Immigrants and Public Benefits - BBT Training
Housekeeping

**Mute:** As a reminder, all audience lines are muted. If you have a question or any technical issues, please use the chat feature.

**Participants’ View:** You may select Gallery View or Speaker View.

**Recording:** Today’s webinar is being recorded and will be made available.
Agenda

9:30-10:15   Immigration status & documents
10:15-10:30  Overview of public charge
10:30-10:50  Housing including EA Shelter
             10 min break
11:00-12:00  Health
12:00-1:00   Lunch
1:00-2:00    Cash & Nutrition
             10 min break
2:10-2:30    15 min Public Charge Review
2:30-3:15    45 min COVID-19 Panel
Immigration Status and Documents - the ABC's
45.2 million Immigrants
SOURCE: Pew Research Center (2016)

- Unauthorized: 24% (10.7m)
- Temp Lawful Residents: 5% (2.1m)
- Lawful Perm. Residents: 27% (12.2m)
- Naturalized Citizens: 44% (20.2m)
Citizens

- **BIRTH** in U.S. (including Puerto Rico & territories)
- **NATURALIZATION** (N-400 application after being a lawful permanent resident)
- **Acquire** or **Derive** citizenship (N-600 application based on being born to U.S. Citizen parent(s) abroad or adoption by U.S citizen parents)
Documents showing U.S. citizenship

- U.S. birth certificate
- U.S. passport or card
- Certificate of naturalization
- Certificate of citizenship
- U.S. Citizen Identity Card (form I-197)

...or document the U.S. citizenship of one’s parents/grandparents to show acquired or derived citizenship
Non-citizens - “immigrants”
Statute uses term “Aliens”

The right to stay, work & qualify for benefits vary by status even when lawfully in U.S.
UNDOCUMENTED / UNAUTHORIZED

- A person with no lawful status or current valid documents = “undocumented” or “unauthorized to be in the U.S.”
Lawful Permanent Residents (LPR)

- Known as “green card” holder
- A necessary stepping stone to citizenship
- Have a legal right to live & work in U.S. and to travel, and have a “path to citizenship” after a certain # of years
- Subject to removal or deportation until obtaining U.S. citizenship
3 main ways people get “lawful permanent residence” or “get a green card” (=immigrate):

1) Family (immediate family only)
2) Employment
3) Humanitarian

Also known as: Blood, sweat & tears
Humanitarian

1) Refugees (processed overseas)
2) Asylees
3) Victims of trafficking

Refugees & asylees & victims of trafficking have a path to LPR and to Citizenship
A note on victims of trafficking

- Trafficking victims - brought to the U.S. by *force*, *fraud* or *coercion* - (relatives can qualify / be eligible for federal & federal/state benefits to the same extent as refugees)

- They have an HHS certification letter or are under 18 and in the process of seeking a “t” visa
Temporary Lawful Residents / “Non”-immigrant status

- Admitted to the U.S. for a limited period of time & for a specific purpose
  - 20+ categories: some common types include
    - B-2 visitors for pleasure (*i.e.* tourists)
    - F-1 students
  - Some categories offer a transition to LPR status (e.g. T or U)
Lawful Statuses

*mostly humanitarian and many...*

- Parolees (short-term or 1 year+)
- Withholding of removal (or deportation)
- Battered spouses & children & victims of trafficking or qualifying crimes
- Temporary Protected Status (TPS) beneficiaries
- Deferred Enforced Departure (DED) grantees
- Deferred Action grantees & “EVD” beneficiaries
- Deferred Action for Childhood Arrivals (DACA)
- Under Order of Supervision or Stay of Removal
- LTRs under old “amnesty program
- Certain beneficiaries of “prosecutorial discretion”

and others including applicants for a status, with or w/o work authorization

*“qualified aliens” for benefits purposes, along with “Cuban-Haitian Entrants”*
Note: moving on through the day, presenters will talk about which of these statuses qualify for which benefits, and will use terms such as qualified or PRUCOL, but those are not immigration statuses. i.e. PRUCOL = person residing under color of law

PRUCOL is not an immigration status and will not appear on any immigration document, but is used in determining benefits

PRUCOL: USCIS does not presently contemplate enforcing their departure. PRUCOL immigrants often have employment authorization (EAD) or some other proof of a granted immigration status or a pending status.

Some common examples - persons granted or with an application pending for Temporary Protected Status (TPS) or Deferred Action status, under Order of Supervision, with a pending application for Legal Permanent Residency, Asylum applicants, U Visa recipients and applicants (victims of violence) and others.
Noncitizen Documents

- "Green cards"

- Employment Authorization Document (EAD) [laminated]
  - EADs note the category or provision of law giving them work authorization

- I-94s (entry document / white card or electronic printout)
  - have annotations or stamps

- Other documents
  - HHS trafficking letter
  - court order / documents
  - visa stamps in foreign passport
  - Immigration judge order
  - Re-entry documents
  - others...
LPR documents

- "green" cards*
- passport stamps
- reentry permits
- judge/court orders

*similar cards for LTRs
Sample LPR documents

“Green” Card

Temporary I-551
Immigrant Classification Codes - Sources

- U.S. State Department - Foreign Affairs Manual, 9 FAM 502.1-3 (Immigrant Classification Symbols)
  https://fam.state.gov/FAM/09FAM/09FAM050201.html

- USCIS Adjudicator’s Field Manual, Appendix 23-7 (Codes for Classes of Admission)
Refugee/asylee & related documents

- EAD work permits with code
- Asylum Office grant letters
- BIA/court orders – asylum & withholding
- I-94 annotations
Paroled alien documents

- EAD – check code reference
- I-94 – w/annotation [e.g. “212(d)(5)”]
- I-512 parole grant document
Some immigration documents apply to multiple statuses:

- Employment Authorization Document (EAD card)
  - (Forms I-688, I-688A, I-688B, I-776)
    *(note: codes come from 8 C.F.R. 274a.12)*

- Arrival/Departure Record
  - (Form I-94)

- USCIS Notice of Action
  - (Form I-797)
Sample EAD:
https://save.uscis.gov/web/media/resourcesContents/EAD_Code_Table.pdf
Common EAD codes

- (a)(3) refugee
- (a)(4) paroled
- (a)(5) asylee
- (a)(10 withholding
- (a)(16) granted T visa
- (c)(11) paroled
- (c)(25) T family member.
Sample I-94 card
(there are also electronic variations now)
Important I-94 annotations

- “212(d)(5) or “paroled” or “PIP”
- “refugee” or “207”
- “asylee” or “208”
- “T” 1-5 codes
Other documents to help determine status:

- I-797 receipt, including for a replacement of “green card” or other document
- Other immigration-related correspondence

Note: to document status as “trafficking victim” – do not need ANY immigration document
DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

HHS Tracking Number
5555555555

Mr. Susan Doe
via Jim Thomas, Refugee Social Worker
Smith County Community Service Office
123 Main St.
Baltimore, WA 5555-5555

CERTIFICATION LETTER

Dear Mr. Doe:

This letter confirms that you have been certified by the Department of Health and Human Services (HHS) pursuant to section 107(b) of the Trafficking Victims Protection Act of 2000. Your certification date is ___________. This certification is valid for eight months from the date of this letter. The expiration date is ___________.

With this certification, you are eligible for benefits and services under any Federal or State program or activity funded or administered by any Federal agency to the same extent as an individual who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act, provided you meet other eligibility criteria. This certification does not confer immigration status.

You should present this letter when you apply for benefits or services. Benefit-issuing agencies should call the trafficking verification line at (202) 401-4530 to verify the validity of this document and to inform HHS of the benefits for which you have applied.

Sincerely,

Carrol Clay-Thompson
Acting Director
Office of Refugee Resettlement
Social Security Cards & eligibility

Sample SSN w/o legend

Legended SSN
Public Charge
Public Charge

- Test by immigration officials to determine if an immigrant will become a *public charge* (not able to support themselves)
- Officials look at a person’s “totality of circumstances” to determine if a person is “more likely than not at any time in the future to become a *public charge*”
  - Includes: age, health, family and financial status, education and skills, expected immigration status/period of admission, affidavit of support
  - **Use of benefits is only one piece of evidence that is considered**
Who does Public Charge apply to?

Public charge rule is about “admissibility”...

...so, who needs to be “admitted” into the US?

- Applicants for Lawful Permanent Resident (LPR) status, i.e. green cards
- LPRs who leave U.S. for more than 180 days
- Applicants to enter U.S. (overseas visa applicants)

Note: the public charge rule does not apply to many immigrants and there are many exemptions
Public Charge Does NOT apply to everyone, including:

- LPRs applying for citizenship
- LPRs applying to renew green card
- Conditional LPRs seeking to remove conditions
- DACA/TPS renewals
- Many humanitarian statuses are exempt
  - Refugees, Asylees, U and T visas, VAWA, Temporary Protected Status (TPS), Special Immigrant Juveniles, and more
Which “Public Benefits” are considered?

- Cash assistance programs (e.g. TANF, SSI)
  - Federal, state, local, or tribal are all counted
- Long term institutional care

Newly Added (if received after Feb. 24, 2020):
- Supplemental Nutrition Assistance Program (SNAP) (i.e. “food stamps”)
- Section 9 Federal Public Housing & Federal housing subsidies, Section 8
- Federal Medicaid (Non-Emergency), but:
  - NOT: Emergency Medicaid
  - NOT: federal Medicaid received by people under 21 years old or pregnant women (+60 days postpartum)
  - NOT: State/local/tribal health programs
Which “Public Benefits” are NOT considered?

MANY... more on this later
Public Benefits Receipt:

- The client will need to get documentation from the benefits granting agency that lists:
  - His or her name;
  - The name and contact information for the public benefit-granting agency;
  - The type of public benefit;
  - Date he or she was authorized to start receiving the benefit or date his or her coverage starts; and
  - Date benefit or coverage ended or expires (mm/dd/yyyy) (if applicable).
The benefit in question is one considered under the public charge test.

- The use of the benefit in question may be weighed negatively against that individual**

**Keep in mind:
- The amount of negative weight attributed to that individual will depend on the length of benefit use, the number of benefits used and the dates the benefits were used.
- In reality, this rule really penalizes poverty and lack of access to resources. Use of benefits is only one factor that is considered.
- Other immigrants are still indirectly affected by public charge because of its “chilling effect.”
Removal based on public charge:

- Very rare!
- Requires receipt of cash benefits or institutionalization within 5 years of entry for causes existing before admission
- Government must:
  - Have legal right to repayment
  - Demand repayment
  - Get judgment or order & fail to collect
- In order to change this, the government would need a new Department of Justice regulation that must go through the same notice and comment process as the DHS rule
- For now, this is not something to worry about
Housing and EA Shelter
Immigrants and Affordable Housing Programs

Judith Liben, Senior Housing Attorney, MLRI
NOT ALL AFFORDABLE HOUSING PROGRAMS ARE ALIKE

There are several different kinds of public and subsidized housing and vouchers—each with different rules affecting applicants and occupants.
State housing programs are generally open to all immigrants, regardless of status

STATE HOUSING -- the major programs include:

- State public housing
- Massachusetts Rental Voucher Program (MRVP)
- Alternative Housing Voucher Program (AHVP)
- State-funded multifamily (privately owned subsidized) housing
Major federal housing programs have some immigration restrictions

FEDERAL HOUSING --
The major programs include:
- public housing
- section 8 vouchers
- Subsidized multifamily housing

These federal housing programs are “restricted” - assistance can only be provided to individuals who are citizens and “eligible noncitizens”.
- “Mixed status” households can be admitted to these programs – but they will pay a higher rent.
- If entire household is not eligible, they will not be admitted to the major federal housing programs.

Several other federal programs have NO immigration restrictions including the Low Income Housing Tax Credit program.
Which noncitizens are eligible for “restricted” federal housing programs?

For admission to restricted federal housing, at least one member of the household must be a citizen or an “eligible noncitizen”. An eligible noncitizen is one of these statuses:

- A lawful permanent resident
- A registry immigrant (admitted for permanent residency by U.S. Attorney General & eligible for citizenship)
- A refugee or asylee
- A conditional entrant
- A parolee
- A withholding grantee
- A person granted 1986 amnesty status
- A resident of Marshall Islands, Micronesia, Palau or Guam
- A victim of trafficking or relatives of such victim
- VAWA self-identified is now also counted as eligible
What are “mixed status” families?

In the restricted federal programs “mixed status” families are those with at least one citizen or eligible noncitizen.

Mixed families, which can include undocumented persons, are eligible for the restricted federal housing programs – but they will pay a higher rent (called a pro-rated rent) and unit may not be affordable.

Mixed families include statuses NOT eligible for a federal subsidy including Temporary Protected Status (TPS), “DACA” youth, pending application for another status.
How much “pro-rated rent” will mixed status families in federal “restricted” housing pay?

Pro-rated rent in federal restricted housing means that the housing authority or multifamily owner will base your housing assistance or subsidy on the number of eligible family members, not on the total number of people, in the household.

You can move into a unit in one of these programs but your subsidy will be lower than if all household members were citizens or eligible noncitizens. That means your share of the rent will be higher.
Section 8 proration example

There are four people in your household - two are citizens or eligible noncitizens.

The housing authority will give you a Section 8 subsidy as if you had only a two-person household. The subsidy will be pro-rated by 50%.

If the total rent is $1,200, and the Section 8 voucher is worth $900, this is how it would work:

**Calculation of voucher before pro-ration**
- Total rent to landlord $1,200
- Section 8 voucher worth $900

**Your rent payment without pro-ration** $300

**Pro-ration of voucher**
- Section 8 voucher worth $900
- Housing authority pays 50% $450

**New pro-rated Section 8 voucher** $450

**Re-calculation of your rent with pro-ration**
- Total rent $1,200
- Pro-rated Section 8 voucher worth $450

**Your rent payment with pro-ration** $750
Declaration and Verification of Status in the federal restricted programs

In restricted federal housing programs, the housing authority or subsidized owner will verify the immigration status of all household members and require completion of a Section 214 Declaration for each household member claiming that he or she is either a citizen or an eligible noncitizen.

○ You should NOT complete this form if you have non-eligible family members, because by signing it you claim the whole household has eligible status and you are agreeing that immigration authorities can check on your status.
Declaration and Verification of Status in the federal restricted programs

- Instead of completing the Section 214 Declaration, you can provide a written statement that one or more household members are not claiming to have eligible status.

For details on verification and a list of acceptable documents you can use to prove immigration status, see the Housing training materials from today's training.
Do you need a social security number for housing programs?

- **State housing**: Generally each household member must provide an SSN. However, by notice from DHCD, no one can be denied or otherwise sanctioned if they do not have an SSN.

- **Federal housing**: Generally each household member must provide a SSN. However, this does not apply to those immigrants in “mixed families” who do not claim to be either citizens or eligible noncitizens.
“Public Charge” applies to the major federal housing programs but not to any state housing programs.

FOR A FULL EXPLANATION OF PUBLIC CHARGE SEE THE PUBLIC CHARGE SLIDES AND PUBLIC CHARGE TRAINING MATERIALS

- Many immigrants applying for or living in the three major federal housing programs are EXEMPT from public charge determination.
- Public charge does not apply to an entire mixed household - only to individuals in the household who apply for green cards and are not exempt from PC.
- Does NOT apply to state funded housing programs like public housing or MRVP.
“Public Charge” main takeaway

In general, people should continue to apply for and reside in all affordable housing programs but it would be best to consult an immigration attorney if you are in the process of applying for a green card.
More resources:

https://www.nilc.org/issues/economic-support/

(including online sections of NILC's Guide to Immigrant Eligibility for Federal programs, with sample immigration documents and lists of codes & annotations)
What is Emergency Assistance (EA) Shelter?

Emergency Assistance (EA) is a program that provides emergency shelter and rehousing services to certain homeless families with at least one child under age 21.

The program is run by the Department of Housing and Community Development (DHCD).
The following individuals have eligible immigration status for EA Shelter purposes:

- Citizens
- Noncitizens as defined in Massachusetts regulations
  - Veterans, LPRs, asylees, refugees, withholding of deportation noncitizen, parolee, conditional entrant, battered nonimmigrant, Cuban/Haitian Entrant, Amerasian, victim of severe forms of trafficking.
- Permanently Residing under Color of Law (PRUCOL)
  - Includes individuals with TPS, deferred action, asylum applicants, approved immediate relative petitions, indefinite stays of deportations, indefinite voluntary departures, and/or who are under an order of supervision.
Who must have an eligible status for EA?

Only **one** person in the household must have an eligible immigration status.

*Ex: Mother and older child are undocumented, but her youngest child is a legal permanent resident. The household has eligible immigration status for EA shelter.*

A family can be placed in shelter while it gathers documentation to show an eligible immigration status.
How is Household defined?

For EA shelter purposes, a household consists of at least one child, parents, stepparent of caretaker relatives, legal guardian, and siblings (including half-siblings and step-siblings) of the child. 760 CMR 67.02(1)(a).

Ex: A family consists of a child, her mother, her stepfather, and her stepsister. The stepsister is a citizen. The family has eligible immigration status for EA shelter.
Public Charge Review

Test to determine if an immigrant will become a public charge (not able to support themselves)

Immigration officials look at a person’s “totality of circumstances”

Use of benefits is only one piece of evidence that is considered
Immigrant is seeking to be “admitted” to the U.S. (and not exempt from public charge)

The benefit in question is one considered under the public charge test

Immigrant is eligible for the benefit in question

The use of the benefit in question may be weighed negatively against that individual

**Keep in mind:

- The amount of negative weight attributed to that individual will depend on the length of benefit use, the number of benefits used, and the dates the benefits were used.
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  - NOT: State/local/tribal health programs
Which “Public Benefits” are NOT considered?

Healthcare:

- Medicaid (Any MassHealth) if you are pregnant or 60 days after having given birth (must still be listed on the I-944)
- Medicaid (Any MassHealth) for children under age 21 (must still be listed on the I-944)
- Emergency Medicaid (MassHealth Limited) (must still be listed on the I-944)
- Medicaid programs paid for with state-only funding
- MassHealth Family Assistance
- Health Safety Net
- Children’s Medical Security Plan (CMSP)
- Children’s Health Insurance Program (CHIP)
- Medicare

- Coverage through the Health Connector, including Connector Care
- COBRA
- Veterans Administration Coverage
- Head Start
- Tricare
- Public Health Services
- School-based healthcare
Which “Public Benefits” are NOT considered?

Housing:

- Ryan White Program benefits
- State housing including:
  - Family public housing (applied for through CHAMP)
  - Elderly/handicapped public housing (applied for through CHAMP)
  - MRVP
  - ARVP
- Federal housing, including:
  - HOPWA
  - McKinney Homeless
  - Shelter Plus Care
  - Supportive Housing
  - HOME Rental Assistance
  - Low Inc. Housing Tax Credit
  - CDBGs
  - Sections 515 rural rental housing & 538 multi-family & Rural Housing Preservation grants
Which “Public Benefits” are NOT considered?

Food:
- WIC program
- Free school lunch/breakfast
- Food Banks

Earned Benefits:
- Social Security benefits
- Family Medical Leave Act (FMLA)
- Paid Family Medical Leave Act
- OASDI (old age survivor’s disability insurance)
- Unemployment, Veteran’s benefits, and Government pensions

Other Non-Cash Benefits:
- Child Care Vouchers
- Federal Pell Grants and other financial aid benefits
- Fuel Assistance (“LIHEAP”)
- Relief/FEMA grants
- Emergency Disaster

Benefits that are received...
- by other family members
- as a member of the military or spouse/child of one
Which “Public Benefits” are NOT considered?

COVID-19 Related:

- Testing/treatment
- Recovery Rebate/Stimulus Check
- Pandemic EBT
- Unemployment insurance - Including:
  - Pandemic Emergency Unemployment Compensation
  - Pandemic Unemployment Assistance
  - Pandemic Unemployment Compensation
- Sick Leave, Paid Leave
- Charitable Funds
- Food Banks
Immigrant is seeking to be “admitted” to the U.S. (and not exempt from public charge)

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Key Takeaways

- Immigrants should NOT be advised to go off essential safety-net benefits without a careful examination of the type, timing and amount of the benefit and assessment of the other public charge factors that may apply.
- Avoiding benefits does NOT mean the client will pass the public charge test.
- Community health for all of us depends on strong access to healthcare for everyone who is eligible for it.
- Lawsuits are ongoing, the fight is not yet over.
Protecting Immigrants Families Campaign (PIF)

- National Campaign: www.protectingimmigrantfamilies.org
- Massachusetts campaign (PIF-MA): Email us at pif@miracoalition.org
COVID-19 Panel