



Spotlight on Immigrant Eligibility for Public Benefits

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Issues Affecting Access to Services

- **Immigrant eligibility rules**
- State residency and Other Eligibility Rules
- Privacy, Confidentiality and Verification
- Concerns about “Public Charge”
- Concerns about Sponsors
- Linguistic and Cultural Competence
- Logistical Barriers
- The “Climate”

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Immigrant Benefit Classifications

1996 Federal Welfare Law:

- **Citizens**
- **"Qualified"** Immigrants
 - Entered US before Aug. 22, 1996
 - Entered US on or after Aug. 22, 1996
- **"Not Qualified"** Immigrants

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Qualified Immigrants

- Lawful Permanent Residents (LPR)
- Refugees, Persons Granted Asylum, Withholding of Deportation/Removal, Conditional Entrant status
- Paroled into U.S. for at least 1 Year
- Cuban and Haitian Entrants
- Certain Battered Spouses and Children
- Certain Victims of Trafficking

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Qualified Battered Immigrants

With *prima facie* case or approved:

- **Visa petition** filed by US citizen or LPR spouse/parent
- **Self-petition under VAWA**, or
- Application for cancellation of removal/suspension of deportation under VAWA

Parent of battered child and **child** of battered spouse also considered “qualified”

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Victim of Severe Form of Trafficking

- If 18 or over, must be certified by HHS
- Children under 18 need HHS “eligibility letter”
- **Eligible for federal benefits to the same extent as refugees.**
- Derivative beneficiaries of “T” visas are also eligible for federal benefits
- ➔ Victims with approved T visa petitions or prima facie determinations are “qualified”-- but other trafficking victims may also be eligible for benefits.

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Not Qualified Immigrants

ALL Other Non-Citizens

... even if have work authorization and are lawfully present in U.S.

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Not Qualified Immigrants: Programs Barred

- **Federal**
“Public Benefits” barred

- **State or Local**
“Public Benefits” Barred
unless state passes new law

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Not Qualified Immigrants: Federal Program Bar

- **Bar on “Federal Public Benefits”**
- To be defined by agencies (only HHS, FEMA and a few others have done so)
- **Examples of “Public Benefit” in law:**
- Grants, contracts, loans, professional/commercial licenses by government; retirement, welfare, health & disability, housing, post-secondary education, food, unemployment, FEMA, **or any “similar benefit” which is provided to individual, household, or family unit**, by agency/funds of federal government

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Examples of HHS Federal Public Benefits

- Adoption Assistance
- **Child Care and Development Fund**
- Foster Care
- Independent Living
- Low Income Home Energy Assistance Program (**LIHEAP**)(weatherization for single units only)
- Medicare
- Medicaid (except emergency medical)
- Refugee benefits (cash, medical, social services)
- Social Services Block Grant (SSBG)
- *Children’s Health Insurance Program (CHIP)*
- Temporary Assistance for Needy Families

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LIHEAP

- Must be a qualified immigrant – states vary in treatment of mixed status households
- Exceptions:
 - Services provided by non-profit organizations
 - Weatherization of multi-unit buildings
- States “encouraged” to require SSNs



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Candace and Tara

- Candace is undocumented. Her daughter, Tara, was born in the U.S. A cold snap hit their area, with freezing wind blowing through their apartment. They don't have enough money to pay the high heating bill, or to insulate their windows.
- A friend told them about LIHEAP. What kind of assistance can they get?
- What if the assistance were provided and administered by a non-profit agency?

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Child Care Development Fund (CCDF)

- **Child** must be citizen or “qualified” immigrant (no status or SSN requirement for parent)
- Exceptions:
 - Child care subject to Head Start or public educational standards
 - Non-profit organizations?



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TANF-Funded Child Care

- All states (except Wisconsin) provide TANF to eligible children with ineligible parents, but
- TANF-funded Child Care is generally based on the status of the parent.

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Examples of Benefits Not Included on HHS' List

- **Head Start and Early Head Start**
- Maternal and Child Health Services Block Grant
- **Community Services Block Grant**
- Federally Qualified Health Centers
- Ryan White Programs

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Gabrielle, Alvaro and Robert

- Gabrielle is undocumented, with two sons, Alvaro, a 3-year old, born in the U.S. and Robert, 7, who is undocumented.
- Gabrielle recently started a business. Can she get child care while she works?
- Can she enroll Alvaro in Head Start? What if he were undocumented?
- Can the family receive supportive services from non-profits funded through CSBG?

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Programs Exempt from Federal Bar

- **Emergency Medicaid** and other emergency medical
- Immunizations, testing and treatment for symptoms of communicable diseases (outside of Medicaid)
- **Short-term non-cash disaster relief**
- Certain housing assistance if receiving on 8/22/96
- **School Lunch, School Breakfast, Child and Adult Care Food Program**
- State Option to Provide **WIC**

AND programs

1. **Delivered at the community level, that are:**
2. **Not conditioned on income or resources and**
3. **Necessary to protect life or safety**

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AG's List of Programs "Necessary to Protect Life or Safety"

- Child and adult protective services
- Violence and abuse prevention, domestic violence
- Mental illness, substance abuse treatment
- Short-term shelter or housing assistance
- Programs for adverse weather conditions
- Soup kitchens, food banks, senior nutrition programs
- Medical & public health, mental health, disability or substance abuse services
- Programs to protect life & safety of workers, children & youth, or community
- Other services necessary to protect life or safety

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Non-Profit Agencies

- Non-profit charitable organizations are not required to determine, verify or otherwise ask for proof of an immigrant's status
 - Applies to immigrant restrictions in the 1996 welfare and immigration laws
- Non-profits can create a safe environment for immigrants and their family members who are seeking services

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Mona and Iris

Mona works in a shelter for homeless families, a non-profit organization that receives federal funds. Clients can stay at the shelter for a brief period, regardless of their income.

Iris, an undocumented woman seeks shelter for herself and her children.

1. Does the shelter provide a federal public benefit?
2. Is Iris eligible to stay there?
3. Is Mona required to verify Iris' immigration status?
4. Is Mona required to report Iris to the Department of Homeland Security?

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Qualified Immigrants: Major Federal Programs

- **Supplemental Security Income (SSI)** severely restricted for immigrants
- **5 year bar on federal TANF, Medicaid (non-emergency), CHIP** for qualified immigrants who entered U.S. on or after 8/22/96, with exceptions
- **5 year bar on SNAP** (Food Stamps) for qualified immigrant adults, with exceptions.

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Medicaid, CHIP, TANF

Federal funds available for:

- **Qualified immigrants** who entered U.S. before 8/22/96, or who complete the 5 year bar
- **Refugee** groups, trafficking victims
- **Veterans**, active duty military & family
- **Lawfully residing children & pregnant women in Medicaid/CHIP** (*state option*)
- **Medicaid:** SSI recipients in most states, federal Foster Care children, Native Americans
- **CHIP option:** prenatal regardless of status

Enormous state variation in coverage

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State Coverage: Medicaid CHIP and TANF

- A few states fail to provide federal Medicaid and/or TANF to immigrants even after the 5 year waiting period;
- About half the states opted to provide federal Medicaid/CHIP to pregnant women and/or children, or state-funded TANF or medical coverage to immigrants who are ineligible for federally funded services
- But budget pressures pose a continuing threat to the state programs

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SNAP

- **Children** who are qualified immigrants
- **Adults in qualified status at least five years**
- **Refugee groups**, victims of trafficking
- **LPRs with credit for 40 quarters of work.**
- **Veterans**, active duty military, spouse/child
- Hmong and Laotian tribe members (lawfully present)
- Receiving disability-related assistance
- Seniors born before 8/22/31, who were lawfully residing in the U.S. on 8/22/96
- Native Americans

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Clare, Mike and Tyler

- Clare, who is undocumented, has two children, Mike, an undocumented teenager, and Tyler, who was born in the U.S. Clare is pregnant.
 - Are they eligible for nutrition assistance?
 - Are they eligible for any other benefits?

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Public Housing and §8

“Eligible” immigrants:

- Lawful permanent residents
- Lawful temporary residents
- Refugees, granted asylum or withholding of deportation/removal, trafficking victims
- Parolees
- Citizens of Micronesia, Marshall Islands, and Palau
- Others?

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Public Housing and §8: Mixed Status Households

- Family may reside in housing if at least one member has an eligible status
- Those declaring an eligible status must provide proof of status and SSNs
- Those choosing not to declare an eligible status are not required to show proof of status or SSN
- Subsidy is pro-rated based on the portion of eligible household members



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Kim and her Family

- Kim is a 28-year-old mom with one child, age 6. Both are LPRs who entered the U.S. in 2010. Kim recently lost her job. Her mother came to visit, but decided to remain, overstaying her visitor's visa.
- Can the family live with grandma in Section 8 housing?
- Can they live in affordable housing developed with low-income tax credits or Community Development Block Grant (CDBG) funds?

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State Restrictions on Access to Services for Immigrants

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State Laws Restrict Access to Services for Immigrants

- **Arizona** Prop. 200 (2004); **Virginia** (2005)
- **Arizona, Colorado, Georgia** (2006)
- **Idaho, Oklahoma** (2007)
- **Utah, South Carolina, Missouri** (2008)
- **Georgia, Nebraska, Arizona** (2009)
- **Utah, Indiana, Georgia, Alabama** (2011)
- **Tennessee** (2012)

- **Verification requirements** erect barriers, though eligibility generally not altered.
- **Restrictive document lists** harm US citizens and lawful immigrants; costly for agencies to administer. Reporting in Arizona chills access.

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Anti-Immigrant Measures Harm Everyone

- **Federal citizen documentation (DRA)** \$8.3 million spent by 6 states to find 8 undocumented persons in caseload of 3.6 million; tens of thousands of eligible U.S. citizen children denied Medicaid
- **State restrictions:** **CO** - \$2 million spent by state agencies (no savings), U.S. citizens denied services; **AZ** – drop in clinic visits, WIC, emergency MC, school attendance; **OK** – barriers for citizens, harm to businesses and broader communities, baby died.
- Bad for business, harms reputation, loss of revenue, litigation, administration and staffing costs, public health and safety

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Checklist: What's at Risk?

- Review bill language & compare to existing state laws
- Is it under federal agency jurisdiction?
- Is it outside the public benefit definition? Is it within an exemption?
- Is it provided by a non-profit charitable organization?
- For whom is the service intended (e.g. child)? Has the state decided to provide this service regardless of status?

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Resources on Immigrants and Public Benefits

- National Immigration Law Center:
www.nilc.org
- National Council of La Raza:
www.nclr.org
- National Health Law Program:
www.healthlaw.org
- Center on Budget and Policy Priorities:
www.cbpp.org
- National Housing Law Project
www.nhlp.org