

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Jacob K. Javits Federal Building  
26 Federal Plaza  
Room 37-100  
New York, New York 10278-0063



cc:  
John  
Ulberg  
Karla  
Knutz  
FYI/  
handling

June 23, 2014

Jason A. Helgerson, Deputy Commissioner  
Office of Health Insurance Programs  
New York State Department of Health  
Corning Tower (OCP-1211)  
Empire State Plaza  
Albany, New York 12237

RECEIVED

JUL 03 2014

NYS DOH-OFFICE OF  
HEALTH INSURANCE PROGRAMS

NY-290

Dear Mr. Helgerson:

We have reviewed the proposed State Plan Amendment (SPA) submitted under transmittal number NY-13-0058-MM6. With this SPA, the State affirms citizenship regulations, specifies reasonable opportunities options, and specifies policy options related to immigrant eligibility in accordance to the Affordable Care Act.

Please be informed that this State Plan Amendment was approved on June 23, 2014 with an effective date of January 1, 2014.

Enclosed is a copy of the new state plan pages to be incorporated within a separate section at the back of New York's approved state plan:

- S89, Pages S89-1, S89-2 and S89-3
- Summary page (formerly CMS 179)

In addition, enclosed is the Superseding Page Document which is not to be included in the State Plan, but serves as supporting documentation.

Congratulations to you and your staff for your hard work and strong collaboration. If you have any questions, please contact Patricia Ryan at 212-616-2436 or Patricia.Ryan@cms.hhs.gov.

Sincerely,

Michael Melendez  
Associate Regional Administrator  
Division of Medicaid and Children's Health

Enclosures

**Medicaid State Plan Eligibility: Summary Page (CMS 179)**

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**State/Territory name:** New York

**Transmittal Number:**

*Please enter the Transmittal Number (TN) in the format ST-YY-0000 where ST= the state abbreviation, YY = the last two digits of the submission year, and 0000 = a four digit number with leading zeros. The dashes must also be entered.*

NY-13-0058

**Proposed Effective Date**

01/01/2014 (mm/dd/yyyy)

**Federal Statute/Regulation Citation**

See individual PDF for specific federal statute/regulation citations

**Federal Budget Impact**

	Federal Fiscal Year	Amount
First Year	2013	\$ 0.00
Second Year	2014	\$ 0.00

**Subject of Amendment**

Describes how NY provides Medicaid to citizens & nationals of the US & certain non-citizens consistent w/requirements of 42 CFR 435.406, including during a reasonable opportunity period pending verification of their citizenship, national status or satisfactory immigration status.

**Governor's Office Review**

Governor's office reported no comment

**Comments of Governor's office received**

Describe:

No reply received within 45 days of submittal

**Other, as specified**

Describe:

**Signature of State Agency Official**

**Submitted By:** Karla Knuth

**Last Revision Date:** May 14, 2014

**Submit Date:** Mar 31, 2014



# Medicaid Eligibility

OMB Control Number 0938-1148  
OMB Expiration date: 10/31/2014

## Non-Financial Eligibility Citizenship and Non-Citizen Eligibility S89

1902(a)(46)(B)  
8 U.S.C. 1611, 1612, 1613, and 1641  
1903(v)(2),(3) and (4)  
42 CFR 435.4  
42 CFR 435.406  
42 CFR 435.956

### Citizenship and Non-Citizen Eligibility

The state provides Medicaid to citizens and nationals of the United States and certain non-citizens consistent with requirements of 42 CFR 435.406, including during a reasonable opportunity period pending verification of their citizenship, national status or satisfactory immigration status.

- The state provides Medicaid eligibility to otherwise eligible individuals:
  - Who are citizens or nationals of the United States; and
    - Who are qualified non-citizens as defined in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) (8 U.S.C. §1641), or whose eligibility is required by section 402(b) of PRWORA (8 U.S.C. §1612(b)) and is not prohibited by section 403 of PRWORA (8 U.S.C. §1613); and
    - Who have declared themselves to be citizens or nationals of the United States, or an individual having satisfactory immigration status, during a reasonable opportunity period pending verification of their citizenship, nationality or satisfactory immigration status consistent with requirements of 1903(x), 1137(d), 1902(ee) of the SSA and 42 CFR 435.406, and 956.

The reasonable opportunity period begins on and extends 90 days from the date the notice of reasonable opportunity is received by the individual.

The agency provides for an extension of the reasonable opportunity period if the individual is making a good faith effort to resolve any inconsistencies or obtain any necessary documentation, or the agency needs more time to complete the verification process.

Yes     No

The agency begins to furnish benefits to otherwise eligible individuals during the reasonable opportunity period on a date earlier than the date the notice is received by the individual.

Yes     No

The date benefits are furnished is:

The date of application containing the declaration of citizenship or immigration status.

The date the reasonable opportunity notice is sent.

Other date, as described: Benefits are furnished the first day of the month of application containing the declaration of citizenship or immigration status.



# Medicaid Eligibility

The state provides Medicaid coverage to all Qualified Non-Citizens whose eligibility is not prohibited by section 403 of PRWORA (8 U.S.C. §1613).

Yes  No

The state elects the option to provide Medicaid coverage to otherwise eligible individuals under 21 and pregnant women, lawfully residing in the United States, as provided in section 1903(v)(4) of the Act.

Yes  No

Pregnant women

Individuals under age 21:

Individuals under age 21

Individuals under age 20

Individuals under age 19

An individual is considered to be lawfully residing in the United States if he or she is lawfully present and otherwise meets the eligibility requirements in the state plan.

An individual is considered to be lawfully present in the United States if he or she:

1. Is a qualified non-citizen as defined in 8 U.S.C. 1641(b) and (c);

2. Is a non-citizen in a valid nonimmigrant status, as defined in 8 U.S.C. 1101(a)(15) or otherwise under the immigration laws (as defined in 8 U.S.C. 1101(a)(17));

3. Is a non-citizen who has been paroled into the United States in accordance with 8 U.S.C. 1182(d)(5) for less than 1 year, except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings;

4. Is a non-citizen who belongs to one of the following classes:

Granted temporary resident status in accordance with 8 U.S.C. 1160 or 1255a, respectively;

Granted Temporary Protected Status (TPS) in accordance with 8 U.S.C. §1254a, and individuals with pending applications for TPS who have been granted employment authorization;

Granted employment authorization under 8 CFR 274a.12(c);

Family Unity beneficiaries in accordance with section 301 of Pub. L. 101-649, as amended;

Under Deferred Enforced Departure (DED) in accordance with a decision made by the President;

Granted Deferred Action status;

Granted an administrative stay of removal under 8 CFR 241;

Beneficiary of approved visa petition who has a pending application for adjustment of status;

5. Is an individual with a pending application for asylum under 8 U.S.C. 1158, or for withholding of removal under 8 U.S.C.1231, or under the Convention Against Torture who -

Has been granted employment authorization; or

Is under the age of 14 and has had an application pending for at least 180 days;

TN: 13-0058-MM6

Approval Date: 06/23/2014

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New York

S89



# Medicaid Eligibility

6. Has been granted withholding of removal under the Convention Against Torture;
7. Is a child who has a pending application for Special Immigrant Juvenile status as described in 8 U.S.C. 1101(a)(27)(J);
8. Is lawfully present in American Samoa under the immigration laws of American Samoa; or
9. Is a victim of severe trafficking in persons, in accordance with the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386, as amended (22 U.S.C. 7105(b));
10. Exception: An individual with deferred action under the Department of Homeland Security's deferred action for the childhood arrivals process, as described in the Secretary of Homeland Security's June 15, 2012 memorandum, shall not be considered to be lawfully present with respect to any of the above categories in paragraphs (1) through (9) of this definition.

Other

The state assures that it provides limited Medicaid services for treatment of an emergency medical condition, not related to an organ transplant procedure, as defined in 1903(v)(3) of the SSA and implemented at 42 CFR 440.255, to the following individuals who meet all Medicaid eligibility requirements, except documentation of citizenship or satisfactory immigration status and/or present an SSN:



Qualified non-citizens subject to the 5 year waiting period described in 8 U.S.C. 1613;

Non-qualified non-citizens, unless covered as a lawfully residing child or pregnant woman by the state under the option in accordance with 1903(v)(4) and implemented at 435.406(b).

## PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148. The time required to complete this information collection is estimated to average 40 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

New York  
2

**NOTE: The deleted information on this page has been replaced by PDF Form S89 effective January 1, 2014.**

[State: New York]

Citation	Condition or Requirement
1905(p) of the Act	<ul style="list-style-type: none"> <li>b. For the medically needy, meets the non-financial eligibility conditions of 42 CFR Part 435.</li> <li>c. For financially eligible qualified Medicare beneficiaries covered under section 1902(a)(10)(E)(i) of the Act, meets the non-financial criteria of section 1905(p) of the Act.</li> </ul>
1905(s) of the Act	<ul style="list-style-type: none"> <li>d. For financially eligible qualified disabled and working individuals covered under section 1902(a)(10)(E)(ii) of the Act, meets the non-financial criteria of section 1905(s).</li> </ul>
[42 CFR 435.402]	<ul style="list-style-type: none"> <li>[ 3. Is residing in the United States and—               <ul style="list-style-type: none"> <li>a. Is a citizen;</li> </ul> </li> </ul>
[Sec. 245A of the Immigration and]	<ul style="list-style-type: none"> <li>b. Is an alien lawfully admitted for permanent residence or otherwise permanently residing in the Nationality Act United States under color of law, as defined in 42 CFR 435.408;</li> </ul>
[1902(a) and 1903(v) of the Act and 245A(h)(3)(B) of the Immigration & Nationality Act]	<ul style="list-style-type: none"> <li>c. Is an alien granted lawful temporary resident status under section 245A and 210A of the Immigration and Nationality Act if the individual is aged, blind, or disabled as defined in section 1614(a)(l) of the Act, under 18 years of age or a Cuban/Haitian entrant as defined in section 501(e)(l) and (2)(A) of P.L. 96-422;]</li> </ul>

TN #13-58

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Supersedes TN #91-78

Effective Date JAN 01 2014

New York  
3

**NOTE: The deleted information on this page has been replaced by PDF Form S89 effective January 1, 2014.**

[State: New York ]

Citation	Condition or Requirement
42 CFR 435.403 1902(b) of the Act	<p>[d. Is an alien granted lawful temporary resident status under section 210 of the Immigration and Nationality Act not within the scope of c. above (coverage must be restricted to certain emergency services during the five-year period beginning on the date the alien was granted such status); or</p> <p>e. Is an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (coverage must be restricted to certain emergency services).</p>
	<p>4. Is a resident of the State, regardless of whether or not the individual maintains the residence permanently or maintains it at a fixed address.</p>
	<p><input checked="" type="checkbox"/> State has interstate residency agreement with the following States:</p> <p>Georgia</p>
	<p><input type="checkbox"/> State has open agreement(s).</p>
	<p><input type="checkbox"/> Not applicable; no residency requirement.]</p>

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Effective Date JAN 01 2014

New York  
1

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**[STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
State: New York**

**ELIGIBILITY CONDITIONS AND REQUIREMENTS]**

**[ Citation(s) Condition or Requirement]**

[42 CFR 435.406] [3. Is residing in the United States (U.S.), and--

- a. Is a citizen or national of the United States;
- b. Is a qualified alien (QA) as defined in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) as amended, and the QA's eligibility is required by section 402(b) of PRWORA as amended, and is not prohibited by section 403 of PRWORA as amended;
- c. Is a qualified alien subject to the 5-year bar as described in section 403 of PRWORA, so that eligibility is limited to treatment of an emergency medical condition as defined in section 401 of PRWORA;
- d. Is a non-qualified alien, so that eligibility is limited to treatment of an emergency medical condition as defined in section 401 of PRWORA;
- e. Is a QA whose eligibility is authorized under section 402(b) of PRWORA as amended, and is not prohibited by section 403 of PRWORA as amended.
  - State covers all authorized QAs.
  - State does not cover authorized QAs.
- f. State elects CHIPRA option to provide full Medicaid coverage to otherwise eligible pregnant women or children as specified below who are aliens lawfully residing in the United States; including the following:]

TN #13-58

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**New York  
2**

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**[STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
State: New York**

**ELIGIBILITY CONDITIONS AND REQUIREMENTS]**

<b>[ Citation(s)</b>	<b>Condition or Requirement]</b>
(1)	A "Qualified alien" otherwise subject to the 5-year waiting period per section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;
(2)	A citizen of a Compact of Free Association State (i.e., Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau) who has been admitted to the U.S. as a non-immigrant and is permitted by the Department of Homeland Security to reside permanently or indefinitely in the U.S.;
(3)	An individual described in 8 CFR section 103.12(a)(4) who does not have a permanent residence in the country of their nationality and is in a status that permits the individual to remain in the U.S. for an indefinite period of time, pending adjustment of status. These individuals include: <ul style="list-style-type: none"> <li>(a) An individual currently in temporary resident status as an Amnesty beneficiary pursuant to section 210 or 245A of the Immigration and Nationality Act (INA);</li> <li>(b) An individual currently under Temporary Protected Status pursuant to section 244 of the INA;</li> <li>(c) A family Unity beneficiary pursuant to section 301 of Public Law 101-649 as amended by, as well as pursuant to, section 1504 of Public Law 106-554;</li> <li>(d) An individual currently under Deferred Enforced Departure pursuant to a decision made by the President; and</li> <li>(e) An individual who is the spouse or child of a U.S. citizen whose visa petition has been approved and who has a pending application for adjustment of status; and</li> </ul>
(4)	An individual in non-immigrant classifications under the INA who is permitted to remain in the U.S. for an indefinite period, including the following as specified in section 101(a)(15) of the INA: <ul style="list-style-type: none"> <li>• A parent or child of an individual with special immigrant status under section 101(a)(27) of the INA, as permitted under section 101(a)(15)(N) of the INA;</li> <li>• A Fiancé of a citizen, as permitted under section 101(a)(15)(K) of the INA;</li> <li>• A religious worker under section 101(a)(15)(R);</li> <li>• An individual assisting the Department of Justice in a criminal investigation, as permitted under section 101(a)(15)(S) of the INA;</li> </ul>

<b>TN</b> <u>  #13-58  </u>	<b>Approval Date</b> <u>  JUN 23 2014  </u>
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New York  
3

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**[STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
State: New York**

**ELIGIBILITY CONDITIONS AND REQUIREMENTS]**

**[ Citation(s) Condition or Requirement]**

[

- A battered alien under section 101(a)(15)(U) (see also section 431 as amended by PRWORA); and
- An individual with a petition pending for 3 years or more, as permitted under section 101(a)(15)(V) of the INA.

- Elected for pregnant women.
- Elected for children under age 21

g. The State provides assurance that for an individual whom it enrolls in Medicaid under the CHIPRA section 214 option, it has verified, at the time of the individual's initial eligibility determination and at the time of the eligibility redetermination, that the individual continues to be lawfully residing in the United States. The State must first attempt to verify this status using information provided at the time of initial application. If the State cannot do so from the information readily available, it must require the individual to provide documentation or further evidence to verify satisfactory immigration status in the same manner as it would for anyone else claiming satisfactory immigration status under section 1137(d) of the Act.]

TN #13-58

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