

2402.20.47 Battered Non-Citizen (Spouse/Child)

~~Under Title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, certain immigrants may be eligible for Medicaid benefits. Battered immigrants who are determined to be qualified non-citizens may be eligible to receive full coverage or emergency services.~~

~~Violence Against Women Act (VAWA) self-petitioners or battered immigrants who meet the definition of qualified non-citizen and entered the country prior to 8/22/96 with a prima facie determination or have been in qualified status for five years are eligible for full coverage Medicaid.¹⁸ Battered immigrants who entered the country on or after 8/22/96 are subject to a five-year bar and will be eligible for emergency services only until they have held the qualified status for five years (or until status adjustment is approved to one eligible for full coverage with no five-year bar). The five-year waiting period begins the date applicant/member obtains qualified status and not when they enter the United States.¹⁹~~

To be considered to have a qualified status, a battered immigrant must show he or she has an approved OR pending petition which makes a prima facie case for immigration status under one of the following categories:

~~Under Title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, certain immigrants may be eligible for Medicaid benefits. Effective October 1, 2026, per Section 71109 of the 2025 Budget Reconciliation Act, battered immigrants (including a battered spouse, child, or parents) are eligible for full coverage Medicaid only after they adjust to a qualified status or meet a federal exemption (Refer to 2402.20.00). ~~who are determined to be qualified non-citizens may be eligible to receive full coverage or emergency services.~~ Non-citizens who adjust to LPR status are not exempt from the 5-year bar.~~

~~All non-citizens granted Violence Against Women Act (VAWA) self-petitioners status or battered immigrants who meet the definition of qualified non-citizen and entered the country prior to 8/22/96 with a prima facie determination and transitioned to an approved LPR status or have been in qualified status for five years are eligible for full coverage Medicaid (Refer to 2402.20.00).¹⁸ Battered immigrants (including a battered spouse, child, or parents) ~~who entered the country on or after 8/22/96~~ are subject to a five-year bar and will be eligible for emergency services only until they have adjusted to a ~~held the~~ qualified status for five years (or until status adjustment is approved to one eligible for full coverage with no five-year bar). The five-year waiting period begins the date applicant/member obtains qualified status and not when they enter the United States.¹⁹~~

~~Amended by H.R. 1, Public Law 119-21 t~~To be considered to have a qualified status, a battered immigrant must not only show he or she has an approved OR pending petition which makes a prima facie case for immigration status under one of the following categories, but has adjusted to a qualified non-citizen status or meet a federal exemption

| (Refer to 2402.20.00):

- A Form I-130 petition filed by their spouse, or in the case of a child, by the parent or in the case of an unmarried adult son or daughter of a lawful permanent resident (LPR), by the parent.
- A Form I-360 petition as a widow(er) of a United States citizen (USC) under 8 U.S.C. 1154(a)(1)(A)(ii).
- An approved self-petition filed with the Immigration and Naturalization Service (INS) under the Violence Against Women Act (VAWA) on Form I-360 OR an I-360 pending with the INS, and INS has issued a Notice of Prima Facie Determination. In addition, a child of a self-petitioner may also derive immigration status from the self-petition. INS should include the names of any qualifying children on the Notice of Approval or Notice of Prima Facie Determination. Review of these VAWA applications includes a determination that the applicant has been subject to battery or extreme cruelty.
- An application for VAWA cancellation of removal or suspension of deportation has been granted OR is pending and the immigration court finds that the applicant has a prima facie case for this relief. Review of VAWA applications for cancellation/suspension includes a determination that the applicant has been subject to battery or extreme cruelty.
- Some immigrants, including battered immigrants, have been petitioned for by family members to immigrate here. As part of that process, family members must also file an "affidavit of support" as well as the immigration petition.

Note: Immigration status should not be changed in IEDSS until member receives a Notice of Approval or other documentation confirming a qualified immigration status change. A battered spouse, child, or parents who have a pending or approved petition with the Department of Homeland Security (DHS) is subject to the five-year bar.²⁰