

TO: Local District Commissioners, Medicaid Directors

FROM: Judith Arnold, Director
Division of Eligibility and Marketplace Integration

SUBJECT: Continuation of State Funded Medicaid for
Deferred Action for Childhood Arrivals (DACA)

EFFECTIVE DATE: Immediately

CONTACT PERSON: Local District Support Unit
Upstate (518) 474-8887 NYC (212) 417-4500

The purpose of this General Information System (GIS) message is to inform local departments of social services (LDSS) of an update to Medicaid policy regarding Deferred Action for Childhood Arrivals (DACA).

In June 2012, the Department of Homeland Security (DHS) created the DACA program. Under DACA, certain undocumented immigrants who entered the country before their 16th birthday and before June 15, 2007, who applied to the United States Citizen and Immigration Services (USCIS) for deferred action status, **and** met the DHS requirements, were granted DACA status. If granted deferred action status, DACAs are considered lawfully present but do not have lawful status.

For New York State Medicaid purposes, DACA consumers are considered Permanently Residing Under Color of Law (PRUCOL). PRUCOL means that the individual is residing in the United States with the knowledge and permission or the knowledge and acquiescence of the federal immigration agency and the federal immigration agency does not contemplate acting to enforce the individual's departure. Since DACA consumers are considered PRUCOL, they are eligible for state and local funded Medicaid, if otherwise eligible.

On September 5, 2017, DHS announced a plan to phase out the DACA program. Due to litigation and potential for Congressional action, the future of DACA remains uncertain. However, on January 23, 2018, New York State announced that because DACA consumers are considered PRUCOL, and are in the United States with the knowledge and acquiescence of the federal immigration agency, DACA consumers in New York will remain eligible for state and local funded Medicaid.

Individuals who have been granted DACA status are issued an Employment Authorization Document (EAD/form I-766) with a Category Code of C33. The EAD is valid for two years from the date it was issued. DACA consumers also have a Notice of Action (form I-797), indicating that their DACA application to USCIS was approved or is pending approval. Effective immediately, the New York State Medicaid Program will accept EADs coded C33 or I-797 forms as proof of DACA status, even if the date on the EAD or I-797 document has expired.

Please direct any questions to your Local District Support Liaison.