

LEGAL IMMIGRANTS AND THE 5 YEAR WAITING PERIOD

<p>The 5 year wait <u>may</u> affects the following immigrants</p>	<ul style="list-style-type: none"> ○ LPRs who got status via relatives, employers, “lottery” visa - but <u>not</u> LPRs who entered as refugee, asylee or other protected statuses – even if now an LPR¹ ○ Humanitarian parolees (unless Cuban or Haitian nationals) ○ Battered immigrants (LPR, VAWA petitioners <u>or</u> with pending adjustment through spouse/parent)
<p>EXCEPTIONS to 5 year wait include -</p>	<ul style="list-style-type: none"> ○ Immigrant <u>children</u> under age 18 ○ <u>Disabled</u> immigrants receiving a disability-based benefit such as EAEDC, MassHealth as disabled or TAFDC disabled (disability as stringent as SSI standard). Special rules for elders on EAEDC ○ <u>Very elderly</u> (born before 8/22/31) and was lawfully residing in US on 8/22/96 ○ <u>Veteran</u> or active duty, or spouse/child of U.S. veteran ○ LPRs with <u>40 quarters</u> of countable work history
<p>40 quarters work history is calculated from -</p>	<ul style="list-style-type: none"> ○ Work history of LPR, the LPR spouse done (if still married) <u>and</u> work history of parents before LPR turned age 18 ○ Work history can be “borrowed” or shared between spouses and parents to children ○ Can include work done in US before immigrant got LPR status (if FICA paid). Immigrant can also correct work history. ○ Excludes work done by LPR if he/she also received needs-based federal Medicaid, TAFDC, SSI or SNAP for his or her own benefit. ○ LPR qualifies for 6 months SNAP pending verification of work Qs
<p>If not exempt, the 5 year period starts from-</p>	<ul style="list-style-type: none"> ○ The earliest date that immigrant was in “qualified status” (e.g. date of humanitarian parole if preceded LPR status) ○ The date of filing/prima facie determination of VAWA petition, relative petition (I-130) of battered immigrant

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Work History Examples for SNAP applicants:

- Juan and Maria Cruz are a married couple. They got their LPR status in June 2011. They have both been in the US since January 2005. Juan has worked for 7 years and earned about \$10,000 per year. Maria has worked 4 years and earned \$5,000 per year. Juan and Maria can borrow each other’s work quarters – so that they both have over 40 quarters of work history. They can borrow work history provided they were married during the period they worked (marriage includes common law or “holding out” marriages under SSA rules if recognized in the country where they married).
- Salah is 25 years old. He arrived in the US two years as an LPR ago after his father petitioned for him. He has just 1 year of work here, earning \$7,000. His father came to the U.S. when Salah was 10 years old and worked continuously ever since. Salah does not know how much he earned. Salah can claim 4 of his own work quarters, and the work quarters of his father until Salah turned age 18. Salah will likely need his father’s SSN to help DTA confirm his father’s work history. Salah can try to get his father to contact SSA for work history, or the SSN may be listed on the petition for LPR filed by the father and/or his father’s affidavit of support filed (possibly accessible by DTA through SAVE).

¹ There is NO 5 year wait for any LPRs who are or had previous status as refugees, asylees, persons granted withholding of deportation, Cuban/Haitian entrants, Amerasians, special immigrant visa (SIV) status holders, victims of trafficking.