

State of Vermont**Department of Vermont Health Access**

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Agency of Human Services

June 23, 2023

Chiquita Brooks-LaSure, Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Submitted via the Federal Rulemaking Portal: <http://www.regulations.gov>

RE: Comments on CMS-9894-P; *Clarifying Eligibility for a Qualified Health Plan Through an Exchange, Advance Payments of the Premium Tax Credit, Cost-Sharing Reductions, a Basic Health Program, and for Some Medicaid and Children's Health Insurance Programs*

Dear Administrator Brooks-LaSure,

Thank you for the opportunity to submit comments on the Center for Medicare and Medicaid Services' (CMS) proposed rule, [Clarifying Eligibility for a Qualified Health Plan Through an Exchange, Advance Payments of the Premium Tax Credit, Cost-Sharing Reductions, a Basic Health Program, and for Some Medicaid and Children's Health Insurance Programs \[CMS-9894-P\]](#). The Department of Vermont Health Access (DVHA) administers Vermont's Medicaid program. DVHA also administers Vermont Health Connect (VHC), Vermont's state-based health insurance marketplace. DVHA is committed to improving the health and wellbeing of Vermonters by providing access to quality health care.

Deferred Action for Childhood Arrivals (DACA)

DVHA is supportive of the change to interpretation of the statutory phrase "lawfully present" to treat DACA recipients the same as other deferred action recipients for purposes of the Exchange, and to recognize DACA recipients as "lawfully residing" for purposes of the CHIPRA 214 option, which Vermont has elected. This change would positively impact the health and wellbeing of residents of Vermont by allowing them access to affordable health coverage.

DVHA generally supports any expansion of immigration status eligibility requirements for purposes of Medicaid and the Exchange. The State demonstrated its commitment to health care for its residents in 2021 by creating a state-only health care program for children and pregnant individuals who do not have an immigration status that is considered "lawfully present." Ensuring access to affordable, high-quality health care for DACA recipients, and other individuals who lack eligible immigration status for Medicaid and the Exchange, is imperative to advancing health equity, reducing health disparities, and improving health outcomes. It will also decrease uncompensated care costs and reduce financial strain on Vermont's hospitals and health systems.

Proposed Effective Date

DVHA supports a November 1, 2023, effective date and agrees that Open Enrollment is an ideal time to allow those newly eligible to enroll in a health insurance plan. Aligning the effective date with Open Enrollment would allow Vermont to leverage our existing outreach and education efforts leading up to, and during, Open



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Enrollment to ensure application and enrollment guidance is offered to those affected by the rule. Delaying the effective date of the rule would increase the number of applicants that would require a special enrollment period to enroll in a Qualified Health Plan.

SAVE Changes

DVHA supports any effort to simplify and reduce administrative burden with regard to immigration status verifications. Immigration status is complex, and many times falls outside of the expertise of staff. A SAVE response that the applicant has no eligible immigration status will greatly facilitate the enrollment and verification process. Requesting additional information through Steps 2 and 3 delays application processing times due to having to obtain information from the applicant and the additional staff time involved with submitting requests and monitoring for responses from SAVE. DVHA requests that CMS ensure SAVE through the federal data services hub will be updated with these changes in time for implementation.

Clarifications and Technical Modifications to the Definition of “Lawfully Present”

DVHA supports the increased clarity and consistency of the proposed technical revisions to the definition of “lawfully present.” These modifications would simplify the eligibility process thereby making it easier for Vermont to determine eligibility of noncitizens for health benefits. For example, the proposed clarification that a noncitizen in a valid nonimmigrant status must be considered to be lawfully present clarifies that it is not the responsibility of CMS or a state to determine whether a person has violated the terms of their nonimmigrant status but only to determine if the person’s status is “valid,” i.e., not expired. This change will simplify the verification process because nonimmigrant status will be verified solely through the SAVE process, and it will relieve eligibility staff from having to synthesize complicated immigration laws.

Lawfully Residing Definition

DVHA fully supports CMS’s proposal to define “lawfully residing” in regulation to be consistent with the definition provided in CMS’s 2010 SHO letter on CHIPRA, Section 214.

Defining Qualified Noncitizens

DVHA supports the modification of the definition of qualified noncitizens to expressly provide all the categories covered by 8 USC 1641(b) and (c), and other required categories (e.g., certain victims of trafficking), as it would provide greater clarity and transparency.

Thank you for the opportunity to comment on these proposals and for your consideration.

Sincerely,



Adaline R. Strumolo

Deputy Commissioner

Department of Vermont Health Access

