

## 210-RICR-10-00-3

# TITLE 210 – EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

## CHAPTER 10 – EOHHS GENERAL PROVISIONS

### SUBCHAPTER 00 - N/A

#### PART 3 - Medicaid and Children's Health Insurance Program (CHIP) Non-Financial General Eligibility Requirements

### 3.1 Overview

- A. In accordance with Title XIX and XXI (42 U.S.C. §§ 1396a and 1396k), all Medicaid applicants and beneficiaries ~~shall~~**must** meet certain non-financial general eligibility requirements related to: identity, date of birth/age, Social Security Numbers (SSNs), residency, U.S. citizenship, and immigration status. Rhode Island resident Under [State law], children under the age of ~~twenty-one~~nineteen (19) are not subject to any of the eligibility requirements related to citizenship and immigration status. In addition, certain applicants must agree to meet cooperation requirements. The scope of the cooperation requirements varies depending on eligibility category and the age of the applicant or beneficiary and may pertain to medical and child support, liens and estate recovery, providing application information, and reporting changes among others.
- B. The provisions set forth herein are included in the State's plan for ensuring compliance with these and related federal requirements and are designed to promote ease of access to Medicaid while preserving program integrity. Toward this end, the State uses electronic data matches to the full extent possible to verify required information and limits the requests for supporting documentation to instances in which discrepancies between information sources are detected or electronic verification fails unless explicitly directed otherwise by federal or State law.

### 3.2 Scope and Purpose

- A. This rule identifies the non-financial eligibility requirements for Medicaid and CHIP-funded health coverage administered through the RI Medicaid program. The rule also cites the location in this Title of any other more specific or additional, related provisions. Lastly, the rule sets forth the respective roles and responsibilities of both the State and applicants and beneficiaries in ensuring information about these requirements is obtained in the most efficient and least burdensome way that Rhode Island's integrated eligibility system (IES) allows within the parameters established in federal law.

- B. Provisions related to the verification of financial eligibility are set forth as follows: Part 30-00-5 of this Title, for children, families, and ACA expansion adults who are evaluated using the Modified Adjusted Gross Income (MAGI) standard and children deemed eligible on the basis of participation in other federal programs; and Part 40-051 of this Title for elders and adults with disabilities who are subject to the Supplemental Security Income (SSI) method for determining financial eligibility for Community Medicaid and Medicaid long-term services and supports (LTSS).

### **3.3 Legal Authority**

- A. This Part is promulgated pursuant to federal authorities as follows:
  - 1. Federal Law: Title XIX of the U.S. Social Security Act, 42 U.S.C. § 1396a, Sections 1115, 1902(dd), and 1903(v)(4); Title XXI of the Social Security Act, 42 U.S.C. § 1396k; Section 2107(e)(1)(j) and 2111 and Section 1111 of the Children’s Health Insurance Program Reauthorization Act (CHIPRA) of 2009 (Pub. Law 111-3); Sections 401, 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) (Pub. Law 104-193); Section 6036 of the Deficit Reduction Act of 2005 (Pub. Law 109-171);
  - 2. Federal Regulations: 42 C.F.R. §§ 435.406, 435.945-949 and 440.250-255;
  - 3. The Medicaid State Plan and the Title XIX, Section 1115(a) Demonstration Waiver (11-W-00242/1), effective through December 31, 2018.
- B. Applicable State authority is derived from R.I. Gen. Laws Chapters 40-8; 40-8.4 to 40-8.12; and 42-12.3.
- C. The rules in this Part supersede Medicaid Code of Administrative Rules (MCAR), Section #0304, “Technical Eligibility Requirements”, unless otherwise indicated, pertaining to all Medicaid eligibility coverage groups and pathways.

### **3.4 Definitions**

- A. As used herein, the following terms shall be construed as follows:
  - 1. “CHIP State Plan” means the State of Rhode Island’s State Plan identifying the eligibility categories and services authorized for federal financial participation under Title XIX of the federal Social Security Act establishing the Children’s Health Insurance Program (CHIP).
  - 2. “Immigrant” means a non-citizen who has been granted the right by the United States Citizenship and Immigration Service (USCIS) to reside permanently in the United States and to work without restrictions in the United States. Such a person is also known as a

Lawful Permanent Resident (LPR). All immigrants are eventually issued a "green card" (USCIS Form I-551), which is the evidence of the non-citizen's LPR status.

3. "Lawfully present" means the status of a non-citizen who has been granted permission to remain in the United States by the USCIS. This status includes immigrant qualified non-citizens who would otherwise be eligible for Medicaid or CHIP coverage if were not for the federal five (5) year bar and certain non-immigrants with visas who have been granted permission to live and/or work in the U.S. for a specific purpose and/or on a time-limited basis.
4. "Lawfully residing" means the eligibility category established under the Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009 that gives states the option to provide coverage to a non-citizen children and pregnant women who ~~is~~ are lawfully present and would otherwise be subject to the federal five (5) year bar.
5. "Medicaid State Plan" means State of Rhode Island's State Plan identifying the eligibility categories and services authorized for federal financial participation under Title XIX of the federal Social Security Act establishing the Medicaid program.
6. "National" means a person who owes his or her sole allegiance to the United States, including all U.S. citizens, and persons who were born in American Samoa or were born in the Commonwealth of the Northern Mariana Islands who have chosen to be U.S. nationals instead of U.S. citizens.
7. "Non-citizen" means a person who is not a U.S. citizen or national.
8. "Nonimmigrant" means a person who has been granted the right to reside temporarily in the United States for a specific purpose. Each nonimmigrant is admitted into the U.S. in the nonimmigrant status which corresponds to the type of visa issued. The type of visa issued determines whether the nonimmigrant is treated as qualified or non-qualified for federal means-tested benefit eligibility purposes.
9. "Non-qualified non-citizen" means a nonimmigrant who is not eligible for federal means tested benefits, an immigrant who is out-of-status, or a non-citizen who has entered the United States illegally or without proper documentation.
10. "Qualified" or "Non-qualified non-citizens" means the terms used in federal immigration law to categorize immigrant and nonimmigrant non-citizens. The terms do not by themselves indicate whether an immigrant is eligible for benefits. "Qualified", "non-qualified" and undocumented non-citizens may be eligible for some forms of federally-funded benefits.

11. “United States (U.S.) citizens” means a person who is born in the United States, Puerto Rico, Guam or the U.S. Virgin Islands; or whose parent is a U.S. citizen; or who is a former non-citizen who has been naturalized as a U.S. citizen.

### **3.5 Attestations, Consent and Identity Proofing**

- A. Attestations and consent. In accordance with federal regulations at 42 C.F.R. § 435.945, when reviewing non-financial eligibility requirements, the State generally accepts: self-attestation when the person completing the application is requesting eligibility; and attestation by an adult who is in the applicant's household or family, or who is acting as an authorized representative, when the person requesting eligibility is a minor or incapacitated.
  1. Application signature – To attest to the truthfulness of the information provided, an application must be signed either electronically or manually when submitted to be considered valid. The State notifies an applicant when a signature is missing and held in pending status until the State receives the required signature from the applicant/head of household. If the application or appropriate sections or proxies thereof are not returned with a signature by the date due, the application is closed and no further action is taken by the State.
  2. Consent for electronic data matches – Applicants are asked to provide consent for the State to conduct electronic data matches related to income and other non-financial eligibility factors at the time of application. Refusal to provide such consent does not constitute non-cooperation and, as such, cannot alone result in the denial of eligibility. The State will proceed with an eligibility determination without the applicant’s consent. However, without this consent, the application processing time may increase and the State may require applicants to provide supplemental forms of paper documentation to support attestations and self-attestations for persons seeking Medicaid eligibility in the household.
- B. Identity proofing. Identity proofing is a mechanism for assuring that an applicant is who he or she claims to be. This assurance is required to query the federal and State electronic databases necessary to verify attestations. In addition, these sources contain confidential, or private information that is protected by law and can only be obtained by and disclosed to the applicant subsequent to identity proofing. Therefore, identity proofing is required for anyone seeking affordable health coverage financed by Medicaid, federal tax credits, and/or state subsidies through a state eligibility system or health insurance exchange based on the Modified Adjusted Gross Income (MAGI) methodology.
  1. Applicant’s responsibilities – Applicants for Medicaid Affordable Care Coverage (MACC) eligibility under Chapter 30, who are subject to MAGI eligibility determinations, must comply with the provisions for establishing an on-line account set forth in Part 30-00-3.14 of this Title unless choosing to apply using a paper application. The identity proofing process occurs in conjunction with the creation of an account.

- a. Beginning the process. The identify proofing process must be completed prior to the start of an on-line application by an adult acting as the head of the household or as authorized representative in the case of minors. The process involves answering a series of questions about a variety of personal matters including current and past residences, place of birth and so forth.
  - b. Alternative forms of proof. If the electronic process does not provide the required level of proof, an applicant may upload into his or her account or submit by fax, mail, or in-person, any of the forms of documents listed in § 3.9 of this Part:
2. State responsibilities -- Identity proofing is conducted as an electronic process and occurs in conjunction with the creation of account.
- a. Remote Identity Proofing (RIDP). This process is conducted by a federal contractor in accordance with nationwide standards. The applicant's responses to questions related to identity are evaluated using a multifaceted authentication process. Once the proofing process is completed, the on-line application process may begin and access personal information held by trusted sources like the Social Security Administration, the Internal Revenue Service, and the Department of Homeland Security. This information becomes available to both the applicant and the State in real-time rather than after the application is submitted.
  - b. Agency assistance and alternative forms of proof. The State must provide assistance upon request to aid in both creating an account and in facilitating identity proofing for applicants who are unable to obtain the required level of verification through the RIDP process. In addition, the State must make applicants aware of and accept the alternative forms of identity proof identified in § 3.9 of this Part.
  - c. Limits. The identity proofing process is permitted only at the time of initial account creation. The State is prohibited from requiring a beneficiary to repeat the process during post-eligibility reviews or at the time of renewal. The State must also provide applicants with assurances that the identity proofing process, which is conducted by a credit rating agency, does not affect an applicant's credit standing or is not treated as a credit, rather than an identity check, for the purposes of establishing an application account.

### **3.6 Non-financial Eligibility Factors**

- A. Self-attestations and attestations at the time of initial application are accepted for certain non-financial eligibility requirements. Verification of this information is required in some by federal or state law or regulation, as indicated in § 3.6(B) of this Part below. Rhode Island has opted to

utilize approved federal and State electronic interfaces with the IES for verification purposes when available, as authorized in 42 C.F.R. §§ 435.948 through 435.956. Paper documentation is therefore utilized only in instances when there is no information available through an electronic data source or there is a discrepancy between a self-attestation or an attestation and the electronic data source.

- B. All persons seeking Medicaid eligibility must provide a date of birth (age) and an SSN. Rhode Island resident Under [State law], children under the age of ~~twenty-one~~nineteen (19) are not subject to the eligibility requirements related to citizenship and immigration status and are not required to provide proof of legal immigration status or to have a SSN. Attestations and self-attestations about Rhode Island residency are accepted and require no verification, However, attestations and self-attestations about age and SSN are verified through electronic data sources. All applicants must provide an SSN, show proof that one has been requested, or seek the assistance of an agency representative to apply for a SSN~~one~~ before a determination of eligibility can be made.
1. Information and verification by coverage category -- The respective responsibilities of applicants and the State associated with non-financial eligibility factors such as SSN and residency may vary by category of coverage. Accordingly, the applicable provisions are set forth in the Chapters of this Title related to each category of coverage, as indicated below:
    - a. Medicaid Affordable Care Coverage (MACC) Groups and Non-MAGI eligible children and youth. Required information and verification for families, children, ACA expansion adults and pregnant women whose eligibility is determined using the MAGI standard is located at Part 30-00-1 of this Title; For members of these populations deemed eligible due to a characteristic (newborns) or by current or past participation in a federal or State program (SSI or RI Department of Children, Youth and Families (DCYF)) are set forth in Part 30-00-1 of this Title.
    - b. Integrate Health Care Coverage (IHCC) Groups and Non-MAGI eligible adults and elders – Information related to non-financial eligibility requirements for all coverage groups subject to determinations using the SSI methodology, including the SSI and Community Medicaid eligibility pathway and Medicare Premium Payment Program (MPPP) are set forth in the application provisions in Part 40-00-1 of this Title and general eligibility section of Part 40-05-1 of this Title.
    - c. LTSS – All new applicants for LTSS must meet the general eligibility requirements related to age, SSN and residency. Existing Medicaid beneficiaries who are seeking LTSS do not have to provide additional information about these non-financial factors if already known to the State and, therefore, are not subject to verification. For applicants pursuing the ACA adult MAGI pathway, the non-financial eligibility requirements are set forth in Part 30-00-1 of this Title. For all

other LTSS applicants, the provisions related to the SSI methodology for Community Medicaid located in Part 40-05-1 of this Title apply.

2. State responsibilities -- The State must provide assistance upon request to help applicants obtain and verify information about non-financial eligibility factors. Such information must be accessible to persons with limited English proficiency as well as persons with disabilities. The State's responsibilities related to application information and verification include, but are not limited to:
  - a. Information for applicants/beneficiaries. The State must inform applicants in both on-line and paper application forms whether attestations related to non-financial eligibility factors are verified, by what means, and how the information will be used in accordance with the applicable provisions of this Title. In addition, when a discrepancy is noted between a data source and an attestation, the State must provide any assistance requested by the applicant to validate and/or correct the information from the data source.
  - b. Information from applicants. An applicant is only required to provide the information necessary to determine eligibility. In addition, the following limits apply:
    - (1) Any information requested by the State about non-applicants in the household must be related to the applicant's eligibility. Therefore, information pertaining to a non-applicant's tax filing status, relationship, or income is requested when constructing a MAGI household. Information about the income and resources of a non-applicant spouse is generally required to determine Medicaid eligibility for most of the Integrated Health Care Coverage Group members (request, income, and resources may be required for some types of eligibility).
    - (2) Request for the SSN of a non-applicant is permitted only if the State indicates clearly that it is being provided voluntarily and for purposes directly connected to initial or continuing eligibility for Medicaid. A non-applicant requesting eligibility for someone else in the household is not required to provide an SSN.
    - (3) The State does not request information about the citizenship and immigration status of non-applicants in the household.

### **3.7 Citizenship and Immigration Status**

- A. The requirements related to citizenship and immigration eligibility factors for Medicaid and CHIP-funded coverage categories are established in federal law as follows:

1. Citizenship -- The federal Deficit Reduction Act (DRA) of 2005 (42 U.S.C. § 1305; 42 U.S.C. § 1396r) requires states to provide Medicaid coverage to otherwise eligible applicants who are citizens and nationals of the United States when appropriate verification of self-attestations is provided.
2. Non-citizens – In accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, 42 U.S.C. § 1305) and the Children’s Health Insurance Program Reauthorization Act (CHIPRA) of 2009 (42 U.S.C. § 1396), the following non-citizens are provided with Medicaid or CHIP-funded coverage when all other eligibility requirements are met:
  - a. Adults. Qualified non-citizens over age nineteen (19) as defined in PRWORA eligible under the Medicaid State Plan --
    - (1) Prior Entry -- Qualified non-citizens who entered the United States before August 1, 1996;
    - (2) Exempt from five-year bar -- Qualified non-citizens who are exempt from the five-year bar on Medicaid coverage under federal law at § 402(b) of PRWORA (8 U.S.C. § 1612(b)), including non-citizens with the following statuses:
      - (AA) Refugees. Admitted under Section 207 of Immigration and Naturalization Act (INA) including Afghan and Iraqi Special Immigrants (SIV’s) as permitted under Pub. Law 111-118;
      - (BB) Asylees. Granted Asylum under Section 208 of INA;
      - (CC) Deportation withheld under 243(h) of INA;
      - (DD) Amerasian entrants. Pursuant to Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988 (as contained in Section 101(e) of Pub. Law 100-202 and amended by the 9th provision under Migration and Refugee Assistance in Title II of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988, Pub. Law 100-461 as amended);
      - (EE) Cuban or Haitian entrants. As defined in Section 501(e) of the Refugee Education Assistance Act of 1980;
      - (FF) U.S. Military. Lawfully residing and honorably discharged veterans (except one discharged for reasons of immigration status), or on active duty in the U.S. Armed forces, and their

lawfully residing spouses and unmarried dependent children, and the un-remarried widow or widower of the veteran;

- (GG) Battered non-citizens. Certain battered spouses, battered children or parents, or children of a battered person with a petition approved or pending under Section 204(a)(1)(A) or (B) or Section 244(a)(3) of INA;
  - (HH) American Indians. Born outside the U.S. in Canada and is at least fifty percent 50% American Indian blood and to whom the provisions of Section 289 of the INA apply; or is a member of a federally recognized tribe as defined in Section 4(e) of the Indian Self- Determination and Education Act;
  - (II) Victims of trafficking. Certified by the U.S. Department of Human Services (HHS) Office of Refugee Resettlement pursuant to Section 107(b) of the Victims of Trafficking and Violence Protection Act of 2000, as a victim of a severe form of trafficking;
  - (JJ) Receiving disability assistance. Legally entered the U.S. on or after 8/22/96 and received disability related benefits for a condition that is a disability or is pending a disability determination in accordance with 42 U.S.C. § 1381.
  - (KK) SSI recipients. Receiving benefits for the U.S. Supplemental Security Income (SSI) program. Treated as a qualified exempt non-citizen under provisions of Pub. Law 105-306, if SSI benefits, and associated Title XIX Medicaid were continued and was lawfully residing in the U.S. and receiving SSI on 8/22/96.
- (3) After the five-year bar -- Qualified non-citizens who were subject to the five-year bar (waiting period) on Medicaid eligibility AFTER the five-year period is complete, including:
- (AA) Lawful permanent residents (LPRs) Green card holders;
  - (BB) Parolees. Granted parole for at least one (1) year under 212(d)(5) of the Immigration and Nationality Act (INA), except when paroled for prosecution, deferred inspection, or pending removal proceedings;
  - (CC) Conditional entrants. Granted conditional entry under 203(a)(7) of immigration law in effect before April 1, 1980.

- b. Children and youth. Rhode Island resident Pursuant to Cover All Kids, no children under the age of nineteen (19) are not subject to the five (5) year waiting period/bar. As authorized under the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA, 42 U.S.C. § 1396) and as described in 8 C.F.R. § 103.12(a)(4) the following non-citizen children and youth are NOT subject to the five (5) year waiting period/bar regardless of their date of entry into the U.S.
- (1) Qualified Non-citizens – The full range of qualified non-citizens set forth in subpart (a) above and legal non-immigrants whose admission to the United States is not conditioned on having a permanent residence in a foreign country (such immigrants include citizens of the Compact of Free Association States who are considered permanent nonimmigrants but does not include visitors for business or pleasure or students).
  - (2) Legally Residing Non-Citizens –
    - (AA) Temporary resident status. Pursuant to Section 210 or 245A of the Immigration and Nationality Act (INA) 8 U.S.C. §§ 1101-1178;
    - (BB) Temporary protected status. Pursuant to section 244 of the INA (8 C.F.R. § 244);
    - (CC) Cuban-Haitian entrants. As defined in section 202(b) Pub. Law 99-603 (8 U.S.C. § 1152), as amended;
    - (DD) Family unity. Pursuant to section 301 of Pub. Law 101-649 (8 U.S.C. § 1151), as amended, as well as pursuant to section 1504 of Pub. Law 106-554 (8 C.F.R. § 245a);
    - (EE) Deferred enforced departure (DED). In accordance with a decision made by the President;
    - (FF) Deferred action status. As set forth in INA Service Operations Instructions at OI 242.1(a)(22);
    - (GG) Adjusted status. The spouse or child of a United States citizen whose visa petition has been approved and who have a pending application for adjustment of status.
  - (3) INA Non-citizens -- The following categories of non-immigrant children under 101(a)(15) of the Immigration and Nationality Act (INA) (8 U.S.C. § 1101) are also eligible for coverage under Title XXI:

- (AA) Immediate family. Parents or children of individuals with special immigration status under section 101(a)(27) of the INA as permitted under section 101(a)(15)(N) of the INA (8 U.S.C. § 1101);
- (BB) Fiance(ee) of a citizen as permitted under section 101(a)(15)(K) of the INA (8 U.S.C. § 1101);
- (CC) Religious workers under section 101(a)(15)(R) (8 U.S.C. § 1101);
- (DD) U.S. Attorney General's discretion. The Attorney General of the United States has determined the non-citizen is in possession of critical reliable information concerning a criminal or terrorist organization, enterprise or operation as permitted under section 101(a)(15)(S) of the INA (8 U.S.C. § 1101);
- (EE) Victims of trafficking. As permitted under section 101(a)(15)(T) of the INA (8 U.S.C. § 1101);
- (FF) U.S. Department of Justice. When assisting in a criminal investigation as permitted under section 101(a)(15)(U) of the INA (8 U.S.C. § 1101);
- (GG) Battered non-citizens;
- (HH) Petition pending. A petition pending for three (3) years or more as permitted under section 101(a)(15)(V) of the INA (8 U.S.C. § 1101).

c. Pregnant women. All pregnant women who otherwise meet the requirements for Medicaid are eligible without regard to immigration status.

3. Non-qualified non-citizens – In accordance with the provisions of PRWORA, non-citizens who are not pregnant and do not have current documentation of a qualified non-citizen status are not eligible for Medicaid or CHIP coverage except in instances of a medical emergency. Rhode Island resident Under [State law], children under the age of nineteen ~~twenty-one~~ (19) are not subject to eligibility requirements related to citizenship and immigration status. The provisions governing Medicaid coverage for non-citizens who are RI residents in emergency circumstances are set forth in Part 40-05-1 of this Title.
4. Alternative forms of coverage – Lawfully present qualified non-citizens who are ineligible for Medicaid/CHIP funded coverage, may qualify for commercial health insurance coverage through the State's health insurance marketplace known as HealthSource RI (HSRI). To facilitate access to affordable health coverage, any non-

citizen who applies for Medicaid and is denied on the basis of immigration status is automatically evaluated for an HSRI plan and is informed if such coverage options are available in the eligibility determination notice.

- B. The State verifies self-attestations and attestations of citizenship and satisfactory immigration status through designated electronic federal and State data sources through the IES to the full extent feasible. Rhode Island resident children under the age of ~~twenty-one~~nineteen (2119) are not subject to eligibility requirements related to citizenship and immigration status ~~Under [State law], children under age 21 are not subject to eligibility requirements related to citizenship and immigration status.~~
1. Exemptions -- The provisions set forth in this Part related to citizenship and immigration status do not apply to the following exempt persons/coverage groups:
    - a. Persons eligible on the basis of the current or past receipt of Supplemental Security Income (SSI) as specified under Part 40-05-1 of this Title.
    - b. Anyone entitled to or enrolled in any part of Medicare, including applicants for the Medicaid Premium Payment Program (MPPP) pursuant to Part 40-05-1 of this Title.
    - c. Recipients of Social Security Disability Insurance (SSDI) and/or federally authorized and funded rehabilitative services, administered through the RI Department of Human Services (DHS) or the RI Office of Rehabilitative Services (ORS) seeking any type of Medicaid coverage;
    - d. Children and youth, up to age twenty-one (21), who are in the care and custody of the RI Department of Children, Youth and Families (DCYF) and/or participating in foster care and adoption subsidy assistance and maintenance programs and former foster care youth eligible under the federal Chafee Independent Act pursuant to Part 30-00-1 of this Title;
    - e. Newborns deemed eligible for Medicaid or CHIP in accordance with Part 30-00-1 of this Title.
  2. Citizenship – An applicant has met the Medicaid citizenship eligibility requirement when the applicant is an adult and has made a self-attestation of United States citizenship, or the applicant is a minor or incapacitated person and an adult living in the same household or an authorized representative has made a declaration of citizenship on the behalf of the minor or incapacitated person; and the declaration has been verified by an authorized electronic data source.
  3. Immigration status – An applicant has met the Medicaid/CHIP immigration status requirement when the applicant has made a self-attestation of satisfactory immigration

status; or an attestation of such status has been made on the applicant's behalf by an adult living in the same household or an authorized representative in instances in which the applicant is a minor or incapacitated. An attestation of immigration status may also be accepted when provided by a responsible person with first-hand knowledge of the immigration status of the applicant, but only if the attestation is verified by an authorized electronic data source or approved form of documentation. Special provisions apply in certain circumstance as follows:

- a. Veterans. For purposes of determining whether the exemption from the five-year bar for qualified non-citizen veterans and their families applies, the State must verify that the veteran is in honorably discharged or active military duty status, or is the spouse or unmarried dependent child of such person. If the State is unable to verify this information through electronic means, self-attestation with paper documentation providing proof of the veteran's status and/or relationship to the veteran is accepted.
  - b. Participants in other federal means-tested programs – The State does not re-verify the citizenship or immigration status of an applicant for Medicaid/CHIP funded coverage who is currently participating in a state administered means-tested federal program, providing verification of citizenship and immigration status is a condition of eligibility, has been successfully completed, and record of such is maintained and can be accessed through the IES.
4. Verification sources -- The primary electronic data sources for verifying citizenship and immigration status used by the State is the federal State Verification and Exchange System (SVES) which operates through the Verify Lawful Presence (VLP) interface with the federal data hub (MACC group members subject to MAGI determinations); and, an electronic data exchange with the U.S. Citizenship and Immigration Services (USCIS). As indicated in § 3.7(C) of this Part below, if verification through these sources does not succeed, the State may use alternative electronic or paper forms of verification.
  5. Record of verification – The State maintains a record of having verified citizenship and immigration status for each applicant in the IES in accordance with the requirements in 42 C.F.R. § 431.17(c).
  6. Agency assistance -- A state agency eligibility specialist is available to provide assistance to an applicant who is unable to provide a declaration or attestation, correct errors or inconsistencies, or obtain any required documents as a result of a disability, homelessness, and/or the absence of someone who can act as authorized representative on his/her behalf.
  7. Authorized representative -- An authorized representative may submit proof of citizenship, identity and/or satisfactory immigration status on the behalf of an application or beneficiary.

8. Limits – Verification of citizenship and satisfactory immigration status occurs at the point of initial application. Unless an applicant/beneficiary reports a change in citizenship or immigration status, or the State receives information indicating such a change has or may occur, the State may not initiate or require re-verification of either eligibility factor at the point of annual renewal, on a quarterly basis as part of the post-eligibility verification (PEV) process set forth in Part 30-00-5 of this Title, or subsequent to a break in coverage.

### **3.7.1 Prompt Resolution and Reasonable Opportunity**

- A. Verification of citizenship and/or immigration status through primary electronic data sources and interfaces may not succeed. In such instances, the verification process proceeds as follows:
  1. Prompt resolution -- It is the State's responsibility to promptly attempt to resolve any inconsistencies issues, including typographical or other clerical errors, between information provided by the applicant and information from a primary electronic data source, and resubmit corrected information through such electronic services or an alternative electronic mechanism.
  2. Reasonable Opportunity -- If prompt resolution fails to provide verification within five (5) working days, the State provides a reasonable opportunity period. During the reasonable opportunity period, the State continues efforts to complete verification of the citizenship and/or satisfactory immigration status, or request documentation if necessary.
    - a. Notice. The State must provide notice to an applicant indicating that a reasonable opportunity period is being initiated. The period begins on the date the notice is received by the applicant which is presumed to be five (5) days after the date on the notice. The notice provides the applicant with the following:
      - (1) Temporary, provisional eligibility – A statement indicating that a reasonable opportunity period has been initiated. During this period, temporary, provisional Medicaid eligibility is provided to applicants in the household for whom verification is pending for up to ninety (90) days. Temporary, provisional eligibility begins on the first day of the month in which the application was filed and ends when verification is completed, the applicant fails to cooperate or cannot provide any requested verification, or the reasonable opportunity period expires, whichever comes first.
      - (2) Alternative forms of proof – An additional documentation request (ADR) is included in the notice. The ADR identifies the outstanding verification issues (discrepancy, error, missing data); indicates the corrective action

required and how to obtain assistance from the state agency, if appropriate; and provides a list of alternative accepted forms of verification, including paper documentation.

- b. Additional State responsibilities - During the reasonable opportunity period:
  - (1) No limits on coverage -- The State may not delay, deny, reduce or terminate coverage for a person who has been determined otherwise eligible for Medicaid during the reasonable opportunity period, in accordance with 42 C.F.R. § 435.911(c).
  - (2) Extensions – The State may extend the reasonable opportunity period in instances in which the applicant is making a good faith effort to obtain any necessary documentation or the State needs more time to verify status through other available electronic data sources or to assist an applicant in obtaining documents needed to verify his or her status.
  - (3) End of eligibility – At least thirty (30) days prior to the termination of the period of temporary, provisional eligibility, the State provides an adverse action notice containing the reason for the terminating eligibility and denying the application for Medicaid. The notice must contain the right to appeal the eligibility determination decision.
- c. Applicant’s responsibilities. An applicant must respond to the notice ADR in no more than thirty (30) days plus an additional five (5) days to cover mailing time – a total of thirty-five (35) days. An applicant may show good cause for failing to respond, by providing proof of mail delays or an emergency situation and request an extension of the reasonable opportunity period. An applicant also has the right to appeal and request a hearing. Reapplication is required.

### **3.8 Sponsor Deeming**

- A. Under the deeming provisions for non-citizens, the income and resources of the sponsor(s) are counted as available and received, even if not in fact received, by the applicant. Income and resources of the sponsor(s) and of the sponsor's spouse (when living together) are counted when determining the income and resources of the non-citizen applicant.
  - 1. Scope and application -- Deeming applies ONLY to lawful permanent residents (LPR) who:
    - a. Entered the U.S. or were granted LPR status on or after 12/19/97; and
    - b. Were sponsored by a person or entity with U.S. citizenship status such a family member, employer, or representative of an academic institution or business owner; and

c. Received legally binding affidavit(s) of support from the sponsor (USCIS form 1-864).

2. Eligibility duration -- Deeming continues until the non-citizen:

a. Attains U.S. citizenship; or

b. Can be credited with forty (40) quarters of work as defined under Title II of the Social Security Act, provided that no credit is given for any quarter after 12/31/96 in which any federal means tested benefit was received. Federal means tested benefits include, but are not limited to: Supplemental Nutrition Assistance Program (SNAP), RI Works, Child Care Assistance Program (CCAP), Supplemental Security Income (SSI) and Low-income Heating Assistance Program (LIHEAP).

(1) Non-citizens may be credited with quarters from their own employment, their spouse's employment, and their parent's employment.

(2) Verification of qualifying quarters must be obtained from Social Security Administration records. A written statement, signed by the applicant under penalty of perjury, may be used as temporary verification of quarters worked while awaiting information requested from Social Security.

B. Deeming provisions may be waived for a period of one (1) year in certain circumstances for sponsored immigrants.

1. Battery or cruelty -- Deeming requirements may be waived when a non-citizen demonstrates that he or she or a child or dependent have been battered or subjected to extreme cruelty while in the U.S. by certain persons who were living in the same household.

a. The battery must have a substantial connection to the need for Medicaid benefits such as to enable the non-citizen and any children/dependents to:

(1) Become self-sufficient following separation from the abuser;

(2) Escape the abuser or the community where the abuser lives, or to gain protection from the abuser;

(3) Obtain health coverage due to a loss of income or a period of health insurance ineligibility suffered as a result of separation from the abuser;

(4) Address health care issues or disabilities resulting from the abuse;

- b. In the absence of such a connection to Medicaid, the non-citizen may show that he or she does not have sufficient income or resources for food or shelter without the abuser's financial support and, therefore, may be considered indigent.
    - (1) To be considered indigent, the sum of the all income including any cash or in-kind assistance must be at or below 130 percent of the FPL.
    - (2) When determining whether a person is indigent, only the total amount of income and resources actually deemed to the non-citizen during a twelve (12) month period is counted. This is also the amount used when determining Medicaid eligibility for the non-citizen and any children and dependents.
  - c. The State is required under federal law to notify the USCIS with the name of the sponsor and the sponsored non-citizens receiving Medicaid under this Part. The sponsor must reimburse the State for any Medicaid payments paid for covered services during a waiver period, with the exception of payments for emergency services.
  - d. A waiver related to abuse may be renewed if the non-citizen demonstrates the battery or cruelty has been recognized in the order of a judge or administrative law judge or a prior determination of the USCIS and the need for benefits remains the same; or the non-citizen requests a continuation of the waiver based on the indigent standard set forth in § 3.8(B)(1)(b) of this Part above.
  - e. Accepted forms of proof of battery or cruelty at the time of the initial application for a waiver and, as appropriate, continuation of the waiver include, but are not limited to:
    - (1) An approved USCIS petition;
    - (2) Restraining order;
    - (3) Third party affidavit,
    - (4) Signed affidavit from the applicant, or
    - (5) Health care, or public or private agency records.
2. Emergency services -- Deeming provisions do not apply to eligibility determinations for emergency services.

### 3.9 Evidence Accepted for Verification Purposes

- A. Accepted forms of documented evidence for each non-financial eligibility factor is set forth below:
1. Identity -- The State accepts the following as proof of identity, provided such document has a photograph or other identifying information sufficient to establish identity, including, but not limited to, name, age, sex, race, height, weight, eye color, or address:
    - a. Driver's license issued by a state or territory;
    - b. School identification card;
    - c. U.S. military card or draft record;
    - d. Identification card issued by the federal, state, or local government;
    - e. Military dependent's identification card;
    - f. U.S. Coast Guard Merchant Mariner card;
    - g. For children under the age of nineteen (19), a clinic, doctor, hospital, or school record, including preschool or day care records;
    - h. Two (2) other documents containing consistent information that corroborates an applicant's identity. Such documents include, but are not limited to, employer identification cards; high school, high school equivalency and college diplomas; marriage certificates; divorce decrees; and property deeds or titles.
    - i. Finding of identity from a federal or state governmental agency. The State may accept as proof of identity a finding of identity from a another government agency, federal or state, including but not limited to a public assistance, law enforcement, internal revenue or tax bureau, or corrections agency, if the identity of the applicant has been verified and certified.
    - j. If the applicant does not have any of the documentation cited herein, the State accepts an affidavit signed, under penalty of perjury, by a person other than the applicant who can reasonably attest to the applicant's identity. Such affidavit must contain the applicant's name and other identifying information establishing identity. The affidavit does not have to be notarized.
  2. Social Security Number – The following are accepted forms of proof of Social Security Number:
    - a. Social Security Card

- b. Social Security Records
- c. Tax return or other document showing SSN and identity.

3. Date of Birth/Age --In addition to a birth certificate, the State accepts the following evidence of date of birth:

U.S. Passport	Naturalization Certificate
Hospital Birth Records	Social Security Administration Award Letter if DOB is included
Adoption Records	Affidavit of a Third Party
School Records	Military Service Records
Physician Records	USCIS Immigration Documents
Driver's License or State-issued Photo ID	Church Records (Baptismal Certificate, Confirmation Papers, Marriage Certificate)
Social Security Card or Records	Voter Registration Card
Life Insurance Policy	Family Bible
Marriage License	State/Federal Census Record

4. Citizenship – The evidence accepted as proof of citizenship varies in accordance with the following:

- a. Stand-alone evidence of citizenship. The State accepts the following as sufficient evidence of citizenship:
  - (1) A U.S. passport, including a U.S. Passport Card issued by the Department of State, without regard to any expiration date as long as such passport or Card was issued without limitation;
  - (2) A Certificate of Naturalization;
  - (3) A Certificate of U.S. Citizenship;

- (4) A valid State-issued driver's license if the State issuing the license requires proof of U.S. citizenship, or obtains and verifies a SSN from the applicant who is a citizen before issuing such license;
- (5) Documentary evidence issued by a federally recognized Indian Tribe identified in the Federal Register by the Bureau of Indian Affairs within the U.S. Department of the Interior, and including Tribes located in a State that has an international border, which identifies tribe that issued the document; the applicant by name; and; confirms the applicant's membership, enrollment, or affiliation with the Tribe;
- (6) A data match with the Social Security Administration.

b. Secondary evidence – If primary evidence of citizenship is unavailable, the following must be accepted as satisfactory evidence to establish citizenship if also accompanied by an identity document listed in § 3.10(A)(3) of this Part:

- (1) A U.S. public birth certificate showing birth in one of the 50 States, the District of Columbia, Guam, American Samoa, Swain's Island, Puerto Rico (if born on or after January 13, 1941), the Virgin Islands of the U.S. or the CNMI (if born after November 4, 1986, (CNMI local time). The birth record document may be issued by a State, Commonwealth, Territory, or local jurisdiction. If the document shows the application was born in Puerto Rico or the Northern Mariana Islands before the applicable date referenced in this paragraph, the applicant may be a collectively naturalized citizen. In such instances, the State accepts the evidence identified in 42 C.F.R. § 435.945;
- (2) At State option, a cross match with a State vital statistics agency documenting a record of birth;
- (3) A Certification of Report of Birth, issued to U.S. citizens who were born outside the U.S.;
- (4) A Report of Birth Abroad of a U.S. Citizen;
- (5) A Certification of birth in the United States;
- (6) A U.S. Citizen I.D. card;
- (7) A Northern Marianas Identification Card issued by the U.S. Department of Homeland Security (or predecessor agency);

- (8) A final adoption decree showing the child's name and U.S. place of birth, or if an adoption is not final, a Statement from a State-approved adoption agency that shows the child's name and U.S. place of birth;
- (9) Evidence of U.S. Civil Service employment before June 1, 1976;
- (10) U.S. Military Record showing a U.S. place of birth;
- (11) A data match with the SAVE Program or any other process established by USCIS to verify that an applicant is a citizen;
- (12) Documentation that a child meets the requirements of section 101 of the Child Citizenship Act of 2000 as amended (8 U.S.C. § 1431);
- (13) Medical records, including, but not limited to, hospital, clinic, or doctor records or admission papers from a nursing facility, skilled care facility, or other institution that indicate a U.S. place of birth;
- (14) Life, health, or other insurance record that indicates a U.S. place of birth;
- (15) Official religious record recorded in the U.S. showing that the birth occurred in the U.S.;
- (16) School records, including pre-school, Head Start and daycare, showing the child's name and U.S. place of birth;
- (17) Federal or state census record showing U.S. citizenship or a U.S. place of birth;
- (18) If the applicant does not have one of the documents listed in §§ 3.9(A)(4)(b)(1) through (17) of this Part herein, he or she may submit an affidavit signed by another person under penalty of perjury who can reasonably attest to the applicant's citizenship, and that contains the applicant's name, date of birth, and place of U.S. birth. The affidavit does not have to be notarized.

c. Verification of citizenship by a federal agency or another state. The state may rely, without further documentation of citizenship or identity, on a verification of citizenship made by a federal agency or another state, if such verification was done on or after July 1, 2006.

5. Satisfactory Immigration Status – In the event that electronic data sources fail, the State may require an applicant to provide the appropriate form of evidence to prove status, as listed below:

## Immigration Status

Birth Certificate (if born in the U.S.) – otherwise this does not show immigration status in the U.S.

U.S. Passport

Naturalization Certificate

Military Service Records

Alien Resident Card (I-155) (also known as a “Green Card”)

Employment Authorization Card (I-688B)

For recent arrivals, a temporary I-551 stamp in a foreign passport or on USCIS Form I-94

Unexpired Re-entry Permit (Form I-327)

Forms AR-3 and AR-3a, Alien Registration Receipt Card

USCIS Form I-94 with stamp showing admission under 203(a)(7) of the INA, refugee-conditional entry

USCIS Form I-688B (or USCIS employment authorization card) annotated 274a.12(a)(3);

USCIS Form I-766 annotated A3.

For lawful permanent residents who are victims of domestic violence - IRS form I551 or I551B coded IB1 through IB3, IB6 through IB8, B11, B12, B16, B17, B20 through B29, B31 through B33, B36 through B38, BX1 through BX3, BX6, BX7 or BX 8

For victims of domestic violence petitioning for legal status who are considered as "qualified aliens" under PROWORA - IRS Form 797 showing an approved 1-360 or 1-13 self-petitioning as a spouse or child of a U.S. citizen or lawful permanent resident; OR USCIS Form 797 showing a Notice of Prima Facie Determination

USCIS Form I-94 with date of admission and annotated with unexpired status as listed in Section 0304.05.45.05

Dated USCIS letter or court order indicating a lawfully residing status listed in Section 0304.05.45.05

An unexpired USCIS employment authorization document (I-688-B) annotated with status code

Applicants for asylum: I-94, I-589 on file, I-688B coded 274a.12(c)(8)

Applicants for suspension of deportation: I-94, I-256A on file, I-688B coded 274a.12(c)(10)

## Immigration Status

Non-citizens granted stays of deportation by court order statute or regulation or by individual determination of USCIS whose departure the USCIS does not contemplate enforcing: letter or Granted a stay of deportation, I-688B coded 274.12(c)(12)

Non-citizens granted suspension of deportation pursuant to Section 244 of INA (8 U.S.C. § 1254) whose departure the USCIS does not contemplate enforcing: letter/order from the immigration judge and a Form I-94 showing suspension of deportation granted

Non-citizens residing in the United States pursuant to an Order of Supervision: USCIS Form I-220B, I-688B coded 274a.12(c)(18)

Temporary Protected Status: I-94 "Temporary Protected Status" and/or I-688B employment authorization coded 274a.12(a)(12)

Deferred Enforced Departure: Letter from USCIS; I-688B coded 274a.12(a)(11)

Family Unity: USCIS approval notice, I-797, and/or I-688B coded 274a.13

Non-citizens granted deferred action status: Letter indicating that the non-citizen's departure has been deferred and/or I-688B coded 274a.12(c)(14)

Non-citizens who have filed applications for adjustment of status whose departure the USCIS does not contemplate enforcing: Form I-94 or I-181 or passport stamped with either of the following: "adjustment application" or "employment authorized during status as adjustment applicant"; and/or I-688B coded 274a.12(c)(9)

USCIS Form I-94 annotated with stamp showing entry as a refugee under Section 207 of the INA and date of entry

USCIS Form I-688B (or USCIS Employment Authorization Card) annotated 274a.12(a)(3)

USCIS Form I-766 annotated A3

USCIS Form I-571

USCIS Form 551 (Resident Alien Card) coded RE-6, RE-7, RE-8, or RE-9

USCIS Form I-94 annotated with stamp showing a grant of asylum

Grant letter from the Asylum Office of the USCIS

USCIS Form I-688B annotated with 274a.12(a)(S)

## Immigration Status

USCIS Form I-766 annotated

Order from Immigration Judge granting asylum

Order from an Immigration Judge showing the date of a grant of deportation withheld under Section 243(h) of the INA

USCIS Form I-688B (or USCIS employment authorization card) annotated 274a.12(a)(10)

USCIS Form I-766 annotated A10

USCIS Form 551 with codes CU6, CU7, or CH6

Unexpired temporary I-551 stamp in a foreign passport or USCIS Form I-94 with codes CU6 or CU7

USCIS Form I-94 with stamp showing the individual paroled as a Cuban/Haitian Entrant under Section 212(d)(5) of the INA

An USCIS Form I-94 annotated with a stamp showing grant of parole under 212(d)(5) of the INA and a date showing granting of parole for at least one (1) year is acceptable verification of this status

ORS issues a certification letter to adults and a letter of benefit eligibility pursuant to Section 107(b) of the Trafficking Victims Protection Act of 2000 to children under eighteen (18) years of age: For adult, the ORS certification letter is proof of qualified non-citizen status; For children under age eighteen (18), the ORS letter of benefit eligibility is proof of qualified non-citizen status.

- B. The State accepts a photocopy, facsimile, scanned or other copy of a document that must be accepted to the same extent as an original document identified as accepted evidence under this Part, unless information on the copy submitted is inconsistent with other information available to the State or the State otherwise has reason to question the validity of, or the information in, the document.

### 3.10 Cooperation Requirements

- A. As a condition of eligibility, all Medicaid applicants and beneficiaries must meet certain cooperation requirements which enable to State to meet federal laws, rules and regulations related to obtaining and retaining federal matching funds for the program.
1. General cooperation requirements – Applicants and beneficiaries must:
    - a. Application information. Provide any information requested by the State that is necessary to determine eligibility for Medicaid;

- b. Assignment of rights. Medical support or other third-party payments for health care services must be assigned to the State. An applicant must also assign to the EOHHS any third-party payments for any other household members eligible under the Medicaid and CHIP State Plan and/or Section 1115 demonstration waiver for whom he or she has the legal authority under State law to make such an assignment. This assignment obligation takes effect under State law upon an applicant's filing for Medicaid;
- c. Child support. Cooperate in establishing paternity and obtaining support, except when an exemption exists, with the State's Office of Child Care Enforcement. Exemptions exist for pregnant women with no other children until the birth of the child, parent/caretakers in child-only application cases, and children in general. The State does not deny initial eligibility to an adult applying for Medicaid pending cooperation with the child support requirement. However, termination of eligibility is initiated if an adult applicant or beneficiary does not cooperate by the time of the first periodic electronic verification;
- d. Enrollment in RItE Share. An applicant with access to cost-effective employer-sponsored insurance (ESI) must enroll in the plan as a condition of eligibility. Medicaid-eligible children are not denied eligibility or subject to the loss of coverage, if their parent/caretakers with access to coverage do not cooperate and enroll in the approved plan. Specific provisions governing the RItE Share program are located in Part 30-05-3 of this Title;
- e. Alternative sources of support and assistance. Take all reasonable actions to make income/resources available to meet needs. A reasonable action is one that will likely result in more financial benefit accruing to a household than the cost of Medicaid coverage. In addition, for eligibility to continue to exist, a beneficiary who claimed that income or resources owned by or owed to him or her are unavailable must show a good faith effort to continue to take reasonable actions unless the State approves a good cause exemption made in writing. Reasonable actions include, but are not limited to:
  - (1) Filing applications for other benefits to which an applicant/beneficiary may be entitled including, but not limited to, State and federally funded health care and cash assistance programs and income tax credits and private or public retirement benefits, food assistance, or supplemental insurance;
  - (2) Making formal requests to other joint owners to sell or otherwise liquidate jointly held property;

- (3) Requesting guardians, trustees, and other legally authorized representatives to make resources or income available from estates, trusts, settlements, and other financial instruments;
- (4) Retain counsel to petition a court to adjudicate any monetary or property claim which the client may have against any person; and
- (5) Report to the State at the time of renewal or more frequently upon request progress being made toward making the resource or income available for use.

f. Quality Assurance. Assist the State by providing full cooperation in any quality assurance and/or program integrity activities.

2. Third-party liability – All applicants and beneficiaries must identify and provide information about third-party payers liable for Medicaid covered services and supports and, as required in § 3.10(A)(1) of this Part above, assign rights to payments. Beyond cooperating in this manner, the State generally pursues third-party liability without further assistance from the beneficiary. However, the State may require a beneficiary to:

- a. Appear at a designated State or local office to provide information or evidence relevant to the case;
- b. Serve as a witness at a court or other proceeding;
- c. Provide information, or attest to lack of information, under penalty of perjury;
- d. Pay to the State any support or medical care funds received that are covered by the assignment of rights; and
- e. Take any other reasonable steps to assist in establishing paternity and securing medical support and payments and in identifying and providing information to assist the State in pursuing any liable third party.

B. Non-cooperation with any requirement that is a condition of eligibility may result in the denial or termination of Medicaid eligibility for applicants and beneficiaries nineteen (19) years of age or older unless specifically exempt in federal or State laws or the rules and/or regulations established under this Title. Such exemptions are identified, as appropriate, in the Chapters of this Title pertaining to each coverage category as indicated in § 3.6(B)(1) of this Part above.

**210-RICR-10-00-3**

**TITLE 210 - EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES**

**CHAPTER 10 - EOHHS GENERAL PROVISIONS**

**SUBCHAPTER 00 - GENERAL PROVISIONS**

**PART 3 - MEDICAID AND CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP)  
NON-FINANCIAL GENERAL ELIGIBILITY REQUIREMENTS (210-RICR-10-00-3)**

Type of Filing: Amendment

**Agency Signature**

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Agency Head Signature

Agency Signing Date

**Governor's Signature**

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Signed By

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Governor or Designee

Governor Signing Date

**Department of State**

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Regulation Effective Date

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Department of State Initials

Department of State Date