



Public Charge & Coronavirus: 18 FAQs

1. If I am undocumented and therefore do not qualify for Medicaid, can I access emergency Medicaid to cover coronavirus treatment?

Yes. Under federal law (42 U.S.C. § 1396b(v)(2)(A)-(C)), state Medicaid programs must treat individuals suffering from an emergency medical condition who are not lawfully present in the United States and therefore do not meet the immigration requirements for Medicaid. An “emergency medical condition” is such that the absence of immediate medical attention could put the patient in serious jeopardy, impair bodily functions, or cause serious disfunction to an organ or body part.

To qualify for emergency Medicaid in New York, the individual must be a New York resident, financially eligible for Medicaid, and have an emergency medical condition.

Receipt of emergency Medicaid will not count against the individual in the “public charge” determination.

Source(s):

Healthcare.gov: “Coverage for Lawfully Present Immigrants”
<https://bit.ly/2UTdmBH>

NY Health Access: “Emergency Medicaid in New York State - Limited Medicaid Coverage for Undocumented Immigrants”
<https://bit.ly/2UV2CD0>

2. Are there other options for undocumented people besides going to the emergency room and accessing emergency Medicaid?

Yes. Undocumented people (and anyone else) can go to free or low-cost clinics. The below link contains websites for each state that will give users a list of free and low-cost clinics based on address:

Source(s):

UnitedWeStand: “Healthcare access for Undocumented Folks in the Time of COVID19”
<https://bit.ly/3e7LnGc>



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3. I have legal status, but I have been in the United States for less than five years. Can I qualify for Medicaid?

Many lawful noncitizens must be present in the United States for five years before they can access Medicaid. Refugees, asylees, and lawful permanent residents (“green card holders”), however, do not need to wait five years before they can access Medicaid. States have the option of waiving the five-year period for pregnant women (Medicaid) and children (CHIP – Children’s Health Insurance Program). For example, New York has waived the five-year waiting period for pregnant women and children.

Accessing Medicaid is a negative factor in the “public charge” determination. There is an exception for children under 21 and pregnant women, so this will not count against the individual in the “public charge” determination.

Source(s):

Healthcare.gov: “Coverage for Lawfully Present Immigrants”
<https://bit.ly/2UTdmBH>

Medicaid.gov: “Medicaid and CHIP Coverage of Lawfully Residing Children & Pregnant Women”
<https://bit.ly/3e6UAP3>

4. I qualify for Medicaid but am afraid that if I use Medicaid for coronavirus treatment that it will count against me in the public charge determination. Will it?

USCIS has announced that it will not consider coronavirus testing, treatment or preventive care (such as a vaccine if one becomes available) as part of the public charge determination, even if paid for by Medicaid.

Source(s):

Government of the District of Columbia: “Public Notice: Public Charge Rule FAQs with COVID-19 Information”
<https://bit.ly/2yMvwg3>

5. Can undocumented immigrants access private health insurance?

Undocumented immigrants cannot purchase private health insurance coverage through the Affordable Care Act (ACA) Marketplaces. Some undocumented immigrants may access private health insurance as a spouse or dependent of an employee who receives health insurance through his or her employer. Other undocumented immigrants who are students may receive health insurance through their colleges or universities. Undocumented immigrants can purchase private health insurance on the individual



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market outside of the ACA marketplaces (i.e. directly from an insurance company), but not all plans on the individual marketplace comply with the ACA.

Source(s):

The Kaiser Family Foundation: “Health Coverage and Care of Undocumented Immigrants”

<https://bit.ly/34lnNBp>

Healthinsurance.org: “Should You Look Outside the ACA’s Exchanges?: How your individual health coverage differs – and how it doesn’t – when you shop for insurance outside Obamacare’s marketplaces”

<https://bit.ly/2yELEQz>

6. I have legal status, but I don’t have health insurance. How can I get coverage?

If you previously had health insurance through an employer with at least 20 employees but lost your job due to coronavirus, you have the option of keeping the same health plan through COBRA (The Consolidated Budget Reconciliation Act). As your employer will no longer pay part of the monthly premium, however, maintaining the same health plan on your own may be prohibitively expensive.

You can also compare private insurance plans through ACA marketplaces (Healthcare.gov or your state-run ACA marketplace). Losing your job is considered a “qualifying event” to enroll in a plan on all health insurance exchanges. If you have not lost your job but need health coverage, some states (including New York) have created special enrollment periods in light of the coronavirus pandemic so that uninsured persons can enroll in an ACA insurance plan without a “qualifying event” (the normal enrollment period for Healthcare.gov and state-run ACA marketplaces is in the fall). The federal government has not expanded the enrollment period on Healthcare.gov.

You should check if you qualify for Medicaid based on the requirements of your state. Individuals can enroll in Medicaid year-round, and as enrollment is based on monthly income, it may be a good option for individuals who have recently lost their job.

If you cannot find a health insurance plan that works for the adults in your family, your children may be able to get coverage. The rules for children’s and pregnant women’s enrollment in Medicaid are different than for the general public. Go to InsureKidsNow.gov to determine if your children are eligible.

Source(s):

NPR.org: “Coronavirus Reset: How to Get Health Insurance Now”

<https://n.pr/2UVgJrZ>



7. Can individuals with DACA (Deferred Action for Childhood Arrivals) access Medicaid, insurance through the ACA Marketplaces, or private health insurance through an employer?

Individuals with DACA are not eligible for Medicaid and cannot purchase private health insurance coverage through the ACA Marketplaces. As DACA recipients have work authorization, they can access employer-provided private health insurance.

DACA recipients can access emergency Medicaid if they meet the income requirements for Medicaid and arrive to a hospital suffering from an emergency medical condition (meaning that the absence of immediate medical attention could put the patient in serious jeopardy, impair bodily functions, or cause serious disfunction to an organ or body part).

Source(s):

The Kaiser Family Foundation: “Key Facts on Individuals Eligible for the Deferred Action for Childhood Arrivals (DACA) Program”
<https://bit.ly/2xfVgkx>

8. I am undocumented. Is it possible that ICE (US Immigration and Customs Enforcement) will come to hospitals?

DHS (the Department of Homeland Security) has internal policy guidelines that recognize schools, medical treatment and health care facilities, places of worship, religious or civil ceremonies, and public demonstrations as “sensitive locations.” According to these internal policy guidelines, ICE should limit or avoid immigration enforcement in any sensitive locations. These policy guidelines, however, exist only as internal agency memorandum and not as federal law. While it is possible that ICE will come to a hospital, it is unlikely. ICE is not stopping immigration enforcement in light of the coronavirus pandemic.

Source(s):

National Immigration Law Center: “Understanding the Impact of Key Provisions of COVID-19 Relief Bills on Immigrant Communities”
<https://bit.ly/2yM6wpg>

U.S. Immigration and Customs Enforcement: “ICE Guidance on COVID-19”
<https://www.ice.gov/coronavirus>

9. Do noncitizens qualify for coronavirus-related sick leave under the Families First Coronavirus Response Act (FFCRA)?



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The FFCRA does not include any immigration status-related restrictions. Paid sick leave is paid to employees the same way that their wages are paid, so there is generally no involvement with government agencies.

Under the FFCRA, employers with fewer than 500 employees must provide all employees with two weeks (80 hours) paid sick leave at the employee's regular rate of pay when the employee is unable to work because of COVID-19 (i.e., is experiencing symptoms or is quarantined pursuant to government order or a doctor's advice). Employers must provide all employees with two weeks paid sick leave at two-thirds the employee's regular rate of pay when the employee cannot work because he/she must care for a quarantined individual or a child whose school/childcare provider has closed. Employees who have been employed for at least 30 days can receive up to ten weeks of paid expanded family and medical leave at two-thirds the employee's regular rate of pay.

Source(s):

National Immigration Law Center: "Understanding the Impact of Key Provisions of COVID-19 Relief Bills on Immigrant Communities"

<https://bit.ly/2yM6wpg>

US Department of Labor: "Families First Coronavirus Response Act: Employer Paid Leave Requirements"

<https://bit.ly/2JT0cP3>

10. I lost my job because of the coronavirus pandemic. Are noncitizens eligible for unemployment insurance?

Noncitizens are generally eligible for unemployment insurance benefits as long as they are: (1) work-authorized at the time they file for unemployment benefits and during the entire time that they are receiving benefits; and (2) meet the state residency requirements for unemployment benefits.

Receiving unemployment insurance benefits will not count against the individual in the public charge determination because unemployment insurance is an earned benefit and not a public benefit.

Source(s):

National Immigration Law Center: "Understanding the Impact of Key Provisions of COVID-19 Relief Bills on Immigrant Communities"

<https://bit.ly/2yM6wpg>

11. I heard that everyone will receive a \$1,200 check in the mail to offset economic losses due to the coronavirus pandemic. Can noncitizens receive the \$1,200 rebate?



The CARES (Coronavirus Aid, Relief, and Economic Security) Act provides a \$1,200 rebate to individual taxpayers and a \$2,400 rebate for taxpayers filing taxes jointly. Taxpayers must have a Social Security number to receive the rebate. If an individual filed a tax return in 2018 or 2019 with a valid Social Security number, she will get a rebate in the mail. (The IRS has extended the deadline to file fiscal year 2019 taxes to July 15, 2020.) If you have not filed a tax return but receive Social Security benefits, your rebate will be estimated based on your Social Security benefits statement.

The CARES tax rebate will not count against an individual in the public charge determination, as the rebate is a tax credit and not cash assistance.

Source(s):

National Immigration Law Center: “Understanding the Impact of Key Provisions of COVID-19 Relief Bills on Immigrant Communities”
<https://bit.ly/2yM6wpg>

Wake Forest Law Review Blog: “COVID-19 Stimulus Package: What CARES Act Rebates Mean for Immigrants”
<https://bit.ly/2xf3Z6y>

12. Is Immigration Court (Executive Office for Immigration Review) still hearing cases in light of the coronavirus pandemic?

All non-detained hearings scheduled through May 1, 2020 have been postponed. All Migrant Protection Protocols (MPP) hearings scheduled through May 1, 2020 have been postponed. Individuals with scheduled MPP hearings before and on May 1, 2020 should present themselves at their designated port of entry on their previously scheduled date to receive a tear sheet and hearing notice containing their new hearing date. Individuals and their attorneys can now file by email through temporary email addresses for the Office of the Chief Administrative Hearing Officer, the Board of Immigration Appeals, and the Immigration Courts nationwide. The operational status for each Immigration Court (i.e. open, open for detained hearings and filings only, closed etc.) can be found by locations using the below link.

Source(s):

The United States Department of Justice: “EOIR Operational Status During Coronavirus Pandemic”
<https://bit.ly/3ec50wM>

13. Are USCIS offices open during the coronavirus pandemic?

USCIS has temporarily closed its domestic offices through May 3, 2020 and plans to reopen on May 4, 2020 unless the public closures are extended. All domestic field



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offices, application support centers, and asylum offices are temporarily closed. Please see the below link for information regarding whether international offices are closed temporarily or permanently by location.

USCIS domestic offices will send notices to applicants and petitioners whose scheduled appointments and naturalization ceremonies are impacted by the temporary closure. Asylum interviews have been automatically cancelled and rescheduled. Asylum applicants will receive a new interview notice once their interview has been rescheduled. Once USCIS offices have reopened, USCIS will reschedule the application support appointments and notify the individuals of the new appointment time by mail. If an individual has an appointment at a field office, she must reschedule through the USCIS Contact Center (link below); USCIS will not automatically reschedule appointments at field offices.

Source(s):

U.S. Citizenship and Immigration Services: “USCIS Office Closing”
<https://www.uscis.gov/about-us/uscis-office-closings>

U.S. Citizenship and Immigration Services: “USCIS Contact Center”
<https://www.uscis.gov/contactcenter>

14. What is happening in detention centers to prevent the spread of COVID-19?

According to an ICE statement, ICE is reviewing CDC (Center for Disease Control) guidance daily and updates its protocol based on the CDC guidance. ICE evaluates detainees based on CDC protocol to determine if individuals with a higher risk of severe illness as a result of COVID-19 should continue to be detained. According to ICE, ICE initially released 160 individuals from detention who have a higher risk of severe illness as a result of COVID-19 after evaluating their immigration history, criminal record, potential threat to public safety, flight risk, and national security concerns. According to ICE, ICE has decreased the number of new detainees due to coronavirus concerns.

To prevent the spread of coronavirus in detention centers, the ICE Health Service Corps isolates detainees with fever and/or respiratory symptoms who meet the CDC criteria for epidemiologic risk of exposure to COVID-19. Detainees without fever or respiratory symptoms who meet the CDC risk criteria are monitored for 14 days while housed separately from the general population. Detainees are tested for COVID-19 if they meet the CDC guidelines for testing. ICE transports individuals with moderate to severe coronavirus symptoms to hospitals. ICE provides detainees with soap in the showers and hand soap in the bathrooms. The population at all detention facilities has been reduced to 70% capacity to encourage social distancing.

ICE has temporarily suspended social visitation at detention centers to prevent the spread of coronavirus, and has increased detainee access to videoconferencing, telephone, and email as a result. In-person attorney visitation is allowed if the attorney determines that



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in-person visitation is essential, but the attorney must undergo the same screening required for staff entry into the facility.

Litigation is on-going to try to release immigrant detainees. Immigration advocates are also filing humanitarian parole requests to try to get detainees released.

Source(s):

Immigration and Customs Enforcement: “ICE Guidance on COVID-19”
<https://www.ice.gov/coronavirus>

15. Could I be deported for using public benefits after I get a green card?

It is rare to be deported for using public benefits, and it will only happen if you or your sponsor were asked to pay for services used within the first five years after immigration and you or your sponsor refused to pay.

Source(s):

Government of the District of Columbia: “Public Notice: Public Charge Rule FAQs with COVID-19 Information”
<https://bit.ly/2yMvwg3>

16. If I use public benefits, can I sponsor my family members to immigrate to the United States?

Yes, you can petition to bring your family members to the United States, but if you are using public benefits you might not be able to file an “affidavit of support” to show that you can financially support them.

Source(s):

Government of the District of Columbia: “Public Notice: Public Charge Rule FAQs with COVID-19 Information”
<https://bit.ly/2yMvwg3>

17. Will applying for rental assistance, Section 8 or other housing benefits, cash assistance or food stamps for their children during the COVID-19 pandemic count against a noncitizen during a public charge determination?

Generally, applicants can apply for food stamps for their children. This is permitted because children’s benefit use is not to be considered in a public charge determination.



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Though USCIS has not explicitly stated how the use of benefits such as Section 8 housing and other housing benefits, rental assistance, and cash assistance would impact a public charge determination, the option to submit additional documentation during the COVID-19 crisis suggests immigration officers will take the unprecedented nature of the pandemic into account when making a public charge determination.

*Note: The use of two benefits in a month (like Section 8 housing and SNAP in April of 2020) would count as two months of benefits.

Source(s):

USCIS: “Public Charge”
<https://bit.ly/2JSGFhy>

Center for Law and Social Policy: “The Final Public Charge Rule: Five Things Early Childhood Stakeholders Need to Know”
<https://bit.ly/2VrPbtX>

18. Is a childcare voucher considered cash assistance since a parent is getting money to pay for childcare?

No. Childcare vouchers (Child Care and Development Block Grant (CCDBG)) are not considered cash assistance in a public charge determination.

Source(s):

Center for Law and Social Policy: “The Final Public Charge Rule: Five Things Early Childhood Stakeholders Need to Know”
<https://bit.ly/2VrPbtX>