

# Overview of Immigrant Eligibility Policies for Health Insurance Affordability Programs

Presented in Partnership by the National Immigration Law Center, Center on Budget and Policy Priorities and the Georgetown Center for Children and Families

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Part I:

# Medicaid and CHIP Eligibility for Immigrants

# General Immigrant Eligibility Rules for Medicaid and CHIP

- Under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, the following groups may be eligible for Medicaid and CHIP:
  - "Qualified" immigrants who entered the U.S. before 8/22/96
  - "Qualified" immigrants who reach the end of a 5-year waiting period (i.e. legal permanent residents/green card holders)
  - "Qualified" immigrants exempt from the 5-year waiting period (e.g., refugees, asylees, Cuban/Haitian entrants, trafficking victims, veteran families)
- States have some flexibility from certain federal rules as defined by federal statute to vary.

**NOTE**

Immigrants who do not meet these immigrant eligibility rules (i.e. "qualified" immigrants in the five-year bar and "not qualified" immigrants), may be eligible for Medicaid payment of limited emergency services if they otherwise meet all Medicaid eligibility standards

# “Qualified” Immigrants for Medicaid and CHIP

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**“Qualified” Immigrants** (categories defined by statute, many of these are exempt from the 5-year bar)

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- Lawful Permanent Residents (LPR/green card holders)
- Refugees
- Asylees
- Cuban/Haitian entrants
- Persons who were paroled into the U.S. for more than a year
- Conditional entrants
- Certain domestic violence and trafficking survivors and their derivatives
- Certain American Indians
- Persons granted withholding of deportation/removal

# Five-Year Waiting Period for Medicaid & CHIP

- Many “qualified” immigrants who entered the U.S. on or after August 22, 1996 are subject to a five-year waiting period (also know as “the five-year bar”)
- The five-years begin when an immigrant obtains a “qualified” immigration status
- Many “qualified” immigrants are not subject to the five-year bar:
  - Refugees, asylees, persons granted withholding of deportation/removal (even if they later become LPRs)
  - Cuban/Haitian entrant, Amerasian, Iraqi or Afghan special immigrant status, trafficking survivor (even if they later become LPRs)
  - Qualified immigrants who are U.S. veterans or on active military duty and their spouses or children
  - Children (state option, see slide 6)
  - Pregnant women (state option, see slide 6)

*Note: For example, in Alabama, Mississippi, North Dakota, Texas, Virginia and Wyoming immigrant eligibility rules are even more strict than the general federal rules. For more information, see this resource from NILC - <http://nilc.org/document.html?id=108>.*

# States Have Some Flexibility to Vary from the General Eligibility Rules

## Federal Medicaid/CHIP Options

- CHIPRA gave states the option to cover children and/or pregnant women:
  - Who are lawfully present, and otherwise eligible
  - Without a 5-year waiting period
  - Regardless of date of entry into the U.S.
  - 29 states, DC and the Commonwealth of the Northern Mariana Islands have taken up the option
- Under the “unborn child” option in CHIP, states can opt to provide certain medical services to pregnant women, regardless of immigration status, if they are not otherwise eligible for Medicaid

## State-Funded Options

- States can cover additional immigrants with state-only funds.

# Emergency-Only Medicaid & Other Programs Available to All

**Medicaid payment for limited services related to an emergency medical condition** is available to people who meet all the state's Medicaid eligibility requirements except for citizenship or immigration status, including:

- Qualified immigrants who are in the five-year bar
- Lawfully present, but not qualified immigrants, such as nonimmigrant visa holders (i.e., students, temporary workers, etc.), Temporary Protected Status (TPS) and many others, excluding certain lawfully present immigrants that a state may have opted to cover under Medicaid and/or CHIP
- Undocumented immigrants

## **Other programs available to ALL:**

- *Programs using federal health care block grants:* mental health, maternal and child health, family planning, communicable diseases, immunizations
- *Programs providing health services necessary to protect life or safety:* emergency medical, food, or shelter, mental health crisis, domestic violence, crime victim assistance, disaster relief
- Hospital financial assistance programs or charity care
- Community Health Centers/FQHCs, Migrant Health Centers

Part II:

# Immigrant Eligibility for Marketplace Coverage



# “Lawfully Present” Immigration Categories Eligible for Marketplace Coverage – Part I

## ALL “Qualified” Immigrants

- Lawful Permanent Resident (LPR/green card holder)
- Refugee
- Asylee
- Cuban/Haitian Entrant
- Paroled into the U.S.
- Conditional Entrant
- Battered Spouse, Child and Parent
- Trafficking Survivor and his/her Spouse, Child, Sibling or Parent
- Granted Withholding of Deportation or Withholding of Removal
- Certain American Indians

## PLUS Other Lawfully Present Immigrants:

- Granted relief under the Convention Against Torture (CAT)
- Temporary Protected Status (TPS)
- Deferred Enforced Departure (DED)
- Deferred Action\*
- Individual with Nonimmigrant Status (includes worker visas; student visas; U visas; citizens of Micronesia, the Marshall Islands, and Palau; and many others)
- Administrative order staying removal issued by the Department of Homeland Security
- Lawful Temporary Resident

**\*EXCEPTION:** *Individuals granted deferred action under the **Deferred Action for Childhood Arrivals (DACA)** program are not eligible to enroll in coverage in the Marketplace.*

# “Lawfully Present” Immigration Categories Eligible for Marketplace Coverage – Part II

## Applicant for any of these statuses:

- Lawful permanent resident (LPR/Green Card)
- Special Immigrant Juvenile Status
- Victim of Trafficking Visa
- Asylum\*
- Withholding of Deportation or Withholding of Removal, under the immigration laws or under the Convention Against Torture (CAT)\*

## With Employment Authorization:

- Applicant for Temporary Protected Status
- Registry Applicants
- Order of Supervision
- Applicant for Cancellation of Removal or Suspension of Deportation
- Applicant for Legalization under IRCA
- Legalization under the LIFE Act

*\*Only those who have been granted employment authorization or are under the age of 14 and have had an application pending for at least 180 days are eligible*

## Lawfully Present Immigrant Seniors

- **Medicare** has different rules – qualifying work history and immigration status restrictions
- Some lawfully present seniors, including LPRs, may not be eligible for **Premium Free Medicare** because they lack qualifying work history. Some LPRs may be eligible only for **Premium “Buy-in” Medicare**.
- Lawfully present seniors who are not eligible for **Premium Free Medicare** are eligible for **premium tax credits to offset the cost of Marketplace plans**

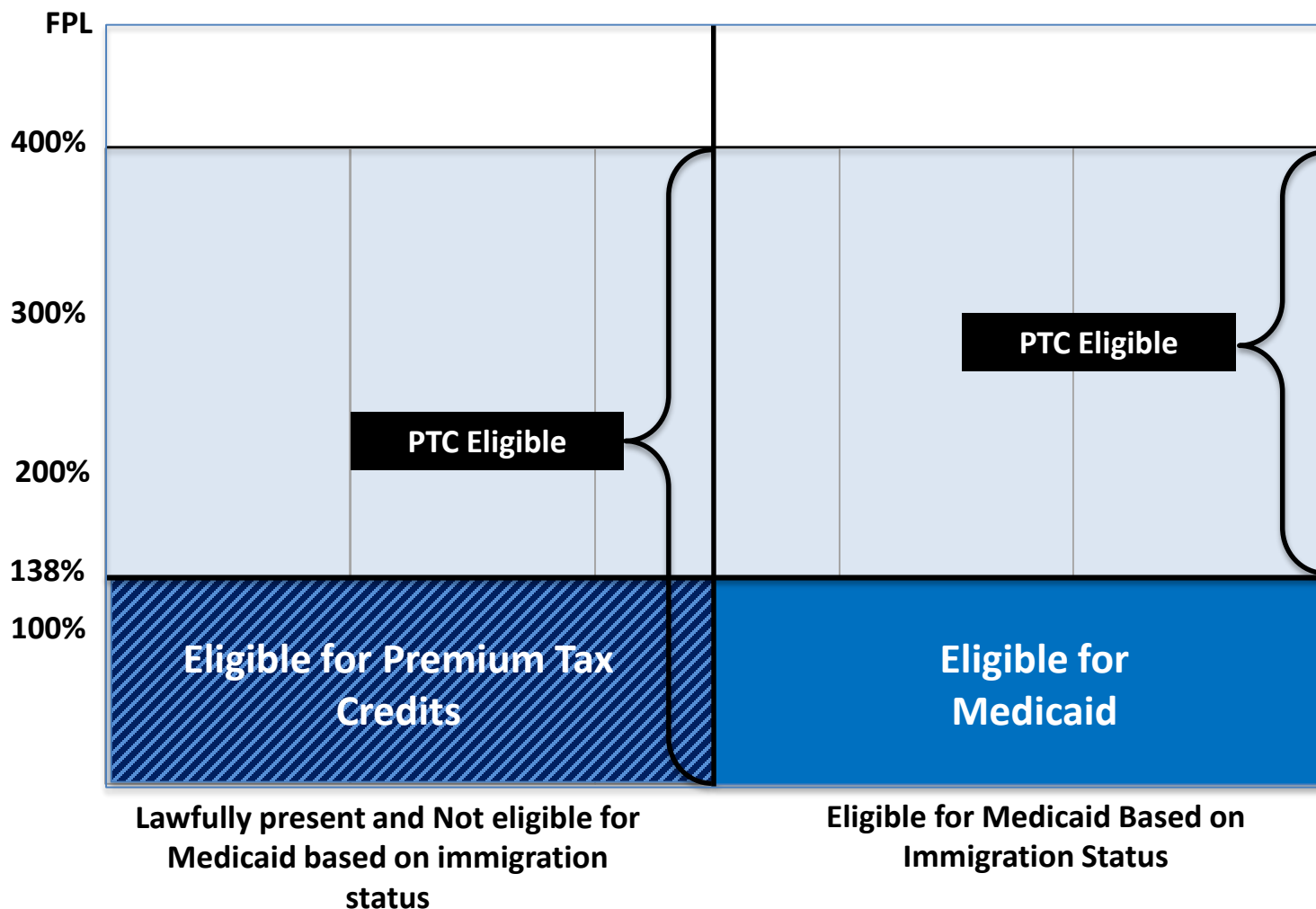
## Undocumented & DACAmented Individuals

- Ineligible to purchase qualified health plans in the individual Marketplaces, even at full price
- Exempt from the individual mandate as “exempt non-citizens,” along with individuals who are “non-resident aliens” under tax law
- Can apply for health insurance for eligible family members, or be part of household of eligible family members
- If applying for premium tax credits on behalf of eligible family members, must file a tax return. If not eligible for a Social Security number (SSN), may file a tax return using an Individual Taxpayer Identification Number (ITIN)
- Can use health programs available to ALL, regardless of immigration status (see slide 7)
- Can purchase private coverage outside the Marketplace or through employer

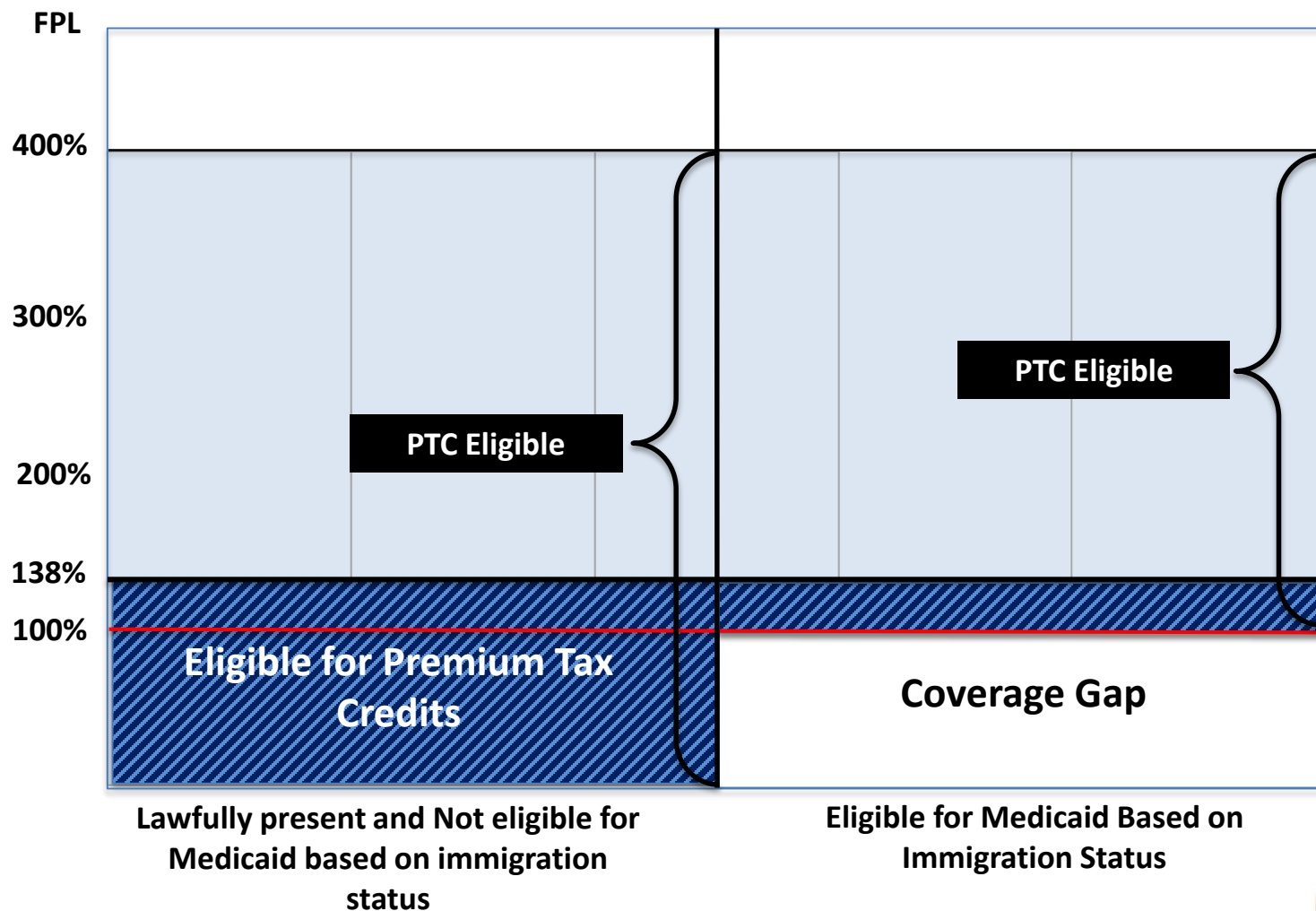
## State Residency

- In general, for QHP enrollment and Medicaid/CHIP, residency is the state in which an individual lives and:
  - Intends to reside, including without a fixed address; or
  - Has entered with a job commitment or is seeking employment (whether or not currently employed)
- To verify residency, Marketplaces:
  - Can accept self-attestation
  - Can use HHS approved electronic sources to the extent that they exist
  - Evidence of immigration status can't be used
- Nonimmigrant visa holders and attesting to state residency
  - May have consequences on ability to renew or obtain certain nonimmigrant visas → consult an immigration lawyer

# Eligibility Landscape for Most Immigrants in States that have Expanded Medicaid



# Eligibility Landscape for Most Immigrants in States that have not Expanded Medicaid



Part III:

# Immigrant Eligibility Scenarios



## Scenario 1:

### Rashid, Miriam and Leila

- Rashid and Miriam are married and live in Oregon
- Rashid became a citizen last year
- Miriam is applying to become a lawful permanent resident, Rashid submitted a visa petition for Miriam last year which was approved in February
- Leila was born in Oregon last month
- Family income: \$17,811
- Rashid and Miriam file taxes jointly and claim Leila as a dependent
- Everyone in the family is interested in getting health coverage



# Eligibility Based only on General Citizenship / Immigration Status Rules

Rashid



- Applying for coverage
  - Yes
- Citizen
  - Yes

MAY BE ELIGIBLE FOR:  
✓ Medicaid  
✓ QHP Enrollment

Miriam



- Applying for coverage
  - Yes
- Citizen
  - No
- Immigration status
  - Applying for LPR;  
approved visa petition
- Qualified immigrant
  - No
- Lawfully present
  - Yes

MAY BE ELIGIBLE FOR:  
✓ QHP Enrollment

Leila



- Applying for coverage
  - Yes
- Citizen
  - Yes

MAY BE ELIGIBLE FOR:  
✓ Medicaid  
✓ CHIP  
✓ QHP Enrollment

## Eligibility for PTC and Medicaid in Oregon

	Medicaid/CHIP				Premium Tax Credits			
	Eligible ?	HH	Income	FPL	Eligible ?	HH	Income	FPL
Rashid	Yes	3	\$17,811	90%	No	3	\$17,811	90%
Miriam	No	3	\$17,811	90%	Yes	3	\$17,811	90%
Leila	Yes	3	\$17,811	90%	No	3	\$17,811	90%

- Rashid and Leila are eligible for Medicaid. They are U.S. citizens and their income is below the income limit for Medicaid in Oregon.
- Miriam is lawfully present but is not a “qualified” immigrant.
- Miriam is eligible for PTC even though her income is below 100% FPL because she is not eligible for Medicaid based on her immigration status



## Scenario 2:

# Ricky, Eva and Karina

- Ricky and Eva are not married but live together with their daughter, Karina
- Karina was born in Florida and is a U.S. citizen
- Ricky has a student visa and plans to complete his program of study at Florida State University in 2017
  - He has no income
- Eva has Deferred Action for Childhood Arrivals (DACA) and she:
  - earns \$37,601 a year
  - plans to file federal taxes and will claim Ricky and Karina as dependents



Ricky, 24, Eva, 24, Karina, 1

# Eligibility Based only on General Citizenship / Immigration Status Rules 21

## Ricky



- Applying for coverage
  - Yes
- Citizen
  - No
- Immigration status
  - F-1 visa holder (student)
- Qualified immigrant
  - No
- Lawfully Present
  - Yes

MAY BE ELIGIBLE FOR:  
✓ QHP Enrollment

## Eva



- Applying for coverage
  - No

## Karina



- Applying for coverage
  - Yes
- Citizen
  - Yes

MAY BE ELIGIBLE FOR:  
✓ Medicaid  
✓ CHIP  
✓ QHP Enrollment

## Eligibility for PTC and Medicaid

	Medicaid/CHIP				Premium Tax Credits			
	Eligible ?	HH	Income	FPL	Eligible ?	HH	Income	FPL
Ricky	No	2	\$0	0%	Yes	3	\$37,601	190%
Eva	N/A	--	--	--	N/A	--	--	--
Karina	Yes	3	\$37,601	190%	No	3	\$37,601	190%

- Ricky is eligible for enrollment in a QHP with a PTC, but its unclear if attesting to residency in Florida will negatively impact his eligibility for visa
- Eva is not applying for coverage, she would not meet the immigration requirement for insurance affordability programs because of the exclusion of DACAmented individuals, even though she is authorized to work and has a SSN
- Eva is not subject to the penalty for going without coverage
- Karina is eligible for CHIP





## Scenario 3:

### Mei, Michael and Lin

- Mei lives with her son, Michael, and father Lin in North Carolina
- She has been a lawful permanent resident (LPR) for 6 years
- Michael is a citizen
- Lin has been a LPR for 2 years
  - He has not worked the 40 quarters and is not enrolled in Medicare
  - He is Mei's tax dependent
- Mei earns \$17,811 a year



# Eligibility Based only on General Citizenship / Immigration Status Rules

## Mei



- Applying for coverage
  - Yes
- Citizen
  - No
- Immigration status
  - LPR
- Qualified immigrant
  - Yes
- Subject to the 5-year bar
  - Yes
- Satisfied the 5-year bar
  - Yes

MAY BE ELIGIBLE FOR:

- ✓ Medicaid
- ✓ QHP Enrollment

## Lin



- Applying for coverage
  - Yes
- Citizen
  - No
- Immigration status
  - LPR
- Qualified immigrant
  - Yes
- Subject to the 5-year bar
  - Yes
- Satisfied the 5-year bar
  - No
- Lawfully present
  - Yes

MAY BE ELIGIBLE FOR:

- ✓ QHP Enrollment

## Michael



- Applying for coverage
  - Yes
- Citizen
  - Yes

MAY BE ELIGIBLE FOR:

- ✓ Medicaid
- ✓ CHIP
- ✓ QHP Enrollment



## Eligibility for PTC and Medicaid

	Medicaid/CHIP				Premium Tax Credits			
	Eligible ?	HH	Income	FPL	Eligible ?	HH	Income	FPL
Mei	No	3	\$17,811	90%	No	3	\$17,811	90%
Lin	No	1	\$0	-	Yes	3	\$17,811	90%
Michael	Yes	3	\$17,811	90%	No	3	\$17,811	90%

- Mei is not eligible for Medicaid because her state has not expanded and she is not eligible for PTC because her income is below 100% FPL
- Lin is eligible for PTC even though his income is below 100% FPL because he does not meet the Medicaid immigration requirement
- Lin has opted not to enroll in Medicare because he would have to pay the full premium
- Michael is eligible for Medicaid



## Scenario 4:

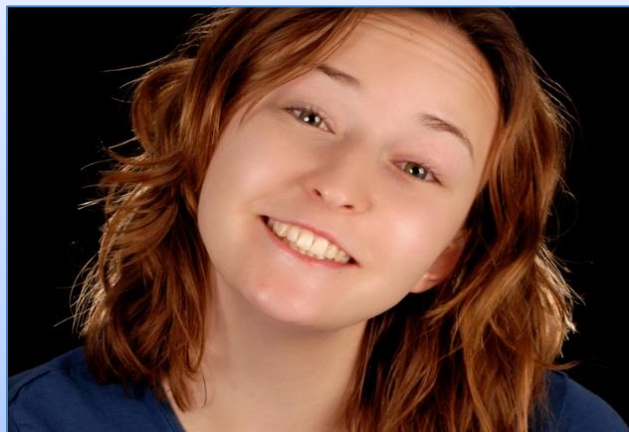
# Nina, Tanya and Amelia

- Nina lives with her daughter, Tanya, in Michigan
- Nina is undocumented
- Tanya is a US citizen
- Nina's older daughter, Amelia, lives with her grandparents in Canada
- Nina files taxes using an ITIN and claims both children as dependents
- Nina earns \$34,633 a year

Nina, 42, Tanya, 8



Amelia, 15



# Eligibility Based only on General Citizenship / Immigration Status Rules

Nina



- Applying for coverage
  - No

Amelia



- Applying for coverage
  - No

Tanya



- Applying for coverage
  - Yes
- Citizen
  - Yes

MAY BE ELIGIBLE FOR:

- ✓ Medicaid
- ✓ CHIP
- ✓ QHP Enrollment

## Eligibility for PTC and Medicaid

	Medicaid/CHIP				Premium Tax Credits			
	Eligible ?	HH	Income	FPL	Eligible ?	HH	Income	FPL
Nina	N/A	--	--	---	N/A	---	---	---
Amelia	N/A	---	---	---	N/A	---	---	---
Tanya	Yes	3	\$34,633	175%	No	3	\$34,633	175%

- Nina is not applying for coverage, she would not meet the immigration requirement for insurance affordability programs (*Note: she is not subject to the penalty for going without coverage*)
- Amelia is not applying for coverage, her immigration status is unclear, but she would not meet the state residency requirement for insurance affordability programs
- Tanya is eligible for CHIP



## Scenario 5:

### Nadif, Fatima and Amina

- Nadif and Fatima are married and have a daughter, Amina
- Nadif and Fatima:
  - Entered the U.S. as refugees 4 years ago
  - Became LPRs 1 year ago
- Amina is a citizen
- Nadif earns \$18,800 a year
- Nadif and Fatima file taxes jointly and claim Amina as a dependent



Nadif, 27, Fatima, 27, Amina, 4

# Eligibility Based only on General Citizenship / Immigration Status Rules 30

## Fatima



- Applying for coverage
  - Yes
- Citizen
  - No
- Immigration status
  - Refugee
  - LPR
- Qualified immigrant
  - Yes
- Subject to the 5-year bar
  - No

### MAY BE ELIGIBLE FOR:

- ✓ Medicaid
- ✓ QHP Enrollment

## Nadif

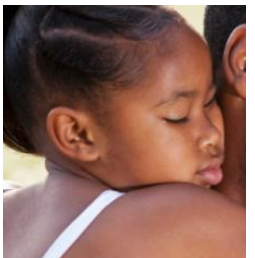


- Applying for coverage
  - Yes
- Citizen
  - No
- Immigration status
  - Refugee
  - LPR
- Qualified immigrant
  - Yes
- Subject to the 5-year bar
  - No

### MAY BE ELIGIBLE FOR:

- ✓ Medicaid
- ✓ QHP Enrollment

## Amina



- Applying for coverage
  - Yes
- Citizen
  - Yes

### MAY BE ELIGIBLE FOR:

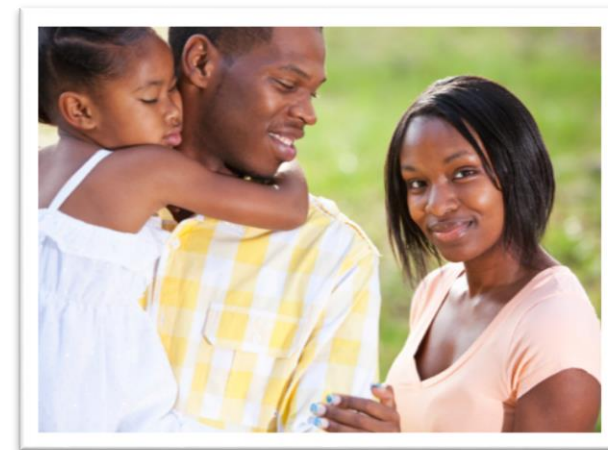
- ✓ Medicaid
- ✓ QHP Enrollment



## Eligibility for PTC and Medicaid in Expansion State

	Medicaid/CHIP				Premium Tax Credits			
	Eligible ?	HH	Income	FPL	Eligible ?	HH	Income	FPL
Fatima	Yes	3	\$18,800	95%	No	3	\$18,800	95%
Nadif	Yes	3	\$18,800	95%	No	3	\$18,800	95%
Amina	Yes	3	\$18,800	95%	No	3	\$18,800	95%

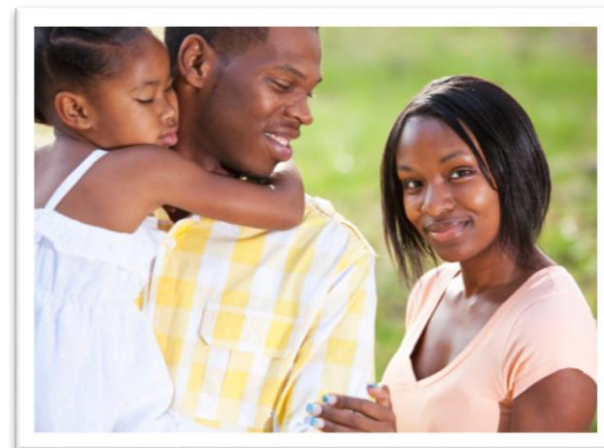
- Fatima and Nadif are eligible for Medicaid
- They are not subject to the 5-year bar because they entered the US as refugees
- Amina is eligible for Medicaid



## Eligibility for PTC and Medicaid in Non-Expansion State

	Medicaid/CHIP				Premium Tax Credits			
	Eligible ?	HH	Income	FPL	Eligible ?	HH	Income	FPL
Fatima	No	3	\$18,800	95%	No	3	\$18,800	95%
Nadif	No	3	\$18,800	95%	No	3	\$18,800	95%
Amina	Yes	3	\$18,800	95%	No	3	\$18,800	95%

- Fatima and Nadif are not eligible for Medicaid because their state has not expanded
- Fatima and Nadif are not eligible for PTC because their income is below 100% FPL
- Amina is eligible for Medicaid





# INFORMATION on ACA & Immigrants

## HHS & U.S. Immigration and Customs Enforcement Resources

- ***Citizenship and Immigration Status Questions*** - <https://www.healthcare.gov/help/citizenship-and-immigration-status-questions/>
- ***Immigration Status and the Marketplace*** - <https://www.healthcare.gov/immigration-status-and-the-marketplace/>
- ***Immigration Document Types*** - <https://www.healthcare.gov/help/immigration-document-types/>
- ***Immigrant Families and the Marketplace*** - <https://www.healthcare.gov/what-do-immigrant-families-need-to-know/>

# INFORMATION on ACA & Immigrants

## NILC Resources

- **Immigrants and the Affordable Care Act** - <http://nilc.org/immigrantshcr.html> and in Spanish - <http://nilc.org/immigrantshcrsp.html>
- **Frequently Asked Questions – The Affordable Care Act & Mixed Status Families** - [http://nilc.org/aca\\_mixedstatusfams.html](http://nilc.org/aca_mixedstatusfams.html)
- **Sponsored Immigrants & Benefits** - <http://www.nilc.org/document.html?id=166>
- **“Lawfully Present” Individuals Eligible under the Affordable Care Act** - <http://www.nilc.org/document.html?id=809>
- **Frequently Asked Questions – Exclusion of Youth Granted “Deferred Action for Childhood Arrivals” from Affordable Health Care** - <http://www.nilc.org/document.html?id=802>
- **A Quick Guide to Immigrant Eligibility for ACA and Key Federal Means-tested Programs** - <http://www.nilc.org/document.html?id=844>
- **Typical Documents Used by Lawfully Present Immigrants** - <http://www.nilc.org/document.html?id=35>
- **Federal Guidance on Public Charge – When Is it Safe to Use Public Benefits?** - <http://www.nilc.org/document.html?id=164>
- **Overview of Immigrant Eligibility for Federal Programs** – see page 4 for a list of “qualified” immigrants. <http://www.nilc.org/document.html?id=108>
- **Maps of Health Coverage for Immigrant Children and Health Coverage for Pregnant Women** - <http://www.nilc.org/healthcoveragemaps.html>
- **Medical Assistance Programs for Immigrants in Various States** - <http://nilc.org/document.html?id=159>

# Contact Information

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*For more information and resources, please visit:*

[www.nilc.org](http://www.nilc.org)

[ccf.georgetown.edu](http://ccf.georgetown.edu)

[www.healthreformbeyondthebasics.org](http://www.healthreformbeyondthebasics.org)

[www.cbpp.org](http://www.cbpp.org)