

**CLE FOR ALJS AND SHOS AT 330 WEST 34TH ST,
MANHATTAN**

Topic: Immigrant Eligibility For Government Funded Health Care in NY State

Place: 330 West 34th Street, NY, NY (Room 539)

Date: October 26, 2007

Time: 9:30AM to 3:30PM

This course will be eligible for 5 hours of non-transitional credits in Areas of Professional Practice

Attendance: All ALJs and SHOs stationed at our 34th St office and at our Long Island Office are expected to attend unless excused by their supervisor. Please note that all attendees should bring their NY State ID's with them.

IMMIGRANT ELIGIBILITY FOR GOVERNMENT FUNDED HEALTH CARE
IN NEW YORK STATE
October 26, 2007
New York, New York

Introduction _____	9:30-9:45
Eligibility Requirements _____ -Categories -Documentation	9:45-11:00
Break _____	11:00-11:10
Date of Status _____ Date Entered Country Social Security Numbers Immigrant Concerns	11:10-12:00
Lunch _____	12:00-1:00
PRUCOL _____ -History -Case Examples	1:00-2:00
Break _____	2:00-2:10
PRUCOL con't _____	2:10-3:00
Questions _____	3:00-3:30

Presenter's Biographies

Jane McCloskey is an Associate Attorney with the Bureau of Health Insurance Programs with the NYS Department of Health's Division of Legal Affairs.

Shirley Race is a Medical Assistance Specialist II with the Office of Health Insurance Programs, Bureau of Medicaid and Family Health Plus Enrollment. Shirley is a registered nurse with 30 plus years of nursing experience including Medicaid Utilization Review, and Medicaid Managed Care Case Management. For the past 6 1/2 years, Shirley has worked with various NYS agencies and the Legal Aid Society, the Children's Defense Fund and the New York Immigration Coalition on developing the training curriculum on Immigration Eligibility.

Vicki Rockefeller is a Medical Assistance Specialist I with the Office of Health Insurance Programs, Bureau of Medicaid and Family Health Plus Enrollment where her main focus is on Citizenship and Immigration policy. She spent 10 years as a welfare examiner for Saratoga County determining eligibility for both Community and Chronic Care Medicaid. Before coming to NYSDOH she was employed by the Center for Development of Human Services (CDHS) where she trained all aspects of Medicaid eligibility to welfare examiners across NYS.

**New York State
Immigrant Eligibility for
Medicaid, Family Health Plus
and Child Health Plus A & B**

2007 Training

Training Topics

- Immigrant Eligibility for Government Funded Health Insurance Medicaid, CHPlus A & B, FHPlus, PCAP, and Medicaid for the treatment of an emergency medical condition
- Verification of Status
- Documentation
- Immigrants' Concerns
 - Public Charge
 - Sponsorship
 - Reporting

Who is Eligible?

To be eligible for MA, FHP, CHPlus A, an individual must be a Citizen, National, Native American or be an immigrant in "satisfactory immigration status".

Who is Eligible? Citizens

U.S. Citizens include:

- Naturalized U.S. citizens;
- Nationals; and
- Native Americans (includes Native Americans born in Canada or belonging to a federally recognized tribe).

Who is Eligible? Immigrants

All immigrants in a satisfactory immigration status may be eligible for:

- Medicaid (**MA**)*
- Family Health Plus (**FHPlus**)*
- Child Health Plus A (**CHPlus A**)*

*As long as the applicant meets the other eligibility requirements of the program.

What is Satisfactory Immigration Status?

"Satisfactory immigration status" is defined as an immigration status that does not make the individual ineligible for benefits under the applicable program.

Who Is Eligible? Immigrants

Satisfactory Immigration Status includes:

- Qualified Immigrants
- PRUCOL (Persons Permanently Residing Under Color of Law)

NYS Department of Health 7

Qualified Immigrants

• Qualified Immigrants include:

- Lawful Permanent Residents ("Green Card" holders/LPR's)
- Refugees
- Asylees
- Persons granted withholding of deportation or removal
- Persons paroled into the U.S. for at least one year
- Cuban-Haitian entrants
- Amerasians
- Battered individuals and their dependents
- Conditional entrants
- Veterans or active U.S. armed forces and their immediate family members
- Victims of trafficking

NYS Department of Health 8

Qualified Immigrants

- Qualified immigrants are persons who usually live and work here with the permission of the USCIS.
- There is no five year waiting period for health benefits.
- Refer to 04 OMM/ADM-7 and 06 OMM INF -5 for a description of those immigrants who are eligible for Medicaid benefits with Federal Financial Participation.

NYS Department of Health 9

PRUCOL

PRUCOL:

P= Permanently ▶ Residing in the U.S. with the intent to remain
R= Residing ▶ Lives in NY (resident)
U= Under
C= Color
O= of ▶ Some legal basis for being in the country
L= Law

NYS Department of Health 10

PRUCOL continued

- People who are living here with USCIS' "**knowledge and permission or *acquiescence***" and USCIS is not taking steps to deport the immigrant.
- "**Acquiescence**" means agree by default (or inaction)

NYS Department of Health 11

Immigrants Limited to only Emergency Medical Treatment

- **Undocumented:** (e.g., People without USCIS documentation)
- **Temporary non-immigrants:** (e.g., short term visa holders, students, tourists who are not adjusting their status with USCIS)

NOTE:
 Undocumented and/or Non-immigrant children may be eligible for Child Health Plus B, if they meet certain requirements.

NYS Department of Health 12

Undocumented Immigrants

Immigrants who:

- Are unable to provide documentation because they have entered the U.S. **without** inspection

OR

- Lawfully entered the United States, but have violated the terms of their status
 - Over-stayed a visa

Temporary Non-Immigrants

Temporary non-immigrants: have been allowed to enter the United States for a specific purpose and for a limited period of time (short term visa holders).

- Foreign students*
- Tourist*

* Who are not adjusting their status

Exceptions for Non-Immigrants

Special non-immigrants:

- Non-immigrant visa statuses allow a visa holder to work in the United States and eventually adjust to lawful permanent residence status
 - Visas K, S, V, U
- These individuals would be considered PRUCOL.

CHPlus B & Non-immigrants

- Non-immigrants may be eligible for CHPlus B. To be eligible, they must provide credible evidence which outweighs the premise, based on their non-immigrant status, that they are residents of their home country.
- Residency determinations for non-immigrant children will be made on a case by case basis according to the procedures established by the State CHPlus Program Office.

CHPlus B & Non-immigrants

- Non-immigrant children **ineligible** for CHPlus B typically have status as:
 - Medical Visa (B-2 visa)
 - Tourists (B visa);
 - Students or children of students (F or J visas); or
 - Children of foreign government workers (A or G visas)

Important CHPlus B Information

Remember:

- Not belonging to one of the A or B categories listed on the application (Access NY), does not mean that the child is undocumented.
- It could mean that the child is a non-immigrant.
- Only non-immigrant children which undergo a residency review may be eligible for CHPlus B.
- If unable to meet the residency requirement, a non-immigrant child is not eligible for CHPlus B.

How Can You Tell If a Child is a Non-immigrant or Undocumented Person?

- Both non-immigrants and undocumented persons check the "none" box in Section D of the application.
- However, the difference is:
 - A non-immigrant **has** immigration documentation; and
 - An undocumented immigrant **does not have** documents.

How Can You Tell If a Child is a Non-immigrant or Undocumented?

- This is why it is important for you to ask to see the immigration documentation or paperwork for all applying, non-citizen children.
- You may also need to ask follow-up questions to ensure consistency throughout the application.

Determining if Additional Steps are Needed

- You may only assume that a child is undocumented:
 - If the family indicates that the child does not have any valid immigration documentation; **and**
 - No other information to the contrary has been provided.

Determining if Additional Steps are Needed....

- In such a case, immigration documentation is not required to process the application.
- However, applications and all supporting documentation must be reviewed for consistency of all information reported.

Examples of Cases Requiring Additional Steps

Examples:

- A case must be referred to the State CHPlus program office if the family confirms that a child is undocumented, but the child has a SSN.
- If a child's parent is legally employed (e.g., provides pay stubs, a tax return or an official employer letter as income documentation), you must assume that the parent has valid immigration paperwork. Therefore, the child should also have valid immigration documentation (i.e., is not undocumented).

continued.....

Examples of Cases Requiring Additional Steps continued...

- Such cases require additional follow-up with the family prior to enrolling the child.
- All follow-up actions taken and information received **must** be noted and maintained in the case file if the child is enrolled.

Still Have A Question?

If you have a question, it should be referred by your organization to the appropriate State CHPlus B contract manager.

- Health Plans call 518-473-4708
- Lead Agencies call 518-474-5449

Quick Tip!

- New York residents who are undocumented may be eligible for Medicaid coverage for the treatment of an emergency medical condition and PCAP.
- Undocumented children may be eligible for CHPlus B.

Verification of Status

Verification of status is the process used by the government to determine an immigrant's status.

- An immigrant can be asked to verify their status when applying for Medicaid, FHPlus, CHPlus A, or CHPlus B.
- An undocumented child applying for CHPlus B does not have to document status (i.e., there are no documents to provide).
- An applicant for PCAP or an undocumented applicant seeking coverage for emergency treatment does not have to verify his or her status.

Documentation

1. Permanent Resident Card (I-551)
"Green Card"
2. Arrival/Departure Record (I-94)
3. Employment Authorization Document/
Card (I-766 or I-688B)
4. Other USCIS paperwork

NYS Department of Health 28

1. Permanent Resident Card I-551 (Green Card)

- Most, but not all, Qualified Immigrants will have a Permanent Resident Card "Green Card."
- An immigrant does not have to provide any other proof of his or her immigration status when they have a Green Card.
- The Green Card contains the date the immigrant received qualified status.

NYS Department of Health 29

1. Permanent Resident Card I-551 (Green Card) cont...

- Green cards are no longer green.
- Old Green cards do not have expiration dates.
- Newer cards have expiration dates, BUT an expired Green card does **NOT** mean the immigrant has lost his or her LPR status.

NYS Department of Health 30

ALIEN REGISTRATION RECEIPT CARD
 PERSON ADMITTED BY THIS CARD IS ENTITLED TO RESIDE PERMANENTLY AND WORK IN THE U.S.

33500000	11	23	663	563	86539
A NUMBER	MO. I	DA.	M. I.	M. I.	PASSPORT
5533	47405	16323	34456	69480	
REG.	DOB	DOB	DOB	DOB	PASSPORT
040380	582	050	07620	9462742	
ARRIVAL DATE	DOB	DOB CODE	SOURCE	PARITY I	

SAMPLE CARD

NYS Department of Health 34

2. Arrival/Departure Record I-94

When an immigrant is first admitted into the U.S., an immigration inspector will:

- stamp the foreign passport with an I-94 stamp; or
- staple a 3x5 white card to their foreign passport.

The I-94 form will contain:

- Codes of Admission
- Date Entered Country (DEC)
- How long the person may remain in the U.S.

NYS Department of Health 35

2. Arrival/Departure Record I-94 continued...

- The code on the I-94 tells what the immigrant's status was when he or she entered the country, remember this status could have changed.
- Check the Key to I-94 Arrival/Departure Record Desk Aid.

NYS Department of Health 36

Warning: A nonimmigrant who accepts unauthorized employment is subject to deportation.

Important: Remain this permit in your possession; you must surrender it when you leave the U.S. Failure to do so may delay your entry into the U.S. in the future. You are authorized to stay in the U.S. only until the date written on this form. To remain past this date, without permission from Department of Homeland Security authorities, is a violation of the law.

Surrender this permit when you leave the U.S.:

- By sea or air, to the transportation line;
- Across the Canadian border, to a Canadian Official;
- Across the Mexican border, to a U.S. Official

Students planning to reenter the U.S. within 30 days to return to the same school, see "Arrival-Departure" on page 2 of Form I-20 prior to surrendering this permit.

Record of Changes

Port: _____ Departure Record

Date: _____

Carrier: _____

Flight # / Ship Name: _____

NYS Department of Health 40

3. Employment Authorization Document/ Card (EAD) I-766 or I-688B

- USCIS permits many immigrants to work legally in the U.S. These immigrants will be issued an Employment Authorization Document/Card (EAD).
- This card has a **category** section with a special code that can tell you a client's immigration status.
- Check Key to I-766, I-688B, Employment Authorization Document (EAD) Desk Aid.

NYS Department of Health 41

3. EAD I-688B or I-766 continued...

- Not every immigrant with an EAD is eligible for Medicaid, FHPplus or CHPlus A (check the code).
- An immigrant's status could have changed, so it's important to review **ALL** documents.

NYS Department of Health 42

EMPLOYMENT AUTHORIZATION
U.S. DEPARTMENT OF JUSTICE Immigration and Naturalization Service

A 41, 752-988 Name OSSORSKI, MICHELLE M.
LIR9519650457 Signature *Michelle Ossorski*

Valid From 07/14/95 Expires 07/14/96 DOB 01/29/67

Provision of Law 274a.52(c) (8) W
Terms & Conditions NONE
Issued: 07/14/95

FORM I-981H JAN 89

NYS Department of Health 43

U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. Citizenship and Immigration Services

EMPLOYMENT AUTHORIZATION CARD

The person identified is authorized to work in the U.S. for the validity of this card.
NAME VOID, VOID V

Jose W. Cristobal

A# 000-000-376
CARD # WAC9000000376
Employment Authorization Card Sex M
NOT VALID FOR REENTRY TO U.S.
CARD VALID FROM 01/01/50 EXPIRES 01/01/50

NYS Department of Health 44

6765698

[Barcode]

[Redacted Area]

[Microprint Area]

This card is not evidence of U.S. citizenship or permanent residence.
This document is void if altered, and may be revoked by the
U. S. Government FORM I-756 Rev. (05-2004)

NYS Department of Health 45

4. Other USCIS Documents
PRUCOL

- USCIS will not give an immigrant a piece of paper saying "PRUCOL".
- You will need to review all paperwork to determine if someone is PRUCOL.

NYS Department of Health 46

PRUCOL

Knowledge and Permission or Acquiescence

These elements must be established for the immigrant to be PRUCOL.

NYS Department of Health 47

PRUCOL continued

Knowledge and Permission

Correspondence the immigrant has received from USCIS will establish that USCIS has knowledge of the immigrant's presence in the U.S. and USCIS has ACKNOWLEDGED receipt of this paperwork by issuing:

- USCIS receipt notice;
- "Notice of Action" (Form I-797) issued by USCIS;
- USCIS fee receipt; or
- Provide a copy of the cancelled check for payment of a USCIS fee.

NYS Department of Health 48

PRUCOL continued...

ACQUIESCENCE: Two ways...

- First, immigrant may have a document from USCIS that demonstrates acquiescence;
- or**
- The USCIS has failed to respond to the immigrant's application within a reasonable period of time.

PRUCOL continued...

Let's discuss some examples:

#1. An immigrant has written to the USCIS to request a change in his immigration status;

- Completed the USCIS application form;
- USCIS verified receipt of fee paid; and
- Notice of Action his application was received by USCIS.

PRUCOL continued...

#2. USCIS has failed to respond in any way to the immigrant's request after having a reasonable time in which to respond.

- *Acquiescence may be inferred by the USCIS's silence, that is, failure to respond after a reasonable period of time.*

PRUCOL continued

- What can you do if you do not have a response from USCIS?

By sending Form G-845 to USCIS, you can obtain verification of an immigrant's status from USCIS.

(See page 30 and Attachment B-1 of 04 OMM/ADM-7 for further details)

PRUCOL continued

If the USCIS verifies the status in response to the G-845...

...Then the immigrant could be considered PRUCOL.

Date of Status (DOS)

- The Date of Status is the date the immigrant was granted or achieved his/her **qualified** immigration status.
- Remember an immigrant's status may change to another status that is different than the status with which they entered the country.
- Date of Status is optional for PRUCOL (ACI =0)

Date Entered Country (DEC)

- The Date Entered Country is the date the immigrant physically entered the United States (which may or may not be the same date as the DOS).
- Date Entered Country is optional for PRUCOL (ACI = O), however, if available it may be entered.

NYS Department of Health 55

Social Security Numbers

- **ALL** Applicants for Medicaid, FHPlus & CHPlus A **must** apply for a SSN, except for pregnant woman and undocumented immigrants.
- The Medicaid worker or facilitated enroller should provide the form to take to SSA.
- If SSA denies SSN, the immigrant must provide proof of the denial.

NYS Department of Health 56

Applicants have the right to:

- Be told about the programs and the help they can get;
- Be told what they need to do to qualify for these programs;
- Apply for these programs;
- Get an application when he or she asks for one;
- Get an interview; and
- Receive a written notice which tells them the application was approved or denied.

NYS Department of Health 57

What if Application is Denied?

- Medicaid, FHPlus and CHPlus A applicants have 60 days to appeal a denial through a State Fair Hearing.
- Can ask for a Fair Hearing in person, by phone, by fax, by mail and by internet
- Call Legal Aid for help:
1-212-577-3575 (NYC)
1-888-500-2455 (Upstate toll free)

NYS Department of Health 58

Immigrant Concerns:

- **Public Charge**
- **Sponsorship**
- **Reporting**

NYS Department of Health 59

Public Charge

- **What is a Public Charge?**
Public Charge is the term used by USCIS to describe immigrants who become dependent on public benefits while living in this country.

NYS Department of Health 60

Public Charge & Health Benefits

- USCIS can try to exclude or refuse to admit or adjust the status of an immigrant it finds to be a public charge.
- Use of government funded health benefits should **NOT** make an immigrant a public charge.

Exceptions to Public Charge

There are two exceptions to this rule:

- Use of Medicaid for long-term institutionalization; and
- Use of Medicaid for immigrants who are HIV positive. People who are HIV positive should consult with an immigration expert before using Medicaid.

Does Public Charge Apply to all Immigrant Categories?

Public Charge **never** applies to an immigrant who is a:

- Refugee
- Asylee
- Amerasian immigrant at initial admission
- An Entrant under the Cuban Adjustment Act, Nicaraguan Adjustment and Central American Relief Act; or Haitian Refugee Immigration Fairness Act

Does Public Charge Apply to all Immigrant Categories

USCIS does not make a public charge determination when a Lawful Permanent Resident (LPR) applies for citizenship (or "naturalizes").

Affidavits of Support (AOS) I-864

- An AOS is an USCIS form signed by an immigrant's sponsor. The sponsor promises to financially support the immigrant if USCIS allows the immigrant into the country.
- After December 19, 1997, USCIS required a new AOS from the sponsor of an immigrant applying for an immigrant visa or for adjustment of status.

Sponsor Deeming & Liability

- **Sponsor Deeming** means that a sponsor's income and resources are included when determining the immigrant's income and resources.
- **Sponsor Liability** means that the sponsor is financially responsible for the immigrant and may be required to repay costs for the immigrant's health care services provided through Medicaid.

Sponsor Deeming

Sponsor deeming will not be applied to immigrants who use:

- Emergency Medicaid
- CHPlus B: or
- pre-natal care (PCAP).

Sponsor deeming also does **not** apply to immigrants who were not sponsored as part of the USCIS process or who did not have an AOS. (e.g., refugees, asylees, battered individuals etc.)

Sponsor Liability

- Only sponsors who signed the **new** Affidavit of Support can potentially be held liable for repayment of their sponsored immigrant's use of Medicaid benefits.
- **And then only if the government follows very specific rules.**

Sponsor Deeming and Liability: Now

Neither Sponsor Deeming nor Sponsor Liability are currently being used by the State right now for health programs.

Sponsor Deeming and Liability: Future?

In the future, NYS may try to make the immigrant's sponsor liable to repay the immigrant's Medicaid costs.

Reporting

- It is New York State's policy **NOT** to report information from applications (Access NY or Growing Up Health) for Medicaid, FHP, CHPlus or PCAP to the USCIS.
- State has told districts that there is **NO** duty to report an immigrant's status to USCIS.
- Immigration status must be confidential unless USCIS has issued final order of deportation.

Can the Receipt of Government Health Benefits Harm an Immigrant's Status?

- Most immigrants will be unaffected if they receive government-funded health care benefits for:
 - children;
 - treatment of emergency conditions;
 - prenatal care

Always Remember...

Clients should be strongly discouraged from:

- using false information (e.g. social security number) or false documents when applying for any of these programs; and
- falsely attesting that they do not have, or can not obtain legal immigration documents or paperwork.
