



OLR RESEARCH REPORT

September 12, 2012

2012-R-0346

NONCITIZEN ELIGIBILITY FOR PUBLIC ASSISTANCE PROGRAMS

By: Robin K. Cohen, Principal Analyst

This report describes federal and state law governing noncitizen eligibility for the major federal public assistance programs.

SUMMARY

United States citizens residing in Connecticut are generally entitled to federal public assistance benefits if they meet other eligibility rules. Noncitizens may also qualify if they are in the country legally; but those individuals who are not here legally (e.g., undocumented) generally can get limited emergency Medicaid services only.

For noncitizens here legally, the state must follow federal eligibility guidelines with respect to citizenship when administering these programs. In general, these require applicants to (1) be permanent U.S. residents who were in the U.S. on August 22, 1996, (2) have been here for five years if they arrived after that date, or (3) meet other exception criteria (e.g., refugee).

For those individuals who must wait the five years, the state provides comparable benefits under purely state-funded programs, with the exception of medical assistance.

IMMIGRATION STATUS AND WAITING PERIOD FOR FEDERAL BENEFITS

For purposes of establishing eligibility for public assistance programs (Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (formerly Food Stamps), Medicaid, State-Children's Health Insurance Program), federal law creates four categories of individuals based on their immigration status: U.S. citizens, lawfully present "qualified aliens," lawfully present non-qualified aliens, and undocumented or unauthorized aliens.

U. S. Citizens

Citizens include individuals who are born in the U.S., Puerto Rico, the U.S. Virgin Islands, or Guam. Children, including adoptees, whose parents are U.S. citizens are automatically citizens in most cases. Lawful permanent resident aliens can become U.S. citizens through the naturalization process. These individuals must be in the U.S. for five or more years to qualify for naturalization. Aliens who marry citizens can qualify as citizens in three years, and some qualify sooner. Citizens do not have to wait to start receiving federal benefits provided they meet all other eligibility requirements (e.g., state residency).

Qualified Aliens

Federal law establishes the category of "qualified aliens" who, in many cases, must wait five years before they can qualify for federally funded public assistance. These individuals, many of whom are in the U.S. on humanitarian grounds, are:

1. legal (lawful) permanent residents;
2. asylees or refugees;
3. those paroled (one-time entry into the U.S. for a specific purpose, such as medical treatment) for at least one year or whose deportation is being withheld;
4. those granted conditional entry before April 1, 1980;
5. battered spouses or children, or the children or parents, respectively, of these individuals; or
6. certain Cuban, Haitian, Amerasian, Iraqi, and Afghan entrants.

Victims of a severe form of trafficking and their children technically are not considered qualified aliens, but are generally eligible for benefits to the same extent as refugees (8 USC § 1601, *et. seq.*).

Lawfully Present Nonqualified Aliens

Federal law excludes from the “qualified” designation some groups of people who are in the U.S. legally. These individuals, who generally do not qualify for federally funded benefits, are:

1. non-immigrants (individuals in the U.S. on time-limited visas to work, study, or travel);
2. people (a) whom the federal Bureau of Immigration and Customs and Enforcement has given temporary administrative status (e.g., stays of deportation or voluntary departures) until these individuals can formalize their permanent status, (b) paroled into the U.S. for less than one year, or (c) those involved in deportation proceedings); and
3. those whom U.S. immigration officials knew were in the country but decided not to deport (called previously residing in the U.S. under color of law or PRUCOL. This designation is no longer used by the U.S. Department of Homeland Security, but is still referenced in state law (see below)).

Undocumented or Unauthorized Aliens

Undocumented aliens are those who (1) entered the U.S. lawfully as temporary residents and overstayed their visas, (2) are engaged in activities forbidden by the types of visas they have been granted, or (3) do not have visas. These individuals qualify only for emergency Medicaid services. (Local programs that (a) deliver in-kind community services; (b) do not condition service receipt, amount, or cost on the applicant’s income or assets; and (c) are necessary to protect the alien’s health or safety are generally available regardless of immigration status.)

FEDERAL MEANS-TESTED PUBLIC BENEFITS

Federal law requires most lawfully residing aliens arriving in the U.S. after August 22, 1996 to live in the U.S. for at least five years before they qualify for federal public benefits, which include Supplemental Security Income, Supplemental Nutrition Assistance Program (SNAP), and “federal

means-tested benefits,” including programs where the federal government and the state share the costs. The law does not define federal means-tested benefits, but federal agencies have determined that they include TANF, Medicaid, and the State Children’s Health Insurance Program (SCHIP), (which funds HUSKY B in Connecticut). (SNAP and SSI are fully federally funded, means-tested programs.)

EXCEPTIONS TO THE FIVE-YEAR WAIT

While most new “qualified aliens” now have to wait five years before they can qualify for federal benefits, certain groups, including asylees, refugees, and Cuban and Haitian immigrants, Iraqi and Afghan special immigrants, veterans or active duty members of the U.S. Armed Forces and their dependents, and legally permanent alien residents who have worked in the U.S. for 40 qualifying quarters are immediately eligible, but for some programs their eligibility ends after five, or in some cases, seven years after entry. Since 2002, children under age 18 have been able to get SNAP regardless of when they entered the country.

Likewise, states have the option of providing Medicaid and SCHIP right away to children and pregnant women who are residing in the country lawfully.

STATE ASSISTANCE FOR ALIENS WHO MUST WAIT FIVE YEARS

Federal law allows states to create their own purely state-funded public assistance programs for legally residing aliens who are denied benefits under TANF, Medicaid, or SNAP. (Connecticut opted to provide immediate Medicaid and SCHIP (HUSKY B) coverage to children and pregnant women.) Many states, including Connecticut, have done so. In Connecticut, the law provides these benefits to qualified aliens, other lawfully residing immigrant aliens, and PRUCOLs.

Connecticut’s purely state-funded programs are:

1. Temporary Family Assistance (cash assistance to needy families with children) ([CGS § 17b-112c](#)),
2. SNAP for adults ([CGS § 17b-790a](#)), and
3. Medicaid, including HUSKY A (called State Medical Assistance for Noncitizens (SMANC) for adults ([CGS § 17b-257b](#)).

The first two programs have a six month-residency requirement; the state-funded SNAP program pays 75% of the federal benefit.

During the last few years, the state legislature significantly limited SMANC eligibility. Now the program only covers aliens receiving (1) home- and community-based services that were equivalent to the Medicaid-funded portion of the Connecticut Home Care Program for Elders, (2) SMANC-funded nursing home care on June 30, 2011, or (3) nursing home care and who applied for SMANC coverage of that care before June 1, 2011. But for their immigrant status, all must be otherwise eligible for Medicaid ([CGS § 17b-257b](#)). (The state continues to offer state-funded home- and community-based services to legal immigrant elders whose care needs are less severe ([CGS § 17b-342](#)).

DEEMING

Certain aliens who wish to join their families in the U.S. must have an affidavit of support from their sponsor. Sponsors are U.S. citizens and their income and assets are counted when the state is determining the sponsored alien's eligibility for federal means-test benefits.

SOURCES

U.S. Department of Health and Human Services, *Summary of Immigrant Eligibility Restrictions Under Current Law* (as of 2/25/2009) (website last visited on 9/6/12)

Urban Institute, [A Comprehensive Review of Immigrant Access to Health and Human Services](#), June 2011

OTHER RESOURCES

OLR report on health care coverage for lawfully present aliens, [2011-R-0356](#)

RC:ts