



# FAMILY INDEPENDENCE ADMINISTRATION

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## POLICY BULLETIN #13-30-ELI

*(This Policy Bulletin Replaces PB #11-69-ELI)*

### REVISIONS TO THE PRUCOL ELIGIBILITY DESK AID (W-205JJ)

<b>Date:</b> April 4, 2013	<b>Subtopic(s):</b> Forms
<p> This procedure can now be accessed on the FIAweb.</p> <p>Refer to <a href="#">PD #12-08-ELI</a> for Medicaid Separate Determinations</p> <p>Please refer to the Alien Eligibility Desk Aid (<a href="#">LDSS-4579</a>) for the “qualified alien” criteria</p>	<p><b>Revisions to the Original Policy Bulletin and Desk Aid:</b></p> <p>This policy bulletin has been revised to:</p> <ul style="list-style-type: none"> <li>• Remind staff that noncitizens who are denied Cash Assistance (CA) because of their alien status are entitled to a Medicaid Separate Determination (MSD);</li> <li>• Amend the criteria for “U” eligibility; and</li> <li>• Inform staff of changes made to the PRUCOL Eligibility Desk Aid (<b>W-205JJ</b>).</li> </ul> <p><b>Purpose:</b></p> <p>Some noncitizens who do not meet the Federal “qualified alien” criteria may be eligible for certain New York State funded benefits if they can be considered Permanently Residing Under the Color of Law (PRUCOL).</p> <p>For Cash Assistance, noncitizens are considered to be PRUCOL by the Office of Temporary and Disability Assistance (OTDA) if they are present in the United States with the knowledge and permission or acquiescence of the United States Citizenship and Immigration Service (USCIS) and the USCIS is allowing the noncitizens to reside in the country for an indefinite period of time. The State Department of Health has slightly different standards for PRUCOL eligibility for Medicaid (MA).</p>

HAVE QUESTIONS ABOUT THIS PROCEDURE?  
Call 718-557-1313 then press 3 at the prompt followed by 1 or  
send an e-mail to *FIA Call Center Fax* or fax to: (917) 639-0298

PRUCOL is neither an immigration status nor a term of immigration law but a public benefit eligibility category. Individuals found eligible under this category may receive only Safety Net Assistance (SNA) and/or state funded Medicaid (MA). They are not eligible for Family Assistance (FA), Safety Net Federally Participating (SNFP), Emergency Assistance for Families (EAF) or the Supplemental Nutrition Assistance Program (SNAP).

The standards for PRUCOL eligibility used for SNA and MA are slightly different. Consult the PRUCOL Eligibility Desk Aid (**W-205JJ**) for differences and instructions for what to do when eligibility is not clear.

**Note:** If it is determined that a noncitizen is not eligible for CA because of his/her alien status, staff must deny the individual using the appropriate denial code (**F92 - Failure to Provide Proof of Citizenship or Eligible Alien Status**) and Alien Citizenship Indicator (ACI) code “E” (Non-qualified aliens eligible for emergency Medicaid). Use of the appropriate denial code ensures a MSD is conducted as CA and MA PRUCOL eligibility rules differ.

Revised

One of the conditions in which a noncitizen may be eligible for benefits under PRUCOL is if he/she and his/her qualified dependent family members are granted a “U” nonimmigrant status.

Revised

Form **W-205JJ** has been modified to further clarify that noncitizens who have been granted a “U” Visa or “U” nonimmigrant status are considered PRUCOL for benefit eligibility purposes.

In addition to this revision, the common documentation associated with this status is being revised. If a noncitizen presents one of the following, he/she may be considered eligible for PRUCOL status:

Revised

- **Form I-797** indicating that “U” nonimmigrant status has been granted; or

Revised

- **Form I-94** stamped “U1”, “U2”, “U3”, “U4”, “U5”; or

- **Form I-688B** or **Form I-766** (Employment Authorization Document) with category code – 8 CFR §274a.12(a)(19) or A19 for “U1” principle, or with category code 8 CFR §274a.12(a)(20) or A20 for qualified dependent family members (“U2”, “U3”, “U4” and “U5”); or

- Any other USCIS authoritative document that verifies “U” Nonimmigrant status.

Additional changes made to the **W-205JJ** include:

- Removal of **Form I-688B** and **Form I-766** from the list of common documentation for Aliens granted cancellation of removal pursuant to §240 of the INA (page 1)
- Revised description of status for the spouse or child of a U.S. citizen granted specific “K” visas to now read:

Spouse or child of a U.S. citizen who has been granted a “**K3**” Visa under the Legal Immigration Family Equity Act (LIFE Act) and for the unmarried minor child (under 21 years of age) of the alien spouse of the U.S. citizen who has been granted a “**K4**” Visa under the LIFE Act.

To correspond with this change, an unexpired “K2” visa is no longer acceptable documentation to establish PRUCOL status (page 2).

- Removal of the status description “Spouse or child of a U.S. citizen granted a “K” visa and who:
  - Makes a claim of DV;
  - Does not have a grant of “prima facie” or an approved **I-360**; and
  - Has a pending **I-360** but refuses to go to DVL for credibility assessment or is determined noncredible.”

The common documentation associated with this status has also been removed.

- Description status for Aliens granted “S” visa has been modified to now also include qualified dependent family members (page 3).
- For Aliens granted “V” visa status, the common documentation has been amended to now include **Form I-688B** or **Form I-766** (Employment Authorization Document) with category code A14 or A15 (page 4).
- Removal of aliens granted “V” visa status under the Legal Immigration Family Equity Act (LIFE Act) for spouses and children of LPR’s who:
  - Make a claim of DV;
  - Does not have a grant of “prima facie” or an approved **I-360**; and
  - Has a pending **I-360** but refuses to go to DVL for credibility assessment or is determined noncredible.

The common documentation associated with this status has also been removed.

Refer to [PB #10-04-OPE](#) for instructions on contacting the FIA Call Center.

**Note:** If documentation is submitted and the status of the alien does not fit in any of the other categories listed in the PRUCOL Eligibility Desk Aid, the Worker must contact the FIA Call Center who will contact the Office of Temporary Disability Assistance to determine if the alien meets PRUCOL status.

*Effective Immediately*

**Related Items:**


[PB #10-04-OPE](#)

[PD #12-08-ELI](#)

**Attachment:**

**W-205JJ**

PRUCOL Eligibility Desk Aid (Rev. 4/4/13)

 Please use Print on Demand to obtain copies of forms.

### PRUCOL Eligibility Desk Aid

Description of Status	WMS/ACI Code	Common Documentation		Relevant Date for Eligibility	Medicaid <sup>1</sup>	Family Assistance	Safety Net Assistance	Supplemental Nutrition Assistance Program (SNAP) Benefits
		For Temporary Assistance	For Medicaid					
Aliens residing in the United States pursuant to an Order of Supervision under § 241(a)(3) of the Immigration Nationality Act (INA).	O ↑ ----- ↓ O	<u>I-94</u> annotated "Order of Supervision"; or <u>Form I-220B</u> (Order of Supervision); or <u>Form I-688B</u> or <u>Form I-766</u> (Employment Authorization Document) with category code C18 or 8 CFR § 274a 12(c)(18); or Any other authoritative document from the USCIS indicating an Order of Supervision.	SAME	N/A	Yes	No	Yes	No
Aliens granted cancellation of removal pursuant to § 240A of the INA.		Order from the Executive Office of Immigration Review (EOIR) granting cancellation of removal; or Any other authoritative document from the USCIS indicating cancellation of removal granted.	SAME					
Granted deferred action status, which defers their departure.		<u>Form I-797</u> (Notice of Action) indicating approval of deferred action status; or <u>Form I-688B</u> or <u>Form I-766</u> (Employment Authorization Document) with category code C14 or 8 CFR § 274a.12(c)(14); or Any other authoritative document from the USCIS indicating deferred action.	SAME					

<sup>1</sup> Reminder: Undocumented immigrants and nonimmigrants may receive coverage for care and services for the treatment of emergency medical conditions only, not including care and services related to an organ transplant procedure, if otherwise eligible, or certain types of care provided to chronically ill persons, such as alternate level of care in a hospital, nursing facility services, home care (including private duty nursing) and personal care. Pregnant women may be provided Medicaid at any time without regard to immigration status, if otherwise eligible. Children may be provided medical assistance without regard to immigration status under Child Health Plus Program (CHPlus).

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		For Temporary Assistance	For Medicaid					
Spouse or child of a U.S. citizen who has been granted a "K3" Visa under the Legal Immigration Family Equity Act (LIFE Act) and for the unmarried minor child (under 21 years of age) of the alien spouse of the U.S. citizen who has been granted a "K4" Visa under the LIFE Act.	O ↑ ----- ↓ O	Unexpired "K3", "K4" Visa;  <b>Note:</b> If an expired "K" Visa is submitted, then proof that an I-539 (Application to Extend/Change Nonimmigrant Status) was filed with USCIS must be submitted.  or <b>Form I-94</b> stamped "K3" or "K4" ;  or <b>Form I-688B</b> or <b>Form I-766</b> (Employment Authorization Document) with category code A9 or 8 CFR § 274 a.12 (a)(9);  and SAVE clearance, <b>Form I-797</b> or any other authoritative USCIS document indicating an <b>I-130</b> application is pending or approved.	SAME	N/A	Yes	No	Yes	No

<sup>1</sup> Reminder: Undocumented immigrants and nonimmigrants may receive coverage for care and services for the treatment of emergency medical conditions only, not including care and services related to an organ transplant procedure, if otherwise eligible, or certain types of care provided to chronically ill persons, such as alternate level of care in a hospital, nursing facility services, home care (including private duty nursing) and personal care. Pregnant women may be provided Medicaid at any time without regard to immigration status, if otherwise eligible. Children may be provided medical assistance without regard to immigration status under Child Health Plus Program (CHPlus).

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		For Temporary Assistance	For Medicaid					
Aliens and qualified dependent family members granted "S" Visas.	O ↑ ..... ↓ O	<b>Form I-94</b> stamped "S5," "S6" or "S7"; or <b>Form I-688B</b> or <b>Form I-766</b> (Employment Authorization Document) with category code C21 or 8 CFR § 274a.12(c)(21); or Any other USCIS authoritative document that verifies "S" Visa status.						
Aliens and the qualified dependent family members granted a "U" Nonimmigrant status.		<b>Form I-797</b> indicating that "U" Nonimmigrant status was granted or <b>Form I-94</b> stamped "U1," "U2," "U3," "U4"; or Unexpired <b>Form I-688B</b> or <b>Form I-766</b> (Employment Authorization Document) with category code A19 or 8 CFR §274a.12(a)(19) for "U1" principle; or A20 or 8 CFR §274a.12(a)(20) for qualified dependent family members ("U2," "U3," "U4" and "U5") or Any other USCIS authoritative document that verifies "U" Nonimmigrant status.	SAME	N/A	Yes	No	Yes	No

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		For Temporary Assistance	For Medicaid					
Aliens granted "V" Visa status under the Legal Immigration Family Equity Act (LIFE Act)	O ↑ ----- ↓ O	Unexpired "V" Visa; <b>Note:</b> If an expired "V" Visa is submitted, then proof that <b>Form I-539</b> (Application to Extend/Change Nonimmigrant Status) was filed with USCIS must be submitted. or <b>Form I-94</b> stamped "V1," V2," or "V3" or <b>Form I-688B</b> or <b>Form I-766</b> (Employment Authorization Document) with category code A14, A15, 8 CFR § 274a.12 (a)(14) or 8 CFR § 274a.12 (a)(15); and SAVE clearance, <b>Form I-797</b> or any other authoritative USCIS document indicating an <b>I-130</b> application is pending or approved.	SAME	N/A	Yes	No	Yes	No
"Not qualified" aliens who can produce any evidence, including but not limited to verification by USCIS that they entered the U.S. prior to January 1, 1972, and have resided continuously in the U.S. since such entry, pursuant to Section 249 of the INA.		<b>Form I-797</b> indicating "Notice of Adjustment of Status to Permanent Resident" pursuant to INA § 249 or <b>Form I-688B</b> or <b>Form I-766</b> with category code C16; or Any letter/notice from the USCIS or EOIR indicating Registry Application ( <b>Form I-485</b> ) is pending; or Any documentary proof establishing entry and continuous residence.	SAME	January 1, 1972	Yes	No	Yes	No
Permanent nonimmigrants, pursuant to P.L. 99-239 (applicable to citizens of the Federated States of Micronesia and Marshall Islands).		<b>I-94</b> stamped CFA/MIS "DS" (Duration of Status); or <b>I-688B</b> or <b>I-766</b> coded 8 CFR § 274a.12(a)(8) or A8.	SAME	N/A	Yes	No	No	No

<sup>1</sup> **Reminder: Undocumented immigrants and nonimmigrants may receive coverage for care and services for the treatment of emergency medical conditions only, not including care and services related to an organ transplant procedure, if otherwise eligible, or certain types of care provided to chronically ill persons, such as alternate level of care in a hospital, nursing facility services, home care (including private duty nursing) and personal care. Pregnant women may be provided Medicaid at any time without regard to immigration status, if otherwise eligible. Children may be provided medical assistance without regard to immigration status under Child Health Plus Program (CHPlus).**



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		For Temporary Assistance	For Medicaid					
Any aliens living in the U.S. with knowledge and written permission of the USCIS and whose departure the Agency does not contemplate enforcing for an indefinite period of time.	O ↑ ----- ↓ O	If documentation is submitted and the status of the alien does not fit in any of the other categories listed in this guide, the Worker must contact the Office of Procedures who will contact the Office of Temporary Disability Assistance to determine if the alien meets PRUCOL status.	See Page 6	N/A	Yes	No	Yes	No
Applicants for asylum.		N/A	<u>I-797</u> indicating Asylum Application received, pending or intent to approve asylum request; or <u>I-688B</u> or <u>I-766</u> (Employment Authorization Document) with category code C8 or 8 CFR § 274a.12(c)(8).	N/A	Yes	No	No	No
Persons granted Temporary Protected Status.		N/A	<u>I-797</u> indicating TPS status granted; or <u>I-688B</u> or <u>I-766</u> (Employment Authorization Document) coded with category code A12 or 8 CFR § 274a.12(a)(12).					
Persons applying for Temporary Protected Status.		N/A	<u>I-688B</u> or <u>I-766</u> (Employment Authorization Document) coded with category code C19 9r 8 CFR § 274a.12(a)(19).					
Applicants for adjustment of status.		N/A	<u>I-688B</u> or <u>I-766</u> (Employment Authorization Document) coded with category code C9 or 8 CFR § 274a.12(c)(9); or <u>I-797</u> indicating application received or pending.					

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		For Temporary Assistance	For Medicaid					
Persons who have filed applications for adjustment of status under Section 245 of the INA and the USCIS has accepted as "properly filed."	O ↑ ----- ↓ O	N/A	<p><b>I-797</b> Notice of Action indicating the USCIS has received, taken action on or approved an application or petition;  <b>or</b>                      A copy of a cancelled check to the USCIS;  <b>or</b>                      Correspondence to or from the USCIS, showing that the person is living in the United States with the knowledge and permission or acquiescence of the USCIS, and the USCIS does not contemplate enforcing the person's departure from the United States. Examples include, but are not limited to: Permanent nonimmigrants, pursuant to F.L. 99-239 (applicable to citizens of the Federated States of Micronesia and Marshall Islands); Applicants for asylum; Persons granted Temporary Protected Status. Persons applying for Temporary Protected Status include documents <b>I-688B</b> or <b>I-766</b> with category code C-9.</p> <p>Applicants for adjustment of Status; Persons who have filed applications for adjustment of status under section 245 of the INA and the USCIS has accepted as "properly filed."</p>	N/A	Yes	No	No	No
Any aliens living in the U.S. with knowledge and permission or acquiescence of the USCIS and whose departure the Agency does not contemplate enforcing.		N/A	<p><b>I-797</b> indicating application received, pending or approved;  <b>or</b>  <b>Form I-94</b> or passports with annotation "adjustment application" or "employment authorized during status as adjustment application";  <b>or</b>  <b>Form I-688A</b> coded 245A;  <b>or</b>  <b>Form I-688B</b> or <b>Form I-766</b> coded with category code C22 or 8 CFR § 274a. 12 (c)(22).</p>					

<sup>1</sup> Reminder: Undocumented immigrants and nonimmigrants may receive coverage for care and services for the treatment of emergency medical conditions only, not including care and services related to an organ transplant procedure, if otherwise eligible, or certain types of care provided to chronically ill persons, such as alternate level of care in a hospital, nursing facility services, home care (including private duty nursing) and personal care. Pregnant women may be provided Medicaid at any time without regard to immigration status, if otherwise eligible. Children may be provided medical assistance without regard to immigration status under Child Health Plus Program (CHPlus).