

## **Table of Contents**

**State Name: West Virginia**

**State Plan Amendment (SPA) #: 13-0019-MM6**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Superseding Pages Notice
- 4) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
150 S. Independence Mall West  
Suite 216, The Public Ledger Building  
Philadelphia, Pennsylvania 19106-3499



**Region III/Division of Medicaid and Children's Health Operations**

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SWIFT #012420144027

**MAR 07 2014**

Ms. Nancy V. Atkins, RN, MSN, NP-BC  
Commissioner  
Bureau for Medical Services  
Department of Health and Human Resources  
350 Capitol Street, Room 251  
Charleston, WV 25301-3706


Dear Commissioner Atkins:

The Centers for Medicare & Medicaid Services (CMS) has completed its review of West Virginia's State Plan Amendment (SPA) 13-0019-MM6. SPA13-0019-MM6 identifies the non-financial eligibility requirements for both citizens and eligible non-citizens and incorporates them into West Virginia's State Plan in accordance with the Social Security Act and regulations at Title 42, Part 435 of the Code of Federal Regulations. The effective date of this SPA is October 1, 2013.

Enclosed is a copy of the CMS Summary Page (CMS-179 form), the approved State Plan pages for S89; and the Superseding Pages of State Plan Material, which should also be incorporated into a separate section in the front of West Virginia's State Plan.

We appreciate the cooperation and effort provided by your staff throughout this process. If you have further questions about this SPA, please contact Margaret Kosherzenko of my staff at 215-861-4288 or by email at [Margaret.Kosherzenko@cms.hhs.gov](mailto:Margaret.Kosherzenko@cms.hhs.gov).

Sincerely,

  
Francis McCullough  
Associate Regional Administrator

Enclosures

**Medicaid State Plan Eligibility: Summary Page (CMS 170)**

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**State/Territory name:** West Virginia**Transmittal Number:***Please enter the Transmittal Number (TN) in the format ST-YY-0000 where ST= the state abbreviation, YY= the last two digits of the submission year, and 0000 = a four digit number with leading zeros. The dashes must also be entered.*

WV-13-0019

**Proposed Effective Date**

10/01/2013 (mm dd yy)

**Federal Statute/Regulation Citation**

ACA

**Federal Budget Impact**

	<b>Federal Fiscal Year</b>	<b>Amount</b>
<b>First Year</b>	2014	\$ 113756.00
<b>Second Year</b>	2015	\$ 117598.00

**Subject of Amendment**

Citizenship and Immigration Status

**Governor's Office Review**

Governor's office reported no comment

Comments of Governor's office received

Describe:

No reply received within 45 days of submittal

Other, as specified

Describe:

Not Required.

**Signature of State Agency Official****Submitted By:** Sarah Young**Last Revision Date:** Mar 6, 2014**Submit Date:** Dec 9, 2013



**SUPERSEDING PAGES OF  
STATE PLAN MATERIAL**

**TRANSMITTAL NUMBER:**

13-0019-MM

**STATE:**

West Virginia

**PAGE NUMBER OF THE PLAN SECTION OR  
ATTACHMENT:**

S89 Non-Financial Eligibility- Citizenship and Non-citizen Eligibility

**PAGE NUMBER OF THE SUPERSEDED PLAN SECTION  
OR ATTACHMENT (*If Applicable*):**

Attachment 2.6-A:  
Page 2, Item 3, subparagraphs (a)-(g), TN-97-07  
Page 2a - Entire page, TN 97-07

Page 3, Item 3, subparagraphs (d) and (e), TN 94-15



# Medicaid Eligibility

OMB Control Number 0938-1148

OMB Expiration date: 10/31/2014

<b>Non-Financial Eligibility</b>	S89
<b>Citizenship and Non-Citizen Eligibility</b>	

1902(a)(46)(B)  
8 U.S.C. 1611, 1612, 1613, and 1641  
1903(v)(2),(3) and (4)  
42 CFR 435.4  
42 CFR 435.406  
42 CFR 435.956

### Citizenship and Non-Citizen Eligibility

The state provides Medicaid to citizens and nationals of the United States and certain non-citizens consistent with requirements of 42

CFR 435.406, including during a reasonable opportunity period pending verification of their citizenship, national status or satisfactory immigration status.

The state provides Medicaid eligibility to otherwise eligible individuals:

Who are citizens or nationals of the United States; and

Who are qualified non-citizens as defined in section 431 of the Personal Responsibility and Work Opportunity

Reconciliation Act (PRWORA) (8 U.S.C. §1641), or whose eligibility is required by section 402(b) of PRWORA (8 U.S.C. §1612(b)) and is not prohibited by section 403 of PRWORA (8 U.S.C. §1613); and

Who have declared themselves to be citizens or nationals of the United States, or an individual having satisfactory immigration status, during a reasonable opportunity period pending verification of their citizenship, nationality or satisfactory immigration status consistent with requirements of 1903(x), 1137(d), 1902(ee) of the SSA and 42 CFR 435.406, and 956.

The reasonable opportunity period begins on and extends 90 days from the date the notice of reasonable opportunity is received by the individual.

The agency provides for an extension of the reasonable opportunity period if the individual is making a good faith effort to resolve any inconsistencies or obtain any necessary documentation, or the agency needs more time to complete the verification process.

Yes  No

The agency begins to furnish benefits to otherwise eligible individuals during the reasonable opportunity period on a date earlier than the date the notice is received by the individual.

Yes  No

The date benefits are furnished is:

The date of application containing the declaration of citizenship or immigration status.

The date the reasonable opportunity notice is sent.

Other date, as described:



# Medicaid Eligibility

The state provides Medicaid coverage to all Qualified Non-Citizens whose eligibility is not prohibited by section 403 of PRWORA (8 U.S.C. §1613).

Yes  No

Indicate which requirements apply:

The state requires Lawful Permanent Residents to have 40 qualifying work quarters under Title II of the Social Security Act.

Yes  No

The state limits eligibility to 7 years for certain non-citizens.

Yes  No

Check all that apply:

- Non-citizens admitted to the U.S. as a refugee under section 207 of the INA
- Non-citizens granted asylum under section 208 of the INA
- Non-citizens whose deportation is withheld under section 243(h) or 241(b)(3) of the INA
- Non-citizens granted status as a Cuban-Haitian Entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980
- Non-citizens admitted to the U.S. as Amerasian

The state elects the option to provide Medicaid coverage to otherwise eligible individuals under 21 and pregnant women, lawfully residing in the United States, as provided in section 1903(v)(4) of the Act.

Yes  No

Pregnant women

Individuals under age 21:

Individuals under age 21

Individuals under age 20

Individuals under age 19

An individual is considered to be lawfully residing in the United States if he or she is lawfully present and otherwise meets the eligibility requirements in the state plan.

An individual is considered to be lawfully present in the United States if he or she:

1. Is a qualified non-citizen as defined in 8 U.S.C. 1641(b) and (c);
2. Is a non-citizen in a valid nonimmigrant status, as defined in 8 U.S.C. 1101(a)(15) or otherwise under the immigration laws (as defined in 8 U.S.C. 1101(a)(17));
3. Is a non-citizen who has been paroled into the United States in accordance with 8 U.S.C. 1182(d)(5) for less than 1 year, except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings;
4. Is a non-citizen who belongs to one of the following classes:



# Medicaid Eligibility

- Granted temporary resident status in accordance with 8 U.S.C. 1160 or 1255a, respectively;
  - Granted Temporary Protected Status (TPS) in accordance with 8 U.S.C. §1254a, and individuals with pending applications for TPS who have been granted employment authorization;
  - Granted employment authorization under 8 CFR 274a.12(c);
  - Family Unity beneficiaries in accordance with section 301 of Pub. L. 101-649, as amended;
  - Under Deferred Enforced Departure (DED) in accordance with a decision made by the President;
  - Granted Deferred Action status;
  - Granted an administrative stay of removal under 8 CFR 241;
  - Beneficiary of approved visa petition who has a pending application for adjustment of status;
5. Is an individual with a pending application for asylum under 8 U.S.C. 1158, or for withholding of removal under 8 U.S.C.1231, or under the Convention Against Torture who -
- Has been granted employment authorization; or
  - Is under the age of 14 and has had an application pending for at least 180 days;
6. Has been granted withholding of removal under the Convention Against Torture;
7. Is a child who has a pending application for Special Immigrant Juvenile status as described in 8 U.S.C. 1101(a)(27)(J);
8. Is lawfully present in American Samoa under the immigration laws of American Samoa; or
9. Is a victim of severe trafficking in persons, in accordance with the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386, as amended (22 U.S.C. 7105(b));
10. **Exception:** An individual with deferred action under the Department of Homeland Security's deferred action for the childhood arrivals process, as described in the Secretary of Homeland Security's June 15, 2012 memorandum, shall not be considered to be lawfully present with respect to any of the above categories in paragraphs (1) through (9) of this definition.
- Other
- The state assures that it provides limited Medicaid services for treatment of an emergency medical condition, not related to an organ transplant procedure, as defined in 1903(v)(3) of the SSA and implemented at 42 CFR 440.255, to the following individuals who meet all Medicaid eligibility requirements, except documentation of citizenship or satisfactory immigration status and/or present an SSN:
- Qualified non-citizens subject to the 5 year waiting period described in 8 U.S.C. 1613;
  - Non-qualified non-citizens, unless covered as a lawfully residing child or pregnant woman by the state under the option in accordance with 1903(v)(4) and implemented at 435.406(b).

## PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148. The time required to complete this information collection is estimated to average 40 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.