

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS
QUALIFIED IMMIGRANTS**

BATTERED IMMIGRANTS

Description: An immigrant who, or whose child or parent, has been **battered or subjected to extreme cruelty** in the United States by a U.S. citizen or lawful permanent resident spouse or parent can be considered a qualified immigrant. An immigrant whose child has been abused by the child's U.S. citizen or lawful permanent resident other parent is similarly eligible as are immigrant children whose parent has been abused by the parent's U.S. citizen or lawful permanent resident spouse residing in the same household as the immigrant can be considered a qualified immigrant when it is determined that there is substantial connection between the battery or cruelty and the need for benefits.

Policy: Battered immigrants are considered **qualified immigrants** and are said to be in satisfactory immigration status.

References:

SSL	Sect.	122 131-k
Dept Reg.		349.3 351.1 351.2 360-3.2(j)
ADMs		04 ADM-7 97 ADM-23 92 ADM-10 88 ADM-47 88 ADM-22 88 ADM-24
INFs		06 OMM-INF-5

Interpretation: Battery or extreme cruelty is defined as including but not limited to: being a victim of any act or threatened act of violence, including forceful detention, which results or threatens to result in physical or mental injury or psychological or sexual abuse or exploitation, including rape, molestation, incest, or forced prostitution.

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Immigrant victims of abuse can be treated as a “qualified immigrants” for Medical Assistance benefit purposes if they meet the following four requirements:

1. Be a **credible victim** of battery or extreme cruelty, who or who’s child or parent has been battered, abused or subject to extreme cruelty in the U.S., by a spouse or a parent, or by a member of the spouse’s or parent’s family residing in the same household; and
2. Be able to show a **substantial connection** between the need for benefits sought and the battery or extreme cruelty; and
3. **No longer resides** in the same household as the abuser, and
4. Have an **appropriate immigration status** including a pending or approved I-130 petition for a alien relative (K or V visa Status), a pending or approved I-360 self petition, or Notice of Prima Facie Case determination (I-797 Notice of Action), or an Executive Office for Immigration Review (EOIR) order/letter granting suspension or cancellation under 8 U.S.C 1229b(b)(2) and 8 U.S.C. 1254(a)(3) or evidence that an application for suspension of deportation/cancellation of removal has been made with evidence that sets forth a prima facie case.

EVIDENCE OF ABUSE:

An applicant who has an approved petition or court order granting her protection from her abuser has already shown battery or extreme cruelty and a new determination should not be made by the eligibility worker. Other **evidence of abuse** that immigrant women may present includes, but is not limited to: reports or affidavits from police, judges, court officials, medical personnel, school officials, clergy, social workers; counseling or mental health personnel; proof of a domestic violence conviction, and proof of seeking safe-haven in a battered woman’s shelter.

SUBSTANTIAL CONNECTION:

There must be a **substantial connection** between the battery or extreme cruelty to which the immigrant, immigrant’s child, or immigrant child’s parent has been subjected to and the need for the Medical Assistance. The following list demonstrates circumstances in which a substantial connection exists between the battery and the need for Medical Assistance benefits:

- where the benefits are needed to enable the immigrant, immigrant’s child, or an immigrant child’s parent to become self-sufficient following separation from the abuser;

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- where the benefits are needed to enable the immigrant, immigrant's child, or an immigrant child's parent to escape the abuser and/or the community in which the abuser lives and ensure safety;
- where the benefits are needed due to a loss of financial support resulting from the immigrant's separation from the abuser;
- where the benefits are needed because the battery or cruelty, separation from the abuser, work absences, or lower job performance resulting from the abuse or court-related proceeding cause the immigrant, the immigrant's child, or immigrant child's parent to leave or lose employment;
- where the benefits are needed because the abuse or extreme cruelty has caused the immigrant, the immigrant's child, or immigrant child's parent to require medical attention/counseling or become disabled;
- where the benefits are needed because of the loss of a dwelling or source of income or because fear of the abuse after separation diminishes the immigrant's, or immigrant child's parent's ability to care for the children;
- where the benefits are needed to alleviate nutritional risks and needs following abuse and/or after separation;
- where the benefits are needed to provide medical care during pregnancy resulting from sexual assault or the relationship with the abuser;
- and where medical coverage or health care services for the immigrant, the immigrant's child, or immigrant child's parent are needed to replace the services provided while living with the abuser.

NON-RESIDENCY WITH THE BATTERER:

The following examples will serve as **credible evidence** to support the claim of non-residency with the batterer and include, but are not limited to:

- a civil protection order requiring the batterer to stay away from the battered immigrant, immigrant child, or immigrant child's parent;

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- an eviction notice removing the batterer from the immigrant's residence;
- employment records;
- utility receipts;
- school records;
- hospital or medical bills;
- rental records from a building or property manager;
- affidavit from a staff member at a battered women's or homeless shelter
- affidavits from witnesses, including landlords and neighbors; and
- any other records establishing that the immigrant, immigrant's child, or immigrant child's parent no longer resides with the abusive spouse.

NOTE: Districts should be cautioned that they should not contact the abuser for any verification or documentation of living arrangements or other factors of eligibility.

Information with respect to victims of domestic violence must not be released to any outside party or other governmental agencies unless the information is required to be disclosed by law, or unless authorized in writing by applicant/recipient. Districts need to be concerned about how information is shared (i.e., insure that information pertaining to **good cause** or domestic violence is mailed to the victims' homes). Notices and other information may be mailed to an alternate mailing address (i.e., shelter) or held at district office. The client must decide the safest way to obtain the information.

VERIFICATION OF IMMIGRATION STATUS:

Battered Immigrants are "Qualified Immigrants" and may receive Medical Assistance benefits if **all** of the following criteria are met, including financial requirements: A battered qualified alien is:

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- an alien who has been battered or subjected to extreme cruelty (“abused”) in the U.S. by a spouse or parent or by a member of the spouse’s or parent’s family residing in the same household as the alien; **or**
- the parent of a battered or abused child; **or**
- the child of a battered or abused parent.

NOTE: Referral to domestic violence liaison (DVL): Medicaid-only offices must refer alien applicants and recipients who must demonstrate that they are credible victims of domestic violence to be considered qualified for Medical Assistance as “battered aliens” to the DVL for a credibility assessment. Those applicants and recipients who cannot document that the United States Citizenship and Immigration Services (USCIS) or immigration court has determined the immigrant has in fact been subject to battery or extreme cruelty will need to see the district’s DVL for a credibility determination. If districts are unable to verify that an acceptable immigration document has been filed with USCIS, districts can accept the alien’s written attestation and then refer the alien to an immigration attorney or legal services for assistance. The DVL does not have the authority to determine eligibility for assistance.

Battered or abused aliens will typically possess one or more of the following documents:

- I-797 Notice of Action indicating that the alien has an approved I-360 self-petition Form I-360 is entitled “Petition for American, Widow(er) or Special Alien,” **or**
- I-797 Notice of Action indicating that the alien has an approved I-360 self-petition under the Violence Against Women Act (VAWA) to obtain lawful permanent resident status as the battered or abused spouse or child of a U.S. citizen or lawful permanent resident [Do not refer to the domestic violence liaison (DVL)]; **or**
- I-797 Notice of Action indicating that the alien has a pending I-360 self-petition under VAWA that has established the alien’s prima facie eligibility for obtaining lawful permanent resident status as the battered or abused spouse or child of a U.S. citizen or lawful permanent resident (Do not refer to the DVL); **or**

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- under the Violence Against Women Act (VAWA) to obtain lawful permanent resident status as the battered or abused spouse or child of a U.S. citizen or lawful permanent resident [Do not refer to the domestic violence liaison (DVL)]; **or**
- I-797 Notice of Action indicating that the alien has a pending I-360 self-petition under VAWA that has established the alien's prima facie eligibility for obtaining lawful permanent resident status as the battered or abused spouse or child of a U.S. citizen or lawful permanent resident (Do not refer to the DVL) **or**
- Order from the Executive Office for Immigration Review ("EOIR order") granting, or finding a prima facie case for granting, suspension of deportation or cancellation of removal based on battery or abuse by a U.S. citizen or lawful permanent resident spouse or parent (Do not refer to the DVL); **or**
- I-797 Notice of Action indicating that the alien has a pending I-360 self-petition under VAWA to establish lawful permanent resident status as the battered or abused spouse or child of a U.S. citizen or lawful permanent resident **and** credible evidence of battery or abuse (Request alien's permission to refer to the DVL); **or**
- I-797 Notice of Action indicating that the alien is the beneficiary of a pending or approved I-130 Petition for Alien Relative as the battered or abused spouse or child of a U.S. citizen or lawful permanent resident **and** credible evidence of battery or abuse (Request alien's permission to refer to the DVL.); **or**
- I-94 Arrival/Departure Record stamped "K3," "K4," "V1," "V2" or "V3 **and** credible evidence of battery or abuse (Request alien's permission to refer to the DVL); **or**
- Any other USCIS document indicating that the alien has a "K" or "V" visa and a pending or approved I-130 Petition for Alien Relative **and** credible evidence of battery or abuse (Request alien's permission to refer to the DVL.); **or**
- I-94 Arrival/Departure Record or foreign passport stamped "CR-1," "CR-2," "CR-6," or "CR-7" **and** credible evidence of battery or abuse (Request alien's permission to refer to the DVL); **or**
- I-688B Employment Authorization Card coded "274a.12(a)(9)," "274a.12(a)(15)" or "274a.12(c)(10)" **and** credible evidence of battery or abuse (Request alien's permission to refer to the DVL); **or**
- I-766 Employment Authorization Document coded "A9," "A15" or "C10" **and** credible evidence of battery or abuse (Request alien's permission to refer to the DVL).

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Districts must determine if the USCIS or the EOIR has approved an applicant's I-360 self-petition or has found that an applicant's pending petition set-forth a prima facie case by reviewing the applicant's documents.

- The worker must carefully examine the documents provided by the immigrant applicant.
- If based on the documentation provided to show citizenship, immigration, or qualified immigrant status the worker can conclude that the applicant is not a "qualified immigrant" (i.e. the applicant presents documents such as a tourist visa or other documents that do not make them eligible for Medical Assistance), the worker does not need to verify the applicant's status.
- If the documentation provided does not appear on its face to be genuine or does not appear to relate to the person presenting it, this should not serve as a basis to conclusively deny benefits without first checking with the USCIS. (Through SAVE or by filing a G-845 "Verification Request" [non-SAVE agencies] with USCIS. Refer to 04 ADM-7).
- If the USCIS notifies the applicant that they have an immigration status that makes him/her a qualified immigrant the eligibility worker should accept the USCIS verification and proceed to determine whether the applicant satisfies the remaining program requirements. If the USCIS notifies the applicant that she/he does not have immigration status that makes him/her a qualified alien, the worker should notify the applicant of her appeal rights.

If the applicant is a battered immigrant and the documentation provided does not appear on its face to be genuine or does not appear to relate to the person presenting it, the worker should contact the Immigration Court that is handling the case or the USCIS Vermont Service Center via fax.

THE FIVE YEAR BAN TO BENEFITS ACCESS:

Battered immigrants who first entered the United States after 8/22/96 and become "qualified immigrants" are not eligible to receive federal Medical Assistance benefits until they have **attained five years in a qualified alien status**. This is called the federal "five year bar." This bar applies to all immigrants who entered the United States after 8/22/96.

New York State covers "battered" qualified immigrants with State only funds until the five-year ban expires.

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SOCIAL SECURITY NUMBERS FOR BATTERED ALIENS:

The Social Security Administration (SSA) does not routinely assign new SSNs. However, SSA will do so when evidence shows the immigrant is being harassed, a victim of family violence, abused or their life is endangered.

A battered immigrant may initially meet the eligibility requirement in 18 NYCRR 369.2(b)(i) to furnish or apply for a SSN by applying, providing proof of denial, or that they were turned down. If the SSA denies the battered immigrant's SSN application because of his/her immigration status, the battered individual remains eligible for Medicaid benefits because the inability of the immigrant to obtain a SSN is through no fault of his/her own and remains a qualified immigrant. New York State provides Medical Assistance coverage to such individuals under PRUCOL status (SEE **OTHER ELIGIBILITY REQUIREMENTS PRUCOL**).

In these situations districts are to use WMS Social Security Code N, "State Benefits Eligible Alien".

ALIEN NUMBER (A#) REQUIREMENT FOR BATTERED IMMIGRANTS:

Providing an alien registration number is **no longer** an eligibility requirement for Public Assistance, Medical Assistance or Food Stamp Assistance for battered aliens (ACI Code "B"). This change is a result of MKB litigation.

Although not required, if an alien number is presented by the applicant/recipient, the alien number should be entered.

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ACTIVE DUTY AND VETERANS**

Description: Qualified immigrants who are on active military duty or who are veterans are eligible for Medical Assistance, if they are otherwise eligible.

Policy: Medicaid may be authorized for a qualified immigrant who is on active duty or who is a veteran of the U.S. Armed Forces, provided that s/he is otherwise eligible.

References: Balanced Budget Act of 1997

SSL Sect. 122

Dept Reg. 349.3
351.1
351.2
360-3.2(j)

ADMs 04 ADM-7

INF 06 INF-5

Interpretation: **Active Military Duty**-The immigrant must be on full-time duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard. Active Duty for training and full time National Guard duty are not included in this interpretation.

Medicaid is also provided to the immigrant's qualified immigrant spouse and unmarried dependent children who are qualified immigrants.

Veterans-The veteran's discharge must have been characterized as "honorable", and not because of his or her immigration status. Medicaid is also provided to the veteran's qualified immigrant's spouse, including his or her un-married surviving spouse if the veteran is deceased, and any unmarried dependent children of the veteran who are qualified immigrants.

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**U.S. ARMED FORCES
ACTIVE DUTY AND VETERANS**

NOTE: The balanced Budget Act of 1997 provided that Hmong and other Highland Lao veterans who fought on behalf of the Armed Forces of the United States during the Vietnam conflict and have been lawfully admitted to the United States for permanent residence are to be considered veterans for the purpose of this provision.

Documentation: U.S. ARMED FORCES-ACTIVE DUTY AND VETERANS

Category 2: Qualified Immigrants Continued

Category	Documentation	<u>WMS</u> <u>ACI</u> <u>Code</u>	<u>Federal</u> <u>Financial</u> <u>Participation</u>	<u>SSN</u> <u>Requirement</u>
<p>Veterans (Immediate family members: documentation of relationship to veteran or person on active duty)</p>	<p>▶ DD Form 214 showing "Honorable" discharge; or ▶ Original or notarized copy of the veteran's discharge papers.</p>	V	YES	YES
<p>Persons on active duty in the Armed Forces and their immediate family members (Immediate family members: documentation of relationship to veteran or person on active duty)</p>	<p>▶ Original or notarized copy of current orders showing the person is on full-time duty in U.S. Armed forces; ▶ Military I.D. card - DD Form 2 (active);</p>	M	YES	YES

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VICTIMS OF TRAFFICKING

Description: The federally eligible immigration category—"victims of a severe form of trafficking." Section 107(b) of The Trafficking Victims Protection Act of 2000 (P.L. 106-386) makes victims of "a severe form of trafficking in persons" eligible for Medicaid and other benefits (if otherwise eligible) to the same extent as an alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act (INA).

Policy: Victims of "a severe form of trafficking in persons" (VOTs) are eligible for Medicaid and other benefits (if otherwise eligible) to the same extent as an alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act. Individuals with letters of certification or eligibility as victims of severe forms of trafficking are eligible for medical assistance. They retain this eligibility for seven years from the date of certification contained in the letter.

References:	The Trafficking Victims Protection Act of 2000	Sect.	107(B)
		P.L.	106-386
	The Trafficking Victims Reauthorization Protection Act of 2003	P.L.	108-193
	Dept. Regs.		360.3.2 (j)
	ADMs		04-ADM-7 03-ADM-1(OTDA)
	GIS		02 MA/022

Interpretation: A "victim of a severe form of trafficking in persons" means a person:

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- 1) Who has been subjected to a “severe form of trafficking in persons,” which is defined as “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery”; and
- 2) Who has not attained the age of 18 years or who is the subject of a certification issued by the federal government pursuant to Section 107(b)(1)(E) of the Act.

For individuals who meet the above criteria, the Office of Refugee Resettlement (ORR) will issue the **certification letters for adults and the eligibility letters for children**. To receive a certification or a letter, a victim of trafficking must be willing to assist with the investigation and prosecution of trafficking cases AND either:

- (1) Have made a bona fide application for a “T” visa that has not been denied. **OR**
- (2) Be an individual whose continued presence the Attorney General is ensuring to effectuate a Trafficking prosecution.

When a victim of trafficking applies for Medicaid, local districts must follow their normal procedures for establishing Medicaid eligibility for refugees. Local districts must also:

1. Accept the certification letter or letter for children in place of USCIS documentation. **Please note, as of November 6, 2001, certification letters for adults and eligibility letters for children no longer contain an eight-month expiration date.** Victims of severe forms of trafficking do not need to provide any other documentation of their immigration status. If the local district has any questions regarding the validity of the documentation, they may call the trafficking verification line at (202) 401-5510.

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2. Use the certification date as the “Date of Entry” for Medicaid purposes. The certification date is in the body of the certification letter or the eligibility letter for children.
3. Issue benefits to the same extent as other refugees, provided the victim of a severe form of trafficking meets other program eligibility criteria (e.g., income levels).
4. Upstate WMS: Districts should use citizenship/alien code (ACI) “D”-Victim of Human Trafficking.

New York City WMS: Workers should use ACI code “R”-Person Admitted as a Refugee” for Victim of Human Trafficking.

For purposes of Medicaid/Family Health Plus and/or Child Health Plus, eligibility, victims of a severe form of trafficking, (holders of a T-visa/T-1, and holders of T-2, T-3, T-4 and T-5 [“Derivative T-visas”]) who are the minor children, spouses and in some cases the parents and siblings of victims of severe forms of trafficking in persons, may receive Medicaid benefits to the same extent as refugees. Recipients of a “T” visa are eligible for employment authorization. “T” visa recipients also may if eligible; adjust their status to that of lawful permanent resident after three years. Victims may also apply for other immigration benefits such as an “S” visa (See section for S-visa status) or asylum.

Documentation: Victims of Trafficking will have the following documentation:

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VICTIMS OF TRAFFICKING

Category 2: Qualified Immigrants Continued

Category	Documentation	<u>WMS</u> ACI Code	<u>Federal</u> Financial Participation	SSN Requirement
Victims of Trafficking [Victims of Trafficking (T visa) receive benefits to the same extent as refugees (04 OMM/ADM-7).]	► I-94 coded T1, T2, T3, T4, or T5 stating admission under Section 212(d)(5) of the INA if status is granted for at least one year; ► Certification letter (for adults) or eligibility letter (for children) from the Office of Refugee Resettlement. Must call 1-866-401-5510 for verification; or ► I-797 Notice of Action.	D- Upstate or R-NYC	YES	YES

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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 maybe 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 USCIS 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 USCIS 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 USCIS does not contemplate enforcing.

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

- (1) 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.
 - (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) 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 USCIS 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.

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS**

PRUCOL

- 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
- (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 Islands⁵); Applicants for adjustment of status¹, asylum², suspension of deportation or cancellation of removal³ or for deferred action, or Deferred Enforced, Departure (DED)⁴ due to conditions in their home country; Persons granted Temporary Protected Status⁷; and Persons having a “K”, “V”, “S” or “U” visa.

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS**

PRUCOL

Category 3: Persons who are Permanently Residing Under Color of Law (PRUCOL)*

*PRUCOL is not an immigration status. PRUCOL is not granted by the USCIS. PRUCOL is a public benefits eligibility category.

Category	Documentation	WMS ACI code	Federal Financial Participation	SSN Requirement Must provide or apply for SSN
a. Parolees admitted into U.S. for less than a year	<ul style="list-style-type: none"> ▶ I-94 with annotation "Paroled Pursuant to Section 212(d)(5)" of the INA or "parole" or "PIP"; ▶ I-688B Employment Authorization Card annotated 8 C.F.R. 274a.12(a)(4) or 274a.12(c)(11); or ▶ I-766 Employment Authorization Document annotated "A4" or "C11". 	T	NO	YES
b. Persons under an Order of Supervision <i>(Non-citizens who have been found deportable; however certain factors exist which make it unlikely that USCIS would be able to remove them.)</i>	<ul style="list-style-type: none"> ▶ I-94 annotated "Order of Supervision"; ▶ I-220B Order of Supervision; ▶ I-688B Employment Authorization Card annotated 8 C.F.R. 274a.12 (c)(18); or ▶ I-766 Employment Authorization Document annotated "C18". 	O	NO	YES
c. Persons granted indefinite stay of deportation <i>(Non-citizens who have been found deportable, but USCIS deferred deportation indefinitely due to humanitarian reasons.)</i>	<ul style="list-style-type: none"> ▶ I-94 coded 106 "granted "Indefinite Stay of Deportation"; or ▶ Letter/order from the USCIS or immigration judge granting indefinite stay of deportation. 	O	NO	YES
d. Persons granted indefinite voluntary departure <i>(Status that was granted before 1996 to non-citizens who have been found deportable, but the USCIS deferred deportation indefinitely due to humanitarian reasons.)</i>	<ul style="list-style-type: none"> ▶ I-94 or letter/order from the USCIS or immigration judge granting voluntary departure for an indefinite time period. 	O	NO	YES

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS**

PRUCOL

Category 3: Persons PRUCOL Continued

Category	Documentation	WMS ACI code	Federal Financial Participation	SSN Requirement Must provide or apply for SSN
<p>e. Persons on whose behalf an immediate relative petition has been approved and her/his families covered by the petition <i>(Non-citizens who are immediate relatives (spouse, father, mother, or unmarried child under 21) of a U.S. citizen/LPR who has filed an I-130 on their behalf.)</i></p>	<ul style="list-style-type: none"> ▶ I-94 and/or I-210 indicating departure on a specified date, however, the USCIS expects the non-citizen's visa will be available within this time; ▶ I-797 indicating I-130 petition has been approved; or ▶ Also see documentation listed under category "I". 	O	NO	YES
<p>f. Persons who have filed applications for adjustment of status under Section 245 of the INA and the USCIS has accepted as "properly filed" <i>(Non-citizens who filed for legal permanent resident status.)</i></p>	<ul style="list-style-type: none"> ▶ I-94 or passports with annotation "adjustment application" or "employment authorized during status as adjustment applicant"; ▶ I-688 Temporary resident Card or I-688A Employment Authorization Card annotated "245A"; ▶ I-688B Employment Authorization Card annotated "8 C.F.R. 274a.12 (c)(22)"; ▶ I-766 Employment Authorization Document annotated "C22"; or ▶ Also see documentation listed under category "I". 	O	NO	YES
<p>g. Persons granted stays of deportation <i>(Non-citizens who have been found deportable, but the USCIS may defer deportation for a specified period of time due to humanitarian reasons.)</i></p>	<ul style="list-style-type: none"> ▶ I-94 or letter/order from the USCIS or immigration judge indicating granted stay of deportation. 	O	NO	YES

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS**

PRUCOL

Category 3: Persons PRUCOL Continued

Category	Documentation	WMS ACI code	Federal Financial Participation	SSN Requirement Must provide or apply for SSN
<p>h. Persons granted voluntary departure under Section 242(b) <i>(This section of the INA has been repealed)</i></p>	<ul style="list-style-type: none"> ▶ I-797 Notice or form showing grant of extended voluntary departure; ▶ I-688B Employment Authorization Card annotated 274a.12(a)(11); or ▶ I-766 Employment Authorization Document annotated A11. 	O	NO	YES
<p>i. Persons granted deferred action status</p>	<ul style="list-style-type: none"> ▶ I-797 or any document from USCIS granting deferred action status; ▶ I-688B Employment Authorization Card annotated "8 C.F.R 274a.12 (c)(14)"; or ▶ I-766 Employment Authorization Document annotated "C14". 	O	NO	YES
<p>i. Other Persons living in the U.S. with the knowledge and permission or acquiescence of the USCIS and whose departure the USCIS does not contemplate enforcing: Examples include, but are not limited to: -Applicants for adjustment of status¹, asylum², suspension of deportation or cancellation of removal³ or for deferred action; -Persons granted extended voluntary departure⁴ or Deferred Enforced Departure (DED)⁴ due to conditions in their home country; -</p>	<ul style="list-style-type: none"> ▶ I-94 coded K3, K4, V1, V2, or V3, T*, U, or S ▶ I-688B Employment Authorization Card annotated "8 C.F.R. 274a.12(c)(9)¹, 274a.12(c)(8)², 274a.12(c)(10)³, 274a.12(a)(11)⁴, 274a.12(a)(8)⁵, 274a.12(c)(12)⁶, 274a.12(a)(12)⁷ or 274a.12(c)(19)⁸, 274a.12(a)(9)⁹, 274a.12(a)(13)⁹, 274a.12(a)(15)⁹, 274a.12(c)(21), and 274a.12(c)(24)⁹ ▶ I-766 Employment Authorization Document annotated C9¹, "C8"², C10³, A11⁴, A8⁵, C12⁶, A12⁷, or C19⁸, or A9⁹, A13⁹, A15⁹, C21⁹ and C24⁹. 	O	NO	YES

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS**

PRUCOL

Category 3: Persons PRUCOL Continued

Category	Documentation	<u>WMS</u> ACI code	<u>Federal</u> Financial Participation	SSN Requirement Must provide or apply for SSN
<p>Permanent non-immigrants, pursuant to P.L. 99-239 (applicable to citizens of the Federated States of Micronesia and Marshall Islands⁵); - Granted Voluntary Departure⁶ -Persons granted Temporary Protected Status⁷; or applicants for Temporary protected status⁸ -Persons having a "K", "V", "S" or "U" visa.⁹</p>	<ul style="list-style-type: none"> ▶ I-688A Employment Authorization Card or I-688 Temporary Resident Card; ▶ I-797 indicating the USCIS has received, taken action on or approved an application or petition; ▶ Postal Return Receipt addressed to the USCIS, or a copy of a cancelled check to the USCIS, and copy of the application or petitions submitted to the USCIS; or ▶ Correspondence to or from the USCIS, showing that the person is living in the U.S with the knowledge and permission or acquiescence of the USCIS and the USCIS does not contemplate enforcing the person's departure from the U.S. 			

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS**

DOCUMENTATION GUIDE FOR PRUCOL ALIEN CATEGORIES

rev. 07/15/04

PRUCOL: (Permanently Residing in the United States Under Color Of Law) are any aliens who are 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]) and whose departure from the United States the INS does not contemplate enforcing.

ALIEN CATEGORIES	GENERAL INFORMATION		DOCUMENTATION/FORMS
a) Aliens paroled into the United States pursuant to Section 212(d)(5) of the INA showing status for less than one year, except for Cuban/Haitian entrants.	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.	Parole status allows the alien temporary status until USCIS determination of his/her admissibility has been made; at which time another status may be granted.	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.	Aliens in this category have been found deportable; however, certain factors exist which make it unlikely that USCIS 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.	Aliens in this category are required to report to USCIS periodically; if the factors preventing deportation are eliminated, USCIS will initiate action to remove the alien.	Aliens in this category will have an USCIS Form I-94 or I-220B.
c) Deportable aliens residing in the United States pursuant to an indefinite stay of deportation.	Aliens in this category have been found to be deportable, but USCIS may defer deportation indefinitely due to humanitarian reasons.		Aliens in this category will have a letter and/or 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 Form I-94 indicating that the alien has been granted 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 USCIS does not contemplate enforcing.	NOTE: An immediate relative for USCIS purposes is: husband, wife, father, mother, or child (unmarried and under 21). Aliens in this category are the immediate relatives of an American citizen/LPR 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.	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, USCIS expects the alien's visa to be available within this time. If it is not, extensions may be granted until the visa is ready.

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS**

DOCUMENTATION GUIDE FOR PRUCOL ALIEN CATEGORIES continued

ALIEN CATEGORIES	GENERAL INFORMATION		DOCUMENTATION/FORMS
f) Aliens 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.	Aliens in this category have filed for lawful permanent resident status.		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 ”.
g) Aliens granted stay of deportation by court order, statute or regulation, or by individual determination of USCIS pursuant to Section 243 of the INA whose departure BCIS does not contemplate enforcing.	Aliens in this category have been found to be deportable, but USCIS may defer deportation for a specified period of time due to humanitarian reasons.		Aliens in this category will have a letter or 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 USCIS does not contemplate enforcing.	Aliens in this category are awaiting a visa .	NOTE: N/A SECTION 242 (b) OF THE INA HAS BEEN REPEALED	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 USCIS operating instructions.			Aliens in this category will have 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 USCIS to meet certain criteria for lawful permanent residence.		Obtain any documentary proof establishing entry and continuous residence .

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS**

DOCUMENTATION GUIDE FOR PRUCOL ALIEN CATEGORIES continued

ALIEN CATEGORIES	GENERAL INFORMATION		DOCUMENTATION/FORMS
a) Aliens paroled into the United States pursuant to Section 212(d)(5) of the INA showing status for less than one year, except for Cuban/Haitian entrants.	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.	Parole status allows the alien temporary status until USCIS determination of his/her admissibility has been made; at which time another status may be granted.	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.	Aliens in this category have been found deportable; however, certain factors exist which make it unlikely that USCIS 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.	Aliens in this category are required to report to USCIS periodically; if the factors preventing deportation are eliminated, USCIS will initiate action to remove the alien.	Aliens in this category will have an USCIS Form I-94 or I-220B.
k) Aliens granted suspension of deportation pursuant to Section 244 of the INA whose departure the USCIS does not contemplate enforcing.	Aliens 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.		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.
l) Any other aliens living in the U.S. with the knowledge and permission or acquiescence of the USCIS and whose departure that agency does not contemplate enforcing.	Aliens in this category may be in a status not listed above, but based on a determination by USCIS 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 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, applicants for adjustment of status, asylum, suspension of deportation or cancellation of removal, or deferred action or persons granted extended voluntary departure, or Deferred Enforced Departure (DED) for a specified time due to conditions in their home country, persons granted Family Unity, Temporary Protected Status and citizens of the Federated States of Micronesia and Marshall Islands.	Aliens in this category may have a copy of a letter to the USCIS with return receipt. If no proof of receipt and otherwise eligible, authorize Medicaid pending verification with USCIS.

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS**

TEMPORARY PROTECTED STATUS (TPS)

Description: “Temporary protected status (TPS)” is a temporary immigration status granted under federal law at 8 U.S.C. 1254a to aliens who are physically present in the United States and who are from certain countries designated by the U.S. Attorney General as unsafe to accept their return because of ongoing environmental disasters or other extraordinary and temporary conditions. At present, the following countries have TPS designation: Angola, Burundi, El Salvador, Honduras, Liberia, Montserrat, Nicaragua, Sierra Leone, Somalia, and Sudan. [A list of countries designated for TPS is located at the United States Citizenship and Immigration Services’ (USCIS) (formerly the Immigration and Naturalization Service-INS) website, at: <http://www.uscis.gov>]

Policy: Immigrants who have been **granted** temporary protected status (“TPS”) may be eligible for Medicaid, Family Health Plus (FHP) or Child Health Plus (CHPlus) based on their status as permanently residing in the United States under color of law (PRUCOL), if they meet such programs’ requirements.

Immigrants who have **applied** for TPS may also be considered to be PRUCOL and may thus be eligible for Medicaid, Family Health Plus or Child Health Plus A, if otherwise eligible.

References:

GIS	03 MA/005
ADMs	04 ADM-7

Interpretation: **Immigrants Granted Temporary Protected Status (TPS):** These aliens should be treated as PRUCOL for purposes of their eligibility for Medicaid, FHP or CHPlus “Persons granted TPS are authorized to remain in the United States for a specific limited period; the U. S. Attorney General can extend it for a further specified period. Prior to 1990, a similar status called “Extended Voluntary Departure” was used in the same way to provide relief to particular nationalities.

OTHER ELIGIBILITY REQUIREMENTS CITIZENSHIP AND IMMIGRATION STATUS

TEMPORARY PROTECTED STATUS (TPS)

Immigrants who have been **granted** TPS will have the following documentation:

- Form I-688B; or
- Form I-766 EAD coded 274a.12(a) (12) or A12; or
- A letter, verification or correspondence from USCIS, such as a Notice of Action (I-797) indicating temporary protected status has been granted.

Immigrants who have *applied* for Temporary Protected Status (TPS): These aliens should be treated as PRUCOL for purposes of their eligibility for Medicaid, Family Health Plus or Child Health Plus if it reasonably appears, based on all the facts and circumstances of the case, that they are present in the United States with the **knowledge** and **permission** or the **acquiescence** of the federal immigration agency and that such agency is not presently contemplating deporting them. Social services districts should request proof from the alien that he or she filed the Application for Temporary Protected Status (Form I-821) **and** the Application for Employment Authorization (Form I-765) to the USCIS or its predecessor, the INS. For example, the alien may have a receipt or letter from the federal immigration agency that shows that such agency received these documents. However, the alien does not need to have written confirmation from the federal immigration agency acknowledging its receipt of these documents. An alien can be considered PRUCOL if the alien can prove that he or she mailed these documents to the federal immigration agency on a certain date. When the federal immigration agency has not acted on the application after a reasonable period of time after mailing, the district may reasonably presume that the applicant is PRUCOL.

Documentation: Immigrants **applying** for temporary protected status will have one of the following types of documentation:

- Receipt or notice showing filing of Form I-821 (Application for Temporary Protected Status) and Form I-765 (Application for Employment Authorization); or
- Form I-688B; or
- Form I-766 EAD codes 274a.12 (c) (19) or C19; or
- Any letter, verification or correspondence from USCIS or a U.S. Postal Return Receipt.

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS**

TEMPORARY PROTECTED STATUS (TPS)

Category 3: Persons who are Permanently Residing Under Color of Law (PRUCOL)*
*PRUCOL is not an immigration status. PRUCOL is not granted by the USCIS. PRUCOL is a public benefits eligibility category.

Category	Documentation	ACI	Federal Financial Participation	Must provide or apply for SSN
<p>I. Other persons living in the U.S. with the knowledge and permission or acquiescence of the USCIS and whose departure the USCIS does not contemplate enforcing: Examples include, but are not limited to:</p> <ul style="list-style-type: none"> ▶ Applicants for adjustment of status to LPR¹, asylum², suspension of deportation or cancellation of removal³ or requesting deferred action; ▶ Persons granted Deferred Enforced Departure (DED)⁴ due to conditions in their home country; or ▶ Permanent non-immigrants, pursuant to P.L. 99-239 (applicable to citizens of the Federated States of Micronesia and the Marshall Islands⁵); ▶ Persons granted Temporary Protected Status⁷ (TPS); or ▶ Applicants for Temporary Protected Status⁸ (TPS); ▶ Persons having a K, V, S or U visa.⁹ 	<ul style="list-style-type: none"> ▶ I-94 coded K1, K2, K3, K4, V1, V2, or V3, T*, U, or S ▶ I-688B Employment Authorization Card annotated "8 C.F.R.274a.12(c)(9)¹, 274a.12(c)(8)², 274a.12(c)(10)³, 274a.12(a)(11)⁴, 274a.12(a)(8)⁵, 274a.12(a)(12)⁷ or 274a.12(c)(19)⁸, 274a.12(a)(9)⁹, 274a.12(a)(13)⁹, 274a.12(a)(15)⁹, 274a.12(c)(21), and 274a.12(c)(24)⁹ ▶ I-766 Employment Authorization Document annotated C9¹, "C8², C10³, A11⁴, A8⁵, A12⁷, or C19⁸, or A9⁹, A13⁹, A15⁹, C21⁹ and C24⁹. ▶ I-797 indicating the USCIS has received an application or petition; or request for change of status; or ▶ Postal Return Receipt addressed to the USCIS or a copy of cancelled check to the USCIS, and a copy of the application or petition submitted to the USCIS. 	<p>O</p>	<p>NO</p>	<p>YES</p>

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS**

OTHER VISA STATUSES

Visa Statutes: K, S, T, U, and V.

There have been several new visa categories issued by the United States Citizenship and Immigration Services (USCIS) [formerly the Immigration and Naturalization Services (INS)] over the past several years.

Some categories of nonimmigrant status allow the status (visa) holder to work and eventually adjust to lawful permanent residence. These categories allow the individual to apply for adjustment to Lawful Permanent Resident (LPR) status after he or she has had the nonimmigrant status for a period of time.

Such visa statuses include, for example:

- K status:** For the spouse, child, or fiancé (e) of a U.S. citizen.*
- S status:** For informants providing evidence for a criminal investigation. Also known as the “Snitch Visa”.*
- T status:** For victims of Trafficking.**
- U status:** For victims or witnesses of specified crimes (who have suffered substantial physical or mental abuse and agrees to cooperate with the government).*
- V status:** For spouses and children of LPR’s whose visa petitions have been pending for at least three years.*

[Law found at 8 U.S.C. section 1101 (a)(15)(K), (S), (T), (U), and (V).]

*Statuses K, S, U, V are “special nonimmigrant” statuses. As non-immigrants, holders are eligible for emergency Medicaid only, but if they have filed to adjust their status with the USCIS, they may be eligible for Medicaid/FHPlus/CHPlus as PRUCOL (Permanently Residing Under Color of Law).

Victims of Trafficking receive benefits to the same extent as refugees (GIS 02 MA/022). (See **OTHER ELIGIBILITY REQUIREMENTS VICTIMS OF TRAFFICKING).

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS**

**“NON-IMMIGRANTS”
NON IMMIGRANTS ADMITTED ON A TEMPORARY BASIS**

- Description:** **TEMPORARY NON-IMMIGRANT:** A temporary non immigrant is an individual who has been allowed to enter the United States for a **specific purpose** and for a **limited period of time**. Examples include tourists, foreign students, and visitors on business or pleasure. For the purpose of Medicaid eligibility, non-immigrants may be eligible only for the treatment of an emergency medical condition.
- Policy:** Immigrants admitted on a temporary basis are “non-immigrants” and if other wise eligible, are limited to Medicaid coverage for the care and services necessary for the treatment of an emergency medical condition.
- References:** SSL Sect 122
 366(1)(b)
- Dept. Reg. 360.3.2(j)
- ADMs 04 ADM-07
 92 ADM-10
 88 ADM-47
 88 ADM-22
 88 ADM-4
- Interpretation:** Certain immigrants may be lawfully admitted to the United States temporarily for a specific purpose and for a specified period of time. Foreign students, visitors, tourists, some workers and diplomats are admitted but restricted due to the temporary nature of their admission status. Thus, although these individuals may be residing in the United States with the knowledge and permission of the USCIS, they are not qualified immigrants.
- Otherwise eligible non-immigrants who are admitted on a temporary basis and who require immediate medical care which is not otherwise available may receive Medicaid coverage for the care and the treatment of an emergency medical condition only. Such non-immigrants may receive this coverage, provided that they have not entered the State for the purpose of obtaining medical care.

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS**

**“NON-IMMIGRANTS”
NON IMMIGRANTS ADMITTED ON A TEMPORARY BASIS**

Verification: Non-immigrants admitted on a temporary basis will have the following types of documentation:

Category 4: Temporary Non-Immigrants

Category	Documentation	<u>WMS</u> <u>ACI</u> <u>Code</u>	<u>Federal</u> <u>Financial</u> <u>Participation</u>	<u>SSN</u> <u>Requirement</u>
<p>Temporary Non-immigrants include but are not limited to:</p> <p>A – Members of foreign government representatives on official business personnel of international organizations;</p> <p>B-1 or B-2 – Visitors for business or pleasure;</p> <p>D – Crewmen on shore leave;</p> <p>E – Treaty Traders and investors;</p> <p>F – Foreign students;</p> <p>G – Representatives of international organizations;</p> <p>H – Temporary workers (including agricultural workers);</p> <p>I - Members of the foreign press;</p> <p>J – Exchange visitors,</p> <p>L- Intra-company transferee</p> <p>O – Persons with extraordinary ability or achievement;</p> <p>P – Artists, Entertainers and Athletes;</p> <p>Q – Cultural Exchange Visitors;</p> <p>R – Religious workers.</p>	<p>▶ I-94, Arrival/Departure record; ▶ I-185, Canadian Border Crossing Card;* (BCC) ▶ I-186, Mexican Border Crossing Card* (BCC); ▶ I-444, Mexican Border Visitor’s Permit; or* ▶ I-95A, Crewmen’s Landing Permit.</p> <p>*B-1/B-2 Visa/BCC is now issued in place of these documents</p> <p>(Temporary non-immigrants are lawfully admitted to the U.S. for a temporary or specified period of time.)</p>	<p align="center">E</p> <p align="center">Emergency services only</p>	<p align="center">YES</p>	<p align="center">NOT Required.</p> <p align="center">However, may be assigned an SSN if USCIS/DHS has granted permission to work.</p>

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS**

“SPECIAL NON-IMMIGRANT”

Description: **SPECIAL NON IMMIGRANT:** Some categories of “special” non immigrants statuses allow the status (visa) holder to work in the United States and eventually adjust to Lawful Permanent Resident (LPR) status. These categories allow the individual to apply for adjustment to Lawful Permanent Resident (LPR) status after he or she has had the non immigrant status for a period of time. These statuses are included in the category defined as: “other persons living in the U.S. with the knowledge and permission and acquiescence of USCIS and whose departure USCIS does not contemplate enforcing.”

Such statuses include, for example:

K status: For the spouse, child, or fiancé(e) of a U.S. citizen.

S Status: For informants providing evidence for a criminal investigation. Also known as the “Snitch Visa”.

U Status: For victims or witnesses of specialized crimes (who have suffered substantial physical or mental abuse and agrees to cooperate with the government).

V Status: For spouses and children of LPR’s whose visa petitions (Form I-130) have been pending for at least three years.

Policy: Immigrants granted a “K”, “V”, “S”, or “U” visa category, if otherwise eligible should be authorized for Medicaid, Family Health Plus and Child Health Plus as a person who is Permanently Residing in the U.S. Under Color of Law (PRUCOL).

Interpretation: Nonimmigrant visas V (Visa codes V-1, V-2 and V-3) and K (Visa codes K-3 and K-4) are two new categories of “special” nonimmigrant visas that were created by the Legal Immigration and Family Equity Act (LIFE Act) and are issued to persons intending to live permanently in the United States. The V visa may be issued to alien spouses and minor children of lawful permanent residents whose family petitions (the I-130) have been pending for some time. The V visa is intended to permit family reunification while the immigration cases of the lawful permanent resident’s spouse and children are pending. The K visa allows alien spouses and minor children of United States citizens to enter the United States legally and obtain work authorization. Individuals issued any of these visas may enter the United States as non-immigrants to complete the immigration process.

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS**

“SPECIAL NON-IMMIGRANT”

Holders of the S (Visa codes S-5, S-6 and S-7) or U visas (Visa codes U-1, U-2, U-3, and U-4) are considered PRUCOL and, if otherwise eligible, may receive Medicaid, FHPlus or CHPlus.

The S visa status is given to aliens who assist U.S. law enforcement to investigate and prosecute crimes and terrorist activities. S visa holders are allowed to adjust status to permanent resident under Section 245(j) of the Immigration and Nationality Act.

The U visa status is given to aliens who are victims and/or witnesses of certain crimes who are assisting an investigation or prosecution. This status allows the nonimmigrant to remain in the U.S. and to work. After three years in this status, a U status holder can apply to adjust their status.

With respect to the U visa status, the USCIS has directed that individuals who satisfactorily demonstrate to USCIS that they are eligible for a U visa are to be granted Deferred Action status. As such, holders of U visas are to be considered PRUCOL and, if otherwise eligible, may receive Medicaid, FHPlus or CHPlus.

**OTHER ELIGIBILITY REQUIREMENTS
CITIZENSHIP AND IMMIGRATION STATUS**

“SPECIAL NON-IMMIGRANT”

Category 4: Special Non-Immigrants

Category	Documentation	<u>WMS</u> ACI Code	<u>Federal</u> Financial Participation	SSN Requirement
<p>Special Non-immigrants: Some categories of non-immigrant status allow the status holder to work and eventually adjust to lawful permanent residence. These categories allow the individual to apply for the adjustment to LPR status after he or she has had the nonimmigrant status for a period of time.</p> <p>As SPECIAL NONIMMIGRANTS, (K), (S), (T)*, and (V) visa holders are PRUCOL and are eligible for Medicaid/FHPlus/CHPlus.</p> <p>* Victims of Trafficking (T visas) receive benefits to the same extent as refugees (04 OMM/ADM-7).</p>	<ul style="list-style-type: none"> ▶ I-94 coded K3, K4, V1, V2, or V3, T*, U, or S; ▶ I-797 indicating the USCIS has received, taken action on or approved an application or petition; ▶ Postal Return Receipt addressed to the USCIS or copy of cancelled check to the USCIS and a copy of the application/petition submitted to the USCIS, <p>or</p> <ul style="list-style-type: none"> ▶ Correspondence to or from the USCIS, showing that the person is living in the U.S with the knowledge and permission or acquiescence of the USCIS, and the USCIS does not contemplate enforcing the person’s departure from the U.S. 	<p style="text-align: center;">O</p> <p style="text-align: center;">PRUCOL</p> <p style="text-align: center;">*EXCEPT VICTIMS OF TRAFFICKING</p>	<p style="text-align: center;">NO</p>	<p style="text-align: center;">YES.</p> <p style="text-align: center;">However, may be assigned an SSN if USCIS/DHS has granted permission to work.</p>