

## OTHER ELIGIBILITY REQUIREMENTS CITIZENSHIP AND IMMIGRATION STATUS

### UNDOCUMENTED/ILLEGAL ALIENS

**Description:** An individual is here illegally or is undocumented if s/he entered the United States in a manner or in a place so as to avoid inspection, or was admitted on a temporary basis (certain non-immigrants) and the period of authorized stay has expired.

**Policy:** Medicaid shall be provided for the care and services necessary for the treatment of emergency medical conditions to otherwise eligible illegal or undocumented individuals.

**References:**

|            |   |
|------------|---|
| SSL Sect   | 122<br>131-k  |
| Dept. Reg. | 360.3.2(j)  |
| ADMs       | 04 ADM-7<br>92 ADM-10<br>88 ADM-47<br>88ADM-22<br>88 ADM-4<br>88ADM-1 |
| GIS        | 07 MA 017   |

**Interpretation:** If otherwise eligible, an A/R cannot be denied Medicaid coverage for treatment of an emergency medical condition because of his/her immigration status.

The term emergency medical condition is defined as: “a medical condition (including emergency 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:

- (a) placing the person’s health in serious jeopardy;
- (b) serious impairment to bodily functions; or
- (c) serious dysfunction of any bodily organ or part.”

Care and services related to an organ transplant procedure are not included in this definition.

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Medicaid is available for emergency services provided to undocumented/illegal or certain non-immigrants from the time that the individual is first given treatment for an emergency medical condition until such time as the medical condition requiring emergency care is no longer an emergency. If an eligible individual receives treatment for an emergency medical condition and continues to receive care after the emergency ceases, Medicaid coverage for such care is not available.

**NOTE:** Until formally notified to do otherwise, chemotherapy and radiation are to be considered as emergency medical services.

Thus, certain types of care provided to chronically ill persons are beyond the intent of the federal and implementing state law and are not considered “emergency services”. Such care includes:

- alternate level of care in a hospital;
- nursing facility services; home care (including private duty nursing); and
- personal care.

Additionally, non-emergent transportation does not fall under the definition of an emergency medical condition.

**NOTE:** A woman with a medically verified pregnancy is not required to document citizenship or immigration status for the duration of her pregnancy, through the last day of the month in which the 60-day postpartum period ends.

#### **Verification:**

The decision as to whether or not the medical treatment is for an emergency medical condition must, in all cases be made by a physician. The form DSS 3955 (Upstate) or MAP-2151 (NYC) “Certification of Treatment of Emergency Medical Condition”, must be completed by the attending physician.

The local district maintains this certification form in the applicant’s case record. The local district notifies the provider of the acceptance/denial of the application, and furnishes the provider with the individual’s CIN number when appropriate.