

A GUIDE TO IMMIGRANTS' ELIGIBILITY FOR PUBLIC BENEFITS IN NORTH CAROLINA

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ALL IMMIGRANTS

The Welfare Reform Act identified which aliens are *ineligible* for certain public benefits. It did not specify which benefits remain available to all aliens. Presumably, benefits not explicitly denied to aliens (or subsets of them) remain available to all people in the United States without regard to citizenship or immigration status. Those benefits include any that do not meet the statutory definition of "federal public benefit," which must be denied to nonqualified aliens (see "Nonqualified Aliens/Federal Public Benefits," later in this guide). They also include the following benefits and services, which are excepted from the statutory definition of "federal public benefit":

- Medicaid benefits for emergency services (but not for organ transplants), provided that the person otherwise meets Medicaid eligibility criteria
- Short-term, noncash emergency disaster relief
- Immunizations
- Testing for and treatment of symptoms of communicable diseases
- Benefits from housing or community development assistance programs that the person was receiving as of August 22, 1996
- Benefits under Title II of the Social Security Act (that is, Old Age, Survivors, and Disability Insurance), provided that the alien is lawfully present in the United States
- Programs or services specified by the U.S. attorney general that (1) deliver in-kind 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:
 - Crisis counseling and intervention programs, child protective services, adult protective services, violence and abuse prevention programs, programs for victims of domestic violence or other crimes, and treatment of mental illness and substance abuse
 - Short-term shelter or housing assistance for the homeless, for victims of domestic violence, or for runaway, abused, or abandoned children
 - Assistance for people during periods of hot, cold, or other adverse weather conditions

- Soup kitchens, community food banks, senior nutrition programs such as Meals on Wheels, and other community nutritional services for people requiring special assistance
- Medical and public health services (including treatment and prevention of diseases and injuries) and mental health, disability, or substance abuse assistance necessary to protect life or safety
- Activities designed to protect the lives and safety of workers, children, or community residents
- Any other programs, services, or assistance necessary for the protection of life or safety

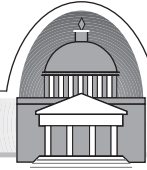
The *state and local benefits* available to all people regardless of citizenship or immigration status are those that do not meet the statutory definition of "state or local public benefit," and the following benefits, which are specifically excepted from that definition:

- Assistance for health care items and services necessary for treatment of emergency medical conditions (but not for organ transplants)
- Short-term, noncash emergency disaster relief
- Immunizations
- Testing for and treatment of symptoms of communicable diseases
- Programs and services such as soup kitchens or crisis centers that 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

All people present in the United States also may make use of police, fire, ambulance, transportation, sanitation, and other widely available public services.

QUALIFIED ALIENS

A "qualified alien" is a noncitizen who fits into one of the following categories: lawful permanent residents; certain aliens admitted for humanitarian reasons (namely, refugees; political and religious asylees; people granted withholding of deportation; Cuban/Haitian entrants; Amerasian immigrants; and parolees admitted to the United States for at least one year); aliens who have been present in the United States since before April 1, 1980, as "conditional entrants" under federal immigration laws; and



certain immigrants who have been battered or subjected to extreme cruelty, and in some cases their parents.

Qualified Aliens with Strong Military Connections

Honorably discharged veterans, members of the armed services on active duty, and their spouses and dependent children are potentially eligible for any public benefit, including food stamps, Supplemental Security Income (SSI), and all federal means-tested public benefits. These people must meet all other eligibility criteria for the benefit before they may receive it. Congress has stated that members of Hmong or Highland Lao tribes who provided assistance to United States military forces during the Vietnam War should be treated the same as honorably discharged veterans in determining eligibility for benefits. Thus those people also are potentially eligible to receive any public benefit.

Qualified Aliens with Long Work Histories in the United States

Lawful permanent residents who entered the United States before August 22, 1996, and who have worked forty qualifying quarters (ten years) under Title II of the Social Security Act are potentially eligible to receive any public benefit, provided that they meet all other eligibility criteria for the benefit. People who entered the United States after August 22, 1996, but otherwise meet the eligibility criteria are eligible for SSI and food stamps immediately but must wait five years before they are eligible to receive other federal means-tested public benefits.

All Other Qualified Aliens

SSI

The following qualified aliens are eligible to receive SSI (provided that they meet all other program eligibility criteria):

- Those with strong military connections (described earlier)
- Those with long work histories (described earlier)
- People who were lawfully present in the United States on August 22, 1996, and who were, or who become, disabled or blind
- People who are lawfully present in the United States and were receiving SSI on August 22, 1996
- SSI recipients whose applications for SSI predated January 1, 1979
- Cross-border Native Americans

Qualified aliens admitted for humanitarian reasons (described earlier) are eligible to receive SSI only during their first seven years of lawful residence in the United States.

All other qualified aliens are barred from receiving SSI.

Food Stamps

The following qualified aliens are eligible to receive food stamps (provided that they meet all other program eligibility criteria):

- Those with strong military connections (described earlier)
- Those with long work histories (described earlier)
- People who were lawfully present in the United States on August 22, 1996, and who now are disabled or who become eligible for disability-based federal benefits in the future
- Children under age eighteen who were lawfully residing in the United States on August 22, 1996
- Adults who were lawfully residing in the United States on August 22, 1996, and were at least sixty-five years old on that date
- Cross-border Native Americans

Qualified aliens admitted for humanitarian reasons (described earlier) are eligible to receive food stamps only during their first seven years of lawful residence in the United States.

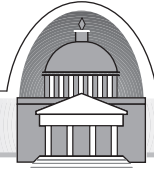
All other qualified aliens are barred from receiving food stamps.

Federal Means-Tested Public Benefits

Qualified aliens who entered the United States before August 22, 1996, are eligible for federal means-tested public benefits. Qualified aliens who entered the United States *after* August 22, 1996, are not eligible for those benefits until five years after their lawful admission to the United States.

The following groups are exempted from the five-year waiting period: qualified aliens with strong military connections and qualified aliens admitted for humanitarian reasons (both categories described earlier).

Congress did not define the term "federal means-tested public benefits." Based on federal agency interpretations, the term includes at least the following benefits and programs, and the restrictions just stated apply: Medicaid (except for emergency medical assistance), Temporary Assistance for Needy Families (TANF), and the food-assistance block grant programs in Puerto Rico, the Northern Mariana Islands, and American Samoa. No other programs administered by the U.S. Department of Health



and Human Services (DHHS), the U.S. Department of Agriculture, or the Social Security Administration meet the definition, according to those agencies, so qualified aliens are eligible for such programs (provided that they meet the particular program's criteria).

By statute, the following benefits also are exempted from the definition of federal means-tested public benefits under the Welfare Reform Act, so qualified aliens are eligible to receive them: Medicaid for emergency medical services (but not for organ transplants); short-term, noncash emergency disaster relief; services provided under the National School Lunch Act and the Child Nutrition Act; immunizations; testing for and treatment of symptoms of communicable diseases; payments for foster care and adoption assistance; student assistance under the Higher Education Act and the Public Health Service Act; means-tested programs under the Elementary and Secondary Education Act; Head Start; benefits under the Job Training Partnership Act; and programs, services, or assistance specified by the U.S. attorney general that (1) deliver in-kind 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.

NONQUALIFIED ALIENS

Federal Public Benefits

Nonqualified aliens are potentially eligible to receive the federal benefits and services listed earlier as being available to all aliens, provided that they otherwise meet eligibility criteria.

Nonqualified aliens are generally ineligible to receive other federal public benefits, which are 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.

One federal agency, DHHS, has issued an official interpretation of this definition, which must be applied to programs that receive funding from DHHS. Under

DHHS's interpretation, nonqualified aliens are eligible for a number of DHHS-funded benefits that are provided at the local level, such as prenatal care and other health services. This interpretation concludes that only the following programs constitute federal public benefits: several programs of the Administration on Developmental Disabilities (ADD); adult programs/payments to territories; Agency for Health Care Policy and Research dissertation grants; child care and development fund; clinical training grants for faculty development in alcohol and drug abuse; foster care; health profession education and training assistance; independent living program; job opportunities for low-income individuals; low-income home energy assistance program; Medicare; Medicaid (except for emergency medical assistance); mental health clinical training grants; native Hawaiian loan program; refugee cash assistance; refugee medical assistance; refugee preventive health services program; refugee social services formula program; refugee social services discretionary program; refugee targeted assistance formula program; refugee targeted assistance discretionary program; refugee unaccompanied minors program; refugee voluntary agency matching grant program; repatriation program; residential energy assistance challenge option; social services block grant; state child health insurance program; and TANF.

The general bar on federal public benefits does not apply to Medicare benefits for nonqualified aliens who were lawfully present in the United States and authorized to be employed during the time they earned wages rendering them eligible for Medicare; benefits under the Railroad Retirement Act or the Railroad Unemployment Act for nonqualified aliens who are lawfully present; and SSI and associated Medicaid benefits for nonqualified aliens who were receiving those benefits on August 22, 1996.

State and Local Public Benefits

Nonqualified aliens are potentially eligible to receive the state and local benefits and services listed earlier as being available to all aliens, provided that they otherwise meet eligibility criteria.

Nonqualified aliens are generally ineligible to receive other state and local public benefits. The definition of state and local benefits parallels the definition of federal benefits set forth earlier, except that the benefits are funded by state or local governments, not the federal government.

Nonqualified aliens who are nonimmigrants or parolees for less than one year are eligible to receive state and local public benefits.