

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP): NONFINANCIAL  
ELIGIBILITY STANDARDS

Eligible groups include:

- (a) US citizens (defined as those born in District of Columbia, Commonwealth of Puerto Rico, Guam, US Virgin Islands and nationals of American Samoa or Swain’s Island).
- (b) Noncitizens who meet requirements set forth in 106 CMR 362.220
- (c) Native American Indian born in Canada or Mexico, as defined by Section 289 of the Immigration and Nationality Act (INA) or who is a member of a tribe as defined in Section 4(e) of the Indian Self Determination and Education Assistance Act; or
- (d) Member of a Hmong or Highland Laotian tribe (“...at the time the tribe rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era beginning August 5, 1964 and ending May 7, 1975.” (362.235(1)). Also applies to spouse, unremarried surviving spouse or an unmarried dependent child of a Hmong or other Highland Laotian tribe member who meets conditions of 362.235(a).

***Massachusetts has 2 federally-recognized Native American tribes:***

Federally-recognized tribes in Massachusetts:

1. Mashpee Wampanoag Tribe; and
2. Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts

***State only-recognized tribes in Massachusetts:***

- Nipmuc Nation

Difference in state tribal vs. federal tribal recognition: State tribal recognition does not confer the same benefits as federally recognized tribes; it acknowledges tribal status within the state but does not guarantee funding from the state or federal government.

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HEALTH COVERAGE BENEFITS FOR AMERICAN INDIANS & ALASKA  
NATIVES – FEDERALLY RECOGNIZED

- Federal benefits may only be available to members of federally recognized tribes or Alaska Native Claims Settlement Act (ANCSA) Corporation shareholders.
  - These members may enroll in a Marketplace plan at any time, allowing for change of plan monthly.
- Other benefits available to people of Indian descent or otherwise eligible for services from the Indian Health Service (mostly primary care and some ancillary and specialty services).

***Marketplace Health Insurance Exemptions for American Indians and Alaska Natives***

- Income threshold tax credits available for those enrolled in “zero cost sharing” Marketplace plan (100%-300% of Federal Poverty Level);

- Indian Health Care Provider<sup>1</sup> services recipient do not pay out-of-pocket costs, e.g. copayments, coinsurance, or deductibles, regardless of income; and
- Eligible to enroll in a Marketplace plan once a month.
- 130 CMR 520.015 relates to non-countable assets.

***Medicaid and Children’s Health Insurance Program (CHIP) Benefits for Indian tribe and ANCSA members include:***

- No premiums or out-of-pocket costs, if qualified for Medicaid special eligibility rules, e.g. no copayments, coinsurance or deductibles;
- No CHIP out-of-pocket costs, if eligible;
- Certain Indian resources and payments are not countable for Medicaid and CHIP eligibility determination, e.g. some income earned on reservations and from federal trust payments; and
- No out-of-pocket costs for Indian Health Service-provided programs, regardless of income

***Medicaid Estate Recovery in Massachusetts***

- Massachusetts estate recovery regulations contain an exemption of certain assets from estate recovery for American Indians and Alaska Natives. 130 CMR 501.013(G)(1); 130 CMR 515.011(G). These include, but are not limited to: interest and income derived from tribal land and resources held in trust; certain judgment funds relating to Indian claims; ownership interests in trust and non-trust property on or near a reservation; certain income left in a remainder in an estate derived from protected property; ownership interests or usage rights related to tribal natural resources and that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional life style according to applicable tribal law or custom.
- Assets must be clearly traceable.
- Ownership in interests on or near reservation property is limited to circumstances when it passes from an Indian, including non-enrolled Indians and non-Indians such as various family members, to a tribe, tribal organization, or to one or more Indians. 130 CMR 501.013(G)(2).

***Verification of membership***

- Documentation issued by a federally recognized tribe indicating tribal membership
- Documentation issued by an Alaska Native village/tribe, or an ANCSA Corporation (regional or village) indicating shareholder status.

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<sup>1</sup> The Indian Health Service, tribal programs, or urban Indian programs may not provide full access to some services. Additional health coverage can be obtained through a Marketplace Health Insurance Plan.

***Exemption Application for Federally-recognized tribe or ANCSA membership designation:***

- IRS Form 8965

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INCOME TAXIBILITY OF AMERICAN INDIANS & SOLE PROPRIETORS

- Federally-recognized ***Indian tribal governments*** are not subject to federal tax but must pay employment tax on wages paid to employees.
- ***Members of a federal-recognized Indian tribe*** are subject to federal income and employment tax and provisions of the Internal Revenue Code.
  - Some examples of taxable income:
    - Wages/self-employment (earned) income;
    - Passive income; and
    - Investment income
      - Common types of taxable earned and investment incomes include
        - Wages received as an employee, Form W-2;
        - Tips from casinos and other sources – reported to the employer; and
        - Tips from casinos and other sources – not reported to the employer.
    - Per Capita Distributions – money or other items of value distributed to all members of the tribe that are paid directly from the net revenues of any tribal gaming activity or other sources of income, e.g. income from unallotted common tribal land.
  - Some examples of **exempt** income:
    - General welfare distributions **if** certain criteria met, as set forth under the Tribal General Welfare Exclusion Act of 2014.
    - Per capita income from funds and the Secretary of Interior holds in a tribal trust account;
    - Certain benefits to unemployment or underemployed residents of an Indian reservation;
    - Income derived by Indians from exercise of treaty-based fishing rights;
    - Income derived directly from allotted and restricted lands;
    - Income from allotted lands under certain programs administered by the Stabilization and Conservation Service of the Department of Agriculture or similar programs; and
    - Income directly derived from sale of reindeer or reindeer products by Alaskan natives.

## RESOURCES

- <https://www.mass.gov/doc/106-cmr-362-supplemental-nutrition-assistance-program-nonfinancial-eligibility-standards/download> (*Supplemental Nutrition Assistance Program: Nonfinancial Eligibility Standards*)
- <https://www.healthcare.gov/american-indians-alaska-natives/> (“*Health coverage for American Indians & Alaska Natives*”)
- <https://www.irs.gov/government-entities/indian-tribal-governments> (*Income Tax Guide for Native American Individuals and Sole Proprietors*)
- [samhsa.gov](https://www.samhsa.gov) (SSI/SSDI Eligibility for American Indians & Alaska Natives | SOAR Works!)
- Thomson Reuters has a manual, American Indian Law Desk book, 2023 edition for sale, which covers Indian law generally