CHAPTER 5-001 CITIZENSHIP/ALIEN STATUS AND IDENTITY

5-001.01 Citizenship and Eligible Aliens: In order to be eligible for Medicaid, an individual's status must be documented as one of the following using acceptable documents, as defined by federal regulations (See 477-000-003 for acceptable documents).

1. A citizen of the United States;
   Note: A child born in the United States is a U.S. citizen. A newborn who was determined to be eligible for Medicaid in the month of birth meets citizenship and identity requirements without further verification; this includes newborns whose birth expenses were paid through Emergency Medicaid Assistance for Aliens;
2. Qualified Aliens as defined in Section 431 of the Immigration and Nationality Act (INA):
   a. An alien who was admitted as a lawful permanent resident (LPR) and has resided in the United States for at least five calendar years from the date of entry or who has worked or can be credited with 40 qualifying quarters of work. Medicaid eligible pregnant women and children are exempt from the five year bar. For sponsored LPR's, see 477 NAC 17-001.05;
   b. A refugee admitted to the U.S. under Section 207 of the INA;
   c. An asylee under Section 208 of INA;
   d. Victims of a severe form of trafficking (Victims of Trafficking and Violence Protection Act of 2000);
   e. An alien whose deportation is withheld under Section 243(h) of INA;
   f. An alien from Cuba or Haiti who was admitted under Section 501(e) of the Refugee Education Assistance Act of 1980;
   g. A refugee who entered the U.S. before April 1, 1980, and was granted conditional entry;
   h. An alien who has been battered or subjected to extreme cruelty in the U.S. by a spouse or a parent or by a member of the spouse's or parent's family who is residing in the same household as the alien; but only after having resided in the United States for at least five calendar years from the date of entry or who has worked or can be credited with 40 qualifying quarters of work. The child or children of a battered alien meeting these requirements is/are also eligible. Medicaid eligible pregnant women and children are exempt from the five year bar;
3. Iraqi and Afghan aliens granted special immigrant status.
4. An Amerasian immigrant under Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as amended;
5. An alien with past or current military involvement defined as an alien veteran who is on active duty (other than active duty for training) with any of the U.S. Armed Forces units or who has been honorable discharge (not on account of alienage) and who has fulfilled minimum active-duty service requirements. Minimum active duty is defined as 24 months or the period for which the person was called to active duty. The spouse or unmarried dependent child of an alien veteran as described in this paragraph is also eligible; and
6. For Medical assistance only, certain American Indian tribe members born in Canada or outside the United States or who are a member of an Indian tribe; or

7. An alien who is paroled into the U.S. under Section 212(d)(5) of INA, but only after having resided in the United States for at least five calendar years from the date of entry or who has worked or can be credited with 40 qualifying quarters of work.

Note: Aliens who do not meet the requirements above may be eligible for emergency medical services only including aliens with a status of Deferred Action for Childhood Arrivals (DACA**)** (see 477-000-003). A pregnant alien woman or alien child who does not meet the above may be eligible as lawfully present and will need Central Office approval.

5-001.02 Medical Assistance for Certain Pregnant Women and Children: A child or pregnant woman may be eligible if s/he is a Nebraska resident, and is "lawfully present" in the United States. A child or pregnant woman shall be considered lawfully present if s/he is:

1. A qualified alien as defined in section 431 of PRWORA (8 U.S.C. § 1641). Specific documentation requirements for this category are set forth at 477-000-051;
2. An alien in nonimmigrant status who has not violated the terms of the status under which s/he was admitted or to which he or she has changed after admission;
3. An alien who has been paroled into the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act (INA) (8 U.S.C. §1182(d)(5)) for less than one year, except for an alien paroled for prosecution, for deferred inspection or pending removal proceedings;
4. An alien who belongs to one of the following classes:
    a. Aliens currently in temporary resident status pursuant to section 210 or 245A of the INA (8 U.S.C. §§1160 or 1255a, respectively);
    b. Aliens currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 U.S.C. §1254a), and pending applicants for PTS who have been granted employment authorization;
    c. Aliens who have been granted employment authorization under 8 CFR 247a.12(c)(9), (10), (16), (18), (20), (22), or (24);
    d. Family Unity beneficiaries pursuant to section 301 of Pub.L. 101-649, as amended;
    e. Aliens currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President;
    f. Aliens currently in deferred action status; or
    g. Aliens whose visa petition has been approved and who have a pending application for adjustment of status;
5. An alien who has a pending application for asylum under section 208(a) of the INA (8 U.S.C. § 1158) or for withholding of removal under section 241(b)(3) of the INA (8 U.S.C. § 1231) or under the Convention Against Torture who has been granted employment authorization, and such an applicant under the age of 14 who has had an application pending for at least 180 days;
6. An alien who has been granted withholding of removal under the Convention Against Torture;
7. A child who has a pending application for Special Immigrant Juvenile status as described in section 101(a)(27)(J) of the INA (8 U.S.C. § 1101(a)(27)(J));
8. An alien who is lawfully present in the Commonwealth of the Northern Mariana Islands under 48 U.S.C. § 1806(e); or

9. An alien who is lawfully present in American Samoa under the immigration laws of American Samoa.

Any individual born in the United States is considered a U.S. citizen. This includes children whose parents are not U.S. citizens, such as undocumented alien parents or parents with student visas.

Individuals who declare to be U.S. citizens and meet all other eligibility requirements must be given a reasonable opportunity to present satisfactory documentation of citizenship or nationality. Medical benefits must not be denied, delayed, reduced, or terminated pending receipt of the requested citizenship verification. If the Department has requested verification, such as an out-of-state birth certificate, benefits will not be denied or terminated while awaiting receipt. Once an individual has declared s/he is a U.S. citizen or national and has provided all other information to determine eligibility, benefits must be provided.

If the client is not cooperating in providing documentation, the client's eligibility must be closed.

5-001.03 Verification of Citizenship and Immigration Status: Shall be verified using the Federal Data Services (hub) if available. If the hub is not available to verify citizenship and immigration status, receipt of SSI, SSDI, or Medicare is sufficient proof of citizenship or lawfully admitted alien status.

5-001.04 Reasonable Opportunity Period: A 90-day timeframe is given to verify an individual's satisfactory immigration status if the Department or individual cannot provide verification. A notice shall be sent to inform the individual of the reasonable opportunity period. The reasonable opportunity period extends 90 days from the date on which the notice is received by the individual, which means 5 days after the date of the notice unless the individual shows they did not receive the notice within the five day period.

If more time is needed to complete the verification process, or the individual requests more time and is acting in good faith to obtain documentation, the reasonable opportunity period is subject to be extended with Central Office approval.

If citizenship and immigration status has not been verified by the end of the reasonable opportunity period, action shall be taken to terminate benefits. If the individual appeals the termination of benefits, the Medicaid case is not subject to reinstatement pending the outcome of a fair hearing.

Note: The reasonably opportunity period encompasses all aspects of the process to verify citizenship immigration status, including not only time for an individual to provide documentation but also time for the agency to resolve inconsistencies or conclude the electronic verification process.

5-001.05 Verification of Alien Status: When a client states that one or more of the unit members is an alien, the client is required to present verification for each alien member. If the client has documentation containing an alien registration number, the alien status must be verified using the Systematic Alien Verification for Entitlements (SAVE) system. See additional available information at 477-000-004.

5-001.06 Repatriation Program: The Repatriation Program provides temporary assistance, care, and treatment for up to 90 days for U.S. citizens or dependents of U.S. citizens who have returned from foreign countries. To qualify for repatriation assistance, the individual must be returned from a foreign country because s/he is destitute or ill (including mentally ill) or because

of war, threat of war, or a similar crisis. A request must be made by the State Department to the U.S. Department of Health and Human Services to receive the individual in the United States and to provide the necessary care, treatment, and assistance.

The assistance may include reception service, food, shelter, clothing, and transportation. It may also include payment for special services such as medical and psychiatric care. Any assistance that is provided through General Assistance or Emergency Assistance may be reimbursed through federal funds.

Central Office will contact the appropriate local office on all arriving cases. If it appears that the individual is eligible for another form of assistance, a referral must be made (to Social Security, Veterans Administration, etc.) or complete an application for categorical assistance.

5-001.06A Eligibility Period: Assistance may be provided for up to 90 days from the date the individual arrives in the United States. If the individual needs assistance beyond 90 days and is not eligible for SSA, SSI, or categorical assistance, the local office shall contact Central Office.

5-001.06B Medical Payments: All payments for medical care must be made at rates no higher than those paid by Medicaid.

5-001.06C Repayment: The individual is required to sign an agreement to repay the cost of the assistance provided.