

Beyond 
the Basics

Health Coverage Eligibility Based on Immigration Status

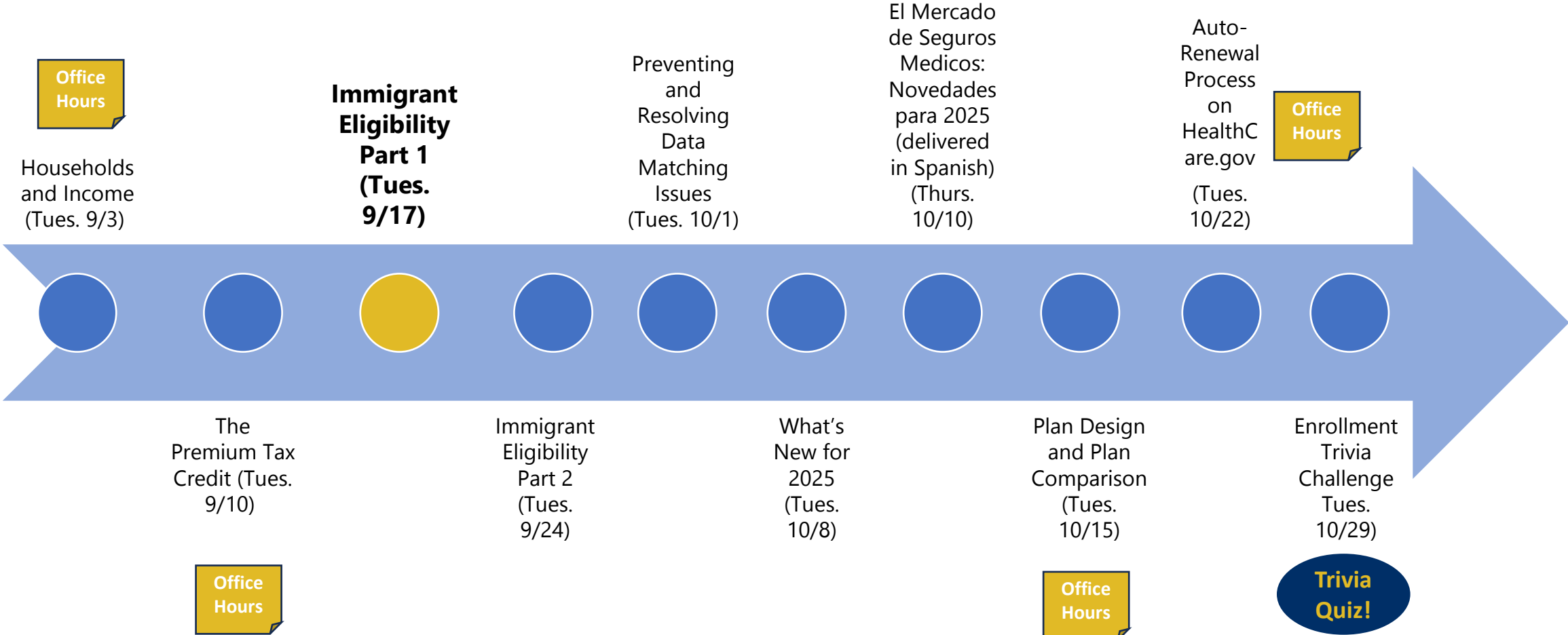
September 17, 2024

Webinar Logistics

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- Automated captions have been enabled for this webinar. To view them, click on the "more" option with three dots at the bottom of your screen. There you should have the option to turn on closed captioning.
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 - Click on the Q&A icon at the bottom of your webinar screen and type your question into the box.
 - We will be monitoring questions and will pause for Q&A during the presentation.
 - We may not be able to answer every question asked, but we will have a record of all your questions and will use them as a guide for future resources and presentations.
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Agenda

- Immigration-Related Eligibility for Health Coverage Programs
- Other Important Eligibility Rules for Families that Include Immigrants
- Options for People Ineligible for Insurance Affordability Programs Due to Immigration Status

Immigration-Related Eligibility for Health Coverage Programs



Medicaid & CHIP Use "Qualified" Immigrant Eligibility Standard

"Qualified" immigrants include:

- Lawful permanent resident (LPR/green card holder)
- Refugee
- Asylee
- Cuban/Haitian entrant
- Paroled into the U.S. for at least one year
- Granted withholding of deportation or withholding of removal
- Battered spouse, child and parent
- Trafficking survivor and his/her spouse, child, sibling or parent
- Compact of Free Association (COFA)
- Iraq/Afghan special immigrant visas

Not "Qualified" immigrants, but meet the eligibility standard :

- Member of a federally-recognized Indian tribe or American Indian born in Canada

Many People Are Barred from Medicaid & CHIP for 5 Years

Many people who have a “qualified” immigration status are subject to a five-year waiting period: (The five years begin when a person obtains a qualified immigration status.)¹

Some people with a “qualified” immigration status are not subject to the 5-year bar:

- People who have refugee or asylee statuses and people granted withholding of deportation/removal
- People with one of the "Cuban/Haitian entrant" statuses listed in 45 C.F.R. 401.2
- People with LPR status with 10 years credit for working in the U.S.
- People arriving from Iraq or Afghanistan who have or are in the process of applying for special immigrant visa status
- Some people from Afghanistan or Ukraine who were granted parole into the U.S.²
- Survivors of trafficking
- Compact of Free Association (COFA) migrants
- Qualified immigrants who are U.S. veterans or on active military duty and their spouses or children
- People who physically entered the U.S. before 8/22/96 and remained in the U.S. continuously until obtaining a qualified status
- Children and pregnant people who are lawfully residing in the US (at state option)

1. People who adjust to LPR status after having a status not subject to the 5-year bar continue to be exempt from the bar.

2. People arriving from Afghanistan with a Special Immigrant Visa or through a grant of parole are not subject to the 5-year bar until March 21, 2023 or for the term of parole granted, whichever is later ([CMS Guidance](#)). People arriving from Ukraine are not subject to the 5-year bar for the term of parole granted ([Additional Ukraine Supplemental Appropriations Act, Sec. 401.](#))

States Have Flexibility to Vary from Federal Eligibility Rules

Federal Medicaid/CHIP Options

- States have the option to cover children and/or pregnant people who are lawfully residing in the U.S., with federal participation in funding. This includes:
 - People with a qualified immigration status, without a waiting period
 - People with an immigration status that is considered lawfully residing (A broader group than “qualified” immigration statuses; see Slides 9-10)
 - *37 states have taken up this option for children and 31 for pregnant people*
- Through CHIP, states can provide prenatal care regardless of the pregnant person's immigration status

State-Funded Options

- Using state-only funds, many states have opted to cover individuals who do not meet the restrictive immigration-related federal eligibility standard.

To find out more info on state options in your state, see NILC's [Medical Assistance Programs for Immigrants in Various States](#)

State Optional Medicaid and CHIP Lawfully Residing Standard for Children and People who are Pregnant

Lawfully Residing Statuses that Also Meet the More Restrictive Federal Medicaid Standard	Other Lawfully Residing Statuses
<p>“Qualified” Immigrants:</p> <ul style="list-style-type: none"> • Lawful permanent resident (LPR/green card holder) • Refugee • Asylee • Cuban/Haitian entrant • Paroled into the U.S. for at least one year • Granted withholding of deportation or withholding of removal • Battered spouse, child and parent • Trafficking survivor and his/her spouse, child, sibling or parent • Compact of Free Association (COFA) • Iraq/Afghan special immigrant visas <p>Others:</p> <ul style="list-style-type: none"> • Member of a federally-recognized Indian tribe or American Indian born in Canada 	<ul style="list-style-type: none"> • Granted relief under the Convention Against Torture (CAT) • Temporary protected status (TPS) • Deferred enforced departure (DED) • Deferred action (except DACA)* • Paroled into the U.S. for less than one year • Individual with nonimmigrant status (includes worker visas; student visas; U visas; and many others) • Administrative order staying removal issued by the Department of Homeland Security • Lawful temporary resident • Family unity
<p><i>*EXCEPTION: Individuals granted deferred action under the 2012 Deferred Action for Childhood Arrivals (DACA) program are <u>not</u> eligible under the lawfully residing standard in Medicaid and CHIP</i></p>	

State Optional Medicaid and CHIP Lawfully Residing Standard for Children and People who are Pregnant

APPLICANT for Any of These Statuses:

- Lawful permanent resident (with an approved visa petition)
- Special immigrant juvenile status
- Victim of trafficking visa (T visa)

Statuses That Must Also Have 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
- Applicant for LPR under the LIFE Act
- Applicants for asylum*
- Withholding of deportation or withholding of removal, under the immigration laws or under the Convention Against Torture (CAT)*

**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*

New Changes to ACA Marketplace and Basic Health Eligibility Based on Immigration status

HHS finalized changes to Lawfully Present ACA marketplace and Basic Health Plan eligibility (effective November 1, 2024)

- People granted deferred action for childhood arrivals (DACA) are no longer barred from ACA marketplace coverage
- Simplification and clarification in eligibility parameters for statuses already listed in the lawfully present eligibility standards:
 - People granted special immigrant juvenile status (SIJS)
 - Children under 14 applying for asylum, withholding of removal, or relief under the Convention Against Torture (CAT): eliminates the 180-day waiting period
 - Nonimmigrant visa holders: eliminating the “not in violation of status language”
 - People with employment authorization documents (EADs): eliminates specifications, and clarifies that all people with EADs meet the standard
 - People applying for adjustment to LPR status: eliminates requirement for “approved visa petition”

Note: These changes were not adopted for the Medicaid and CHIP lawfully residing optional programs.

The ACA Marketplace and Basic Health Use the Lawfully Present Standard for Eligibility

Lawfully Present Statuses that Also Meet the Restrictive Federal Medicaid Standard	Other Lawfully Present Statuses
<p>“Qualified” Immigrants:</p> <ul style="list-style-type: none">• Lawful permanent resident (LPR/green card holder)• Refugee• Asylee• Cuban/Haitian entrant• Paroled into the U.S. for at least one year• Conditional entrant• Granted withholding of deportation or withholding of removal• Battered spouse, child and parent• Trafficking survivor and his/her spouse, child, sibling or parent• Compact of Free Association (COFA)• Iraq/Afghan special immigrant visas <p>Others:</p> <ul style="list-style-type: none">• Member of a federally-recognized Indian tribe or American Indian born in Canada	<ul style="list-style-type: none">• Granted relief under the Convention Against Torture (CAT)• Temporary protected status (TPS)• Deferred enforced departure (DED)• Deferred action (including DACA)• Paroled into the US for less than one year• Individual with nonimmigrant status (includes worker visas; student visas; U visas; and many others)• Administrative order staying removal issued by the Department of Homeland Security• Lawful temporary resident• Family unity• Special immigrant juvenile status• Others granted employment authorization



The ACA
Marketplace and
Basic Health Use
the Lawfully
Present Standard
for Eligibility

APPLICANT for Any of These Statuses:

- Lawful permanent resident
- Special immigrant juvenile status
- Victim of trafficking visa (T visa)

**Must Also Have Employment Authorization
if 14 or older:**

- Applicant for temporary protected status
- Registry applicants
- Order of supervision
- Applicant for cancellation of removal or suspension of deportation
- Applicant for legalization under IRCA
- Applicant for LPR under the LIFE Act
- Applicants for asylum
- Withholding of deportation or withholding of removal, under the immigration laws or under the Convention Against Torture (CAT)

Important Items Related to New Lawfully Present Standard

- People newly eligible due to the change are eligible for a special enrollment period that could allow them to begin coverage December 1, 2024
- While the change was proposed to also modify the Medicaid and CHIP lawfully residing standard, that change has not taken place at this time
- People who meet the lawfully present standard but are ineligible for Medicaid due to their immigration status, may qualify for PTCs even if their income is below 100 percent of the poverty line
- Expect application process bumps in the road as this change is implemented:
 - Fill out the application as completely and accurately as possible
 - If a person gets a data matching issue based off immigration status, upload required documentation as quickly as possible
 - People with immigration-related Data Matching Issues (DMIs) may get the wrong PTC eligibility result and/or may be incorrectly sent to Medicaid
 - We will go into detail about navigating issues in upcoming webinars on the immigration-related application process (September 24) and DMIs (October 1)

Eligibility for Health Coverage Programs Based on Immigration Status



Example: Eligibility Based on Citizenship & Immigration Status Rules



- Ricky and Eva are married and have a daughter, Karina
 - Ricky has temporary protected status
 - Eva has Deferred Action for Childhood Arrivals (DACA)
 - Karina has U.S. citizenship
- **Who is applying for coverage?**
- Ricky, Eva and Karina

Example: Eligibility Based on Citizenship & Immigration Status Rules



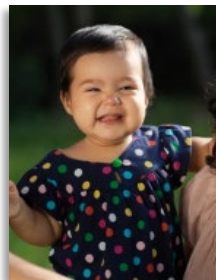
Applying for coverage:	YES	Subject to 5-year bar:	----
U.S. Citizen:	NO	Satisfied 5-year bar:	----
Immigration status:	TPS	Lawfully residing:	YES
Qualified immigrant:	NO	Lawfully present	YES

MAY BE ELIGIBLE FOR:
✓ Marketplace coverage



Applying for coverage:	YES	Subject to 5-year bar:	----
U.S Citizen:	NO	Satisfied 5-year bar:	----
Immigration status:	DACA	Lawfully residing:	No
Qualified immigrant:	NO	Lawfully present:	No

MAY BE ELIGIBLE FOR:



Applying for coverage:	YES	Subject to 5-year bar:	----
U.S Citizen:	YES	Satisfied 5-year bar:	----
Immigration status:	----	Lawfully residing:	----
Qualified immigrant:	----	Lawfully present:	----

MAY BE ELIGIBLE FOR:
✓ Medicaid/CHIP
✓ Marketplace coverage



Example: Eligibility Based on Citizenship & Immigration Status Rules



Applying for coverage:	YES	Subject to 5-year bar:	----
U.S. Citizen:	NO	Satisfied 5-year bar:	----
Immigration status:	TPS	Lawfully residing:	YES
Qualified immigrant:	NO	Lawfully present:	YES

MAY BE ELIGIBLE FOR:

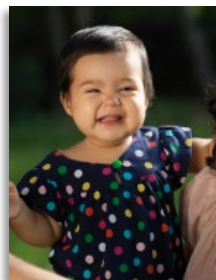
- ✓ Marketplace coverage



Applying for coverage:	YES	Subject to 5-year bar:	----
U.S Citizen:	NO	Satisfied 5-year bar:	----
Immigration status:	DACA	Lawfully residing:	No
Qualified immigrant:	NO	Lawfully present:	YES

MAY BE ELIGIBLE FOR:

- ✓ Marketplace coverage



Applying for coverage:	YES	Subject to 5-year bar:	----
U.S Citizen:	YES	Satisfied 5-year bar:	----
Immigration status:	----	Lawfully residing:	----
Qualified immigrant:	----	Lawfully present:	----

MAY BE ELIGIBLE FOR:

- ✓ Medicaid/CHIP
- ✓ Marketplace coverage



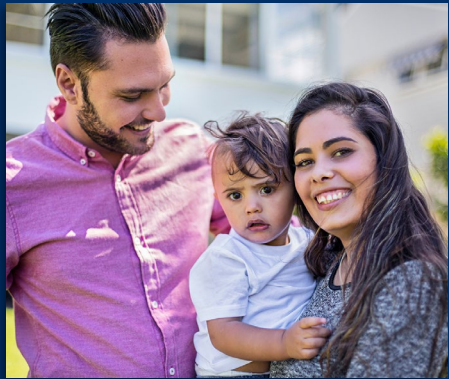
Other Important Eligibility Rules for Families that Include Immigrants



Special PTC Rule

- The PTC income floor of 100% FPL does **not** apply to people who have a lawfully present status but are not eligible for Medicaid due to their immigration status
- This includes people who have a lawfully present status who:
 - Do not have a “qualified” immigration status
 - Have a “qualified” immigration status who are subject to and have not met the 5-year bar
- Bottom line: **Many people who have a lawfully present status and incomes in the Medicaid range or below 100% FPL are eligible for PTC and CSR**

Example: Eligibility Based on Citizenship & Immigration Status Rules

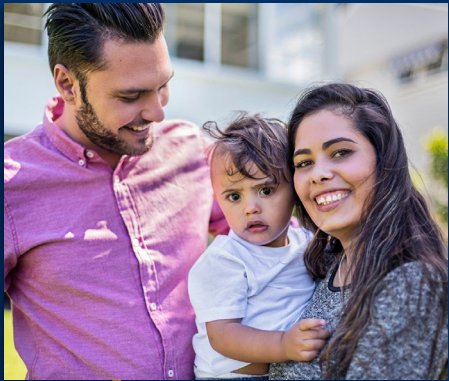


- Gina and Adnan are married and have a son named Sam
- Gina has had LPR status for 2 years
- Adnan entered the U.S. as a refugee
- Sam has U.S. citizenship and already has Medicaid coverage

Income

- Both Gina and Adnan are full-time college students and both work part-time jobs
- They projected their income will be \$23,238 for 2025 (90% FPL)

Example: Eligibility Based on Citizenship & Immigration Status Rules

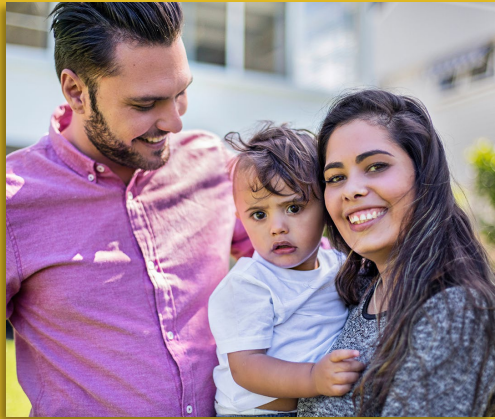


Applying for coverage:	YES	Subject to 5-year bar:	NO	MAY BE ELIGIBLE FOR: ✓ Medicaid ✓ Marketplace coverage
U.S. Citizen:	NO	Satisfied 5-year bar:	----	
Immigration status:	REFUGEE	Lawfully residing:	YES	
Qualified immigrant:	YES	Lawfully present:	YES	



Applying for coverage:	YES	Subject to 5-year bar:	YES	MAY BE ELIGIBLE FOR: ✓ Marketplace coverage
U.S. Citizen:	NO	Satisfied 5-year bar:	NO	
Immigration status:	LPR	Lawfully residing:	YES	
Qualified immigrant:	YES	Lawfully present:	YES	

Example: Eligibility for PTC & Medicaid

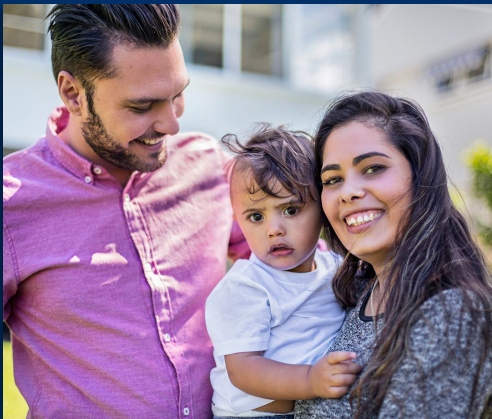


In a state that has expanded Medicaid

- Adnan has refugee status, income is at 90% FPL, he is eligible for Medicaid based off:
 - Having a qualified immigration status that is not subject to the five-year bar
 - Having income < 138% FPL
- Gina has had LPR status for two years, her income is at 90% FPL, she is eligible for enrollment in the marketplace with PTCs based off:
 - Having a lawfully present immigration status but ineligible for Medicaid due to her immigration status

	Medicaid/CHIP				Premium Tax Credits			
	Eligible?	HH	Income	FPL	Eligible?	HH	Income	FPL
Adnan	Yes	3	\$23,238	90%	----	--	--	--
Gina	No	--	--	--	Yes	3	\$23,238	90%
Sam	N/A	--	--	--	N/A	--	--	--

Example: Eligibility for PTC & Medicaid



In a State that has not expanded Medicaid

- Adnan has refugee status, income is at 90% FPL, he is:
 - ineligible because his state did not expand Medicaid
 - Ineligible for PTCs in the marketplace because his income is below 100% FPL
- Gina has had LPR status for two years, her income is at 90% FPL, she is eligible for enrollment in the marketplace with PTCs based off:
 - Having a lawfully present immigration status but ineligible for Medicaid due to her immigration status

	Medicaid/CHIP				Premium Tax Credits			
	Eligible?	HH	Income	FPL	Eligible?	HH	Income	FPL
Adnan	No	3	\$23,238	90%	No	3	\$23,238	90%
Gina	No	3	\$23,238	90%	Yes	3	\$23,238	90%
Sam	N/A	--	--	--	N/A	--	--	--

Special Marketplace Rules for Older Adults

- Older adults who are not eligible for premium-free Medicare Part A may be eligible for enrollment in marketplace plans and PTC/CSR
- To qualify for premium-free Medicare Part A, individuals must have met the applicable work history requirement as measured by Social Security quarters of earnings (QE):
 - QE are earned by paying Social Security and Medicare payroll taxes; people working full-time generally earn four QE in a year
 - People can get quarters of earnings based on their own work history or in some cases the work history of their spouse

Note:

- People who plan on enrolling in Medicare should pay close attention to deadlines. Fees associated for not enrolling by certain deadlines are steep and permanent.
- People (of any age) who are claimed as a dependent cannot apply for the PTC individually; the tax filer who claims them must also claim the PTC on their behalf.

Example: Tax Dependents & Applying for PTC



- Lin, 74, lives with his daughter, Mei, and grandson, Michael
 - Lin:
 - has had a lawful permanent resident status for 4 years
 - has never worked in the U.S.
 - receives \$2,500 a year from a pension for work completed abroad
 - is not enrolled in Medicare Part A
 - Mei:
 - provides more than 50% of Lin's support
 - claims Lin and Michael as tax dependents
 - has a household income of \$51,640 a year (200% FPL)
-
- ✓ Lin is eligible for marketplace coverage → Lin is eligible to enroll in a marketplace plan with subsidies even though he is over 65. He is not eligible for premium-free Medicare Part A based on his work history.

Example: Tax Dependents & Applying for PTC



If a person can be claimed as a tax dependent, they must indicate that when applying for PTC

Can Lin apply on his own for PTC?

- Lin qualifies as Mei's dependent:
 - Lin lives with Mei (and is also her relative)
 - Mei pays for more than half of his support
 - Lin's gross income is less than \$5,050

Lin is Mei's tax dependent, so he **cannot** apply for PTC on his own as a household of 1

- He may be eligible for PTC, but must include Mei (and her income) on his application for health coverage

IMPORTANT: If Lin receives PTC, **Mei** must file a tax return and reconcile his PTC on her tax return

State Residency for Marketplace, Medicaid, & CHIP

- In general, for ACA marketplaces 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, states and marketplaces:
 - Can accept self-attestation
 - Can use HHS approved electronic sources to the extent that they exist
 - Can't use evidence of immigration status

PTC-Related Rules for Married People Who Have Nonresident Status

- To qualify for PTC, an applicant that is married must file taxes jointly with their spouse
- Certain people who are immigrants file taxes on Form 1040-NR
 - Some people who have non-immigrant visas (often students who have an F visa or people with J, M, or Q visas) must file taxes on Form 1040-NR because they can't meet the "substantial presence test" in their first five years in the U.S.
 - Form 1040-NR doesn't allow most people who are married and have nonresident immigration status to file jointly with a spouse so they can't meet the joint filing requirement to claim a PTC

Options for People Ineligible for Insurance Affordability Programs Due to Immigration Status



People Who Don't Meet Immigration-Related Requirements

- They are ineligible to purchase qualified health plans in the individual marketplaces, even at full price
- Can purchase private coverage outside the marketplace or can get coverage through their employer
 - People who are undocumented may not have a Social Security number (SSN) but may be asked to provide an SSN or other tax identification numbers. They don't have to provide these, and not providing them should not prevent them from enrolling or staying enrolled.

People Who Do Not Meet the Immigration-Related Requirements for Medicaid, CHIP or Marketplace

- Although they are ineligible to purchase marketplace coverage, they can apply for ACA health insurance for eligible family members, and be part of household of eligible family members
 - If a tax filer is applying for PTC on behalf of eligible family members, they must file a tax return
 - If they are not eligible for a Social Security number (SSN), they may file a tax return using an Individual Taxpayer Identification Number (ITIN)

Medicaid Payment for Emergency Services

- **Medicaid payment for services related to an emergency medical condition** is available to providers to cover the cost of medical services provided to people who meet all the state's Medicaid eligibility requirements except for immigration status.
- This may include:
 - People who have a qualified immigration status but have not met the five-year wait requirement
 - People who have a lawfully residing or present status but do not have a qualified immigration status, such as persons with temporary protected status (TPS) and many others
 - People who do not have a documented immigration status

Programs That Don't Restrict Eligibility Based on Status

- 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/Federally Qualified Health Centers, Migrant Health Centers
- Additional programs in some states

For more information on where to find FQHCs, see findahealthcenter.hrsa.gov

Q&A



Resources

Beyond the Basics:

- Reference Guide: [Immigration Documents Used in Healthcare.gov](#)
- Key Facts:
 - [Immigrant Eligibility for Health Insurance Affordability Programs](#) *Newly Updated*
 - [Helping Families that Include Immigrants Apply for Health Coverage](#) *(Available in English, Español, Simplified Chinese, Tagalog, Vietnamese, Korean, Arabic, and Russian)*

National Immigration Law Center (NILC) Resources:

- [Overview of Immigrant Eligibility for Federal Programs](#)
- [Guide: “Lawfully Present” Individuals Eligible Under the Affordable Care Act](#)
- [Maps: Health Care Coverage](#)

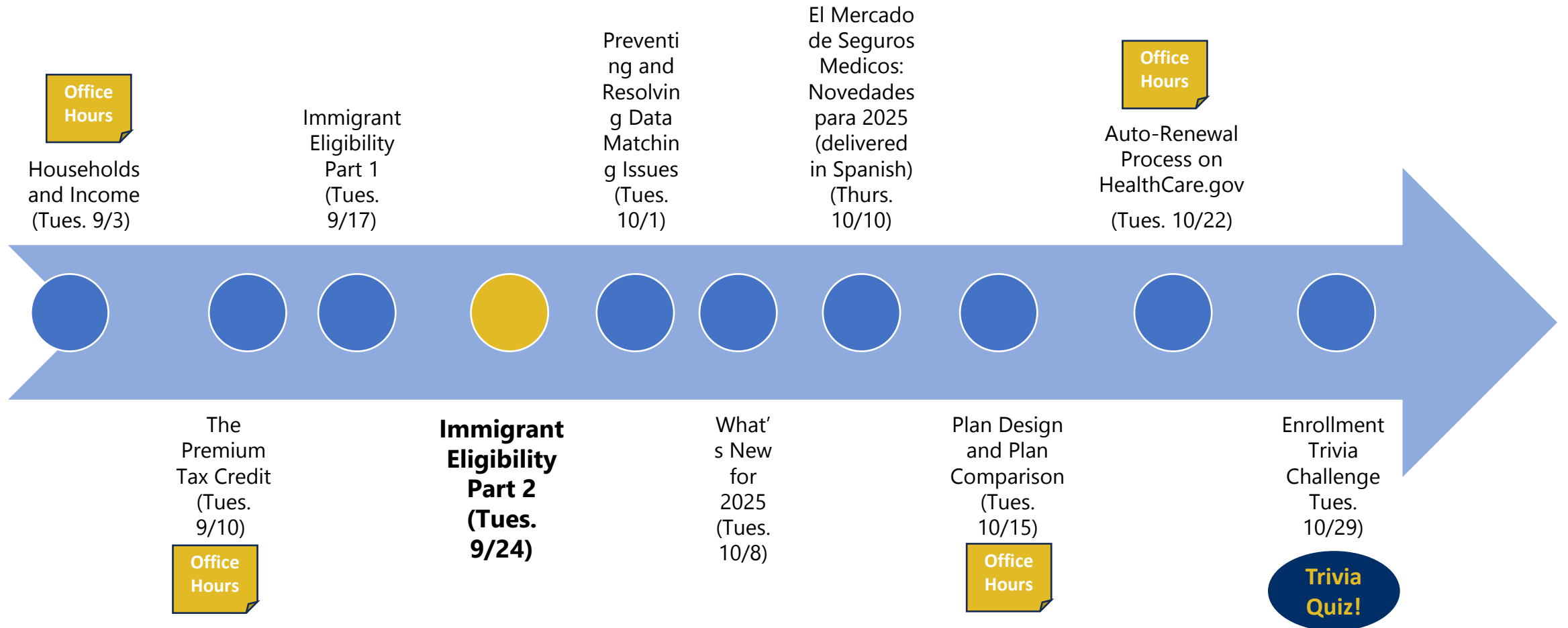
Protecting Immigrant Families Resources:

- [Public Charge Community Resources](#)

Healthcare.gov Marketplace Resources:

- Assister Guide to Immigration Section of Healthcare.gov: [marketplace.cms.gov/technical-assistance-resources/assister-guide-to-immigration-section.PDF](#)
- Eligible Immigration Statuses for Marketplace Coverage: [www.healthcare.gov/immigrants/immigration-status](#)
- Immigration Document Types: [www.healthcare.gov/help/immigration-document-types](#)

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Contact

- Gabrielle Lessard, Lessard@nilc.org
- Shelby T. Gonzales, Gonzales@cbpp.org
→ X: @shelbytg74
- General inquiries: beyondthebasics@cbpp.org

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