

§ 152.14 Eligibility.

(a) *General rule.* An individual is eligible to enroll in a PCIP if he or she:

- (1) Is a citizen or national of the United States or lawfully present in the United States;
- (2) Subject to paragraph (b) of this section, has not been covered under creditable coverage for a continuous 6-month period of time prior to the date on which such individual is applying for PCIP;
- (3) Has a pre-existing condition as established under paragraph (c) of this section; and
- (4) Is a resident of one of the 50 States or the District of Columbia which constitutes or is within the service area of the PCIP. A PCIP may not establish any standards with regard to the duration of residency in the PCIP service area.

(b) *Satisfaction of 6-month creditable coverage requirement when an enrollee leaves the PCIP service area.* An individual who becomes ineligible for a PCIP on the basis of no longer residing in the PCIP's service area as described in paragraph (a)(4) of this section is deemed to have satisfied the requirement in paragraph (a)(2) of this section for purposes of applying to enroll in a PCIP in the new service area.

(c) *Pre-existing condition requirement.* For purposes of establishing a process for determining eligibility, and subject to HHS approval, a PCIP may elect to apply any one or more of the following criteria in determining whether an individual has a pre-existing condition for purposes of this section:

- (1) *Refusal of coverage.* Documented evidence that an insurer has refused, or a clear indication that the insurer would refuse, to issue coverage to an individual on grounds related to the individual's health.
- (2) *Exclusion of coverage.* Documented evidence that such individual has been offered coverage but only with a rider that excludes coverage of benefits associated with an individuals' identified pre-existing condition.
- (3) *Medical or health condition.* Documented evidence of the existence or history of certain medical or health condition, as approved or specified by the Secretary.
- (4) *Other.* Other criteria, as defined by a PCIP and approved by HHS.