage for children under the Medicaid and CHIP programs. States may establish a written agreement with another state to describe the rules and procedures for facilitating the placement of an individual when moving between states and resolving cases of disputed residency. As described in 42 CFR 435.403(d), an individual is considered to be a

resident of the state if he or she meets the criteria specified in an interstate agreement. These agreements may not result in the loss of residency in both states.

Coordination can be needed to address concerns of retention of eligibility and gaps in coverage of children who, because of migration of families, emergency evacuations, natural or other disasters, public health emergencies, educational needs, or other circumstances, frequently change their state of residence or otherwise are temporarily located outside of their state of residence. The agreements range from an agreement in which states recognize each other's eligibility determinations to those where states reimburse out-of-state providers. States may use interstate agreements to facilitate the placement and adoption of title IV-E individuals when a child and his or her adoptive parent(s) move into another state. Interstate Compact on Adoption and Medical Assistance (ICAMA) is an agreement between and among its member states that enables them to coordinate the provision of medical benefits and services to children receiving adoption assistance in interstate cases. Many states have ICAMA agreements in place.

In this RU, states are required to indicate whether they have an ICAMA agreement. They also describe any other types of interstate agreements, including the nature of the agreement and the states with which the agreement is in effect. Each interstate agreement must contain a procedure for providing Medicaid to individuals pending resolution of their residency status and criteria for resolving disputed residency of individuals. Each description of an interstate agreement should explain how its effect differs from the application of Medicaid state residency regulations at 42 CFR 435.403.

Students from Other States

A state may define its own policy or policies regarding students living in their state. States have flexibility under 42 CFR 435.403(h) and 435.403(i) as to whether they determine individuals who are in their state solely for the purposes of education as “residing” in the state.

One option is to consider an individual, who is aged 18-22 and a full-time student at a school in the state, to not be a resident if:

- Neither a parent nor a guardian lives in the state,
- The student is claimed as a tax dependent by someone in another state, and
- The student is applying on his or her own behalf.

This option is available to states through the federally facilitated marketplace. States may establish different policies in addition to or in lieu of this policy.

If the state chooses not to define a specific policy related to individuals who are in the state solely to attend school, then such individuals would be treated like any other individuals under state residency requirements regardless of whether they are living in the state for the purpose to attend school.

Temporary Absence from the State

States must comply with the requirements at 42 CFR 435.403(j)(3) regarding temporary absence. As described in the regulation, an otherwise eligible individual may not be denied Medicaid eligibility because that individual is temporarily absent from the state, if the individual intends to

return to the state when the purpose of the absence has been completed, unless another state has determined that the person is a resident there for Medicaid purposes.

Option: Expanded Definition of Temporary Absence: States have the option to expand the definition of temporary absence. Some examples of circumstances that states specify to be considered a temporary absence include out of state medical treatment, education, or military service. Providing such examples in the state's definition of temporary absence may not preclude a case-by-case consideration of whether the individual's circumstances constitute a temporary absence if the reason for the individual's absence is not included in the state's list of examples.

INSTRUCTIONS

Introductory Assurance

Indicate that the state meets the requirement of providing Medicaid to otherwise eligible residents of the state, including individuals who are absent from the state under certain conditions. To do this, check the box next to the assurance.

A. Mandatory Residency Requirements

This section has a series of statements at **A.1.** through **A.9.** describing the mandatory residency requirements.

B. Interstate Agreements

Select *Yes* or *No* to indicate whether individuals are considered to be residents of the state if they meet the criteria specified in an interstate agreement. If *No*, go to the next section.

If *Yes*,

- At **B.1.**, select *Yes* or *No*, to indicate if the state participates in the Interstate Compact on Adoption and Medical Assistance (ICAMA)
- At **B.2.**, select *Yes* or *No*, to indicate if the state has other interstate agreements. If *No*, go to the next section. If *Yes*, describe the other interstate agreements your state has in place. You will be asked to define a type of agreement and indicate the state(s) to which this agreement applies.
 - Select the + *Add Interstate Agreement* link.
 - Enter the *Interstate Agreement Type Name* in the text box provided.
 - Enter the names of the *Applicable States* for this interstate agreement type by beginning to type the name of the state and then selecting from the options that appear.
 - Select one or more categories of individuals covered by this interstate agreement type.
 - For each category selected at **a.** through **c.**, provide a more detailed description of the category in the text box that is provided.
 - If **d. Other** is selected, provide a name for the category and a detailed description in the text box that is provided. If there is more than one *Other* category, select the + *Add other* link to add the category.
 - To add another type of interstate agreement, select the + *Add Interstate Agreement* and repeat the steps above.

Screen Validation: If there is more than one interstate agreement, the criteria associated with each interstate agreement must be unique.

Screen Validation: If there is more than one interstate agreement, the same state cannot be associated with more than one agreement.

- To remove an interstate agreement, select the **Delete Interstate Agreement** link below the interstate agreement type name.

C. Students from Other States

Indicate, **Yes** or **No**, if the state has a policy related to individuals who are in the state only to attend school. If **No**, go to the next section. If **Yes**,

- If applicable, select the option that describes the policy.
- Select **Other**, if the state has a policy related to students that is different than the option described.
- If **Other** is selected:
 - Select the **+Add Other** link
 - Enter a name for the policy and a description in the text boxes provided.
- Select the **+Add Other** link again if the state has more than one **Other** policy.
- To delete an **Other** policy, select the **X** next to the name and description of the other policy.

D. Temporary Absence from the State

Indicate that the state considers individuals who are state residents and who are temporarily absent from the state to be state residents if the person intends to return when the purpose of the absence has been accomplished, unless another state has determined that the individual is a resident there for purposes of Medicaid eligibility, in accordance with 435.403(j)(3). To do this, check the box next to the assurance.

- Select **Yes** or **No** to indicate whether the state has an additional definition of temporary absence.
 - If **Yes**, provide a description of the definition in the text box provided.

E. Additional Information (optional)

Except in limited circumstances, this field remains blank. Please consult with CMS before adding any additional information concerning this RU.

REVIEW CRITERIA

If the state has an interstate agreement, it must provide a more detailed description of the interstate agreement provisions pertaining to each category of individuals selected. The description must be of sufficient detail that the reviewer can clearly understand the nature of the agreement.

If the state indicates it has a policy related to individuals in the state only to attend school, it must provide a description of the policy. The description must be sufficiently clear, detailed and complete to permit the reviewer to determine that it is an allowable policy.

If the state indicates it has an additional definition of temporary absence, the definition must be sufficiently clear, detailed and complete to permit the reviewer to determine that it is an allowable definition. The state's definition of temporary absence may give examples of circumstances for which temporary absence is considered (i.e. medical treatment, out of the state for educational purposes or military service). Any definition of temporary absence must permit a case-by-case consideration of whether the individual's circumstances constitute a temporary absence.