

# Health Coverage Options for COFA Migrants

This fact sheet provides information and guidance that Navigators and certified application counselors (collectively, assisters) need to know in order to help COFA migrants understand their health coverage options.

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July 2022. This information is intended only for the use of entities and individuals certified to serve as Navigators or certified application counselors in a Federally-facilitated Marketplace. The terms “Federally-facilitated Marketplace” and “FFM,” as used in this document, include FFMs where the state performs plan management functions. Some information in this manual may also be of interest to individuals helping consumers in State-based Marketplaces and State-based Marketplaces using the Federal Platform. This document is intended only as a summary of legal requirements and to provide operational information and does not itself create any legal rights or obligations. All legal requirements are fully stated in the applicable statutes and regulations. The contents of this document do not have the force and effect of law and are not meant to bind the public in any way, unless specifically incorporated into a contract. This document is intended only to provide clarity to the public regarding existing requirements under the law. This material was printed, published, or produced and disseminated at U.S. taxpayer expense.

## Overview

The Compacts of Free Association (COFA) are agreements between the U.S. Government and three independent countries: the Republic of the Marshall Islands (RMI), the Federated States of Micronesia (FSM), and the Republic of Palau. Citizens of these three independent nations are classified by the Department of Homeland Security as nonimmigrants and are authorized to be employed, study, and reside in the 50 U.S. states, the District of Columbia, and the U.S. territories as lawfully present non-citizens. Individuals who choose to do so are often referred to as COFA migrants. More than 94,000 COFA migrants live throughout the country as of 2020, and 20 U.S. states and territories are home to at least 1,000 migrants.<sup>i</sup>

Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA; P.L. 104-193) enacted on August 22, 1996, COFA migrants were not included in the definition of qualified non-citizens (QNCs) under 8 U.S.C. §1641 and 42 C.F.R. §435.4, and thus were not eligible for full Medicaid benefits.

However, COFA migrants who are lawfully present and under age 21 or pregnant have been entitled to full state plan benefits under Medicaid and the Children's Health Insurance Program (CHIP), if they meet eligibility requirements, in states and territories that elected to cover lawfully residing non-citizens under sections 1903(v)(4)(A) and 2107(e)(1)(O) of the Social Security Act (the Act). This option, established by section 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA; P.L. 111-3), often is referred to as the "CHIPRA 214 option".<sup>ii</sup>

COFA migrants, who generally are "lawfully present" as defined at 45 C.F.R. §152.2, also have been able to enroll in a qualified health plan (QHP) and can receive advance payments of the premium tax credit (APTC) through a Federal Exchange or a State-based Exchange if the individual meets other applicable eligibility criteria for enrollment and for APTC.<sup>iii</sup>

With the enactment of the Consolidated Appropriations Act, 2021 (P.L. 116-260), effective December 27, 2020, COFA migrants are considered to be qualified non-citizens and may be eligible for Medicaid coverage. In addition, COFA migrants may also qualify for Marketplace coverage, as described above.<sup>iv</sup>

## Marketplace Eligibility

As lawfully present non-citizens, COFA migrants may be eligible to enroll in Marketplace coverage if they meet other basic Marketplace eligibility requirements.<sup>v</sup> A list of eligible immigration statuses for Marketplace coverage is available at [HealthCare.gov/immigrants/immigration-status](https://www.healthcare.gov/immigrants/immigration-status).

When applying for Marketplace coverage, COFA migrants will need to provide immigration documents and numbers to verify their nonimmigrant status. Specifically, for COFA migrants, these documents include:

- I-94 arrival/departure record,
- I-94 arrival/departure record and foreign passport,
- I-766 Employment Authorization document, or
- Unexpired passport issued by RMI, FSM, or Palau.

For a list of immigration documents accepted by the Marketplace, visit [HealthCare.gov/immigrants/documentation](https://www.healthcare.gov/immigrants/documentation). Like all consumers, COFA migrants should provide as much information from their immigration documents as possible. Providing this information on the application makes the verification and eligibility determination process go faster and makes individuals less likely to experience data matching issues, or “inconsistencies”. For more information on Marketplace data matching issues, visit [HealthCare.gov/help/how-do-i-resolve-an-inconsistency](https://www.healthcare.gov/help/how-do-i-resolve-an-inconsistency) and refer to [SOP 4 - Verify Identity and Resolve Potential Data Matching Issues](#).

## **Eligibility for Marketplace Financial Assistance**

COFA migrants may be eligible for APTC and cost-sharing reductions (CSRs) to help lower their costs based on their household size, household income, and other eligibility criteria.

Most consumers must have an annual household income between 100 percent and 400 percent of the federal poverty level (FPL) to be eligible for financial assistance.

Note: The American Rescue Plan Act of 2021 (ARP; P.L.117-2) makes the premium tax credit (PTC) available to consumers with household income above 400 percent of the FPL and caps how much of a family’s household income the family will pay toward the premiums for a benchmark plan before APTC becomes available at 8.5 percent for Plan Years 2021 and 2022.

## **Medicaid and CHIP Eligibility**

Immigrants who are “qualified non-citizens” may be eligible for coverage through Medicaid and CHIP if they meet all other eligibility criteria in the state.<sup>vi</sup> Many qualified non-citizens have a five-year waiting period to get Medicaid and CHIP coverage, but some qualified non-citizens may be eligible for Medicaid and CHIP without having to complete the waiting period.<sup>vii</sup> Effective December 27, 2020, with the passage of the Consolidated Appropriations Act, 2021 (CAA; P.L. 116-260), COFA migrants residing in one of the 50 states and the District of Columbia may be eligible for Medicaid if they meet all of the eligibility criteria in their state, including their state’s income and residency rules.<sup>viii</sup>

Under the new eligibility criteria, COFA migrants are now considered qualified non-citizens for the purposes of Medicaid eligibility and do not have to wait five years after receiving their status before qualifying for full Medicaid benefits, if otherwise eligible under the Medicaid state plan.<sup>ix</sup> This legislative change does not apply to coverage provided through separate CHIP programs. States that have elected to cover children and/or pregnant individuals in CHIP under the CHIPRA 214 option can cover eligible COFA migrants in separate CHIP under this option.<sup>x</sup>

In some circumstances, COFA migrants who adjust to Lawful Permanent Resident (LPR or “green card” holder) status may no longer be eligible for full Medicaid benefits for a certain period of time, and in that circumstance, benefits may be limited to the treatment of an emergency medical condition.<sup>xi</sup> For more details about COFA migrants who adjust to LPR status, reference [CMS 2021 COFA SHO](#).<sup>xii</sup>

Consumers can contact their state Medicaid agency for more information on Medicaid and CHIP eligibility. A list of contacts for each state is available at [Medicaid.gov/about-us/contact-us/contact-your-state-questions](https://www.Medicaid.gov/about-us/contact-us/contact-your-state-questions).

## Coverage of COFA Migrants in U.S. Territories

Under the Consolidated Appropriations Act of 2020, providing Medicaid coverage to COFA migrants in a U.S. territory is at the territory’s option.<sup>xiii</sup> American Samoa and the Commonwealth of the Northern Mariana Islands (CNMI) have elected to cover all COFA migrants in their Medicaid programs, if they otherwise meet the territory’s eligibility requirements. Territories may also opt to cover COFA migrant children and/or pregnant individuals under the CHIPRA 214 option, or to do neither.

COFA migrants who are not eligible for full coverage under Medicaid in a U.S. territory may be able to receive limited Medicaid coverage for treatment of an emergency medical condition.<sup>xiv</sup> To be eligible, they must meet all other Medicaid eligibility requirements in the territory (e.g., income and state residency standards).

## Medicare Eligibility

U.S. citizens and qualified lawfully present immigrants age 65 and older who have at least 40 quarters of coverage (10 years for most people), which are earned through payment of payroll taxes during a consumer’s working years, may get premium-free Part A Medicare.<sup>xv</sup> Some consumers may also use the work history of a spouse to qualify for premium-free Part A Medicare.<sup>xvi</sup>

Consumers who meet these requirements but do not have sufficient quarters of coverage to be entitled to premium-free Part A may elect to enroll in Medicare Part B coverage (which also has a five-year residency requirement for noncitizens lawfully admitted for permanent residence) and then may purchase Medicare Part A coverage.<sup>xvii</sup> Because consumers with this type of Medicare coverage pay monthly premiums for Part A, it is called Medicare premium Part A.<sup>xviii</sup>

If consumers do not purchase premium Part A and B when they first become eligible, they may have to pay late enrollment penalties if they choose to sign up later.<sup>xi</sup>

Consumers may be eligible for help from their state with paying their Medicare premiums through Medicare Savings Programs (MSPs). Consumers must be eligible for Medicare Part A and meet specific income and resource limits to qualify. In some cases, MSPs may also pay Medicare Part A and Medicare Part B deductibles, coinsurance, and copayments, if consumers meet certain conditions. Consumers enrolled in premium-free Part A and Medicare Part B coverage are also entitled to Extra Help (Medicare Part D).<sup>x</sup> Medicare Part D is a program to help consumers with limited income and resources pay Medicare prescription drug program costs, like premiums, deductibles, and coinsurance. If consumers do not purchase premium Part D when they first become eligible, they may have to pay late enrollment penalties if they choose to sign up later.<sup>xi</sup> Additional information regarding Medicare Parts and benefits is available at [Medicare.gov/basics/get-started-with-medicare](https://www.Medicare.gov/basics/get-started-with-medicare).

For more information on other coverage options, refer to Health Coverage Options for the Uninsured at [Marketplace.cms.gov/technical-assistance-resources/health-coverage-options-for-uninsured.pdf](https://www.Marketplace.cms.gov/technical-assistance-resources/health-coverage-options-for-uninsured.pdf).



## Additional Resources

- U.S. Citizenship and Immigration Services (USCIS) Fact Sheet: [Status of Citizens of the Federated States of Micronesia and the Republic of the Marshall Islands](#)
- USCIS Fact Sheet: [Status of Citizens of the Republic of Palau](#)
- HealthCare.gov: [Coverage for Lawfully Present U.S. Non-Citizens](#)
- CMS State Health Official (SHO) letter: [Medicaid.gov/federal-policy-guidance/downloads/sho21005.pdf](#)
- CMS Guidance on Extension of Medicaid for COFA Migrants: State Implementation, Short-Term Workarounds, and Outreach Strategies: [Medicaid.gov/medicaid/eligibility/downloads/state-impl-short-term-workarounds-and-outreach-strategies.pdf](#)
- Medicaid Federal Guidance: [Medicaid.gov/federal-policy-guidance/index.html](#)
- Medicare Coverage: [Medicare.gov](#)
- CHIPRA of 2009: [Govinfo.gov/content/pkg/PLAW-111publ3/pdf/PLAW-111publ3.pdf](#)

<sup>i</sup> Compacts of Free Association: Populations in U.S. Areas Have Grown, with Varying Reported Effects (issued June 2020): [Gao.gov/assets/gao-20-491.pdf](#).

<sup>ii</sup> State Health Official (SHO) Letter #10-006, "Medicaid and CHIP Coverage of 'Lawfully Residing' Children and Pregnant Women," (issued July 1, 2010), available at: [Medicaid.gov/federal-policy-guidance/downloads/SHO10006.pdf](#)

<sup>iii</sup> 8 U.S.C. §1612(b)(2)(G), 8 U.S.C. §1613(b)(3)

<sup>iv</sup> The extension of Medicaid eligibility to the citizens of the Freely Associated States (FAS) living in the United States under the Compacts of Free Association (COFA) was enacted on December 27, 2020 in section 208 of Division CC of the Consolidated Appropriations Act, 2021 (P.L. 116-260), available at [Congress.gov/116/bills/hr133/BILLS-116hr133enr.pdf](#)

<sup>v</sup> Definition of lawfully present non-citizens described under 45 C.F.R. §152.2: [Govinfo.gov/content/pkg/CFR-2020-title45-vol2/pdf/CFR-2020-title45-vol2-sec152-2.pdf](#)

<sup>vi</sup> "Qualified non-citizens" defined under 8 U.S.C. §1641: [Govinfo.gov/content/pkg/USCODE-2010-title8/pdf/USCODE-2010-title8-chap14-subchapIV-sec1641.pdf](#), implemented at 42 C.F.R. 435.4.

<sup>vii</sup> Five-year waiting period for qualified non-citizens described under 8 U.S.C. §1613: [Govinfo.gov/content/pkg/USCODE-2010-title8/pdf/USCODE-2010-title8-chap14-subchapI-sec1613.pdf](#)

<sup>viii</sup> For more detail on implementing Medicaid eligibility for COFA migrants, refer to CMS State Health Official Letter #21-005, "Medicaid Eligibility for COFA Migrants," (hereinafter "CMS 2021 COFA SHO") (issued October 18, 2021), available at [Medicaid.gov/federal-policy-guidance/downloads/sho21005.pdf](#).

<sup>ix</sup> For more detail on implementing Medicaid eligibility for COFA migrants, refer to CMS State Health Official Letter #21-005, "Medicaid Eligibility for COFA Migrants," (hereinafter "CMS 2021 COFA SHO") (issued October 18, 2021), available at [Medicaid.gov/federal-policy-guidance/downloads/sho21005.pdf](#).

<sup>x</sup> 8 USC 1613(b).

<sup>xi</sup> See Endnote x, CMS 2021 COFA SHO.

<sup>xii</sup> See Endnote x, CMS 2021 COFA SHO.

<sup>xiii</sup> See 8 U.S.C. §1612(b)(2)(G).

<sup>xiv</sup> The definition of the treatment of an emergency medical condition is described in section 1903(v)(3) of the Social Security Act.

<sup>xv</sup> 8 USC42 U.S.C. §1395 and 8 U.S.C. §1611(b)(3)

<sup>xvi</sup> under 42 U.S.C. §1395(b)(3)

<sup>xvii</sup> 42 CFR §406.20 through 42 CFR §406.38

<sup>xviii</sup> 42 CFR §406.20 through 42 CFR §406.38

<sup>xix</sup> 42 CFR §408.20 through 42 CFR §408.27

<sup>xx</sup> 42 CFR §423

<sup>xxi</sup> under 42 CFR §423.46.

