Issues Affecting Access to Benefits

- Immigrant eligibility rules
- Privacy, Confidentiality and Verification
- Concerns about “Public charge”
- Concerns about Sponsors
- Linguistic and Cultural Competence
- Logistical Barriers
- The “Climate”
Immigrant Benefit Classifications

- U.S. Citizens
- "Qualified" immigrants
  - Entering the U.S. before 8/22/96
  - Entering the U.S. on or after 8/22/96
- "Not Qualified" immigrants
  - PRUCOL (Permanently Residing Under Color of Law)
  - Other lawfully present non-citizens
- Undocumented immigrants
Qualified Immigrants

- Lawful Permanent Residents (LPRs)
- Refugees, Granted Asylum, Withholding of Deportation/Removal, or Conditional Entrant status
- Paroled into U.S. for at least 1 Year
- Cuban and Haitian Entrants
- Certain Battered Spouses and Children
- Certain Survivors of Trafficking
Not Qualified Immigrants

ALL Other Non-citizens

(Even if have work authorization and are lawfully present in U.S.)
Not Qualified Immigrants: Programs Barred

- **Federal**
  - “Public Benefits” barred

- **State or Local**
  - “Public Benefits” barred
  - *unless* state passes new law
Bar on Federal “Public Benefits”
“Public Benefits” to be defined by federal agencies (only HHS, FEMA and a few others have done so)

Examples of “public benefit” in law
- Grants, Contracts, Loans, Professional or Commercial Licenses provided by government
- Retirement, Welfare, Health & Disability, Housing, Post-Secondary Education, Food Assistance, Unemployment Benefit, FEMA, or any “similar benefit,” AND
- Assistance provided to individual, household, or family unit, by an agency/funds of federal government
Examples of HHS and other Federal Public Benefits

- Adoption Assistance
- Child Care and Development Fund
- Foster Care
- Independent Living
- Low Income Home Energy Assistance Program (LIHEAP) (weatherization of single unit buildings)
- Medicare
- Medicaid (except emergency medical)
- Mental Health Clinical Training Grants
- Refugee benefits (Cash, Medical, Social Services)
- Social Services Block Grant (SSBG)
- Children’s Health Insurance Program (CHIP)
- Temporary Assistance for Needy Families (TANF)
- Supplemental Nutrition Assistance Program (SNAP)
Programs Exempt from Federal Bar

- Emergency Medicaid and other emergency medical services
- Immunizations, testing and treatment for symptoms of communicable diseases (outside of Medicaid)
- Short-term non-cash disaster relief
- Certain housing assistance if receiving on 8/22/96
- School Lunch and School Breakfast
- State option to provide WIC*

AND programs
1. delivered at the community level
2. do not condition assistance on income or resources
3. are necessary to protect life or safety
AG’s List of Programs
“Necessary to Protect Life or Safety”

- Child protection & adult protective services
- Violence and abuse prevention, including domestic violence
- Mental illness or substance abuse treatment
- Short-term shelter or housing assistance
- Programs during adverse weather conditions
- Soup kitchens, food banks, senior nutrition programs
- Medical & public health services & mental health, disability, substance abuse services necessary to protect life or safety
- Programs to protect life & safety of workers, children & youth, or community residents
- Other services necessary for the protection of life or safety
A Quick Guide to Immigrant Eligibility for the Affordable Care Act (ACA) and Key Federal Public Benefit Programs


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<th>Deferred Action for Childhood Arrivals (DACA) Grantees</th>
<th>Deferred Action for Parental Accountability (DAPA)</th>
<th>Lawful Permanent Resident (aka &quot;green card&quot;)</th>
<th>Refugees, Asylees, and Other Humanitarian Immigrants^2</th>
<th>Other Lawfully Present Individuals^4</th>
<th>Undocumented Immigrants</th>
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<td>Adults 18 &amp; Over</td>
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<td>Until 5 years in status or 40 quarters of work</td>
<td>TIME LIMITED ELIGIBILITY Only during first 7 years after status is granted</td>
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Affordable Care Act

- US citizens, nationals and *lawfully present* individuals eligible for private health insurance in the individual “marketplaces,” subsidies (premium tax credits and cost-sharing reductions), Basic Health Plan

  - Undocumented and DACAmented immigrants ineligible even for full-price insurance in the individual marketplace
Lawfully Present under ACA

- Lawful Permanent Residents (LPRs, aka green card holders), including applicant for adjustment of status
- Refugees
- Conditional Entrants (pre-1980 status similar to refugee status)
- Asylees
- Withholding of Deportation/Removal under INA or CAT
- Applicants for Asylum or Withholding of Deportation/Removal (if granted employment authorization)
- Parolees of at least one year
- Cuban and Haitian entrants
- Temporary Protected Status (TPS)
- Deferred Enforced Departure
- Deferred Action (except DACA; DAPA exclusion expected)
- Special Immigrant Juveniles
Lawfully Present under ACA (cont’d)

- Certain domestic Violence Survivors and their children
- Trafficking victims and derivatives
- U visa holders
- Nonimmigrant visa holders
- Citizens of Micronesia, Marshall Islands and Palau (aka Compacts of Free Association states)
- Lawful Temporary Residents and Applicants for Legalization under IRCA
- Legalization under LIFE Act
- Applicants for Cancellation of Removal or Suspension of Deportation
- Order of Supervision
- Registry Applicants
Non-Profit Agencies

Non-profit charitable organizations are not required to determine, verify or otherwise ask for proof of an immigrant’s status

- Applies to immigrant restrictions in the 1996 welfare and immigration laws

- Non-profits can create a safe environment for immigrants and their family members who are seeking services
A “public charge” is a person considered primarily dependent on the government for subsistence, as demonstrated by:

- receipt of public cash assistance for income maintenance or
- institutionalization for long-term care at government expense

A person who is found likely to become a public charge may be denied:

- Admission to the U.S., or
- Lawful permanent resident status
Sponsor Deeming

- Generally applies only to LPRs who immigrated via a family-based petition (not humanitarian-based)

- Income/resources of sponsor may be added to immigrant’s in determining eligibility

- Can render immigrant over-income for the benefit, even if receive nothing from sponsor

- **Exceptions** to deeming may include domestic violence, indigence or others, depending on the program.
No Public Charge Test for:

- Refugees, Granted Asylum or Withholding
- Trafficking Victims, U visa holders
- VAWA self-petitioners
- Cubans under Cuban Adjustment Act
- Haitians under Haitian Refugee Immigration Fairness Act
- NACARA Adjustment
- Registry applicants
- Special Immigrant Juveniles
- Certain Indo-Chinese, Eastern European parolees applying for Adjustment
- **Citizenship** applicants
Non-cash benefits and “special purpose” cash NOT considered

Examples of services that don’t affect public charge decision:

- Medicaid, ACA, CHIP and other health insurance programs
- Nutrition programs (SNAP, WIC, school meals)
- Housing Assistance, LIHEAP
- Child Care, Job Training, short-term rehab
- Disaster assistance
- “Special purpose” cash
Key Issues for Mixed-Status Families

- Undocumented individuals may apply for coverage on behalf of their dependent family members.

- Applications should distinguish between applicants (e.g., U.S. citizen child) & non-applicants (e.g., undocumented parent).

- Non-applicants are not required to provide their immigration status.

- Non-applicants without SSNs cannot be required to provide one (and should never provide an SSN unless officially issued by the Social Security Administration).

- Information provided on an application may be used ONLY to determine eligibility for program.
Verification of Eligibility and Immigration Status

- Key provisions of Sept 2000 Tri-Agency Guidance (CMS, ACF, USDA):
  - Prohibits violation of Title VI Civil Rights Act of 1964 (based on race, color and national origin)
  - Prohibits denying benefits to those who do not disclose information not required (i.e., SSN)
  - Must inform when SSN is mandatory and how it will be used
  - Cannot deny benefits to eligible individuals based on status of other household members
What Advocates CAN DO:

- **Document harm** of restrictive policies and benefits of improving access
- **Monitor policies** to ensure they are implemented properly
- **Educate families** about available services
- Help ensure that immigration and health **policies respond to families and public health needs**
- **Address the barriers** that prevent eligible families from securing care