

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-01-16
Baltimore, Maryland 21244-1850



Center for Medicaid and State Operations, Family & Children's Health Programs Group

APR 25 2008

Dear Associate Regional Administrators:

This letter clarifies the Medicaid and State Children's Health Insurance Program (SCHIP) eligibility policy for Iraqi and Afghan Special Immigrants. Please forward the letter to State Medicaid and SCHIP representatives in your region.

Medicaid and SCHIP Coverage of Iraqi and Afghan Special Immigrants

Iraqi and Afghan Special Immigrants are a relatively new category of special immigrants, created by section 1059 of the National Defense Authorization Act for Fiscal Year 2006, Public Law 109-163. Each Federal fiscal year (FFY), a certain number of Iraqis and Afghans and their families (spouse and unmarried children younger than 21), who were employed by the U.S. military as translators and meet other requirements, may be granted Iraqi or Afghan Special Immigrant Status under section 101(a)(27) of the Immigration and Nationality Act (INA).

As of their date of U.S. entry as special immigrants or the date of their conversion to special immigrant status (e.g., from a status of parolee at U.S. entry), Iraqi and Afghan Special Immigrants are lawful permanent residents (LPRs) and so are qualified aliens subject to the 5-year bar for receipt of Federal means-tested public benefits, required by section 403 of the Personal Responsibility and Work Opportunity and Reconciliation Act of 1996 (PRWORA). This Act requires LPRs to wait 5 years from the date they obtained qualified alien status before they may be eligible for full Medicaid or SCHIP coverage and other public benefits. Iraqi and Afghan Special Immigrants are not refugees, who are admitted under section 207 of the INA and are not subject to the 5-year bar.

The following legislation was recently passed which lifts the requirements of the 5-year bar for Iraqi and Afghan Special Immigrants and their families, but only during their initial **8 months (for Iraqis) or 6 months (for Afghans)** of special immigrant status, counted from their date of U.S. entry as special immigrants or the date of their conversion to special immigrant status. During this initial period, they are eligible for resettlement assistance, entitlement programs (e.g., Medicaid), and other public benefits (e.g., SCHIP) to the same extent and with the same requirements as refugees. Afterwards, they lose eligibility for these public benefits until they meet the 5-year bar or otherwise meet the citizenship or alien eligibility criteria.

- Section 525 of Title V of Division G of Public Law 110-161, "The Consolidated Appropriations Act, 2008," **which took effect on December 26, 2007**, authorizes at most 6 months of refugee-like coverage for Iraqi and Afghan Special Immigrants and their

families. For FFY 2008, 500 slots are approved for this category, not counting the family members. This authority sunsets at the end of FFY 2008 (September 30, 2008), but is expected to be extended (similar to the continual extensions of legislative authority for covering Transitional Medical Assistance and Qualifying Individuals). Therefore, Medicaid coverage under this law should not be end-dated by September 30, 2008.

- Section 1244(g) of the National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181 (H.R. 498), which took effect on January 28, 2008, extends the period of refugee-like coverage to at most 8 months, but only for Iraqi Special Immigrants and their families, not for Afghan Special Immigrants. Therefore, effective January 28, 2008, the initial eligibility period for public benefits is extended to 8 months for all Iraqi Special Immigrants and their families. Also, the bill broadens the Iraqi (not Afghan) Special Immigrants category beyond translators, to include those Iraqi nationals (and their families) who provided faithful and valuable services for or on behalf of the U.S. government for at least a year and have experienced or are likely to experience a serious threat as a consequence of that employment. For FFY 2008, 5,000 slots were approved for Iraqi Special Immigrants, not counting the family members. This authority does not have a sunset date.

Therefore, **effective on or after December 26, 2007**, Iraqi and Afghan Special Immigrants and their families may be determined eligible for Medicaid or SCHIP benefits during their initial 8 or 6 months in the U.S. in special immigrant status, even if they do not meet the 5-year bar to public benefits. If they have unpaid medical bills, these individuals may be determined eligible for retroactive Medicaid for at most 3 months before the month of application. However, special immigrants covered under this provision may not receive coverage prior to December 26, 2007. A number of the special immigrants and their families will not be covered for public benefits for a full 8 or 6 month period (e.g., because they entered the U.S. before the relevant public law took effect or they applied several months into their 8/6 month period).

Like with any other applicant, Iraqi and Afghan Special Immigrants will have their Medicaid or SCHIP eligibility determined in accordance with the financial and technical (e.g., residency, living arrangements, age, disability) requirements for the most appropriate existing eligibility group for which they may qualify. Because Iraqi and Afghan Special Immigrants are not required to have a sponsor, there is no deeming of a sponsor's income for the immigrant's Medicaid eligibility. There is no requirement to expedite processing of these applications. If these individuals are not Medicaid eligible, they may apply and be determined eligible for Refugee Medical Assistance (RMA), which is 100 percent federally funded by the Office of Refugee Resettlement (ORR) of the U.S. Department of Health and Human Services.

Iraqi and Afghani Special Immigrants and family members who claim special immigrant status must provide verification that they have been admitted under section 101(a)(27) of the INA or converted to this status. Examples of acceptable documentation are presented in the ORR's State Letters #08-04 and #08-06 at: <http://www.acf.hhs.gov/programs/orr/policy/stltrs08.htm>.

Medicaid eligibility for Iraqi and Afghan Special Immigrants must end by, at most, 8 or 6 months after their U.S. entry as special immigrants or conversion to special immigrant status,

regardless of rules that are otherwise applied for their eligibility group (e.g., coverage of pregnant women until the end of their postpartum period, the continuous eligibility option for children). However, if an infant is born in the U.S. to a mother who was Medicaid eligible on the date of birth as an Iraqi or Afghan Special Immigrant, the infant is a U.S. citizen, is deemed Medicaid eligible, and will remain eligible as a deemed newborn until turning age one.

After the initial 8 or 6 month period during which they are treated like refugees for public benefits purposes, Iraqi and Afghan Special Immigrants and their families may qualify only for Medicaid coverage of emergency medical services, until they meet the 5-year bar for qualified aliens or otherwise meet the citizenship or alien eligibility requirements (e.g., become naturalized as a U.S. citizen or change their immigration status to a category not subject to the 5-year bar, such as a refugee or asylee).

Refugee Medical Assistance

If Iraqi and Afghan Special Immigrants apply and are determined ineligible for Medicaid (Medical Assistance) (e.g., because they are childless adults), they may apply for medical coverage under Refugee Medical Assistance (RMA). They may qualify for RMA and/or Refugee Cash Assistance (RCA) to the same extent as refugees, during the initial 8 or 6 month period after their U.S. entry. RMA and RCA benefits are 100 percent federally funded by the ORR under title IV of the INA, not by the Medicaid program. This difference in coverage authority and funding source is not necessarily apparent to applicants and providers, as these individuals apply in the same locations and using the same procedures as Medicaid applicants. Providers submit claims using the same procedures as for Medicaid recipients.

RCA provides cash assistance to certain immigrants who are not eligible for Temporary Assistance for Needy Families (TANF) or Supplemental Security Income (SSI). Iraqi and Afghan Special Immigrants who are childless married couples or singles are not eligible for TANF, but may qualify for RCA. Individuals granted RCA are automatically eligible for RMA. Individuals who are not eligible for RCA or who do not apply for cash benefits may be eligible for medical coverage under RMA. RMA coverage of medical services is required to be at least the same services provided to the same extent as the Medicaid State plan coverage provided in the State where the individual lives. Additional medical services may also be covered by RMA. Each State specifies the RCA and RMA eligibility requirements and covered services in its State plan for refugee resettlement, under title IV of the INA.

Contact for Additional Information

If you have questions about Medicaid coverage of Iraqi and Afghan Special Immigrants, please contact Ms. Mary Corddry, who can be reached at (410) 786-6618 or Mary.Corddry@cms.hhs.gov. For questions about SCHIP coverage, please contact Ms. Nancy Dieter, who can be reached at (410) 786-7219 or Nancy.Dieter@cms.hhs.gov.

Sincerely,

A handwritten signature in cursive script that reads "Kathleen M. Farrell".

Kathleen M. Farrell
Acting Director