

## Health Care Practice Tip - February 2021

### Medicaid Exclusion of COFA Citizens is (Finally) History! Full-Scope Medi-Cal for Citizens of Micronesia, Marshall Islands & Palau

Good news! Starting December 1, 2020, citizens of the Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau can now qualify for **full-scope Medi-Cal**.<sup>1</sup> Many are currently in restricted-scope (emergency) Medi-Cal or paying for Covered California, our state's marketplace created under the Patient Protection and Affordable Care Act (ACA). Others may have never applied. Your efforts are needed to help people access this new opportunity for comprehensive and free Medi-Cal coverage.

Only decades after United States nuclear actions led to chronic diseases and health conditions for the three countries, the federal government agreed to provide Medicaid under the Compact of Free Association (COFA). But in 1996, federal welfare reform cancelled Medicaid eligibility for COFA citizens. Every year since then, citizens of Micronesia, the Marshall Islands, and Palau have advocated for restoration of Medicaid coverage. Thanks to their advocacy efforts, and delayed federal action, COFA citizens are now eligible for full-scope Medi-Cal.<sup>2</sup>



*Courtesy of the  
California  
Endowment*

#### **COFA Citizens With Restricted-Scope (Emergency) Medi-Cal:**

COFA citizens with restricted-scope Medi-Cal can now qualify for full-scope Medi-Cal. California Department of Health Care Services (DHCS) plans to automatically move COFA citizens with restricted-scope Medi-Cal to full-scope soon. Beneficiaries should receive notices confirming that their eligibility for full-scope Medi-Cal will be effective back to December 1, 2020. Beneficiaries do not need to do anything for this “batch process” to improve their Medi-Cal coverage.

But we do not know how long it will take for DHCS to make these changes to adjust their eligibility. Before then, COFA citizens can contact their county eligibility workers and ask for full-scope Medi-Cal back to December 1, 2020.<sup>3</sup>

Counties must process those requests promptly without requiring beneficiaries to turn in any information, such as proof or verification of national origin. There should be no gap in coverage, since counties should just upgrade the coverage from restricted to full-scope Medi-Cal. You can ask eligibility workers to process full-scope Medi-Cal by submitting an “override” in the system. Until DHCS issues written guidance to counties, eligibility workers may need to contact DHCS for assistance.



**Note:** Beneficiaries enrolled in the special [COVID-19 Uninsured Group Program](#) will not automatically transition to full-scope Medi-Cal. Nor will counties move them to full-scope Medi-Cal upon request. Unfortunately, these beneficiaries will need to submit new applications for full Medi-Cal coverage (see below).

## **COFA Citizens With Covered California:**

Some COFA citizens with incomes below [138 percent federal poverty level \(FPL\)](#) may be paying \$1 monthly premiums for Covered California plans that have significant cost-sharing (co-payments, deductibles, etc.). They should switch to full-scope Medi-Cal, because it covers more services and is free! This includes health care, dental, behavioral (mental) health, transportation to/from care, prescription drugs, in-home supportive services, and more. Also, now that they are eligible for full-scope Medi-Cal, COFA citizens are no longer eligible for Covered California unless their income puts them over the Medi-Cal threshold.

Covered California has not yet finalized a way to transfer these COFA citizens to Medi-Cal. While we wait for Covered California to develop a plan, COFA citizens should contact Covered California or one of their Navigator community-based organizations now and ask for a transition to full-scope Medi-Cal: 1-800-300-1506 (TTY: 1-888-889-4500).

If Covered California does not process the change, people should contact the Health Consumer Alliance for free help: 1-888-804-3536 (TTY 1-877-735-2929). Advocates may have to work directly with a county eligibility worker and have that worker contact DHCS to verify the COFA citizen's status as Medi-Cal eligible. Email [David & Jen](#) for the right DHCS contact.

## **COFA Citizens Applying for Medi-Cal:**

COFA citizens can apply for Medi-Cal today at their [local county website](#), by calling their county, and mailing or turning in a [paper application](#).<sup>4</sup> During the COVID-19 public health emergency, counties must accept Medi-Cal applications entirely over the phone, except for immigration proofs.<sup>5</sup> For some applicants, this may be the easiest way to get Medi-Cal. If a COFA citizen is wrongly placed in Covered California, advocates should contact [David & Jen](#) so we can help escalate the issue to DHCS.

Like all applicants for Medi-Cal, COFA citizens must meet the program's requirements (including the [income limits](#)). Importantly, applications should clearly identify that they are a "COFA citizen." This attestation is sufficient to satisfy the immigration status requirement for initial Medi-Cal approval. Because COFA citizens are admitted into the United States without visas, they may not have their immigration status electronically matched.<sup>6</sup> If it is not electronically matched, they are entitled to a



“reasonable opportunity period” of time to submit copies of any required immigration proofs, such as a passport or a copy of their I-94 entry form.<sup>7</sup> Full-scope Medi-Cal must remain active while the applicant locates and turns in the requested immigration proof.

**Retroactive eligibility:** Applicants can get full-scope Medi-Cal for the three months before the month they apply, if they qualify during all months.<sup>8</sup> This means some applicants can get coverage back to no earlier than December 1, 2020. To qualify, applicants must specifically ask for retroactive eligibility when they apply (or no later than 12 months after applying).

### **Help With Medical Bills:**

COFA citizens getting full-scope Medi-Cal eligibility retroactive to December 1, 2020 may have paid for medical care or have outstanding medical bills. Medi-Cal can pay for these! If it's just a bill that they have not paid, after getting full-scope Medi-Cal, they should tell their Medi-Cal provider to submit the claim. For all Medi-Cal benefits, DHCS should pay for the service under full-scope coverage.

For out-of-pocket costs that they already paid, COFA citizens can pursue [an expense reimbursement \(Conlan\) claim](#). To start the process, beneficiaries should call DHCS at 1-916-403-2007 (TTY 1-916-635-6491). Once DHCS processes the Conlan claim, beneficiaries should receive refunds.

### **Public Charge:**

Some COFA citizens may be worried that receiving full-scope Medi-Cal could hurt their immigration status under the [new public charge rule](#). If a COFA citizen has no plans to apply for United States immigration status (such as lawful permanent residence status, also called a green card), then they would not be subject to a public charge test.<sup>9</sup>

For COFA citizens seeking United States entry or immigration status, full-scope Medi-Cal used by a non-pregnant adult could be one of many factors considered under the new public charge rule.<sup>10</sup> Because full-scope Medi-Cal for COFA citizens is federally funded, this may impact some COFA citizens with full-scope Medi-Cal who leave and then re-enter the United States.<sup>11</sup>

**Remember:** On February 2, 2021, the Biden Administration [ordered](#) a 60-day review of the new public charge rule. Meanwhile, litigation challenging the rule is ongoing. This means the rule could change soon. For the latest information, visit [keepyourbenefits.org](#) and [protectingimmigrantfamilies.org](#), call the Health Consumer Alliance at 1-888-804-3536 (TTY 1-877-735-2929), or consult with an [immigration attorney](#).

Please contact David ([dkane@wclp.org](mailto:dkane@wclp.org)) and Jen ([jflory@wclp.org](mailto:jflory@wclp.org)) with any questions, suggestions, or concerns. We want to know how this Medi-Cal eligibility restoration is working in the community, and support your work to help others!

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<sup>1</sup> The Consolidated Appropriations Act of 2021 (H.R. 133) became law on December 27, 2020. See [H.R.133 - Consolidated Appropriations Act, 2021 on Congress.gov](#). Division CC, Section 208 (“Medicaid Coverage for Citizens of Freely Associated States”) makes clear that the effective date is “on or after” the date of enactment. Because of Medi-Cal’s whole-month rule, eligibility is available back to December 1, 2020. See 22 CCR § 50193(d).

<sup>2</sup> Asian & Pacific Islander American Health Forum (APIAHF) published a helpful guide, “[FAQ: WHAT DOES COFA MEDICAID RESTORATION MEAN?](#)” that inspired this practice tip. More information is available on [APIAHF’s COFA resource page](#). We also incorporated wisdom from Asian Resources Inc., California Primary Care Association, Empowering Pacific Islander Communities, Marshallese Youth of Orange County, National Immigration Law Center, National Health Law Program, and Orange County Asian and Pacific Islander Community Alliance. Thank you!

<sup>3</sup> Beneficiaries can contact counties by phone, mail, fax, internet, or any other available methods. See Welf. & Inst. Code § 14005.37(g). To find your local county’s contact information on [DHCS’s directory of county offices](#).

<sup>4</sup> Until CalHEERS (Covered California) is updated, submitting applications at CoveredCA.com will not lead to full-scope Medi-Cal. Instead, beneficiaries should contact [their county](#) by phone, mail, fax, internet, or any other available methods.

<sup>5</sup> See [DHCS MEDIL 20-25](#) (August 13, 2020).

<sup>6</sup> For information on entry documentation for COFA citizens, including information on obtaining replacement I-94 documents, see [USCIS Fact Sheet – Status of Citizens of the Freely Associated States of the Federated States of Micronesia and the Republic of the Marshall Islands \(Oct. 29, 2019\)](#).

<sup>7</sup> Welf. & Inst. Code § 14007.5; 22 CCR § 50301.5; [ACWDL 07-12](#) (June 4, 2007). During the COVID-19 public health emergency, the “reasonable opportunity period” can be extended until an applicant finds and submits the requested proof. See [ACWDL 19-01](#) (Jan. 9, 2019).

<sup>8</sup> See 42 U.S.C. § 1396a(a)(34); see also 22 CCR § 50148; [MEDIL 14-27](#) (May 15, 2014).

<sup>9</sup> COFA citizens can enter and exit the United States freely and without visas, and live and work here for as long as they want. Upon entry, they have a “non-immigrant” status that never expires. For more information, check out [this fact sheet from the Asian & Pacific Islander American Health Forum](#). Note that as of February 2021, the rule is not “stayed” by any court and is in effect.

<sup>10</sup> The final public charge rule issued in August 2019 says that “Congress did not exempt foreign nationals entering the United States under COFA from the public charge ground of inadmissibility, or otherwise modify the applicability of such ground of inadmissibility with respect to COFA migrants.” See [84 F.R. 41332-33](#).

<sup>11</sup> COFA citizens are eligible for the “designated Federal program” of Medicaid alongside many other immigrants that are eligible to receive federally-funded Medicaid. See 8 U.S.C. § 1612(b)(2)(G).