

IMMIGRANT ELIGIBILITY FOR HEALTH CARE AND PUBLIC BENEFITS IN CALIFORNIA

**AIDS Legal Referral Panel
June 4, 2013**

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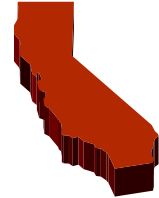


Issues Affecting Access to Benefits

- **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”

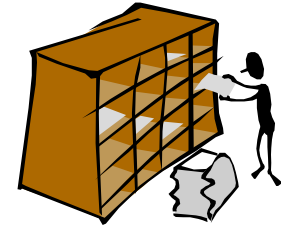


State Residency: Medi-Cal



- **Live in CA with intent to remain permanently or for an indefinite period, or**
- Live in CA and entered State with job commitment or to seek employment, whether or not currently employed.
- **In 2014, federal rules** will use “reside” instead of remain, and will eliminate “permanently” and “indefinite period.” But not intended for visitors or those coming solely for medical care to be eligible.

Immigrant Benefit Classifications



- **U.S. Citizens**
- **"Qualified"** immigrants
 - Entering the U.S. before 8/22/96
 - Entering the U.S. on or after 8/22/96
- **"Not Qualified"** immigrants
 - **PRUCOL** (Permanently Residing Under Color of Law)
 - Other lawfully present non-citizens
 - **Undocumented immigrants**

Qualified Immigrants

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

Qualified Battered Immigrants

Must have *prima facie case* or approved:

- **Visa petition** filed by U.S. 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”

Survivors 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 also eligible for federal benefits.
- Survivors with approved/*prima facie* case for T visa are “qualified” - but other trafficking victims also are eligible for benefits.

Not Qualified Immigrants

➤ *ALL* Other Non-citizens

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

PRUCOL

Permanently Residing Under Color of Law - not an immigration status, but a benefit eligibility category

May include persons:

- with approved immediate relative visa petition
- who filed application for adjustment to LPR status
- granted deferred action
- granted Family Unity status
- granted a stay of deportation
- who have lived in the US continuously since before Jan. 1, 1972
- who are survivors of domestic violence (certain immigrants)
- **Other persons in the US with the knowledge of DHS whose departure that agency does not contemplate enforcing.**

Not Qualified Immigrants: Programs Barred



➤ **Federal**

“Public Benefits” barred

➤ **State or Local**

“Public Benefits” barred

unless state passes new law

Not Qualified Immigrants: Federal Program Bar

Bar on Federal “Public Benefits”

“Public Benefits” to be defined by federal agencies (only HHS, FEMA and a few others have done so)

Examples of “public benefit” in law

- Grants, Contracts, Loans, Professional or Commercial Licenses provided by government
- Retirement, Welfare, Health & Disability, Housing, Post-Secondary Education, Food Assistance, Unemployment Benefit, FEMA, or any “similar benefit,” AND
- Assistance **provided to individual, household, or family unit**, by an agency/funds of federal government

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 of single unit buildings)
- Medicare
- Medicaid (except emergency medical)
- Mental Health Clinical Training Grants
- Refugee benefits (Cash, Medical, Social Services)
- Social Services Block Grant (SSBG)
- Children's Health Insurance Program (CHIP)
- Temporary Assistance for Needy Families

Programs Exempt from Federal Bar




- **Emergency Medicaid** and other emergency medical services
- 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 and School Breakfast
- State option to provide WIC

AND programs

1. delivered at the community level, that...
2. do not condition assistance on income or resources
3. are necessary to protect life or safety

AG's List of Programs

"Necessary to Protect Life or Safety"

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

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

CA Programs Available Regardless of Status

- **Emergency Medi-Cal**
- **Prenatal care** (Medi-Cal)
- Access for Infants and Mothers (AIM)
- Long-term care
- Early Breast Cancer Detection and Breast and Cervical Cancer Treatment
- California Children's Services (CCS)
- Healthy Kids (Children's Health Initiatives)
- Health Programs in some counties (Healthy SF)
- **Community clinics**
- Child Health and Disability Prevention Program (CHDP) and CHDP "Gateway"
- Family PACT
- Minor consent services
- Mental health services
- MRMIP
- Regional Center Services
- Women Infants and Children (WIC)
- School lunch/breakfast

Angie and Nadia



Angie works in a health clinic, a non-profit organization that receives federal funds. Patients can be treated at the clinic, regardless of their income.

Nadia, an undocumented woman with HIV, seeks treatment at the clinic.

1. Does the clinic provide a federal public benefit?
2. Is Nadia eligible for treatment?
3. Is Angie required to verify Nadia's immigration status?
4. Is Angie required to report Nadia to the Department of Homeland Security?

Candace and Tara



- **Candace is undocumented. Her daughter, Tara, was born in the U.S. An earthquake destroyed the home they rented in Southern California, and they were evacuated to Northern California. They lost their housing and all of their possessions, have no money or identification documents. Which benefits or services can they receive?**
- Candace started a business. Can she get child care while she works?

Immigrant Eligibility for Major California Programs

Full-Scope Medi-Cal

Qualified immigrants & PRUCOL

CalWORKs

Qualified immigrants & PRUCOL. Deeming rules apply

NOTE: Immigrants on next slide are eligible for all state & local programs

CalFresh/California Food Assistance Program (CFAP)

Qualified immigrants (plus) Deeming rules apply.

SSI/Cash Assistance Program for Immigrants (CAPI) and IHSS

Qualified Immigrants and PRUCOL. Deeming rules apply.



Andrea

Andrea applied to become an LPR based on her marriage to a U.S. citizen, but does not have her green card. She has a disability.

Which services can she receive?

What if her husband is abusive?

Elena

Elena is an undocumented woman with no children. She has a disability. She has a VAWA “prima facie” letter from USCIS. Does she qualify for full-scope Medi-Cal?

Survivors of Trafficking and other Serious Crimes in CA:

- **Trafficking Survivors** can get state and local benefits before certified for federal benefits
- 12 months, extended if T visa application or Continued Presence request filed
- **U visa applicants/holders** get state and local benefits
- Continues unless U status finally denied
- **State RMA, RCA and RSS** available for trafficking survivors & U visa applicants/holders

Refugee Cash, Medical and Social Services

For persons not linked to Medi-Cal or CalWORKS (e.g., single adults w/o disabilities) who are:

- Refugees
- Asylees
- Amerasian immigrants
- Cuban or Haitian Entrants
- Paroled as refugees or as asylees
- Iraqi or Afghan special immigrants
- **Trafficking survivors**

State-funded RCA, RMA, RSS

- Applicants for U non-immigrant status and individuals with U status
- Up to 8 months of state funded RMA/RCA
- Pre-certified trafficking victims may receive up to 8 mos. of state RCA/RMA
- Up to 8 mos. of federal RCA/RMA if certified by ORR or get T status

Clare, Mike and Tyler

- Clare and her boyfriend Tom are undocumented. Tom is in jail due to domestic violence. Clare has two children, Mike, an undocumented teenager, and Tyler, a six-year old, born in the U.S. Clare is pregnant. Which benefits can they receive?

SSI Eligibility

- **Receiving SSI or application pending on August 22, 1996**
- **Qualified immigrants with disabilities, who were lawfully present in the U.S. on 8/22/96**
- **LPRs with credit for 40 quarters of work history.** Post 8/22/96 entrants must wait until in qualified status for five years.
- **Refugees**, asylees, granted withholding of deportation/removal, Cuban/Haitian entrants, Amerasian immigrants, Iraqi and Afghan Special Immigrants, trafficking victims, *during first 7 years after obtaining status*
- **Veterans**, active duty military, spouses, surviving spouses, & children
- Members of federally recognized Indian tribes or American Indians born in Canada

Cash Assistance Program for Immigrants (CAPI)

- Cash assistance for immigrant seniors and immigrants with disabilities who would have been eligible for SSI under the pre-8/22/96 rules for immigrants
- SSI rules generally apply, except that individuals get \$10/mo. less and couples get \$20/mo. less than SSI/SSP
- But, unlike SSI, can also get CalFresh or CFAP if qualified and otherwise eligible
- Sponsor deeming rules pose barriers

Sponsor Deeming

- **Generally applies only to LPRs who immigrated via a family-based petition**
- Income/resources of sponsor may be added to immigrant's in determining eligibility
- Can render immigrant over-income for the benefit, even if receive nothing from sponsor
- **Exceptions** to deeming may include domestic violence, indigence or others, depending on the program.
- **No deeming in CA health care programs.**

Veronica

- Veronica obtained T non-immigrant status in September 2005, and became a lawful permanent resident (LPR) in 2009. She has a disability. Which benefits can she receive?

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?

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



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 lost her job. Are mom and child eligible for CalFresh? What else can they receive?
- Kim's mother travels to U.S. from Korea to visit. When her visa expires, she overstays. Grandma slips, breaks her arm, and is taken to the emergency room. Is she eligible for Medicaid?
- Can the family apply to live in public housing?

Health Care Reform

- **Medicaid expansion** for single adults (up to 138% FPL)
- **New state-based health insurance marketplaces** (Exchanges) – Covered California
- **Premium tax credits** for families earning up to <400% FPL, and **cost-sharing reductions** for <250% FPL

Health Reform: Immigrants

- **Access to exchange at full cost**
 - Lawfully present immigrants only
- **Access to subsidies for exchange**
 - Lawfully present immigrants
- **Access to federal Medicaid**
 - 5 year + waiting period for “qualified” immigrants maintained. Eligibility varies by state.
- **Employer incentives and safety net remain important**

Resources

Immigrants & Public Benefits:

- National Immigration Law Center:
www.nilc.org
- California Immigrant Policy Center (CIPC):
www.caimmigrant.org

Individual legal assistance for health care:

www.healthconsumer.org

Legal Services:

www.lawhelpcalifornia.org

Questions

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National Immigration Law Center
www.nilc.org