

Health Care for Immigrants

A Manual for Advocates



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PHLP is a nationally recognized expert and consultant on access to health care for low-income consumers, the elderly, and persons with disabilities. PHLP engages in direct advocacy on behalf of individual consumers while working on the kinds of health policy changes that promise the most to the Pennsylvanians in greatest need.



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Introduction

Publicly-funded health care coverage for immigrants in Pennsylvania is a complex matter. Unlike other populations which may have a singular publicly-funded insurance meeting all of their needs, immigrants often have to rely on a patchwork quilt of different programs to meet their health care needs. This manual will provide information about the different pieces of the health care system that can fit together to provide complete care for immigrants.

As you think about immigrant health care, it will be helpful to consider three types of care that all individuals need to access:

- Primary & preventative care
- Emergency & specialty care
- Long-term & chronic care

This manual addresses the challenges in meeting these three needs for immigrants. The section dealing with **Medical Assistance** details which immigrants are available for full Medicaid coverage, allowing them to enroll in one insurance which will meet all of these needs. For other immigrants, advocates need to rely on a patchwork of other resources to help find immigrants health coverage. The section on the **Emergency Medical Assistance** (EMA) program discusses the EMA program which can provide most of the emergency/specialty care that immigrants need. The section on **Other Publicly-funded Health Care Programs** discusses resources such as public health clinics, which are the main option for primary care. Meanwhile, sadly, long-term care and treatment for chronic conditions are very difficult, if not impossible, to secure for immigrants. New rules in EMA may make some chronic care coverage possible through that program. The final section on **Barriers to Care** discusses the obstacles immigrants face in accessing public health care programs.

When an immigrant is seeking health care, you will find it helpful to ask and analyze a sequence of four questions in assessing how to get them the health care they need. This manual is organized around these four questions, which are the following:

First, is the immigrant a “qualified” immigrant fully eligible for Medical Assistance and other public health benefits available to U.S. citizens?

Many immigrants are in fact eligible for public programs such as Medicaid and CHIP!

Second, if the immigrant is not a “qualified” immigrant, do they have a condition that makes them eligible for Emergency Medical Assistance (EMA)? EMA is the most important program for getting immigrants urgently needed health care treatment.

Third, what other health programs can help an immigrant that is not “qualified”? Non-qualified immigrants must rely on other sources of care besides EMA to receive routine primary and preventive care.

Fourth, even if health care coverage is available, what barriers to care may prevent an immigrant from actually getting care? For immigrants, the initial challenge is eligibility for publicly-funded health care – but sometimes the biggest challenge is actually accessing the care they are eligible for.

Medical Assistance

Medicaid is a federal program to provide health coverage to low income individuals and families. Medicaid is administered by states using state funds for which states receive federal matching funds. Pennsylvania's Medicaid program is called "Medical Assistance" or "MA". The state agency which administers Medical Assistance is the Department of Public Welfare (DPW), at their "welfare" offices also known as County Assistance Offices (CAO). Note that Medical Assistance, which has over two million total enrollees in Pennsylvania, is totally different than the very small program providing cash assistance at welfare offices.

Note also that Medicaid is not to be confused with Medicare. Medicare is a federal program, administered federally, primarily providing health coverage for individuals over the age of 65 or who have been receiving Social Security Disability income for over 2 years. Medicare is available only to U.S. and Legal Permanent Residents who have been in the United States for at least 5 years.

Generally speaking, to be eligible for any kind of Medical Assistance an individual must meet **four requirements**:

- (1) Be a Pennsylvania State Resident
- (2) Fit into a “Category” of Medical Assistance
- (3) Meet the Income and Asset Requirement for the MA category;
and
- (4) Have a “Qualified” Immigration Status***

Other PHLP manuals address full Medical Assistance eligibility in detail. This section of this manual will only address the key details of Medical Assistance eligibility as they relate to immigrants.

*** Note that Emergency Medical Assistance (EMA), discussed in the next section, provides an exception to the “qualified immigrant status” requirement. You can think of EMA as a way to skip the last requirement on this list. However, EMA applicants still must be otherwise eligible for Medical Assistance, so they still must meet the first three items on the list.

(1) Pennsylvania State Residence

The requirement to prove Pennsylvania residence has nothing to do with legal permanent residency as it is used in immigration law. It simply requires the individual have a Pennsylvania address where they “intend to remain, and maintain a continuous physical presence in the state, except for a temporary absence.”

Does your client live in Pennsylvania? If so, they meet this requirement!

Also note the following points:

- It doesn't matter how short or long a time period the individual has lived in Pennsylvania.
- Individuals are not required to have a “permanent address” or a “fixed residence.” There are exceptions to accommodate individuals – such as the homeless – who have no such address.
- Migrant or seasonal workers and their families employed in Pennsylvania meet the residency requirement unless they already receive Medicaid based on residence in another state.
- Advocates can consider using a “collateral contact” and have a public interest organization confirm a Pennsylvania address if an immigrant is having difficult documenting their address.
- Advocates should recognize that there is a potential conflict between this residence requirement and an immigration status which is by definition temporary (such as a tourist or student visa).

(2) Fitting Into an MA Category

This is often the most confusing MA requirement. MA is not just one program; it is a family of over a dozen programs each covering a very specific population (such as pregnant women, children, the elderly, etc.). Each specific population is known as a category. So there is a category for pregnant women, a category for children, a category for adults age 65 and older, etc. If you do not fit into any category, then you are not eligible for Medical Assistance, regardless of your circumstances.

Example: Juan is a 25 year old U.S. Citizen who lives in Pennsylvania. He has no income and no savings whatsoever. He applies for Medical Assistance.

Even though Juan is totally broke, he is not eligible for MA, because he doesn't fit into any category.

Category is important, therefore, because everyone must fit into a category to be eligible for MA. Your job as an advocate is to figure out what category an immigrant might be eligible for. Category is also important, however, for at least two more reasons. First, different categories can have different eligibility requirements, so this may impact your client's eligibility for MA. Second, different categories may have different benefits, so this may impact what health care your client can access.

As an advocate for immigrants, you will find certain categories to be the ones you use most often. The following is a listing of the nine most important categories for immigrants:

Children Age 18 and Under

1. Children: Being a child is its own category of eligibility! So children automatically fit into a category if they are age 18 and younger. This category has high income limits (which vary slightly depending upon the age of the child), no asset limit, and excellent benefits.

Adults

2. Permanent Disability: Having a disability is a category of eligibility. This category has high income and asset limits and excellent benefits. Disability can easily be established by having a doctor complete an Employability Assessment Form ("EAF").

3. Temporary Disability: Having a short-term disability, such as an injury, is also a category of eligibility. In practice, this is the most important category for immigrant advocates, since many immigrants are working age adults who fit into no other category and will only come into the health care system if they are injured. Temporary disability is a challenging category, but one you must understand to help immigrants.

This category has very low income and asset limits and limited benefits.

Eligibility for this category is established by having a doctor complete an “Employability Assessment Form” (EAF). It is important to understand that if the doctor indicates your client has a temporary disability lasting “12 months or more” you client will get a much higher income limit and better medical benefits (equivalent to Permanent Disability above) than if the doctor checks off temporarily disabled for “less than 12 months”. Therefore, you must always try to have a doctor certify a temporary disability will last 12 months or more, if applicable.

Note also, that even if your client is over the income limits, your client may be eligible using something called a “spend-down”. If your client gets eligible using a spend-down, they will have to pay a part of their income to get MA coverage, but then MA coverage will cover their medical bills no matter how large they are. (See examples 1, 3 and 4 below).

4. Health Sustaining Medication: Immigrants who need a health sustaining medication to be able to work (regardless of whether they are actually working) can be eligible by having a doctor complete an extremely simple health sustaining medications form. This category has very low income and asset limits and limited benefits.

5. Pregnant Women: Pregnant women are eligible through this category. This category has high income limits, no asset limit, and excellent benefits. Note that a pregnant woman is counted as two people for the purpose of income limits. Note also there are some special rules around confirmation of pregnancy and application for this category.

6. Breast or Cervical Cancer Treatment: Women who are in any kind of treatment for breast or cervical cancer are eligible in this category. This category has high income limits, no asset limit, and excellent benefits. Note: There have been confusing policy bulletins from the state in the past 2 years indicating that immigrant women are not eligible for this program, and these bulletins are sometimes quoted by MA caseworkers or staff. Do not let this deter you: Immigrant women are eligible for the breast and cervical cancer program.

7. Adults 21-58 Working At Least 100 Hours Per Month: This is another important category to obtain coverage for working adult immigrants who may not be eligible in any other category. This is a “MNO” (Medically Needy Only) category, which is a special and confusing type of category mainly used for “spend-down.” Your client’s bills and income are reviewed over a six-month period, and clients with higher income will need to pay a portion of their six months’ income to get coverage for the six month period. This category has low income and asset limits, and very limited coverage (for example, no prescription coverage or medical equipment). It is generally only used to cover hospital bills in situations where other categories are

not available. Due to the required six month enrollment and the very limited benefits, MNO categories should be a last resort.

8. Adults Age 59-64: This is another “MNO” category (see above). Adults age 59-64 are eligible for this category, subject to the same conditions outlined above.

Older Adults Age 65 and Older

9. Adults Age 65 and older: Being an older adult is its own category of eligibility! Older adults automatically fit into a category if they are age 65 and older. This category has high income and asset limits and excellent benefits.

(3) Meeting Income and Asset Limits

“Income” is the money that your client receives every month, from sources such as employment, pensions, child support, government benefits, etc. “Assets” are the resources your client has, such as savings and checking accounts, retirement accounts, the cash value of life insurance policies, etc. Note that the following are not counted as assets: The home your client lives in, one automobile, and your client’s personal possessions (clothing, jewelry, furniture, etc.). Most MA programs have a limit as to how much income and assets you can have to be eligible.

One of the most confusing things about Medical Assistance is that there is not one MA income and asset limit. In fact, each of the categories mentioned above has its own income and asset limits. Furthermore, these limits vary so greatly that no generalizations can be made. Note also:

- Income and asset limits generally vary depending on household size. How household size is calculated is itself sometimes a complex matter.
- In some categories individuals who are over the income limit can “**spend-down**” (pay a portion of the income) to become eligible. There are two types of spend-downs, a monthly “NMP” spend-down used in many categories, and a six-month spend-down used in the two MNO categories referenced earlier in this section. Since the vast majority of immigrants are hard working individuals, and thus earning income which may put them over low income limits, spend-downs are a crucial way to get immigrants eligible. (*See boxed examples 1 and 2 below*).
- Many categories allow **retroactive coverage** such that you can get coverage for bills from the three months prior to the month you submit the application in. This is very important for immigrant advocates since many immigrant

applications happen after a trip to an ER. Despite the frequent possibility of retroactive coverage, however, for technical reasons it is always recommended to get the application in the same month that treatment begins whenever possible. (See boxed examples 3 and 4 below).

- The income limits are increased at the beginning of every calendar year.
- There are income deductions available such that sometimes part of your client's income may not be counted against him/her.

Given this complexity, **it is strongly recommended that advocates err on the side of always submitting applications for Medical Assistance for eligible immigrants.** There is no harm in applying!

Example #1: NMP Spend-down

Juana fits in the category for temporary disability of less than a year, but her income is \$400 per month, and thus is over the \$205 per month income limit (by \$195). Her medical bill for appendix surgery on 11/15/2008 is \$8,000. She applies for MA on 11/25/2008. Since she is over the income limit by \$195, the first \$195 of the bill is left in Juana's name. Medical Assistance pays the remaining \$7,805 of the bill.

Example #2: MNO Spend-down

Jose fits in the MNO category for 21-58 year old working 100 hours or more. He applies for MA in November 2008 and has a \$20,000 bill for a hospitalization for November. He earns \$500 a month at his job. In the six month period from November through April Jose's income will be \$3,000. The monthly income limit for MNO is \$425, and thus is \$2,550 over six months. For the six months Jose is thus over the income limit by \$450. The first \$450 of the bill will remain in Jose's name, and Medical Assistance will pay the remaining \$19,550.

Example #3: Retroactive coverage.

Anita is 8 years old and thus eligible in the category for children. She has bills from doctor visits in July and August 2008. On November 25, 2008 an advocate submits an MA application for her. Her family is already below the income limit, so no spend-down is needed. The application is approved on December 10, 2008. Anita is eligible for retroactive coverage for the 3 months (August, September, & October) prior to the month of application (November). Therefore, all of her doctor bills from August will be paid, but her bills from July will not be paid. (If she had applied for MA in October or earlier, all of her bills would have been paid.)

Example #4: The “You Can’t Have Your Cake and Eat It Too” Rule

We have already seen (in Example #1) that an immigrant can sometimes use an NMP spend-down to become eligible if they are over the income limit. We have seen (in Example #3) that retroactive coverage may be available for bills from the three prior months. However, you can not use an NMP spend-down and retroactive coverage at the same time.

Example: Miguel goes to the ER in October and has a large bill. His income is only \$50 over the income limit, so he wants to do a small spend-down to get eligible. He applies for MA in November, and thus October is well within the three prior months for retroactive coverage. However, Miguel is not eligible, because he can not use a spend-down and get retroactive coverage at the same time.

- *If Miguel had applied for MA in October he could have done a spend-down and gotten the bill covered... or...*
- *If Miguel’s income was below the income limit, he wouldn’t need to use a spend-down, and he could use retroactive coverage to get the October bill covered in November...*

The moral of this story is that if you want to use an NMP spend-down you must apply in the same month of the medical treatment! The best approach is to always apply in the same month if possible. This is a very common problem in immigrant cases.

The chart below lists the 2011 income limit for the key immigrant categories listed in the previous section above – remember these numbers will be increased slightly in the beginning of 2012.

The income limit is listed as dollars per month. “#H” stands for “Number in Household”.

#H	Kids <1	Kids 1-5	Kids 6-18	Disabled Perm or >1 yr	Disabled < 1yr	Pregnant	BCCPT	MNO	Age 65+
1	1679	1207	908	908	205	Not Possible	2268	425	908
2	2268	1631	1226	1226	316	2268	3065	442	1226
3	2857	2054	1545	1545	403	2857	3861	467	1545
4	3446	2478	1863	1863	497	3446	4657	567	1863

This chart details the asset limits for the same programs. The numbers represent total dollars of assets. Note that numerous categories have no asset limit. Also, asset limits do not apply for adults if the adult applying has a minor child in the household.

#H	Kids <1	Kids 1-5	Kids 6-18	Disabled Perm or >1 yr	Disabled < 1yr	Pregnant	BCCPT	MNO	Age 65+
1	None	None	None	2000	250	None	None	2400	2000
2	None	None	None	3000	1000	None	None	3200	3000

Clients who have no income of course can not document their income. They may be required, however, to document how they are supporting themselves. This is most frequently done by a letter from the friend or relative providing the individual with housing and food. Sometimes immigrants confuse the request for such a letter from an MA caseworker with the legally binding affidavit of support (I-864) used in formal immigration applications. Immigrants should be reassured that the letter used for MA purposes is totally different from a support affidavit and creates no obligation for the signer to support the immigrant. If an immigrant has no one to get a letter from, an advocate should help the immigrant prepare an affidavit of their own attesting to how they are supporting themselves.

(4) “Qualified” Immigrant Status

“Qualified” immigrant status is the status an immigrant needs to have to be fully eligible for Medical Assistance. Some categories of Medical Assistance require that an immigrant be in qualified status for five years before becoming fully eligible (See 5-year bar rule, below).

Note: This same “qualified” immigrant status standard is also used for immigrant eligibility in the **CHIP** program.

How is “qualified” immigrant status defined?

U.S. born citizens, naturalized citizens, legal permanent residents (LPR), **and numerous other “qualified” immigrant statuses** are all eligible for full Medical Assistance. (Immigrants who are not eligible for full Medical Assistance are eligible for Emergency Medical Assistance – this is discussed in the next section.) It is important to remember that children born in the United States are full citizens and are entitled to full Medical Assistance if eligible, regardless of the immigration status of their parents. In addition, it is important to remember that Puerto Rican citizens are also entitled to full Medical Assistance if eligible.

Because there are many qualified immigration statuses that are eligible for full Medical Assistance, you should never assume that an immigrant who is not a citizen or LPR will be ineligible. Instead, you should verify what immigration documentation the immigrant has, to see if the might fall into one of the “qualified” immigrant categories eligible for full Medical Assistance. Also verify how long the immigrant has been in that status.

Here is a list of the key “qualified” immigrant statuses:

- U.S. Citizen (by birth or naturalization)
- Legal Permanent Resident (“Green Card”)
- Asylees/Refugees
- Some Cuban/Haitian entrants
- Persons paroled into U.S. for 1 year or more
- VAWA petitioning battered women (and children)
- Persons granted withholding of deportation or removal
- Immediate Relative of USC, with filed I-130 petition

- Immediate Relative, with approved I-130 petition
- PRUCOLs (Persons Residing Under Color of Law)

Particularly common are situations where an immigrant is petitioning for residency based on an immediate relative – the filing or approval of the petition itself may make them qualified and eligible for full MA!

Common statuses that are not qualified include immigrants on tourist visas (B), work visas (H, L), student visas (F), exchange visitors (J), applicants for asylum, and undocumented immigrants.

What is the “5-Year Bar” rule, and who does it apply to?

Federally-funded Medical Assistance categories require, as a general rule, that immigrants be in “qualified” status for five years before becoming eligible. As an exception to the rule, the following immigrants are eligible as soon as they become “qualified” (if they meet the other three MA requirements described earlier):

- Children under age 21;
- Pregnant Women (through 60 days post-partum);
- Refugees and asylees;
- Certain Veterans and their families;
- Certain other immigration categories, including Cuban/Haitian entrants, trafficking victims, and immigrants whose deportation is being withheld.

Qualified immigrants who do not meet one of these exceptions, and have not been in qualified status for five years can still get Medical Assistance. They are limited, however, to state-funded categories or Emergency Medical Assistance (described in the next section).

State-funded Medical Assistance categories require only that an immigrant be in “qualified” status; they have no length of time requirement. These are the primary categories that are state-funded (see pgs 9-11 for more detail), all of which have very low income and asset limits:

- Temporary Disability;
- Health-Sustaining Medications;
- Adults 21-58 Working At Least 100 Hours Per Month; or
- Adults Age 59 or Older.

What matters for full MA eligibility is ultimately whether, and for how long, the immigrant has been in a qualified status. This rule is often misunderstood by MA

caseworkers or staff, who may make any of the following statements about immigration status which you should recognize as completely erroneous:

- “He is ineligible because he is not a citizen”
- “She is ineligible because he is not a citizen or LPR”
- “He is ineligible because he does not have a Social Security Number”
- Note also that “legal” or “illegal” is also not a relevant distinction, since many completely “legal” immigrants are not in a qualified status (E.g., student visa).

Remember, even if an immigrant does fall into one of the qualified groups, he or she must still meet the other three MA requirements listed earlier. Qualified immigrants should apply for Medical Assistance and will be eligible just like any U.S. citizen is, bearing in mind that they will be required to provide some evidence of their declared qualified immigration status.

Emergency Medical Assistance

The previous section established that an immigrant must be in a “qualified” status, and in some cases in a “qualified” status for five years, to be eligible for full Medical Assistance (“MA”). However, any immigrant can be eligible for Emergency Medical Assistance (“EMA”). Immigrants who do not fit into any of the qualified immigrant statuses, such as immigrants on student visas or undocumented immigrants, are still eligible for EMA. Likewise, immigrants in a qualified status, like legal permanent residents, who do not meet the 5-year bar rule are also eligible for EMA. (But remember to screen them for state-funded MA first!)

EMA is essentially a temporary enrollment in the MA program to treat a specific problem. A qualified immigrant with full MA could be enrolled into MA for many years to treat countless medical problems. An immigrant enrolled in EMA, by contrast, will be enrolled for a short time to treat a specific and serious “Emergency Medical Condition”. After that treatment is complete, the enrollment ends.

What is an Emergency Medical Condition?

At the outset, it is of the utmost importance that immigrants and advocates understand that the term “Emergency Medical Assistance” is a misnomer. EMA does not require an “Emergency” in the “Emergency Room” sense of the word. It does require that the immigrant have an “Emergency Medical Condition” (EMC). An EMC is simply a serious medical condition meeting a specific definition which may or may not require the immigrant to go to an Emergency Room.

The definition of an EMC is as follows:

An emergency medical condition is a medical condition with acute symptoms of such severity including severe pain, that without immediate attention, the result may be:

- the patient's health is in serious jeopardy;
- serious impairment to bodily functions; **or**
- serious dysfunction of any body organ or part.

An emergency medical condition includes labor and delivery services. An emergency medical condition does not include care and services related to organ transplant procedures.

Note that if an immigrant meets any one of the above bullet points, the immigrant has an EMC. Again, this may not require an Emergency Room visit. For example, a small tumor which is potentially fatal may not warrant a trip to an Emergency Room, but should certainly be considered a possibility for EMA. If an immigrant you are advocating for has a serious medical condition, you should apply the immigrant for EMA! You may have to work hard to help doctors understand that the EMA definition is very different than the ER definition they are accustomed to. Also, advocates should be sure to distinguish between underlying chronic conditions (such as an anxiety disorder – which generally would not generally be eligible for EMA) and acute episodes of sickness (such as an intense panic attack – which certainly could be eligible for EMA).

Note also that labor and delivery is automatically an EMC. (In most cases, immigrants do not even need to apply for EMA for labor and delivery, as hospitals report and apply directly for this coverage. It is always a good policy to double-check and make sure the hospital actually did apply). However, pregnancy itself is not an EMC, and thus immigrant women are not eligible for EMA for prenatal care unless they have a high risk pregnancy (ex. if they are diabetic).

The Doctor's Letter (or form)

The key to an EMA application is that a doctor must confirm that the immigrant has an EMC. The doctor can do this by a letter or, in some limited areas such as Philadelphia, a form. If the doctor prepares a letter, the letter must include certain specific information, including:

- Identify/diagnose the EMC
- State the patient meets one (or more) of the EMC definitions using the exact language of the definitions
- State the specific treatments, including duration/frequency of treatments, necessary diagnostic testing, and names of medications that are or may be required
- State that the need for treatment is “immediate”
- Explain duration of the EMC, using real calendar dates. Doctors hate to do this because it involves guessing – but it is required. For example: “This EMC started May 5, 2008, and is expected to end Sept. 5, 2008”. As a general rule, asking for a very long authorization period (more than about 6 months) increases the chance of a denial. Unless the situation clearly warrants asking for more than 6 months (ex. a high risk pregnancy), a good rule of thumb is to limit your request to about 6 months – and remember, you can always submit another letter/form to re-authorize EMA if another authorization period is needed later
- If possible and helpful, it may be useful to explain what might happen if the immigrant does not get the requested treatment. It is important to let the state know if the immigrant will suffer terrible health consequences (paralysis, death, etc) or need very expensive emergency treatment (ex. surgeries) if they are not given EMA. This increases the chance of an approval.

Applying for EMA

Aside from the need for a doctor's letter or form confirming the EMC, an application for EMA is otherwise nearly identical to an application for MA. An immigrant applies for Medical Assistance using the standard application forms (PA-600P for an adult, PA-600CH for an adult with children or a child alone), plus the additional letter or form from a doctor verifying the EMC. It is, however, also important to note that a few of the normal MA application requirements do not apply to applications for EMA, such as: signature of a citizenship declaration, verification of immigration status, and providing a Social Security number. Advocates should also make sure to clearly and prominently write on the application that it is an "application for Emergency MA only".

When applying an immigrant for EMA, advocates should realize they do not need to state the immigrant's documented or undocumented status. Of course, you can not provide any false information. But in response to a question about immigration status you can answer: "Non-qualified immigrant" or "Not in a qualified immigrant status". This answer is accurate, provides all the information the CAO needs to process the application, and maintains your client's confidentiality. Remember that this answer would be the same whether your client was on a student visa, undocumented, on a tourist visa, etc.

Advocates should realize that in most cases, an EMA application will be to retroactively cover medical services already provided. Therefore, EMA applications usually are not stressful or themselves emergencies. However, advocates should also be careful not to confuse emergency treatment and billing; for an immigrant who needs help with billing you should certainly consider EMA, but if the immigrant needs immediate medical treatment you should not be thinking about EMA. You should be making sure that immigrant gets the medical attention they need – there are numerous laws (most notably EMTALA) which require that anyone with an emergency condition have that condition stabilized in an ER. You can always seek Medical Assistance to cover the billing afterwards.

General Advice About EMA

Remember that having an EMC and applying through EMA only gets you around the “qualified immigrant status” and “5-year bar” requirements for MA eligibility. The other three basic MA eligibility requirements outlined in the previous section (PA residency, fitting into a category, and meeting the income/asset limits) are still applicable. An immigrant with an EMC who does not meet those three requirements is not eligible for EMA. (Conceptually, this is important to understand because a common mistake made by MA caseworkers and advocates alike is to mistake EMA for a category of MA. EMA is not a category of MA. An immigrant must still fit into one of the many categories just like anyone applying to MA, and EMA is only temporary enrollment into any one of those category programs.)

Advocates doing applications for Emergency Medical Assistance for immigrants must be prepared to do some extra and active advocacy on behalf of the immigrant seeking care. You will need to get paperwork from documents and sometimes deal with MA caseworkers who are not well versed in EMA applications. It is often helpful to make a contact inside the CAO and send applications to that specific contact, as opposed to sending an immigrant to the CAO with an application in hand. Advocates should also consider that in many instances a hospital may contract with a third-party collection company to complete EMA applications on behalf of immigrants. Advocates should be especially wary of such contractors, since they are pursuing the interests of the hospital and not the immigrant. (For example, they may not prepare the application to include additional medical treatments the immigrant needs from another medical provider).

Chronic Care

As a general rule, Emergency Medical Assistance only covers short-term acute conditions. However, in 2004, the Department of Public Welfare issued an Operations Memorandum clarifying that chronic care, such as dialysis, may be approved in certain cases. Immigrants or advocates preparing these cases should follow all of the Emergency Medical Assistance process explained above, and do two additional things. First, include a copy of the 2004 Operations Memorandum with the Emergency Medical Assistance application. Second, in the Emergency Medical Assistance doctor's letter, place extra emphasis on (a) the extreme seriousness of the consequences of nontreatment (for example, "without this treatment, this patient is likely to die within days"), and, (b) the expensive medical emergencies that nontreatment will cause (for example, "without this treatment, the patient will likely experience a medical emergency within days requiring more expensive hospitalization and extremely expensive emergency surgeries.")

Other Health Care Options

Unfortunately, non-qualified immigrants are not eligible for the most important publicly-funded health care programs in Pennsylvania, such as Medical Assistance and CHIP. The previous section has explained that Emergency Medical Assistance (EMA) is available for immigrants who are not in a qualified status. While EMA is an invaluable resource for getting non-qualified immigrants serious and urgent care, these immigrants will need to explore other health care options to get other forms of care, such as routine primary and preventive care. Although there are not as many options as advocates would like, there are some other health care options for immigrants regardless of immigration status:

- **Public health clinics and Federally Qualified Health Centers (FQHCs).** Pennsylvania has a large network of public health clinics which provide a range of primary health care services regardless of immigration status. Public health clinics, and specifically the doctors who treat patients, may also be important tools in establishing the medical documentation needed for an Emergency Medical Assistance application (i.e. the Emergency Medical Condition doctor letter or form). The connection to Emergency Medical Assistance is important because in many cases the public health clinic will only be able to provide basic primary care, and not the specialist examinations or advanced testing or procedures that are required after primary diagnoses are made. Often, these clinics use a sliding fee scale to make it affordable or free for lower income consumers. The County Assistance Office keeps a list of FQHCs, PHLP has a full Community Health Center listing, and another tool for finding health centers is the Department of Health's search tool.
- **Philadelphia Health Care Centers.** The city health clinics in Philadelphia provide a range of primary care services for city residents regardless of their immigration status. Note that the City of Philadelphia has been explicit about the following important protections for immigrants using the City Health Care Centers:
 - The Philadelphia City Solicitor has officially clarified that all immigrants are eligible for Philadelphia City Services such as the District Health Centers, and that immigration status is confidential information that city employees can not share.
 - The Philadelphia City Department of Public Health has officially clarified that all immigrants can get care at health care centers, that social security numbers are not required, that the health care centers must be extremely flexible about residence/identification accepted, and that no patient should be turned away without seeing a clinician if they don't have proof of identification or residence.

- **Nurse-managed Health Centers.** Nurse-managed health centers are another excellent option for immigrant primary health care. Nurse-managed health care centers are staffed by nurses who provide excellent care for patients on a sliding fee scale or in some cases for free. There are no restrictions for treatment based on immigration status or not having a Social Security Number. It is extremely important to note that, in the event an immigrant need specialist care beyond the scope of the nurse-managed health care center, nurse practitioners can complete MA forms and EMA letters on behalf of patients, thus helping them secure MA coverage for the needed specialty care. See the NNCC listing of the Pennsylvania nurse-managed health care centers to find a nearby center or learn more about nurse-managed health care centers. Pennsylvania is lucky to have one of the highest concentrations of nurse-managed health care centers in the nation.

- **Charity Care.** Pennsylvania hospitals receive millions of dollars to provide free uncompensated care to patients, based on complex state and federal funding requirements as well as optional charitable missions. Typically, access to this funding is not automatic. The hospital usually has an application process, whereby someone with outstanding medical bills requests to have those bills paid for by the charity care funds. This charity care funding should be available regardless of immigrant status. If an immigrant is unable to have bills paid through Emergency Medical Assistance, they should attempt to apply for Charity Care at the hospital. They should contact hospital social workers and staff and ask about how to apply for hospital charity care programs.

- **HealthyWoman sites.** Healthy Woman sites (sometimes known as “50+” sites) offer reduced-cost treatment on a sliding fee scale for numerous women's health services, including mammograms, PAP tests, and other services. The services are available to all women 50 year old or older, and some services are available to some women age 40 or older. All of these basic HealthyWoman services (with one important exception below) are currently available regardless of immigration status. For your nearest HealthyWoman site, consult the statewide map of HealthyWoman sites.
 - Note: The HealthyWoman sites are also the entry point into the Breast and Cervical Cancer Prevention and Treatment (BCCPT) program, which is a Medical Assistance program. Women any age are eligible for BCCPT screening at a HealthyWoman site, but the BCCPT program treatment is subject to the normal Medical Assistance immigration status requirements and specific income requirements. Immigrant women who are not in a Medical Assistance "qualified" immigrant status will only be able to access BCCPT services through the Emergency Medical Assistance process, as described earlier. So, in summary, BCCPT services paid for by MA require the EMA process for a woman in a "non-qualified" immigrant status, but all other HealthyWoman services are available to immigrant women without limitations.

- **Philadelphia prenatal care.** In Philadelphia, prenatal care services are available for all women, including immigrants. The Philadelphia Division of Maternal, Child, and Family Health (MCFH) is the division of the City Health Department which is in charge of administering these services, which were formerly known as the Maternity Services Programs. There are over 40 prenatal care providers through MCFH. Contact MCFH for further information or provider sites. Advocates and immigrants will find that although there is universal coverage for prenatal care in Philadelphia, funding limitations sometimes make it hard to get everyone care.
- **WIC.** The Women, Infants, and Children program is available to provide food and nutrition information to pregnant and breast-feeding women, as well as to children up to the age of 4, without regard to immigration status. For information on the WIC Center closest to you, call 1(800)WIC-WINS. In Philadelphia, the WIC program has been formally recognized to have the same protections for immigrants as the Philadelphia Health Care Centers.
- **PACE/PACENet.** PACE is a fantastic low-cost prescription drug program for Pennsylvanians age 65 and older who meet the PACE income requirements, regardless of immigration status. For individuals over the PACE income limit, there is another tier of coverage called PACENet, with an even higher income limit.
- **Prescription assistance programs.** NeedyMeds.com, RxAssist.org, and other prescription program sites have information available about free or reduced rate prescription programs run by drug companies. Some of these programs may be open to individuals regardless of immigration status. Immigrants with prescription drug needs who can't get them through programs such as MA or PACE/PACENet should see if they can get their prescription drugs covered through sites such as NeedyMeds.com or RxAssist.org. Immigrants can also directly contact the drug companies who produce the drugs they use to find out about what reduced-cost programs their drug company has.
- **COBRA/HIPAA laws.** COBRA and HIPAA each have provisions designed to protect workers who are displaced from a job through which they get health insurance coverage, and these laws operate regardless of immigration status. These laws may be very important to immigrants in the future as the state tries to encourage lower-wage and smaller employers to take up health care for employees.
 - COBRA requires an employer to allow a former employee to purchase into the group insurance plan for a period of 18 months (in most cases) after losing employment. The employee must start COBRA coverage within 63 days of losing their job coverage. Although the group plan often expensive, it is often high quality, and it provides coverage during the transition period after the job. It is vital to understand that if coverage lapses for more than 63 days at any point, new insurance companies will be allowed to apply a pre-

existing conditions exclusion against the potential recipient. For information on COBRA, immigrants should talk to their employers.

- HIPAA is a federal law which requires the state to offer at least two health plans that do not have pre-existing exclusion clauses to an individual who lost an employment/government/church insurance plan that they had for at least 18 months prior. These plans can only be accessed after any available COBRA coverage runs out. Again, it is vital to not have a 63 lapse in coverage at any point, or else there is no coverage for pre-existing conditions. To enroll in a HIPAA plan, contact your local Blue Cross/Blue Shield plan.
- **Special Care.** Special Care is a private reduced-cost insurance available to low-income individuals and families. It is currently the policy of the Special Care HMO contractors to allow enrollment regardless of immigration status. Special Care is not a free program, has pre-existing condition exclusions, and does not offer coverage as comprehensive as programs like Medical Assistance and CHIP. Nonetheless it may be a good option for an immigrant or immigrant family that is in a "non-qualified" immigration status (and therefore ineligible for MA or CHIP) and would like to purchase a basic health insurance. (Please note: "Qualified" immigrant children should never be enrolled in Special Care; if they are income eligible for Special Care they are certainly also eligible for CHIP, which provides much better coverage for free (or at a much lower premium)).
- **County MH/MR and Substance Abuse services.** Every county in Pennsylvania is required to provide Mental Health, Mental Retardation, and Substance Abuse treatment services for county residents. These services may include everything from basic wellness visits, to home supports, to crisis intervention care. Because the system is organized at the county level, and due to the wide range of funding sources (local, state, and federal funds), it is difficult to generalize about what services are available without regard to immigration status. Counties certainly offer some MA services which are not available to non-qualified immigrants. However, it is important to remember that County MH/MR programs may offer numerous other important services which are available to all immigrants, and should always be consulted for problems that involve mental/behavioral health, mental retardation, or substance abuse.

Barriers To Care

Even if an immigrant is eligible for a public health program, there are a whole host of barriers and challenges which may prevent the immigrant from applying, becoming eligible, and actually receiving services. Advocates for immigrants have to focus not only on eligibility for services, but also on the multiple issues that affect access to services. This section deals with four such access issues:

- Mixed Status Families
- Fear of Applying for Programs
- Language Problems
- Verification Problems

Mixed Status Families

A mixed status family is one where some members of the family have different immigration statuses from other members of the family. As an extremely common example, consider a family where one or both parents are undocumented immigrants, but their child or children were born in the United States and thus are U.S. citizens. This is a mixed status family. To begin with, remember that any child born in the U.S. is a U.S. citizen with all of the full rights of citizenship, regardless of the immigration status of her parents or any other members of her household.

In many mixed status families, an eligible member of the household may not be enrolled in a program such as Medical Assistance because of confusion around eligibility due to the other members in the household. But the rule on this point is very simple: Only the immigration status of the intended beneficiary of an application for a publicly-funded health program is relevant. **Any person who is eligible for a publicly funded program such as Medical Assistance or CHIP is eligible regardless of the status of his or her family or household members, and should apply immediately.**

Fear of Applying For Programs

Many immigrants do not apply for publicly-funded health programs they are eligible for, or do not apply for their children, out of fear that they will have problems with government or immigration authorities. The reality is that although there is never a 100% guarantee for any immigrant when interacting with other people (whether it be a store clerk or an MA caseworker), applying for public health programs is extremely low risk for immigrants. There are numerous reasons why it is extremely low risk and immigrants should not be afraid to apply. First of all, as mentioned above, only the immigration status of the intended beneficiary is relevant to an application for a program such as Medicaid or CHIP. It does not matter if other household members are, for example, undocumented immigrants.

In addition, it is also not the policy of health care programs to "report immigrants". As a practical matter, note that the immigration enforcement agency is a federal agency, while MA, CHIP, and other public programs are generally administered at the state or local level. There is simply no process for these agencies to communicate, or structure for them to do so. PHLP is aware of no policy in any Pennsylvania or local public health program encouraging or requiring the sharing of personal immigration status information with immigration or governmental authorities. In fact, some programs explicitly prohibit the sharing of private immigrant information. For example, the City of Philadelphia considers immigration status to be confidential information and specifically prohibits city employees from disclosing this information about immigrants using city services such as the City Health Care Centers.

Remember: As mentioned earlier, you never need to divulge your client's immigration status. If asked about an immigrant's status, simply answer: "Not in a qualified immigrant status".

Some immigrants are also concerned about how the use of public health programs will affect their pending or future immigration petitions or applications. Some public benefits, such as cash assistance may create what is known as a "public charge" issue. But the use of public health programs does not affect residence or citizenship applications, with the very limited exception of health programs for Long Term Care (such as institutionalization or nursing homes or equivalent services). Except for this limited exception, immigrants should never delay or fail to apply for public health coverage because they are afraid of the consequences for pending or future immigration application.

Language Problems

Language access is a major access issue for immigrants who are “Limited English Proficient” (“LEP”). The law on this issue is clear: Any entity receiving Federal funding (and most public programs receive Federal funding) must be in compliance with policy guidances designed to enforce Title VI of the 1964 Civil Rights Act which prohibits discrimination on basis of national origin, including language. Immigrants should be provided translation and interpretation services when using public health care programs or services, including Medical Assistance, CHIP, public health clinics, and virtually all others. In addition, most hospitals receive federal funding and are required to provide language assistance also. Language services are free and they are a right!

At the very least, immigrants at health program offices (such as welfare offices) and hospitals should be provided an interpreter through a language-line, which is an interpreter that is used by the telephone. Typically, an immigrant will be provided a card to select their language, and then an interpreter is called who can interpret the conversation or documents.

In addition, immigrants should receive important documents translated into their language. For example, important Medical Assistance notices such as denial notices or termination notices, should be in the immigrant’s native language.

While the law is very clear on requiring language services for all everyone using an entity which receives federal funding, the sad reality is that the languages services are infrequently provided. Representatives of immigrants will have to engage in extensive advocacy to make sure these services are provided. If you see repeated violations of these requirements, you should carefully document the violations, and then report the pattern of results to the local Department of Justice Office for Civil Rights.

Verification Problems

Most publicly-funded health programs have a list of documentation requirements for eligibility. Verifications are reviews of these documentation requirements to confirm information when an immigrant applies. Verifications are perhaps the largest and most frustrating barrier to care immigrants face. Although verifications often cause problems, in many cases these verifications are not really necessary, or there are simple solutions. Below the most common verification problems are described.

- ***Social Security numbers (SSN)***. Although most programs request a Social Security number, it is not always required. This distinction may not be clear to program staff, and is certainly intimidating and confusing to immigrants. Immigrants who are asked to provide an SSN, when dealing with the health of a child, may be tempted to provide a false number to secure treatment for their child, which could actually cause problems even though the SSN was never really needed. EMA does not require SSNs. Neither do the CHIP program, public health clinics or any Philadelphia city programs. MA does require SSNs (except for children under age 1), but the welfare office must assist eligible immigrants in applying for SSNs, and once an immigrant has applied for an SSN they can not be denied or delayed benefits if they are otherwise eligible. Remember also, as mentioned above, that the SSNs of household members who are not beneficiaries of the application are irrelevant to the application and should not be required. Advocates are always encouraged to consider the following common-sense approach: Are undocumented immigrants eligible for the program? If so, then the program must not require SSNs!
- ***Immigration Status***. Proof of immigration status is also not required in all programs. EMA does not require proof of immigration status (see also MAEH 322.1 and 322.33). Public health clinics and Philadelphia city services also do not require proof of immigration status (see also Policy notice). Although MA does require "qualified" immigrant applicants to verify their immigration status, immigrants who are having trouble proving their immigration status due to lacking documentation can refer the welfare office to the "SAVE" program verification process. The rules of this process state that an application can not be delayed while a "verification" is conducted. In some situations the welfare office may allow benefits based on the "verification" where an immigrant lacks "documentation". In situations of dire medical need where immigration status is contested by the welfare office, an advocate may consider running the application through Emergency Medical Assistance, which of course has no immigrant status documentation/verification requirements.

Advocates should also be aware that the 2005 Deficit Reduction Act placed requirements on some U.S. Citizens to provide documents proving their identity and U.S. citizenship when applying for Medical Assistance. These requirements are sometimes incorrectly placed on qualified immigrants (such as LPRs) applying for Medical Assistance, or non-qualified immigrants (such as individuals with student

visas) applying for Emergency Medical Assistance. However, these requirements do not apply to any immigrant applying for MA or EMA; they only apply to applicants claiming to be citizens.

- ***City, County, or State residence.*** Geographic residence is a requirement for many state programs. It is important to understand this has nothing to do with immigration “Permanent Residence” status; this is just a question of what your address is. For example, to use Pennsylvania’s Medical Assistance programs you must live in Pennsylvania and prove your address. In cases where an immigrant has difficulty establishing an address for MA or EMA, refer to the rules on homelessness or consider having an organization write a letter confirming the address (sometimes called a “collateral contact”). For Philadelphia city services, it is also acceptable to have an organization write a confirmation letter.
- ***Proof of income.*** Eligibility for many publicly-funded such as Medical Assistance and Emergency Medical Assistance depends on income, which must be proven through documentation. This can be especially tricky for immigrants, who may be paid in cash and/or “under the table”. If an immigrant is paid by check, copies of the paystubs suffice. Otherwise, the immigrant will usually need a letter from the employer confirming the employment and wage. An advocate may need to be involved to explain to a nervous employer the very limited purpose for sharing this information: It is only for a caseworker to confirm the immigrant’s income for a health program and there is no process to share it with other state authorities. In the most difficult cases, advocates should try and find reliable sources (“collateral contacts”) who can confirm the employment and wages. This type of solution requires active advocacy with reliable sources and the CAO office until a solution is worked out. It is important to note that the rules state that as long as the immigrant is cooperating with the CAO to get verification, the CAO must help the immigrant get the verification, and his or her case can not be denied. If all else fails, an advocate should regularly and repeated offer to cooperate and eventually the caseworker may just make an exception.