

ATTACHMENT B

1. GENERAL POLICY PRINCIPLES OF PRUCOL FOR MEDICAID APPLICANTS/RECIPIENTS

Aliens who are PRUCOL for Medicaid eligibility purposes and who may be eligible for Medicaid are any aliens who are residing in the United States with the knowledge and permission of the Immigration and Naturalization Services (INS) and whose departure from the United States the INS does not contemplate enforcing. An alien will be considered as one whose departure the INS does not contemplate enforcing if:

- a. based on all the facts and circumstances in that particular case, it appears that INS is otherwise permitting the alien to reside in the United States indefinitely; or
- b. it is the policy or practice of the INS not to enforce the departure of aliens in a particular category.

When a Medicaid applicant/recipient presents a document which indicates that INS is allowing the individual to remain in the United States indefinitely, or an INS document with an expiration date one year from the date of issuance, local districts may conclude, in the absence of evidence to the contrary, that INS does not contemplate enforcing the departure of the individual. When a Medicaid applicant/recipient presents an expired INS document or an INS document with an expiration date of less than one year from the date of issuance, local districts should not conclude that INS does not contemplate enforcing the departure of the individual, unless there is evidence to the contrary. In the case of aliens who may be PRUCOL under categories e, f, g, h, or k, in addition to the documents required by these categories, the local district must verify with INS or obtain documents from the alien sufficient to show that INS does not contemplate enforcing departure. For aliens who may be PRUCOL under category l, the local district must attempt to verify with the INS that the alien is living in the U.S. with the knowledge of the INS and with the permission or acquiescence of the INS. Medicaid eligibility shall be processed for an otherwise eligible alien, pending the receipt of the INS verification.

NOTE: There are national and locally developed letters which are used in lieu of or in conjunction with other INS forms to identify various alien statuses. It will be necessary to verify the status of the alien if the letter is the only document provided. If there is any question, contact the local INS office for assistance.

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2. CATEGORIES

- a. Aliens paroled into the United States pursuant to section 212(d)(5) of the INA showing status for less one year, except for Cuban/Haitian entrants.
 - (1) Aliens in this category are admitted to the United States for similar reasons as a refugee, i.e., humanitarian. However, this category, unlike refugee status, does not grant legal residence status.
 - (2) Parole status allows the alien temporary status until an INS determination of his/her admissibility has been made, at which time another status may be granted.
 - (3) Aliens in this category will have a Form I-94 indicating that the bearer has been paroled pursuant to section 212(d)(5) of the INA. Possession of a properly annotated Form I-94 constitutes evidence of permanent residence in the U.S. under color of law, regardless of the date the Form I-94 is annotated.

- b. Aliens residing in the United States pursuant to an Order of Supervision.
 - (1) Aliens in this category have been found deportable; however, certain factors exist which make it unlikely that INS would be able to remove the alien. Such factors include age, physical condition, humanitarian concerns, and the availability of a country to accept the deportee.
 - (2) Aliens in this category are required to report to INS periodically; if the factors preventing deportation are eliminated, INS will initiate action to remove the alien.
 - (3) Aliens in this category will have an INS Form I-94 or I-220B.

- c. Deportable aliens residing in the United States pursuant to an indefinite stay of deportation.
 - (1) Aliens in this category have been found to be deportable, but INS may defer deportation indefinitely due to humanitarian reasons.

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- (2) Aliens in this category will have a letter and/or a Form I-94 showing that the alien has been granted an indefinite stay of deportation.
- d. Aliens residing in the United States pursuant to an indefinite voluntary departure. Aliens in this category will have a letter and/or a Form I-94 indicating that the alien has been granted voluntary departure for an indefinite time period.
- e. Aliens on whose behalf an immediate relative petition has been approved and their families covered by the petition, who are entitled to voluntary departure and whose departure INS does not contemplate enforcing.

NOTE: An immediate relative for INS purposes is: husband, wife, father, mother, or child (unmarried and under 21).

- (1) Aliens in this category are the immediate relatives of an American citizen and have had filed on their behalf a Form I-130 petition for issuance of an immigration visa.
- (2) If this petition has been approved, a visa will be prepared, which will allow the alien to remain in the United States permanently.
- (3) Aliens in this category may have a Form I-94 and/or I-210 letter. These documents, or others, indicate that the alien is to depart on a specified date (usually 3 months from date of issue), however, INS expects the alien's visa to be available within this time. If it is not, extensions may be granted until the visa is ready.
- f. Aliens who have filed applications for adjustment of status pursuant to section 245 of the INA that INS has accepted as "properly filed" or has granted and whose departure the INS does not contemplate enforcing.
 - (1) Aliens in this category have filed for lawful permanent resident status.
 - (2) Aliens in this category may have Form I-94 or Form I-181 or their passports will be stamped with either of the following: "adjustment application" or "employment authorized during status as adjustment applicant."

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- g. Aliens granted stays of deportation by court order, statute or regulation, or by individual determination of INS pursuant to section 243 of the INA whose departure INS does not contemplate enforcing.
 - (1) Aliens in this category have been found to be deportable, but INS may defer deportation for a specified period of time due to humanitarian reasons.
 - (2) Aliens in this category will have a letter or a copy of the court order and/or a Form I-94.
- h. Aliens granted voluntary departure pursuant to section 242(b) of the INA whose departure INS does not contemplate enforcing.
 - (1) Aliens in this category are awaiting a visa.
 - (2) Such aliens are provided Forms I-94 and/or I-210 which indicate a departure within 60 days. This may be extended if the visa is not ready within the time allotted.
- i. Aliens granted deferred action status pursuant to INS operating instructions. Aliens in this category will have a Form I-210 or a letter indicating that the alien's departure has been deferred.
- j. Aliens who entered and have continuously resided in the United States since before January 1, 1972. Aliens in this category are presumed by INS to meet certain criteria for lawful permanent residence. Obtain any documentary proof establishing entry and continuous residence.
- k. Aliens granted suspension of deportation pursuant to section 244 of the INA whose departure the INS does not contemplate enforcing.
 - (1) Aliens in this category have been found deportable, have met a period of continuous residence and have filed an application for INS to suspend deportation, which has been granted.
 - (2) Aliens in this category will have a letter/order from an immigration judge and a Form I-94 showing suspension of deportation granted. After lawful permanent residence is granted, the alien will have a Form I-551.

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I. Any other aliens living in the U.S. with the knowledge and permission or acquiescence of the INS and whose departure that agency does not contemplate enforcing.

- (1) Aliens in this category may be in a status not listed above, but based on a determination by INS or documentation supplied by the alien or his or her representative that indicates the alien is present in the U.S. with the knowledge of the INS and with the permission or acquiescence of the INS, local districts may find them to be PRUCOL.
- (2) Examples include, but are not limited to: permanent nonimmigrants, pursuant to P.L. 99-239, applicants for deferred action or voluntary departure status, and aliens granted extended voluntary departure for a specified time due to conditions in their home countries.