

H2A visa holders and the Affordable Care Act (ACA).

The Affordable Care Act, also known as Obamacare, does apply to resident aliens. H2A visa holders may be considered resident aliens if they meet the substantial presence test which means they are generally present in the United States for more than six months per year. Resident aliens, those lawfully present in the U.S. and who file form 1040 to report their income taxes are required to have "minimum essential" health insurance or face penalties. These resident aliens can apply for health insurance through the marketplace or Health Insurance Exchange. The H2A visa holders probably will not qualify under the Medicaid expansion even if they meet the income levels because they apparently need to be a resident for 5 years.

According to the marketplace website, nonimmigrants on work visas may qualify to use the marketplace to obtain health insurance and possibly subsidies. They may be able to file for a hardship exemption to the ACA mandates due to unaffordability or inability to acquire coverage through the marketplace.

Nonresident aliens for Federal income tax purposes, those generally in the United States less than six months a year, are not required to have health insurance under the ACA. These visa holders will file form 1040NR and the ACA penalties will not apply. H2A visa workers who may be a resident due to the substantial presence test can elect to be treated as nonresident aliens if certain rules are met. These include having a tax home in a foreign country and indicating you have a "closer connection" to that foreign country. See the IRS link for more information on residency status.

For more information on alien residency status see <http://www.irs.gov/Individuals/International-Taxpayers/Substantial-Presence-Test>

The official healthcare Marketplace site addresses health coverage for immigrants
<https://www.healthcare.gov/immigrants/immigration-status/>

In Kentucky the marketplace is managed by Kynect and their website is <https://kynect.ky.gov/>

Please consult with a tax advisor to assess your individual tax situation.

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