



Immigrant Families and Child Care Subsidies

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What Federal Law and Guidance Says Hannah Matthews

One in four young children in the United States lives in an immigrant family. Federal law establishes policies on immigrant eligibility for child care assistance, yet questions regarding eligibility remain at the state and local level. Most child care assistance is funded through the Child Care and Development Block Grant (CCDBG) and the Temporary Assistance for Needy Families (TANF) block grant, which have differing rules regarding immigrant eligibility. This fact sheet lays out rules and guidance related to immigrant eligibility for child care subsidies through both funding streams. In addition, it should be noted that all programs that receive federal funds are required to comply with Title VI of the Civil Rights Act of 1964, which prohibits agencies that receive federal financial assistance from discriminating based on race, color, or national origin and requires such agencies to take reasonable steps to provide limited English proficient (LEP) individuals with meaningful access to their programs, activities, and services.¹

The Federal Government Regulates Immigration Verification Procedures

Regardless of funding stream, the federal government is the entity responsible for establishing immigrant eligibility policies and verification procedures for public benefits, which include child care assistance.²

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) limited eligibility for “federal public benefits” to specific categories of “qualified immigrants.” CCDBG and TANF assistance are identified as “federal public benefits” in guidance from the U.S. Department of Health and Human Services (HHS).³ Therefore, the providers of child care assistance may be required to verify the immigration and citizenship status of potential recipients based on the guidelines established by the federal government.

The child is the primary beneficiary of CCDBG-funded child care assistance. Therefore, only the child’s citizenship and immigration status—and not a parent’s—is relevant in determining eligibility for CCDBG-funded child care subsidies.

CCDBG-Funded Child Care

Only the Child’s Immigration Status is Relevant for Verifying Eligibility

Federal guidance states, “For implementing the verification requirements mandated by title IV of PRWORA, only the citizenship and immigration status of the child, who is the primary beneficiary of the child care benefit,

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is relevant for eligibility purposes.” Therefore, states may only consider the child’s immigration/citizenship status—and not a parent’s—when verifying eligibility for subsidies.⁴ Regardless of a parent’s immigration status, citizen children and “qualified” immigrant children may be eligible for child care assistance.⁵

Federal guidance further states that “the eligibility requirements of the CCDF [or CCDBG], its regulations, and the Lead Agency’s CCDF Plan continue to apply.”⁶ In other words, immigration/citizenship status is not a condition of eligibility for CCDBG. It is a violation of federal policy for a state to establish immigration/citizenship restrictions as a condition of eligibility for CCDBG-funded child care assistance for anyone other than the child who is the beneficiary of child care services.

There are circumstances in which immigration/citizenship status verification is not required:

- **Head Start/Early Head Start Collaborations.** Verification requirements do not apply to children receiving Head Start services, as Head Start and Early Head Start are not considered “federal public benefits”. Any child eligible for Head Start may enroll without regard to immigration status or citizenship. Federal guidance clarifies that child care services that are subject to the federal Head Start Performance Standards and are supported by combined Head Start/Early Head Start and CCDBG funding are exempt from verifying the immigration status of any child. A Head Start/Early Head Start program operating a separate program within their space that is funded by CCDBG but is not providing any services with Head Start funding is not exempt from verifying the status of participating children.⁷
- **Services Subject to Educational Standards.** Verification requirements do not apply to children receiving CCDBG-funded services that are subject to public educational standards, including public and private pre-kindergarten settings and public and private child care.⁸ The Supreme Court has ruled that all children living in the United States, regardless of citizenship, are entitled to access public education.⁹
- **Non-profit Exemption.** Non-profit charitable organizations may not be required to verify citizenship or immigration status of applicants for child care assistance. A non-profit-charitable organization is defined as “an organization that is organized and operated (1) for purposes other than making gains or profits for the organization, its members or shareholders, and is precluded from distributing any gains or profits to its members or shareholders; and (2) for charitable purposes, including relief of the poor and distressed or the underprivileged, advancement of religion, or advancement of education.”¹⁰ Federal guidance of May 2008 states that in such cases in which a non-profit organization is responsible for determining eligibility, the Lead Agency retains responsibility for verification and must establish procedures for verification. The 2008 guidance amended early guidance from 1998, which explained that the non-profit exemption that is part of PRWORA law applied to CCDBG and did not require Lead

Agencies to adopt verification procedures. It is possible that HHS may revisit this 2008 guidance and further clarify the apparent discrepancies between the 1998 and 2008 guidance.¹¹

Social Security Numbers May Not be Required for Receipt of Child Care Assistance

According to federal guidance, states are not permitted to require Social Security Numbers (SSNs) for receipt of CCDBG-funded child care assistance and may not deny assistance to applicants on the basis of refusal to provide a SSN. While states are permitted to request a SSN on application forms, the form must make clear that provision of a SSN is optional. The application instructions must state that the SSN is not required and that “eligibility will not be denied due to the failure of the applicant to provide a Social Security Number.” Instructions should also explain how SSNs are intended to be used (i.e. not for individual identification but for research data) and how the state will preserve confidentiality.¹²

Receipt of Child Care Assistance Is Not Considered in “Public Charge” Determinations

Immigrant families may fear that accessing federal benefits may potentially affect either a parent’s application for permanent residency or citizenship or the family’s ability to bring other family members to the United States. Under the Immigration and Nationality Act, the United States can exclude people from immigrating to the United States or subject them to deportation if they are likely to become or have become a “public charge.”¹³ Guidance from the U.S. Department of Justice clarifies that almost all forms of non-cash assistance—including child care—may never be considered in making a public charge determination. In addition, non-fraudulent receipt of public benefits does not affect eligibility for citizenship.¹⁴

Federal TANF assistance, including TANF-funded child care, generally is denied to legal immigrants during their first five years in the United States, subject to limited exceptions; in a mixed-status household, a citizen child may be eligible for assistance even if parents and other family members are ineligible.

TANF-Funded Child Care

Federal TANF assistance, including TANF-funded child care, generally is denied to legal immigrants during their first five years in the United States, subject to limited exceptions. Many states use state funds or CCDBG funds to cover immigrants during the five-year period. In a mixed-status household, where there is at least one citizen and one non-citizen family member, a citizen child may be eligible for federally funded TANF cash assistance even if parents and other family members are ineligible. In most states, however, TANF-funded child care is considered as serving the needs of the parent and thus is not available to an unqualified immigrant parent.

States are permitted to spend TANF funds directly on child care or transfer a portion of their TANF block grant to CCDBG. TANF transfers to CCDBG are subject to the latter funding stream’s rules. Therefore, parental immigration status would not be a factor in determining eligibility for services funded with these dollars.

For detailed information on immigrant eligibility for TANF assistance, see National Immigration Law Center, [Public Benefits](#) information.

Endnotes

¹ Prohibition Against Exclusion From Participation In, Denial of Benefits Of, and Discrimination Under Federally Assisted Programs On Ground Of Race, Color Or National Origin, 42 U.S.C. 2000d, et seq. and Improving Access to Services For Persons With Limited English Proficiency, Exec. Order No. 13166 (August 11, 2000). See <http://www.hhs.gov/ocr/lep/> and <http://www.lep.gov> for additional information and resources.

² 8 USC Sec. 1642. Verification of Eligibility for Federal Public Benefits, <http://www.gpoaccess.gov>.

³ 8 CFR Part 104, Department of Health and Human Service, Department of Justice, Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA): Federal Public Benefit Interpretation; Notice Eligibility for Public Benefits Verification; Proposed Rule, http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=1998_register&docid=98-20491-filed.pdf; U.S. Department of Health and Human Services, Administration on Children, Youth and Families, ACYF-PI-CC-98-0, <http://www.acf.hhs.gov/programs/ccb/law/guidance/current/pi9808/pi9808.pdf>.

⁴ U.S. Department of Health and Human Services, ACYF-PI-CC-98-0.

⁵ See National Immigration Law Center for information on “qualified” immigrants, <http://nilc.org/immspbs/index.htm>; “Qualified immigrants” for the purposes of federal public benefits include: (1) lawful permanent residents (LPRs); (2) refugees, asylees, persons granted withholding of deportation/removal, conditional entry (in effect prior to Apr. 1, 1980), or paroled into the U.S. for at least one year; (3) Cuban/Haitian entrants; and (4) battered spouses and children with a pending or approved (a) self petition for an immigrant visa, or (b) immigrant visa filed for a spouse or child by a U.S. citizen or LPR, or (c) application for cancellation of removal/.

⁶ U.S. Department of Health and Human Services, ACYF-PI-CC-98-0.

⁷ U.S. Department of Health and Human Services, Administration on Children, Youth and Families, CCDF-ACF-PI-2008-01, <http://www.acf.hhs.gov/programs/ccb/law/guidance/current/pi2008-01/pi2008-01.htm>. Guidance issued in 2008 narrowed the Head Start exemption to exclude programs operating separate CCDBG-funded programs.

⁸ U.S. Department of Health and Human Services, ACYF-PI-CC-98-0. Services subject to public educational standards are not included in the definition of “Federal public benefits”.

⁹ Plyler, Superintendent, Tyler Independent School District v. Doe, 457 U.S. 202 (1982).

¹⁰ Department of Justice Proposed Rule on Verification for Public Benefits, see U.S. Department of Health and Human Services, ACYF-PI-CC-98-0.

¹¹ U.S. Department of Health and Human Services, CCDF-ACF-PI-2008-01; U.S. Department of Health and Human Services, ACYF-PI-CC-98-08.

¹² U.S. Department of Health and Human Services, Administration on Children, Youth and Families, ACYF-PI-CC-00-04, <http://www.acf.hhs.gov/programs/ccb/law/guidance/current/pi0004/pi0004.htm>.

¹³ *Classes of aliens ineligible for visas or admission*, 8 U.S.C. 1182(a)(4); *Classes of deportable aliens*, 8 U.S.C. 1227(a)(5).

¹⁴ U.S. Department of Justice, *Field Guidance on Deportability and Inadmissibility on Public Charge Grounds*, 64 Fed Reg. 28689, March 26, 1999.