

Noncitizen Eligibility for N.C. Local Health Department Mandated Services

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Maternal and Child Health Services			
Service	Noncitizen Groups	Eligible?	Analysis
Prenatal Care	Qualified aliens	Yes	This service receives federal funding through the Maternal & Child Health Block Grant. The US Department of Health & Human Services (HHS) has determined that services funded by the MCH Block Grant do not constitute “federal means-tested public benefits.” ⁱ 62 Fed. Reg. 45256 (Aug. 26, 1997).
	Nonqualified aliens	Yes	This service receives federal funding through the Maternal & Child Health Block Grant. HHS has determined that services funded by the MCH Block Grant do not constitute “federal public benefits.” ⁱⁱ 63 Fed. Reg. 41658 (Aug. 4, 1998).
Maternity Care Coordination	Qualified aliens	Yes	This service receives federal funding through the Maternal & Child Health Block Grant. HHS has determined that services funded by the MCH Block Grant do not constitute “federal means-tested public benefits.” 62 Fed. Reg. 45256 (Aug. 26, 1997).
	Nonqualified aliens	Yes	This service receives federal funding through the Maternal & Child Health Block Grant. HHS has determined that services funded by the MCH Block Grant do not constitute “federal public benefits.” 63 Fed. Reg. 41658 (Aug. 4, 1998).

Maternal and Child Health Services (continued)

Service	Noncitizen Groups	Eligible?	Analysis
Prenatal and Childbirth Classes	Qualified aliens	Yes	This service receives federal funding through the Maternal & Child Health Block Grant. HHS has determined that services funded by the MCH Block Grant do not constitute “federal means-tested public benefits.” 62 Fed. Reg. 45256 (Aug. 26, 1997).
	Nonqualified aliens	Yes	This service receives federal funding through the Maternal & Child Health Block Grant. HHS has determined that services funded by the MCH Block Grant do not constitute “federal public benefits.” 63 Fed. Reg. 41658 (Aug. 4, 1998).
Family Planning	Qualified aliens	Yes	This service receives federal funding through Title X of the Public Health Service Act. HHS has determined that services funded by Title X do not constitute “federal means-tested public benefits.” 62 Fed. Reg. 45256 (Aug. 26, 1997).
	Nonqualified aliens	Yes	This service receives federal funding through Title X of the Public Health Service Act. HHS has determined that services funded by Title X do not constitute “federal public benefits.” 63 Fed. Reg. 41658 (Aug. 4, 1998).

Maternal and Child Health Services (continued)

Service	Noncitizen Groups	Eligible?	Analysis
WIC Nutrition Program	Qualified aliens	Yes	Federal law provides that qualified aliens are eligible for the WIC program, and are not subject to the 5-year waiting period that applies to some other federal benefits. 8 USC 1615(b); 7 CFR 246.7(p).
	Nonqualified aliens	Yes	States may elect to deny WIC to nonqualified aliens. 8 USC 1615(b)(2). A state that makes this election must notify the USDA's Food & Nutrition Services and provide copies of its procedures for limiting WIC services. 7 CFR 246.7(c)(3). North Carolina has not done this; therefore, nonqualified aliens in NC are eligible for the services.
Immunizations	Qualified aliens	Yes	Federal law specifically exempts "public health assistance for immunizations" from the categories of federal benefits ⁱⁱⁱ that are restricted for qualified aliens. 8 USC 1613(c).
	Nonqualified aliens	Yes	Federal law establishes the general rule that nonqualified aliens are ineligible for federal, state, or local public benefits, but it also creates a list of exceptions to the general rule. The list of exceptions includes "public health assistance for immunizations." 8 USC 1611(b)(1)(C); 1621(b)(3).

Maternal and Child Health Services (continued)

Service	Noncitizen Groups	Eligible?	Analysis
Child Health Screening	Qualified aliens	Yes	This service receives federal funding through the Maternal & Child Health Block Grant. HHS has determined that services funded by the MCH Block Grant do not constitute “federal means-tested public benefits.” 62 Fed. Reg. 45256 (Aug. 26, 1997).
	Nonqualified aliens	Yes	This service receives federal funding through the Maternal & Child Health Block Grant. HHS has determined that services funded by the MCH Block Grant do not constitute “federal public benefits.” 63 Fed. Reg. 41658 (Aug. 4, 1998).
Child Service Coordination	Qualified aliens	Yes	This service receives federal funding through the Maternal & Child Health Block Grant. HHS has determined that services funded by the MCH Block Grant do not constitute “federal means-tested public benefits.” 62 Fed. Reg. 45256 (Aug. 26, 1997).
	Nonqualified aliens	Yes	This service receives federal funding through the Maternal & Child Health Block Grant. HHS has determined that services funded by the MCH Block Grant do not constitute “federal public benefits.” 63 Fed. Reg. 41658 (Aug. 4, 1998).

General Population Services			
Service	Noncitizen Groups	Eligible?	Analysis
Tuberculosis Screening & Treatment	Qualified aliens	Yes	Federal law specifically exempts “public health assistance ... for testing and treatment of symptoms of communicable diseases” from the categories of federal benefits ^{iv} that are restricted for qualified aliens. 8 USC 1613(c).
	Nonqualified aliens	Yes	Federal law establishes the general rule that nonqualified aliens are ineligible for federal, state, or local public benefits, but it also creates a list of exceptions to the general rule. The list of exceptions includes “public health assistance ... for testing and treatment of symptoms of communicable diseases.” 8 USC 1611(b)(1)(C); 1621(b)(3).
HIV Screening & Counseling	Qualified aliens	Yes	Federal law specifically exempts “public health assistance ... for testing and treatment of symptoms of communicable diseases” from the categories of federal benefits ^v that are restricted for qualified aliens. 8 USC 1613(c).
	Nonqualified aliens	Yes	Federal law establishes the general rule that nonqualified aliens are ineligible for federal, state, or local public benefits, but it also creates a list of exceptions to the general rule. The list of exceptions includes “public health assistance ... for testing and treatment of symptoms of communicable diseases.” 8 USC 1611(b)(1)(C); 1621(b)(3).

General Population Services (continued)

Service	Noncitizen Groups	Eligible?	Analysis
Sexually Transmitted Disease Clinics	Qualified aliens	Yes	Federal law specifically exempts “public health assistance ... for testing and treatment of symptoms of communicable diseases” from the categories of federal benefits ^{vi} that are restricted for qualified aliens. 8 USC 1613(c).
	Nonqualified aliens	Yes	Federal law establishes the general rule that nonqualified aliens are ineligible for federal, state, or local public benefits, but it also creates a list of exceptions to the general rule. The list of exceptions includes “public health assistance ... for testing and treatment of symptoms of communicable diseases.” 8 USC 1611(b)(1)(C); 1621(b)(3).
Communicable Disease Screening & Treatment	Qualified aliens	Yes	Federal law specifically exempts “public health assistance ... for testing and treatment of symptoms of communicable diseases” from the categories of federal benefits ^{vii} that are restricted for qualified aliens. 8 USC 1613(c).
	Nonqualified aliens	Yes	Federal law establishes the general rule that nonqualified aliens are ineligible for federal, state, or local public benefits, but it also creates a list of exceptions to the general rule. The list of exceptions includes “public health assistance ... for testing and treatment of symptoms of communicable diseases.” 8 USC 1611(b)(1)(C); 1621(b)(3).

General Population Services (continued)

Service	Noncitizen Groups	Eligible?	Analysis
Health Education	Qualified aliens	Yes	This service receives federal funding through the Maternal & Child Health Block Grant. HHS has determined that services funded by the MCH Block Grant do not constitute “federal means-tested public benefits.” 62 Fed. Reg. 45256 (Aug. 26, 1997).
	Nonqualified aliens	Yes	This service receives federal funding through the Maternal & Child Health Block Grant. HHS has determined that services funded by the MCH Block Grant do not constitute “federal public benefits.” 63 Fed. Reg. 41658 (Aug. 4, 1998).

Adult Health Services			
Service	Noncitizen Groups	Eligible?	Analysis
Flu and Pneumonia Vaccination for High-Risk Populations	Qualified aliens	Yes	Federal law specifically exempts “public health assistance for immunizations” from the categories of federal benefits ^{viii} that are restricted for qualified aliens. 8 USC 1613(c).
	Nonqualified aliens	Yes	Federal law establishes the general rule that nonqualified aliens are ineligible for federal, state, or local public benefits, but it also creates a list of exceptions to the general rule. The list of exceptions includes “public health assistance for immunizations.” 8 USC 1611(b)(1)(C); 1621(b)(3).
Blood Pressure and Blood Sugar Screening	Qualified aliens	Yes	This service receives federal funding through the Preventive Services Block Grant. HHS has determined that services funded by the Preventive Services Block Grant do not constitute “federal means-tested public benefits.” 62 Fed. Reg. 45256 (Aug. 26, 1997).
	Nonqualified aliens	Yes	This service receives federal funding through the Preventive Services Block Grant. HHS has determined that services funded by the Preventive Services Block Grant do not constitute “federal public benefits.” 63 Fed. Reg. 41658 (Aug. 4, 1998).
Adult Immunizations – Tetanus	Qualified aliens	Yes	Federal law specifically exempts “public health assistance for immunizations” from the categories of federal benefits ^{ix} that are restricted for qualified aliens. 8 USC 1613(c).
	Nonqualified aliens	Yes	Federal law establishes the general rule that nonqualified aliens are ineligible for federal, state, or local public benefits, but it also creates a list of exceptions to the general rule. The list of exceptions includes “public health assistance for immunizations.” 8 USC 1611(b)(1)(C); 1621(b)(3).

Adult Health Services (continued)

Service	Noncitizen Groups	Eligible?	Analysis
Health Promotion & Disease Prevention Activities	Qualified aliens	Yes	This service receives federal funding through the Preventive Services Block Grant. HHS has determined that services funded by the Preventive Services Block Grant do not constitute “federal means-tested public benefits.” 62 Fed. Reg. 45256 (Aug. 26, 1997).
	Nonqualified aliens	Yes	This service receives federal funding through the Preventive Services Block Grant. HHS has determined that services funded by the Preventive Services Block Grant do not constitute “federal public benefits.” 63 Fed. Reg. 41658 (Aug. 4, 1998).

Environmental Health Services

Service	Noncitizen Groups	Eligible?	Analysis
Restaurant Inspections	Qualified aliens	Yes	<p>These services do not receive federal funds; therefore, restrictions on federally supported services are inapplicable. Environmental health services are funded by state and local funds and fees charged to service recipients. Federal law permits states (but not local governments) to limit qualified aliens' eligibility for "state public benefits." 8 USC 1622(a). The term "state public benefits" is undefined. However, it is unlikely the term includes environmental health services, which are regulatory activities that are carried out to protect public health and safety, not benefits provided to individuals or families.^x Further, in North Carolina, any attempt to restrict restaurant inspections for qualified aliens would be inconsistent with state laws requiring restaurants to be inspected and graded for sanitation.^{xi} In any event, the state has not attempted to restrict environmental health services for qualified aliens.</p>
	Nonqualified aliens	Yes	<p>Under federal law, nonqualified aliens are ineligible for "federal public benefits" and "state and local public benefits." Those terms are defined by law to include "health ... benefit(s) for which payments or assistance are provided to an individual, household, or family eligibility unit" by federal, state, or local agencies. 8 USC 1611(c)(1), 1621. It is unlikely environmental health services fall within this definition, as they are not payments or assistance provided to individuals, households or family eligibility units. Rather, they are regulatory activities that are carried out to protect public health and safety.^{xii}</p>

Environmental Health Services (continued)

Service	Noncitizen Groups	Eligible?	Analysis
Septic Tank Permits	Qualified aliens	Yes	This environmental health service is a regulatory activity that is carried out to protect public health and safety. It is not a benefit provided to individuals or families. ^{xiii} Further, in North Carolina, any attempt to restrict septic tank permitting for qualified aliens would be inconsistent with other state laws requiring septic tanks to be inspected and permitted. ^{xiv}
	Nonqualified aliens	Yes	Environmental health services are not payments or assistance provided to individuals, families, or household eligibility units. Rather, they are regulatory activities that are carried out to protect public health and safety. As such, they do not appear to be fall within the definitions of federal, state, and local public benefits that are restricted for nonqualified aliens. ^{xv}
Testing of Wells	Qualified aliens	Yes	This environmental health service is a regulatory activity that is carried out to protect public health and safety. It is not a benefit provided to individuals or families. ^{xvi} Further, in North Carolina, any attempt to restrict well testing for qualified aliens would be inconsistent with other state laws requiring local health departments to administer well testing programs. ^{xvii}
	Nonqualified aliens	Yes	Environmental health services are not payments or assistance provided to individuals, families, or household eligibility units. Rather, they are regulatory activities that are carried out to protect public health and safety. As such, they do not appear to be fall within the definitions of federal, state, and local public benefits that are restricted for nonqualified aliens. ^{xviii}

ⁱ The federal benefits that are restricted for qualified aliens are set forth in federal law. 8 USC 1612(a). The benefits that are restricted are Supplemental Security Income (SSI), food stamps, and “federal means-tested public benefits,” an undefined term. Most qualified aliens are subject to a 5-year waiting period for federal

means-tested public benefits. 8 USC 1613(a). HHS has determined that, of the benefits it administers, only three constitute federal means-tested public benefits: Medicaid (other than emergency Medicaid), Temporary Assistance for Needy Families (TANF, known as “Work First” in North Carolina), and the State Children’s Health Insurance Program (SCHIP, known as “Health Choice” in North Carolina). 62 Fed. Reg. 45256 (Aug. 26, 1997). Agencies that receive HHS funding must comply with this interpretation.

ⁱⁱ Nonqualified aliens are ineligible to receive “federal public benefits.” 8 USC 1611(a). This term is defined by federal law to include some health benefits. 8 USC 1611(c). However, federal law also specifically exempts some health benefits from the definition. 8 USC 1611(b). Furthermore, the federal law definition is broad and does not identify the specific benefits or services that constitute federal public benefits. Therefore, some federal agencies have published interpretations of the term. In August 1998, HHS published an interpretation and concluded that, of the programs it administers or supports, 31 provide federal public benefits which must be denied to nonqualified aliens. 63 Fed. Reg. 41657. If a benefit or service is not supported by one of the 31 programs listed, then according to HHS it is not a federal public benefit and nonqualified aliens are eligible to receive it. HHS has directed all states and localities that administer HHS-supported programs to comply with its interpretation with respect to any benefit or service that is funded wholly or partially with HHS funds.

ⁱⁱⁱ The law is not as clear as it could be on the issue of whether qualified aliens are eligible for immunization programs that are supported entirely by state or local funds or activities. Federal law permits states to limit qualified aliens’ eligibility for “state public benefits.” 8 USC 1622(a). (There is no similar authority for local governments to limit qualified aliens’ eligibility for local public benefits.) The term “state public benefits” is undefined and it is not clear whether it could include state-supported immunizations. The statute does not expressly require states that exercise this authority to provide an exception for immunizations—but it still seems unlikely that North Carolina could limit qualified aliens’ eligibility for state or locally supported immunizations. First, any attempt to restrict immunizations for qualified aliens in N.C. would be inconsistent with other state laws requiring immunizations. For example, GS 130A-152 requires “every child present in this state” to be immunized against certain diseases. The law does not distinguish between citizen and noncitizen children. Second, federal law clearly makes qualified aliens eligible for federally supported immunizations, and it also explicitly makes *nonqualified* aliens eligible for federal, state, or locally supported immunizations. All of these provisions support an inference that Congress favored a policy of making publicly supported immunizations available without respect to citizenship or immigration status, and that the failure to make this clear in the provision authorizing states to restrict benefits for qualified aliens was an oversight rather than a deliberate policy choice. Finally, since nonqualified aliens are eligible for state-supported immunizations, an attempt by a state to make qualified aliens ineligible would be suspect—there does not appear to be a rational basis for distinguishing between qualified and nonqualified aliens in this manner. In any event, North Carolina has not attempted to restrict immunizations for qualified aliens.

^{iv} The law is not as clear as it could be on the issue of whether qualified aliens are eligible for communicable disease services that are supported entirely by state or local funds or activities. Federal law permits states to limit qualified aliens’ eligibility for “state public benefits.” 8 USC 1622(a). (There is no similar authority for local governments to limit qualified aliens’ eligibility for local public benefits.) The term “state public benefits” is undefined. The statute does not expressly require states that exercise this authority to provide an exception for communicable disease services. Nevertheless, it seems unlikely that North Carolina could limit qualified aliens’ eligibility for these services. First, any attempt to restrict communicable disease services for qualified aliens would be inconsistent with other North Carolina laws requiring local health departments to investigate and control outbreaks of communicable diseases, and requiring all persons to comply with communicable disease control measures. GS 130A-144(a) requires local health directors to investigate communicable diseases and conditions. 10A NCAC 41A.0103 requires the health director to apply appropriate communicable disease control measures. GS 130A-144(e) requires local health departments to provide examination and treatment for tuberculosis and sexually transmitted diseases. 10A NCAC 41A.0202(9) & (10) require local health departments to provide testing and counseling for HIV. In addition, GS 130A-144(f) requires all persons to comply with communicable disease control measures—and under the authority of this law, individuals are sometimes required to accept testing, treatment, or other communicable disease services. These laws do not distinguish between citizens and noncitizens. Second, federal law clearly makes qualified aliens eligible for federally supported communicable disease services, and it also explicitly makes

nonqualified aliens eligible for federal, state, or locally supported communicable disease services. All of these provisions support an inference that Congress favored a policy of making publicly supported communicable disease services available without respect to citizenship or immigration status, and that the failure to make this clear in the provision authorizing states to restrict benefits for qualified aliens was an oversight rather than a deliberate policy choice. Finally, since nonqualified aliens are eligible for state and locally supported communicable disease services, an attempt by a state to make qualified aliens ineligible would be suspect—there does not appear to be a rational basis for distinguishing between qualified and nonqualified aliens in this manner. In any event, North Carolina has not attempted to restrict communicable disease services for qualified aliens.

^v See note iv, above.

^{vi} See note iv, above.

^{vii} See note iv, above.

^{viii} See note iii, above.

^{ix} See note iii, above.

^x In other parts of the law, Congress has defined the terms of benefits that are restricted. For example, it defined “state or local public benefits,” which are restricted for nonqualified aliens. That definition makes clear that the programs Congress intended to restrict were those that provided “benefits or assistance” to “individuals, households, or family eligibility units”—not regulatory programs. See 8 USC 1621 (definition of “state or local public benefit”). This is consistent with Congress’ “statements of national policy concerning welfare and immigration,” which included, “aliens within the Nation’s borders [should] not depend on public resources to meet their needs, but rather rely on their own capabilities,” and “the availability of public benefits [should] not constitute an incentive for immigration to the United States.” 8 USC 1601. Environmental health programs, such as restaurant inspections and septic tank permitting, are not considered welfare and do not seem likely to constitute an incentive for immigration. Nor are they needs that anyone is expected to meet by relying “on their own capabilities”—to the contrary, these activities are regulated specifically so that potential environmental health hazards are managed consistently and not according to the varying judgment of individual residents.

^{xi} For example, GS 130A-248 requires inspections and grading of restaurants.

^{xii} See also the discussion in note x, above, about Congress’ stated policies regarding welfare and immigration. These statements provide a strong indication that Congress did not intend to restrict eligibility for regulatory programs that protect public health or safety. However, even if the terms federal, state, or local public benefits were interpreted to include environmental health services, then a determination would have to be made about whether they fall within an exception to the restrictions on eligibility. It seems most likely that they would fall within the statutory exception for programs specified by the US Attorney General that are in-kind (i.e., not cash), not conditioned on recipients’ income or resources, and necessary for the protection of life or safety. 8 USC 1611(b). The Attorney General’s specification includes “public health services ... necessary to protect life or safety.” 66 Fed. Reg. 3613. Environmental health services constitute a public health regulatory activity that is necessary to protect the public from communicable diseases and other health hazards that pose a threat to life or safety. (Note also that the Attorney General specifically noted that the term “federal public benefits” did not appear to embrace public safety or sanitation activities. 66 Fed. Reg. 3613.)

^{xiii} For a more detailed discussion of this issue, see the analysis of qualified alien eligibility for restaurant inspections and note x, above.

^{xiv} GS 130A-335 requires permits for the operation of septic tanks.

^{xv} For a more detailed discussion of this issue, see the analysis of nonqualified alien eligibility for restaurant inspections and note xii, above.

^{xvi} For a more detailed discussion of this issue, see the analysis of qualified alien eligibility for restaurant inspections and note x, above.

^{xvii} GS 87-97 requires local health departments to administer well testing programs.

^{xviii} For a more detailed discussion of this issue, see the analysis of nonqualified alien eligibility for restaurant inspections and note xii, above.