

# The Essential Plan

Amy E. Lowenstein  
Senior Attorney  
Empire Justice Center

Andrew Leonard  
Senior Policy Associate  
Children's Defense Fund-NY

September 25, 2015



Children's Defense Fund–New York  
A strong, effective, independent voice for *all* children

Community  
Service  
Society | Fighting Poverty  
Strengthening  
New York

# Agenda

- Essential Plan Background
- Eligibility
- Benefit Design
- Enrollment & Appeals
- Questions

# Essential Plan BACKGROUND



**Children's Defense Fund–New York**  
A strong, effective, independent voice for *all* children

**Community  
Service  
Society** | Fighting Poverty  
Strengthening  
New York

# Essential Plan Background

- ACA option for states to create a “Basic Health Program” to provide affordable insurance
  - Premiums more affordable than standard subsidized Marketplace coverage
  - Affordable cost sharing
  - Minimally provide essential health benefits available through QHP
- NY’s Basic Health Program is the **Essential Plan** (EP)
- Estimated savings to NY from EP: \$300 million annually

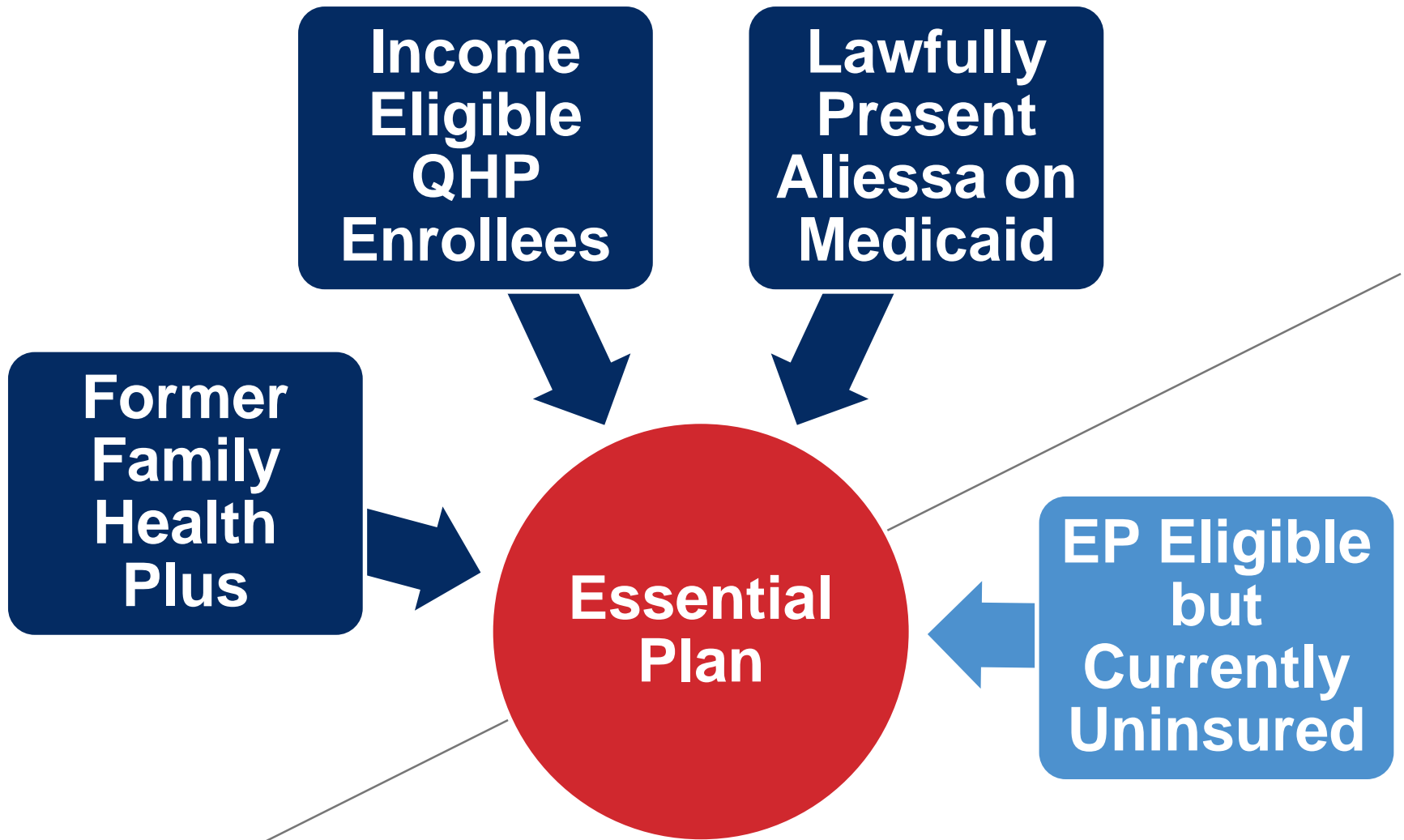
# Essential Plan ELIGIBILITY



**Children's Defense Fund–New York**  
A strong, effective, independent voice for *all* children

**Community  
Service  
Society** | Fighting Poverty  
Strengthening  
New York

# Populations That Are EP Eligible



# Eligibility for EP

1. Not eligible for Medicaid, Child Health Plus, or affordable minimal essential coverage (e.g., employer insurance, Medicare)
2. Age 19\*-64
3. Meet citizenship/immigration and corresponding income requirements

\* All children under 19 are eligible for CHP and therefore not eligible for EP.

# EP Eligibility: Citizenship / Immigration Status & Income

Federal Poverty Level (FPL)	Citizenship/ Immigration Status
139-200%	U.S. Citizens & “Lawfully Present” non-citizens
Up to 138%	“Lawfully Present” Aliessa immigrants*

\* This population is currently Medicaid eligible. In 2016 they will be eligible for EP instead.



# “Lawfully Present”

- Only U.S. Citizens and **Lawfully Present** immigrants and nonimmigrant visa holders are eligible for EP or QHPs
- “Lawfully present” is not an immigration term! It is a term used to classify whether non-citizens are eligible for certain benefits, like Medicaid.
- The ACA regulations (45 CFR § 152.2) define which non-citizens are considered lawfully present. Don't try to guess!

# Who Are Aliessa Immigrants?

- The Aliessa v. Novello lawsuit established eligibility for state-only funded Medicaid for certain immigrants in NYS
- Aliessa immigrants are:
  - Qualified Aliens in their 5-year Medicaid waiting period
  - “Lawfully Present” Immigrants Permanently Residing Under Color of Law (PRUCOL) (includes people in valid nonimmigrant status)
  - PRUCOL-Only immigrants – these people are not considered “lawfully present”
- They are only eligible for NYS-funded (not federal) Medicaid (Exception: Children under 21 and pregnant women get federal Medicaid – they are not technically “Aliessa” immigrants)

# Not All Aliessa Immigrants are “Lawfully Present”

- Certain Aliessa Immigrants are not considered “Lawfully Present” under federal regulations
  - They are “**PRUCOL-Only**” (aka “Residual PRUCOL”)
  - Includes DACA (Deferred Action for Childhood Arrivals) and DAPA (Deferred Action for Parents of Americans and Lawful Permanent Residents)
- **Aliessa Immigrants who are PRUCOL-Only are not eligible for EP or QHPs**
- PRUCOL-Only immigrants are eligible for and will remain in state-funded Medicaid if income eligible

# How do you distinguish DACA from other deferred action?

- Look at the work authorization code:
  - DACA beneficiaries have a work authorization code of (c)(33)
    - These individuals will stay in Medicaid
  - Other deferred action beneficiaries have a work authorization code of (c)(14)
    - These individuals will move to EP

# EP & “Lawfully Present”

## Aliessa Immigrants $\leq$ 138% FPL

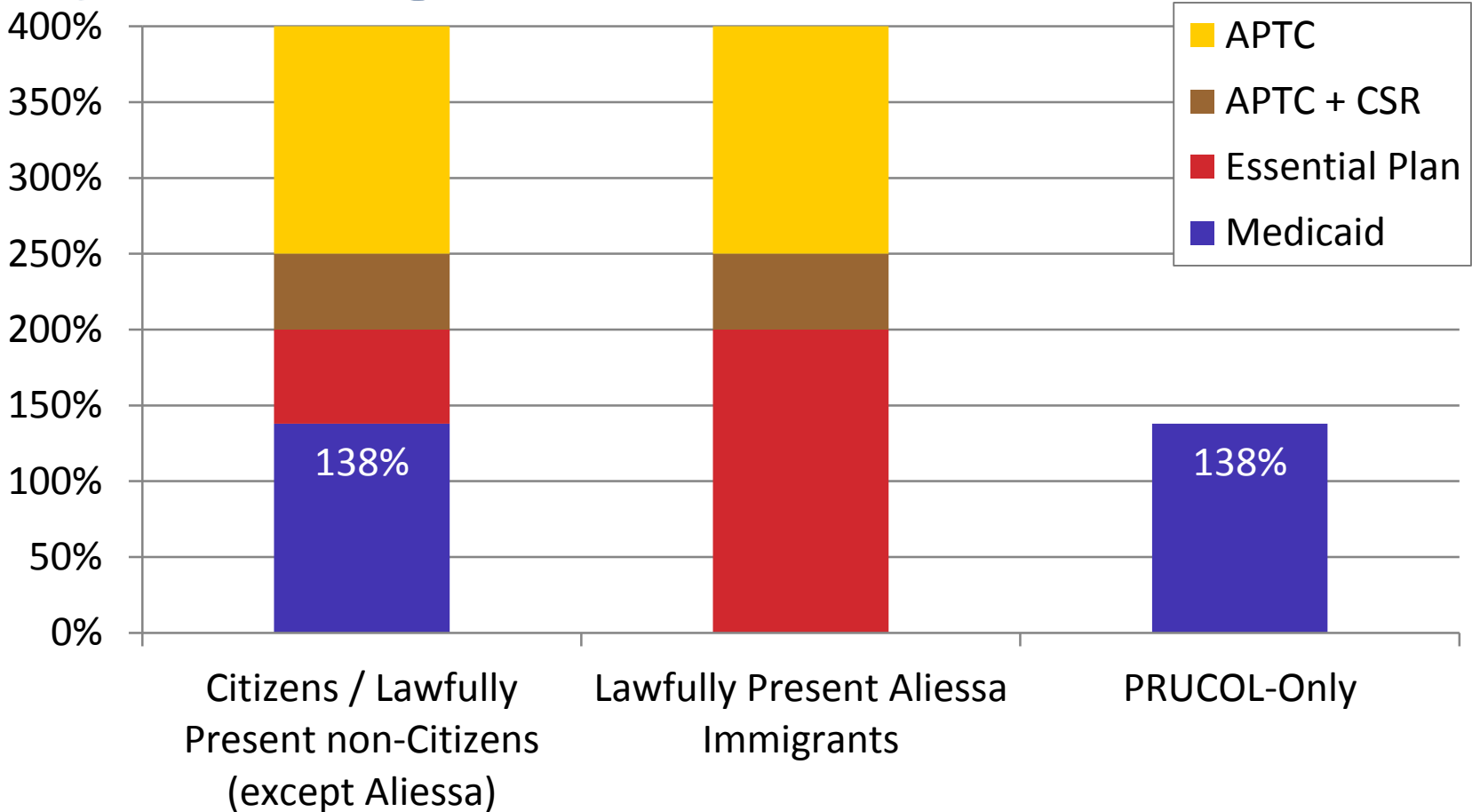
- Most “Lawfully Present” Aliessa Immigrants  $\leq$  138% FPL will be moved to EP from Medicaid
- Moving them from NYS-funded Medicaid to EP means NYS will get federal assistance towards the cost of their healthcare

# Not all Lawfully Present Aliessa Immigrants will move to EP

Some Lawfully Present Aliessa Immigrants with incomes  $\leq 138\%$  FPL will not move to EP from Medicaid:

- Need long term home or personal care
- Need long term nursing home care
- Health and Recovery Plan (HARP) enrollees
- Medicaid waiver recipients

# Adult\* Marketplace Coverage by Immigration Status 2016+



\* Chart does not cover 19 & 20 year olds and pregnant women.

# Health Coverage & Immigration Status is Complicated!

Information on health coverage options by immigration status is available in Empire Justice's Health Coverage Crosswalk:

<http://www.empirejustice.org/assets/pdf/publications/reports/health-coverage-crosswalk.pdf>

## HEALTH COVERAGE CROSSWALK: ELIGIBILITY BY IMMIGRATION STATUS



COPYRIGHT © MAY 2015

Benefit Related Immigration Classifications	Immigration Status	EXCHANGE/ BHP <sup>1</sup>	FEDERAL MEDICAID	NYS MEDICAID <sup>2</sup>	ADAP CHIP <sup>3</sup> (<19)	EMERGENCY MEDICAID <sup>4</sup>	
Lawfully Present <sup>5</sup>	Qualified Aliens	<a href="#">Lawful Permanent Resident (LPRs)</a>	Yes	5 year bar unless pregnant or child<21	Yes	Yes	Only while subject to 5 year bar for Fed Med
		<a href="#">Refugees and Asylees<sup>7</sup></a>	Yes	Yes	Yes	Yes	No
		<a href="#">Granted withholding of deportation or removal under the Immigration and Nationality Act (INA)</a>	Yes	Yes	Yes	Yes	No
		<a href="#">Battered Spouses / children of U.S. citizens or LPR w/ pending VAWA or family petition</a>	Yes	5 year bar unless pregnant or child<21	Yes	Yes	Only while subject to 5 year bar for Fed Med
		<a href="#">Cuban/Haitian Entrant</a>	Yes	Yes	Yes	Yes	No
		<a href="#">Paroled for period of one year or more</a>	Yes	5 year bar unless pregnant or child< 21	Yes	Yes	Only while subject to 5 year bar for Fed Med
		<a href="#">Lawfully residing armed services connected noncitizens and their dependents<sup>8</sup></a>	Yes	Yes	Yes	Yes	No
		<a href="#">Iraq / Afghan Siv.<sup>9</sup></a>	Yes	Yes	Yes	Yes	No
	PRUCOL <sup>6</sup>	Canadian born Native Americans <sup>10</sup>	Yes	Yes	Yes	Yes	No
		<a href="#">Amerasians</a>	Yes	Yes	Yes	Yes	No
		<a href="#">T Visa Holders and Certified Victims of Trafficking</a>	Yes	Yes	Yes	Yes	No
		<a href="#">In valid nonimmigrant status</a>	Yes, if state resident	Only if pregnant or child <21 and state resident	Yes, if state resident	Yes, if state resident	Yes, unless eligible for Fed Medicaid <sup>11</sup>
		<a href="#">Approved Visa and Pending Application for Green Card</a>	Yes	Only if pregnant or child <21	Yes	Yes	Yes, unless eligible for Fed Medicaid
	<a href="#">Granted withholding of removal under CAT (Convention Against Torture)</a>	Yes	Only if pregnant or child <21	Yes	Yes	Yes, unless eligible for Fed Medicaid	



# Health Coverage & Immigration Status is Complicated!

Keep an eye out for a new questionnaire that will help consumers and enrollers better assess their potential health insurance eligibility.



## Marketplace Eligibility Questionnaire

### Eligibility - Age

What is the applicant's age?

- 18 years old or younger
- 19 or 20 years old
- 21 - 64 years old

« Back

Continue »

Powered by  
 Google Forms

This content is neither created nor endorsed by Google.  
[Report Abuse](#) - [Terms of Service](#) - [Additional Terms](#)

# Special Population: 19 & 20 Year Olds

- 19 & 20 year olds who live with a parent:
  - Get **Medicaid** if their income is  $\leq 155\%$  FPL (except undocumented immigrants)
  - Get **EP** if their income is 156-200% FPL (except undocumented and PRUCOL-Only immigrants)
- 19 & 20 year olds who don't live with a parent:
  - Get **Medicaid** if their income is  $\leq 138\%$  FPL (except undocumented immigrants)
  - Get **EP** if their income is 139-200% FPL (except undocumented and PRUCOL-Only immigrants)

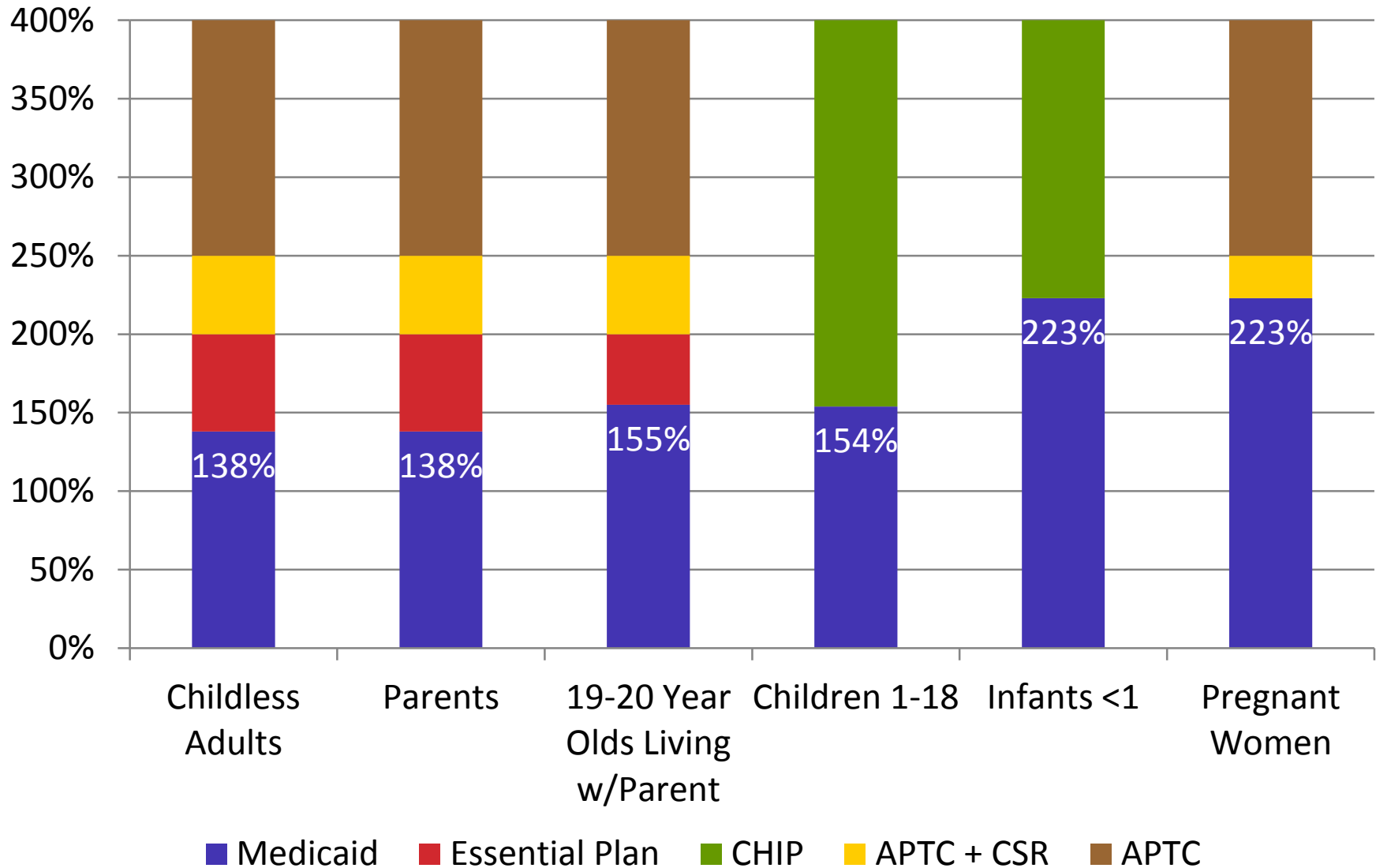
# Special Population: Pregnant Women

- Pregnant women get Medicaid, not EP
- All pregnant women get Medicaid if their income is  $\leq 223\%$  FPL
  - True of pregnant Lawfully Present Aliens Immigrants too. They will not be moved from Medicaid to EP.
  - Also true of undocumented pregnant women
- Because they can get Medicaid, pregnant women are not eligible for EP.

# Cannot Choose between Essential Plan and QHP w/APTC

- A person eligible for EP cannot decline EP and select a Qualified Health Plan with Advanced Premium Tax Credits and Cost Sharing Reductions instead
- A person eligible for EP may choose a full pay QHP
- **Special Population:** People 65+ are not eligible for EP. But people 65+ with income between 100-200% FPL who are eligible for APTC/CSR, can get a QHP with APTC/CSR.
  - E.g, an individual 65+ who is not eligible for free Medicare Part A and not receiving Medicare.

# Marketplace Coverage 2016+



# Essential Plan

# BENEFIT DESIGN



Children's Defense Fund–New York

A strong, effective, independent voice for *all* children

Community  
Service  
Society

Fighting Poverty  
Strengthening  
New York

# Covered Benefits

- Same Essential Health Benefits as QHPs
  - Option to **buy** dental and vision if  $\geq 139\%$  FPL
- Care coordination and care management
- Lawfully Present Aliessa Immigrants  $\leq 138\%$  FPL also get additional benefits:

- Non-prescription drugs
- Orthotic devices
- Orthopedic footwear
- Vision care
- Dental

**Use EP Card**

- Non-emergency medical transportation
- “Free Access Policy”  
Family planning & reproductive health services

**Use Medicaid Card**

# Costs to Beneficiaries

	Citizens/Lawfully Present Non-Citizens		Lawfully Present Aliessa Immigrants $\leq$ 138% FPL	
	EP1	EP2	EP3	EP4
Eligibility	151-200% FPL	139-150% FPL	100-138% FPL	Below 100% FPL
Premium	\$20	\$0	\$0	\$0
Deductible	\$0	\$0	\$0	\$0
Max out of pocket	\$2,000	\$200	\$200	No out of pocket
Cost Sharing	Varies by service	Only for Drugs	Only for Drugs	\$0



# Silver CSR 2015 vs. EP1

## 151-200% FPL

	Silver CSR 151-200% FPL	Essential Plan 1 151-200% FPL
Monthly Premium	≈ \$57-121	\$20
Deductible (single)	\$250	\$0
MAX OUT-OF-POCKET (single)	\$2,000	\$2,000
<b>COST SHARING –SERVICES</b>		
Inpatient Facility	\$250 per admission	\$150 per admission
Outpatient Facility, Surgeon	\$75	\$50
PCP	\$15	\$15
Specialist	\$35	\$25
PT/OT/ST Therapies	\$25	\$15
ER, Ambulance	\$75	\$75
Urgent Care	\$50	\$25
DME/Medical Supplies	10% cost sharing	5% cost sharing
Rx Drugs	\$9/\$20/\$40	\$6/\$15/\$30

# Silver CSR 2015 vs. EP2

## 139-150% FPL

	Silver CSR 139-150% FPL	Essential Plan 2 139-150% FPL
Monthly Premium	≈ \$44-57	\$0
Deductible (single)	\$0	\$0
MAX OUT-OF-POCKET (single)	\$1,000	\$200
<b>COST SHARING –SERVICES</b>		
Inpatient Facility	\$100 per admission	\$0 per admission
Outpatient Facility, Surgeon	\$25	\$0
PCP	\$10	\$0
Specialist	\$20	\$0
PT/OT/ST Therapies	\$15	\$0
ER, Ambulance	\$50	\$0
Urgent Care	\$30	\$0
DME/Medical Supplies	5% cost sharing	\$0
Rx Drugs	\$6/\$15/\$30	\$1/\$3

# Essential Plan

# ENROLLMENT &

# APPEALS



**Children's Defense Fund–New York**  
A strong, effective, independent voice for *all* children

**Community  
Service  
Society** | Fighting Poverty  
Strengthening  
New York

# Overview of EP Roll Out

**April 1, 2015**

- EP billed behind scenes for Lawfully Present Aliessa Immigrants in Medicaid – no change for enrollee

**November 1, 2015**

- Open Enrollment Begins

**November 16, 2015**

- Renewal: People renewing can begin making changes to / updating information in their Accounts and enroll in an EP plan

**January 1, 2016**

- Essential Plans begin covering services. Use EP card!

# Renewals: Transition from QHP & Marketplace Medicaid to EP

- October: Renewal notices sent. Some may have to update information for eligibility determination
- People with incomes 139-200% FPL at Renewal
  - Must update info and/or select EP plan between November 16 and December 15 for January 1, 2016 EP start date
  - Some individuals MAY be auto enrolled in EP!
- Lawfully Present Aliessa Immigrants enrolled in Marketplace Medicaid who are still  $\leq 138\%$  FPL
  - October: Notified of EP eligibility effective January 1, 2016
  - Choose EP plan or will be auto enrolled to sister EP plan of MMC
  - If no sister EP plan, must select EP by December 31 for January 1, 2016 start date

# Open Enrollment: New EP Applicants

- November 1, 2016: Open Enrollment Begins. New applicants can begin selecting EP plan for January 1, 2016 start date
- Applicants with incomes 139-200% FPL
  - Must select EP plan between November 1 and December 15 for January 1, 2016 EP start date
- Applicants who are Lawfully Present Aliessa Immigrants ( $\leq$  138% FPL)
  - Must select EP plan between November 1 and December 31 for January 1, 2016 EP start date

# Transition from Medicaid at LDSS/HRA to EP

Lawfully Present Aliens Immigrants on Medicaid at LDSS will be formally transitioned to EP at their 2016 Medicaid recertification

# Enrollment Generally

- Enroll through Marketplace
- Enroll at any time (not restricted to open enrollment or special enrollment periods)
- Income discrepancies – If there are income discrepancies, enrollment in EP will be permitted while the person is given 90 days to clarify discrepancy
- Redetermination every 12 months
- Life status and income changes reported through the Marketplace
- No 12 month continuous coverage



# No Reconciliation!

If a person is found eligible for EP and it later turns out their income was too high for the program, there is no reconciliation at tax time like there is for advanced premium tax credits.

# Effective Date of Enrollment

- Incomes between 139-200% FPL → Enrollment is prospective like QHPs:
  - If enroll in EP plan prior to the 15<sup>th</sup> of the month, coverage effective 1<sup>st</sup> of next month
  - If enroll in EP plan after the 15<sup>th</sup> of the month, coverage effective 1<sup>st</sup> of the second month after enrollment
- Incomes at or below 138% FPL →
  - EP effective 1<sup>st</sup> of the month in which EP plan selected
  - Option to get 3 months retroactive Medicaid

# Enrollment Scenario 1 - Elena

- Elena's household income is at 149% FPL
- She applies for and selects an EP on May 14, 2016
- The start date of her EP is June 1, 2016

# Enrollment Scenario 2 - Joao

- Joao is in a lawfully present Aliessa status
- His household income is at 130% FPL
- He applies for and selects an EP on May 30, 2016
- The start date of his EP is May 1, 2016
- He may also be eligible for retroactive Medicaid for February, March & April 2016

# Enrollment Scenario 3 - Ella

- Ella is in a lawfully present Aliessa status
- Her household income is at 130% FPL
- She applies on the Marketplace on May 30, 2016
- She selects an EP on June 10, 2016
- The start date of her EP is June 1, 2016
- She may also be eligible for retroactive Medicaid for March, April & May 2016

# Appeals

Follow same procedures as QHPs:

- Eligibility issues → Marketplace appeal
  - Right to aid continuing
- Service-related issues →
  - Internal plan appeal
  - External appeal to Department of Financial Services
  - No aid continuing rights

# EP will be different from Medicaid

	Medicaid	Essential Plan
<b>Service Appeals</b>		
<b>Process &amp; Options</b>	Internal plan appeal DFS appeal OTDA Fair Hearing	Internal plan appeal DFS appeal
<b>Standard of Review</b>	Broad Medical Necessity definition	Medically Necessary
<b>Aid-continuing</b>	Yes	No
<b>Eligibility</b>		
<b>12 month continuous</b>	Yes	No
<b>Income considered</b>	Current monthly income	Projected 12 month income

# Useful Links

EP benefits and cost sharing:

<http://info.nystateofhealth.ny.gov/sites/default/files/Attachment%20F%20-%20BHP%20-%20Benefits%20and%20Cost-Sharing%2C%205-15-15.pdf>

Immigration Coverage Crosswalk:

<http://www.empirejustice.org/assets/pdf/publications/reports/health-coverage-crosswalk.pdf>



# Questions?

Empire Justice Center

Health Technical Assistance

(800) 724-0490 x5822

[HealthTechAssist@EmpireJustice.org](mailto:HealthTechAssist@EmpireJustice.org)