

Salvage

# STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Antonia C. Novello, M.D., M.P.H., Dr.P.H.  
Commissioner

Dennis P. Whalen  
Executive Deputy Commissioner

October 11, 2006

Dear Health Plan:

Enclosed is New York State Child Health Plus Advisory Memorandum (ADM) Number A-52 regarding Child Health Plus B eligibility for non-immigrant children who have H visas or whose parents have H visas. The effective date of this ADM is December 1, 2006.

If you have any questions or require further clarification regarding this ADM, please do not hesitate to contact your contract manager at (518) 473-0566. Thank you for your continued participation in the Child Health Plus Program.

Sincerely,

Judith Arnold  
Deputy Commissioner  
Division of Planning, Policy  
and Resource Development

Enclosure

SUBJECT: Residency

CHPlus ADM 52

TITLE: Residency Status for Nonimmigrant Children with H Visas

TO: CHPlus B Insurers  
FROM: CHPlusDATE OF ISSUE: October 11, 2006  
EFFECTIVE DATE: December 1, 2006☒ PROSPECTIVE ☐ RETROSPECTIVESDOH CONTACT PERSON: Gabrielle Armenia  
CONTACT TELEPHONE: 518-473-0566**PURPOSE:**

The purpose of this ADM is to notify health plans that they may enroll an otherwise eligible child in CHPlus B who lives in New York and has an H visa or lives with a parent who has an H visa, unless the family indicates they intend to return to their home country in the future.

**CHECK IF:** ☒ NEW DIRECTIVE ☐ CLARIFICATION ☐ SUPERSEDES OTHER ADM  
OR CONTRACT PROVISION

**BACKGROUND/GENERAL INFORMATION:**

Most non-immigrants who enter the United States attest to the United States Citizenship and Immigration Services (USCIS) that they will return to live in their home country. Since a person has only one domicile or permanent residence, for the purposes of CHPlus eligibility determinations, it is presumed that a non-immigrant resides in the home country unless there is evidence which demonstrates the person's intent to make the United States; and specifically, New York State, his or her fixed and permanent home.

On February 6, 2003, DOH required plans to forward applications of children to DOH for a case by case review to determine if there was any evidence that the child or the child's family intended to remain in New York State. If DOH determined that otherwise eligible non-immigrant children provided evidence that they were residents of New York State, the plan was approved to enroll the children in CHPlus B. Plans were not permitted to make residency determinations independently.

As a result of these reviews, DOH has determined that almost 100% of children with H visas or with parents that had H visas could provide evidence that he/she intended to remain in this country and was therefore, a New York State resident for the purposes of determining CHPlus eligibility.

**SPECIFIC INSTRUCTIONS:**

Effective December 1, 2006, health plans shall enroll a child with an H visa or with a parent with an H visa in CHPlus B if they are otherwise eligible and comply with the following:

A health plan shall not enroll such a child if it receives information or evidence which contradicts the presumption that the child or child's family is making the United States his or her fixed and permanent home (e.g., being informed by the family that they will return to their home country in the future to live or work).

If a health plan receives a completed application, including all documentation except proof of the child's or the parent's H visa, the plan shall not enroll that child presumptively. Such child cannot be enrolled until documentation of the child's or parent's H visa is collected. If the health plan has documentation of the H visa status but is missing age, income or residency documentation, the child may be enrolled presumptively. The reason that we are treating the immigration documentation differently than the other items, is that a health plan will likely only know a person is on an H visa if they present documentation showing the status. This information is not collected on the application. A health plan shall not be penalized for enrolling a child presumptively if, at the time of application, they were unaware of the H visa status.

All information, including copies of the immigration documentation collected, must be maintained in the child's case file along with the standard residency, age and income documentation. This information must be available for review during an audit.

Until further notice, enrollees with an H visa or living with a parent with an H visa shall be coded as a non-qualified, non-citizen ('N') in the Immigration Category field in the Knowledge, Information and Data System (KIDS).

In accordance with the procedures outlined in a CHPlus letter dated February 6, 2003, health plans shall continue to forward other non-immigrant cases to the Department for a residency review. These cases shall be sent to:

Lori Brown  
New York State Department of Health  
Child Health Plus Program  
Empire State Plaza  
Corning Tower, Room 1619  
Albany, NY 12237-0004

**IMPACT OF ADM ON PLAN OPERATIONS: FOR PLAN USE:**

<input type="checkbox"/> BILLING FILE	<input type="checkbox"/> PROVIDER RELATION
<input type="checkbox"/> ELIGIBILITY	<input type="checkbox"/> REPORTS
<input type="checkbox"/> MARKETING PROCEDURES	<input type="checkbox"/> SUBSCRIBER CONTRACT