

Emergency Medicaid in New York State - Limited Medicaid Coverage for Undocumented Immigrants & Changes for Age 65+

- **NEWS ALERT: January 1, 2024 - Undocumented immigrants age 65+ became eligible for *full Medicaid* (as opposed to only *Emergency Medicaid*).**
 - ◆ See [this article](#) to learn how this expansion is being implemented, and
 - ◆ Download the official Fact Sheet - [New Health Insurance Option for Undocumented Immigrants Over 65 Fact Sheet](#) (Dec. 18, 2023 -NYS of Health).
- **COVID-19 ALERT - [See here](#). COVID-19 lab testing, evaluation, and treatment are emergency services and will be reimbursed by NYS Medicaid for individuals who are undocumented immigrants eligible only for emergency Medicaid.**
- **PUBLIC CHARGE UPDATE March 9, 2021 - The Trump [Public Charge rule](#) has been vacated after the Biden administration withdrew its appeal to the Supreme Court of an injunction issued by the Second Circuit and also withdrew appeal of a Seventh Circuit lawsuit. See more about this news and public charge [here](#). See [here about how Public Charge affects older persons age 65+](#) who are undocumented and need Medicaid to cover nursing home care.**

EMERGENCY MEDICAID

Federal law requires state Medicaid programs to provide Medicaid coverage for "care and services are necessary for the treatment of an emergency medical condition" to immigrants who do not meet the immigration requirements for full Medicaid. This would be immigrants who are not PRUCOL. They must "otherwise meet[] the eligibility requirements for medical assistance under the State plan." 42 U.S.C. Â§ 1396b(v)(2)(A)-(C) . To qualify for Emergency Medicaid, clients need to be residents of New York State, financially eligible for Medicaid (under applicable rules for the individual's category (MAGI/ NON-MAGI), and the condition requiring treatment needs to manifest itself by acute symptoms (including pain) such that absence of immediate medical attention could put the patient in serious jeopardy, seriously impair bodily functions or cause serious dysfunction to an organ or body part.

See NHELP, [Medicaid Coverage of Emergency Medical Conditions](#).

Applications for Emergency Medicaid are filed the same way as for regular Medicaid. Those qualifying for MAGI apply on <https://nystateofhealth.ny.gov/> Those who are age 65+ or younger and have Medicare apply at their local district social services department. See [article for where to apply in NYC](#)

NYS directives are summarized and linked below.

1. **In 2013, NYS eliminated the form physicians were previously required to fill out -- DOH-4471 form for the Certification of Treatment of an Emergency Medical Condition.** (revised in 2010) Immigrants need only submit the standard Medicaid application, and if they are found otherwise eligible, local districts are to issue a Client Benefit Identification Card and authorize coverage for a 12-month period, plus an additional 3-months if retroactive coverage is requested. For a claim to be paid, the physician must enter an emergency admission type in eMedNY. Standard spend down and renewal processes apply. NYS DOH GIS 13-MA-009
http://www.health.ny.gov/health_care/medicaid/publications/gis/13ma009.htm
2. In January 2016, DOH issued GIS 16 MA/003 - Incarcerated Temporary Non-Immigrants and Undocumented Aliens which states Emergency Services Only coverage will be suspended for incarcerated individuals and reinstated upon release. While incarcerated, Emergency Services Only coverage will pay for the treatment of an inpatient medical emergency condition provided off the grounds of the correctional facility. For individuals released to the street or parole supervision, Emergency Services Only coverage will be reinstated for a period of five months (beginning on the first day of the release month), but not if released to immigration custody.
3. January 2016, DOH issued GIS 16 MA/002 - Changes in Medicaid Coverage for Temporary Non-Immigrants (PDF) See Residency Review Worksheet and Temporary Non-Immigrant Document Types and Visa Codes
4. Medicaid for the Treatment of an Emergency Medical Condition Fact Sheet (NYS DOH revised March 2021) - at: http://www.health.ny.gov/health_care/medicaid/emergency_medical_condition_fa

Which Services are Covered as an Emergency?

The condition requiring treatment needs to manifest itself by acute symptoms (including pain) such that absence of immediate medical attention could put the patient in serious jeopardy, seriously impair bodily functions or cause serious dysfunction to an organ or body part. There has been much case law regarding what treatment is an emergency. Organ transplants are specifically excluded in the federal statute. Nursing home care has been excluded. Greenery Rehabilitation Group, Inc. v. Hammon, 150 F.3d 226 (2d Cir. 1998). There are numerous other cases. See 2010 update. See NHELP, Medicaid Coverage of Emergency Medical Conditions.

1. **CANCER TREATMENT** - 2007 State policy directive requires coverage of chemotherapy and radiation treatment associated with a cancer diagnosis. Coverage should include prescription medications as long as they are associated with stabilization and treatment of the diagnosis that constituted the medical emergency. General Informational System 07 MA 017.
2. **Medicaid coverage of prescription drugs for patients with Emergency Medicaid coverage is tightening.** DOH has done a review of claims paid under Emergency Medicaid and determined that the program has been paying for drugs like proton pump inhibitors and blood pressure medications that do not meet the

federal definition of emergency care. A new policy has been announced limiting prescription drug coverage to a list of therapeutic classes associated with emergency care. Several drugs needed by dialysis patients have been added to the list, but insulin will not be added. Drugs not on the list will be denied.

Physicians can apply for an override and claims will be paid if the drug is necessary to treat an emergency condition. Also, NY will continue to pay for chemotherapy using state only funds - but to get payment for oral chemotherapy drugs prescribers will need to submit an over-ride request.

The list of therapeutic drugs covered under Emergency Medicaid is at this link: https://www.health.ny.gov/health_care/medicaid/program/pharmacy/emergency_services.htm (January 2024).

3. **Emergency transportation** -- This includes not only emergency ambulance service but transportation to and from chemotherapy treatment for cancer and to and from dialysis for End Stage Renal Disease.
4. DOH Medicaid Update September 2014 outlines the Hospital billing instructions for certain emergency services, using Ebola treatment as an example.

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Medicaid -> Immigrant Access -> Emergency Medicaid in New York State - Limited Medicaid Coverage for Undocumented Immigrants & Changes for Age 65+

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