

THE FACTS: IMMIGRANTS AND PUBLIC BENEFITS



Not All Immigrants Qualify for Federal Public Benefits

If an immigrant meets a legal definition of "qualified" (explained below) she is eligible for some, but not all, federal public benefits. An immigrant's eligibility for public benefits will depend on her immigration status, whether she entered the U.S. before the 1996 welfare reform law was enacted (August 22, 1996), and whether she was already receiving assistance when the welfare law went into effect. Access to certain benefits will also vary based on the state in which the immigrant lives.

"Qualified" aliens include Lawful Permanent Residents (LPRs), refugees and asylees, persons paroled into the country for at least one year, persons granted withholding of deportation, Cuban-Haitian entrants, Asian Americans, and certain battered women and children. Any alien not included in one of these categories is considered "not qualified."

Qualified Immigrants Can Only Receive Certain Federal Public Benefits

"Qualified" immigrants entering the U.S. on or after August 22, 1996 are:

- Barred from Supplemental Security Income (SSI). (Exceptions are explained elsewhere in this fact sheet.)
- Subject to a 5-year bar on non-emergency Medicaid, the state Child Health Insurance Program (CHIP), food stamps, and Temporary Assistance for Needy Families (TANF). There is no bar to food stamps for qualified immigrant children or disabled qualified immigrants who also receive a disability benefit.
- After the 5-year bar, subject to deeming for the above-listed programs. There are exemptions from deeming for children, some battered spouses, and those at risk of going hungry or becoming homeless.
- After the 5-year bar, each state determines whether or not an individual is eligible for TANF, Medicaid, and social services block grants (Title XX).

Refugees are Eligible for Additional Benefits

Refugees fleeing potentially life-threatening persecution in their home countries typically do not have the luxury of bringing personal possessions or preparing themselves for life in a new country. Recognizing this fact, the federal government exempts newly-arrived refugees, asylees, immigrants granted withholding of deportation, Cuban-Haitian entrants, Amerasians¹ and Hmong/Laotian soldiers of the Vietnam era and their spouse/children² from all of its eligibility provisions which restrict access to SSI, Medicaid, and Food Stamps, but only for the first seven years after being granted such status.

Certain Other Qualified Immigrants are Exempt from Restrictions

Veterans and active duty military personnel, their spouses and unmarried children under 21, and immigrants who have worked 40 "qualifying quarters" (at least 10 years) are exempt from the SSI bar, and are not subject to the five-year prospective bar on most federal means-tested benefits.

Qualified Immigrants Must Overcome Barriers to Receive Benefits

For legal immigrants, eligibility for certain programs now varies depending on when the immigrant entered the U.S. For federal means-tested public benefits, newly-arriving immigrants (those admitted to the U.S. on or after August 22, 1996) generally are: 1) barred for their first five years in the U.S.; and 2) subject thereafter to a process called "deeming" where the income and resources of the U.S. citizen or LPR sponsor of the immigrant are added to the immigrant's own income to determine whether the immigrant is poor enough to qualify for the benefit under the program's financial guidelines. Deeming continues until the new immigrant either becomes a citizen or works 40 "qualifying quarters" (at least 10 years). The work of a spouse (or of a parent in the case of a child under 18) also counts toward the 40 quarters. After becoming naturalized citizens, or working for 40 quarters, legal immigrants are generally eligible for federal and state programs provided they meet the general program criteria.

Very Few Aliens Classified as "Not Qualified" are Entitled to Benefits

While "not qualified" aliens are ineligible for nearly all federal benefits, they are still eligible for certain very basic kinds of assistance, including: emergency Medicaid, immunizations, testing and treatment for the symptoms of communicable diseases, short-term non-cash disaster relief, school lunches and breakfasts, and certain other programs essential to public health and safety as specified by the Attorney General.

Family Sponsors are Responsible for the Immigrant's Care

U.S. citizens or LPRs wishing to sponsor an immigrant relative for admission to the U.S. must earn enough (125% of the poverty level for the family size, including the immigrant) to satisfy officials that the immigrant will not become a "public charge." They also must sign a legally-enforceable affidavit of support. This document makes the sponsor liable for the immigrant's use of means-tested benefits until citizenship, or until the arriving immigrant works 40 "qualifying quarters" (at least 10 years) without using means-tested services.

Most of the Tax Dollars Paid by Immigrants Go to the Federal Government

The federal government receives approximately two-thirds of the tax dollars paid by immigrants. However, states and localities provide the bulk of services immigrants use, including health care and public assistance when needed. As a result, states and localities often find themselves "shortchanged" - forced to provide services without sufficient revenue. The 1996 welfare reform law, which barred or restricted legal immigrants' access to most federal public benefits, exacerbated this dilemma by withholding even more federal funds for services provided by states to immigrants. In the wake of those dramatic changes, states and counties with high immigrant populations end up covering the costs of the care of these legal residents, should they fall on hard times.

¹ *Overview for Immigrant Eligibility for Federal Programs*

² *Overview for Immigrant Eligibility for Federal Programs*

Source

National Immigration Law Center and the National Immigration Forum (2003).

