

**CHAPTER 150. CITIZENSHIP AND ALIENAGE
PROVISIONS FOR CATEGORICALLY NEEDY NMP-MA
AND MNO-MA**

Subchap. **Sec.**
A. GENERAL PROVISIONS FOR MA CITIZENSHIP AND ALIENAGE 150.1

**Subchapter A. GENERAL PROVISIONS FOR MA
CITIZENSHIP AND ALIENAGE**

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Authority

The provisions of this Chapter 150 issued under 403(b) of the Public Welfare Code (62 P.S. § 403(b)), unless otherwise noted.

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The provisions of this Chapter 150 adopted April 7, 1995, effective April 8, 1995, 25 Pa.B. 1280, unless otherwise noted.

Cross References

This chapter cited in 55 Pa. Code § 140.603 (relating to conditions of MA eligibility); and 55 Pa. Code § 140.721 (relating to conditions of eligibility).

GENERAL POLICY PROVISIONS**§ 150.1. General policy for MA citizenship and alienage.**

(a) An applicant for MA shall declare in writing, under penalty of perjury, that the applicant is a citizen or a national of the United States or an alien in satisfactory immigration status as defined in § 150.2 (relating to definitions), and submit supporting verification as specified in § 150.31 (relating to verification of alien status). An applicant who is unable to meet the declaration requirements in this subsection may be eligible to receive MA under subsection (c).

(b) The MA citizenship and alienage requirements for the applicable MA Program are met if a person is:

(1) A citizen of the United States including a child born to an alien in the United States.

(2) An alien lawfully admitted for permanent residence in the United States, including an American Indian born in Canada who has at least 1/2 Native American blood and has maintained a residence in the United States since entering the United States.

(3) An alien who is PRUCOL. These aliens include:

(i) Aliens admitted to the United States under section 203(a)(7) of the INA (8 U.S.C.A. § 1153(a)(7)) (See 42 CFR 435.408(b)(1) (relating to categories of aliens who are permanently residing in the United States under color of law)).

(ii) Aliens, including Cuban/Haitian entrants, paroled in the United States under section 212(d)(5) of the INA (8 U.S.C.A. § 1182(d)(5)) (See 42 CFR 435.408(b)(2)).

(iii) Aliens residing in the United States under an indefinite stay of deportation (See 42 CFR 435.408(b)(3)).

(iv) Aliens residing in the United States under an indefinite voluntary departure (See 42 CFR 435.408(b)(4)).

(v) Aliens on whose behalf an immediate relative petition has been approved and their families covered by the petition who are entitled to voluntary departure under 8 CFR 242.5(a)(2)(vi) (relating to voluntary departure prior to commencement of hearing) and whose departure INS does not contemplate enforcing (See 42 CFR 435.408(b)(5)).

(vi) Aliens who have filed applications for adjustment of status under section 245 of the INA (8 U.S.C.A. § 1255) that the INS has accepted as “properly filed” within the meaning of 8 CFR 245.2(a)(1) or (2) (relating to application) and whose departure the INS does not contemplate enforcing (See 42 CFR 435.408(b)(6)).

(vii) Aliens granted stays of deportation by court order, statute or regulation, or by individual determination by the INS under section 106 of the INA (8 U.S.C.A. § 1105a) or relevant INS instructions, whose departure that agency does not contemplate enforcing (See 42 CFR 435.408(b)(7)).

(viii) Aliens granted asylum under section 208 of the INA (8 U.S.C.A. § 1158) (See 42 CFR 435.408(b)(8)).

(ix) Aliens admitted as refugees under section 207 of the INA (8 U.S.C.A. § 1157) or section 203(a)(7) of the INA (See 42 CFR 435.408(b)(9)).

(x) Aliens granted voluntary departure under section 242(b) of the INA (8 U.S.C.A. § 1252(b)) or 8 CFR 242.5 whose departure the INS does not contemplate enforcing (See 42 CFR 435.408(b)(10)).

(xi) Aliens granted deferred action status under the INS Operations Instruction 103.1(a)(ii) prior to June 15, 1984, or 8 CFR 242.1(a)(22) (relating to order to show cause and notice of hearing) issued June 15, 1984, and later (See 42 CFR 435.408(b)(11)).

(xii) Aliens residing in the United States under orders of supervision under section 242 of the INA (See 42 CFR 435.408(b)(12)).

(xiii) Aliens who have entered and continuously resided in the United States since before January 1, 1992, or any date established by section 249 of the INA (8 U.S.C.A. § 1259) (See 42 CFR 435.408(b)(13)).

(xiv) Aliens granted suspension of deportation under section 244 of the INA (8 U.S.C.A. § 1254) and whose departure the INS does not contemplate enforcing (See 42 CFR 435.408(b)(14)).

(xv) Aliens whose deportation has been withheld under section 243(h) of the INA (8 U.S.C.A. § 1253(h)) (See 42 CFR 435.408(b)(15)).

(xvi) Other aliens living in the United States with the knowledge and permission of the INS and whose departure that agency does not contemplate enforcing including permanent nonimmigrants as established by the Compact of Free Association Act of 1985 (48 U.S.C.A. § 1681, note), and persons granted extended voluntary departure due to conditions in the aliens' home country based on a determination by the Secretary of State (See 42 CFR 435.408(b)(16)).

(4) An alien who has been legalized as an LTR or an LPR under IRCA and who is aged, blind or disabled, a child under 18 years of age or a Cuban/Haitian entrant.

(c) A person who does not meet the requirements in subsection (a) or (b) may meet the MA citizenship and alienage requirements for limited MA benefits if the person is:

(1) An alien who has an emergency medical condition as defined in § 150.2 is eligible only for treatment of the emergency medical condition. These aliens include:

(i) An alien granted legalization as an LTR or an LPR under IRCA who does not meet the requirements in subsection (b)(4).

(ii) An illegal alien, ineligible alien or an undocumented alien as defined in § 150.2.

- (2) A pregnant alien who has been legalized under IRCA as an LTR or an LPR. The pregnant legalized alien is eligible for pregnancy-related MA services as defined in § 150.2 and services related to an emergency medical condition. A child born to an alien in the United States is a citizen and is entitled to full MA benefits if otherwise eligible.
- (d) An alien who is legalized as an LTR or LPR under IRCA may not establish MA eligibility under a regulation that applies to an alien who has not been granted LTR or LPR status.
- (e) An applicant for MA shall provide documentation of alien status. An alien applying for MA for an emergency medical condition is not required to verify alien status or Social Security Number.
- (f) An alien who is not an SAW as defined in § 150.2 but who has been granted LTR status shall apply for LPR status after the 18th month in LTR status or face reverting to illegal alien status when LTR status expires. LTR status is also lost if the United States Attorney General determines that the alien was not eligible for LTR status.
- (g) Each alien's eligibility for MA shall be determined on an individual basis. MA eligibility is subject to the restrictions that apply to each individual's alien status. The legalized alien's minor noncitizen child is not granted legalization unless the alien parent has applied for legalization on behalf of the child.

Cross References

This section cited in 55 Pa. Code § 150.2 (relating to definitions); 55 Pa. Code § 150.11 (relating to aliens eligible for emergency medical services); and 55 Pa. Code § 150.21 (relating to limitation of MA eligibility for IRCA legalized aliens).

§ 150.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Applicant/recipient—A person who is applying for, or receiving, MA or a group of related persons who are living together and who choose to apply for, or receive, MA as one group.

Citizen of the United States—A person born or naturalized in the United States. The term also includes nationals from American Samoa or Swain's Island.

Emergency medical condition—A medical condition, including emergency labor and delivery, manifesting itself by acute symptoms of sufficient severity including severe pain so that the absence of immediate medical attention could reasonably be expected to result in one of the following:

- (i) Placing the patient's health in serious jeopardy.
- (ii) Serious impairment to bodily functions.
- (iii) Serious dysfunction of a bodily organ or part.

INA—The Immigration and Nationality Act (66 Stat. 163, June 27, 1952).

INS—The Immigration and Naturalization Service.

IRCA—The Immigration Reform and Control Act of 1986 (Pub.L. 99-603, 100 Stat. 3359, November 6, 1986).

Ineligible alien—An alien who has been lawfully admitted but only for a temporary or specified period of time. These aliens are eligible for emergency medical services only and include:

- (i) Foreign government representatives on official business and their families and servants.
- (ii) Visitors for business or pleasure including exchange visitors.
- (iii) Aliens in travel status while traveling directly through the United States.
- (iv) Crewmen on shore leave.
- (v) Treaty traders and investors and their families.
- (vi) Foreign students.
- (vii) International organization representatives and personnel and their families and servants.
- (viii) Temporary workers including agricultural contract workers.
- (ix) Members of the foreign press, radio, film or other information media and their families.

Illegal alien—An alien who has not been lawfully admitted for permanent residence in the United States; is not an alien PRUCOL; or lawfully admitted with a visa and that visa has expired. These aliens are eligible for emergency medical services only.

LPR—Lawful Permanent Resident—A legalized alien under IRCA whose status has been adjusted from LTR to LPR by INS. For purposes other than immigration, LPRs shall be considered as lawfully admitted for permanent residence. MA eligibility is subject to the IRCA requirements at § 150.1(b)(4) and (c) (relating to general policy for MA citizenship and alienage).

LTR—Lawful Temporary Resident—A legalized alien under IRCA who has been granted LTR status by INS. For purposes other than immigration, LTRs shall be considered as lawfully admitted for permanent residence. MA eligibility is subject to the IRCA requirements at § 150.1(b)(4) and (c).

Lawfully admitted for permanent residence—An alien who has been lawfully accorded the privilege of living permanently in the United States as an immigrant in accordance with the immigration statutes, and whose status has not changed since admission. The term does not include an alien PRUCOL since the residence is not in accord with specific immigration statutes.

National of the United States—A person who is a citizen of the United States or a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

Pregnancy-related services—The pregnancy-related MA services available to aliens granted legalization under IRCA include routine prenatal care, labor and delivery and routine postpartum care. The postpartum care period begins on the

last day of pregnancy and extends through the end of the month in which the 60-day period following the termination of pregnancy ends.

PRUCOL—Permanently residing in the United States under color of law—An alien who is living in the United States with the knowledge and permission of the INS though not in accord with specific immigration statutes and whose departure from the United States the INS does not contemplate enforcing. The term includes an alien who entered the United States in one of the following ways:

- (i) Lawfully in a status other than LPR.
- (ii) Unlawfully.

RAW—Replenishing Agricultural Worker—An alien who is admitted under a provision of IRCA that provides for the admission of additional aliens to meet the shortage of agricultural workers. RAWs will be granted LTR status by INS.

Satisfactory immigration status—An immigration status which does not make the alien ineligible for benefits under the applicable program. (See section 121(d)(1)(B)(i)(III) of IRCA (42 U.S.C.A. § 1320b-7, note).

SAW—Special Agricultural Worker—An alien who has been granted LTR or LPR status and is employed in seasonal agricultural work. SAWs may commute from a non-United States residence such as Mexico and still be eligible for LTR status under United States statutes, and subsequently LPR status.

Undocumented alien—An alien who does not have, and has never been given, any type of INS documentation. These aliens are eligible for emergency medical services only.

United States—The 50 states, the District of Columbia, Puerto Rico, Guam, Virgin Islands and the Northern Mariana Islands.

Cross References

This section cited in 55 Pa. Code § 150.1 (relating to general policy for MA citizenship and alienage); 55 Pa. Code § 150.11 (relating to aliens eligible for emergency medical services); and 55 Pa. Code § 150.21 (relating to limitation of MA eligibility for IRCA legalized aliens).

EMERGENCY MEDICAL SERVICES

§ 150.11. Aliens eligible for emergency medical services.

(a) An alien who has an emergency medical condition as defined in § 150.2 (relating to definitions) and who meets the income, resource and other categorical requirements of the applicable MA program may be eligible for MA for the treatment of the emergency medical condition if the alien:

- (1) Is an illegal alien.
- (2) Is an ineligible alien.
- (3) Is an undocumented alien.

- (4) Is an LTR or LPR who is banned from receiving MA for 5 years from the date that legalization is granted and who does not meet the requirements specified in § 150.1(b)(4) (relating to general policy for MA citizenship and alienage).
- (b) A child born to an alien in the United States is a citizen and if otherwise eligible may receive full MA benefits if otherwise eligible.
- (c) An alien who has an emergency medical condition is not required to sign the citizenship/alienage declaration, verify alien status or verify a Social Security Number.
- (d) An alien who had an emergency medical condition is required to provide at application verification of the emergency by presenting a written statement from the medical provider that specifies the following:
- (1) The nature of the emergency medical condition.
 - (2) That the medical treatment was necessary because of the emergency condition.
 - (3) The approximate duration of the emergency.
- (e) The emergency medical services required to treat an emergency medical condition are only funded by MA until the medical condition is no longer an emergency. MA funded medical services are not available for treatment received after the emergency ends. In the case of emergency labor and emergency delivery, MA funded medical services are available from the beginning of active labor until the delivery is complete and the mother and child are stabilized.

IRCA LIMITATIONS

§ 150.21. Limitation of MA eligibility for IRCA legalized aliens.

An alien who has been legalized as an LTR or an LPR under IRCA who does not meet the requirements specified in § 150.1(b)(4) (relating to general policy for MA citizenship and alienage) is restricted to receiving MA payment for an emergency medical condition or pregnancy-related services as defined in § 150.2 (relating to definitions). This restriction applies for 5 years from the date that legalization is granted. At the end of the 5-year period, regular MA coverage is available if the alien meets the financial and nonfinancial requirements of the applicable MA Program.

VERIFICATION PROVISIONS

§ 150.31. Verification of alien status.

(a) Verification consists of documentation specified by the Department and includes an alien resident card INS Form I-551 or I-151; Form AR-3, or Form AR-3a, which are earlier versions of the Form I-551, if endorsed to show a lawful admission has been made; or a reentry permit; INS Form I-94, Form I-220B or INS Form I-210, or a letter from INS indicating the alien's status or an order

from an immigration judge showing that deportation has been withheld; or INS Form I-688. Acceptable documentation for an American Indian born in Canada shall be a birth or baptismal certificate issued on an Indian Reservation, tribal records, a letter from the Canadian Department of Indian Affairs, school records or written verification from INS.

(b) If verification is not immediately available, the applicant has 30 days from the date MA is authorized to provide acceptable verification of status. Once alien status is verified, it is not necessary to reverify unless the applicant states that his status has changed.

(c) If verification of alien status is requested from INS, MA may be authorized pending receipt of verification from INS.

Cross References

This section cited in 55 Pa. Code § 150.1 (relating to general policy for MA citizenship and alienage).

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