Access to Health Coverage for Immigrants Living with HIV

Affordable Care Enrollment (ACE) TA Webinar
January 28, 2015
After today, we hope you will know how to:

- Engage and enroll RWHAP clients who have recently migrated to the U.S. or may have family members in this situation, in a culturally and linguistically competent manner.

- Address the fears and concerns of these clients to help them enroll in new ACA health insurance options.
Introductions

STEWART

KATE

ANGEL
Why focus on immigrants?

- 16% of U.S. residents are foreign born
- Longer residence in the US is associated with poorer health outcomes
- More likely than native-born to present for care with an AIDS-defining illness
- ACE needs assessment indicated high level of concern on how to approach enrollment with mixed immigration status families
Special protections for Immigrants with HIV/AIDS

- Having HIV/AIDS is no longer used against immigrants attempting to adjust lawful status
- Individuals with HIV/AIDS may have immigration options, if eligible
- U.S. HIV travel ban lifted on January 4, 2010
National Immigration Law Center (NILC)

- Founded in 1979
- Offices in LA, Oakland, and Washington, DC

- Our mission is to defend & advance the rights & opportunities of low-income immigrants and their family members.
Immigrant Eligibility for Federal Medicaid and CHIP
General Immigrant Eligibility
Rules for Medicaid and CHIP

Under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, the following “qualified immigrant” groups may be eligible for Medicaid and CHIP who:

- entered the U.S. before 8/22/96
- reach the end of a 5-year waiting period (i.e. lawful permanent residents/green card holders)
- exempt from the 5-year waiting period (e.g., refugees, asylees, Cuban/Haitian entrants, trafficking victims)

- States rules vary
- These restrictions pre-date the ACA and still apply
“Qualified” Immigrants for Medicaid and CHIP

- Lawful Permanent Residents (LPR/green card holders)
- Refugees
- Asylees
- Persons granted withholding of deportation/removal
- Conditional entrants
- Cuban/Haitian entrants
- Persons who were paroled into the U.S. for more than a year
- Certain domestic violence and human trafficking survivors and their derivatives
Five-year waiting period for Medicaid & CHIP

- Many “qualified” immigrants who entered the U.S. on or after 8/22/1996 are subject to a five-year waiting period (also known as “the five-year bar”)

- The bar begins when one obtains a “qualified” immigration status

- Some “qualified” immigrants are not subject to the five-year bar:
  - Refugees, asylees, persons granted withholding of deportation/removal (even if they later become LPRs)
  - Cuban/Haitian entrant, Amerasian, Iraqi or Afghan special immigrant status, trafficking survivor (even if they later become LPRs)
  - Qualified immigrants who are U.S. veterans or on active military duty and their spouses or children
  - Children (state option)
  - Pregnant women (state option)
States Provide Services to Immigrants

- Almost all states use federal funds available to serve immigrants.

- Over half the states elect federal options to cover children or pregnant women, and/or some immigrants ineligible for federal Medicaid.

- Several states and counties invest in coverage for all children or pregnant women, or in other efforts to integrate immigrants.
Emergency-Only Medicaid Available to All, Regardless of Immigration Status

- Medicaid payment for limited services related to an **emergency medical condition** is available to people who meet all the state’s Medicaid eligibility requirements except for citizenship or immigration status.

  “**Emergency medical condition**” means a condition (including emergency labor/delivery, or severe pain) in which the absence of immediate medical attention could result in—
  - placing the patient’s health in serious jeopardy
  - serious impairment to bodily functions, or
  - serious dysfunction of any bodily organ or part.
Immigrant Eligibility for Marketplace Coverage Under the Affordable Care Act (ACA)
What does it mean to be “lawfully present”?

“Lawfully present” individuals include those classified as “qualified” immigrants as well as several other categories of non–U.S. citizens who have permission to live and/or work in the U.S.

http://www.nilc.org/lawfullypresent.html

Differs from Lawful Permanent Resident (LPR, or green card)
“Lawfully Present” Immigration Categories Eligible for Marketplace coverage – Part 1

ALL “Qualified” Immigrants

- Lawful Permanent Resident (LPR/green card holder)
- Refugee
- Asylee
- Cuban/Haitian Entrant
- Paroled into the U.S.
- Conditional Entrant
- Battered Spouse, Child and Parent
- Trafficking Survivor and his/her Spouse, Child, Sibling or Parent
- Granted Withholding of Deportation or Withholding of Removal

PLUS Other Lawfully Present Immigrants:

- Granted relief under the Convention Against Torture (CAT)
- Temporary Protected Status (TPS)
- Deferred Enforced Departure (DED)
- Deferred Action*
- Individuals with Nonimmigrant Status (includes worker visas; student visas; U visas; citizens of Micronesia, the Marshall Islands, and Palau; and many others)
- Administrative order staying removal issued by the Department of Homeland Security
- Lawful Temporary Resident

Others

- Certain American Indians

*EXCEPTION: Individuals granted deferred action under the Deferred Action for Childhood Arrivals (DACA) program are not eligible to enroll in coverage in the Marketplace.
“Lawfully Present” Immigration Categories Eligible for Marketplace coverage – Part 2

Applicant for any of these statuses:

- Adjustment to Lawful Permanent Resident (LPR/Green Card)
- Special Immigrant Juvenile Status
- Victim of Trafficking
- Asylum*
- Withholding of Deportation or Withholding of Removal, under the immigration laws or under the Convention Against Torture (CAT)*

*Only those who have been granted employment authorization or are under the age of 14 and have had an application pending for at least 180 days are eligible

With Employment Authorization:

- Applicant for Temporary Protected Status
- Registry Applicants
- Order of Supervision
- Applicant for Cancellation of Removal or Suspension of Deportation
- Applicant for Legalization under IRCA
- Legalization under the LIFE Act
Executive Action on Immigration and Implications for Health Care Access

- **11/20/14** - The President announced new policies that will prevent deportation and allow work permits to undocumented immigrants who meet specific criteria.

- **Two key components**
  1. Expansion of the Deferred Action for Childhood Arrivals (DACA) program
  2. Creation of a new program called Deferred Action for Parents of Americans and LPRs (DAPA)

- Beneficiaries of these programs will likely be **ineligible** for federal Medicaid/CHIP or for Marketplace coverage, even at full cost.

**NOTE:** A handful of states may offer coverage to DACA and DAPA recipients using state-only funds.
Health Coverage Eligibility for Undocumented, DACA and DAPA

- Ineligible to purchase qualified health plans in the individual Marketplaces, even at full price
  - Can purchase private coverage outside the Marketplace or through employer
- Exempt from the individual mandate
- Can apply for health insurance for eligible family members
- If applying for premium tax credits on behalf of eligible family members, must file a tax return. If not eligible for a Social Security number (SSN), may file a tax return using an Individual Taxpayer Identification Number (ITIN)
- Can use health programs available to ALL, regardless of immigration status
Other Programs Available to All, Regardless of Immigration Status

- Treatments for communicable diseases or immunizations
- Community Health Centers/FQHCs, Migrant Health Centers
- Hospital financial assistance programs or charity care
- RWHAP including ADAP

Programs using federal health care block grants: mental health, maternal and child health, family planning

Programs providing health services necessary to protect life or safety: emergency medical, food, or shelter, mental health crisis, domestic violence, crime victim assistance, disaster relief
<table>
<thead>
<tr>
<th>PROGRAM</th>
<th>UNDOCUMENTED IMMIGRANTS, DACA and DAPA*</th>
<th>LAWFUL PERMANENT RESIDENTS (a.k.a. green card holders) Under existing law for U.S. entrants on or after August 22, 1996</th>
<th>OTHER LAWFULLY PRESENT IMMIGRANTS (not qualified or qualified and subject to the 5-year bar)</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>Children</td>
<td>Pregnant women</td>
</tr>
<tr>
<td>ACA:</td>
<td>COVERAGE SUBSIDIES</td>
<td>X</td>
<td>✓</td>
</tr>
<tr>
<td>MEDICAID**</td>
<td>Only emergency services</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>CHIP</td>
<td>States can opt to offer prenatal care</td>
<td>X</td>
<td>X</td>
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* Regulations for DAPA have not been issued.
** Some states provide state-funded Medicaid to DACA.
Available Financial Help
Financial Help for Marketplace Plans for Lawfully Present Immigrants

- Premium Tax Credits (PTCs) are available for lawfully present individuals with incomes between 100%-400% FPL.

- Lawfully present immigrants with incomes below 100% FPL, who are not eligible for Medicaid due to their immigration status, are also eligible for PTCs.
  - Applies to both expansion and non-expansion states.

- Cost Sharing Reductions (CSRs) are available to lawfully present immigrants with incomes below 250% FPL.
Immigrants and the Coverage Gap

Coverage Landscape for Families that Include Immigrants

In States Expanding Medicaid

- Eligible for Premium Tax Credits
  - Lawfully Present and Not Eligible for Medicaid Based on Immigration Status

- Eligible for Medicaid
  - Lawfully Present and Eligible for Medicaid Based on Immigration Status

- PTC Eligible

In States Not Expanding Medicaid

- Eligible for Premium Tax Credits
  - Lawfully Present and Not Eligible for Medicaid Based on Immigration Status

- Not Eligible for Premium Tax Credits
  - Lawfully Present and Eligible for Medicaid Based on Immigration Status

- PTC Eligible

[Logo: ACE TA CENTER]
Reminder:
Any client, including lawfully present immigrants that receive PTCs or CSRs, must file federal income taxes.

ACE webinar and FAQ can help!

- Webinar recording: “Financial help for Marketplace Health insurance: Tax Credits and Cost-sharing”
- FAQ: Premium Tax Credits (PTCs) and Cost-Sharing Reductions (CSRs)
Immigrant Eligibility Scenarios
Scenario 1: Rashid, Alex, and Leila

- Rashid and Alex are married and live in Oregon.
- Rashid became a citizen last year.
- Alex is applying to become a lawful permanent resident, Rashid submitted a visa petition for Alex last year which was approved in February.
- Their daughter Leila was born in Oregon last month and is enrolled in Medicaid.
- Family income: $17,811.
- Rashid and Alex file taxes jointly and claim Leila as a dependent.
- Rashid and Alex are applying for health coverage.
Eligibility for Health Care Programs based on General Immigration Rules

Rashid
Applying for Coverage – YES
Citizen – YES

MAY BE ELIGIBLE FOR:
Medicaid – YES
QHP Enrollment - YES

Alex
Applying for Coverage – YES
Citizen – NO
Immigration Status – Applying for LPR; approved visa petition

Qualified Immigrant – NO
Lawfully Present - YES

MAY BE ELIGIBLE FOR:
Medicaid – NO
QHP Enrollment - YES

Leila
Applying for Coverage – NO
Eligibility for PTC and Medicaid in Oregon

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<tr>
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<th>Medicaid/CHIP</th>
<th>Premium Tax Credits</th>
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<tbody>
<tr>
<td></td>
<td>Eligible?</td>
<td>HH</td>
</tr>
<tr>
<td>Rashid</td>
<td>Yes</td>
<td>3</td>
</tr>
<tr>
<td>Alex</td>
<td>No</td>
<td>3</td>
</tr>
<tr>
<td>Leila</td>
<td>Yes</td>
<td>3</td>
</tr>
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</table>

- Rashid is eligible for Medicaid. He is a U.S. citizen and his income is below the 138% FPL income limit for Medicaid in Oregon.
- Alex is lawfully present but he is not eligible for Medicaid because he is not a “qualified” immigrant.
- Alex is eligible for PTC even though his income is below 100% FPL because he is not eligible for Medicaid based on his immigration status.
Poll Question

As a same-sex married couple, can Rashid petition for a green card for his spouse, Alex?

Yes, Rashid can sponsor Alex
No, Rashid cannot sponsor Alex
As a same-sex married couple, can Rashid petition for a green card for his spouse, Alex?

- Yes, Rashid can sponsor Alex

Same-sex married couples are eligible for the same immigration visa petitions as opposite-sex married couples, so Rashid is able to sponsor Alex for a green card.

Please see: [http://www.uscis.gov/family/same-sex-marriages](http://www.uscis.gov/family/same-sex-marriages)
Poll Question

Alex has an approved visa petition and has applied for a green card. Is Alex considered lawfully present for purposes of the ACA?

Yes
No
Alex has an approved visa petition and has applied for a green card. Is Alex considered lawfully present for purposes of the ACA?

- Yes

Because Alex has applied for a green card AND has an approved visa petition, he is considered lawfully present for purposes of the ACA.

Generally, if the person has filed an I-485, they are considered lawfully present for the ACA. See: [http://www.nilc.org/document.html?id=35](http://www.nilc.org/document.html?id=35)
Scenario 2: Antoine and Eva

- Antoine and Eva are not married but live together
- Antoine has Temporary Protected Status (TPS) and is a full-time student
- Eva has Deferred Action for Childhood Arrivals (DACA) and she:
  - Earns $29,887 a year
  - Plans to file federal taxes and will claim Antoine as a dependent
- Antoine is applying for coverage
Eligibility for Health Care Programs based on General Immigration Rules

**Antoine**

- Applying for Coverage – YES
- Citizen – NO
- Immigration Status – Temporary
- Protected Status (TPS)

**Eva**

- Applying for Coverage – NO
- (She is ineligible since she has DACA)

**Qualified Immigrant – NO**

**Lawfully Present - YES**

**MAY BE ELIGIBLE FOR:**

- Medicaid – NO
- QHP Enrollment - YES
## Eligibility for PTC and Medicaid

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<tr>
<td></td>
<td>Eligible?</td>
<td>HH</td>
</tr>
<tr>
<td>Antoine</td>
<td>No</td>
<td>1</td>
</tr>
<tr>
<td>Eva</td>
<td>N/A</td>
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- Antoine is lawfully present but he is not eligible for Medicaid because he is not a “qualified” immigrant.
- Antoine is eligible for PTCs.
- Eva is not applying for coverage. She would not meet the immigration requirement to enroll in insurance affordability programs because of the exclusion of DACAmented individuals (even though she is authorized to work in the U.S. and has a SSN).
Poll Question

Why is Antoine’s income estimated to be at 190% of the federal poverty line even though he’s a student and does not work? Is it calculated based on:

- His previous income
- Eva’s income
- His parents’ income
- I am not sure
Why is Antoine’s income estimated to be at 190% of the federal poverty line even though he’s a student and does not work? It is calculated from:

- Eva’s income

Income for determining ACA subsidies is based on total household income.

Although Antoine does not work, he lives with his girlfriend and her income is used to calculate their household income.
Poll Question

Eva has DACA and earns $29,887/year. She plans to claim Antoine as a dependent on her taxes. What health coverage options are available to Eva?

1. Marketplace insurance (ACA)
2. Federal Medicaid
3. *Emergency Medicaid*
4. *RWHAP*
5. *Community Health Centers*
6. *Charity care*
7. None of the above
Eva has DACA and earns $29,887/year. She plans to claim Antoine as a dependent on her taxes. What health coverage options are available to Eva?

- Emergency Medicaid
- RWHAP
- Community Health Centers
- Charity care

As a DACA grantee, Eva is not eligible for either federal Medicaid or the ACA, but is eligible for programs available to all regardless of immigration status. These include emergency Medicaid, community health centers, and others.
Common Concerns for Immigrants when Applying for Federal Health Programs
Common Concerns for Immigrants

- Fears Related to Immigration Enforcement
- “Public Charge”
- Marketplace Barriers
- Special concerns for PLWH
Fears Related to Immigration Enforcement (ACA)

- The ACA includes **strong protections for personally identifiable information**; privacy provisions were **written to encourage participation of eligible individuals** in mixed-status immigrant families.
- Agencies can only collect, use, and disclose information that is necessary for enrollment in health coverage.
- The U.S. Department of Homeland Security or U.S. Immigration and Customs Enforcement (DHS/ICE) has said that **information about applicants/household obtained for health insurance eligibility will not be used for civil immigration enforcement purposes.**

*Clarification of Existing Practices Related to Certain Health Care Information


   **Spanish:** [http://www.ice.gov/espanol/factsheets/aca-memoSP.htm](http://www.ice.gov/espanol/factsheets/aca-memoSP.htm)
“Public Charge”

- “Public charge” refers to a person who is considered primarily dependent on the government for subsistence (cash assistance) or long-term care at government expense.
- Medicaid, CHIP, and Marketplace subsidies are not considered in screening green card applicants (applicants to adjust to lawful permanent resident status/LPR) for public charge.
  - Exception: long-term institutionalization.
- Public charge is not relevant for citizenship applicants.
Barriers for Immigrants on the Federal Marketplace

Immigrants who have attempted to enroll in marketplace plans have encountered a number of unexpected barriers:

- **ID Proofing** – applicants through the federal marketplace must first undergo credit-based identity verification. Immigrants generally have less credit history and have had difficulty proceeding through the process.

- **Immigration Status or Citizenship Verification** – The federal marketplace has also had difficulty immediately verifying eligibility based on immigration status or citizenship, especially for lawfully present immigrants with incomes below 100% FPL.
  - Low-income immigrants may need to provide additional documentation to prove eligibility. It is better to upload documentation if possible.
Protections for Immigrant Families
Discrimination

- Discrimination based on race, ethnicity, and national origin, including language spoken, is prohibited by Title VI of the Civil Rights Act and ACA Section 1557.

- Prohibition applies to all entities receiving federal financial assistance: consumer assisters, clinics, hospitals, insurers, Marketplace agencies, Medicaid and CHIP agencies, contractors, health plans, others.

- Applications, processes and procedures that have a chilling effect of deterring eligible immigrants from applying may violate Title VI and Sec. 1557.
ACA: Applicants versus Non-Applicants

- The Federally-facilitated Marketplace allows ACA- ineligible individuals, such as an undocumented parent, to apply on behalf of eligible family members, such as a lawfully present spouse or child.

- The Department of Homeland Security has clarified that it is safe for these “non-applicants” to apply for ACA coverage on behalf of eligible family members. Information provided for this purpose will not be used for immigration enforcement purposes.
Requests for Social Security Numbers

Medicaid and CHIP:
- Non-applicant household members do not have to provide an SSN

Marketplace
- Non-applicant household members should not be required to provide a SSN unless ALL of the following are true:
  - They have a spouse or tax dependent seeking premium tax credit eligibility
  - The non-applicant is a tax filer
  - The non-applicant has a SSN
  - They filed a federal tax return in the 2013 tax year
Requests for Social Security Numbers

Marketplace (cont’d)

- However, providing an SSN, when available, may increase the likelihood that application information can be verified electronically.

- People who are not eligible for SSNs may use Individual Taxpayer Identification Numbers (ITINs) to file taxes, but health insurance affordability program applications should not request ITINs.
Offer coverage to your employees any time — apply online!

Have 50 employees or fewer? Use the Small Business Health Options Program (SHOP) Marketplace to offer coverage. New: Apply online!

Select Your State

Own a business in more than one state?

QUESTIONS ABOUT SHOP SMALL BUSINESS INSURANCE?

Call 1-800-706-7893 (TTY: 711) Monday through Friday 9 a.m.–7 p.m. ET

SEE PLANS & PRICES

FTE CALCULATOR

TAX CREDIT TOOL

USE AGENT/Broker

GO

GO

GO

LEARN HOW
Concerns with the Small Business Health Options Program (SHOP)

- SHOP is a health insurance marketplace designed to help small employers, with 50 or fewer full-time staff, provide staff coverage.

- There is no immigration status requirement for individuals to be eligible for insurance through the SHOP.

- Employers must provide names and taxpayer identification numbers (TINs) for workers to the SHOP, and must also report to IRS employee enrollment information.

- Section 6103 of IRC provides strict limits on how the IRS can share information, including TIN discrepancies, generally restricting sharing to even other branches of government.
Angel Padilla
Health Policy Analyst
National Immigration Law Center
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Audience Poll
What is the biggest concern your clients have about enrolling into health coverage programs?

1. Immigration enforcement
2. Public charge
3. ID verification
4. Inadequate Marketplace coverage
5. Fear of disclosing HIV status
6. Other (chat them to us)
Lessons Learned: Assisting Immigrants With Health Insurance Applications
Overview

1. What is Health Care For All?

2. Overview of our experience assisting immigrants

3. Lessons learned

4. Application and enrollment tips
What is Health Care For All?

- Non-profit, health care advocacy organization
- HelpLine @ 1-800-272-4232 (Spanish, Portuguese, and English)
- Fill out applications for free and low cost health care coverage over the phone!
- We help to answer questions and troubleshoot almost any health care coverage issue.
Our Experience Assisting Immigrants

- Enrollment via a free health insurance helpline
- Tens of thousands enrolled in subsidized health insurance (Medicaid & Marketplace) since 2006 health reform in MA
- Over-the-phone enrollment, health plan education/selection, troubleshooting, follow-up
- Feedback loop to policymakers and state agencies (Medicaid and Marketplace)
Best Practices: Application Assistance Tips

- Tailor questions in the “language” person speaks and understands
- Ensure understanding and response is accurate
- Repeat answers
- Provide clients with list of required documents for application and options if they don’t have the needed documents
Date

Applicant’s name
Address
Telephone number

To Whom It May Concern:

I, ________________, am writing you this letter as proof of my income because I am paid in cash and have no pay stubs. I work as a [occupation] ____________ and I make [cash amount] $_______ every ___________ [frequency of pay].

Thank you so much for your help.

Sincerely,

____________________________________
(Signature)
Printed name
Best Practices: Identifying Immigration Statuses

Are you a US Citizen?
Yes ★ No ★

If no, do you have “papers?”
Yes ★ No ★

If hesitant to answer or answers “no”: “This information will not be shared with any immigration agency like ICE. We just have to ask this question to see if you could qualify for health care benefits.”

Health Care For All

ACE TA CENTER
Additional Application and Enrollment Tips

- Fill in preferred language, race, & ethnicity
- Permission to share (PSI) & Authorized rep. designee (ARD) forms
- Make sure the applicant’s name, SSN, DOB, and Medicaid ID number are on all documents submitted & make clean copies
Additional Application and Enrollment Tips

- Provide pay stubs/income verification that is current and reflects current income situation and write how often applicant is paid

- Remind applicants of the need to update their health care agency with any changes in their household, including immigration status(es)

- Encourage clients to keep copies of all submitted applications and documents, as well as receipts
Kate Bicego
Senior Consumer Education and Enrollment Manager
kbicego@hcfcama.org
Special Enrollment Period (SEP) Fact Sheet

“A change in immigration status by becoming a U.S. citizen or a “lawfully present” individual, which is a non-U.S. citizen who has permission to live or work in the U.S. For a full list of immigration categories that are included in the definition of “lawfully present individuals for ACA eligibility, please see:”

http://www.nilc.org/lawfullypresent.html

Clients have 60 days to enroll in coverage (in a marketplace plan) from the date of that event.
Special Enrollment Periods Fact Sheet

When Can People Enroll in Private Health Insurance Outside of Open Enrollment?

Are you helping Ryan White HIV/AIDS Program (RWHAP) clients enroll in new health coverage options?
If so, use this factsheet to:

- Help clients know that there are certain “life events” or “special circumstances” that allow people to enroll in,
or change private health insurance outside the open enrollment periods.
- Help clients understand what these life events or special circumstances are.

What is a Special Enrollment Period (SEP)?
A person can usually only sign up for or change their private health insurance during an open enrollment period. A Special Enrollment Period (SEP) is a time outside of open enrollment when a person can enroll in or change his/her qualified health plan (QHP) offered through the health insurance Marketplace.

A SEP starts when a person has a life event or special circumstance listed below.

Life Events
A person has 60 days from the date of a “life event” to enroll in a new health plan.

A change in a household by:
- Marriage
- Birth
- Adoption, or placing a child for adoption
- Placement in foster care
- Death, divorce, or legal separation from a spouse

Note: For the following “life events,” a person must have first had and then lost health insurance coverage to get a SEP.

A change in health insurance due to:
- Loss of a job, reduce work hours, or quitting a job
- Loss of a student health plan
- The end of COBRA coverage (COBRA is the continuation of health benefits available through his/her former employer for a limited amount of time after a job loss)

A person experiences:
- A change in immigration status by becoming a U.S. citizen or a “lawfully present” individual, which is a non-U.S. citizen who has permission to live or work in the U.S. For a full list of immigration categories that are included in the definition of “lawfully present” individuals for ACA eligibility, please see:
  http://www.nilc.org/document.html?id=809,
www.targethiv.org/ace
Questions?
Thank you for joining us!

Please complete the evaluation!

targethiv.org/ace
Sign up for our mailing list, download tools and resources, and more

Contact Us
acetacenter@jsi.com