

Issues Affecting Access to Benefits

- Confusion over immigrant eligibility rules
- **Privacy, Confidentiality and Verification**
- Concerns about “**Public charge**”
- Concerns about **Sponsors**
- Linguistic and Cultural Competence
- Logistical Barriers
- The “Climate”

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**

Who are 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**

Who are *NOT* Qualified Immigrants?

ALL Other Non-Citizens

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

Not Qualified Immigrants: Federal Program Bar

➤ Bar on “Federal Public Benefits”

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

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 services*)
- Refugee benefits (cash, medical, social services)
- Social Services Block Grant (SSBG)
- Children's Health Insurance Program (CHIP)
- Temporary Assistance for Needy Families (TANF)

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
- Health Insurance under the Affordable Care Act, including with subsidies (premium tax credits and cost-sharing reductions)
- Ryan White Programs

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, 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**

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

	Lawful Permanent Resident (aka "green card")			Refugees, Asylees, and Other Humanitarian Immigrants ¹	Other Lawfully Present Individuals ²	Undocumented Immigrants
	Adults 18 & Over	Children Under 18	Pregnant Women			
ACA: Subsidies	✓	✓	✓	✓	✓	X
Medicaid	X Until 5 years in status; except emergency services	X Until 5 years in status; except emergency services STATE OPTION During first 5 years	X Until 5 years in status; except emergency services STATE OPTION During first 5 years	✓	X Except emergency services STATE OPTION If under 21 or pregnant	X Except emergency services
CHIP (Children's Health Insurance Program)	X Until 5 years in status	X Until 5 years in status STATE OPTION During first 5 years	X Until 5 years in status STATE OPTION During first 5 years	✓	X STATE OPTION If under 21 or pregnant	X STATE OPTION Prenatal services
SNAP (Supplemental Nutrition Assistance Program, or food stamps)	X Until 5 years in status or 40 quarters of work history	✓	X Until 5 years in status or 40 quarters of work history	✓	X	X
TANF (Temporary Assistance for Needy Families)	X Until 5 years in status	X Until 5 years in status	X Until 5 years in status	✓	X	X
SSI (Supplemental Security Income)	X Until 5 years in status and 40 quarters of work	X Until 5 years in status and 40 quarters of work	X Until 5 years in status and 40 quarters of work	TIME LIMITED ELIGIBILITY Only during first 7 years after status is granted	X	X

Affordable Care Act

- US citizens, nationals and *lawfully present* individuals eligible for private health insurance in the individual “marketplaces,” subsidies (premium tax credits and cost-sharing reductions), Basic Health Plan
 - Undocumented and DACAmented immigrants ineligible even for full-price insurance in the individual marketplace
- SHOP: small business health options marketplace for small business employees & their dependents – no immigration status restrictions or verification

Verification of Eligibility and Immigration Status

- Key provisions of Sept 2000 Tri-Agency Guidance (CMS, ACF, USDA):
 - Prohibits violation of Title VI Civil Rights Act of 1964 (based on race, color and national origin)
 - State applications that require SSNs and/or immigration information may violate
 - Prohibits denying benefits to those who do not disclose information not required (i.e., SSN)
 - Must inform when SSN is mandatory and how it will be used
 - Cannot deny benefits to eligible individuals based on status of other household members

Verification of Eligibility and Immigration Status

- 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

Medicaid, CHIP, TANF, SNAP, ACA

- Agencies directed not to ask unnecessary questions about immigration status or SSNs
- Immigration status and SSNs required only of individuals seeking benefits themselves (applicants)
 - ACA – SSN required of a non-applicant IF: the individual has an SSN, is the tax filer for the household, AND is applying for premium tax credits for eligible family members
- Not required for Emergency Medicaid
- Parents seeking services for children must provide proof of income, but can use alternative methods

SAVE: Systematic Alien Verification for Entitlements

- Mandatory in SSI, TANF, SNAP (under 2014 Farm Bill), Medicaid, UIB, Financial Aid, ACA; Optional in CHIP, state programs.
 - Used via the federal data services “hub” for ACA, and Medicaid (in most states)
- Only the **applicant’s** status is verified
- Information provided to USCIS may be used only to determine eligibility for benefits
- In mandatory programs, agencies may not delay, deny, reduce or terminate benefits pending final verification
- Many states have their own verification requirements—erecting barriers, not eligibility

Federal Reporting Requirements

Extremely limited, applying only:

- in TANF, SNAP, SSI & a few HUD programs
- to applicants - not family members
- if person is “known” to be not lawfully present in the U.S.
 - “knowledge” of unlawful presence must be
 - supported by a formal agency finding subject to administrative review
 - AND a determination by DHS, such as a final order of deportation

Reporting is not triggered by:

- An oral or written “admission” regarding status
- A decision not to declare a status, or statement that a person is ineligible or “not qualified” for a benefit due to status.
- A worker’s suspicion or assumption about the person’s immigration status
- A SAVE response that fails to confirm an applicant’s immigration status
- Emerging threat: reporting component in state benefits verification laws

No Reporting in Health Care

- No reporting requirement in Medicaid, CHIP, ACA, hospitals
- Medicaid and ACA limit disclosure of information about recipients (and non-applicants), unless such disclosure is directly related to the administration of the program.
- Other programs have similar confidentiality policies.
- US Immigration and Customs Enforcement (ICE) issued guidance in October 2013 – info collected on a health insurance application will not be used for civil immigration purposes.
 - English: <http://www.ice.gov/doclib/ero-outreach/pdf/ice-aca-memo.pdf>
 - Spanish: <http://www.ice.gov/espanol/factsheets/aca-memoSP.htm>

Public Charge Concerns

An immigrant who has become or who is likely to become:

“primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense.”

Ground of inadmissibility: Applies when adjust to LPR status, enter U.S., or if LPR leaves U.S. for > 6 months and re-enters

Non-cash benefits and “special purpose” cash NOT considered

Examples of services that don't affect public charge decision:

- Medicaid, ACA, CHIP and other health insurance programs
- Nutrition programs (SNAP, WIC, school meals)
- Housing Assistance, LIHEAP
- Child Care, Job Training, short-term rehab
- Disaster assistance
- “Special purpose” cash

No Public Charge Test for:

- Refugees, Granted Asylum or Withholding
- Trafficking Victims, U visa holders
- VAWA self-petitioners
- Cubans under Cuban Adjustment Act
- Haitians under Haitian Refugee Immigration Fairness Act
- NACARA Adjustment
- Registry applicants
- Special Immigrant Juveniles
- Certain Indo-Chinese, Eastern European parolees applying for Adjustment
- **Citizenship** applicants

Potential Problems:

Cash Welfare and Long-Term Care

- Past receipt of cash assistance – SSI, TANF, General Assistance or institutionalization for long term care at government expense (i.e., Medicaid) can lead to public charge determination.
- But short term reliance on benefits does not automatically make someone a public charge.
- Nor does:
 - Use of cash welfare by family members
 - Past but not current use

Are Online Applications Working for Families That Include Noncitizens?

- Promise of online applications includes:
 - Can be completed and submitted 24/7 from anywhere the internet is available
 - Can reduce paperwork for consumers and workers
- What to look out for to ensure eligible individuals can apply online:
 - Are fears addressed in the application process?
 - Is there a pathway for benefits for mixed status families?
 - Are the complex verification rules for each program being implemented correctly?





Key Messages can Help to Address Fears in the Application Process

- Assure consumers that mixed immigration/citizenship status families can apply with non-applicant protections:
 - *Some family members of applicants may choose not to apply for coverage for themselves. In that case, they do not have to provide information about their citizenship or immigration status, that information is only needed for family members who are seeking coverage.*
- Ease fears related to how information will be used:
 - *Information you provide in the application will only be used to make an eligibility decision for benefits listed on this application, we will keep information you provide confidential.*
- Address fears about public charge, for example:
 - *Applying for benefits will not affect your immigration status or chances of getting a Permanent Resident Card (“green card”) or becoming a citizen.*



Ensure Non-Applicants are not Required to Disclose Citizenship and Immigration Status

- Are non-applicants required to disclose their citizenship or immigration status?
- Does the application require social security numbers of everyone in the household?



Applications should Avoid Asking Non-Applicants to Disclose Any Citizenship and Immigration Status Information

Now we need to get personal information for other people in your home.

Personal Information

* First Name:

Michael

Middle Name :

* Last Name:

Smith

Suffix:

--

* Gender :

☒ Male ☐ Female

* Date of Birth :

* What is this person's place of birth?

< click here to choose >

Alabama
Alaska
American Samoa
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District Of Columbia
Federated States of Micronesia
Florida
Georgia
Guam
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Marshall Islands
Maryland
Massachusetts
Michigan
Minnesota
Mississippi

☐ None of these

Is this person a resident of Montana ?

In the past year did this person:

☐ Change jobs

☐ Stop working

What is this person's marital status?

Program Selection

You selected the following programs on the prior screen. If this individual do
box.

☐ SNAP

☐ TANF

ce selected below, please uncheck the

Assistance




Ensure Identity Proofing does not Create a Barrier

- Does the application require an adult in the unit to complete ID proofing in order to submit an application online?
- Does the application's proofing process primarily rely on information from credit history records?
- Is there an alternative ID proofing process for people who don't have credit histories and does the alternative work for mixed status families?
- Note: This is not required under SNAP.



Applications Should Provide a Pathway for People who Can't Meet ID Proofing Requirement



[Contact Us](#) [FAQ](#) [Help](#) [Site Map](#) [Log Out](#)

e-Application # W9300540

[View/Print My e-Application](#) [Cancel e-Application](#) [Save e-Application & Finish Later](#)

Getting Started

Household

Benefits

Individual Details

Income

Expenses

Tax Deduction

Insurance

APTC / CSR

Resources

Summary

Next Steps

Verification

Submit e-Application

Identity Proofing Verifications

Once you click on the 'Next' button, you will be taken to ID Proofing questions.

Only the head of household (Tiffany Smith) will be ID Proofed. Please ensure that he/she is present before clicking the 'Next' button.

In order to have an immediate determination made regarding the Medical Eligibility for your household, the identity of Tiffany Smith must be verified. The identity of Tiffany Smith will be verified by a process called Identity Proofing. You will be asked to answer 3 -5 questions about Tiffany Smith. Successfully answering these questions will allow us to obtain information from electronic data sources and possibly determine Medicaid eligibility immediately.

If the questions are not answered correctly or you choose not to use Identity proofing, you may still submit the application. A case worker will determine your eligibility.

☐ I do wish to use ID Proofing at this time.

☐ I do not wish to use ID Proofing at this time. I will submit my application without Identity proofing. I understand that I will not be provided with an immediate determination of Medicaid eligibility.

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Ensure Electronic Verification of Citizenship and Immigration Status is Not Deterring or Delaying Access

- Are citizens and immigrants being determined correctly by electronic sources?
- Are citizens and immigrants being notified clearly what to do when their status can not be immediately substantiated by electronic sources?
- Are citizens and immigrants provided benefits while status is being verified?



What Can You Do?

- Review your state's online application.
- Stay alert and ask consumer serving groups if immigrant and citizenship status appears to be functioning accurately.
- Contact your state agency for a meeting to discuss findings of application review
- Ask your state for a copy of consumer notices that are provided when status can't be immediately verified.
- Share your concerns with your state, FNS, CMS, and ACF.
- Encourage consumers to appeal decisions that appear inaccurate.
- Engage your networks on this issue.

We are Here to Help

- ▶ Center on Budget and Policy Priorities: www.cbpp.org
 - Ty Jones tjones@cbpp.org
 - Shelby Gonzales gonzales@cbpp.org
- ▶ National Immigration Law Center: www.nilc.org
 - Avidah Moussavian Moussavian@nilc.org
 - Jenny Rejeske Rejeske@nilc.org
- ▶ Center: www.clasp.org
 - Cemere James cjames@clasp.org
 - Elizabeth Lower-Basch elowerbasch@clasp.org

Questions

- ▶ To Type your question:

