

Prepared for the Health Care Reform Review Committee
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Information taken from *Treatment of Noncitizens Under the Patient Protection and Affordable Care Act* (Congressional Research Service, March 22, 2011)

The document is available at: <http://www.ciab.com/WorkArea/DownloadAsset.aspx?id=2189>

Table I. Definitions of Select Immigration Terms and Categories

Term	Definition	Lawfully Present?
Noncitizen	Anyone who is not a citizen or national of the United States; this is synonymous with alien. The noncitizen may be in the United States temporarily or permanently, and either lawfully present or present without authorization.	N.A.
Alien	Anyone who is not a citizen or national of the United States; this is synonymous with noncitizen.	N.A.
Subsets of the Noncitizen/Alien Population		
Immigrant	A noncitizen who is legally admitted to the United States, as defined in the Immigration and Nationality Act (INA), and comes to live permanently in the United States.	Yes
Legal Permanent Resident (LPR)	A noncitizen who is legally admitted to the United States, as defined in the INA, and comes to live permanently in the United States. In the INA, it is synonymous with the term immigrant.	Yes
Asylees/Refugees	A noncitizen who is legally admitted to the United States based on fears of persecution due to one of five characteristics—race, religion, nationality, membership in a particular social group, or political opinion—in his native country. It is expected that asylees and refugees will become LPRs.	Yes
Nonimmigrants (includes temporary workers, visitors for business or pleasure, exchange visitors, representatives of foreign governments and press, victims of crime, trafficking victims, fiancées of U.S. citizens, and foreign investors)	A noncitizen who is present in the United States for a temporary period of time and a specific purpose.	Yes
Unauthorized (illegal) alien	A noncitizen who lacks legal authorization to be present in the United States. Unauthorized aliens may have entered the United States between ports of entry, entered with false documents, or overstayed or violated the terms of their visas.	No

Source: Congressional Research Service (CRS) analysis of the Immigration and Nationality Act (8 U.S.C. § 1101 et seq.)

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Health Insurance Mandate (page 4)

PPACA includes an individual mandate as of 2014 to maintain health insurance and has tax penalties for noncompliance. In other words, individuals—with some exceptions—who do not maintain acceptable health insurance coverage for themselves and their dependents would be required to pay a penalty.¹³ All aliens who are lawfully present are covered by the requirement to maintain health insurance.¹⁴ Unauthorized (illegal) aliens are expressly exempted from this mandate. In addition, the act specifies that a person is only considered lawfully present if the person is, and is reasonably expected to be for the entire period of enrollment, a U.S. citizen or national or an alien who is lawfully present in the United States.

Until the exchanges are operational, it is unknown what the shortest period of enrollment will be and whether certain nonimmigrants who are in the United States for limited periods of time, in many cases under six months, would be covered by the mandate (e.g., tourists (B-visas), cultural exchange (J-visas), performers and athletes (O- and P-visas)).¹⁵ In addition, no penalty will be imposed on those without coverage for less than three months (with only one period of three months allowed in a year),¹⁶ so for aliens in the United States for less than three months (e.g., most tourists)¹⁷ there would be no consequences to not having health insurance.

Exchanges (page 6)

Under PPACA, “American Health Benefit Exchanges” will begin operation by 2014. An exchange cannot be an insurer, but it will provide eligible individuals and small businesses with access to insurers’ plans in a comparable way. In addition, based on income certain individuals may qualify for a tax credit toward their premium costs and a subsidy for their cost-sharing; the credits and subsidies will be available only through an exchange beginning in 2014.³¹ The law allows all lawfully present noncitizens to purchase insurance through an exchange and bars unauthorized aliens from obtaining insurance through an exchange.³²

Premium Credits and Cost-Sharing Subsidies (page 6)

Based on their income, certain individuals may qualify for a tax credit toward their premium costs and a subsidy for their cost-sharing; the credits and subsidies will be available only through an exchange beginning in 2014.³³ All lawfully present aliens who meet specified criteria are eligible for the premium tax credit and cost-sharing subsidies.³⁴ Unauthorized (illegal) aliens are ineligible for the tax credit and subsidies. In addition, the law provides specific rules for calculating the credits and subsidies for mixed-status families.³⁵

Persons with Incomes up to 133% of Poverty (Page 8)

Beginning in 2014, or sooner at state option, PPACA requires states to expand Medicaid to certain individuals who are under age 65 with income up to 133% of the FPL. Thus, in 2014 all nonelderly U.S. citizens and certain noncitizens with income up to 133% FPL will be eligible for Medicaid.⁴⁴ This reform not only expands eligibility to a group that is not currently eligible for Medicaid (low-income childless adults), but it also raises Medicaid’s mandatory income

eligibility level for certain existing groups to 133% of the FPL and is considered the most significant expansion of Medicaid eligibility in many years.⁴⁵ Nonetheless, PPACA did not amend the current immigration status-based restrictions (i.e., alien eligibility requirements) on receiving Medicaid (discussed above).

As discussed above, beginning January 1, 2014, qualifying individuals will receive advanceable, refundable tax credits toward the purchase of an exchange plan.⁴⁶ To be eligible for the premium credits, a taxpayer must have a household income that is above 100% of the FPL but does not exceed 400% of the FPL. In addition, lawfully present noncitizens who have household incomes that do not exceed 100% of the FPL and who are ineligible for Medicaid due to their alien status will be deemed to have income at 100% of the FPL and will be *eligible* for premium credits.⁴⁷ Notably, if a person who applies for premium credits in an exchange is determined to be eligible for Medicaid, the exchange will have that person enrolled in Medicaid.⁴⁸

Under PPACA, lawfully present noncitizens (including some LPRs within five years of entry) who are ineligible for Medicaid due to their alien status are eligible to participate in an exchange and for premium credits.⁴⁹ Similarly situated U.S. citizens and lawfully present noncitizens who are eligible for Medicaid would be enrolled in Medicaid and would not be eligible to participate in an exchange, and, as a result, they would be ineligible for the premium credits.⁵⁰

Aliens Lawfully Admitted for Permanent Residence Before August 22, 1996

Aliens who lawfully entered the United States for permanent residence before August 22, 1996, and who meet all other Medicaid criteria may be eligible for Medicaid.

Aliens Lawfully Admitted for Permanent Residence on or After August 22, 1996

Aliens admitted for Lawful Permanent Residence (LPR) on or after August 22, 1996 are banned from Medicaid, for five years from the date they entered the United States. After the five-year ban, aliens who are lawful permanent residents who can be credited with forty qualifying quarters of social security coverage may be eligible for Medicaid.

Qualified Aliens 510-05-35-58

Qualified aliens are aliens that have been legally admitted and may be eligible for Medicaid if they meet all other Medicaid eligibility criteria. The following categories of individuals are qualified aliens:

- Aliens who are lawfully admitted for permanent residence (LPR) may be eligible as described above.
- Honorably discharged veterans, aliens on active duty in the United States' armed forces, and the spouse or unmarried dependent child(ren) of such individuals:
- Refugees:
- Asylees who have been granted asylum (not applicants for asylum):
- Cuban and Haitian Entrants:
- Victims of a severe form of trafficking and their families.
- Aliens whose deportation was withheld under Section 243(h) of the Immigration and Naturalization Act (INA).
- Aliens admitted as an Amerasian immigrant.
- American Indians born in Canada (must have at least 50% American Indian Blood).
- Aliens paroled into the United States under Section 212(d)(5) of the Immigration and Nationality Act for a period of at least 1 year.

- Certain battered aliens.
- Iraqi and Afghan Special Immigrants and their families.
- Aliens granted conditional entry under section 203(a)(7) of the Immigration and Nationality Act in effect prior to April 1, 1980.

FYI - Non-Qualified Aliens

Some aliens may be lawfully admitted for a temporary or specified period of time and are not eligible for Medicaid.

- Foreign government representatives on official business and their families and servants;
- Visitors for business or pleasure, including exchange visitors;
- Aliens in travel status while traveling directly through the U.S.;
- Crewman on shore leave;
- Treaty traders and investors and their families;
- Foreign students;
- International organization representation and personnel and their families and servants;
- Temporary workers including agricultural contract workers; and
- Members of foreign press, radio, film, or other information media and their families.

Illegal Aliens are not eligible for Medicaid, except for emergency services. Ongoing eligibility does not exist.

Individuals from the Federated States of **Micronesia**, the **Marshall Islands**, or **Palau**, are permanent non-immigrants. While considered non-qualified aliens, they are here permanently and therefore can be eligible for emergency services.