



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

October 18, 2019

UPDATE (10/11/19): A Federal Judge has issued a nationwide ruling blocking the Final Public Charge Rule from going into effect on October 15, 2019, as originally scheduled. Until the lawsuit is resolved, the new rules will not apply.

Dear Commissioner:

In August 2019, the federal government released the Department of Homeland Security (DHS) Final Rule on Public Charge. The rule changes policies governing the use of federally-funded public benefits by individuals seeking to enter the U.S. or adjust their immigration status to lawful permanent resident (LPR), commonly referred to as a green card holder. Although two federal courts have issued nationwide stays prohibiting implementation of the rule during the pendency of the court cases, the following information is being provided to help address questions the districts may receive from individuals regarding their Medicaid case.

The NY State Department of Health believes the revised public charge policies will only impact a small number of immigrant New Yorkers currently enrolled in Medicaid. Since most immigrants eligible for federally funded Medicaid are exempt from the rule, the revised public charge policy applies only to LPRs who want to re-enter the U.S. after a considerable absence and to non-citizens who want to adjust their immigration status to LPR in the future.

However, as a result of the rule, Local Departments of Social Services (LDSS) may receive requests to close Medicaid cases from individuals concerned about how public charge might affect them. Districts should be aware that enrollment in federally-funded Medicaid will not impact pregnant women, children under the age of 21, or people in immigration categories such as: asylees, refugees and victims of trafficking or other forms of violence. Additionally, individuals enrolled in state-funded Medicaid will not be impacted.

Exempt categories can be identified based on the individual's Alien Citizenship Indicator (ACI) and/or State and Federal charge code.

Exempt ACI codes include:

- A (Asylees)
- R (Refugees or Amerasians)
- D (Victims of trafficking or other forms of violence)
- H (Cuban/Haitian Entrants)
- V (Veterans and their immediate family members)
- M (Active duty military and their immediate family members)

Exempt State and Federal charge codes include:

- 60 (state-only Medicaid for pregnant individuals or children in the 5-year ban)
- 65 (PRUCOL pregnant individuals)
- 66 (PRUCOL children)
- 67 (state-only Medicaid for PRUCOL individuals)
- 68 (state-only Medicaid for individuals in the 5-year ban)

District staff should inform these individuals that they are either in an exempt category and/or are receiving state-funded Medicaid and as a result not subject to Public Charge.

Districts are instructed to encourage individuals to speak with an immigration expert before requesting to close their Medicaid case. If the individual needs immigration assistance, please direct them to call the Office for New Americans at 1-800-566-7636, to be connected to free or low cost, legal representation/counseling services. New York City residents may also call the Legal Aid Society at 1-844-955-3425. However, if the individual insists on closing their Medicaid case, district staff should comply with their request.

Enclosed, please find a Question and Answer Document regarding public charge for your reference.

Should you have any questions, please contact your local district liaison.

Sincerely,

A handwritten signature in black ink, appearing to read 'LS', is positioned above the typed name.

Lisa Sbrana, Director
Division of Eligibility and Marketplace Integration
Office of Health Insurance Programs

cc: Medicaid Director

Enclosure