

Quick Guide to Health Care Rights of Immigrants

Non-citizens of the United States may have different rights to health care based on a variety of factors. Non-citizens include those who have legal status in the U.S. as well as undocumented immigrants. Generally, non-citizens have higher uninsured rates due to limited access to employer-sponsored coverage; eligibility restrictions for government-sponsored programs, and cultural and language barriers to enrollment. Each member of a family may have a different immigration status, and therefore, may have different options.

Immigration Status

- **Lawful Permanent Residents:** also known as “green card holders,” are individuals who are not U.S. citizens, but are authorized to permanently live within the U.S.
- **Lawfully Present Individuals:** those with qualified non-citizen status without a waiting period; have Temporary Protected Status, Special Juvenile Status, applied for asylum, Convention Against Torture protection, or are victims of trafficking; have valid non-immigrant visas (e.g., work or student visas); or have protected status through temporary resident status, LIFE Act, or Family Unity laws.
- **Refugees:** individuals compelled by force to leave their countries of origin due to their race, social and/or political affiliations, religion, or national origin.
- **Asylum seekers:** individuals considered “refugees” who travel directly to the U.S. as a “safe haven” country to seek resettlement.
- **Undocumented immigrants:** individuals who have entered the U.S. without the permission of the government, or those whose visas have expired.
- **Deferred Action for Childhood Arrivals (DACA) Recipients:** individuals who entered the U.S. under age 16 unlawfully, or who fell out of lawful status, may apply for protected status under the Deferred Action for Childhood Arrivals (“DACA”) program that began on August 15, 2012. To be eligible, individuals must have continuously resided in the U.S. from June 15, 2007, to the present. Once approved, individuals receive renewable two-year periods of deferred deportation and are eligible for work permits. As of August 2022, USCIS is not processing new applications for DACA, but continues to process renewal requests.

Program	Lawful Permanent Residents	Lawfully Present Individuals	Refugees & Asylum Seekers	DACA Recipients	Undocumented Immigrants
Employer-sponsored insurance	Eligible	Eligible	Eligible	Possibly Eligible	Possibly Eligible
Buying Individual Health Insurance from State Marketplaces	Eligible	Eligible	Eligible	Not Eligible	Only in Colorado & Washington (as of 2024)
Marketplace Financial Assistance	Eligible	Eligible	Eligible	Not Eligible	Not Eligible*
Buying Individual Health Insurance Outside the Marketplace	Eligible	Eligible	Eligible	Possibly Eligible	Possibly Eligible
Medicaid	States may allow children and pregnant women immediate access, but others must undergo a 5-year waiting period.	State option for children under 21 and pregnant women	Eligible	Eligible for emergency Medicaid, with the exception of some state-funded plans	Eligible for emergency Medicaid, with the exception of some state-funded plans

*Not eligible for federal subsidies. May be eligible for state subsidies in Colorado (currently) and in Washington (beginning in 2024).

Source: National Immigration Law Center

Health Care Resources by Immigration Status (continued)

Program	Lawful Permanent Residents	Lawfully Present Individuals	Refugees & Asylum Seekers	DACA Recipients	Undocumented Immigrants
Supplemental Nutrition Assistance Program (SNAP)	Individuals under 18 are eligible, but all adults must undergo a 5-year waiting period or have credit for 40 quarters of work.	Not Eligible	Eligible	Not Eligible	Not Eligible
Medicare	Eligible only after a 5-year waiting period.	Not Eligible	Not Eligible	Not Eligible	Not Eligible
Children's Health Insurance Program (CHIP)	States may allow children and pregnant women immediate access, but others must undergo a 5-year waiting period.	State option for children under 21 & pregnant women	Eligible	Not Eligible	Not eligible, with the exception of some state-funded plans
TANF: Temporary Assistance for Needy Families	Eligible only after a 5-year waiting period.	Not Eligible	Eligible	Not Eligible	Not Eligible
SSI: Supplemental Security Income	Eligible only after a 5-year waiting period and with credit for 40 quarters of work unless qualified for an exception.	Not Eligible	Eligible for first 7 years after status is granted.	Not Eligible	Not Eligible
Breast & Cervical Cancer Treatment Program (BCCTP)	Eligible	Eligible	Eligible	Eligible	Eligibility varies by state. Visit https://trriagecancer.org/stateresources
Hill-Burton	Eligible for services in any hospital or facility that received Hill-Burton funds under Title VI of the Public Health Service Act. Total Obligated Facilities: 127 (as of 11/10/21). No Obligated Facilities: AK, DC, DE, IN, MD, MN, NE, NV, ND, OH, RI, SD, UT, VT, WY, & all territories except PR. To see a list of facilities: www.hrsa.gov/get-health-care/affordable/hill-burton/facilities.html .				
Hospital Ability to Pay Programs	Eligibility depends on each hospital's rules.				
Community Health Centers	Eligible	Eligible	Eligible	Eligible	Eligible

The Emergency Medical Treatment and Active Labor Act (EMTALA) is a federal law that requires hospitals to screen and treat all patients who seek emergency care. However, in most cases, cancer care is not included in "emergency care." Health care providers have no legal obligation to ask about an individual's immigration status and may not share that information with authorities, except under very limited circumstances.

Public Charge Rule: If the government determines that an individual seeking admission to the U.S. is likely to become primarily dependent on the government for subsistence, shown by either the receipt of public cash assistance (TANF or SSI) for income maintenance or institutionalization for long-term care at government expense, they may be deemed inadmissible to the U.S. Under current rules, the individual must be the recipient of the cash assistance or the assistance is the sole support for the family for it to count against them. The Public Charge Rule does not apply to all immigrants. For more information, visit www.ilrc.org/public-charge. Testing, treatment, and preventive care, including a vaccine for COVID-19, will not be considered in the public charge test.

State Specific Programs: Some states may use state-funded health care assistance to "waive" the 5-year waiting period for some documented immigrants. Visit <https://TriageCancer.org/StateLaws> for details. Undocumented immigrants may have more options for health care assistance through state-funded programs. California, Illinois, Massachusetts, New York, Oregon, Washington, and the District of Columbia have all expanded their Medicaid programs to provide health insurance to all children regardless of immigration status. California, D.C., and Illinois have expanded their Medicaid programs to provide health insurance to some or all low-income adults regardless of immigration status.

For more information:

- National Immigration Law Center: www.nilc.org/issues/health-care
- Triage Cancer Quick Guide to Legal Assistance: <https://TriageCancer.org/QuickGuide-LegalAssistance>