



Policy Clarification 2023-10-01

Title: Non-Citizen Status Verification and ROP

Date: October 04, 2023

From: Erin Kelley, Senior Manager

Program(s) Impacted: All Medical Programs

The purpose of this document is to provide clarification on practices surrounding non-citizen eligibility, including the definition of a qualifying attested immigration status, extension of the Reasonable Opportunity Period (ROP), and what to do when no qualifying status is attested. The information provided in this document is effective upon release and may be applied retroactively as needed as it aligns with existing policy.

Source policy is found in [PM2014-11-01](#) (ROP for non-citizens) and [PM2019-06-01](#) (VLP interface).

A. Background

Per federal requirements, the state must provide Medicaid and CHIP coverage to individuals who have attested to a satisfactory (i.e. eligible) immigration status during an ROP while the immigration status is being verified if they are otherwise eligible. An ROP should be allowed when an applicant attests to having a satisfactory status and we are either missing the documentation needed **or** the electronic verifications are unavailable, discrepant, or inconclusive.

The State of Kansas uses the Verify Lawful Presence (VLP) interface to verify the status of an applicant with Department of Homeland Security (DHS), as well as the Systematic Alien Verification for Entitlements (SAVE) program in some instances. When the applicant has supplied sufficient information or documentation to submit through VLP, it is necessary to obtain results before full eligibility can be ascertained.

B. Attested Qualifying Status

An attested qualifying status means that the consumer or person qualified to act on their behalf has indicated that they have an immigration status that would qualify them for medical assistance. A list of qualifying statuses can be found in the policy manuals in

MKEESM 2142.1 and KFMAM 2043. The A-1 Non-Citizen Qualification Chart also provides information regarding documentation types and statuses, both eligible and ineligible. Any indication of one of these eligible statuses either by the applicant, authorized representative (medical representative or facilitator), or paperwork submitted is sufficient as an attested qualifying status.

The KanCare applications, both paper and electronic forms, as well as the FFM application contain a question asking the applicant if they have a qualifying eligibility status to which they have the option to answer yes, or to leave blank. A response of 'yes' to this question also meets the definition of an attested qualifying status, regardless of the other information provided, such as country of citizenship, document type, etc. as long as we have no other information in the application or case file that would support otherwise.

When we have an attested qualifying status, coverage must not be delayed or denied. A 90-day ROP will be allowed for either the consumer to supply the documentation needed, or for the agency to complete the verification process through VLP. If the consumer has already supplied sufficient information to submit through VLP, it should not be requested again when granting the ROP. Specialized language has been added to the Standard Copy and Paste (SCP) for notifying the consumer of an ROP when no additional documentation is being requested.

C. Extending the ROP

At the end of the 90-day (or 3-month) period, if the requested information was not returned by the consumer, coverage will close with timely notice; however, if the consumer is making a good faith effort to resolve any inconsistencies or obtain any necessary documentation, the ROP must be extended to allow them additional time. A 'good faith effort' means that the consumer is making every effort to comply and must be supported by documentary or collateral evidence similar to the Good Cause provisions listed in KFMAM 2033 and MKEESM 2133.

Likewise, if the ROP was granted due to waiting on confirmed VLP results and we have still not been able to verify the immigration status at the end of the 90-day period (i.e. results are still pending in tier 1-3), the ROP must be extended to allow the agency additional time to verify. Coverage may not be closed due to the agency's failure to verify the applicant's status.

NOTE: When the case has been pending for VLP results for more than 180 days (or two full ROP's), it may be necessary to reach out to Policy to see if a resolution can be obtained.

D. No Attested Status

In absence of an attested qualifying status as defined above, an ROP is not applicable. While it is required to attempt verification of the status of every non-citizen requesting coverage (see PC2023-04-01), it is not necessary to hold the application indefinitely awaiting VLP results beyond processing timeframes. After a reasonable time (at least 45 days from the application date) has passed for results to be returned, processing may be completed based on an ineligible immigration status.

When this happens, specialized language from SCP will need to be added to the denial notice to inform the applicant that we were unable to confirm their status with DHS but that based on the information provided they would not be eligible. It will also indicate that they should contact the agency if they believe they do have an eligible status. If an applicant denied in this manner contacts the agency and indicates an eligible status, the application will be reevaluated based on their statement and an ROP may be granted if other criteria is met.

For questions or concerns related to this document, please contact the KDHE Medical Policy Staff at KDHE.MedicaidEligibilityPolicy@ks.gov.

Erin Kelley	Senior Manager
Amanda Corneliusen	Family Medical Program Manager
Jennifer Sanders	Family Medical Program Manager
Jessica Pearson	Elderly & Disabled Program Manager
Sara Reese	Elderly & Disabled Program Manager

Questions regarding any KEES issues are directed to the KEES Help Desk at KEES.HelpDesk@ks.gov.