DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Prior Authorization for New Drugs, Sections 8.800.7 & 8.800.16
Rule Number: MSB 18-11-09-A
Division / Contact / Phone: Client and Clinical Care Office / Kristina Gould / 303-866-6715

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 18-11-09-A, Revision to the Medical Assistance Rule concering Prior Authorization for New Drugs, Sections 8.800.7 & 8.800.16
3. This action is an adoption of: an amendment
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

   Sections(s) 8.800.7.D, 8.800.7.E, 8.800.16.A.5, 8.800.16.B, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? No
   If yes, state effective date:
   Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.800.7 with the proposed text beginning at 8.800.7.D through the end of 8.800.7.E. Replace the current text at 8.800.16 with the proposed text beginning at 8.800.16.A through the end of 8.800.16.B This rule is effective March 30, 2019.

*to be completed by MSB Board Coordinator

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Title of Rule: Revision to the Medical Assistance Rule concerning Prior Authorization for New Drugs, Sections 8.800.7 & 8.800.16
Rule Number: MSB 18-11-09-A
Division / Contact / Phone: Client and Clinical Care Office / Kristina Gould / 303-866-6715

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   This rule revision clarifies preexisting prior authorization language and defines the prior authorization process for new drugs. Below are specific changes per each section:

   1. 8.800.7.D: Clarification to section 1, if a new drug is approved by the FDA and in a drug class already subject to prior authorization, the new drug may be subject to prior authorization without any comment period. Create section 2, if a new drug is approved by the FDA and not in a drug class already subject to prior authorization, the new drug may be subject to prior authorization and will be reviewed by the DUR Board within six months.

   2. 8.800.7.E: Add Preferred Drug List (PDL) and Appendix P as additional methods of prior authorization notice.

   3. 8.800.16.A.5: Modify thirty-day notice language from “at least thirty days” to “no more than thirty days”.

   4. 8.800.16.B: Add a section 3 which refers to 8.800.7.D for further new drug prior authorization information.

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or
   ☐ for the preservation of public health, safety and welfare.

   Explain:

3. Federal authority for the Rule, if any:

   1927 [42 U.S.C. 1396r-8] (d)

4. State Authority for the Rule:
   25.5-1-301 through 25.5-1-303, C.R.S. (2018);
   25.5-5-502, C.R.S. (2017) and 25.5-5-506, C.R.S. (2017)

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Rule Number: MSB 18-11-09-A
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REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

   Drug manufacturers, prescribers and members will bear no additional costs associated with this proposed rule revision because prior authorizations are an established process. The rule language is simply being updated to more clearly articulate the prior authorization process for new drugs.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

   Quantitatively, there is no impact. Qualitatively, the rule language will clarify the prior authorization process for new drugs.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

   There are no probable costs in the implementation of the proposed rule.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

   The proposed rule will benefit providers and members because the prior authorization process for new drugs will be more clearly articulated and defined.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

   None.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

   None.

8.800 PHARMACEUTICALS

8.800.7 PRIOR AUTHORIZATION REQUIREMENTS

8.800.7.A. Prior authorization shall be obtained before drugs that are subject to prior authorization restrictions may be provided as a benefit. Prior authorization requests may be made by the member's physician, any other health care provider who has authority under Colorado law to prescribe the medication being requested or any long-term-care pharmacy or infusion pharmacy that fills prescriptions on behalf of the member and is acting as the agent of the prescriber. The prior authorization request shall be made to the Fiscal Agent. The prescriber shall provide any information requested by the Fiscal Agent including, but not limited to, the following:

1. Member name, Medical Assistance Program state identification number, and birth date;

2. Name of the drug(s) requested;

3. Strength and quantity of drug(s) requested; and

4. Prescriber's name and medical license number, Drug Enforcement Administration number, or National Provider Identifier.

8.800.7.B. When the prior authorization request is received, it shall be reviewed to determine if the request is complete. If it is complete, the requesting provider shall be notified of the approval or denial of the prior authorization request via telephone and/or facsimile at the time the request is made, if possible, but in no case later than 24 hours after the request is made. If the prior authorization request is incomplete or additional information is needed, an inquiry to the party requesting the prior authorization shall be initiated within one working day from the day the request was received. If no response is received from that party within 24 hours of the Department's inquiry, the prior authorization shall be denied.

8.800.7.C. In an emergency situation, the pharmacy may dispense up to a 72-hour supply of a covered drug that requires a prior authorization if it is not reasonably possible to request a prior authorization for the drug before it must be dispensed to the member for proper treatment. The pharmacist may call the prior authorization help desk to receive override approval. Prescriptions dispensed under the override approval are eligible for reimbursement.

8.800.7.D. Prior Authorization for New Drugs

1. If a new drug entity, including new generic drugs and new drug product dosage forms of existing drug entities, is approved by the FDA and is in a Drug Class already subject to prior authorization, the new drug entity may be subject to prior authorization without any comment period.

a. If it is a new drug entity that is subject to the PDL, the prior authorization criteria for that new drug entity shall remain in effect until the applicable Drug Class is reviewed by the Drug Utilization Review (DUR) Board.

b. If it is a new drug entity that is not subject to the PDL, ~~the drug may receive a~~the prior authorization criteria shall remain in effect ~~continue~~ until the new drug entity is ~~and will be~~ reviewed by the DUR Board, which shall be within six months.

2. If a new drug entity, including new generic drugs and new drug product dosage forms of existing drug entities, is approved by the FDA and is not in a Drug Class already subject to prior authorization, the new drug entity may be subject to prior authorization and will be reviewed by the DUR board within six months.

~~The Department shall solicit and maintain a list of any interested parties who wish to comment on any proposed additions to the drugs that are subject to prior authorization. The list of interested parties shall be notified of any proposal and shall be given reasonable time, not to exceed 30 days, to comment or recommend changes before any drugs become subject to prior authorization. Notwithstanding the foregoing, if a new drug is approved by the FDA and that drug is in a class of drugs already subject to prior authorization, the new drug shall also be subject to prior authorization without any comment period.~~

8.800.7.E. Any changes to the drugs that are subject to prior authorization or any documentation required to obtain a prior authorization shall be published in the Provider Bulletin, Appendix P or PDL. Notification in the Provider Bulletin, Appendix P or PDL shall satisfy any notification requirements of any such changes. The Appendix P and PDL documents can be accessed on the Department's website at www.colorado.gov/hcpf.

8.800.16 PREFERRED DRUG LIST

8.800.16.A. ESTABLISHING THE PREFERRED DRUG LIST

1. To develop and maintain the PDL, the Department shall take the following steps:

   a. Determine which drugs and Drug Classes shall be reviewed for inclusion on the PDL.

   b. Refer selected drugs and Drug Classes to the P&T Committee for clinical reviews performed without consideration of drug cost-effectiveness. The P&T Committee shall make recommendations pursuant to 10 C.C.R. 2505-10, Section 8.800.17.C.

   c. Make recommendations to the Medical Director based on evaluations of relevant criteria, including but not limited to:

      i) Drug safety;

      ii) Drug efficacy;

      iii) The recommendations of the P&T Committee;

      iv) Public comments received by the Department before a drug or Drug Class is reviewed at the relevant P&T Committee meeting;

      v) Cost-effectiveness; and

      vi) Scientific evidence, standards of practice and other relevant drug information for such evaluation.

2. After the P&T Committee meets, the Medical Director shall review the recommendations of the P&T Committee and the Department and determine whether a reviewed drug is designated a Preferred Drug or a Non-preferred Drug.

3. After the Medical Director has designated a reviewed drug as Preferred or Non-preferred and designates prior authorization criteria to protect the health and safety of members, the Department shall refer that drug to the DUR Board for recommendations on prior authorization criteria.

4. After the DUR Board meets, the Medical Director shall review the recommendations of the P&T Committee, the DUR Board and the Department and determine the efficacy, safety and appropriate prior authorization criteria for Preferred and Non-preferred Drugs to ensure the health and safety of members.

5. The Department shall provide public notice of PDL updates at least ~~thirty~~ ten days before such changes take effect.

6. Drug Classes included on the PDL shall be reviewed annually.

8.800.16.B. NEW DRUGS

1. Notwithstanding any other provision of this section, a new drug entity, including new generic drugs and new drug product dosage forms of existing drug entities, in a Drug Class already included on the PDL:

   a. Shall be automatically designated a Non-preferred Drug; unless

   b. A preliminary evaluation by the Department finds that a new drug must be designated a Preferred Drug because it is medically necessary.

2. The Preferred or Non-preferred designation for a new drug shall continue until the relevant Drug Class is reviewed and the designation is changed pursuant to 10 C.C.R. 2505-10, Section 8.800.16.A.

3. New drug prior authorization information is addressed in Section 8.800.7.D.

8.800.16.C. EXCLUSION OF DRUGS, DRUG CLASSES OR INDIVIDUALS FROM THE PDL

1. The following exclusions are intended to promote good health outcomes and clinically appropriate drug utilization and to protect the most vulnerable Medical Assistance Program members.

2. After reviewing the recommendations of the P&T Committee and the Department, the Medical Director may, notwithstanding any other provision of this section and to the extent allowed by federal and state law:

   a. Exclude drugs or Drug Classes from consideration for inclusion on the PDL.

   b. Determine continuity of care protocols that exempt Medical Assistance Program members stabilized on specified Non-preferred Drugs from prior authorization requirements.

   c. Exclude specific Medical Assistance Program populations from prior authorization requirements for all Non-preferred Drugs.

3. Individual Medical Assistance Program members shall be exempted, on an annual basis, from prior authorization requirements for all Non-preferred Drugs if:

   a. A member meets clinical criteria recommended by the Department and P&T Committee and approved by the Medical Director; and

   b. A member's physician submits a request for exemption and meets the criteria for approval.

8.800.16.D. AUTHORITY OF THE EXECUTIVE DIRECTOR

1. The decisions of the Medical Director, made under the authority of this section, shall be implemented by the Department at the sole discretion of the Executive Director.

2. If the Medical Director position is unfilled, the duties and obligations of that position, as described in this section, shall be performed by the Executive Director.

8.800.16.E. SUPPLEMENTAL REBATES The Department may enter into supplemental rebate agreements with drug manufacturers for Preferred Drugs. The Department may contract with a vendor and/or join a purchasing pool to obtain and manage the supplemental rebates.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Eligibility Rules Concerning General and Citizenship Requirements, Sections 8.100.3.G and 8.100.4.B
Rule Number: MSB 18-10-16-A
Division / Contact / Phone: Eligibility Policy / Jennifer VanCleave / 303-866-6204

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name:	Health Care Policy and Financing / Medical Services Board
2. Title of Rule:	MSB 18-10-16-A, Revision to the Medical Assistance Eligibility Rules Concerning General and Citizenship Requirements, Sections 8.100.3.G and 8.100.4.B
3. This action is an adoption of:	an amendment

4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

   Sections(s) 8.100.3.G and 8.100.4.B, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).

5. Does this action involve any temporary or emergency rule(s)?	No
If yes, state effective date:	
Is rule to be made permanent? (If yes, please attach notice of hearing).	<Select One>

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.100.3.G with the proposed text beginning at 8.100.3.G.2 through the end of 8.100.3.G.3. Replace the current text 8.100.4.B with the proposed text beginning at 8.100.4.B.1 through the end of 8.100.4.B.1. This rule is effective March 30, 2019.

*to be completed by MSB Board Coordinator

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Eligibility Rules Concerning General and Citizenship Requirements, Sections 8.100.3.G and 8.100.4.B
Rule Number: MSB 18-10-16-A
Division / Contact / Phone: Eligibility Policy / Jennifer VanCleave / 303-866-6204

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   The proposed rule change will amend 10 CCR 2505-10 8.100.3.G and 8.100.4.B to update the language describing the Verify Lawful Presence (VLP) interface electronic verification process. The Department of Homeland Security (DHS) and the Centers for Medicare and Medicaid Services (CMS) have updated how states must connect to and use the Systematic Alien Verification for Entitlements (SAVE) Program to provide more prompt verification of immigration status. As such, the language in the rule must be updated to reflect the new process. This rule change does not affect eligibility criteria for non-citizens. Rather, it only updates the language which describes the electronic process by which immigration status is verified with the Department of Homeland Security.

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or
   ☐ for the preservation of public health, safety and welfare.

   Explain:

   N/A

3. Federal authority for the Rule, if any:

   42 C.F.R. §435.406, 42 C.F.R. §435.956

4. State Authority for the Rule:

   Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2018);
   Section 25.5-4-205, C.R.S. (2018)

Initial Review
Proposed Effective Date

Final Adoption
Emergency Adoption

DOCUMENT #

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Eligibility Rules Concerning General and Citizenship Requirements, Sections 8.100.3.G and 8.100.4.B
Rule Number: MSB 18-10-16-A
Division / Contact / Phone: Eligibility Policy / Jennifer VanCleave / 303-866-6204

REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

   With the proposed rule, the language describing the electronic interface that is used to verify lawful presence will be updated. By providing a general description of the Verify Lawful Presence (VLP) electronic interface, it will remove the need to change the rule each time the Department of Homeland Security (DHS) and the Centers for Medicare and Medicaid Service (CMS) update the requirements for how states must send and receive information to and from the Systematic Alien Verification for Entitlements (SAVE) Program. The SAVE Program is periodically updated to provide more prompt and accurate verification of immigration status. Additionally, the VLP system used by Colorado will be updated to align with system requirements set forth by DHS and CMS.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

   The proposed rule will only update the language that describes the Verify Lawful Presence (VLP) electronic interface. It will not change the eligibility criteria or the verification requirements for non-citizens. With each update to the VLP, the system is further refined to more quickly identify data entry errors and request any additional information needed. This will help eligibility sites resolve discrepancies more quickly, leading to more prompt verification of immigration status and more efficient eligibility determinations.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

   The Department does not anticipate any changes to costs as a result of the implementation of this policy, due to the fact that these changes do not affect eligibility criteria for non-citizens. These changes are only updating the language which describes the electronic process that is used to verify immigration status.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

Inaction will make the description of the electronic verification process inaccurate to what is practiced by the Department. There will be no change to costs in either case as the changes will not affect eligibility criteria for non-citizens.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

   There are no less costly methods as these changes will not affect costs. Because these changes are updating the description of the electronic verification process, no less intrusive method of achieving the purpose of the proposed rule exists.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

   There were no alternative methods considered for the proposed rule.

8.100.3.G. General and Citizenship Eligibility Requirements

1. To be eligible to receive Medical Assistance, an eligible person shall:

a. Be a resident of Colorado;

b. Meet the following requirements while being an inmate, in-patient or resident of a public institution:

i). The following individuals, if eligible, may be enrolled for Medical Assistance

1. Patients in a public medical institution

2. Residents of a Long-Term Care Institution

3. Prior inmates who have been paroled

4. Resident of a publicly operated community residence which serves no more than 16 residents

5. Individuals participating in community corrections programs or residents in community corrections facilities ("halfway houses") who have freedom of movement and association which includes individuals who:

a) are not precluded from working outside the facility in employment available to individuals who are not under justice system supervision;

b) can use community resources (e.g., libraries, grocery stores, recreation, and education) at will;

c) can seek health care treatment in the broader community to the same or similar extent as other Medicaid enrollees in the state; and/or

d) are residing at their home, such as house arrest, or another location

ii). Inmates who are incarcerated in a correctional institution such as a city, county, state or federal prison may be enrolled, if eligible, with benefits limited to an in-patient stay of 24 hours or longer in a medical institution.

c. Not be a patient in an institution for tuberculosis or mental disease, unless the person is under 21 years of age or has attained 65 years of age and is eligible for the Medical Assistance Program and is receiving active treatment as an inpatient in a psychiatric facility eligible for Medical Assistance reimbursement. See section 8.100.4.H for special provisions extending Medical Assistance coverage for certain patients who attain age 21 while receiving such inpatient psychiatric services;

d. Meet all financial eligibility requirements of the Medical Assistance Program for which application is being made;

e. Meet the definition of disability or blindness, when applicable. Those definitions appear in this volume at 8.100.1 under Definitions;

f. Meet all other requirements of the Medical Assistance Program for which application is being made; and

g. Fall into one of the following categories:

i) Be a citizen or national of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa or Swain's Island; or

ii) Be a lawfully admitted non-citizen who entered the United States prior to August 22, 1996, or

iii) Be a non-citizen who entered the United States on or after August 22, 1996 and is applying for Medical Assistance benefits to begin no earlier than five years after the non-citizen's date of entry into the United States who falls into one of the following categories:

1) lawfully admitted for permanent residence under the Immigration and Nationality Act (hereafter referred to as the "INA");

2) paroled into the United States for at least one year under 8 U.S.C. § 1182(d)(5); or

3) granted conditional entry under section 203(a)(7) of the INA, as in effect prior to April 1, 1980; or

4) determined by the eligibility site, in accordance with guidelines issued by the U.S. Attorney General, to be a spouse, child, parent of a child, or child of a parent who, in circumstances specifically described in 8 U.S.C. §1641(c), has been battered or subjected to extreme cruelty which necessitates the provision of Medical Assistance (Medicaid); or

iv) Be a non-citizen who arrived in the United States on any date, who falls into one of the following categories:

1) lawfully residing in Colorado and is an honorably discharged military veteran (also includes spouse, unremarried surviving spouse and unmarried, dependent children), or

2) lawfully residing in Colorado and is on active duty (excluding training) in the U.S. Armed Forces (also includes spouse, unremarried surviving spouse and unmarried, dependent children), or

3) granted asylum under section 208 of the INA, or

4) refugee under section 207 of the INA, or

5) deportation withheld under section 243(h) (as in effect prior to September 30, 1996) or section 241(b)(3) (as amended by P.L. 104-208) of the INA, or

6) Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980, or

7) an individual who (1) was born in Canada and possesses at least 50 percent American Indian blood, or is a member of an Indian tribe as defined in 25 U.S.C. sec. 5304(e)(2016), or

8) admitted to the U.S. as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 (as amended by P.L. 100-461), or

9) lawfully admitted permanent resident who is a Hmong or Highland Lao veteran of the Vietnam conflict, or

10) a victim of a severe form of trafficking in persons, as defined in section 103 of the Victims of Trafficking and Violence Protection Act of 2000, Pub. L.106-386, as amended (22 U.S.C. § 7105(b) (2016)), or

11) An alien who arrived in the United States on or after December 26, 2007 who is an Iraqi special immigrant under section 101(a)(27) of the INA, or

12) An alien who arrived in the United States on or after December 26, 2007 who is an Afghan Special Immigrant under section 101(a)(27) of the INA.

v) The statutes listed at sections 8.100.3.G.1.g.iii.1-5 and at 8.100.3.G.1.g.iv.3-11 are incorporated herein by reference. No amendments or later editions are incorporated. These regulations are available for public inspection at the Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Pursuant to C.R.S. 24-4-103(12.5)(b)(2016), the agency shall provide certified copies of the material incorporated at cost upon request or shall provide the requestor with information on how to obtain a certified copy of the material incorporated by reference from the agency of the United States, this state, another state, or the organization or association originally issuing the code, standard, guideline or rule.

vi) Be a lawfully admitted non-citizen who is a pregnant women or a child under the age of 19 years in the United States who falls into one of the categories listed in 8.100.3.G.1.g.iii or into one of the following categories listed below. These individuals are exempt from the 5-year waiting period:

1) granted temporary resident status in accordance with 8 U.S.C. 1160 or 1255a,or

2) granted Temporary Protected Status (TPS) in accordance with 8 U.S.C 1254a and pending applicants for TPS granted employment authorization,

3) granted employment authorization under 8 CFR 274a.12(c),or

4) Family Unity beneficiary in accordance with section 301 of Pub. L. 101-649, as amended.

5) Deferred Enforced Departure (DED), pursuant to a decision made by the President,

6) granted Deferred Action status (excluding Deferred Action for Childhood Arrivals (DACA)) as described in the Secretary of Homeland Security's June 15,2012 memorandum,

7) granted an administrative stay of removal under 8 CFR 241.6(2016), or

8) Beneficiary of approved visa petition who has a pending application for adjustment of status.

9) Pending an 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-

a) as been granted employment authorization; or

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

10) granted withholding of removal under the Convention Against Torture,

11) A child who has a pending application for Special Immigrant Juvenile status under 8 U.S.C. 1101(a)(27)(J), or

12) Citizens of Micronesia, the Marshall Islands, and Palau, or

13) is lawfully present American Samoa under the immigration of laws of American Samoa.

14) A non-citizen in a valid nonimmigrant status, as defined in 8 U.S.C. 1101(a)(15) or under 8 U.S.C. 1101(a)(17), or

15) A non-citizen who has been paroled into the United States for less than one year under 8 U.S.C. § 1182(d)(5), except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings.

vii) Exception: The exception to these requirements is that persons who apply for and meet the criteria for one of the categorical Medical Assistance programs, but who are not citizens, and are not eligible non-citizens, according to the criteria set forth in 8.100.3.G.1.g, ~~do not meet the criteria of citizenship~~ shall receive Medical Assistance benefits for emergency medical care only. The rules on confidentiality prevent the Department or eligibility site from reporting to the United States Citizenship and Immigration Services persons who have applied for or are receiving assistance. These persons need not select a primary care physician as they are eligible only for emergency medical services.

For non-qualified aliens receiving Medical Assistance emergency only benefits, the following medical conditions will be covered:

An emergency medical condition (including labor and delivery) which manifests itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

1) placing the patient's health in serious jeopardy;

2) serious impairment of bodily function; or

3) serious dysfunction of any bodily organ or part.

A physician shall make a written statement certifying the presence of an emergency medical condition when services are provided and shall indicate that services were for a medical emergency on the claim form. Coverage is limited to care and services that are necessary to treat immediate emergency medical conditions. Coverage does not include prenatal care or follow-up care.

2. For determinations of eligibility for Medical Assistance, legal immigration status must be verified. This requirement applies to a non-citizen individual who meets the criteria of any category defined at 8.100.3.G(1)(g)(ii) (iii) (iv) or (vi) and has declared that he or she has a legal immigration status.

   a. The Verify Lawful Presence (VLP) interface will be used to verify immigration status. The VLP interface connects to the Systematic Alien Verification for Entitlements (SAVE) Program~~. The VLP interface has three steps~~ to verify legal immigration status.

      i) If ~~An~~ an automated response from VLP confirms that the information submitted is consistent with VLP data for immigration status verification requirements~~., No~~ no further action is required for the individual and no additional documentation of immigration status is required.~~ If Step 1 does not verify the legal immigration status of the individual and the VLP interface indicates additional information is required, Step 2 will automatically be initiated.~~

      ~~ii) Step 2: A response from the VLP interface confirms that the information submitted verifies the legal immigration status of the individual. No further action is required for the individual and no additional documentation of immigration status is required. If Step 2 does not verify the legal immigration status of the individual and the VLP interface indicates additional information is required Step 3 will be initiated.~~

      ii~~i~~) ~~Step 3:~~ If the VLP cannot automatically confirm the information submitted, t~~T~~he individual will be contacted ~~by a state appointed designee~~ with a request for additional documents and/or information needed to verify their legal immigration status through the VLP interface. ~~A~~ If a response from the VLP interface confirms that the additional documents and/or information received from the individual verifies their legal immigration status, no~~. No~~ further action is required for the individual and no additional documentation of immigration status is required.

3. Reasonable Opportunity Period

   a. If the verification through ~~Step 1 of~~ the electronic interface is unsuccessful then the applicant will be provided a reasonable opportunity period, of 90 days, to submit documents indicating a legal immigration status, as listed in 8.100.3.G.1.g. The reasonable opportunity period will begin as of the date of the Notice of Action. The required documentation must be received within the reasonable opportunity period.

   ~~b. If the verification through Step 2 of the electronic interface is unsuccessful and Step 3 is initiated, the reasonable opportunity period will be reset to 90 calendar days which will commence on the date of the failure of Step 2.~~

   ~~c.~~b If the applicant does not provide the necessary documents within the reasonable opportunity period, then the applicant's Medical Assistance application shall be terminated.

   ~~d~~c. The reasonable opportunity period applies to MAGI, Adult and Buy-In Programs.

i) For the purpose of this section only, MAGI Programs for persons covered pursuant to 8.100.4.G or 8.100.4.I. include the following:

Commonly Used Program Name	Rule Citation
Children's Medical Assistance	8.100.4.G.2
Parent and Caretaker Relative Medical Assistance	8.100.4.G.3
Adult Medical Assistance	8.100.4.G.4
Pregnant Women Medical Assistance	8.100.4.G.5
Legal Immigrant Prenatal Medical Assistance	8.100.4.G.6
Transitional Medical Assistance	8.100.4.I.1-5

ii) For the purpose of this section only, Adult and Buy-In Programs for persons covered pursuant to 8.100.3.F, 8.100.6.P, 8.100.6.Q, or 8.715. include the following:

Commonly Used Program Name	Rule Citation
Old Age Pension A (OAP-A)	8.100.3.F.1.c
Old Age Pension B (OAP-B)	8.100.3.F.1.c
Qualified Disabled Widow/Widower	8.100.3.F.1.e
Pickle	8.100.3.F.1.e
Long-Term Care	8.100.3.F.1.f-h
Medicaid Buy-In Program for Working Adults with Disabilities	8.100.6.P
Medicaid Buy-In Program for Children with Disabilities	8.100.6.Q
Breast and Cervical Cancer Program (BCCP)	8.715

8.100.4.B. MAGI Category Verification Requirements

1. Minimal Verification – At minimum, applicants seeking Medical Assistance shall provide all of the following:

   a. Social Security Number: Each individual requesting assistance on the application shall provide a Social Security Number, or each shall submit proof of an application to obtain a Social Security Number. Members of religious groups whose faith will not permit them to obtain Social Security Numbers shall be exempt from providing a Social Security Number.

   b. Verification of citizenship and identity as outlined in section 8.100.3.H under Citizenship and Identity Documentation Requirements.

   c. Earned Income: Income shall be self-attested by an applicant and verified through an electronic data source. Individuals who provide self-attestation of income must also provide a Social Security Number for wage verification purposes.

If earned income is not or cannot be self-attested, it shall be verified by wage stubs, tax documents, written documentation from the employer stating the employee's gross income or a telephone call to an employer. Applicants may request that communication with their employers be made in writing.

Estimated earned income shall be used to determine eligibility if the applicant/client provides less than a full calendar month of wage stubs for the application month. A single recent wage stub shall be sufficient if the applicant's income is expected to be the same amount for the month of application. Verification of earned income received during the month prior to the month of application shall be acceptable if the application month verification is not yet available. Actual earned income shall be used to determine eligibility if the client provides verification for the full calendar month.

d. Unearned income: Unearned income can be self-attested by an applicant. Certain types of unearned income, such as unemployment and survivor benefits may be verified through electronic data sources.

e. Verification of Legal Immigrant Status: Immigration status can be self-declared by an applicant applying for Medical Assistance, to determine eligibility for full Medical Assistance benefits. This declaration of legal immigration status will be verified through the Verify Lawful Presence (VLP) interface. The VLP interface connects to the Systematic Alien Verification for Entitlements (SAVE) program ~~and has three steps~~ to verify legal immigration status. See section 8.100.3.G for ~~these three steps~~a description of the VLP interface. If status cannot be verified, or if the applicant does not provide the necessary documents within the reasonable opportunity period, then the applicant's Medical Assistance application shall be terminated.

2. Additional Verification: No other verification shall be required of the client unless information is found to be questionable on the basis of fact.

3. The determination that information is questionable shall be documented in the applicant's case file and CBMS case comments.

4. Information that exists in another case record or in CBMS shall be used by the eligibility site to verify those factors that are not subject to change, if the information is reasonably accessible.

5. The criteria of age and relationship can be declared by the client unless questionable. If questionable, these criteria can be established with information provided from:

   a. official papers such as: a birth certificate, order of adoption, marriage license, immigration or naturalization papers; or

   b. records or statements from sources such as: a court, school, government agency, hospital, or physician.

6. Establishing that a dependent child meets the eligibility criteria of:

   a. age, if questionable requires (1) viewing the birth certificate or comparably reliable document at eligibility site discretion, and (2) documenting the source of verification in the case file and CBMS case comments;

   b. living in the home of the caretaker relative, if questionable requires (1) viewing the appropriate documents which identify the relationship, (2) documenting these sources of verification in the case file and CBMS case comments.