



Eligibility For Government Services

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Background

For many immigrants, the United States has seemed like a land of bountiful wealth. Traditionally, it has been generous with that wealth, at least in respect to legal immigrants. The Supreme Court has ruled repeatedly that resident [ALIENS](#) are entitled to the same constitutional protections as normal citizens. Resident aliens have been entitled in the past to participate in federal welfare programs on an equal basis with U.S. citizens.

But in 1996, with the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), also known as the welfare reform bill, conditions changed dramatically for legal immigrants. As of 2002, legal immigrants face a patchwork of laws in the various states that may or may not give them the right to benefit from various public assistance programs.

By contrast, illegal immigrants are banned from any sort of public assistance under PRWORA, including the very limited services that some states may have chosen to provide them before the act was passed. States giving out public benefits must now verify that immigrants are legal before they receive such benefits. In addition, state and local governments may not restrict their employees from reporting any immigrants to the IMMIGRATION and Naturalization Service, providing a further disincentive to illegal immigrants in trying to receive benefits. But for legal immigrants, trying to sort out the maze of public benefit regulations has become much more difficult since welfare reform.

Pre-1996

The first social welfare programs, such as Social Security, made no distinctions at all between citizens and resident aliens. Legal aliens were allowed to participate in that program, and other programs such as MEDICARE, MEDICAID and Aid to Dependant Children on an equal basis with U.S. citizens.

As immigrants began to arrive in this country during the 1980s and 1990s at levels unseen since the turn of the century, however, concern began to focus on how the new arrivals were straining the net of social welfare programs. In 1994, California passed Proposition 187, which eliminated all public assistance for illegal immigrants and banned the children of illegal immigrants from public schools in the state, requiring that such children be reported. It also required state facilities to refuse health care treatment for illegal immigrants.

Passage of this law was considered a sign of the public's increasing intolerance of the effects of immigration.

Welfare Reform and Its Impact

In 1996, after much debate, Congress passed the PRWORA. An important result of this law was that states were no longer required to provide most forms of public benefits to legal immigrants. Subsequent legislation softened some of the laws concerning treatment of legal immigrants in areas such as Supplemental Security Income (SSI) benefits and food stamps. But the ability of legal immigrants to receive public assistance has clearly changed after passage of the PRWORA

Previous to the PRWORA, the federal government set most of the eligibility requirements for federal welfare programs. The PRWORA allowed states to set the requirements for many of these programs. This was particularly true for immigrants. States were allowed to decide whether immigrants could participate in programs such as Medicaid and the newly formed Temporary Assistance For Needy Families, which replaced the Aid to Families with Dependant Children.

As a result of the PRWORA, different states treat immigrants in different ways. Some states are generous with the benefits they provide to immigrants; others are not. What legal immigrants can receive depends on where they reside.

Benefits For Legal Immigrants

Under the PRWORA, legal immigrants are treated differently than illegal immigrants and also differently than citizens. The restrictions on the benefit rights for legal immigrants have proven to be the most controversial aspects of the PRWORA, and several provisions have been reworked since it was passed in 1996. But the PRWORA still places restrictions on legal immigrants' access to the same benefits as normal citizens.

Although the PRWORA cuts off legal immigrants from access to means tested programs involving federal funds, states are still allowed to set up their own programs using their own funds to cover immigrants who were cut off by the PRWORA. Many states have decided to do just that, so what kind of benefits immigrants are actually eligible for is determined by what state they reside in.

Temporary Assistance for Needy Families

Among the changes wrought by the PRWORA was the replacement of the Aid to Families with Dependant Children (AFDC) program with Temporary Assistance for Needy Families (TANF). One of the chief effects of this change for immigrants was to put the states in charge of administering the program. Regarding immigrants who arrived before the PRWORA became law—August 22, 1996—states have the options of allowing them to continue to collect benefits.

Immigrants who arrived after August 22, 1996 are banned from receiving any sort of TANF benefits for five years after arrival. After five years, states have the option to bar immigrants from receiving benefits until citizenship. The bar not only applies to grants under TANF but also to any means-tested benefit or service provided with TANF funds, including job training and work support.

SSI

For SSI, immigrants who resided in the United States as of August 22, 1996 are still eligible for benefits, either if they are already receiving them or if they become disabled. Immigrants residing in the United States as of August 22, 1996 who turn 65 but are not disabled are not eligible for benefits. Originally, the PRWORA cut off SSI benefits for all legal immigrants, but they were restored for the above categories by the 1998 budget reconciliation law.

As with TANF, immigrants who arrive in the United States after August 22, 1996 are barred from all SSI benefits for a term of five years. After the five-year bar, immigrants may qualify for SSI.

Food Stamps

Legal immigrants lost their eligibility for food stamps under the PRWORA. Unlike with SSI, eligibility for food stamps has not been restored across the board. In 1998, eligibility for food stamps was restored for children of immigrants, for disabled immigrants, and for immigrants over 65 years of age. All other immigrants, including those who entered before August 22, 1996, must be credited with 40 quarters (10 years) worth of work or become U.S. citizens before they can qualify again for food stamps.

Medicaid

Access to Medicaid is controlled by the same rules that govern the TANF program. For immigrants in the United States before August 22, 1996, states may determine if they are eligible for the program. Immigrants who arrived after that date are barred for a term of five years, after which states may again decide on including immigrants in the Medicaid program. Immigrants are automatically eligible for Medicaid again once they become citizens or have worked for 40 quarters.

Exceptions

There are exceptions for these restrictions on immigrant's qualifications for means-tested benefits. Perhaps the most important is for refugees and asylum seekers, who remain eligible during their first five years in the United States for TANF benefits, after which states may continue benefits or limit their eligibility and for their first seven years for food stamps and SSI benefits.

Other exceptions to the bar on means-tested benefits for immigrants include immigrants who have worked in the United States for 40 quarters or more, veterans and those on active duty, persons with deportation/removal withheld, Cuban-Haitian entrants, Amerasians, Hmong and highland Lao tribe members and certain Native Americans born in Canada or Mexico who are entitled by treaty to live in the United States.

In addition, many programs are exempt from the general five-year bar for means tested government assistance. This includes emergency medical assistance; emergency disaster relief; national school lunch benefits; child nutrition act benefits; public health assistance for immunizations, testing and treatment of symptoms of communicable diseases; foster care and [ADOPTION](#) assistance; programs specified by the attorney general; higher education; means-tested programs under the Elementary and Secondary Education Act; Head Start, and the Job Training Partnership Act.

Sponsor Deeming

Immigrants who come to the United States under the auspices of sponsors—whether a family member or any

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other person who signs a legally enforceable [AFFIDAVIT](#) of support—are subject to "sponsor deeming." Sponsor deeming refers to taking into account the income and resources of the sponsor in determining the immigrant's eligibility for government benefit programs.

The 1996 immigration law requires new family-related immigrants to produce affidavits of support from their sponsors, and these affidavits are legally enforceable. Sponsors are required to have an income of 125 percent of the federal poverty level, unless they are active duty personnel, in which case they must have an income of 100 percent of the federal poverty level. If an immigrant receives government benefits without meeting sponsor deeming requirements, the agency that provided the benefits may sue the sponsor for reimbursement.

Sponsor deeming now applies to immigrant eligibility for TANF, SSI, Food Stamps and Medicaid. It remains in effect until the immigrant receives citizenship or has been employed for 40 quarters in the United States.

Public Charge Finding

A public charge is an immigrant who is considered likely to become primarily dependant on the government for subsistence. The Immigration and Naturalization Service (INS) designates who is a public charge. Immigrants who are hoping to become legal permanent residents are subject to public charge scrutiny. Immigrants who are already legal permanent residents of the United States may also be subject to public charge scrutiny but rarely ever are unless they leave the country for more than 180 consecutive days.

In general, merely receiving a government benefit, with the sole exception of institutionalization for long-term care at government expense, is not a factor in determining whether an immigrant will become a public charge. Refugees and asylum seekers are not subject to public charge determination.

A finding by the INS of being a public charge can result in the denial of permission to enter the United States or the denial of an attempt to change status to become a legal permanent resident of the country. In certain extreme cases, it can result in [DEPORTATION](#), although this is very rare and subject to numerous regulations.

State-by-State Guide to Government Benefits for Immigrants

The following state-by-state guide for immigrants lists whether the states provide TANF to immigrants who arrived before the enactment of PRWORA; whether the state funds TANF for immigrants during five-year bar of PRWORA; whether the state provides TANF following the five-year bar; whether the state has an SSI substitute program for immigrants; whether there is a state funded food program for immigrants cut off from food stamps; whether the state provides Medicaid to immigrants who arrived before the enactment of PRWORA; and whether the state provides Medicaid during five-year bar under PRWORA.

ALABAMA: No TANF to pre-enactment immigrants, no state funded TANF during five-year bar; no TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

ALASKA: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

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ARIZONA: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

ARKANSAS: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; no TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

CALIFORNIA: TANF to pre-enactment immigrants, state funded TANF during five-year bar; TANF following five-year bar; SSI substitute program for immigrants; state funded food program for immigrants; Medicaid to pre-enactment immigrants; state funded Medicaid during five-year bar.

COLORADO: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

CONNECTICUT: TANF to pre-enactment immigrants, state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; state funded food program for immigrants; Medicaid to pre-enactment immigrants; state funded Medicaid during five-year bar.

DELAWARE: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; state funded Medicaid during five-year bar.

DISTRICT of COLUMBIA: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

FLORIDA: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

GEORGIA: TANF to pre-enactment immigrants, state funded TANF during five-year bar; no TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

HAWAII: TANF to pre-enactment immigrants, state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; state funded Medicaid during five-year bar.

IDAHO: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

ILLINOIS: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; no TANF following five-year bar; SSI substitute program for immigrants; state funded food program for immigrants; Medicaid to pre-enactment immigrants; state funded Medicaid during five-year bar.

INDIANA: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; Undecided on TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

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IOWA: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

KANSAS: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

KENTUCKY: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

LOUISIANA: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; no TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

MAINE: TANF to pre-enactment immigrants, state funded TANF during five-year bar; TANF following five-year bar; SSI substitute program for immigrants; state funded food program for immigrants; Medicaid to pre-enactment immigrants; state funded Medicaid during five-year bar.

MARYLAND: TANF to pre-enactment immigrants, state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; state funded food program for immigrants; Medicaid to pre-enactment immigrants; state funded Medicaid during five-year bar.

MASSACHUSETTS: TANF to pre-enactment immigrants, state funded TANF during five-year bar; Undecided on TANF following five-year bar; no SSI substitute program for immigrants; state funded food program for immigrants; Medicaid to pre-enactment immigrants; state funded Medicaid during five-year bar.

MICHIGAN: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

MINNESOTA: TANF to pre-enactment immigrants, state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; state funded food program for immigrants; Medicaid to pre-enactment immigrants; state funded Medicaid during five-year bar.

MISSISSIPPI: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; no TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

MISSOURI: TANF to pre-enactment immigrants, state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

MONTANA: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

NEBRASKA: TANF to pre-enactment immigrants, state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; state funded food program for immigrants; Medicaid to pre-enactment immigrants; state funded Medicaid during five-year bar.

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NEVADA: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

NEW HAMPSHIRE: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

NEW JERSEY: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

NEW MEXICO: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

NEW YORK: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

NORTH CAROLINA: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

NORTH DAKOTA: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

OHIO: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; no TANF following five-year bar; no SSI substitute program for immigrants; state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

OKLAHOMA: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; no TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

OREGON: TANF to pre-enactment immigrants, state funded TANF during five-year bar; TANF following five-year bar; SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

PENNSYLVANIA: TANF to pre-enactment immigrants, state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; state funded Medicaid during five-year bar.

RHODE ISLAND: TANF to pre-enactment immigrants, state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; state funded food program for immigrants; Medicaid to pre-enactment immigrants; state funded Medicaid during five-year bar.

SOUTH CAROLINA: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; Undecided on TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

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TENNESSEE: TANF to pre-enactment immigrants, state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

TEXAS: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; no TANF following five-year bar; no SSI substitute program for immigrants; state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

UTAH: TANF to pre-enactment immigrants, state funded TANF during five-year bar; no TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

VERMONT: TANF to pre-enactment immigrants, state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

VIRGINIA: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; Undecided on TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; state funded Medicaid during five-year bar.

WASHINGTON: TANF to pre-enactment immigrants, state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; state funded food program for immigrants; Medicaid to pre-enactment immigrants; state funded Medicaid during five-year bar.

WEST VIRGINIA: TANF to pre-enactment immigrants, no state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

WISCONSIN: TANF to pre-enactment immigrants, state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; state funded food program for immigrants; Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

WYOMING: TANF to pre-enactment immigrants, state funded TANF during five-year bar; TANF following five-year bar; no SSI substitute program for immigrants; no state funded food program for immigrants; no Medicaid to pre-enactment immigrants; no state funded Medicaid during five-year bar.

Additional Resources

"Bridging the Gap Between Rights and Responsibilities: Policy Changes Affecting Refugees and Immigrants in the United States Since 1996." Fredriksson, John, *Georgetown Immigration Law Journal*. Spring, 2000.

"Immigration and Welfare Reauthorization." Fremstad, Shawn, Center on Budget and Policy Priorities, 2002. Available at <http://www.cbpp.org/>

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"The INS Public Charge Guidance: What Does It Mean For Immigrants Who Need Public Assistance." Fremstad, Shawn, Center on Budget and Policy Priorities, 2000. Available at <http://www.cbpp.org/>, Shawn Fremstad,

"Q&A on Immigrant Benefits." Morse, Ann D., Health Policy Tracking Service, 1999. Available at <http://www.stateserv.hpts.org/>

"State Snapshots of Public Benefits for Immigrants." Urban Institute, 1999. Available at http://newfederalism.urban.org/html/occa24_sup.html

Organizations

Immigration and Naturalization Service

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Fax: (213) 639-3911
E-Mail: info@nilc.org
URL: <http://www.nilc.org/>
Primary Contact: Susan Drake, Executive Director

U.S. Department of Health and Human Services

200 Independence Avenue S.W.
Washington, DC 20201 USA
Phone: (877) 696-6775
E-Mail: HHS.Mail@hhs.gov.
URL: <http://www.hhs.gov/>
Primary Contact: Janet Hale, Chief Information Officer

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