

Operations Memorandum - Medicaid

OPS100204

March 2, 2010

SUBJECT: Additional Guidance for the Five-Year Bar on Federally-Funded Medical Assistance

TO: Executive Directors

FROM: Joanne Glover, Director, Bureau of Operations

Purpose

To provide additional guidance and information to County Assistance Offices (CAOs) for qualified aliens subject to the five-year bar for receipt of Federally-funded Medical Assistance (MA).

Background

Operations Memorandum [090603](#) introduced policy and procedures for the five-year bar related to Federally-funded MA. Effective July 1, 2009, certain qualified aliens who entered the United States (U.S.) on or after August 22, 1996 are not eligible for Federally-funded MA for five years, beginning on the date the individual entered the U.S. with a qualified alien status. OPS090603 also includes a list of qualified aliens exempt from the five-year bar provisions.

Discussion

A non-exempt, qualified alien's date of entry into the U.S. determines the application of the five-year bar. A qualified alien who entered the U.S. prior to August 22, 1996 is not subject to the five-year bar. Temporary and undocumented aliens who entered the U.S. prior to August 22, 1996, remained continuously present in the U.S., and later obtained qualified alien status are also not subject to the five-year bar. For these individuals, once qualified alien status is obtained, the individual is eligible for MA with no five-year bar, provided all other conditions of eligibility are met. Any single absence from the U.S. of more than 30 days, or a total combination of absences of more than 90 days, is considered an interruption of continuous presence. An alien with an interruption in continuous presence is considered as not having entered the U.S. prior to August 22, 1996. Therefore, the individual is subject to the bar for five years from the date qualified alien status was obtained.

An immigration document includes date of entry. For an individual who entered the U.S. and later had an adjustment or change in immigration status, the date of entry becomes the date of the status adjustment. The new document for the new status no longer reflects the initial date of entry. For an alien claiming a date of entry prior to August 22, 1996, the initial date of entry and continuous presence prior to obtaining the qualified

alien status must be verified in order to determine if the individual is subject to the bar. The individual may provide original immigration documents if available. Otherwise, the date may be verified through the U.S. Citizenship and Immigration Services (USCIS). For most lawfully-admitted aliens, USCIS maintains a record of arrivals to and departures from the U.S. Initial date of entry and possibly continuous presence may be verified by requesting additional verification through SAVE. If it is not available through the SAVE system, it may be verified by submitting Form G-845 and Form G-845 Supplement to USCIS. For some documented aliens, such as Canadian or Mexican border crossers, USCIS may not maintain arrival and departure records. There are no records for undocumented aliens. These aliens, in addition to providing proof of current alien status, must provide proof of date of entry that is prior to August 22, 1996 and continuous presence to determine if they are subject to the bar. Examples of such proof may include letters from employers, a series of pay stubs, utility bills in the individual's name, school records, tax records or medical records spanning the period of time in question.

Next Steps

1. Share this information with appropriate staff
2. Direct questions to your Area Manager.
3. Maintain this Operations Memorandum until Chapter 322 of the Medical Assistance Handbook is revised.