



IMMIGRANT ELIGIBILITY FOR BENEFITS AND PUBLIC CHARGE

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Updated January 2026

IMMIGRATION LAW BASICS



Legal Permanent Resident (LPR or "Green Card" holder)

U Visa (victims of crime)

T Visa Holders (victims of trafficking)

Approved VAWA recipient ("battered immigrant") – "Deferred Action"

Temporary Protected Status (TPS)

Asylee

Refugee

V-Visa holder

H-2A and H-2B visa (temporary farm and seasonal workers) ("non-immigrants")

Other "Non-Immigrant" visas such as student and visitor visas (B-1, F-1, J-1)

Deferred Action for Childhood Arrivals (DACA)

And more...

What are Some Common Categories of Legally-Present Immigrants?

How Can You Tell What Kind of Immigration Status A Person Has? (PART 1)

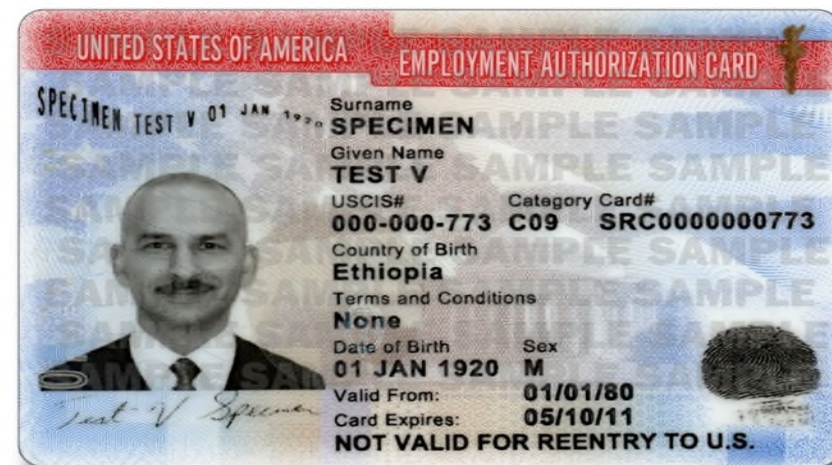
I-797 Approval Notice

- These are given by DHS for many different types of status.
- The type of status approved will be noted on this 8.5 x 11 piece of paper.



Employment Authorization Document ("EAD", or work permit)

- Referred to as "I-688" or "I-766" in the Medicaid Manual
- The "Category" code on the work permit tells you what kind of status the person has, and you can look on the [USCIS website](#) to see which status each code indicates.



IMMIGRANT ELIGIBILITY FOR BENEFITS



Citizens and Mixed-Status Families

- Before we discuss immigrant eligibility, remember: **CITIZENS** are eligible for any/all benefit programs that exist...
 - ...as long as they meet all other criteria for the program (income, age, pregnancy status, disability, etc.)
- This includes CITIZENS in "mixed-status" families – each person's eligibility is determined *as an individual*. The immigration status of their family members does not impact their eligibility.



IMPORTANT NOTE!

- We are in the midst of changing eligibility for many of the major programs. Eligibility changes will go into effect:
 - **2025:** SNAP/Food Stamps
 - **October 1, 2026:** Medicaid for non-pregnant adults
 - **Jan. 1, 2027:** ACA
 - **Jan. 1, 2027:** Medicare
- Programs that will *NOT* change with 2025 changes:
 - Supplemental Security Income (SSI)
 - SS Retirement
 - SSDI
 - Emergency Medicaid
 - Medicaid for pregnant women and children
 - TANF

**MEDICAID, SNAP
AND OTHER
'FEDERAL MEANS
TESTED BENEFITS'**



What are “Federal Means-Tested Public Benefits?”

Medicaid *(See later slides on 2026 changes)*

SNAP (food stamps)* *(See later slides on 2025 changes)*

TANF (Temporary Assistance for Needy families/cash assistance)

SSI (Supplemental Security Income, for disabled persons)

Source: U.S. DOJ, Proposed Agency Interpretation of “Federal Means-Tested Public Benefit[s]” Under Personal Responsibility and Work Opportunity Reconciliation Act of 1996,” 1997, available at: [download \(justice.gov\)](https://www.justice.gov/download/justicegov).

Note: there is no statutory definition of “federal means-tested public benefits.”

Limited Immigrant Eligibility for Means- Tested Public Benefits

“Qualified” immigrants are eligible, defined as

- Legal Permanent Residents (LPR)
- Refugees, Asylees, & Persons Granted Withholding of Deportation/Removal
- Cuban and Haitian Entrants
- Paroled into U.S. for at least 1 Year (see more on parole later)
- Battered spouses and children (“VAWA”) with deferred action
- Victims of trafficking – those granted “T” visas or who have pending applications and have had a prima facie case approved
- “COFA Migrants” (Citizens of Marshall Islands, Micronesia, Palau)

Not Qualified: everyone else

- Even if they have work authorization and are lawfully present in the United States, they are NOT eligible for “federal means tested public benefits.”

Immigrant Eligibility: The “Five Year Bar”

Most “qualified” legal immigrants cannot receive federal means-tested public benefits* for the first 5 years after receiving their legal status

- * *Medicaid, SNAP, TANF, and SSI.*



Exemptions from the 5 Year Bar

- The following immigrants are exempt from the five-year bar for Medicaid. They may start receiving benefits as soon as they receive legal status:
 - **Refugees**
 - *Includes recently arrived Afghans and Ukrainians with parole (2021-2023). Most of the recently paroled Venezuelans do NOT fall under this and must wait 5 years for Medicaid.*
 - Persons granted **asylum** or withholding of deportation
 - **Amerasian** immigrants
 - **Cuban/Haitian entrants**
 - **Victims of trafficking/T visa/prima facie approved T**
 - *AND all....*
 - ***Veterans, active duty military**, spouse, unremarried surviving spouse, or child of veteran/active duty military

NOTE: THE ABOVE PEOPLE ^^^ ALSO HAVE NO FIVE-YEAR BAR IF/WHEN THEY CONVERT TO LEGAL PERMANENT RESIDENCY

Example: A refugee adjusts to LPR status one year after entering the U.S. He /she can be immediately eligible for federal means-tested public benefit programs with no waiting period, even though he is an LPR now and no longer a refugee.

SNAP: No 5-year bar for children

- “Qualified alien” children under age 18 can qualify for SNAP immediately; no 5 -year bar. (8 USC §1613 (c)(2)(L))
- But note *new general restrictions on eligibility* under OBBBA in upcoming slides

Pregnant Women and Children under CHIPRA: Greater Access to Medicaid

THIS DID NOT CHANGE UNDER 2025 BUDGET ACT!

Medicaid is available to ALL pregnant women and children (under age 19) who are "lawfully residing" in NC

Lawfully residing = lawful presence + residency

Lawful presence is VERY BROAD: Anyone with any permission from the U.S. government to live in the U.S.

The ONLY lawfully residing group that is not eligible are people with DACA status*

There is NO five-year bar - lawfully present pregnant women or children can use Medicaid benefits immediately with no waiting period

Medicaid and SNAP Changes from 2025 Budget Bill



SNAP CHANGES ALREADY
WENT INTO EFFECT
(NC implemented Feb. 2026).



MEDICAID CHANGES GOING
INTO EFFECT ON **OCTOBER 1,**
2026

- New eligibility for Medicaid and SNAP. Only the following immigrants will be eligible:

- Legal Permanent Residents (LPR)
- Cuban-Haitian Entrants
- “COFA” Migrants (Micronesia, Marshall Islands and Palau)

- NOTE: 5-year bar still applies to most LPRs.

- Refugees, asylees, and trafficking victims who lost eligibility under this bill can still apply once they gain LPR status; no 5-year bar applies to them.
- No 5-year bar for children under age 18 for SNAP

Sources: 7 USC 2015 (SNAP changes); 42 USCS § 1396b(v)(5) (Medicaid changes); 8 USC 1613 (5-year bar); USDA Memo explaining 5-year bar after the 2025 Budget Reconciliation Act, found [here](#) (Question # 5).

Guidance and Manual Updates on SNAP Changes

Dec. 2025 SNAP Guidance from USDA corrected an earlier, incorrect guidance after litigation by many states (including NC): <https://www.fns.usda.gov/snap/obbb-alien-eligibility-qas1>

NC FNS Manual about non-citizen eligibility (Feb. 2026):
FNS 227: <https://policies.ncdhhs.gov/wp-content/uploads/FNS-227-Non-citizen-Requirements.pdf>

Change Notice, NC DHHS FNS, Jan. 2026:
<https://policies.ncdhhs.gov/wp-content/uploads/FNS-CN-01-2026.pdf>

**PROGRAMS
AVAILABLE TO
ALL**

Benefit Programs That Can Be Provided to All Immigrants Regardless of Status or With No Status At All:

Emergency Medicaid
and other emergency
medical services

Immunizations

Testing and treatment of
communicable diseases
(whether or not
symptoms caused by
such disease)

Women, Infants and
Children nutrition
program (WIC) (state
option)

Free/Reduced Price
School Lunch and
Breakfast Programs,
SunBucks

Emergency Disaster Relief
(FEMA shelters, disaster
food distribution, etc)
*(rule is different for FEMA
cash assistance)*

Programs delivered at the
community level that:

- Do not condition assistance on income or resources and
- Are necessary to protect life or safety

Programs “Necessary to Protect Life or Safety”

- Mental illness or substance abuse treatment
- Medical & public health services & mental health, disability or substance abuse services necessary to protect life or safety
- Child and adult protective services
- Violence and abuse prevention, including domestic violence
- Short-term shelter, housing assistance (e.g., battered women’s shelters)
- Soup kitchens, food banks, other nutritional assistance programs
- Other services necessary for the protection of life or safety

Adjusting status more important than ever now

2025 Budget Act removes Medicaid, SNAP, ACA, and Medicare from most immigrants who have “less than a green card”

Finding ways to help immigrants “adjust status” (transition to a green card) will be essential to helping them access benefits

- These statuses (and others) CAN adjust to green card and then get benefits:
 - “Concurrent” (can apply for green card status at same time as original status):
 - VAWA (domestic violence survivors who are spouses or children of U.S. citizen or LPR)
 - After 1 year in status:
 - Asylee
 - Refugee
 - After 3 years in status:
 - U-visa holder
 - T-visa holder
 - Potentially long wait:
 - Special Immigrant Juvenile Status

Higher fees will make adjustment difficult; consider creating fund/soliciting donations to help people with filing fees

Newly Restricted “Federal Public Benefits”?

- HHS proposed regulation added 13 programs, including Head Start, Community Health Centers, Title X Family Planning, and other community programs that it will consider “federal public benefits.” Reg is under litigation.
- USDA also published a similar notice about nutrition programs, but with much less impact.
- Agencies covering other benefit areas published similar notices
- **KEY THINGS TO KNOW:**
 - Non-profit organizations *not* required to verify immigration status.
 - The WIC program is **NOT affected** by these proposed rules
 - The school lunch program is NOT affected by these proposed rules
 - Many pieces of the proposed regs are now **in litigation (such as Head Start limits, blocked by nationwide injunction)**
- **MORE INFORMATION:**
 - [Explainer: HHS Notice on Federal Public Benefits - Protecting Immigrant Families](#)
 - [Explainer: USDA's Notice on Federal Public Benefits](#)



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**ACCESS
BARRIER:
PUBLIC CHARGE**

CURRENT STATE OF LAW



- THE LAW AS OF 1-28-26 IS STILL THE SAME. FOR NOW.
- **HOWEVER, A PROPOSED RULE RESCINDING THE BIDEN RULE WAS PUBLISHED IN NOV. 2025 AND THE COMMENT PERIOD IS NOW OVER.**
- **THE BIDEN RULE IS STILL IN EFFECT UNTIL A FINAL RULE IS 'FINALIZED.' WE DON'T KNOW WHEN THAT WILL HAPPEN.**
- **TRUMP ADMIN. SAYS IT WILL ISSUE 'SUBREGULATORY GUIDANCE' ON PUBLIC CHARGE, BUT THERE IS NO INFORMATION YET ON WHAT IT WILL SAY**

Fear of "Public Charge"

Concerns: If my family participates in a health or nutrition program, can I:

- Be deported?
- Get a green card in the future?
- Become a citizen in the future?
- Sponsor a relative in the future?



BACKGROUND: PUBLIC CHARGE

“Public Charge” law has existed since 1882.

In this law, the government considers whether or not a person is "likely to become dependent on the government for support."

- government considers a variety of factors including a person's age, family support, education/skills, and more.

A public charge assessment is made:

- When a person **applies to enter** the U.S. or
- **Applies to adjust status** to become a Lawful Permanent Resident (LPR)

Many factors
are considered...

- Immigration is supposed to look at all these factors in assessing “public charge”:
 - Age
 - Health
 - Family status
 - Financial status
 - Education and skills
 - Affidavit of support
- Public Benefits are only *one factor* looked at (as part of "financial status")

Main Messages on Public Charge (for now?):

Most important benefit programs can be used with **NO IMPACT** on your immigration application.

ALL benefits used by **U.S. citizen children and other family members** will not be counted against the immigrant in her green card application.

Many immigrants are **not subject to public charge**: refugees, asylees, victims of trafficking, victims of DV and more are still not subject to public charge rules.

THIS WILL BE TRUE EVEN IF RULE CHANGES.

Use of benefit programs can keep you and your family members healthy and strong.

**Immigrants AND
their Family
Members Can Use
ALL of these
Programs Without
Concern, If Eligible!***

***For now,
as of 1-28-26.
Waiting on new
guidance.***

Health Programs:

- Emergency AND Non-Emergency Medicaid
- ACA/Health Care Marketplace)
- CHIP (NC Health Choice)
- Sliding scale/federally-funded health services (FQHCs)
- Vaccines (COVID and others)
- Medicare

Nutrition Programs:

- SNAP (food stamps)
- WIC (Women, Infant and Children's nutrition assistance program)
- School lunch/breakfast programs

"Earned" Cash Assistance:*

- "Earned" benefit programs such as unemployment, SSDI
- EITC (Earned Income Tax Credit) and all tax credit programs

- *Only these programs, not the cash assistance programs outlined on previous slides*

Other:

- Head Start
- FEMA or any disaster relief
- State local or tribal programs (except cash for income maintenance)
- LIHEAP/energy assistance
- Emergency services: DV shelters, food banks, child protective services
- Any other benefits not for income maintenance

Only Three
Programs Are
Considered
"Negatively" Under
the (CURRENT)
Public Charge Rule

- SSI
- TANF
- Institutionalization for Long-Term Care At Government Expense
 - Government is PAYING for you to live in a hospital or nursing home
 - Any other temporary/typical use of Medicaid or Medicare is not counted negatively in the public charge test
 - **REMEMBER: THESE BENEFITS ARE ONLY CONSIDERED IF USED BY THE IMMIGRANT HIM OR HERSELF. MOST IMMIGRANTS WHO DON'T YET HAVE A GREEN CARD ARE NOT ELIGIBLE FOR THESE PROGRAMS AND DO NOT USE THEM.**

Exempt Immigrants

- **Certain immigrants are not subject to the “public charge” test at all:**
 - **Green card holders** who are now applying for U.S. citizenship
 - Refugees
 - Asylees
 - Applicants for "T" visas – victims of trafficking
 - Applicants for "U" visas or VAWA - victims of domestic violence and other serious crimes
 - And several other categories

**** these categories are set by statute and should not change with any rule change**

Sources: 8 CFR 212.23; 8 U.S.C. § 1182 (a)(4)(E) (exempting VAWA holders, U visas, and all 'qualified aliens,' which includes refugees, asylees, LPRs who are seeking citizenship, T visa holders, and Cuban-Haitian entrants)

PUBLIC CHARGE RESOURCES AND ELIGIBILITY RESOURCES :

[**www.ncjustice.org/public-charge**](http://www.ncjustice.org/public-charge)

[**www.ncjustice.org/immigrant-health**](http://www.ncjustice.org/immigrant-health)

- **Public Charge: The Law Has Changed (updated September 2022)**
 - **English:** [**here**](#)
 - Spanish: [**here**](#)
 - Also available [**here**](#) in Vietnamese, Chinese, French, Pashto, and Dari

Short Animated Videos on Public Charge (updated 2023)

- Spanish: [**here**](#)
- English: [**here**](#)

NC Health Insurance Eligibility for Immigrants (updated October 2025)

- Spanish: [**here**](#)
- English: [**here**](#)

NC Immigrant Access for Nutrition Programs (updated Oct. 2025)

- English and Spanish: [**here**](#)

Immigrant Access to Health and Nutrition Programs (updated 2025)

- Includes phone numbers for questions about benefits eligibility
- Spanish [**here**](#)
- English: [**here**](#)

Immigrants and the COVID Vaccine (Including Public Charge):

- **English, Spanish, French, Vietnamese, Chinese, Burmese and Arabic:** [**here**](#)



More resources

- Another great source of flyers in many languages:
 - <https://pifcoalition.org/publiccharge2022>
- Food Programs and Your Rights (updated Jan. 2026)(multiple languages):
<https://www.fns.usda.gov/snap/obbb-alien-eligibility-qas1>
- **MOST RECENT/UPDATED PUBLIC CHARGE MATERIALS (NOV 2025) (MULTIPLE LANGUAGES):**
 - [3 Things You Need to Know about Public Charge - Protecting Immigrant Families](#)

**ACCESS
BARRIER: FEAR
OF ICE
REPORTING**

Data Privacy is Rapidly Changing

- New flyers on Data Privacy and Assessing Risk
 - English: [Data and Public Programs English-final.pdf](#)
 - Spanish: [Data and Public Programs Spanish-final.pdf](#)

What we Used to Tell People:

- Agencies are (for the most part) not ALLOWED to share your data with Immigration or anyone else
 - Agencies are (for the most part) not REQUIRED to share your data with Immigration or anyone else
 - Agencies cannot require *non-applicants* in the household to provide immigration information about themselves
-
- Sources: [This chart](#) by the National Immigration Law Center contains extensive citations for the statutory privacy protections for each benefit program; see also *Guidance On State Applications, Citizenship, Immigration Status & SSN*, 9/21/00 (HHS, USDA), available at: <http://www.medicaid.gov/Federal-Policy-Guidance/downloads/sho092100.pdf>

Helpful Litigation and Policy Tracker

- Helpful tracker here to following all the data sharing and other access-to-benefits related litigation and guidance changes:

<https://pifcoalition.org/toolkits/executive-action-spotlight-toolkit/>

SNAP-Specific Data Privacy Updates

- **May 2025**: USDA demands SNAP data from states, including North Carolina. Many states, including North Carolina, resist.
- **July 2025**: USDA demands SNAP data from states under a different rationale. USDA claims it is creating a new SNAP Information Database containing: “SNAP applicants’ and recipients’ PII, including their names, Social Security Numbers (SSNs), dates of birth, and addresses.”
- Federal govt threatened major withdrawal of funding, including funding exceeding states’ administrative costs, if states did not comply.
- Some states, including North Carolina, chose to comply. **North Carolina delivered SNAP data to USDA, with alleged “protocols” in place, in Sep. 2025.**
- **July 2025**: 20-ish other states sued federal government. **Sharing of SNAP data has been stopped by prelim. Injunction.** Federal government continued its demands for SNAP data from the enjoined states in late 2025. Case remains in litigation. *(Note: hearing was scheduled for 2-13-26, this presentation created before that hearing).*

Messages for Families on Data Privacy

- **Benefits** of using health and benefit programs must be weighed against **risks**
- If you are **in the process of applying for any immigration benefit currently** (U visa, green card, DACA, TPS, etc), you are already "in the system" and Immigration already knows your information: **no added risk to applying for and using benefit programs**, if you are eligible
- **If you already receive Medicaid or SNAP, or someone in your family does, at your CURRENT address, there is no benefit at this time of dropping out of Medicaid or SNAP coverage**
- If you are **not applying for benefits for yourself** (but for someone in the family), **do NOT share immigration information** about yourself.

Emergency Planning Guide for Immigrant Families

- Download here in English and Spanish:
<https://www.ncjustice.org/publications/emergency-planning-resources-for-immigrant-families/>
- Another version here in English only:
<https://www.ncjustice.org/publications/emergency-preparedness/>



References

- North Carolina Justice Center and Charlotte Center for Legal Advocacy: Flyers on Immigrant Eligibility for Health and Nutrition programs: www.ncjustice.org/immigrant-health
- ***Interpretation of "Federal Public Benefit,"*** (HHS) 8/4/98, 63 Fed. Reg. 41658
 - PIF and NILC explainer on "reinterpretation" of federal public benefit, July 2025: [Explainer: HHS Notice on Federal Public Benefits - Protecting Immigrant Families](#)
- ***Final Specification of Community Programs Necessary for the Protection of Life and Safety,*** 1/16/01, 66 Fed. Reg. 3613
- ***Interim Guidance on Verification,*** 11/17/97 (INS) 62 Fed. Reg. 61415
- ***Domestic Violence Fact Sheet,*** 1/30/01 (HHS-OCR): <https://www.hhs.gov/civil-rights/for-individuals/special-topics/national-origin/domestic-violence/>
- ***"Public Benefits Access for Battered Immigrant Women and Children,"*** http://library.niwap.org/wp-content/uploads/2015/pdf/12_CH4.2-BB-Public-Benefits-for-Immigrant-Women-and-Children-2.17.14-1.pdf
- ***Food Stamp Regulations on Deeming,*** 11/21/00
 - (USDA-FNS) 65 Fed. Reg. 70134

References

- ***Guidance On State Applications, Citizenship, Immigration Status & SSN***, 9/21/00 (HHS, USDA)
 - <http://www.medicaid.gov/Federal-Policy-Guidance/downloads/sho092100.pdf>
- Policy Guidance Requiring Inquiries into Citizenship, Immigration Status and SSN in State Applications for Medicaid, SCHIP, TANF, and Food Stamps:
 - Q and A (2023): <https://fns-prod.azureedge.us/sites/default/files/resource-files/Triagency-Guidance-re-Citizenship.pdf>
- DHHS and USDA: <https://www.hhs.gov/civil-rights/for-individuals/special-topics/national-origin/tri-agency/index.html>
- Memorandum of Agreement between the Department of Homeland Security, U.S. Citizenship and Immigration Services, and the North Carolina Department of Health and Human Services, signed June 2010
- ***SCHIP Interim Final Rule***, 6/25/01 (HHS) 66 Fed. Reg. 33,823
- ***Mandatory Reporting Notice***, 9/28/00 (HHS, SSA, DOL, HUD) 65 Fed. Reg. 58301
- ***Language Access Guidance***, 8/30/00 (HHS-OCR)
- <http://hhs.gov/ocr/lep> (page disabled as of 2025)

References: Public Charge

- Biden Administration, Final Rule on Public Charge Grounds of Inadmissibility, Sep, 2022, found here: [2022-18867.pdf \(federalregister.gov\)](#)
 - Still correct law as of Feb. 2026
- Trump Administration proposed Public Charge Rule, November 2025 (not yet final, Jan. 2026):
 - [Federal Register :: Public Charge Ground of Inadmissibility](#)
- Protecting Immigrant Families Campaign: Public Charge – What Advocates Need to Know
 - Updated November 2025
- Resources available at: www.pifcoalition.org

Contact Information

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