

ACCESS TO HEALTH CARE FOR IMMIGRANTS IN CALIFORNIA

Positive Resource Center
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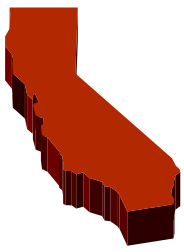
Issues Affecting Access to Benefits

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- **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

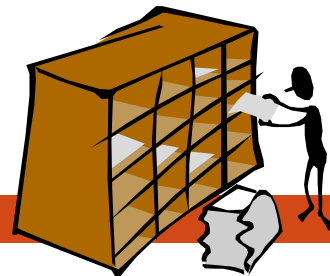


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- **Live in CA with intent to reside here, or**
- Live in CA and entered State with job commitment or to seek employment, whether or not currently employed.

Children generally assume the residence of their parents, with an opportunity to establish state residence independently.

Immigrant Benefit Classifications



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- **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

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- **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

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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

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- If 18 or over, must be certified by HHS
 - Children under 18 may get 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

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➤ *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 (see MC 13 Form – Statement of Citizenship, Alienage, and Immigration Status). May include persons:

- with approved immediate relative visa petition
- who filed application for adjustment to LPR status
- granted deferred action (**including DACA**)
- 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

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➤ **Federal**

“Public Benefits” barred

➤ **State or Local**

“Public Benefits” barred

unless state passes new law



Not Qualified Immigrants: Federal Program Bar

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Bar on Federal “Public Benefits”

“Public Benefits” defined by federal agencies
→ Executive Order asked them to look again

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

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- 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



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- **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



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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



- **Medi-Cal for children**
- **Emergency Medi-Cal**
- **Prenatal care** (Medi-Cal)
- Medi-Cal Access Program (MCAP, formerly AIM)
- Long-term care
- Early Breast Cancer Detection and Breast and Cervical Cancer Treatment
- IMPACT (prostate cancer)
- California Children's Services (CCS)
- Healthy Kids (Children's Health Initiatives)
- Health Programs in some counties (Healthy SF)
- **Community clinics**
- Family PACT
- Minor consent services
- Mental health services
- **ADAP & OA-HIPP**
- Regional Center Services
- Women Infants and Children (WIC)
- School lunch and breakfast

Angie and Nadia



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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. Is Nadia eligible for treatment?
2. Is Angie required to verify Nadia's immigration status?
3. Is Angie required to report Nadia to the Department of Homeland Security?

Immigrant Eligibility for Major California Programs

Full-Scope Medi-Cal

Adults: Qualified immigrants & PRUCOL;

Children & Pregnant women: regardless of status

CalWORKs

Qualified immigrants & PRUCOL. Deeming rules apply

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.

NOTE: Trafficking survivors and U visa applicants/holders are eligible for all state & local programs



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?

Kim and her Family

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- Kim is a 28-year-old mom with one child, age 6. Both are LPRs who entered the U.S. in 2015. Kim lost her job. Are mom and child eligible for nutrition assistance or health coverage?
- Kim's mother travels to U.S. from Japan to visit. When her visa expires, she overstays. Grandma slips, breaks her arm, and is taken to the emergency room. Is she eligible for Medi-Cal?

Survivors of Trafficking and other Serious Crimes in CA:

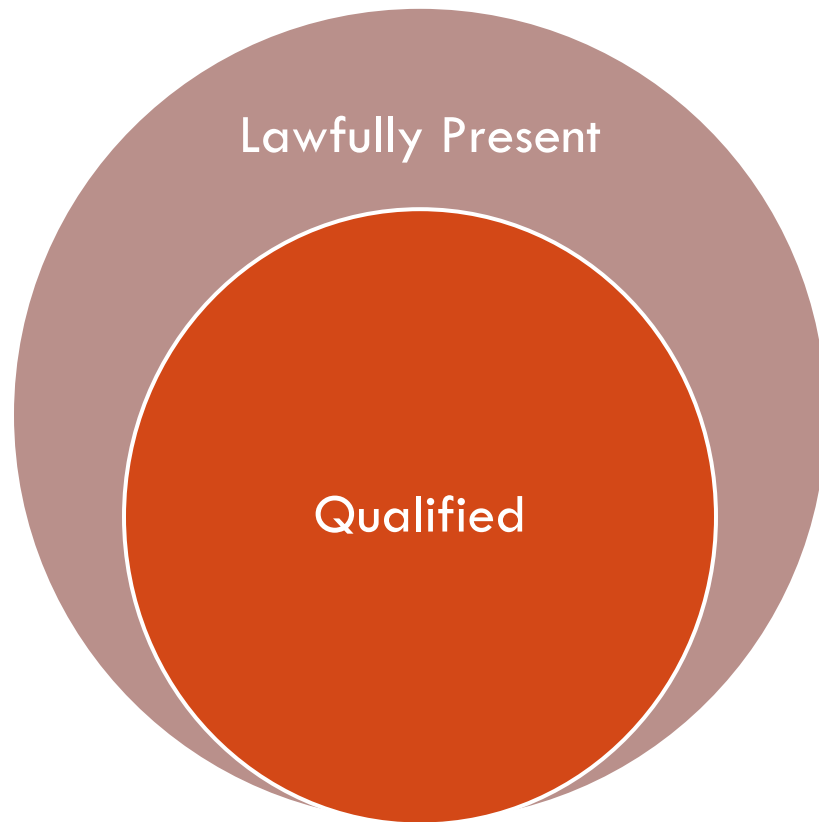
- **Trafficking Survivors** can get state and local benefits before certified for federal benefits
- 12 months, extended if T visa application or Continued Presence request filed
- **U visa applicants/holders** get state and local benefits
- Continues unless U status finally denied
- **State RCA and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

Clare, Mike and Tyler

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- 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?

Eligibility for Covered California



lawfully present

immigrants are eligible to purchase health coverage through state health care marketplaces

➤ No waiting period

exception:

People who received deferred action through DACA are specifically excluded

Lawfully Present Noncitizens

- **All “qualified” immigrants**
- **Others authorized to live and/or work in the U.S., e.g.**
 - temporary protected status (TPS)
 - most with deferred action
- **Applicants for:** adjustment to LPR, asylum, and certain other statuses
- **Individuals with valid nonimmigrant status**

Complete list:

<https://www.healthcare.gov/immigration-status-and-the-marketplace/>

Public Charge: Background



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- Public Charge is a ground of inadmissibility that applies when a person seeks:
 - Admission to the US
 - Lawful permanent residence (LPR, a green card)
- Refugees, survivors of domestic violence, crime, or trafficking, special immigrant juveniles, other “humanitarian” immigrants - and LPRs applying for citizenship are **not** subject to public charge.

Public Charge



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- Public charge test is based on **all facts** relevant to individuals' ability to support themselves, including at a minimum, their:
 - Age
 - Health
 - Financial resources
 - Family status
 - Education and skills
- Other relevant factors, like an affidavit of support, may be considered

Public Charge



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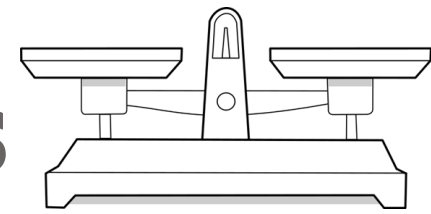
- Other potentially relevant factors include the person's use of public benefits. Under current rules, only two types of benefits can be considered:
 - **Cash assistance** for income maintenance
 - Institutionalization for **long-term care** at government expense
- USCIS expected to propose new regulations that would expand factors considered in the public charge test dramatically, including the benefits that can be considered
- Instructions for consular officers abroad were revised (less dramatically) in January, and may be revised again to conform with any new rules for decisions made in the US.

Proposed Rules: Not Retroactive

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- Under leaked drafts of the proposal, benefits:
 - received before the final date of any new regulations
 - that are currently excluded from the public charge assessment
- **Will not** be considered in the Public Charge determination

Messages for Consumers



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- **Some immigrants are NOT subject to public charge**
- **Positive factors are balanced against negative factors.** A person with a negative factor may be able to overcome it by showing positive factors.
- **Forward Looking.** If proposal becomes final, non-cash benefits used before that time will not be counted. Using benefits now can help you or your family members become healthier, stronger and more employable in the future.
- **Each situation is different.** People with questions should consult an immigration attorney about their individual case.
- **Fight back!** Let the government know that this proposed rule would harm you, your family, community and the country. Organize with others to weigh in.

Key Issues for Mixed-Status Families



- Undocumented individuals may apply for coverage on behalf of their dependent family members
 - Applications should distinguish between *applicants* (e.g., U.S. citizen child) & *non-applicants* (e.g., undocumented parent)
 - Non-applicants are not required to provide their immigration status
 - Non-applicants without SSNs cannot be required to provide one
 - Never provide an SSN unless officially issued by the Social Security Administration
 - Individual Taxpayer Identification Numbers (ITINs) should not be used
- Information provided on an application may be used **ONLY** to determine eligibility for health insurance.

Health Care Providers Can:

- **Document harm of restrictive policies and benefits of improving access**
- **Monitor policies to ensure they are implemented properly**
- Educate families about available services
- Help ensure that immigration and health policies are responsive to families and public health needs
- **Address the barriers that prevent eligible families from securing care**



Resources

- [Major Benefit Programs for Immigrants in California](#)
- [Public Charge Information \(NILC\)](#)
- [Sponsored Immigrants and Benefits in California](#)

Protecting Immigrant Families Campaign Resources

- [Fact sheet](#) on proposed changes to public charge
- [Fact sheet](#) on changes to the Foreign Affairs Manual (FAM)
- [“Things to Keep in Mind When Talking with Immigrant Families”](#)
- [Proposed Changes to Public Charge Policies for Immigrants: Implications for Access to Health Care](#) (Kaiser Family Foundation)
- **National Immigration Law Center:** www.nilc.org

More Resources

- [Privacy Protections in Selected Federal Benefits Programs](#)
- [Health care Providers and Immigration Enforcement: Know Your Rights, Know Your Patients' Rights](#)
- [Everyone has Certain Basic Rights, No Matter Who is President](#) (Arabic, Chinese, English, Korean, cards also in Farsi and Somali)
- [Know Your Rights Cards from the Immigrant Legal Resource Center](#) (Arabic, Chinese, English, Hmong, Korean, Spanish & Vietnamese)
- [Family Preparedness Plans from the Immigrant Legal Resource Center](#)