



**ANSWERS TO FREQUENTLY ASKED QUESTIONS BY THE HAITIAN COMMUNITY  
IN THE AFTERMATH OF THE JANUARY 12<sup>TH</sup> HAITIAN EARTHQUAKE**

**Overview**

Many questions and rumors have surfaced in the Haitian community since the January 12<sup>th</sup> Haitian earthquake. Massachusetts Law Reform Institute has put together a list of questions and answers to address concerns and dispel rumors. These are only **general** questions and answers. If you have questions about your own immigration status, read these questions to learn more, but speak with an experienced immigration attorney to get advice. Immigration law is very complex and every case is unique. You should always consult with an immigration attorney about your own case. Many organizations provide free immigration legal advice and services. To find a legal service agency in your area, please call 617-367-8544 or you can visit [www.masslegalhelp.org/immigration/specialists](http://www.masslegalhelp.org/immigration/specialists).

The answers to these questions may change. Pay attention to the date at the bottom of each web page and make sure you talk to an experienced immigration attorney before you take any action in your own case. You can find the most up to date information on the Immigration website at the end of each answer.

**Table of Contents**

<b>Temporary Protected Status .....</b>	<b>2</b>
<b>Bringing Relatives to the United States .....</b>	<b>5</b>
<b>Adoption .....</b>	<b>8</b>
<b>Status of U.S. Embassy.....</b>	<b>10</b>
<b>Education .....</b>	<b>10</b>
<b>TPS and Eligibility of State and Federal Benefits .....</b>	<b>12</b>
<b>Safety Net Benefits for Haitians.....</b>	<b>13</b>
<b>Miscellaneous.....</b>	<b>17</b>

## **Temporary Protected Status (TPS)**

### **\*\*1. What is TPS?**

TPS is a temporary immigration status granted to eligible nationals of a country (or to persons without nationality who last habitually resided in the designated country) that the Secretary of Homeland Security has designated for TPS because the country is experiencing an ongoing armed conflict, an environmental disaster, or extraordinary and temporary conditions. During the period for which the Secretary has designated a country for TPS, TPS beneficiaries are eligible to remain in the United States and may obtain work authorization, so long as they continue to meet the terms and conditions of their TPS status. Getting TPS does not get you closer to permanent resident status. When the Secretary terminates a country's TPS designation, beneficiaries return to the same immigration status they maintained before TPS (unless that status has since expired or been terminated) or to any other status they may have obtained while registered for TPS.

TPS is only available to Haitians, who:

1. are a Haitian national or a person who last habitually resided in Haiti;
2. continuously resided in the U.S. on or before **January 12, 2010**;
3. have remained continuously physically present in the U.S. since **January 21, 2010**;
4. meet other immigration admissibility requirements; and
5. fully complete the TPS application process.

TPS is currently available for Haitians from January 21, 2010 until July 22, 2011. However, DHS may extend TPS for Haitians beyond this initial 18 month period. You must register for TPS by **January 18, 2011** to be eligible for TPS now and for any extensions. To register for TPS, you must complete an Application for Temporary Protected Status (Form I-821) including an application an Application for Employment Authorization (Form I-765), have your fingerprints taken, and pay the filing fees or request a waiver of the fees.

Source: [USCIS](http://uscis.gov) and Federal Register <http://edocket.access.gpo.gov/2010/2010-1169.htm>

### **2. Do I have to pay for the TPS forms?**

No, the forms to apply for TPS are free. Never pay for blank immigration forms. You can get forms by:

- Going to the local USCIS office in the JFK Federal Building, 15 Sudbury Street, Boston. You can find the forms you need on a table in the lobby and at the information counter in Room E-160;
- Calling USCIS toll free customer service number at 800-375-5283; or
- Downloading the forms (I-821, I-765) from the USCIS website [www.uscis.gov](http://www.uscis.gov)

Many legal service agencies help people apply for TPS for free. To find a legal service agency in your area, call 617-367-8544 or click [here](#). You can also check our calendar of TPS clinics throughout the state.

Source: USCIS [www.uscis.gov](http://www.uscis.gov)

### **3. Does it cost money to apply for TPS?**

Yes. For those under the age of 14, it costs \$50. For those ages 14-65, it costs \$470 with work authorization; \$130 without work authorization but you still have to complete the employment authorization form (I-765). For those over the age of 65, it cost \$130.

Source: USCIS [www.uscis.gov](http://www.uscis.gov)

### **\*\*4. What can I do if I cannot afford to pay the fees?**

You can ask USCIS to “waive” the fees. If USCIS decides to waive the fees, you will not have to pay them anything. To ask USCIS to “waive” the fees, you must submit a statement with your TPS application that specifically asks USCIS to waive the fees and explains your income and expenses. You must also include documents that show you cannot afford the fees like your pay stubs or evidence that you receive some type of public assistance. Fees that can be waived are the Application for Temporary Protected Status (Form I-821), the Application for Employment Authorization (Form I-765), the Application for Waiver of Ground of Inadmissibility (Form I-601), and the biometrics fees. The Application for Travel Document (Form I-131) cannot be waived. Speak with a legal service attorney to help you with the waiver. [www.masslegalhelp.org](http://www.masslegalhelp.org)

Source: [USCIS Fee Waiver Guidance](#)

### **5. If I request a waiver of the fee, will USCIS deny my application?**

No, USCIS will not deny your application simply because you asked not to pay the fee. Your ability to pay the filing fee does not affect your eligibility for TPS. If USCIS denies your fee waiver application, it will allow you to resubmit your application with the appropriate fee.

Source: [USCIS Fee Waiver Guidance](#)

### **6. Will asking for a fee waiver delay my application?**

Yes, but it is not significant. As of the day of this Q & A writing, USCIS is working hard to make a decision on a fee waiver request within five (5) business days.

Source: USCIS February 3, 2010 Stakeholder Call

### **7. Can every Haitian get TPS?**

No. First, only Haitians who continuously resided in the US on or before January 12, 2010 and who continuously physically present in the US since January 21, 2010 are eligible for TPS. Secondly, certain immigration laws still apply for TPS applicants including laws denying an immigration status because of a criminal conviction or involvement in immigration fraud. A waiver is available for some grounds of inadmissibility. (Form I-601)

**Warning!** If you have ever been *arrested*, you should obtain the advice of an immigration attorney before filing for TPS or contacting any immigration officials.

Source: [USCIS Haitian TPS](#) and [Federal Register](#)

**8. Can I get TPS if I came to this country without the US government knowing? For example, if I took a boat here.**

Yes. Coming to or living in this country without a lawful immigration status does not stop you from getting TPS, unless other inadmissibility rules apply. Consult an experienced immigration attorney.

Source: [USCIS Haitian TPS](#) and [Federal Register](#)

**9. If I get TPS, can I travel in and out of the country?**

It depends but probably not. It is very important that you speak to an immigration attorney before traveling outside of the country because there can be severe immigration consequences for traveling abroad. Immigration rules about whether you can reenter the United States still apply to TPS recipients. You may not be able to come back into the country if you leave even if you have permission from USCIS in the form of advanced parole. For example, if your visa expired more than six months before receiving TPS, you will not be able to reenter after departing the US and may be placed in removal proceedings.

Source: [Immigration and Nationality Act](#)

**10. I have overstayed my original visa. If I apply for TPS now will immigration officials arrest me and deport me when TPS expires in 18 months?**

There are a number of factors to think about when you apply for TPS. Often the benefits of TPS outweigh the risks.

1. TPS for Haitians will likely be extended beyond 18 months. Even though TPS expires in 18 months, it is likely the US will extend TPS past July 22, 2011.  
Five other countries have TPS right now. Those countries have had TPS for an average of 12 years. For some countries, TPS has been extended over 10 times! It is likely that Haiti's recovery from the earthquake will take more than 18 months. The length of time that other countries have had TPS plus the time it is taking for Haiti to recover from the earthquake makes it look likely that TPS will be extended past the July 22, 2011 cutoff.
2. U.S. Immigration and Customs Enforcement (ICE)'s top priority for immigration enforcement is to focus on immigrants with criminal records that make them "removable".

Source: Executive Office for Immigration Review <http://www.justice.gov/eoir/vll/fedreg/tpsnet.html> and ICE Annual Report [http://www.ice.gov/pi/reports/annual\\_report/2008/ar\\_2008\\_page1.htm](http://www.ice.gov/pi/reports/annual_report/2008/ar_2008_page1.htm)

## **Bringing Relatives to the United States**

### **11. If I get TPS, can I apply for my relatives in Haiti to come to the United States?**

No, TPS beneficiaries cannot request immigrant visas on behalf of their relatives.

Source: [Immigration and Nationality Act](#)

### **12. I am a U.S. Citizen in the U.S. and have a U.S. citizen child in Haiti. Do I just have to give notarized permission for someone to bring my child to the U.S.?**

On February 19, 2010, commercial airlines began to fly to and from Haiti again and the U.S. government stopped helping people evacuate Haiti. Commercial airlines can make special arrangements for children who need to fly alone, "unaccompanied minors." If your child does not have a U.S. passport, contact the U.S. Embassy to make an appointment to apply for a passport.

Source: Department of State [http://travel.state.gov/travel/cis\\_pa\\_tw/pa/pa\\_haiti\\_info\\_number.html#1](http://travel.state.gov/travel/cis_pa_tw/pa/pa_haiti_info_number.html#1)

### **13. Will the person who brings my child to the US have a travel visa for a month?**

Not necessarily. The U.S. Customs and Border Patrol will give the person who brings your child to the US permission to enter the United States for a specific amount of time. It may be for a month or more likely for six months. They will write down the date at which the person must leave the United States on an I-94 card.

Source: Department of State [http://travel.state.gov/travel/cis\\_pa\\_tw/pa/pa\\_haiti\\_info\\_number.html#1](http://travel.state.gov/travel/cis_pa_tw/pa/pa_haiti_info_number.html#1)

### **14. The person bringing my child to the US has a travel visa that expires in six months. What can she do if she wants to stay?**

If you have a B2 visa, you can ask for an "extension" so that you are allowed to remain in the United States for an additional six months or you can ask to change your immigration status. If you want to change your immigration status, speak to an experienced immigration attorney about your options. You would use the same form for either choice – Application to Extend/Change Nonimmigrant Statue (Form I-539).

Source: [USCIS](#)

### **\*\*15. I am a U.S. citizen. Can I go to Haiti and bring as many people as I want back with me?**

No. The earthquake has not changed the process to bring relatives to the United States, You must file an application with USCIS and have prior approval from Department of Homeland Security(DHS) and the State Department. DHS has stated that Haitian nationals without proper documentation will be returned to Haiti.

Note

The State Department has ordered the departure of all non-emergency U.S. government personnel from Haiti and strongly urges U.S. citizens not to travel to Haiti. If you decide to travel to Haiti, please register your trip with the State Department <https://travelregistration.state.gov/ibrs/ui/>.

Source: Department of State [http://travel.state.gov/travel/cis\\_pa\\_tw/pa/pa\\_haiti\\_info\\_number.html#1](http://travel.state.gov/travel/cis_pa_tw/pa/pa_haiti_info_number.html#1) and U.S. Embassy in Port au Prince Haiti - [http://haiti.usembassy.gov/pr\\_020210.html](http://haiti.usembassy.gov/pr_020210.html)

**\*\*16. I already applied for someone before January 12, 2010 can I just go to Haiti and get the person?**

No. The earthquake has not changed the process to bring relatives to the United States. The U.S. Embassy has begun to process immigrant and non-immigrant visas again. The schedule and procedure has changed. Check the embassy's website <http://haiti.usembassy.gov/index.html>.

Source: Department of State [http://travel.state.gov/travel/cis\\_pa\\_tw/pa/pa\\_haiti\\_info\\_number.html#1](http://travel.state.gov/travel/cis_pa_tw/pa/pa_haiti_info_number.html#1)

**17. If I go through the Dominican Republic, can I bring my family members to the United States?**

No. If your family goes through the Dominican Republic to get to the United States, it only means they will need to get a visa to enter the Dominican Republic as well as applying to the USCIS for a visa to enter the United State. You must file an application with USCIS and have prior approval from Department of Homeland Security and the State Department before your relatives can leave Haiti and enter the United States. DHS has stated that Haitian nationals without proper documentation will be returned to Haiti.

Source: Department of State [http://travel.state.gov/travel/cis\\_pa\\_tw/pa/pa\\_haiti\\_info\\_number.html#1](http://travel.state.gov/travel/cis_pa_tw/pa/pa_haiti_info_number.html#1)

**18. Will USCIS speed up the immigration process for all Haitians?**

After the earthquake, USCIS decided to review all pending applications relating to Haitian nationals. They are working hard to make decisions on pending applications such as the Application for Naturalization (Form N-400), the Petition for Alien Relative (Form I-130) and the Application to Register Permanent Residence or Adjust Status (Form I-485) for individuals, who will have a visa immediately available to them. There has been no change in the process when a visa is not immediately available - like petitions for siblings. USCIS cannot currently change the priority date for making visas available any sooner.

Source: [USCIS Relief Measures Questions and Answers](#)

**19. I am a U.S. citizen. Can I apply to bring my sister here from Haiti?**

Yes, but she will still have to wait for a visa **to become available to her**. U.S. Citizens (USC) and Lawful Permanent Residents (LPR) can apply to sponsor certain relatives for lawful permanent resident status. US Citizens can petition for spouses, parents, children, and siblings. Your children can be married or unmarried and it does not matter how old they are. LPRs can petition for spouses and unmarried children (whether under or over twenty

one years of age). This involves a two-step process. First the USC or LPR files a petition with USCIS in which she must establish her own status and her relationship to the relative who would like to immigrate. Next the relative who would like to immigrate applies for permanent resident status, either through adjustment of status in the United States or through an interview at the U.S. Consulate in the applicant's country. Because there are a limited number of immigrant visas available in many categories, and more people want to immigrate than there are visas, there is often a lengthy wait between the approval of the initial petition and the date on which the applicant can apply to enter the country based on the petition. For example, because there is a long line of people waiting for immigrant visas, the Haitian sister of a U.S. citizen can expect to wait approximately ten years after the filing of the initial petition before she will be eligible to apply for a green card.

USCIS is expediting the processing of the **initial petitions** filed by USCs and LPRs for their relatives. This affects only the first step of the process. It does **not** affect the availability of immigrant visas, and people seeking to immigrate to the United States will still need to wait for a visa to become available. Therefore, a sister of a USC can still expect to wait approximately ten years to enter the U.S.

Source: USCIS's "[How do I Help my Relative Become a U.S. Lawful Permanent Resident](#)"

## **20. I am an LPR, is there anything I can do to speed up the process to bring my children from Haiti now?**

Yes, you can apply to become a U.S. citizen as soon as you are eligible to apply for naturalization. If you are a US citizen you can get a visa right away for your spouse, parents, and children if your children are unmarried and under twenty years old. Once you naturalize, you can ask the National Visa Center to upgrade the petition for your relative.

Source: USCIS's "Guide on Naturalization" <http://www.uscis.gov/files/article/M-476.pdf> and National Visa Center [http://travel.state.gov/visa/immigrants/info/info\\_3180.html#petition](http://travel.state.gov/visa/immigrants/info/info_3180.html#petition)

## **21. Can I go to the Haitian consulate office in Boston to get a passport for my relatives in Haiti so that they can come over to the U.S.?**

You can phone the General Consulate of Haiti in Boston at (617) 266-3660 or email them [info@consulathaitiboston.com](mailto:info@consulathaitiboston.com). However, the Haiti Embassy in Washington, DC normally handles requests for passports and identification documents.

Source: Embassy of Haiti  
[http://www.haiti.org/index.php?option=com\\_content&view=article&id=88&catid=61&Itemid=77](http://www.haiti.org/index.php?option=com_content&view=article&id=88&catid=61&Itemid=77)

## **Adoption**

### **22. I was in the process of adopting a child in Haiti before the earthquake. Can I bring the child to the United States right now?**

Yes, you can bring children to the US, whom you were already in the process of adopting when the earthquake hit Haiti.. The federal government encourages U.S. citizens with pending adoption cases in Haiti to send detailed information about your case to [HaitianAdoptions@dhs.gov](mailto:HaitianAdoptions@dhs.gov). If any information or documents are missing or needed, USCIS will contact you directly.

If USCIS decides to give your child “humanitarian parole”, USCIS will notify you. Once the child has been approved for humanitarian parole, parents in the U.S. or in Haiti, may schedule appointment for the child to get a “parole letter”. The parole letter is the document your child needs to be able to live in the United States legally. After your child is documented for humanitarian parole, the US Embassy will seek the mandatory authorization from the Haitian Government for the child you are adopting to be able to leave Haiti. Once the US Embassy has seen the parole letter and gets authorization from the Haitian government, it will arrange After the Embassy sees/has a copy of... the- parole letter and authorization for your child to leave Haiti, it will arrange a flight for your child.

Important

The Haitian Government must give authorization before any child, including those approved for humanitarian parole, may leave Haiti.

Sources: Department of State’s Office of Children’s Issues <http://www.adoptions.state.gov/country/haiti.html> and USCIS [Orphan Screening Guidance](#) and [Q & A](#)

### **23. Can I get an extra visa to bring more people from Haiti, if I adopt one evacuated child affected by the quake?**

No. The US federal government may allow Haitian nationals to bring children who are being adopted to the United States, but you will not get any extra visas for adopting a child.

Source: Department of State [http://travel.state.gov/travel/cis\\_pa\\_tw/pa/pa\\_haiti\\_info\\_number.html#1](http://travel.state.gov/travel/cis_pa_tw/pa/pa_haiti_info_number.html#1)

### **24. I know of children in Haiti who are hungry and homeless. Can I adopt them and bring them to the United States right now?**

No. The process for adopting a Haitian child has not changed. You need approval from the United States government and the Haitian government before you can adopt a child in Haiti. Right now, the Haitian government has stopped accepting new adoption applications. The United States is not issuing travel visas for Haitian children, who were not already in the adoption process.

If you want to adopt, you can start the process now so that you have everything in place when Haiti begins accepting new adoption applications. Visit the State Department’s

website on how to adopt in Haiti: <http://www.adoptions.state.gov/country/haiti.html> or USCIS's website.

Sources: Department of State's Office of Children's Issues <http://www.adoptions.state.gov/country/haiti.html>

and USCIS's Guide on How to Immigrant an Adopted or Prospective Adopted Child [http://www.uscis.gov/USCIS/New%20Structure/3rd%20Level%20\(Left%20Nav%20Children\)/Resources-3rd%20level/How%20Do%20I%20Guides/A3en.pdf](http://www.uscis.gov/USCIS/New%20Structure/3rd%20Level%20(Left%20Nav%20Children)/Resources-3rd%20level/How%20Do%20I%20Guides/A3en.pdf)

## **25. Is there anything else I can do for the children I know are hungry and homeless?**

Yes. You can donate to the relief organizations that deliver food and supplies to children.

You can also make sure that children who will be adopted have been properly identified as orphans. The United States is working together with UNICEF and other relief organizations in Haiti. They are delivering needed supplies to Haiti's orphanages and helping other "unaccompanied children". "Unaccompanied children" are children who seem to have no adult caretaker. UNICEF is starting the process of registering unaccompanied children. UNICEF is trying to unite these children with their relatives. If you have information about an orphan, please contact UNICEF in Haiti at [portauprincehaiti@unicef.org](mailto:portauprincehaiti@unicef.org) or the Red Cross <http://www.icrc.org/familylinks>

Source: UNICEF [www.unicef.org](http://www.unicef.org) and USCIS

## **26. Can I just pick up the children in Haiti, bring them back to the United States and adopt them later?**

No. You still have to go through the regular adoption process. You cannot bypass this process. Elected officials cannot help bypass this process. Taking a child out of Haiti without authorization from the Haitian government is a violation of Haitian law. It may be considered child trafficking and/or kidnapping. You may be arrested and prosecuted as a criminal if you break the law. You may also never be able to adopt a child legally. Since the earthquake Haitian officials have already arrested US citizens who tried to leave Haiti with children who did not have the right documents.

The U.S. Embassy in Santo Domingo will not document any Haitian child for onward travel to the United States **unless they see proof that the child:**

1. has entered the Dominican Republic legally, **and**
2. has been approved for humanitarian parole by the Department of Homeland Security (DHS), **and**
3. has authorization from the Government of Haiti to leave Haiti and travel onward to the United States.

Sources: Department of State [http://travel.state.gov/travel/cis\\_pa\\_tw/pa/pa\\_haiti\\_info\\_number.html#1](http://travel.state.gov/travel/cis_pa_tw/pa/pa_haiti_info_number.html#1) and

Department of State's Office of Children's Issues <http://www.adoptions.state.gov/country/haiti.html>

## **Status of U.S. Embassy in Haiti**

### **\*\*27. Is the U.S. Embassy in Haiti open for business?**

Yes. The U.S. Embassy in Haiti has resumed all regular business. The embassy is issuing all types of visas including new non-immigrant and immigrant visas for Haitian nationals. The Embassy is also providing services to U.S. Lawful Permanent Residents. If your Haitian relative has received a letter from the National Visa Center about an interview date and time, please review the new schedule on line. You can also contact the Immigrant Visa section by email [PaPCons@state.gov](mailto:PaPCons@state.gov) or call 1-866-829-2842.

U.S. citizens can make appointments for services including passports, Reports of Death of Americans Abroad, Consular Reports of Birth Abroad, and notariats. See the US embassy in Haiti website. <http://haiti.usembassy.gov>

Source: U.S. Embassy in Port au Prince Haiti – [Press Releases](#)

## **Education**

### **\*\*28. Can my children attend public schools while on TPS or on a B2 visitor visa?**

Yes, public education from kindergarten to 12<sup>th</sup> grade is open to all children. It does not matter what their immigration status is.

Source: [Plyler v. DOE](#), 457 U.S. 202 (1982)

### **29. I am on a student visa. What are my options?**

If you have a Nonimmigrant F-1 student visa, you are from Haiti and you can not pay to go to school full-time any more, you may be able to get off-campus employment authorization. If you are an F-1 student and you can show that you are from Haiti, you can apply for employment authorization to work off-campus.

To apply for employment authorization to work off campus submit:

1. a recommendation from the Designated School Official (DSO)
2. Form I-765, Application for Employment Authorization. The filing fee for Form I-765 is \$340 (Please refer to the Form I-765 for instructions) and
3. Form I-20.

You can also apply for TPS and it will not affect your student visa status. Once TPS expires, you will revert back to the immigration status you had before TPS, unless that immigration status has also expired.

Source: [USCIS Relief Measures Questions and Answers](#)

### **30. If I have TPS, can I get in-state tuition or federal financial aid?**

In-state tuition

If you have TPS, you may be able to get in-state tuition rates at Massachusetts public colleges and universities.

Please note

There is a 6 month state residency requirement for community college in-state tuition; and a 12 month state residency requirement for state school and university in-state tuition.

Source: MA Department of Higher Education “Residency Status for Tuition Classification Purposes” at: <http://www.mass.edu/library/Motions/2007/FAAP07-24.pdf>

Federal financial aid

TPS recipients are not eligible for federal financial aid.

However, you may be eligible for financial aid as a Cuban/Haitian entrant if you are a Haitian with TPS and

- You were paroled into the US after 1980, or
- you have an asylum application pending, or
- you are in deportation proceedings without a final order.

As we get further guidance, other Haitians with TPS may be eligible for financial aid as well.

Source: U.S. Department of Education [“The Federal Student Financial Aid Handbook”](#)

## **TPS and Eligibility for State and Federal Benefits**

### **31. If I have TPS, can I get a MA driver's license or ID?**

TPS recipients may be able to get a Massachusetts driver's license, Massachusetts ID or MA Liquor ID.

Source: MA Registry of Motor Vehicles (RMV) Drivers Manual <http://www.mass.gov/rmv/dmanual/chapter1.pdf>

### **32. If I have TPS, can I apply for a Social Security number?**

Yes, only noncitizens whom the Department of Homeland Security (DHS) has given special authorization to work in the United States can get a Social Security number. If you have TPS and your application for authorization to work has been approved, you can get a Social Security Number. Employers use Social Security numbers to report their employees' wages to the government. The government then works out your Social Security benefits according to your employment history. You need a Social Security number to work, collect Social Security benefits and receive some other government services.

Source: Social Security Administration <http://www.ssa.gov/pubs/10096.html>

### **33. If I have TPS, can I apply for public housing?**

State public housing does not require a specific immigration status to apply. Only **some** federal housing programs do not require a specific immigration status either. In general, TPS beneficiaries cannot get federal public housing.

However, you may be able to apply for some federal housing programs as a Cuban/Haitian entrant if you are a Haitian with TPS and

- You were paroled into the US after 1980, or
- you have an asylum application pending, or
- you are in deportation proceedings without a final order.

As we get further guidance, other Haitians with TPS may be eligible for federal public housing as well. Contact a legal service attorney for more information on applying for public housing. You can also visit <http://www.masslegalhelp.org/housing/finding-housing-booklets> for more information.

Source: Legal Tactics: Finding Public and Subsidized Housing  
visit <http://www.masslegalhelp.org/housing/finding-housing-booklets>

## **Safety Net Benefits for all Haitians**

### **\*\*34. Can Haitian immigrants get federal food, income and health care benefits?**

Food Stamps/SNAP, TAFDC cash assistance, Supplemental Security Income (SSI) cash assistance and Medicaid grouped together are called “Safety Net Benefits”. Programs that offer Safety Net Benefits have all kinds of rules about who can get these benefits. They also have rules about the immigration status of people who very specific rules about , in addition to financial and other requirements. There are special rules that apply to nationals of Haiti. Haitians are considered “qualified aliens” for federal programs if they have any one of the following statuses:

- Granted status as a “Cuban/Haitian Entrant” (usually noted on the I-94)
- Paroled into the United States on or after October 10, 1980, for any duration (this includes granted humanitarian parole as orphans or adults),
- A legal permanent resident (“green card”),
- Asylum application pending, or asylum granted,
- Is currently in removal, deportation or exclusion proceedings, but there is no final, non-appealable and enforceable order of deportation (this includes Haitians with under an Order of Supervision).

Some legal permanent residents must wait five years in status to access certain benefits. But there are a number of exceptions depending on the program, including being a child, disabled, battered, having a work history, or if the LPR status was granted through special immigration laws that apply to Haitians and Cubans. Contact a Legal Services advocate if a client is to wait five years in status to qualify.

Sources: Department of Transitional Assistance (DTA) Regulations at 106 CMR 362.220, (SNAP) 203.675 (TAFDC); DTA Field Operations Memo 2007- 54, Eligibility of Cuban/Haitian Entrants for Food Stamps and TAFDC, <http://www.masslegalservices.org/node/19810>; Office of Medicaid, Cuban Haitian Entrants’ Verification, <http://www.masslegalservices.org/node/23673> MLRI 2010 Chart: Income/Food Benefits and Immigrant Eligibility: <http://www.masslegalservices.org/node/15251> USDA Clarification on SNAP Humanitarian Parole Policy for Certain Haitian Orphans, <http://www.fns.usda.gov/snap/rules/Memo/2010/021910.pdf> Centers for Medicare and Medicaid Services (CMS), FAQ: Individuals arriving from Haiti for medical care, [https://questions.cms.hhs.gov/cgi-bin/cmshhs.cfg/php/enduser/std\\_alp.php?&p\\_pv=4.1122&p\\_prods=1,2,476,1122](https://questions.cms.hhs.gov/cgi-bin/cmshhs.cfg/php/enduser/std_alp.php?&p_pv=4.1122&p_prods=1,2,476,1122)

### **\*\*35. Can Haitian immigrants get state-funded benefits?**

Massachusetts provides state-funded cash assistance for persons who are elderly (age 65+), severely disabled or caring for a distantly related or an unrelated child. The benefit is very small (\$303/month) for a one-person household. There are no state-funded Food Stamps/SNAP benefits for immigrants in Massachusetts.

The EAEDC program is available to “qualified aliens” including those who meet the federal requirements listed above, *as well as* legally present immigrants “under color of law” (PRUCOL). This includes immigrants with Temporary Protected Status (TPS), with pending adjustment for a green card, and other statuses. Many LPRs who are elder or disabled receive EAEDC due to the extremely difficult eligibility rules in the SSI program affecting immigrants. Contact an advocate if

you have an elder or severely disabled Haitian client who is an LPR or otherwise in “qualified” status and was denied SSI.

Sources: DTA Regulations at 106 CMF 320.620(EAEDC), Mass Health Regulations at 130 C.M.R. §§ 504.002(F) (children and disabled adults), 519.013 (elderly). DTA Non-Citizen Desk Guide, 2004 (re TPS and EAEDC benefits) <http://www.masslegalservices.org/node/18768>

### **\*\*36. Is there any cash or food assistance for Haitians granted Temporary Protected Status (TPS)?**

On March 30<sup>th</sup>, the Obama Administration issued guidance stating that Haitians with TPS are not “qualified aliens” eligible for federal safety-net benefits. This means that Haitians granted TPS are not eligible to receive food stamp/SNAP benefits, TAFDC cash assistance, Supplemental Security Income (SSI) or Medicaid (Mass Health Standard) unless they also have one of the other statuses listed above (e.g. in deportation, order of supervision, pending asylum). It is possible that some Haitians with TPS may also have one of these other statuses. If you have a client who needs these safety-net benefits, contact a local Legal Services office to find if this federal ruling has changed or if the individual may be eligible on other grounds.

As noted above, elder or severely disabled Haitians with TPS may also be eligible for EAEDC cash assistance benefits. Haitians with TPS who are caretakers of a U.S. citizen or “qualified” immigrant child or spouse can also apply for TAFDC, foods stamps/SNAP or SSI benefits for any child or spouse who is a U.S. citizen or meets the other rules for “qualified” status. See Question 38 below.

Sources: U.S. Department of Agriculture (USDA) Clarification on SNAP Eligibility of Haitians Granted TPS: <http://www.fns.usda.gov/snap/rules/Memo/2010/033010.pdf>; Department of Transitional Assistance (DTA) Regulations at 106 CMR 362.220, (SNAP) 203.675 (TAFDC), 320.620(EAEDC); DTA Non-Citizen Desk Guide, 2004 (re TPS and EAEDC benefits) <http://www.masslegalservices.org/node/18768>

### **\*\*37. Can Haitians with TPS receive MassHealth coverage?**

Children with TPS and elderly or disabled adults with TPS *may* be eligible for certain kinds of MassHealth coverage depending on income. The MassHealth program provides different types of coverage to non-citizens ineligible for federal benefits. He or she must also satisfy the financial and other eligibility requirements to receive MassHealth.

Individuals under age 19, disabled or elderly who are not “qualified aliens” but have legal status, including TPS, may be eligible for other coverage types. Children may be eligible for CommonHealth or Family Assistance; adults who are disabled or elderly may be eligible for MassHealth Essential. Other uninsured adults may be eligible for Commonwealth Care. Others may be eligible for other medical benefits including the Health Safety Net.

*Important:* As noted in Question 34, federal Medicaid is available to Haitians who are paroled into the US after 1980, have an asylum application pending, or are in deportation proceedings without a final, non-appealable order. These Haitian immigrants may be eligible for more kinds of MassHealth as a “Cuban/Haitian entrant”, whether or not also granted TPS.

Sources: MassHealth regulations at 130 CMR 504.002; MassHealth PRUCOL Memo, May 14, 2008 <http://www.masslegalservices.org/node/23672> MassHealth Advocacy Guide <http://www.masslegalservices.org/MassHealthAdvocacyGuide>

**\*\*38. If an ineligible Haitian is caring for a U.S. citizen child, can she or he apply for benefits for the child?**

Yes. An ineligible parent/caretaker can apply for benefits on behalf of child or family member who is a U.S. citizen, legal permanent resident, has humanitarian parole or meets some other “qualified alien” status. The ineligible parent/caretaker may not be included in the benefit amount paid for the child, but can be the authorized representative.

Parents or caretakers who apply for a U.S. citizen or legally present child, but not themselves, are not required to give DTA or MassHealth information on their immigration status or provide a SSN. However, the natural or adoptive parents of a minor child (or spouse) are required to give information on any income and assets they have. In determining the amount of food stamps or cash assistance, DTA will count parental income. Different income counting rules apply depending on the legal status of the parent and the program being sought. Contact a Legal Services advocate if there are questions about how DTA calculated the benefits for an eligible child.

Source: DTA Brochure, What Non-Citizens Need to Know. <http://www.masslegalservices.org/node/25529> ;  
DTA Field Operations Memo 2004-34, September 2004, TAFDC and Food Stamp Processing Guidelines for Non-Citizen Applications <http://www.masslegalservices.org/node/20029>

**\*\*39. If I get benefits will it make me a “public charge” so that it will be harder for me to get permanent legal residency (my green card)?**

Getting **cash assistance** may make it difficult to become a lawful permanent resident of the United States. But Food Stamps (SNAP), WIC, Medicaid and a number of other government benefits are not considered benefits that would make you a public charge. The, U.S. Citizenship and Immigration Services (USCIS) updated their fact sheet in October 20, 2009. The fact sheet lists the benefits that you can get that would not make you a public charge.. You can find more information on – list the other websites or ....from other websites.

Source: USCIS Fact Sheets on Public Charge, October 2009: [USCIS Guidance on Public Charge](http://www.uscis.gov/uscis/public-charge) National Immigration Law Center, Federal Guidance on “Public Charge”, <http://www.nilc.org/ce/nilc/public-charge-national-2009-05-01.pdf>

**More information:** For additional information on benefits available to the immigrant community, contact Patricia Baker at (617) 357-0700 ext. 328 or [pbaker@mlri.org](mailto:pbaker@mlri.org) or Vicky Pulos at (617) 357-0700 ext. 318 or [vpulos@mlri.org](mailto:vpulos@mlri.org)

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See next page for Summary Chart of Safety-Net Benefits for Haitians

At a Glance Chart: Safety-Net Benefits for Haitians

If your immigration status is.....	You may be eligible for.....
Legal Permanent Residence (green card)	<p>All federal and state benefits (including TAFDC, Food Stamps/SNAP, SSI, Medicaid and state-funded benefits such as EAEDC).</p> <p>Some LPRs are subject to 5 year waiting period, not all.</p>
Humanitarian Parole	All federal and state benefits
Asylum application pending or approved	All federal and state benefits.
Under Orders of Supervision, Deportation or Removal pending	All federal and state benefits.
Status as a “Cuban/Haitian Entrant”	All federal and state benefits.
Temporary Protected Status (TPS)	<p>State-only benefits (EAEDC).</p> <p>Can apply for U.S. citizen child or other family member who is “qualified”.</p>
Visitor (B-2) or Student Visa	<p>NO benefits.</p> <p>You can apply for U.S. citizen child or other family member who is in “qualified” status.</p>
Undocumented or no proof of status.	<p>NO cash or SNAP benefits. Eligible for MassHealth Limited.</p> <p>You can apply for U.S. citizen child or other family member who is in “qualified” status.</p>

\*\* Federal and state benefits listed also require immigrant to meet financial (income/assets) and categorical (age, disability, pregnancy, minor child) applicable to the program.

## **Miscellaneous**

### **40. I left Haiti after the earthquake and I have a travel visa for six months. How can I stay in the U.S. longer?**

If you have a B2 visa, you can request to extend the time you are permitted to remain in the United States or you can request to change to another immigration status by completing an Application to Extend/Change Nonimmigrant Status (Form I-539). You should speak to an experienced immigration attorney about your options.

Source: [USCIS Application to Extend/Change Status](#)

### **41. My visa's valid for five years. Can I apply only for work authorization?**

No, the Department of State issues U.S. non-immigrant visas, which allows you to travel to a U.S. border or port of entry and request permission to enter the U.S. It does not guarantee entry and does not indicate how much time you can remain in the U.S. When you entered the U.S., a DHS officer most likely gave you a white card (Form I-94) that told you how long and under what status you can stay in the U.S. If you entered on or before January 12, you should consider applying for TPS. If you entered after January 12<sup>th</sup>, you can request to extend the time you are permitted to remain in the United States.

Source: US Department of State [http://www.travel.state.gov/visa/questions/questions\\_4429.html](http://www.travel.state.gov/visa/questions/questions_4429.html) and [http://travel.state.gov/visa/temp/info/info\\_1298.html](http://travel.state.gov/visa/temp/info/info_1298.html)

## **About MLRI**

Massachusetts Law Reform Institute (MLRI) is a non-profit legal services organization committed to promoting social and economic justice across Massachusetts through advocacy, education and legal action. Its mission is to ensure the fundamental needs of traditionally underserved, low-income populations are met, and to advocate for systemic reforms to policies and practices that harm people living in poverty. MLRI's staff work in a variety of fields, including housing, health care, public benefits, immigration law, court reform, employment law, racial equity, elder law, education and family law.

MLRI also provides support to client-based legal services organizations so they may best serve their constituencies. A 2008 assessment of MLRI conducted by three experienced, national peer reviewers affirmed that MLRI "is one of the premier state support centers in the country" and "remains the backbone of the Massachusetts civil legal aid delivery system."

If you need additional information, please contact Virginia Benzan of MLRI at (617) 357-0700 ext. 335 or [vbenzan@mlri.org](mailto:vbenzan@mlri.org) or Iris Gomez of MLRI at (617) 357-0700 ext. 331 or [igomez@mlri.org](mailto:igomez@mlri.org)

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