

## OTHER ELIGIBILITY REQUIREMENTS CITIZENSHIP AND IMMIGRATION STATUS

### PRUCOL

**Description:** The United States Citizenship and Immigration Services (USCIS) (formerly the Immigration and Naturalization Services [INS]), or Immigration and Customs Enforcement (ICE), under the umbrella of the Department of Homeland Security (DHS), and/or the Executive Office for Immigration Review (EOIR), under the Department of State, are collectively referred to in this document as “the federal immigration agency” or “agency”.

PRUCOL is an acronym for persons Permanently Residing Under Color Of Law. The federal immigration agency does not determine whether an alien is PRUCOL and does not grant PRUCOL status. This is because PRUCOL is not a federal immigration status. Rather, PRUCOL is a public benefits eligibility status. Immigrants who are PRUCOL for Medicaid eligibility purposes and who may be eligible for Medicaid are any immigrants who are permanently residing in the United States with the knowledge and permission or acquiescence of the federal immigration agency and whose departure from the United States the federal immigration agency does not contemplate enforcing.

An immigrant will be considered as one whose departure the agency does not contemplate enforcing if:

- a. Based on all the facts and circumstances in that particular case, it appears that the federal immigration agency is otherwise permitting the immigrant to reside in the United States indefinitely; or
- b. It is the policy or practice of the federal immigration agency not to enforce the departure of immigrants in a particular category.

**Policy:** The Medicaid eligibility worker must determine whether the alien is PRUCOL based upon the documentation that the alien, or the alien’s representative, presents. An alien who establishes that he or she is PRUCOL is eligible for State Medicaid and FHPlus benefits if the alien meets the programs’ financial and other eligibility requirements, regardless of the date the immigrant entered the U.S. (Aliessa v. Novello, 06/01). There is no longer a five-year waiting period.

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Previously, Section 122 of the Social Services Law (SSL) provided an exception for certain PRUCOL immigrants who, on August 4, 1997, were residing in certain residential settings or who were diagnosed with AIDS and receiving Medicaid. Such individuals will continue to be provided Medicaid coverage to the extent they are otherwise eligible. The settings included are:

- Residential health care facilities licensed by the NYS Department of Health;
- Residential facilities licensed, operated or funded by the NYS Office of Mental Health (OMH), including psychiatric centers; residential treatment facilities; family care; community residences; teaching family homes; family based treatment; and residential care centers for adults; and
- Residential facilities licensed, operated or funded by the NYS Office of Mental Retardation and Developmental Disabilities (OMRDD), including: developmental centers and small residential units; intermediate care facilities for the developmentally disabled; family care; community residences; individual residential alternatives; and OMRDD certified schools for the mentally retarded.

**References:**

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| SSL Sect.  | 122<br>131-k   |
| Dept. Reg. | 18 NYCRR §360-3.2(j)(1)(ii)  |
| ADM        | 04 OMM/ADM-7   |
| INFs       | 07 OHIP INF-2<br>08 OHIP INF-4   |
| GISs       | 08 MA/009<br>04 MA/014<br>04 MA/002<br>02 MA/016<br>02 MA/002<br>01 MA/033<br>01 MA/030<br>01 MA/026 |

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**Interpretation:** Some aliens are PRUCOL because the federal immigration agency has granted them a particular immigration status or relief. These aliens are permanently residing in the U.S. with the “knowledge and permission” of the federal agency. Examples include, but are not limited to, aliens paroled (admitted) into the U.S. for less than one year, aliens residing in the U.S. under an order of supervision, aliens granted an indefinite stay of deportation and aliens granted voluntary departure, deferred action or temporary protected status. A more complete list is included in the “Documentation Guide to Citizenship and Immigrant Eligibility for Health Coverage in New York State,” pages 9-10, issued on March 26, 2008, as part of GIS 08 MA/009. Each of these aliens will have a form of documentation, as listed in this desk guide, issued by the federal immigration agency that shows that the agency has granted the alien a particular status or relief.

Other aliens may be PRUCOL because they have applied for or otherwise requested a particular immigration status or relief from removal and are awaiting the federal immigration agency’s decision. The federal agency has received their application or request for relief and has not yet approved or denied the request. Under certain circumstances, and as further explained in this document, these aliens are PRUCOL pending the federal immigration agency’s determination. Until the agency has adjudicated the application or request, these aliens are residing in the U.S. with the “knowledge and acquiescence” of the federal immigration agency.