

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS**

PRUCOL

Description: **PRUCOL** is a New York State term regarding “benefit status”, not immigration status. Individuals who are PRUCOL who may be eligible for Medicaid are any individuals who are **permanently residing in the United States with the knowledge and permission or acquiescence** of the United States Citizenship and Immigration Services (USCIS) (formerly the Immigration and Naturalization Services [INS]) or Immigration Customs Enforcement (ICE) or the Executive Office of Immigration Review (EOIR) and whose departure from the United States the federal immigration agency does not contemplate enforcing. An individual will be considered as one whose departure the USCIS 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: Medicaid coverage is available to an otherwise eligible immigrant who is permanently residing in the U.S. under color of law (PRUCOL) regardless of the date the immigrant entered the U.S. (*Aliessa v. Novello, 06/01*). ***There is no five-year waiting period.***

Previously, Section 122 of the 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;

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- 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:	SSL Sect.	122 131-k
	Dept. Reg.	360-3.2(j) (1)
	ADMs	04 ADM-7
	GIS	04 MA/014 04 MA/002 02 MA/016 02 MA/002 01 MA/033 01 MA/030 01 MA/026

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Interpretation: When a Medicaid applicant/recipient presents a document which indicates that USCIS is allowing the individual to remain in the United States indefinitely, local districts may conclude, in the absence of evidence to the contrary, that the federal immigration agency does not contemplate the departure of the individual. There is no set time limit for a determination regarding when someone gains PRUCOL status; these determinations are made on a case by case basis. In the case of individuals 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 USCIS or obtain documents from the immigrant sufficient to show that the federal immigration agency does not contemplate enforcing departure. For immigrants who may be PRUCOL under category "I", the local district must attempt to verify with the USCIS that the individual is living in the U.S. with the **knowledge** of the USCIS and with the **permission or acquiescence** of the federal immigration agency. Medicaid eligibility shall be processed for an otherwise eligible individual, pending the receipt of the federal immigration agency verification.

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

Verification: **PRUCOL CATEGORIES**

- a. Immigrants **paroled** into the United States pursuant to Section 212 (d)(5) of the INA showing status for less than one year, except Cuban/Haitian entrants.
 - 1) Immigrants in this category are admitted to the United States for similar reasons as a refugee, i.e. humanitarian. However, this category, unlike refugee, does not grant legal residence status.

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- 2) Parole status allows the immigrant temporary status until USCIS determination of his/her admissibility has been made, at which time another status may be granted.
- Immigrants 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. Immigrants residing in the United States pursuant to Order of **Supervision**.
- (1) Immigrants in this category have been found deportable; however, certain factors exist which make it unlikely that the federal immigration agency would be able to remove the immigrant. Such factors include age, physical condition, humanitarian concerns, and the availability of a country to accept the deportee.
 - (2) Immigrants in this category are required to report to USCIS periodically; if the factors preventing deportation are eliminated, the federal immigration agency will initiate action to remove the immigrant.
 - Immigrants in this category will have USCIS Form I-94 or I-122B.
- c. Deportable immigrants residing in the United States pursuant to an **indefinite stay of Deportation**.
- (1) Immigrants in this category have been found to be deportable, but USCIS may defer deportation indefinitely due to humanitarian reasons.
 - Immigrants in this category will have a letter and/or a Form I-94 showing that the immigrant has been granted an indefinite stay of deportation.

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- d. Immigrants residing in the United States pursuant to an **indefinite voluntary departure**.
- Immigrants in this category will have a letter and/or Form I-94 indicating that the immigrant has been granted voluntary departure for an indefinite time period.
- e. Immigrants on whose behalf an immediate relative petition has been approved and their families covered by the petition (I-130), who are entitled to voluntary departure and whose departure the federal immigration agency does not contemplate enforcing.

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

- Immigrants 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.
 - If this petition has been approved, a visa will be prepared, which will allow the alien to remain in the United States permanently.
 - Immigrants in this category may have a Form I-94 and/or I-210 letter. These documents, or others, indicate that the immigrant is to depart on a specified date (usually 3 months from date of issue); however, USCIS expects the immigrant's visa to be available within this time. If it is not, extensions may be granted until the visa is ready.
- f. Immigrants who have filed applications for **adjustment of status** pursuant to section 245 of the INA that USCIS has accepted as "properly filed" or has granted and whose departure the USCIS does not contemplate enforcing.
Immigrants in this category have filed for lawful permanent resident status.
- Immigrants 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. Immigrants granted stays of deportation by court order, statute or regulation, or by individual determination of USCIS pursuant to section 243 of the INA whose departure USCIS does not contemplate enforcing.

Immigrants in this category have been found to be deportable, but USCIS may defer deportation for a specified period of time due to humanitarian reasons.

- Immigrants in this category will have a letter or copy of the Court order and/or a Form I-94.
- h. Immigrants granted voluntary departure pursuant to section 242(b) of the INA whose departure INS does not contemplate enforcing. Immigrants in this category are awaiting a visa. Such immigrants are provided Forms I-94 and/or Form I-210 which indicate a departure within 60 days. This may be extended if the visa is not ready within the time allotted.
- i. Immigrants granted **deferred action status** pursuant to federal immigration policy operating instructions.
- Immigrants in this category will have a Form I-210 or a letter indicating that the immigrant's departure has been deferred.
- j. Immigrants who entered and have **continuously resided in the United States** since before January 1, 1972.
- Immigrants in this category are presumed by USCIS to meet certain criteria for lawful permanent residence.
 - Obtain any documentary proof establishing entry and continuous residence.
- k. Immigrants granted **suspension of deportation** pursuant to section 244 of the INA whose departure the USCIS does not contemplate enforcing. Immigrants in this category have been found deportable, have met a period of continuous residence and have filed an application for USCIS to Suspend deportation, which has been granted.
- Immigrants 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 immigrant will have a Form I-551.

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- I. Any other immigrant living in the U.S. with the knowledge and permission or acquiescence of the USCIS and whose departure that agency does not contemplate enforcing.
 - (1) Immigrants in this category may be in a status not listed above, but based on a determination by USCIS or documentation supplied by the immigrant or his or her representative that indicates the immigrant is present in the U.S. with the **knowledge of the USCIS and with the permission or acquiescence of the USCIS**, local districts may find them to be PRUCOL.
 - Examples include, but are not limited to: Permanent non-immigrants, pursuant to P.L. 99-239 (applicable to citizens of the Federated States Micronesia and Marshall Islands); Applicants for adjustment of status, asylum, suspension of deportation or cancellation of removal or for deferred action, or Deferred Enforced, Departure (DED) due to conditions in their home country; Persons granted Temporary Protected Status; and Persons having a “K”, “V”, “S” or “U” visa.