



IMMIGRANTS' ACCESS

Since enactment of the Welfare Reform Act of 1996 and related legislation, human services workers and immigrants have often been confused about the

Who Remains Eligible for What?

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In the summer of 1996, Congress set out to “end welfare as we know it,” making sweeping reforms in U.S. public assistance programs. During the debates over how best to accomplish that goal, attention turned to the issue of noncitizens receiving public benefits. Fueled by the perception that increasing numbers of legal immigrants were receiving such benefits, and by the belief that generous benefits provide an incentive to illegal immigration, Congress took action to restrict immigrants’ eligibility for those benefits.

In August 1996, Congress enacted the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, known for short as the Welfare Reform Act.¹ Title IV of the act placed new limits on the ability of immigrants, including those legally present in the United States, to obtain benefits from government agencies. For benefit eligibility, the act distinguished between “nonqualified” and “qualified” aliens.² It barred nonqualified aliens from receiving most public benefits. But it also barred most qualified aliens from receiving significant benefits, including food stamps and Supplemental Security Income (SSI, the federal program that provides cash assistance to poor people who are disabled or elderly). In addition, for qualified aliens entering the United States after August 22, 1996 (the date the Welfare Reform Act became law), the act imposed a five-year waiting period for many other benefits. Finally, the act authorized states to restrict immigrants’ access to federally funded benefits even further.

Immediately after the Welfare Reform Act was signed into law, the Clinton administration proposed a

number of legislative changes designed to soften some of the restrictions, especially those affecting legal immigrants. Congress agreed and in subsequent federal legislation broadened the definition of qualified alien and restored some immigrants’ eligibility for food stamps, SSI, and other federal programs.

This article describes the provisions of the various federal laws that address immigrants’ eligibility for public benefits. The article addresses the complex changes made by these laws in three ways. The body of the article describes in broad strokes Congress’s developing approach to immigrants’ eligibility for public benefits. A sidebar (see page 24) lists the relevant federal laws and describes the main effects of each. Following this and the next article is a guide (see page 35) summarizing the current state of the law and identifying the benefits for which immigrants now are eligible.

The legislation discussed in this article addressed many other important issues. One set, relating to the duty of some government agencies to verify noncitizens’ immigration status before providing services, is discussed in the next article, “Immigrants’ Access to Public Benefits: When Should Agencies Inquire about Immigration Status?,” page 29. The discussion here is confined to which immigrants are eligible for what federal, state, and local benefits.

QUALIFIED AND NONQUALIFIED ALIENS

A noncitizen’s eligibility for public benefits depends largely on whether he or she is a “qualified alien,” a

TO PUBLIC BENEFITS



latter's eligibility for public benefits. The following articles explain what has changed and how non-citizens and service agencies are affected.

designation created by the Welfare Reform Act. The largest group in this category is lawful permanent residents, which primarily includes noncitizens who have been admitted to the United States to join their families or to work.³ Other qualified groups include noncitizens admitted for humanitarian reasons—among them, refugees, political and religious “asylees” (people granted asylum), and people granted withholding of deportation (noncitizens who ordinarily would be deported, but the U.S. attorney general has determined that they would be subject to persecution if they were required to return to their home countries).⁴

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996—for short, the Immigration Reform Act—added to the list of qualified aliens certain immigrant spouses and children who have been battered or subjected to extreme cruelty.⁵ The Balanced Budget Act of 1997 added certain ethnic groups to the category of noncitizens admitted for humanitarian reasons.⁶

Any noncitizen who does not meet the definition of qualified alien is considered a nonqualified alien for the purpose of determining eligibility for benefits. “Undocumented,” or illegal, immigrants fall into the nonqualified category, but so do aliens considered to be nonimmigrants, such as students or foreign visitors, and others who are lawfully present in the United States, such as applicants for asylum.

QUALIFIED ALIENS' ELIGIBILITY FOR FEDERAL BENEFITS

The Welfare Reform Act and the legislation amending it addressed qualified aliens' eligibility for three categories of federal benefits:

- Food stamps
- SSI
- Other federal means-tested public benefits

All these benefits have other eligibility criteria that individual recipients, including qualified aliens, also must meet.

Food Stamps and SSI

The Welfare Reform Act made most qualified aliens *ineligible* for food stamps and SSI.⁷ Initially, Congress exempted only two categories of qualified aliens from this bar on eligibility:

- Those with strong military connections—namely, honorably discharged veterans and members of the armed services on active duty, along with their spouses and dependent children⁸
- Lawful permanent residents with long work histories in the United States—that is, those with forty qualifying quarters, or ten years, of work for purposes of receiving Social Security benefits⁹

Certain aliens admitted to the United States for humanitarian reasons—such as refugees and asylees—also were exempted from the bar but only for their first five years of residence in the United States.¹⁰ The largest group of qualified aliens—lawful permanent residents without strong military connections or a long work history—was rendered completely ineligible for food stamps and SSI under the Welfare Reform Act.

Immediately after the act's passage, the Clinton administration asked Congress to restore eligibility to

FEDERAL LEGISLATION AFFECTING IMMIGRANTS' ELIGIBILITY FOR PUBLIC BENEFITS

Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("Welfare Reform Act") —Public Law 104-193

The Welfare Reform Act created a distinction between "qualified" and "nonqualified" aliens for purposes of benefit eligibility, and it imposed limits—in some cases outright bans—on all aliens' eligibility for benefits. With certain exceptions the act barred nonqualified aliens from receiving any federal, state, or local public benefits. The act also imposed strict limits on qualified aliens' eligibility for benefits. It made most qualified aliens ineligible for food stamps and Supplemental Security Income (SSI). Further, it imposed a five-year waiting period for eligibility for federal means-tested public benefits on qualified aliens who first enter the United States after August 22, 1996. Finally, the act authorized states to place additional restrictions on qualified aliens' eligibility for Medicaid, Temporary Assistance for Needy Families (TANF), and programs funded under the Social Services Block Grant.

Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("Immigration Reform Act") —Public Law 104-208

The Immigration Reform Act expanded the definition of "qualified aliens" to include certain battered immigrant spouses and children. It also directed the U.S. attorney general, in consultation with the secretary of health and human services, to develop procedures for verifying citizenship or immigration status when such verification is required.

Balanced Budget Act of 1997—Public Law 105-33

The Balanced Budget Act restored SSI eligibility to the following groups of aliens: people who are disabled or blind who were lawfully present in the United States on August 22, 1996; people who are lawfully present in the United States and were receiving SSI on August 22, 1996; people whose applications for benefits predated January 1, 1979; cross-border Native Americans; and members of Hmong or Highland Lao tribes who provided assistance to U.S. military

forces during the Vietnam War. The act also extended from five to seven years the period of SSI eligibility for refugees, asylees, Cuban/Haitian entrants, Amerasians, and persons granted withholding of deportation.

Further, the Balanced Budget Act clarified that the bar on federal public benefits for nonqualified aliens does not apply to Medicare benefits for aliens who are lawfully present in the United States and who were authorized to do the work that earned them eligibility for those benefits. Finally, the act provided that the bar does not apply to benefits earned under the Railroad Retirement Act or the Railroad Unemployment Act by nonqualified aliens who are lawfully present in the United States.

Agricultural Research, Extension and Education Reform Act of 1998 ("Agriculture Act")—Public Law 105-185

The Agriculture Act restored food stamp eligibility to the following groups of aliens: disabled people who were lawfully present in the United States on August 22, 1996; children under age eighteen who were lawfully present in the United States on August 22, 1996; adults who were at least sixty-five years old on August 22, 1996, and were lawfully present in the United States on that date; cross-border Native Americans; and members of Hmong or Highland Lao tribes who provided assistance to U.S. military forces during the Vietnam War. The act also extended from five to seven years the period of food stamp eligibility for refugees, asylees, Cuban/Haitian entrants, Amerasians, and persons granted withholding of deportation.

Noncitizen Benefit Clarification and Other Technical Amendments Act of 1998 ("Welfare Reform Technical Corrections Act")—Public Law 105-306

The Welfare Reform Technical Corrections Act provided that nonqualified aliens who were receiving SSI on August 22, 1996, may continue to receive SSI and Medicaid (if their eligibility for Medicaid is based on their eligibility for SSI) as long as they continue to meet all other eligibility requirements for benefits.

certain groups that had been rendered ineligible by the act. In response, in the Balanced Budget Act of 1997, Congress restored *SSI eligibility* to qualified aliens who (1) are currently lawfully residing in the United States and were receiving SSI on August 22, 1996 (the date the restrictions in the Welfare Reform Act went into effect), or (2) were lawfully residing in the United States on that date and are, or become, disabled or blind.¹¹

Congress also restored SSI eligibility to specific ethnic groups—namely, "cross-border Native Americans" (Native Americans whose tribes have treaty rights to cross the United States' border with Canada or Mexico and who thus may have been born outside the United States),¹² and members of Hmong and Highland Lao tribes who provided assistance to U.S. military forces during the Vietnam War.¹³

In addition, the Balanced Budget Act extended the period of eligibility for SSI benefits from five to seven years for immigrants admitted for humanitarian reasons. It also added to that category Cuban/Haitian entrants and Amerasian immigrants (noncitizens who were fathered by a U.S. citizen but were born in Vietnam between 1962 and 1975, or in Cambodia, Korea, Laos, or Thailand between 1951 and 1982).¹⁴

The Agricultural Research, Extension and Education Reform Act of 1998, known for short as the Agriculture Act, thereafter restored *eligibility for food stamps* to many of the same groups. It also restored eligibility to children under age eighteen who were lawfully present in the United States on August 22, 1996, and to adults who were both lawfully present and at least sixty-five years old on that date. Finally, the Agriculture Act extended from five to seven years the period during which people admitted for humanitarian reasons are exempt from the bar on food stamp eligibility.¹⁵

Federal Means-Tested Public Benefits

The Welfare Reform Act made qualified aliens who enter the United States after August 22, 1996, ineligible to receive any “federal means-tested public benefit” for five years after their lawful admission to the United States.¹⁶ Only those described earlier as having strong military connections or having been admitted for humanitarian reasons are exempt from the five-year waiting period.¹⁷

The Welfare Reform Act did not define “federal means-tested public benefit.” Significantly, however, it specified several important public benefits that are *not* subject to the five-year waiting period, among them, Medicaid for emergency services (although not for organ transplants) for people who otherwise meet Medicaid eligibility criteria; immunizations; and testing for and treatment of symptoms of communicable diseases. Also exempted from the five-year waiting period are programs, services, or assistance specified by the U.S. attorney general that (1) deliver in-kind (noncash) services at the community level, (2) do not condition assistance on the recipient’s income or resources, and (3) are necessary for the protection of life or safety.¹⁸ This potentially expansive exemption also applies to non-qualified aliens and is discussed later in connection with that group.

Because Congress failed to define “federal means-tested public benefit,” three federal agencies—the U.S.

Department of Health and Human Services (DHHS), the Social Security Administration, and the U.S. Department of Agriculture (USDA)—developed and published their own definitions. DHHS interpreted the term to mean mandatory spending programs that condition eligibility for benefits, or the amount of those benefits, on the income or the resources of the recipient. Applying that definition, DHHS concluded that, among its programs, only Medicaid and Temporary Assistance for Needy Families (TANF, which replaced Aid to Families with Dependent Children, or AFDC) are subject to the five-year waiting period for qualified aliens who arrive after August 22, 1996.¹⁹ The Social Security Administration concluded that its sole means-tested public benefit is SSI,²⁰ and the USDA concluded that its only means-tested public benefits are the food stamp program and the food-assistance block grant programs in Puerto Rico, the Northern Mariana Islands, and American Samoa.²¹ Because eligibility for SSI and food stamps is addressed separately in the Welfare Reform Act and subsequent legislation, these conclusions have no bearing on qualified aliens’ eligibility for those benefits or the five-year waiting period that applies to aliens who arrived after August 22, 1996.²² Significantly, the USDA’s notice found many of that department’s programs *not* to constitute federal means-tested public benefits, among them school breakfast and lunch programs, the special milk program for children, and the special supplemental nutrition program for women, infants, and children (WIC).

State Restrictions on Qualified Aliens’ Eligibility for Benefits

As noted earlier, the Welfare Reform Act authorized states to impose further restrictions on qualified aliens’ eligibility for federal benefits. States may bar qualified aliens from receiving Medicaid, TANF, and benefits funded by the Social Services Block Grant (SSBG), including child care programs and services for the elderly.²³ States also may bar qualified aliens from receiving benefits funded or provided by state or local governments.²⁴ However, states must exempt from any state-enacted bar on federal, state, or local benefits those qualified aliens described earlier as having strong military connections or long work histories. Further, any state bar on eligibility for TANF and SSBG programs may not apply to the groups described earlier as being admitted for humanitarian reasons, at least for their first seven years in the United States, and state

and local benefits must continue to be made available to those groups for at least the first five years.

States must affirmatively pass legislation to create limits on qualified aliens' eligibility for these benefits. Otherwise, qualified aliens are eligible according to the provisions of federal law. North Carolina has not enacted a state bar, so qualified aliens in North Carolina remain eligible for these benefits to the extent provided by federal law.

NONQUALIFIED ALIENS' ELIGIBILITY FOR FEDERAL BENEFITS

Before the Welfare Reform Act of 1996, some federal programs explicitly prohibited undocumented immigrants from receiving benefits. Others explicitly provided that benefits were available to all who met program eligibility criteria, without regard to citizenship or immigration status. Still others did not address undocumented immigrants' eligibility for benefits.

The Welfare Reform Act sought to bring about uniformity in federal programs' treatment of noncitizens who are undocumented or otherwise not qualified aliens under the act. It explicitly barred immigrants who do not meet the definition of qualified alien from receiving most federal, state, and local benefits.²⁵

The act made nonqualified aliens ineligible for any "federal public benefit," defined as follows:

- (A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and
- (B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.²⁶

Although broad, this general rule of ineligibility is not absolute. The Welfare Reform Act included a number of exceptions to the bar on benefits. Subsequent actions of federal agencies have expanded the exceptions and construed the statutory definition narrowly, with the result that nonqualified aliens remain eligible for a number of federal public benefits.

The Welfare Reform Act excluded from the bar several key federal benefits, including Medicaid benefits for emergency services (but not for organ transplants), provided that the person otherwise meets Medicaid

eligibility criteria; immunizations; and testing for and treatment of symptoms of communicable diseases.²⁷

Subsequent federal legislation added other exceptions to the eligibility bar. For example, the Balanced Budget Act stated that the bar does not apply to Medicare benefits for aliens who are lawfully present in the United States and were authorized to be employed during the time they earned wages rendering them eligible for Medicare.²⁸

One of the exceptions enumerated in the Welfare Reform Act allows nonqualified aliens access to public benefits related to emergencies or other threats to life and safety. The act authorized the U.S. attorney general to specify programs and services that should be excepted from the bar on benefits because they deliver in-kind services at the community level, do not condition assistance on the recipient's income or resources, and are necessary for the protection of life or safety.²⁹ Attorney General Janet Reno released a provisional specification in August 1996. Reno first stated that she did not construe the act to preclude aliens from receiving police, fire, ambulance, transportation, sanitation, and other widely available services. Accordingly she did not include those items in her specification. She then found that several programs and services are necessary for the protection of life and safety and may be provided to nonqualified aliens, among them crisis counseling and intervention programs, child and adult protective services, violence and abuse prevention programs or services, programs or services for victims of domestic violence or other crimes, and treatment of mental illness or substance abuse. Also included is a catch-all exception for any other programs, services, or assistance necessary for the protection of life and safety.³⁰

Other actions at the federal level also have served to expand nonqualified aliens' eligibility for benefits. Several federal agencies have taken the position that some of their programs and services do not meet the definition of "federal public benefit." To date, though, only DHHS has formally stated its position. In August 1998 it issued an interpretation concluding that many of its programs are not federal public benefits and therefore may be provided to all otherwise eligible persons without regard to citizenship or immigration status.³¹ The DHHS interpretation construes the term "federal public benefit" narrowly. DHHS first examined part (A) of the definition, which refers to "any grant" provided by a federal agency or federal funds. DHHS concluded that this part of the definition applied to grants pro-

vided to individuals and therefore did not include block grant funds that federal agencies award to states or localities.

DHHS then considered part (B) of the definition. It noted that a benefit must satisfy two conditions to be considered a “federal public benefit” under part (B): (1) it must be a “retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit” or a similar benefit; and (2) it must be provided to “an individual, household, or family eligibility unit.” DHHS reasoned that the second condition narrows the set of benefits that fall within the categories described in the first condition. Accordingly it concluded that benefits targeted at communities or specific sectors of the population—such as people with a particular physical condition or people of a certain age—do not fall within the scope of the term “federal public benefit.”

DHHS ultimately concluded that, among its programs, only certain ones provide federal public benefits that must be denied to nonqualified aliens. However, some significant benefits fall within DHHS’s interpretation—for example, Medicare, Medicaid (except assistance for an emergency medical condition), TANF, and benefits under SSBGs—and so must be denied to nonqualified aliens unless other exceptions apply.³²

DHHS has directed all states and localities that administer programs supported by it to comply with its interpretation. Accordingly, nonqualified aliens in North Carolina remain eligible for all DHHS benefits that do not fall within its interpretation of federal public benefit.

NONQUALIFIED ALIENS’ ELIGIBILITY FOR STATE AND LOCAL BENEFITS

Under the Welfare Reform Act, states may choose to provide state and local public benefits to nonqualified aliens, but they must enact a state law affirmatively making this choice.³³ North Carolina has not done so. In the absence of such a law, most nonqualified aliens are ineligible for state and local public benefits.³⁴ The definition of state and local public benefits parallels the definition of federal public benefits described earlier, except that the benefits are supported by state or local funds instead of federal funds.³⁵

Once again, the Welfare Reform Act created a number of exceptions to this general bar on eligibility. Nonqualified aliens remain eligible for certain state or local public benefits, including assistance for health

care items and services necessary for treatment of emergency medical conditions (but not for organ transplants); immunizations; and testing for and treatment of symptoms of communicable diseases.

CONCLUSION

In the Welfare Reform Act of 1996, Congress embraced the policy that noncitizens should not rely on public resources to meet their needs and that public benefits should not constitute an incentive for immigration to the United States.³⁶ The act created a set of benefit-eligibility rules to implement that policy. Subsequent legislation carved out exceptions or exemptions designed to further other policy objectives, such as providing humanitarian assistance to certain groups of noncitizens. The result is a very complicated set of benefit-eligibility rules, which in some cases are still being refined or changed. For instance, as this article goes to press, Congress is considering legislation that would extend food stamps, SSI, and Medicaid to additional groups of immigrants.³⁷

Understanding the benefit-eligibility rules is difficult. Nevertheless, North Carolina’s governing bodies and agencies must undertake to do so. As the state’s immigrant population grows, more and more immigrants will approach state or local government agencies seeking public benefits. At the same time, state and local governments may wish to promote existing benefits to meet the needs of these new residents, or to develop new programs. Government officials and agencies should make every effort to prepare themselves for these occasions.

NOTES

1. Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (hereinafter Welfare Reform Act), Pub. L. No. 104-193, 110 Stat. 2105 (codified as amended in scattered sections of 8 U.S.C. and 42 U.S.C.).

2. The Welfare Reform Act does not use the term “nonqualified alien.” Rather, it defines the term “qualified alien” and describes all other noncitizens as “aliens who are not qualified aliens.” The term “nonqualified aliens” is commonly used, however, to refer to the latter group. Other terms that readers may encounter include “not-qualified aliens” and “unqualified aliens.”

3. A small proportion of lawful permanent residents are admitted through the “diversity visa” program—a lottery designed to encourage immigration from certain countries.

4. “Refugee” and “asylee” are special statuses accorded to immigrants who are permitted to enter and remain in the

United States because they have a well-founded fear of persecution in their native countries. The Welfare Reform Act also designated as qualified aliens “parolees” admitted to the United States for at least one year (that is, noncitizens who ordinarily would not be admitted but are “paroled” into the United States—allowed to enter temporarily—for humanitarian, medical, or legal reasons) and people who have been present in the United States since before April 1, 1980, as “conditional entrants” under federal immigration laws. § 431(b). For purposes of this article, the latter two groups are not included in the category of those admitted for humanitarian reasons because their eligibility for benefits differs.

5. Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (hereinafter Immigration Reform Act), Pub. L. No. 104-208, Division C, § 501, 110 Stat. 300a-546 (codified in scattered sections of 8 U.S.C.).

6. Balanced Budget Act of 1997, Pub. L. No. 105-33, §§ 5302, 5306, 111 Stat. 251.

7. Welfare Reform Act § 402.

8. Welfare Reform Act § 402(a)(2)(C).

9. Welfare Reform Act § 402 (a)(2)(B). A qualified alien may receive credit for a spouse’s work. He or she also may receive credit for the work of a parent that occurred while the qualified alien was an unmarried dependent under age eighteen. The qualifying quarters may not include any quarter after December 31, 1996, in which the qualified alien received a federal means-tested public benefit. Congress has not defined the term “federal means-tested public benefit.” Three federal agencies have developed their own definitions and identified the programs that must be considered when determining whether an alien has received a federal means-tested public benefit. See the text under “Federal Means-Tested Public Benefits.”

10. Welfare Reform Act § 402(a)(2)(A).

11. Balanced Budget Act § 5301.

12. Balanced Budget Act § 5303.

13. Members of Hmong and Highland Lao tribes who provided such assistance are to be treated the same as veterans in determining eligibility for benefits. Balanced Budget Act, § 5566.

14. Balanced Budget Act §§ 5302, 5306. Other groups whose SSI eligibility was restored are listed in the guide accompanying this article (see page 35).

15. Agricultural Research, Extension and Education Reform Act of 1998, Pub. L. No. 105-185, §§ 503-508, 112 Stat. 523. The Balanced Budget Act added Cuban/Haitian entrants and Amerasian immigrants to the list of people who had a time-limited exemption from the bar. §§ 5302, 5306.

16. Welfare Reform Act § 403.

17. Welfare Reform Act § 403(b); Balanced Budget Act §§ 5302, 5306.

18. Welfare Reform Act § 403(c).

19. Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA): Interpretation of “Federal Means-Tested Public Benefit,” 62 Fed. Reg. 45,256 (Aug. 26, 1997).

20. Personal Responsibility and Work Opportunity Reconciliation Act of 1996: Federal Means-Tested Public Benefits Paid by the Social Security Administration, 62 Fed. Reg. 45,284 (Aug. 26, 1997).

21. Federal Means-Tested Public Benefits, 63 Fed. Reg. 36,653 (July 7, 1998).

22. However, the conclusions do affect some qualified aliens who are eligible for benefits on the basis of their long work histories in the United States. To receive credit for a long work history, a qualified alien must have worked forty qualifying quarters. Any quarter after December 31, 1996, in which the alien received a federal means-tested public benefit such as SSI is not a qualifying quarter.

23. Welfare Reform Act § 402(b).

24. Welfare Reform Act § 412. States also may require programs offering means-tested state or local benefits to include the income and the resources of the alien’s immigration sponsor and the sponsor’s spouse in determining the alien’s eligibility for the benefits. § 422. The Immigration Reform Act further authorized states to prohibit qualified aliens from receiving general public cash assistance, or to limit qualified aliens’ eligibility for cash assistance programs. States may apply limitations to all aliens or to specific classes of aliens but may not place greater restrictions on eligibility than are placed on comparable federal programs. § 553.

25. Welfare Reform Act §§ 401(a), 411(a).

26. Welfare Reform Act § 401(c)(1). Part (A) of this definition does not apply to the employment-related contracts or licenses of nonimmigrants whose entry visas are related to their employment in the United States. § 401(c)(2).

27. Welfare Reform Act § 401(b).

28. The law also does not apply to aliens who are lawfully present in the United States and eligible for benefits under the Railroad Retirement Act or the Railroad Unemployment Act. Balanced Budget Act § 5561. The Welfare Reform Technical Corrections Act also restored eligibility for SSI and certain other federal public benefits to non-qualified aliens who were lawfully present in the United States and were receiving those benefits on August 22, 1996. Noncitizen Benefit Clarification and Other Technical Amendments Act of 1998, Pub. L. No. 105-306, § 2.

29. Specification of Community Programs Necessary for Protection of Life or Safety under Welfare Reform Legislation, 61 Fed. Reg. 45,985 (Aug. 30, 1996).

30. The term “necessary for the protection of life and safety” has not been defined by Congress or any federal agency. Therefore its scope is ambiguous.

31. Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); Interpretation of “Federal Public Benefit,” 63 Fed. Reg. 41,657 (Aug. 4, 1998).

32. DHHS has cautioned that even the listed programs may provide certain benefits that are not federal public benefits. The test to be applied is whether the benefit is targeted at recipients based on their membership in a particular group, or at individual “eligibility units.”

33. Welfare Reform Act § 411(d).

34. Nonqualified aliens who are nonimmigrants or pa-

rolees for less than one year remain eligible under federal law. Welfare Reform Act § 411(a).

35. Welfare Reform Act § 411(c)(1). As with eligibility for federal benefits (see note 26), part (A) of this definition does not apply to the employment-related contracts or li-

censes of nonimmigrants whose entry visas are related to their employment in the United States. § 411(c)(2).

36. Welfare Reform Act § 400.

37. Fairness for Legal Immigrants Act of 1999 (S. 792/H.R. 1399, 106th Cong., 1st Sess.).