

Immigrant Eligibility Checklist

Background

- 30,000 “aliens with special status” (AWSS) have been notified that their Commonwealth Care will end after August 31, 2009
- Starting September 1, 2009, only “qualified aliens” will be eligible for Commonwealth Care.
- Most (90%) of the AWSS are recent Legal Permanent Residents (LPRs) or Parolees who will not be “qualified aliens” until they have had their status for at least 5 years (the 5-year bar).
- There are 9 exceptions to the 5-year bar.
- If an exception to the 5-year bar applies, the member is a “qualified alien” and should remain eligible for Commonwealth Care.
- The following is a checklist to review whether any of the 9 exceptions to the 5-year bar apply to a recent LPR or parolee.
- Also included is a short description of additional categories of qualified aliens other than legal permanent residents or parolees.

Qualified aliens who are now legal permanent residents or parolees

- People who obtained LPR/parole status at least 5 years ago
- People who obtained LPR/parole status less than 5 years ago but meet one of 9 exceptions to 5-year bar--
 1. Entered US prior to 8-22-96 and continuously lived in US until recently obtaining LPR/parole status;
 2. Veteran or spouse of veteran of US military (or under US command in WW II or Vietnam);
 3. Individual or individual’s children who were subject to domestic violence from spouse or parent or family member of spouse or parent with whom they were living (must no longer be living with abuser);
 4. Cuban or Haitian who was paroled into US or adjusted to LPR status under certain laws (see Memo on Cuban-Haitian Entrants);
 5. Amerasian from Vietnam;
 6. Individuals who fled persecution and had Refugee status, Political Asylum or Withholding of Deportation prior to becoming an LPR;
 7. Native American born in Canada or other territory outside US;
 8. Trafficking victim (T visa) prior to becoming an LPR; or
 9. Special immigrant from Iraq or Afghanistan (qualified status is time-limited).

Qualified aliens who are not now legal permanent residents or parolees

- Individuals who fled persecution and have been granted-
 - Refugee status,
 - Political Asylum, or

- Withholding of Deportation;
- Cuban or Haitian who is a Cuban-Haitian entrant based on-
 - Pending application for asylum, or
 - Currently in removal but not subject to final enforceable order, e.g. under an Order of Supervision;
- Individual or individual's children who were subject to domestic violence from spouse or parent or family member of spouse or parent with whom they were living (must no longer be living with abuser) and not yet an LPR;
- Native American born in Canada or other territory outside US; or
- Trafficking victim (T visa) not yet an LPR.

Required Proof

- LPR/Parolees must submit documentary proof of LPR/Parole status. For example:
 - Permanent Resident card
 - Employment authorization card (with certain codes)
 - I-94 card (with certain codes)
 - Immigrant visa in a foreign passport
 - Decision of Board of Immigration Appeals
 - Other immigration documents
- Some of the exceptions to the 5-year bar can be proved by the same documents that are used to prove LPR/Parole status. For example:
 - Code on Permanent Resident card may prove prior Refugee/Political Asylum status, Cuban-Haitian Entrant, Amerasian exceptions
- Some of the exceptions to the 5-year bar can also be proved by additional immigration or other documents e.g. decision granting political asylum; tribal membership card, HHS certification of trafficking victim.
- Some of the exceptions to the 5-year bar can be proved by self-declaration. For example: US entry date prior to date LPR/Parole status obtained; veteran, or domestic violence.
- Qualified aliens who are not LPR/Parolee must also submit documentary proof of status.

Where to call for assistance

The following organizations are available to assist immigrants who received the Commonwealth Care termination notice but believe they should remain eligible as qualified aliens:

- Health Care for All Helpline: 617-350-7279; 800-272-4232
- Mayor's Health Line: 617-534-5050; 800-847-0710
- Legal Advocacy and Resource Center (LARC): 617-603-1700; 800-342-5297
- Health Law Advocates: 617-338-5241
- Mass. Immigrant and Refugee Advocacy Coalition: 617-350-5480
- Mass. Law Reform Institute: 617-357-0700

Prepared by the Massachusetts Law Reform Institute, August 10, 2009.