



## **Medicaid and Migrant and Seasonal Agricultural Workers**

### **What is Medicaid?**

Medicaid is a government-provided health insurance program for low-income individuals and their families. It is funded jointly by federal and state governments. Each state administers its own Medicaid plan with different eligibility requirements, coverage, and procedures.

### **Who is eligible for Medicaid?**

Applicants for Medicaid must meet certain criteria. They must be residents of the state where they are applying for Medicaid. Eligibility criteria, including income, household status, and immigration status, varies by state.

Applicants are generally not eligible for Medicaid unless they are U.S. citizens or fall within another eligible immigrant category, such as lawful permanent residents (LPRs), asylees/refugees, and certain survivors of trafficking or domestic violence who have approved or pending applications for adjusted immigration status. Many of these eligible immigrants (called “qualified immigrants”) must have held their status for five years unless they entered the country before August 22, 1996. The five-year bar does not apply to some categories of immigrants, such as refugees/asylees and those serving in the military.<sup>1</sup>

States have the option to expand Medicaid eligibility to more individuals. Under CHIPRA, the Children’s Health Insurance Program Reauthorization Act of 2009, states were given the option to provide Medicaid and CHIP to children under 21 and/or pregnant women who are “lawfully residing” in the U.S. and otherwise eligible for Medicaid and CHIP. CHIPRA’s lawfully residing definition<sup>2</sup> is more expansive than the eligible immigrant categories described above.

Some states are using their own funds to further expand Medicaid eligibility beyond lawfully residing pregnant women and children. In California and New York, for example, lawful

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<sup>1</sup> For a summary of immigrant eligibility and restrictions for Medicaid and other public benefits, please visit the US Department of Health and Human Services: <http://aspe.hhs.gov/hsp/immigration/restrictions-sum.shtml>

<sup>2</sup> For a full definition of “lawfully residing” under CHIPRA, see CMS’ guidance re: Medicaid and CHIP Coverage of “Lawfully Residing” Children and Pregnant Women, July 1, 2010.

<http://downloads.cms.gov/cmsgov/archiveddownloads/SMDL/downloads/SHO10006.pdf> 4 42 CFR § 440.255

permanent residents below the 5-year bar and grantees of Deferred Action for Childhood Arrivals (DACA), among others, are eligible for full-scope Medicaid. California recently expanded its Medicaid eligibility to include all children under 19, assuming they meet income eligibility requirements.

### **What services are covered under Medicaid?**

Coverage varies by state. Generally, hospital inpatient and outpatient services, as well as emergency care, health and dental care, psychiatric services, clinic services, family planning, medical transportation and medication are covered.

### **What counts as an emergency medical condition for Emergency Medicaid coverage?**

The federal definition of an “emergency medical condition” requires an onset of a medical condition (including emergency labor and delivery) manifested by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in (1) placing the patient’s health in serious jeopardy, (2) serious impairment to bodily functions, or (3) serious dysfunction of any bodily organ or part.<sup>3</sup> States vary on what constitutes an emergency condition for purposes of Emergency Medicaid coverage, especially when a condition persists for a long period of time or when acute symptoms recur. Sometimes, states use the length of illness/injury and/or site of the treatment to determine when payment for emergency coverage ends.<sup>4</sup>

### **What changes were made to Medicaid under the ACA?**

Under the ACA, states have the option to expand Medicaid coverage to non-disabled, childless adults and all eligible individuals with incomes below 138% of the federal poverty level (FPL). The U.S. Supreme Court, as part of its ruling on the constitutionality of the ACA, struck down the provisions of the law that mandated states to expand Medicaid.<sup>5</sup> Instead, states have the option to accept federal funding to expand Medicaid or to maintain current Medicaid requirements. Currently, 31 states and the District of Columbia have expanded their Medicaid programs. The 19 states that declined to expand their Medicaid programs are mainly Midwestern and Southern states (Alabama, Florida, Georgia, Idaho, Kansas, Maine, Mississippi, Missouri, Nebraska, North Carolina, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wisconsin).<sup>6</sup>

In non-Medicaid expansion states, many individuals who are U.S. citizens or “qualified immigrants” fall under what is known as a “coverage gap;” their income is too high for Medicaid

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<sup>3</sup> 42 CFR § 440.225

<sup>4</sup> More information on state Emergency Medicaid is available at: <http://library.niwap.org/wp-content/uploads/2015/pdf/PB-Man-Ch17.1-EmergencyMedicaid.pdf>

<sup>5</sup> National Federation of Independent Businesses v. Sebelius, 132 S. Ct. 2566 (2012)

<sup>6</sup> Kaiser Family Foundation, “Current Status of State Action on the Medicaid Expansion Decision”. <http://kff.org/health-reform/state-indicator/state-activity-around-expanding-medicaid-under-the-affordable-care-act/>

but too low to qualify for tax credits in the Health Insurance Marketplace (Marketplace). Latinos comprise 23% of those who fall under the coverage gap.<sup>7</sup> Individuals who fall under the coverage gap often work for employers who do not offer health insurance to their workers (including small employers or employers who do not offer health insurance to part-time or seasonal workers).

### **What are some barriers to Medicaid coverage for migrant and seasonal agricultural workers?**

- **Lack of portability** – For migrant workers, Medicaid coverage ends when they move away from a state. It may be difficult for workers to complete applications and receive coverage in the short time they are living and working in a state. Workers also may not be aware that they have to cancel their Medicaid benefits in their home state if they wish to reenroll and receive benefits in their new state. Wisconsin implemented a creative solution to this problem. It offers a simplified Medicaid application process for migrant workers who are already covered in other states, if you meet certain criteria.<sup>8</sup>
- **Eligibility requirements** – Many agricultural workers are single men with no dependents. Currently, they do not meet the eligibility requirements for Medicaid coverage in non-Medicaid expansion states. Also, due to the varying eligibility (including income and immigration status) requirements between states, migrant workers' eligibility for Medicaid may change depending on where they are working or living.
- **Income and asset requirements** – Proof of income and/or asset calculations, which may not account for fluctuating income (as found in agriculture), may create barriers for workers applying for Medicaid. Workers may use pay stubs to verify their income eligibility. In agriculture, where many workers earn their income based on a piece-rate, the pay stub they receive only reflects the work accomplished that week. When a pay stub is annualized to determine annual income, the result is likely an overestimate of the actual income earned by the worker. Many workers' income fluctuates throughout the year, depending on the crop in which they are working and whether they are migratory or seasonal. Relying on pay stubs alone, which may be the only proof of income the worker may have, may result in incorrect eligibility determinations for Medicaid.
- **Lack of information** – Workers may not know where they can access in-person assistance to help them apply for Medicaid. After enrolling in Medicaid, they may not understand how to use their health insurance, including the providers that accept their health insurance or any copays they may need to pay.
- **Other barriers to enrollment** –
  - language access issues

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<sup>7</sup> Kaiser Family Foundation, "The Coverage Gap: Uninsured Poor Adults in States that Do Not Expand Medicaid-An Update". <http://kff.org/health-reform/issue-brief/the-coverage-gap-uninsured-poor-adults-in-states-that-do-not-expand-medicaid-an-update/>

<sup>8</sup> More information about migrant worker eligibility for Wisconsin Medicaid (WisconsinBadgerCare Plus), can be found on the website of the Wisconsin Department of Health Services at <https://www.dhs.wisconsin.gov/medicaid/publications/p-10053.htm>

- lack of transportation
- time off work to complete the application
- fears concerning confidentiality and immigration status of family members

### **Where can I find information about the Medicaid program in my state?**

Medicaid rules, including income and immigration status eligibility as well as covered benefits, vary by state. The Centers for Medicare and Medicaid Services (CMS) has information about each state's Medicaid program as well as a link to their websites. The webpage with the interactive map can be [found here](#).

More information about Medicaid, health insurance, and the Affordable Care Act can be found on Farmworker Justice's website at [www.farmworkerjustice.org](http://www.farmworkerjustice.org).

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