

Eligibility Under the Affordable Care Act for Survivors of Domestic Violence, Trafficking, and Other Serious Crimes¹

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Introduction

Under the Affordable Care Act of 2010 (ACA),² individuals who are “lawfully present” in the United States will be eligible for new affordable coverage options after January 1, 2014.³ Eligibility for private health insurance and the subsidies that make insurance more affordable through the ACA’s health insurance “marketplaces” or “exchanges” are available only to U.S. citizens and people who are “lawfully present” in the U.S.

“Lawfully present” individuals who are survivors of domestic violence, abuse, neglect, trafficking, or other serious crimes may be:

- Subject to the individual mandate;
- Eligible to enroll in a qualified health plan through state/federal exchanges;
- Eligible for lower copayments or pre-existing condition insurance plans; and
- Exempt from waiting periods for insurance or premium tax credits.

The definition of lawfully present that is used to determine eligibility under the ACA includes persons who are classified as “qualified immigrants”⁴, and also several other categories of non U.S. citizens who have permission to live and/or work in the U.S. Additionally some immigrants may have limited access to subsidies depending on each state. To find health care benefits for immigrant survivors in your state, use NIWAP’s interactive map at <http://niwaplibrary.wcl.american.edu/>. It is important to note that in many states, prenatal care and child healthcare is available for immigrants regardless of status.

Immigration Status Categories Considered “Lawfully Present” for ACA Eligibility⁵

| Legal Permanent Residents Applicants for Adjustment to LPR Status with Approved Visa Petitions | Persons Fleeing Persecution | Humanitarian Immigrants |
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| <p><u>Persons in Removal/Deportation</u></p> <ul style="list-style-type: none"> • Granted Withholding of Deportation or Withholding of Removal • Granted Withholding of Deportation/Removal under the | <ul style="list-style-type: none"> • Refugees • Conditional Entrants • Asylees | <ul style="list-style-type: none"> • Cuban and Haitian Entrants • Person Paroled into the U.S. • Persons granted or applied for TPS • Granted Deferred Enforced Departure (DED) • Granted Deferred Action (includes approved VAWA self- |

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² The Patient Protection and Affordable Care Act, Public Law 111–148, enacted on March 23, 2010, and the Health Care and Education Reconciliation Act of 2010 (Reconciliation Act), Public Law 111–152, enacted on March 30, 2010, collectively are referred to as the Affordable Care Act.

³ See, e.g., section 1411(a)(1) of the ACA (eligibility for the health insurance “exchanges” and the related affordability tax credits).

⁴ 8 U.S.C. § 1641.

⁵ For detailed explanation of these status’ please see “Lawfully Present” Individuals Eligible under the Affordable Care Act at National Immigration Center webpage www.nilc.org

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| <p>Convention Against Torture (CAT) Applicants for Asylum or Withholding of Deportation/Removal</p> | | <p>petition, U visa conditional approvals on wait list, DOES NOT include DACA)</p> <ul style="list-style-type: none"> • Granted or applied for Special Immigrant Juvenile Status (SIJ) |
| <p><u>Survivors of Domestic Violence (Also see U visa Holders)</u></p> <ul style="list-style-type: none"> • Approved VAWA self-petition • Prima facie case determination on a self-petition • Immigrant visa filed for a spouse or child by a U.S. citizen or LPR • Application for cancellation of removal/ suspension of deportation under VAWA. <p>**The parent and/or child of a battered spouse or child are also “qualified” and “lawfully present.”</p> | <p><u>Victims of Trafficking and Their Derivative Beneficiaries</u></p> <ul style="list-style-type: none"> • Survivors of a severe form of human trafficking who are certified by (or, if a minor, receive an eligibility letter from) HHS’s Office of Refugee Resettlement (ORR) • Survivors who have submitted a bona fide application for a T visa or have been granted “continued presence” • Approved T visa or a prima facie case determination | <p><u>Survivors of Serious Crimes (U Visa Holders)</u></p> <ul style="list-style-type: none"> • Approved U visa applicants and derivatives <p><u>Nonimmigrant Visa Holders</u></p> <ul style="list-style-type: none"> • Tourists, students, and visitors on business, as well as individuals who are permitted to live and work in the U.S. indefinitely. Persons granted status under 8 U.S.C. section 1101(a)(15)(A) through (V) or by a treaty. Must not have violated the terms of their status • Citizens of Micronesia, the Marshall Islands, and Palau |
| <p><u>Longtime Residents</u> (with employment authorization): Lawful Temporary Residents and Applicants for Legalization under IRCA, Legalization under the LIFE Act, Family Unity, Applicants for Cancellation of Removal or Suspension of Deportation, Persons under an Order of Supervision, and Registry Applicants</p> | | |

Immigrants Ineligible to Purchase Qualified Health Plans and Exempt from the Individual Mandate

- Undocumented immigrants are ineligible to purchase qualified health plans and are exempt from the individual mandate.
- Immigrant crime victim survivors (U visa applicants and derivatives) with pending immigration applications are not able to purchase health care on the exchanges, or receive a subsidy.
- VAWA self-petition applicants before a prima facie determination.
- T visas applicants without certification or continued presence, pending bona fide determination.
- Granted or pending Deferred Action for Childhood Arrivals (DACA) Applicants.