

Sponsored Immigrants and CalFresh

CA Association of Food Banks
May 18, 2015

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Issues Affecting Access to CalFresh

- **Immigrant eligibility rules**
- **Privacy**, Confidentiality and Verification
- Concerns about **"Public charge"**
- Concerns about **Sponsors**
- Linguistic and Cultural Competence
- Logistical Barriers
- The "Climate"



2

Questions re Status & SSN

- Agencies directed not to ask unnecessary questions about immigration status or SSNs
- Immigration status and SSNs required only of individuals seeking benefits themselves
- Information provided to USCIS may be used only to determine eligibility for benefits
- Parents seeking services for children must provide proof of income, but can use alternative methods

Public Charge



- > Use of CalFresh is not relevant in public charge determinations
- > Does not affect applications for citizenship (unless used fraudulently)
- > Questions asked on immigration forms may deter families
- > Can come up in discretionary decisions

Public Charge



An immigrant who has become or who is likely to become "primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense."

Ground of inadmissibility: Applies when adjust to LPR status, enter U.S., or if LPR leaves U.S. for > 6 months and re-enters

"Forward Looking" Test Considers...



- > Age
- > Health
- > Job, Education and Skills
- > Income / assets
- > Family to Support
- > Affidavit of Support

Non-cash benefits and "special purpose" cash NOT considered

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

- Medicaid, 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



Use of Cash Welfare or Long-Term Care Can Raise Problems

- Past receipt of cash assistance – SSI, TANF, General Assistance or institutionalization for long term care at government expense can lead to public charge determination.
- But short term reliance on benefits does not automatically make someone a public charge.



No Public Charge Test for:

- Refugees, Granted Asylum or Withholding
- Trafficking Survivors, U visa applicants/ 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

Affidavit of Support

- > Agreement by sponsor to support the immigrant
- > "Non-enforceable" affidavit (USCIS Form I-134) still used by some
- > "Enforceable" affidavit (USCIS Form I-864) required for certain immigrants, beginning on 12/19/97



Enforceable Affidavit: I-864

- > Promise of sponsor to support immigrant at 125% FPL and
- > to reimburse government for "means-tested" benefits obtained by immigrant.
- > Enforceable by sponsored immigrant and by federal/state benefit agencies
- > Triggers extended "deeming" of sponsor's income in some programs

Who Must Submit Enforceable Affidavit (Form I-864)?

- > **Family-based** immigrants
- > Employment-based immigrants if relative is employer or owns > 5% of business
- > Exceptions:
 - > Battered spouses and children
 - > Widows/widowers
 - > Persons with credit for 40 quarters of work history
 - > Eligible under Child Citizenship Act

Sponsor Deeming

- Generally applies only to lawful permanent residents (LPRs) who immigrated via a family-based petition
- 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
- There are exceptions to deeming!

Deeming in CalFresh

- **CFAP:** 3 years, unless DV survivor, indigent, or sponsor is member of CFAP household
- **CalFresh:** until citizen or credit for 40 quarters of work in US, unless:
 - **Child** under 18
 - Sponsor is **member of CalFresh household**
 - **Domestic violence survivor**
 - **Indigent** (hunger or homelessness)

14

Indigence Exemption

- Would go hungry or homeless without assistance: household income + contributions, including in-kind assistance is < 130% of federal poverty level
- Renewable for 12 month periods
- Agency reports name of immigrant & sponsor to USCIS Policy Division
- No known consequence, but deters families, who may choose whether to seek this exemption

OPT-OUT
OPT-IN

Opting Out

- Individuals, including sponsored immigrants, can choose to opt out of the application, and apply only for other household members
- These individuals will be treated as ineligible non-citizens, and will not be asked about their sponsors
- Must be done before an eligibility determination has been made on the application

Sponsor's Liability

- Maintain support until immigrant:
 - Becomes a citizen
 - Earns credit for 40 quarters of work
 - Leaves U.S. permanently, or
 - Dies (estate may be liable)
 - Bankruptcy (?)
- Reimburse Government if immigrant uses "means-tested public benefit"

Means-tested Public Benefits

- SSI
- TANF
- Medicaid (non-emergency)
- CHIP
- SNAP
- State Programs as Defined by State

More Exceptions to Sponsor Liability

- Sponsors receiving SNAP are not liable for SNAP used by sponsored immigrants

In Practice

- Benefit agencies have **chosen not to seek reimbursement from sponsors.**
- Reasons:
 - Costs outweigh benefits
 - Deters individuals in need
 - No penalties upon states for not pursuing reimbursement
 - State cannot keep reimbursement for any SNAP benefits

Veronika and Hana

- Veronika is a lawful permanent resident (LPR) who is applying for U.S. citizenship. She and her daughter, Hana, have received CalFresh for the past three years.
- Will this affect her naturalization application?

Jon & his Children

- Jon was granted deferred action under DACA. He lives with his two children who are U.S. citizens.
- Can the household get CalFresh?

Tom and Irma

- Tom, a lawful permanent resident, was sponsored by a relative who lives far away. Tom lives with his wife Irma who is undocumented, and their U.S. citizen children. They have very little income.
- Can the family get CalFresh/CFAP?
- What does Irma need to disclose?

FNS Resources

- **SNAP Non-Citizen Guidance**
http://www.fns.usda.gov/sites/default/files/Non-Citizen_Guidance_063011.pdf
- **Public Charge Letter**
<http://www.fns.usda.gov/commissioners-letter-0>
- **Tri-agency Guidance regarding questions on application forms**
<http://www.hhs.gov/ocr/civilrights/resources/specialtopics/lanf/triagencyletter.html>
- **Letter on Verification of Sponsor's Income**
<http://www.nliic.org/document.htm?id=40>
- **California All-County Letter 11-06**
<http://www.dss.ca.gov/letters/letters/entries/getinfo/acl/2011/11-06.pdf>
- **Letter on Proving Income**
<http://www.nliic.org/document.htm?id=41>

NILC Resources



- Immigrant Eligibility table
<http://www.nilc.org/document.html?id=481>
- Materials on Public Charge
<http://www.nilc.org/pubcharge.html>
- Benefits for Sponsored Immigrants
<http://www.nilc.org/sponsoredimm&bens-ca.html>
- Survivors of Trafficking, Domestic Violence and other Serious Crimes
<http://www.nilc.org/document.html?id=889>
