

Access to Public Benefits for Older Immigrants

Tracey Gronniger, Justice in Aging

Natalie Kean, Justice in Aging

Housekeeping

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- Written materials and a recording will be available at NCLER.acl.gov. See also the chat box for this web address.

About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

About Justice in Aging

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we've focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

Key Lessons

- Eligibility for public benefits depends on immigration status and program rules.
- Eligibility for Supplemental Security Income has additional conditions.
- Eligibility for Medicaid and other programs varies by State.
- Medicare has its own set of eligibility rules.

Background and Categories of Immigration

Benefits for Older Adult Immigrants (a little history...)

- Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (“1996 welfare law”)
 - Severely restricted or outright denied access to major federal public benefits for immigrants.
 - Created categories of “Qualified” and “Not qualified” immigrants.
- Major Federal Benefits Programs Affected
 - Medicaid, CHIP, TANF, SNAP, SSI.

Important Exceptions Restrictions

- Public health programs providing immunizations or treatment of communicable disease symptoms.
- Short-term noncash emergency disaster assistance.
- In-kind services to protect life/safety if no income qualification, including:
 - Adult protective services
 - Shelters, soup kitchens, meals-on-wheels
 - Disability or substance abuse services necessary to protect life/safety
- State Option

Categories of Immigrants (1 of 2)

Undocumented vs Lawfully Present Immigrants:

- Lawfully Present: Anyone who is federally authorized to be in the U.S. may have work authorization, but not necessarily
- Undocumented: not federally authorized to be in the U.S.
 - Not all undocumented immigrants entered the U.S. without inspection-many came lawfully

Categories of Immigrants (2 of 2)

Many families are “mixed-status”:

- It is not unusual for a family to include citizen children and or one more immigrant parents.
- There are implications for access to programs and services that affect the entire family.

“Qualified” Immigrants

- Eligibility for most federal public benefits require immigrants to be “qualified”:
 - Lawful Permanent Residents (green card holders)
 - Refugees and people granted asylum
 - Certain abused immigrants, their children and/or parents
 - Five-year bar for qualified immigrants entering U.S. after 1996
- Five-year bar for qualified immigrants entering U.S. after 1996 (some exceptions)
- Few benefits for “not qualified” immigrants

Immigration and SSI

Supplemental Security Income (SSI)

- Federal program administered by the Social Security Administration (SSA).
- “Means-tested” program.
- Subsistence level income for aged, blind, or individuals with disabilities.

2019 Monthly Max Fed SSI Payment
\$771 (individual) or \$1,157 (couple)

<https://www.ssa.gov/oact/cola/SSI.html>

Immigrant Eligibility for Social Security

- “Regular” Social Security eligibility rules apply for immigrants legally in the U.S.
- Social Security benefits are based on having sufficient work “credits” and amount of income earned.

Immigrant Eligibility for SSI

1. Must be in the “Qualified” category; and
2. Must meet at least one condition allowing for qualified immigrants to receive SSI.

Additional Conditions - SSI

Conditions allowing for SSI eligibility:

- Receiving SSI prior to August 22, 1996.
- Lawful permanent resident with 40 qualifying quarters (credits) of work (worker, spouse, and parent may count, and may be combined) – 5-year bar applies.
- Active duty or honorably discharged veteran (or spouse or child of veteran).
- Were lawfully residing in U.S. on 8/22/96 and now disabled (**no** age-based benefit).
- “7-year” categories: Refugees, asylees, survivors of trafficking, Cuban/Haitian entrants, deportation/removal withheld, etc.) **limited to 7 years of benefits.**

State Eligibility for SSI

- Five states currently provide cash assistance to immigrant seniors and people with disabilities otherwise ineligible for SSI under federal law
 - **California, Hawaii, Illinois, Maine, and New Hampshire**

Medicaid Eligibility

5 Year Waiting for Period in Medicaid

- Most qualified immigrants are subject to the 5-year bar for Medicaid.
- Several categories are not subject to the 5-year bar. See next slide for categories.

5 Year Waiting Period in Medicaid

- Categories who are not subject to the 5-year bar include:
 - ✓ Immigrants who physically entered the U.S. before 8/22/96 and remained in the U.S. continuously until obtaining a qualified status
 - ✓ Refugees, asylees, granted withholding of deportation/removal (even if later become LPRs)
 - ✓ Cuban/Haitian entrants, certain Amerasian immigrants, Iraqi or Afghan special immigrants, trafficking survivors (even if later become LPRs)
 - ✓ Qualified immigrants who are honorably discharged U.S. veterans or on active military duty and their spouses or children
 - ✓ Children and Pregnant women in Medicaid & CHIP (at state option)
- These categories of immigrants are similarly exempt from the 5-year bar for CHIP and TANF

Medicaid (and CHIP) State Options

- State Funded Coverage:
 - States can cover additional immigrants with their own funds
- Options for all states to receive federal funding to cover:
 - lawfully present children and pregnant women without a waiting period
 - Prenatal care regardless of a woman's status through CHIP
- A few states deny Medicaid to qualified immigrants even after the five year waiting period.

Emergency Medicaid

- Medicaid payment for limited services related to an emergency medical condition.
- Available to:
 - ✓ Qualified immigrants during the 5-year waiting period
 - ✓ Lawfully present but not qualified immigrants, such as persons with Temporary Protected Status (TPS) and many others
 - ✓ Undocumented immigrants
- Must meet state's other Medicaid eligibility requirements (income, residency etc.).

SNAP (1 of 2)

SNAP eligibility is similar to, but not exactly the same, as Medicaid and TANF

- 5-year waiting period unless a specific exception is met

Categories of immigrants not subject to the 5-year bar for SNAP

- ✓ Most of the Medicaid/TANF exceptions (but no general date of entry exception or exception for pregnant women)
- ✓ People receiving disability benefits
- ✓ LPRs who were elderly (65+; born on or before August 22, 1931) and legal residents on August 22, 1996

SNAP (2 of 2)

- Five states—California, Connecticut, Maine, Minnesota, and Washington—continue to provide state-funded nutrition assistance to some or all of the immigrants who were rendered ineligible for the federal SNAP program.

Medicare Eligibility

Medicare Enrollment Basics—A & B (1 of 2)

- Part A (hospital benefit)
 - \$0 premium if individual (or spouse) has 40 quarters of work history
 - 30-39 quarters: \$240/mo.
 - Under 30 quarters: \$437/mo (2019)
- Part B (physicians, most other services)
 - Premium: 2018 premium is \$134/mo. (2018)
- Part D-Enrolled in either Part A or Part B
- Part C-Enrolled in both Part A and Part B

Medicare Enrollment Basics—A & B (2 of 2)

- Late enrollment penalties for Part A and Part B
- Basic immigration requirement:
 - Citizen or lawfully present

Non-citizens with \$0 premium Part A

- Who are they?
 - Long term residents with long work history, OR
 - Married to someone with work history
 - Most are LPR, a few are Temporary Protected Status (TPR) or others
- No special requirements
 - No length of residency requirements
 - Can enroll in Part A and Part B

Non-citizens without \$0 premium Part A

- Must be U.S. resident,
- Must be LPR, AND
- Must have 5 years of continuous residence in US
 - Required for Part A and/or Part B
 - Short trips out of the country usually do not imperil continuous residence status
 - Trips of 6 months or more trigger review of LPR status

Part D Low Income Subsidy (LIS or “Extra Help”)

- Available to anyone with Part A or Part B and enrolled in Part D.
- No extra immigration requirements.
- Called out in Public Charge proposed regulations.

Affordable Care Act (ACA) Marketplace Coverage

- ACA coverage is available to all **lawfully present** immigrants (except DACA recipients).
- There is no waiting period for ACA coverage (5-year bar does not apply).
- Also eligible for financial assistance:
 - Premium tax credits if income is 0 to 400% FPL
 - Cost-sharing reductions if income is 0 to 250% FPL

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