



COLORADO

Department of Health Care  
Policy & Financing

# ELIMINATION OF FIVE-YEAR BAR FOR LAWFULLY RESIDING PREGNANT WOMEN AND CHILDREN

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**Updated June 29, 2016**

The Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009 gave states the opportunity to provide benefits to children and pregnant women who are lawfully residing in the U.S., and to remove the five-year waiting period to qualify for health coverage through Health First Colorado (Colorado's Medicaid Program) and the Child Health Plan *Plus* (CHP+) program. In 2009, the Colorado General Assembly in House Bill 09-1353 authorized the implementation of these changes in Colorado.

The Department of Health Care Policy and Financing previously implemented this policy for lawfully residing pregnant women and children eligible for MAGI Medicaid and CHP+.

Effective July 1, 2016, the removal of the five-year waiting period is extended to all Health First Colorado (Colorado's Medicaid Program) children in the following non-MAGI categories: the Health First Colorado Medicaid Buy-In Program for Children with Disabilities, Health First Colorado Medicaid Buy-In Program for Working Adults with Disabilities, Breast and Cervical Cancer and all Home and Community Based Services Waiver programs and the Nursing facilities Hospital Institutionalized program. The removal of the five-year waiting period will also apply to children in the state-subsidized adoption group and the Chafee independent foster care adolescent group.

Following this change, the Department will have eliminated the five-year bar for all lawfully residing pregnant women and children in Colorado who qualify for Health First Colorado (Colorado's Medicaid Program) or CHP+.

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The following are frequently asked questions regarding the Department's implementation plan of the elimination of the five-year bar for lawfully residing pregnant women and children.

### **What does "lawfully residing" mean?**

A person lawfully residing must be both "lawfully present" in the U.S., and meet the state residency requirement. The state residency requirement means a client lives in Colorado with the intent to remain in Colorado.

### **Which individuals will be eligible for benefits if they have been lawfully residing for less than five years?**

Children and pregnant women who meet all other eligibility criteria for Health First Colorado (Colorado's Medicaid Program) and CHP+ will no longer have to meet the five-year waiting period. All other adults who are lawfully present will still have to meet the five-year waiting period to qualify for Health First Colorado. Adults who do not meet the five-year waiting period requirement may qualify for Emergency Medical Services (EMS) or for Advanced Premium Tax Credits (APTCs) and Cost Sharing Reductions (CSRs) to purchase private health insurance through [Connect for Health Colorado](#).

### **Will a qualifying individual need to reapply after the implementation of the policy, or can they report changes through their PEAK online account or through their Connect for Health Colorado account for those family members?**

An individual who was previously denied because of residency requirements, but met all other eligibility for a non-MAGI category will need to reapply for Medical Assistance after the policy change effective July 1, 2016. If there is an active case in CBMS (e.g. such as families receiving food stamps, or have a case through Connect for Health Colorado) an individual can report changes through [Colorado.gov/PEAK](#).

For more information regarding the process for clients with Connect for Health Colorado accounts, please contact the Service Center at 1-855-752-6749.

### **Will lawfully residing children and pregnant women receive full Health First Colorado (Colorado's Medicaid Program) and CHP+ benefits?**

Yes, lawfully residing children and pregnant women who are eligible to enroll in Health First Colorado (Colorado's Medicaid Program) and CHP+ will receive full benefits.

**Will individuals who become eligible for Health First Colorado (Colorado's Medicaid Program) on July 1, 2016, be able to apply for three months of retroactive coverage?**

Individuals who were not eligible for non-MAGI Medicaid because of residency requirements, will not be eligible for retroactive coverage for the months prior to the policy becoming effective on July 1, 2016.

**When can an application for a qualifying individual be submitted? If they would like to have coverage starting on July 1, will they be able to apply prior to July 1?**

If an individual applies **after** June 26, 2016, and meets all necessary criteria, the individual will be approved effective July 1, 2016. If an individual submits an application **prior to** June 26, 2016, they will be denied for the month of June, and will need to reapply for Medical Assistance.

**How will eligibility workers know if an individual's immigration status meets eligibility criteria after removal of the five year bar?**

An individual must provide verification of immigration status. The eligibility worker will enter the documentation provided into the Colorado Benefits Management System (CBMS) and verify immigration status electronically using the Department of Homeland Securities Systematic Alien Verification for Entitlements (SAVE) program to verify immigration status. The CBMS system will determine eligibility based on the information provided and entered in the system.

**Will lawfully residing pregnant women who are eligible for Health First Colorado (Colorado's Medicaid Program) or CHP+ remain on the program after she is no longer pregnant?**

An adult pregnant woman's benefits will terminate 60 days after she is no longer pregnant. At that point, eligibility will need to be re-determined and the woman will be subject to the five-year waiting period requirement (since she is no longer pregnant). The woman may qualify for EMS or for APTCs and CSRs to purchase private health insurance through Connect for Health Colorado.

Lawfully residing pregnant women who are under the age of 19 will remain enrolled in the program until their annual redetermination date.

## **Does the elimination of the five-year bar for lawfully residing pregnant women and children apply to the Presumptive Eligibility program?**

Yes, this policy change also applies to lawfully residing pregnant women and children eligible for Presumptive Eligibility.

## **Will the removal of the five-year bar apply to pregnant women and children who are sponsored immigrants?**

Yes. Lawfully residing pregnant women and children whose sponsor signed an affidavit (e.g. Form I-864) are allowed to receive Health First Colorado (Colorado's Medicaid Program) and CHP+ benefits. The sponsor's income and resources are not counted in the child or pregnant woman's household income. However, if the sponsor is the spouse or parent of the non-citizen applicant, the standard household relationship calculation will still apply, and the sponsor's income and resources will be counted.

## **Will individuals who have been granted Deferred Action Childhood Arrivals (DACA) status be eligible for Health First Colorado (Colorado's Medicaid Program) or CHP+?**

No, individuals granted Deferred Action Status of Childhood Arrivals known as (DACA) will not qualify for Health First Colorado (Colorado's Medicaid Program), CHP+, or APTC/CSR through the Marketplace. Individuals who have been granted status under DACA are only eligible for EMS.

Deferred action is a form of administrative relief from deportation which permits a non-U.S. citizen to stay in the U.S. temporarily and work. This status was provided through a Presidential Order.

There are individuals who have Deferred Action Status (not DACA status). Individuals who were granted Deferred Action Status are done so by the judicial system. Additionally, individuals granted Deferred Action Status are not subject to the five year waiting period.

The Department's State Plan Amendment accounts for this important difference in status and specifically refers to Deferred Action Status and not to DACA status. For more information see the [Centers for Medicare and Medicaid Services \(CMS\) guidance on DACA](#).

## **Will families enrolled in a Connect for Health Colorado plan receive notification that child(ren) or pregnant women may now**

## **be newly eligible for Health First Colorado (Colorado's Medicaid Program) or CHP+?**

Families will need to submit a new application in order for the eligibility system to capture the updated information. If a family wants to enroll their child(ren) or a pregnant woman into Health First Colorado (Colorado's Medicaid Program) or CHP+, but the family is currently enrolled in a Connect for Health Colorado plan, they need to contact Connect for Health Colorado to dis-enroll from their current plan.

**NOTE:** In November 2014, the Internal Revenue Service (IRS) released guidance<sup>1</sup> allowing low-income women, enrolled in a Qualified Health Plan (QHP) with APTC or CSR *prior* to pregnancy, to maintain enrollment in Connect for Health Colorado Marketplace coverage *and* receive APTC, even if they would qualify for Health First Colorado (Colorado's Medicaid Program) or Child Health Plan *Plus* (CHP+) based on pregnancy status. These customers will be considered eligible for other Minimum Essential Coverage (Health First Colorado or CHP+), and therefore ineligible for the tax credit, *only if* they enroll in such coverage. Women who are enrolled in a health plan through Connect for Health Colorado are not required to reapply for Medical Assistance once they become pregnant.

## **What are the health coverage options for undocumented individuals?**

Individuals who are undocumented may be eligible for Emergency Medical Services (EMS) including labor and delivery through Health First Colorado. For more information on EMS, contact your [Local County Human or Social Services Office](#).

### **Program Contact:**

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<sup>1</sup> Section 36B of the Internal Revenue Code for pregnancy-related coverage through Medicaid and CHP+. The IRS guidance is available at <http://www.irs.gov/pub/irs-drop/n-14-71.pdf>.