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MANUAL: Medical Assistance

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APPLICABILITY: Residency requirements related to aliens with visitor visas and their coverage for emergency medical services

<u>Item</u>	<u>Remove Pages</u>	<u>Insert Pages</u>
<u>Chapter 5 – Non-Financial Eligibility</u> (residency – visitor visas)	500-8a – 500-8b 500-8o -- 500-8p	500-8a – 500-8b 500-8o, 500-8o-1, 500-8p

COMMENTS

Currently, Manual Chapter 5 includes policy regarding the requirements for illegal and ineligible aliens to receive coverage of emergency medical services (coverage group X02). One of these requirements is State residency. This Manual Release presents new policy about aliens who entered the U.S. on a visa and their status as a state resident. **The new policy is applicable to all applications received on or after March 1, 2004, as well as any applications pending as of that date.**

Previously, any person who entered the U.S. on a visa, whose date of departure had not yet passed, was considered a legal alien who could express the intent to remain in Maryland permanently or for an indefinite period. If the person expressed this intent, he or she could be considered a resident of Maryland.

New policy, effective March 1, 2004, considers the individual's intent expressed to INS to supersede any intent stated in relation to the receipt of medical services or application for Medical Assistance. A person who enters the U.S. on a visa, regardless of the purpose of the travel, has agreed to leave the U.S. by a specified departure date, and thus may not declare an intent to remain beyond that specific period. Since the person is here for a specified period, or temporarily, the person may not be considered a resident.

The revised policy does not impact those individuals exempted from the residency rule (e.g., migrant workers and their families), nor does it affect illegal aliens, including those who entered with a visa but who failed to leave the country by their specified departure date. The new policy does include an exception for certain persons who have applied for permanent residency.

This residency policy is applicable to aliens requesting coverage of any kind of emergency medical services, including labor and delivery. Do not submit medical records for evaluation of the emergency nature of services if the applicant does not meet state residency requirements.

- Members of foreign press, radio, film or other information media and their families.

Illegal Aliens

An illegal alien is any person not lawfully admitted for permanent residence in the U.S. These aliens either were never legally admitted to the United States for any period of time, or were admitted for a limited period of time and did not leave the United States when the period of time expired. This group includes persons residing in the U.S. illegally regardless of the means by which the alien arrived (e.g., border crossing by boat, train, car, bus, airplane or by foot).

2. X-Track - Coverage of Certain Aliens for State-Only Medical Assistance or for Only Emergency Medical Services

Certain “non-qualified” aliens who are not eligible for full Medical Assistance benefits in a federal category may be covered for full benefits in the State-only medical care coverage group of X01 or for only emergency medical services in the federal category of X02.

Children and Pregnant Women – Aliens (X01)

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 contained certain provisions restricting the eligibility of certain legal aliens for the federal MA Program. Covered for full MA benefits as State-only are children and pregnant women who arrived in the United States on or after August 22, 1996, meet the definition of “qualified alien”, but fail the citizenship requirements for federal coverage. They are eligible for State-only MA if the

alien is:

- (1) Younger than 18 years old;
- (2) A full-time student and reasonably expected to complete a program of secondary education or the equivalent level of vocational or technical training before the end of the calendar year in which the child turns 19 years old; or
- (3) Pregnant.

Emergency Medical Services for Illegal or Ineligible Aliens (X02)

A “non-qualified” alien, who fails to meet the citizenship requirements for full benefits under federal MA and who is not a child or pregnant woman eligible for X01, may be eligible for federal coverage of treatment of an emergency medical condition only. The illegal or otherwise non-qualified alien must meet all the financial and non-financial requirements of MA eligibility as defined in COMAR 10.09.24 and Chapters 5 and 9 of this Manual, except the technical requirements related to citizenship and a Social Security number (SSN). Note that the non-financial eligibility requirements for X02 do include Maryland residency. Please refer to the section titled “(7) Visitor Visas, State Residency, and Emergency Medical Services” under Part B. Residency of this chapter.

Explanation of Emergency Medical Services

A “non-qualified” alien may be covered under X02 if the alien has, after sudden onset, an emergency medical condition (including labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- Placing the patient’s health in serious jeopardy;
- Serious impairment to bodily functions; or
- Serious dysfunction of any bodily organ or part.

Maryland Medicaid considers emergency services as those services rendered in a hospital from the moment the individual presents with an emergency condition, to the time the person’s condition is stabilized. The definition of emergency medical services includes labor and delivery services, but not routine prenatal or post-partum services. Emergency medical services include dialysis and related services for aliens with End Stage Renal Disease (ESRD), services for individuals with AIDS, and some cancer treatments.

Medicaid does not cover any medical services to treat and/or evaluate a condition for an individual who is an illegal/ineligible

- (i) His parents or his legal guardian (if one has been appointed) reside; or
 - (ii) The parent applying for Medical Assistance on his behalf resides (if the parents reside in separate states and there is no appointed legal guardian).
- (f) Any other person who is 21 years old or older is a resident of the state in which he is living with the intention to remain permanently or for an indefinite period.

(7) Visitor Visas, State Residency, and Emergency Medical Services

State residency is a condition of eligibility for all coverage groups, including ineligible aliens who apply for coverage of emergency medical services (coverage group X02). COMAR 10.09.24.05B(2) specifies that a person who enters the State of Maryland for a temporary purpose cannot be considered a resident of Maryland, regardless of the original purpose for coming to Maryland or the reason for remaining. The only exception to this state residency rule is a person who entered the state with a job commitment or seeking employment, including a migrant worker.

Visitor Visa - Emergency Medical Services Prior to Departure Date

An individual is considered to be in Maryland for a temporary purpose and, therefore, cannot be considered a Maryland resident who enters the United States on a visitor's visa and whose date of departure has not yet passed. This remains true regardless of how long the individual has been in Maryland, and regardless of whether or not the person has established an address. Even if the person declares the intent to remain in Maryland indefinitely or permanently, the intent expressed to INS by the application for the visitor's visa and departure date supersedes any declaration made in conjunction with the Medical Assistance application. Since such a person is not considered a Maryland resident, he or she is ineligible for any category of Medical Assistance, including coverage of emergency medical services.

An exception to this rule is the person who enters the United States on a visitor's visa, has requested permanent residency from INS (and has not been denied that request), and expresses intent to remain in Maryland. Such a person may be considered for eligibility for emergency medical services. This is because the intent to remain is now consistent with the intention expressed to INS. This exception does not apply to visitors who have simply requested an extension of their departure date.

Visitor Visa - Emergency Medical Services after Departure Date

An individual is considered an illegal alien who enters the United States on a visitor's visa, whose departure date has passed, and who has not requested an extension of their departure date or change of immigration status. If the individual is in illegal status as of the date the emergency medical services are received, and if the individual states the intent to remain in Maryland, this person may be considered for eligibility for coverage of the emergency medical services.

hopes to apply for permanent residency and obtain employment in Maryland after he graduates. Because Mr. C. was in the country as a visitor at the time the emergency medical service was rendered, he cannot be considered a Maryland resident, and is ineligible for coverage of the emergency medical services.

Example D.

Ms. D. entered the United States on a Visitor's Visa and had a departure date two months after arrival. She stayed with family in Baltimore, and failed to leave the country by her designated departure date. One week after the designated departure date, Ms. D. arrived at a hospital emergency room complaining of pain and fever. She was diagnosed with cancer and received surgery to remove several tumors.

While in the hospital, Ms. D. applied for coverage of her emergency medical services. Since her departure date had passed, she is an illegal alien. She stated that she plans to remain in Maryland indefinitely. Because Ms. D. is no longer considered a visitor, she may state her intent to remain and establish Maryland residency. If all other factors of eligibility are met, Ms. D. may receive coverage of her emergency medical services.

C. Age.

1. In order to be eligible as an aged person, a person shall be at least 65 years old.
2. For determining a person's age, July 1 shall be used as an arbitrary birthdate if the year, but not the month, of birth is known.
3. An age is reached on the day of the anniversary of birth.
4. The regulations applying to aged, blind, or disabled persons may not be applied to a non-blind or non-disabled person for any month prior to the first month that the person may be considered aged as determined by this standard.
5. The local department of social services shall accept the Social Security Administration's determination of age 65 for a person receiving a Social Security benefit based on age 65.

D. Blindness.

1. In order to be eligible as a blind person, a person shall meet the definition of blindness at Regulation .02B of COMAR 10.09.24.
2. Procedure for Determination of Blindness.
 - a) The person shall be examined by an ophthalmologist or a licensed optometrist, unless both of the person's eyes are missing.
 - b) The ophthalmologist or licensed optometrist shall submit a report of the examination to the local department of social services.

NOTE: It is important that the eligibility worker evaluate the visitor's status as of the date the emergency medical services were rendered. Should the visitor status change, the departure date pass, or a request for permanent residency be filed after emergency medical services were rendered, this does not change the fact that the person was ineligible on the date of service.

Example A.

Mr. A. entered the United States on a Visitor's Visa. His departure date is six months after arrival. Mr. A. stays at a relative's home in Baltimore. Within days of arrival, Mr. A. was taken to the hospital due to severe chest pains. He was admitted and emergency surgery was performed to treat several blocked arteries and repair another heart defect. Upon release, Mr. A. recuperated at his relative's home.

While in the hospital, an application for coverage of the emergency medical service was filed with the hospital Medical Assistance worker. Mr. A. stated to the worker that he intends to stay in Baltimore indefinitely, and he has no intention of returning to his country. In spite of Mr. A.'s statement to the worker, the fact that he has a Visitor's Visa with a valid departure date precludes his intention to remain in Maryland. Therefore, he does not meet the state residency requirement and is ineligible for coverage of the emergency medical services.

Example B.

Ms. B. entered the United States on a Visitor's Visa. Her departure date is two months after arrival. Ms. B. was pregnant, and the baby was due two weeks after her departure date. Ms. B. stays with her sister in Prince George's County. One month after her arrival, Ms. B. went into labor and was taken to a local hospital where she delivered a baby girl.

After delivery, Ms. B. filed an application at the Local Health Department for coverage of the labor and delivery. Even though Ms. B. is living with her sister, her status as a visitor precludes Maryland residency. Therefore, she is ineligible for coverage of the labor and delivery.

Example C.

Mr. C. has been living in Maryland for 3 years. He entered the United States on a Visitor's Visa, and has had his departure date extended several times. His current departure date is six months in the future. Mr. C. is a student, rents an apartment with several other students, and has a Maryland driver's license. Mr. C. was severely injured in an auto accident and was taken to a shock trauma unit where he was admitted to the hospital, and remained for one week.

While Mr. C was in the hospital, an application for coverage of the emergency medical services was filed with the hospital Medical Assistance worker. Mr. C. stated that he