

Introduction to Part I: Eligibility Criteria At-A-Glance

Three primary “Insurance Affordability Programs” provide health coverage to low and moderate income Californians:¹

- Medi-Cal – California’s Medicaid program;
- The Medi-Cal Access Program – a separate CHIP (Children’s Health Insurance Program) for pregnant women; and
- Covered California – California’s Exchange, or online health insurance marketplace.

Medi-Cal is the program for California’s lowest income individuals. Medi-Cal has different rules for individuals based on coverage categories. MAGI Medi-Cal programs cover adults under age 65, parents and caretaker relatives, pregnant women, and children, using the Modified Adjusted Gross Income (MAGI) methodology. MAGI Medi-Cal programs include the childless adult expansion program (including the former Low-Income Health Program (LIHP)); the Medi-Cal Access Program (MCAP – former Access for Infants and Mothers program (AIM))² and the Targeted Low-Income Children’s Program/ Medi-Cal for Families (TLICP, former Healthy Families Program). Non-MAGI Medi-Cal covers people in other government benefits programs and special populations, such as individuals who are over 65, individuals with disabilities who do not qualify for MAGI Medi-Cal, former foster youth, and children enrolled in certain programs designed to keep children in coverage at vulnerable times.

Covered California picks up where Medi-Cal leaves off, offering subsidized health insurance to low-to-moderate income Californians, up to \$80,360 for a family of 3 in 2016. Individuals who enroll in Covered California health plans may receive

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1. Three counties, San Francisco, San Mateo, and Santa Clara also have County Children’s Health Insurance Programs (C-CHIP) which are also technically Insurance Affordability Programs as they are funded by federal CHIP funds. This guide does not cover eligibility for these three local programs.
 2. Although the Medi-Cal Access Program (MCAP) is now administered by DHCS, it is separate from Medi-Cal and currently does not provide access to Medi-Cal’s benefits or provider networks. Because MCAP is an important source of affordable coverage for pregnant women, this guide covers MCAP together with Medi-Cal, pointing out differences along the way. See Chapter 2 for a complete description of the program.

financial assistance in the form of advanced premium tax credits to offset the cost of purchasing insurance. At lower income levels, individuals qualify for more heavily subsidized health plans that have lower deductibles and co-payments than are offered to their higher income counterparts.

In general, individuals must meet certain rules to be eligible to enroll in Insurance Affordability Programs, which include:

- citizenship or immigration status;
- state residency; and
- income and household determination requirements.

Some programs also consider:

- age;
- incarceration;
- availability of other health coverage;
- tax filing status; and
- assets.

A. Citizenship and Immigration Status

Concerns about immigration status may cause confusion across programs and dissuade eligible people from applying for services. Medi-Cal is available in some form to all immigrants – regardless of status – as long as they meet all other eligibility requirements. For example, even undocumented immigrants may be eligible for emergency Medi-Cal benefits. Covered California, on the other hand, is only available to certain immigrants defined as “lawfully present,” which includes virtually all immigrants with a documented status, except those who have Deferred Action for Childhood Arrival (DACA) status.³ For a good rule of thumb, immigration status determines the *scope* of services in Medi-Cal, not whether someone is eligible. In Covered California, immigration status determines *who* gets services. MCAP has no citizenship or immigration status requirements; it provides comprehensive benefits to all enrollees, regardless of the pregnant woman’s status. U.S. citizens and nationals

3. 10 CCR § 6410 (referencing 45 C.F.R. § 1552.2).

are eligible for all three programs.

1. Mixed Status Families

Given both the complicated nature of immigrant eligibility for health programs and the mixed immigration statuses of many Californian families, members of the same family may find themselves eligible for different programs. A few rules to keep in mind:

- Only persons who are seeking services are required to provide citizenship and immigration status information. Persons who are not seeking services, even if applying for another family member, do not need to prove their citizenship or immigration status.
- Citizenship and immigration status information is only used to determine eligibility for the health program the person is applying for and not otherwise used for immigration enforcement purposes.⁴

For Medi-Cal immigration rules, see Chapter 1, Section A.

For Covered California immigration rules, see Chapter 5, Section B.1.

B. Residency

Only California residents are eligible for Medi-Cal, MCAP or Covered California.

For Medi-Cal and MCAP residency rules, see Chapter 1, Section C.

For Covered California residency rules, see Chapter 4, Section B.3.

C. Household and Income Requirements

1. Income Threshold and Income Counting

In order to determine whether an individual's income qualifies her for a particular program, first you must know what income methodology the program uses.

4. U.S. Immigration and Customs Enforcement, "Clarification of Existing Practices Related to Certain Health Care Information" (Oct. 25, 2013), <http://www.ice.gov/doclib/ero-outreach/pdf/ice-aca-memo.pdf>.

The MAGI rules apply to the MAGI Medi-Cal programs – the newly eligible adults (“expansion adults” age 19-64),⁵ pregnant women,⁶ parents and caretaker relatives,⁷ and children, which includes the CHIP-funded Targeted Low-Income Children’s Program,⁸ premium tax credits and cost sharing reductions offered through Covered California; and MCAP for pregnant women. Advocates are also encouraged to consult *Advocate’s Guide to MAGI*, published by the National Health Law Program.⁹ The MAGI rules count income based largely on how it would be reported for federal income taxes.

If an individual does not qualify for Medi-Cal under the MAGI rules, the individual may nevertheless qualify for Medi-Cal because they are aged, blind, or disabled, a foster child or a former foster child, a refugee, or seeking care for a particular medical condition that is covered under a limited scope program. These programs are known collectively as “Non-MAGI Medi-Cal” and they have their own income rules, and, in some cases, no income limitations at all. Prior to health reform, many Medi-Cal programs also required a deprivation test, meaning that households had to include a child deprived of parental support due to a parent being deceased, absent, incapacitated, unemployed or underemployed. That rule no longer exists for any Medi-Cal program, whether MAGI or Non-MAGI.¹⁰

For general MAGI income counting rules (MAGI Medi-Cal, MCAP, and Covered California), see Chapter 4, Section C.2.b.

For MAGI Medi-Cal and MCAP exceptions to the MAGI income counting rules, see Chapter 2, Section B.

For Non-MAGI Medi-Cal income counting rules, see individual program sections in Chapter 3.

5. 42 U.S.C. § 1396a(a)(10)(A)(i)(VIII).

6. 42 U.S.C. § 1396a(e)(5)-(6).

7. 42 U.S.C. §§ 1396a(a)(10)(i)(I), 1396u-1(a).

8. 42 U.S.C. § 1396a(l)(2)(C). For CHIP, see 42 U.S.C. §§ 1397bb(b)(1)(B)(v), 1396a(e)(14)(A); 42 C.F.R. § 457.315(a).

9. Available on National Health Law Program’s website at www.healthlaw.org/publications/search-publications/agmagi#.Ved4KPIViko.

10. ABX1-1 amended Welfare and Institutions Code § 14005.30 (b)(2) in 2013. See also ACWDL 14-28 (July 7, 2014).

2. Household

Because the income thresholds for each program are based on the federal poverty level for the household size, advocates must know the household rules of the program.

For Medi-Cal and MCAP, the household size is determined for each individual. Different households may exist within a single family, depending on each member's familial and tax relationships to each other. MAGI Medi-Cal programs and MCAP generally use tax rules for households (or "nonfiler" rules for those who do not file taxes) whereas non-MAGI Medi-Cal programs use the pre-ACA household rules.

For Covered California, household size is based on tax relationships and the household includes the taxpayer and all members claimed on their federal income tax return. Different households may exist within a single family, depending on the tax relationships to one another.

For MAGI Medi-Cal and MCAP household rules, see Chapter 2, Section A.

For Non-MAGI Medi-Cal household rules, see individual program sections in Chapter 3.

For Covered California household rules, see Chapter 4, Section C.2.b.

D. Age

In general, MAGI Medi-Cal programs are limited to persons under age 65, though caretaker relatives may be older and the children's programs have their own limits. Non-MAGI Medi-Cal programs are available to a variety of ages depending on the program – some serve persons over 65 in particular. MCAP has no age rule. Individuals of any age may purchase a Covered California plan; however, because Medicare beneficiaries are ineligible (see Other Health Coverage), few older than 64 purchase Covered California (recent immigrants are exceptions).

For MAGI Medi-Cal age rules, see individual program sections in Chapter 2.

For Non-MAGI Medi-Cal age rules, see individual program sections in Chapter 3.

For Covered California age rules, see Chapter 4, Section B.4.

E. Incarceration

Incarceration is treated differently in Medi-Cal than in Covered California. Incarceration is not a factor of eligibility for Medi-Cal but, in general, Medi-Cal will not pay for services for incarcerated individuals.¹¹ Individuals who have Medi-Cal and become incarcerated have their Medi-Cal suspended.¹² Incarceration is a condition of eligibility for Covered California.¹³ Individuals who are incarcerated are not eligible for enrollment in a Covered California plan and, if individuals who have Covered California become incarcerated, they will have their Covered California plans cancelled and then get a Special Enrollment Period when they are released.

For Medi-Cal incarceration rules, see Chapter 1, Section B.

For Covered California incarceration rules, see Chapter 4, Section B.2.

F. Other Health Coverage

Access to or enrollment in other health coverage affects eligibility for Medi-Cal, MCAP, and Covered California in different ways. People enrolled in other health coverage are still eligible for Medi-Cal, though the Medi-Cal program requires that the other health coverage be used before Medi-Cal will cover services.

Enrollment in other health insurance can prevent eligibility for MCAP unless the other coverage insufficiently covers maternity services.¹⁴ See Chapter 2, Section C.3.b.

Enrollment in other health coverage can preclude an applicant from enrolling in a Covered California plan entirely (if enrolled in Medicare) or can prevent someone from getting premium tax credits (if enrolled in most other kinds of coverage).¹⁵ In most cases, the individual need only be *eligible* for other health coverage to exclude someone from enrolling in Covered California.¹⁶

11. 42 U.S.C. § 1396d(a)(29)(A); 42 C.F.R. §§ 435.1009-1010.

12. Welf. & Inst. Code § 14011.10; ACWDL 14-26 (May 6, 2014), <http://www.dhcs.ca.gov/services/medi-cal/eligibility/Documents/ACWDL2014/14-26.pdf>.

13. 42 U.S.C. § 18032(f)(1)(B); 45 C.F.R. § 155.305(a)(2); 10 CCR § 6472(d).

14. 10 CCR § 2699.201(d)(1)(T) and (V).

15. 26 U.S.C. § 36B(c)(2)(B); 26 C.F.R. § 1.36B-2(a)(2); 10 CCR § 6474(c)(1)(B)(2).

16. See 26 U.S.C. § 36B(c)(2)(B); 26 C.F.R. § 1.36B-2(a)(2).

For Medi-Cal rules about Other Health Coverage, see Chapter 1, Section D.

For Covered California rules about other health coverage, see Chapter 4, Section C.1.

G. Tax Filing Status

Individuals who do not file taxes can still enroll in Medi-Cal or MCAP.¹⁷ Non tax-filers can also enroll in Covered California, but in order to receive premium tax credits for coverage through Covered California, individuals must file taxes for the year they receive credits.¹⁸ For married couples, if either receives premium tax credits, the couple must file a joint tax return or they are ineligible for the credits and will have to pay them back.¹⁹

For Covered California rules on tax filing status, see Chapter 4, Section C.4.

H. Assets or Resources

In an effort to simplify program rules, the MAGI methodology does not consider assets or resources other than income. Thus applications for MAGI Medi-Cal, MCAP, and Covered California do not have any questions about bank accounts, homes, cars, property, etc.

On the other hand, most non-MAGI programs that count income still have limits on what resources an individual may have besides income to qualify for Medi-Cal. However, like everything else with the non-MAGI programs, the rules vary by program. For example, the Medicare Savings Programs (QMB, SLMB, etc.) have a countable resource limit of \$4,000 for an individual and \$6,000 for a married couple, while the 250% Working Disabled Program has a resource limit of \$2,000 for an individual and \$3,000 for a couple. In general, non-MAGI programs that do not count income, such as the program for Former Foster Youth or the Minor Consent program, do not look at resources either.

17. 42 C.F.R. § 435.603(f)(3).

18. 26 C.F.R. § 1.6011-8; 10 CCR § 6476(d)(2)(A).

19. 26 U.S.C. § 36B(c)(1)(C); 26 C.F.R. § 1.36B-2(b)(2) (referencing temporary regulation at 26 C.F.R. § 1.36B-2T); 45 C.F.R. § 155.310(d)(2)(ii)(B); 10 CCR § 6476(d)(2)(B).

For Non-MAGI assets rules, see individual programs in Chapter 3.

Special Note on the Individual Mandate: The Affordable Care Act now requires that most people have some form of full scope health coverage, known as “minimum essential coverage” or be assessed a tax penalty. As this is a guide covering eligibility for health programs, we do not detail all of the exceptions to the individual mandate (e.g., persons who are not required to file taxes, undocumented immigrants, persons facing hardship, persons in Medi-Cal coverage that is not full-scope, or persons with short gaps in coverage), nor do we outline the processes by which an individual may claim an exemption to the individual mandate when filing taxes.

For specific information on the current exemptions to the individual mandate, go to <https://www.healthcare.gov/health-coverage-exemptions/exemptions-from-the-fee/> or see the instructions to the current IRS form 8965.²⁰ In short, the health insurance offered through Covered California and MCAP is always minimum essential coverage. Full-scope Medi-Cal is also minimum essential coverage, and currently persons enrolled in Medi-Cal programs that do not meet the minimum essential coverage standard (e.g., Medi-Cal with a Share of Cost) can apply for a hardship exemption on that basis.²¹

20. See *also* 26 U.S.C. § 5000A, 45 C.F.R. § 155.605, and 26 C.F.R. § 1.5000A-3. CMS can extend certain exemptions via guidance under the hardship exemption, which are then found in the tax form instructions. See e.g., CMS, State Health Official Letter # 14-002, “Minimum Essential Coverage,” pp. 10-11 (Nov. 7, 2014), <http://www.medicaid.gov/federal-policy-guidance/downloads/sho-14-002.pdf>.

21. *Id.* Individuals need only file for the hardship exemption if they are required to file taxes and another simpler exemption is not available. Some exemptions require only a self-declaration rather than filling out an exemption form.

I. Insurance Affordability Programs at a Glance

General Comparison of Eligibility Rules²²

| Eligibility Criteria | MAGI Medi-Cal | Non-MAGI Medi-Cal | MCAP | Covered CA with Subsidies |
|---------------------------------------|--|--|---|--|
| Citizenship/Immigration Status | Citizenship or immigration status determines the scope of benefits | Citizenship or immigration status determines the scope of benefits | No citizenship or immigration status test | Only citizens, nationals, and lawfully present immigrants (except DACA) can enroll |
| Residency | Must be a California resident | Must be a California resident | Must be a California resident | Must be a California resident |
| Income Counting | Modified Adjusted Gross Income rules with Medicaid exceptions | Varies by program – often tied to rules of other benefits programs such as SSI | Modified Adjusted Gross Income rules with Medicaid exceptions | Modified Adjusted Gross Income rules |
| Income Threshold | Adults: 138% FPL Pregnant women: 213% FPL Children: 266% FPL | Varies by program | Over 213% through 322% FPL | 100-400% FPL (and immigrants under 100% FPL) |
| Household Composition | Tax filer/Non-Filer rules | Medi-Cal Budget Unit | Tax filer/Non-Filer rules | Tax filer rules |
| Age | Must be under age 65 (except caretaker relatives) | Programs available for all ages | No age limits | No age limits |

22. Some special Medi-Cal programs for specific populations do not entirely fit the pattern, such the Breast & Cervical Cancer Treatment Program (BCCTP) and the Family PACT program.

| Eligibility Criteria | MAGI Medi-Cal | Non-MAGI Medi-Cal | MCAP | Covered CA with Subsidies |
|--|--|--|--|---|
| Incarceration | Enrollment in Medi-Cal suspended while incarcerated (though Medi-Cal does pay certain hospital expenses for inmates) | Enrollment in Medi-Cal suspended while incarcerated (though Medi-Cal does pay certain hospital expenses for inmates) | No program rules on incarceration | Cannot be enrolled while incarcerated |
| Effect of other health coverage | Must use other coverage first | Must use other coverage first | Cannot have other coverage unless maternity coverage is insufficient | Cannot have minimum essential coverage and get premium tax credits. Medicare enrollees cannot enroll at all |
| Tax Filing | Do not have to file taxes | Do not have to file taxes | Do not have to file taxes | Do not have to file taxes, but must file taxes in order to receive tax credits. Married couples must file jointly with certain exceptions |
| Assets | No assets test | Most programs have limits on assets | No assets test | No assets test |
| Fulfills the Individual Mandate of the Affordable Care Act? | Full-scope programs and Pregnancy-Related Medi-Cal do | Only full-scope programs; not Share of Cost Medi-Cal or limited service programs. | Yes | Yes |