



# TENNCARE POLICY MANUAL

**Policy No:** EED 06-002 (rev. 4)

**Subject:** TennCare/Medicaid for Qualified Aliens

**Approved by:**

*Lorrey Parcell*

**Date:**

*2/13/2014*

## PURPOSE:

This policy is intended to provide information on why certain aliens are enrolled in TennCare.

## BACKGROUND:

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)<sup>1</sup> basically divided immigrants into two categories.

- “Qualified aliens,” meaning non-citizens who are legally residing in the United States,<sup>2</sup> and
- “Nonqualified aliens,” meaning non-citizens who are in the United States without having met legal conditions or who have been admitted for specific purposes or short-term stays.<sup>3</sup>

A “qualified alien” is a person who belongs to one of a cluster of alien categories, each of which is tied to a specific section of the Immigration and Nationality Act (INA).<sup>4</sup> “Qualified aliens” include groups such as:

- Aliens lawfully admitted for permanent residence under the INA
- Refugees admitted under the INA
- Asylees (meaning aliens who have been granted asylum in the United States) admitted under the INA

<sup>1</sup> [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=104\\_cong\\_bills&docid=f:h3734enr.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=104_cong_bills&docid=f:h3734enr.txt.pdf)

<sup>2</sup> Codification of PRWORA Sec. 431, defining the term “qualified alien,” is found at 8 U.S.C. § 1641: <http://www.gpoaccess.gov/uscode/index.html>

<sup>3</sup> Sec. 401 of PRWORA, discussing aliens not lawfully admitted to the United States, is codified at 8 USC § 1611: <http://www.gpoaccess.gov/uscode/index.html>

<sup>4</sup> <http://www.uscis.gov/portal/site/uscis/menuitem.f6da51a2342135be7e9d7a10e0dc91a0/?vgnnextoid=fa7e539dc4bed010VgnVCM1000000ecd190aRCRD&vgnnextchannel=fa7e539dc4bed010VgnVCM1000000ecd190aRCRD&CH=act>

Under PRWORA, only individuals who are **qualified aliens** are potentially eligible for full Medicaid benefits. However, there are exceptions. Some qualified aliens arriving on or after August 22, 1996, may have been lawfully admitted to the United States but will be prohibited from acquiring Medicaid during the first five years of their residence in this country. This period of prohibition is called the “five-year bar.”

A “**nonqualified alien**” is a person who is not a citizen and not a qualified alien. A nonqualified alien could be an illegal alien, or he could be a legal alien who is in a certain status (e.g., a visitor to the United States who has been properly admitted for a short period).

Nonqualified aliens are **ineligible** for Medicaid. Some qualified aliens are ineligible as well (see the example above about aliens who are subject to the five-year bar). Ineligible aliens cannot obtain full Medicaid benefits; they may, however, qualify for TennCare to reimburse providers for furnishing emergency services to them. See related Policy # EED 05-001, entitled “Emergency Medical Services for Illegal and Ineligible Aliens.”<sup>5</sup>

The Deficit Reduction Act of 2005 (also called the DRA) included specific documentation requirements that must be followed by persons applying for TennCare to prove that they are legally in the United States and classified in a category that permits them to qualify for TennCare, if they meet other eligibility requirements. The DRA, Sec. 6036, codified at 42 U.S.C. § 1396b(x),<sup>6</sup> mandated improved enforcement of documentation requirements: “with respect to an individual declaring to be a citizen or national of the United States...satisfactory documentary evidence of citizenship or nationality [must be] presented.”<sup>7</sup>

#### **HOW HEALTH CARE REFORM OF 2010 AFFECTS QUALIFIED ALIENS:**

*The Affordable Care Act of 2010 (ACA)* does not require states to modify their current Medicaid eligibility rules for aliens. Nonqualified aliens continue to be ineligible for full Medicaid benefits, and certain qualified aliens described above continue to be eligible for full Medicaid benefits.

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<sup>5</sup> <http://www.tn.gov/tenncare/forms/eed05001.pdf>

<sup>6</sup> <http://www.gpoaccess.gov/uscode/index.html>

<sup>7</sup> [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109\\_cong\\_bills&docid=f:s1932enr.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:s1932enr.txt.pdf)

## **POLICY:**

**Basic eligibility requirements.** In order to be eligible for TennCare/Medicaid coverage, applicants/recipients must be:

- (a) citizens of the United States,
- (b) naturalized citizens,
- (c) qualified aliens, or
- (d) certain American Indians<sup>8</sup>

In addition to meeting all technical eligibility requirements, applicants/recipients must also meet certain financial eligibility requirements that are mandated by the Bureau of TennCare. These financial eligibility requirements are associated with the particular Medicaid category for which they are applying.

**Mandatory alien groups.** In accordance with 8 U.S.C. § 1612, states cannot deny Medicaid for citizenship reasons to the following immigrants:

- **Refugees and other humanitarian immigrants**, for the first seven years after refugee or some other humanitarian status is granted
- **Other immigrants specified in statute:**
  - Legal immigrants who are active-duty members or honorably discharged veterans of the U.S. Armed Forces (and their children and spouses)
  - Lawful permanent residents who can be credited with forty quarters of work in the United States (including quarters worked by a parent or spouse under certain circumstances)
  - Certain American Indians<sup>9</sup>

In order for persons in any of these groups to become Medicaid-eligible, they must meet the criteria for a particular Medicaid category.

**Refugee Medical Assistance Program.** For many years, DHS operated both a Refugee Cash Assistance (RCA) and a Refugee Medical Assistance (RMA) program. Under the RMA program, many refugees were able to get eight months of Medicaid coverage while they were getting settled in the United States, as long as they met RMA income limits and other eligibility requirements. After the end of the eight-month period, they were required to apply for TennCare in the same manner as everyone else. DHS ended both the RMA and the RCA programs effective July 1, 2008. Today the Tennessee Office for Refugees (TOR),

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<sup>8</sup> <http://www.gpo.gov/fdsys/search/submitcitation.action?publication=CFR> : [42 C.F.R. § 435.406 and 42 C.F.R. § 435.407—for (a), (b) and (c) under “Basic eligibility requirements.”] and <http://www.gpoaccess.gov/uscode/index.html>: [8 U.S.C. § 1612(a)(2)(G)(i)—for (d) under “Basic eligibility requirements.”]

<sup>9</sup> <http://www.gpoaccess.gov/uscode/index.html>: [8 U.S.C. § 1359] and <http://www.gpoaccess.gov/uscode/index.html>: [25 U.S.C. § 450b(e)]

which is associated with Catholic Charities of Tennessee, serves as the coordinating agency for refugee health in Tennessee.<sup>10</sup> The agency is a partner with the Office of Refugee Resettlement in the United States Department of Health and Human Services. Refugees now qualify for TennCare in the same manner as any other applicants.

**SUMMARY:**

Full Medicaid/TennCare benefits may be authorized by the Bureau of TennCare if applicants who are qualified aliens meet all required technical and non-technical eligibility criteria. TennCare has no separate eligibility code for qualified aliens because these individuals receive benefits that are no different from those received by American citizens.

**REFERENCE DOCUMENTS:**

All references are listed in the body of this document and in the footnotes.

**OFFICE(S) OF PRIMARY RESPONSIBILITY:**

Division of Member Services

Original: 05/10/06: MC

Revision 1: 04/03/09: SB

Revision 2: 09/16/10: MC

Hyperlinks updated: 05/04/11: SLM

Revision 3: 12/08/11: AB

Reviewed: List of TennCare Offices updated: 12/07/12: CH

Revision 4: 2/11/14: AY

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<sup>10</sup><http://www.cctenn.org/services/tennessee-office-refugees-0>