

18.4 BENEFIT PROGRAMS

To receive WV WORKS, Medicaid, WVCHIP or Supplemental Nutrition Assistance Program (SNAP) benefits, an individual applying must be a resident of the United States as a citizen or a legal alien and meet eligibility requirements for each program. Among those ineligible are alien visitors, tourists, diplomats and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country, see Section C, Medicaid, for exceptions for pregnant women and children age 18 and under.

An illegal or ineligible alien residing in the United States who requires emergency medical care may qualify for Medicaid for the length of time medically required to avert the medical emergency. See Section 18.9.

NOTE: At the time of application an alien applies for SNAP benefits and WV WORKS benefits, the Worker must send a copy of their green card, front and back, to the DFA SAVE Coordinator at the time of application.

A. SNAP BENEFITS

A person must be a United States citizen, a national of the United States, or an eligible alien, (qualified alien) to qualify.

1. Categories Eligible For SNAP Benefits

A qualified alien for SNAP benefits is in one of the following categories, as determined by the Immigration and Naturalization Service (INS) of the U.S. Department of Homeland Security.

- Lawfully admitted for Permanent Residence (LPR) in the United States, who has a green card and has been in the United States for 5 years with this status. This category also includes Amerasian immigrants as defined under section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988;
- Granted asylum under section 208 of the Immigration and Nationality Act (INA);
- Refugee admitted to the United States under section 207 of the INA;
- Deportation is being withheld under section 243(h) of the INA as in effect before 4/1/97, or removal is withheld under section 241(b)(3) of the INA;

- Cuban or Haitian entrant under section 501(e) of the Refugee Education Assistance Act of 1980;
- Under certain circumstances, a battered immigrant spouse, battered immigrant child, immigrant parent of a battered child or an immigrant child of a battered parent with a petition pending under 204(a)(1)(A) or (B) or 244(a)(3) of the INA; or
- Certain Hmong or Highland locations (and spouse and children).

2. Categories Eligible For SNAP Benefits Indefinitely

To receive SNAP benefits, qualified aliens must also meet one of the following conditions to be eligible indefinitely.

- An LPR who can be credited with 40 qualifying quarters of work under the Social Security system, credits may be earned individually, in combination with a spouse and in some circumstances a parent;
- An elderly individual who was born on or before August 22, 1931 and who was lawfully residing in the United States on August 22, 1996;
- Qualified alien children under 18 are eligible without a waiting period regardless of when they entered the United States. Continued eligibility will be reviewed once the alien reaches the age of 18;
- Blind or disabled individuals receiving benefits or assistance for their condition as defined under section 3(r) of the Food and Nutrition Act regardless of when they entered the United States
- Beginning on April 1, 2003, an individual who has lived in the United States as a qualified alien for 5 years from the date on entry; or
- An individual who is lawfully residing in a State and is on active duty other than for training in the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard. This does not include full-time National Guard or is an honorably discharged veteran whose

Aliens, Refugees and Citizenship

discharge is not because of alien status. A discharge "Under Honorable Conditions" does not meet this requirement. This category includes the spouse or surviving spouse who has not remarried or unmarried dependent children of these individuals.

3. Qualified Alien Limits Removed

The following qualified aliens no longer have the 7 year limit on the SNAP benefits. Therefore, these qualified aliens are allowed to participate in the SNAP benefit indefinitely. This was effective April 1, 2003 as long as all other eligibility requirements are met.

- A refugee admitted under section 207 of the INA (including immigrants who have been certified by the U.S. Department of Health and Human Services to be victims of a severe form of trafficking in persons in accordance with the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386)
- Asylee granted asylum under section 208 of the INA
- An individual whose deportation was withheld under section 243(h) or whose removal withheld under section 241(b)(3) of the INA
- A Cuban or Haitian entrant under section 501(e) of the Refugee Education Assistance Act of 1980
- An Amerasian immigrant under section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988.

4. Ineligible Aliens

All others are ineligible aliens and are prohibited from receiving SNAP benefits. These include:

- Visitors, tourists, students and diplomats who lawfully reside in the United States in a non-qualified status and are not exempt from the immigrant restrictions;
- Undocumented immigrants such as individuals who entered the country as temporary residents and overstayed their visa or who entered without a visa;
- Aliens who have applied for eligible status but who have not been approved. An exception is battered spouses and children with a military connection; and

Aliens, Refugees and Citizenship

- Aliens whose status is questionable or unverified; and
- The children of any of these individuals even those under the age of 18.
- Those admitted under color of law.

NOTE: When the Worker believes that any member of a household applying for benefits is ineligible to receive SNAP benefits because the member is present in the United States in violation of the law, he must report this immediately in writing to the Division of Family Assistance (DFA) SAVE Coordinator. The memorandum must include the name of the alien involved, case name, address, the reason the Worker believes the client is an illegal alien, and copies of any INS documents that have been presented. The SAVE Coordinator forwards this information to INS. The local office receives a copy of the letter sent to INS.

The Worker must have reason to believe the household contains an illegal alien when:

- Any household member or the authorized representative states that illegal aliens are present in the household, INS documents presented by the AG are determined to be forged; or
- A formal order of deportation is presented by an AG member during the eligibility determination process. When the Worker determined that a household member cannot be included in the AG because he is an ineligible alien. The Worker must following the procedure described above for reporting the illegal alien to the SAVE Coordinator if the illegal alien applies for benefits, even if the application is withdrawn.

B. WV WORKS

A person must be a United States Citizen, United States National, or an Eligible Alien qualified to receive benefits.

1. Eligible Alien

An eligible alien must meet one of the following criteria:

- An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) and was admitted before August 22, 1996;
- An alien who is granted asylum under section 208-INA, eligible for five years from entry to United States;

Aliens, Refugees and Citizenship

- A refugee who is admitted to the United States under section 207-INA including immigrants who have been certified by the U.S. Department of Health and Human Services to be victims of a severe form of trafficking in persons in accordance with the victims of Trafficking and Violence Protection Act of 2000, P.L.106-386, eligible for five years from entry to United States;
- An alien whose deportation is being withheld under section 243(h) of INA, eligible for five years from date of status;
- Amerasian immigrant under 584 of FOEFRPAA 1988 entered the United States within last five years, participation limited to five years from entry into the United States;
- Is a Cuban or Haitian entrant under section 501(e) of REAA 1980 and entered the United States within last five years, participation limited to five years from entry;
- Honorably discharged veterans their spouses and unmarried dependent children;
- An alien who is active in the United States Armed Forces, other than duty for training, their spouses and unmarried dependent children;
- An alien who is lawfully admitted to the United States on or after August 22, 1996 and has been a qualified alien for more than five years; or
- An alien who is a battered spouse or battered child, the non-abusive parent of a battered child, or a child of a battered parent.
- A veteran, his spouse, or unmarried dependent child
- A member of the United States Armed Forces, his spouse, or unmarried dependent child.

2. Ineligible Aliens

Ineligible aliens include all other aliens and also include the following:

- Visitors, tourists, students, and diplomats;
- Undocumented immigrants;
- Those admitted under color of law;
- Aliens who have applied for eligible status but who have not been approved (except for battered spouses and children with a military connection);
- Aliens whose status is questionable or unverified; and
- The children of any of these individuals even those under the age of 18.

C. MEDICAID

1. Medicaid Eligibility

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PL 104-193) significantly changed Medicaid eligibility for individuals who are not citizens of the United States. Medicaid must be provided to eligible citizens and nationals of the United States.

Individuals who meet the eligibility requirements of Medicaid, but are not citizen or nationals, are Medicaid eligible only as provided below.

- For the purposes of qualifying as a United States citizen, the United States as defined by the Immigration and Naturalization Act include the fifty states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands. Nationals from American Samoa, or Swain's Island are also regarded as United States citizens for purposes of Medicaid.
- Applicants for Medicaid whose documents presented raise a question about their alien status must provide documentation of their citizen/alien status before eligibility can be determined.

2. Medicaid Eligible Aliens

- A. Medicaid eligibility for aliens is based on the alien being a qualified alien regardless of whether the alien entered the United States before on or after August 22, 1996. An eligible (qualified) alien is one who is:
- An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) and was admitted before August 22, 1996;
 - An alien who is granted asylum under section 208-INA eligible for 7 years from entry to United States;
 - A refugee who is admitted to the United States under section 207-INA including immigrants who have been certified by the U.S. Department of Health and Human Services to be victims of a severe form of trafficking in persons in accordance with the victims of Trafficking and Violence Protection Act of 2000 (P.L.106-386) eligible for 7 years from entry to United States;
 - An alien whose deportation is being withheld under section 243(h) of INA eligible for 7 years from date of status;
 - Amerasian immigrant under 584 of FOEFRPAA 1988 entered the United States within last 5 years (participation limited to 7 years from entry into the United States);
 - Is a Cuban or Haitian entrant under section 501(e) of REAA 1980 and entered the United States within last 5 years, participation limited to 7 years from entry;
 - Honorably discharged veterans, their spouses, and unmarried dependent children;
 - An alien who is active duty in the United States Armed Forces, other than duty for training, their spouses, and unmarried dependent children;
 - An alien who is lawfully admitted to the United States on or after August 22, 1996 and has been a qualified alien for more than 5 years.
 - An alien who is a battered spouse or battered child of/or is a veteran or on active duty in the United States Armed Forces, or spouse or unmarried dependent child of the veteran or person on active duty. The non-abusive parent of a battered child may also be eligible. Likewise, a child of a battered parent may be eligible.

Aliens, Refugees and Citizenship

- B. Lawfully present pregnant women and children age 18 and under, who meet the State residency requirements in Chapter 8, and who are otherwise financially eligible, may qualify for Medicaid.

An individual is considered to be lawfully present if he or she resides in the United States, and

1. Is qualified non-citizen as defined in 8 U. S. C. 1641 (b) and (c);
2. Is a non-citizen in a valid nonimmigrant status, as defined 8 U. S. C. 1101(a)(15) or otherwise under the immigration laws (as defined in 8 U. S. C. 1101(a)(17));
3. Is a non-citizen who has been paroled into the United States in accordance with a 8 U. S. C. 1182(d)(5) for less than 1 year, except for an individual paroled for prosecution, for deferred inspection, or pending removal proceedings;
4. Is a noncitizen who belongs to one of the following classes
 - Granted temporary resident status in accordance with 8 U. S. C. 1160 or 1255a, respectively
 - Granted Temporary Protected Status (TPS) in accordance with 8 U. S. C. §1254a, and individuals with pending applications for TPS who have been granted employment authorization;
 - Granted employment authorization under 8 CFR 274a, 12(c);
 - Family Unity beneficiaries in accordance with section 301 of Pub. L 101-649, as amended;
 - Under Deferred Enforced Departure (DED) in accordance with a decision made by the President;
 - Granted Deferred Action status'
 - Granted an administrative stay of removal under 8 CFR 241;
 - Beneficiary of approved visa petition who has a pending application for adjustment of status;
5. Is an individual with a pending application for asylum under 8 U. S. C. 1158, or for withholding of removal under 8 U. S. C. 1231, or under the Convention Against Torture who-
 - Has been granted employment authorization; or
 - Is under the age of 14 and has had an application pending for at least 180 days.
6. Has been granted withholding of removal under the Convention Against Torture;

Aliens, Refugees and Citizenship

7. Is a child who has a pending application for special Immigrant Juvenile status as described in 8 U. S. C. 1101(a)(27)(J);
8. Is lawfully present in American Samoa under the immigration laws of American Samoa; or
9. Is a victim of severe trafficking in persons, in accordance with the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386, as amended (22 U. S. C.7105(b));
10. Exception: An individual with deferred action under the Department of Homeland Security's deferred action for the childhood arrivals process, as described in the Secretary of Homeland Security's June 15, 2012 memorandum, shall not be considered to be lawfully present with respect to any of the above categories in paragraphs (1) through (9) of this definition.

EXAMPLE: A 23 year old student is attending Marshall University on a valid student VISA. She becomes pregnant and applies for pregnancy Medicaid. She is financially eligible for the program. She is lawfully present and intends to reside in WV. Since she is also financially eligible she would be approved for pregnancy Medicaid.

EXAMPLE: A 23 years old student is attending Marshall University on a student VISA. He has his 3 children listed on the VISA. Their household monthly income is under 138% of the FPL. He would only be eligible for emergency Medicaid as he does not meet the guidelines for pregnant women nor children 18 years or under. His children would be eligible for children's Medicaid as they are here lawfully present and intend to reside in WV.

EXAMPLE: A worker receives an application for Medicaid from a 19 year old here on a valid work VISA. He lives and works in Ohio, but likes the hospitals in WV better. He was told to apply at the local DHHR office. The worker processes the application and appropriately denies the application for not intending to reside in WV. The client is here lawfully present, but does not intend to lawfully reside in WV. He also does not meet the criteria for eligibility for pregnant women and children 18 and under.

EXAMPLE: A woman was lawfully admitted for permanent residence 2 years ago. She is now applying for pregnancy Medicaid. She is lawfully present and residing with the intent to live in WV. She is also financially eligible for pregnancy Medicaid. The worker approves the application.

3. Ineligible Aliens

Ineligible aliens are all other aliens and include the following:

Aliens, Refugees and Citizenship

- Visitors, tourists, students, and diplomats

EXCEPTION: See Section C.2.B above for pregnant women and children 18 and under.

- Those admitted under color of law
- Aliens who have applied for eligible status, but who have not been approved. Exception: battered spouses and children with a military connection.
- Aliens whose status is questionable or unverified

4. Aliens Who Receive SSI

An alien who receives SSI receives Medicaid benefits as long as he meets all other eligibility requirements for SSI.

5. Qualified Medicare Beneficiaries (QMB)

The eligibility of a noncitizen who has Medicare coverage and meets the criteria to be a QMB is determined by whether or not the individual is a qualified alien in one of the groups covered by item C,2. above.

6. Medicaid Emergency Service

Any alien who is not an eligible qualified alien can be considered for Medicaid emergency service. See Section 18.9, Emergency Medicaid for Illegal and Ineligible Aliens.

D. Low Income Energy Assistance Program (LIEAP)

All qualified aliens are evaluated for LIEAP eligibility as any other LIEAP applicant. See Section 26.2.

E. EMERGENCY ASSISTANCE (EA)

All qualified aliens are evaluated for Emergency Assistance guidelines as any other EA applicant. See Section 19.2