



Overview of Immigrant Eligibility for Federal Programs

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Noncitizens in the United States are subject to a complex web of eligibility rules in federal programs. Eligibility may depend on a person's immigration status, date of entry into the country, state of residence, age, or other personal characteristics. Although the current framework is based largely on the 1996 federal welfare law, recent laws and policies have imposed significant new restrictions on access to critical services. As a result, many more immigrants are ineligible for essential services and even eligible individuals face barriers that prevent them and their family members from using public benefit programs.

This article provides an overview of the current laws and policies governing access to benefits for noncitizens. It describes the relevant laws, followed by an explanation of immigrant eligibility for the major public benefits programs, and outlines other issues such as concerns about privacy, potential immigration consequences, and language access barriers that affect participation. The National

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Immigration Law Center also maintains a regularly updated table addressing federal benefits eligibility for immigrants as well as assistance available to immigrants in some states.¹

Immigrant Benefits Law & Policy Developments

Immigrant eligibility for public benefits has evolved over time, with federal laws restricting and at times expanding access, as well as agency policies guided by an administration's priorities. State actions also have played a role in addressing gaps or adding restrictions. Federal public benefits programs have long excluded some noncitizens from eligibility for assistance. Major health care, nutrition, and cash assistance programs were for decades largely unavailable to undocumented immigrants and people in the United States on temporary visas. The 1996 federal welfare and immigration laws introduced an unprecedented era of restrictionism.² Prior to the enactment of these laws, lawful permanent residents (green card holders) generally were eligible for assistance in a manner similar to U.S. citizens. Since 1996, with some exceptions, federal public benefits have been available only to a subset of noncitizens, and these individuals may face a five-year or longer waiting period before becoming eligible for the major federal means-tested public benefit programs.

On July 4, 2025, a federal budget reconciliation bill ("the 2025 reconciliation act")³ imposed severe new restrictions on immigrant eligibility for the Supplemental Nutrition Assistance Program (SNAP), Medicaid, the Children's Health Insurance Program (CHIP), Medicare and premium tax credits for health coverage purchased in the Affordable Care Act's (ACA) health insurance marketplaces.⁴ Once the 2025 law is fully implemented, an even smaller subset of immigrants will be eligible for these programs. Because the 2025 law did not amend the 1996 law directly, it must be read in tandem with the earlier law.

Even where immigrants have maintained eligibility, their use of essential programs has not always been robust. When eligibility was preserved by the 1996 laws or restored by subsequent legislation, many immigrant families hesitated to enroll in critical health care, job-training, nutrition, and cash assistance programs due to fear and confusion caused by the laws' complexity and other intimidating factors. As a result, the participation of immigrants in public benefits programs decreased sharply after the passage of the 1996 laws, causing severe

¹ Guide to Immigrant Eligibility for Federal Programs (NILC), www.nilc.org/updatepage/.

² Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (hereinafter "welfare law"), Pub. L. No. 104–193, 110 Stat. 2105 (Aug. 22, 1996); and Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (hereinafter "IIRIRA"), enacted as Division C of the Defense Department Appropriations Act, 1997, Pub. L. No. 104–208, 110 Stat. 3008 (Sept. 30, 1996).

³ Pub. L. No. 119–21, 139 Stat. 72 (July 4, 2025). See also Heidi Altman, et al., *The Anti-Immigrant Policies in Trump's Final 'Big Beautiful Bill,' Explained* (NILC, Aug. 2025), <https://www.nilc.org/resources/the-anti-immigrant-policies-in-trumps-final-big-beautiful-bill-explained/>.

⁴ The Patient Protection and Affordable Care Act, Public Law 111–148, enacted on March 23, 2010, and the Health Care and Education Reconciliation Act of 2010 (Reconciliation Act), Public Law 111–152, enacted on March 30, 2010, collectively are referred to as the Affordable Care Act. For information on immigrant eligibility to purchase coverage in the ACA's health care marketplaces, see *Lawfully Present? Individuals: The Affordable Care Act* (NILC, Aug. 2025), <https://www.nilc.org/resources/lawfullypresent/>.

hardship for many low-income immigrant families who lacked the support available to other low-income families.⁵

As a result, service providers, advocates, and some policy makers sought to address the chilling effect caused by misinformation and concerns about potential immigration consequences of receiving public benefits. The need to address these barriers is even more pressing now. The 2025 reconciliation act and the Trump administration's attempts to add new restrictions and eviscerate privacy protections have compounded the problem, making it even more difficult to ensure that eligible immigrants and their family members can secure services.

This article aims to clarify the rules governing immigrants' access to federal public benefits programs, provide guidance in addressing the chilling effects, and aid policy makers seeking to eliminate these exclusions and barriers. Many states have attempted to fill some gaps in noncitizen coverage by electing federal options to cover more eligible noncitizens, or by spending state funds to cover some or all immigrants who are ineligible for federally funded services. With a new set of complicated laws that exclude even more noncitizens, states will need to make decisions about continued coverage.

Immigrant Eligibility Restrictions

To learn whether an immigrant is eligible for a specific benefit, it is necessary to understand the federal rules that govern access to benefits and how they operate in law and practice. As noted above, the rules are based primarily on the 1996 laws as amended, with additional restrictions in some programs imposed by the 2025 reconciliation act. The interplay of these laws will determine whether and when noncitizens are eligible for public benefits.

Categories of Immigrants: "Qualified" and "Not Qualified"

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, or the 1996 welfare law) created two categories of immigrants for benefits eligibility purposes: "qualified" and "not qualified." Contrary to what these names suggest, the law excluded many people in *both* groups from eligibility for many benefits, with a few exceptions. The "qualified" immigrant category includes:

- ▶ lawful permanent residents, or LPRs (people with green cards)
- ▶ refugees, people granted asylum or withholding of deportation/removal, and conditional entrants
- ▶ people granted parole by the U.S. Department of Homeland Security (DHS) for a period of at least one year
- ▶ Cuban and Haitian entrants⁶

⁵ Michael Fix and Jeffrey Passel, *The Scope and Impact of Welfare Reform's Immigrant Provisions* (Discussion Paper No. 02-03) (The Urban Institute, Jan. 2002), www.urban.org/research/publication/scope-and-impact-welfare-reforms-immigrant-provisions.

⁶ The Cuban and Haitian entrant benefit eligibility category includes Cuban and Haitian nationals with various current and past immigration statuses listed at 45 C.F.R. § 401.2. See also U.S. Department of Health

- ▶ certain survivors or victims of abuse, their children, and/or their parents ⁷
- ▶ certain survivors of trafficking ⁸
- ▶ individuals residing in the U.S. pursuant to a Compact of Free Association (COFA) ⁹

All other immigrants, including undocumented immigrants, as well as many people who are lawfully present in the U.S., are considered “not qualified.”¹⁰ Since the 2025 reconciliation act did not amend PRWORA, this grouping remains relevant for purposes of federal public benefits.

In the years following 1996, Congress restored or expanded access to benefits for some immigrants. In 2000, Congress established a new category of noncitizens — survivors of trafficking — who are eligible for federal public benefits to the same extent as refugees, regardless of whether they have a qualified immigrant status.¹¹ In 2003, Congress clarified that

and Human Services, Office of Refugee Resettlement Fact Sheet on Cuban and Haitian entrants at https://www.acf.hhs.gov/sites/default/files/documents/orr/orr_fact_sheet_cuban_haitian_entrant.pdf.

⁷ To be considered a “qualified” immigrant under the battered spouse or child category, the immigrant must have an approved visa petition filed by a spouse or parent, a self-petition under the Violence Against Women Act (VAWA) that has been approved or sets forth a prima facie case for relief, or an approved application for cancellation of removal under VAWA. The spouse or child must have been battered or subjected to extreme cruelty in the U.S. by a family member with whom the immigrant resided, or the immigrant’s parent or child must have been subjected to such treatment. The immigrant must also demonstrate a “substantial connection” between the domestic violence and the need for the benefit being sought. The battered immigrant, parent, or child must also not be living with the abuser. While some individuals with U nonimmigrant status (“U visa”) may have experienced violence, they are not considered qualified battered immigrants under this definition.

⁸ Survivors of trafficking and family members with T nonimmigrant status (“T visa”) or whose application for a T visa sets forth a prima facie case are considered “qualified” immigrants. This group was added to the definition of “qualified” by the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. 110–457, § 211 (Dec. 23, 2008).

⁹ Individuals lawfully residing in the U.S. pursuant to a Compact of Free Association between the United States and Micronesia, the Marshall Islands or Palau were added to the definition of “qualified” immigrants by the Consolidated Appropriations Act of 2024 § 209(f)(3) (March 9, 2024) (amending 8 USC § 1641(b)(8)).

¹⁰ Throughout the remainder of this article, *qualified* will be understood to have this meaning, as will *not-qualified*; they will not be enclosed in quotation marks.

Before 1996, some of these immigrants were served by benefit programs under an eligibility category called “permanently residing in the U.S. under color of law” (PRUCOL). PRUCOL is not an immigration status, but a benefit eligibility category that has been interpreted differently depending on the benefit program and the region. Generally, it means that the U.S. Department of Homeland Security (DHS) is aware of a person’s presence in the U.S. but has no plans to deport or remove the person from the country. A few states, including California, Massachusetts, and New York, continue to provide services to immigrants meeting this definition, using state or local funds.

¹¹ The Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106–386, § 107 (Oct. 28, 2000). Federal agencies are required to provide benefits and services to individuals who have been subjected to a “severe form of trafficking in persons” to the same extent as refugees, regardless of their immigration status. To receive these benefits, the survivor must be either under 18 years of age or certified by the U.S. Department of Health and Human Services (HHS) as willing to assist in the investigation and prosecution of

"derivative beneficiaries" listed on trafficking survivors' visa applications (spouses and children of adult trafficking survivors; spouses, children, parents, and minor siblings of child survivors) also may secure federal benefits.¹² By 2009, Iraqis and Afghans granted Special Immigrant visas similarly became eligible for benefits to the same extent as refugees.¹³ In 2021, Congress extended the same benefits eligibility to certain Afghans paroled into the U.S.¹⁴ In 2022, Congress made certain Ukrainians who were paroled into the U.S. eligible for benefits to the same extent as refugees.¹⁵ In 2020, Congress declared that, for Medicaid purposes only, citizens of Micronesia, Marshall Islands, and Palau who reside in the U.S. pursuant to a Compact of Free Association (COFA) would be considered "qualified" immigrants.¹⁶ In 2024, Congress decided that people residing under COFA are "qualified" immigrants for all federal public benefits programs and removed restrictions on their eligibility for federal means-tested public benefits.¹⁷

In July 2025, however, Congress imposed new restrictions on access to SNAP, Medicaid, CHIP, Medicare and premium tax credits for health coverage purchased in the Affordable Care Act's marketplaces. Once the restrictions become effective, which is staggered from 2025 through 2027, these programs and subsidies will be available only to lawful permanent residents, Cuban and Haitian entrants, and persons residing under COFA. As explained below, these immigrants also will be subject to the 1996 welfare law's restrictions - and exemptions from restrictions - on eligibility for "federal means-tested public benefits."

severe forms of trafficking in persons. In the certification, HHS confirms that the person either (a) has made a bona fide application for a T visa that has not been denied, or (b) is a person whose continued presence in the U.S. is being ensured by the Attorney General in order to prosecute traffickers in persons.

¹² Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, § 4(a)(2) (Dec. 19, 2003).

¹³ Iraqis and Afghans granted Special Immigrant Visas (SIV) under the Refugee Crisis in Iraq Act of 2007 § 1244(g) (subtitle C of title XII of division A of Public Law 110-181; 122 Stat. 398) or the Afghan Allies Protection Act of 2009 § 602(b)(8) (title VI of division F of Public Law 111-8; 123 Stat. 809) are eligible for benefits to the same extent as refugees. Department of Defense Appropriations Act, 2010, Pub. L. No. 111-118, § 8120 (Dec. 19, 2009).

¹⁴ Extending Government Funding and Delivering Emergency Assistance Act, Pub. L. 117-43 (Sept. 30, 2021) as amended by the Continuing Appropriations and Ukraine Supplemental Appropriations Act, Pub. L. 117-180 § 149 (Sept. 30, 2022), and by the Consolidated Appropriations Act, 2023, Pub. L. 117-328 § 1501 (Dec. 29, 2022). Afghans granted humanitarian parole between July 31, 2021, and September 30, 2023 — and their spouses and children, and parents or guardians of unaccompanied children granted parole after September 30, 2022 — also are eligible for federal benefits to the same extent as refugees. Eligibility for this group continues until the end of their parole term.

¹⁵ Additional Ukraine Supplemental Appropriations Act, 2022, H.R. 7691 (May 21, 2022); Emergency Supplemental Appropriations for fiscal year ending September 30, 2024, H.R. 815, Pub. L. 118-50 (April 24, 2024). Ukrainians paroled into the U.S. between February 24, 2022, and September 30, 2024 — and their spouses and children, and parents, guardians or primary caregivers of unaccompanied children paroled into the U.S. after September 30, 2023 — are eligible for federal benefits to the same extent as refugees. (There is an exception for an initial resettlement program). Eligibility for this group continues until their parole is terminated.

¹⁶ Consolidated Appropriations Act, 2021, Pub. L. 116-260, § 208(c) (Dec. 27, 2020).

¹⁷ Consolidated Appropriations Act of 2024 § 209(f) (March 9, 2024).

Federal Public Benefits Generally Denied to “Not Qualified” Immigrants

With some important exceptions detailed below, the law prohibits not-qualified immigrants from enrolling in most “federal public benefit programs.”¹⁸ Federal public benefits include a variety of safety-net services paid for by federal funds.¹⁹ But the welfare law’s definition does not specify which programs are covered by the term, leaving that clarification to each federal benefit-granting agency.

In 1998, the U.S. Department of Health and Human Services (HHS) published a notice clarifying which of its programs fall under the definition.²⁰ The list of 31 HHS programs includes Medicaid, CHIP, Temporary Assistance for Needy Families (TANF), Foster Care, Adoption Assistance, the Child Care and Development Fund, and the Low-Income Home Energy Assistance Program. Any new programs would need to be designated as federal public benefits in order to trigger the associated eligibility restrictions and, until they are designated as such, should remain open to broader groups of immigrants.

The HHS notice clarified that not every benefit or service provided within these programs is a federal public benefit. Some TANF funding, for example, may go to more general outreach about family planning, which would not be restricted. Under the law, public benefits are government payments or assistance that are provided to “an individual, household, or family eligibility unit.” Some programs – such as community clinics or weatherization of apartment buildings – may extend instead to a broader community of people, and therefore would not be a restricted public benefit.²¹

In July 2025, HHS abruptly departed from decades of settled interpretation of the 1996 law, HHS issued a new notice, designating 13 additional programs as “federal public benefits,” including Head Start, Health Centers (community clinics), and several other programs aimed at protecting the health and well-being of communities.²² The US Department of Agriculture,²³

¹⁸ Welfare law § 401 (8 U.S.C. § 1611).

¹⁹ “Federal public benefit” is described in the 1996 federal welfare law as (a) any grant, contract, loan, professional license, or commercial license provided by an agency of the U.S. or by appropriated funds of the U.S., and (b) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment, benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the U.S. or appropriated funds of the U.S.

²⁰ HHS, Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), “Interpretation of ‘Federal Public Benefit,’” 63 Fed. Reg. 41658–61 (Aug. 4, 1998). The HHS notice clarifies that not every benefit or service provided within these programs is a federal public benefit.

²¹ HHS, Division of Energy Assistance, Office of Community Services, Memorandum from Janet M. Fox, Director, to Low Income Home Energy Assistance Program (LIHEAP) Grantees and Other Interested Parties, re. Revision-Guidance on the Interpretation of “Federal Public Benefits” Under the Welfare Reform Law (June 15, 1999).

²² 90 Fed. Reg. 31232 (July 14, 2025).

²³ 90 Fed. Reg. 30621 (July 10, 2025).

Department of Education (ED),²⁴ and Department of Labor (DOL)²⁵ also issued notices announcing new restrictions on immigrant eligibility for programs under their jurisdiction.²⁶ Twenty-one states and the District of Columbia challenged three of these notices as well as a Department of Justice (DOJ) order on services necessary to protect life or safety.²⁷ On November 26, 2025, the Department of Housing and Urban Development (HUD) issued its own notice, expanding the types of housing programs that may be restricted, including twelve grant programs, and indicated that further guidance was forthcoming.²⁸ The states amended their complaint to include a challenge to HUD's notice, and HUD agreed not to implement its restrictions in the plaintiff states while the case proceeds in the district court.

On September 21, 2026, a federal District Court vacated (invalidated) the HHS, ED, DOL and HUD notices because they failed to provide notice or an opportunity for the public to comment. The court indicated that the agencies could issue new notices through proper rulemaking, but - since it already found the notices to be unlawful - the states would have another chance to challenge any similar defect. The court also vacated the DOJ Order as contrary to law. The court's order, which applies nationwide, restores the interpretations that had been in effect for decades.

In addition to the federal public benefits restrictions, the 1996 welfare law authorized states to offer state or local public benefits regardless of a person's immigration status, if the state enacts a law after August 22, 1996, affirmatively granting this eligibility.²⁹

²⁴ 90 Fed. Reg. 30896 (July 11, 2025).

²⁵ Training and Employment Guidance Letter 10-23 (Dept. of Labor, July 10, 2025), *available at* https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEGL/2023/TEGL_10-23_Change_2/TEGL_10-23_Change_2.pdf.

²⁶ See Tanya Broder and Ben D'Avanzo, *What New Federal Notices Mean for Immigrants' Program Eligibility* (NILC, July 23, 2025), <https://www.nilc.org/articles/what-new-federal-notices-mean-for-immigrants-program-eligibility/>.

²⁷ *State of New York v. U.S. Department of Justice* (D.R.I., July 21, 2025), *available at* <https://www.courtlistener.com/docket/70869382/state-of-new-york-v-us-department-of-justice/>. On September 10, 2025, the District Court issued a preliminary injunction prohibiting the federal agencies from implementing these notices and the DOJ order in the plaintiff states, *available at* https://storage.courtlistener.com/recap/gov.uscourts.rid.60060/gov.uscourts.rid.60060.64.0_2.pdf.

²⁸ Department of Housing and Urban Development, "Interpretation of Federal Public Benefit", 90 Fed. Reg. 54,363 (Nov. 26, 2025).

²⁹ Welfare law § 411 (8 U.S.C. § 1621). This federal micromanagement in state affairs is potentially unconstitutional under the Tenth Amendment. See, e.g., *Matter of Application of Cesar Adrian Vargas for Admission to the Bar of the State of New York* (2015 NY Slip Op 04657; decided on June 3, 2015, Appellate Division, Second Department Per Curiam) (holding that the requirement under 8 U.S.C. § 1621(d) that states must pass legislation in order to opt out of the federal prohibition on issuing professional licenses — in this case, admission to the New York State bar — to undocumented immigrants infringes on New York State's 10th amendment rights).

Lawfully Present Non-Citizens

Some federal programs are available not only to “qualified” immigrants but to a broader group of non-citizens who are “lawfully present” in the United States. Although the definition of this term varies by program, it generally includes all “qualified” immigrants as well as certain other noncitizens who are authorized by the federal government to be present in the United States. This may include persons granted Temporary Protected Status or deferred action, applicants for asylum, adjustment of status or special immigrant juvenile classification, persons with a valid non-immigrant status, and others who are authorized to live and/or work in the U.S.

In 1996, the Social Security Administration (SSA) established a lawful presence definition for purposes of SSA retirement and Social Security Disability Income (SSDI) benefits.³⁰ Lawfully present individuals who are otherwise eligible may receive these benefits if they are “fully insured” (have credit for sufficient work history in the U.S. and were issued a Social Security number that was at any time valid for work purposes). In 2010, HHS developed an updated and generally broader definition of lawful presence for the state option to cover children and pregnant people under Medicaid and CHIP, and subsequently for purchasing health coverage in the Affordable Care Act’s health insurance marketplaces.³¹

Services that Remain Available, Regardless of Immigration status

The 1996 law includes important exceptions for certain types of services. Regardless of their immigration status, the statute provides that not-qualified immigrants are eligible for emergency Medicaid services³² if they are otherwise eligible for their state’s Medicaid program.³³ The law does not restrict access to public health programs that provide immunizations and/or treatment of communicable disease symptoms (whether or not those symptoms are caused by such a disease). School breakfast and lunch programs remain open under the statute to all children regardless of immigration status, and every state except Idaho has opted to provide access to the Special Supplemental Nutrition Program for Women,

³⁰ 61 Fed. Reg. 47039 (Sept. 6, 1996), now codified at 8 C.F.R §1.3.

³¹ Centers for Medicare and Medicaid Services (CMS), letter to State Health Officials “Medicaid and CHIP Coverage of “Lawfully Residing” Children and Pregnant Women” (July 1, 2010), *available at* <https://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/SHO10006.pdf>; CMS letter to State Health Officials, “Individuals with Deferred Action for Childhood Arrivals” (Aug. 28, 2012) (Medicaid and CHIP), *available at* <https://www.medicaid.gov/federal-policy-guidance/downloads/SHO-12-002.pdf>; 45 CFR 155.20 (Affordable Care Act). See also discussion in note 57, *infra*.

³² Emergency Medicaid provides federal matching funds to cover the treatment of an emergency medical condition. An emergency medical condition is defined as “a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in: (A) placing the patient’s health in serious jeopardy, (B) serious impairment to bodily functions; or (C) serious dysfunction of any bodily organ or part.” 42 U.S.C. § 1396b(v).

³³ Welfare law § 401(b)(1)(A) (8 U.S.C. § 1611(b)(1)(A)).

Infants, and Children (WIC).³⁴ The statute also makes short-term noncash emergency disaster assistance available without regard to immigration status.

The law provides an exemption from the 1996 law's restrictions on federal public benefits for programs *designated by the Attorney General* that provide "in-kind services" that are necessary to protect life or safety and are not conditioned on a person's income or resources. In 2001, the Attorney General published a final order specifying the types of benefits that meet these criteria. The Attorney General's list included child and adult protective services; programs addressing weather emergencies and homelessness; shelters, soup kitchens, and meals-on-wheels; medical, public health, and mental health services necessary to protect life or safety; disability or substance abuse services necessary to protect life or safety; and programs to protect the life or safety of workers, children and youths, or community residents.³⁵

In July 2025, however, the Attorney General withdrew the 2001 order and elected "not to except any benefits from PRWORA beyond those excepted by the statute itself."³⁶ The order does not "purport to define what benefit programs are, and are not, 'public benefits' subject to PRWORA" and does not affect access to "police, fire, ambulance, transportation (including paratransit), sanitation, and other similar services." Twenty-one states challenged the 2025 order, which was blocked in the plaintiff states, while litigation continued.³⁷

On September 21, 2026, a federal District Court vacated the DOJ Order as contrary to law, explaining that "the Attorney General's decision to categorically refuse to apply the Life/Safety Exemption to any qualifying programs exceeds the discretion granted by PRWORA."³⁸ The court's order, which applies nationwide, restores the interpretation that had been in effect for decades. Verification Requirements.

When a federal agency designates a program as a federal public benefit foreclosed to not-qualified immigrants, the law requires the state or local agency to verify the immigration and citizenship status of all program applicants. Some federal agencies have not specified which of their programs provide federal public benefits. Until they do, state and local agencies that administer the programs are not obligated to verify the immigration status of people who apply for them.

Under an important exception contained in the 1996 immigration law, nonprofit charitable organizations are not required to "determine, verify, or otherwise require proof of eligibility of

³⁴ Welfare law § 742 (8 U.S.C. § 1615).

³⁵ U.S. Dept. of Justice (DOJ), "Final Specification of Community Programs Necessary for Protection of Life or Safety under Welfare Reform Legislation," A.G. Order No. 2353– 2001, 66 Fed. Reg. 3613–16 (Jan. 16, 2001).

³⁶ U.S. Dept. of Justice (DOJ), "Revised Specification Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996," A.G. Order No. 6335–2025, 90 Fed. Reg. 32023, 32025 (July 16, 2025).

³⁷ State of New York v. U.S. Department of Justice (D. RI, filed July 21, 2025), *available at* <https://www.courtlistener.com/docket/70869382/state-of-new-york-v-us-department-of-justice/>.

³⁸ *Id.*, *available at* <https://www.courtlistener.com/docket/70869382/114/state-of-new-york-v-us-department-of-justice/>

any applicant for such benefits." This exception relates specifically to the restrictions on benefits programs for immigrants in the 1996 welfare and immigration laws.³⁹ This generally has meant that nonprofit charitable organizations who are administering and determining eligibility for a program are not required to verify the immigration status of participants, even if the benefit has been designated as a federal public benefit by the relevant federal agency.

Access to Major Federal Benefit Programs: Waiting Periods

In addition to categorical eligibility, many immigrants are subject to a waiting period before they may receive the major public benefit programs. Congress restricted eligibility for many qualified immigrants by distinguishing between those who entered the U.S. before or "on or after" the date the law was enacted, August 22, 1996. The law barred most immigrants who entered the U.S. on or after that date from "federal means-tested public benefits" during the five years after they secure a qualified immigrant status.⁴⁰ This waiting period is often referred to as the five-year bar. Federal agencies clarified that the "federal means-tested public benefits" are Medicaid (except for emergency services), CHIP, TANF, SNAP, Supplemental Nutrition Program (SNAP), and Supplemental Security Insurance (SSI).⁴¹ As detailed below, the law imposed additional restrictions on immigrants' access to the SSI program.

Not all "qualified immigrants" are subject to the five-year bar under PRWORA. Refugees, people granted asylum or withholding of deportation/removal, Cuban/Haitian entrants, certain Amerasian immigrants,⁴² Iraqi and Afghan Special Immigrants, and survivors of trafficking are exempt from the five-year bar. Eligibility for these "humanitarian immigrants" continued even if they adjust to lawful permanent residence.⁴³ Also exempt are persons residing under COFA, and qualified immigrants who are veterans or active-duty military and their spouses and

³⁹ IIRIRA § 508 (8 U.S.C. § 1642(d)).

⁴⁰ Welfare law § 403 (8 U.S.C. § 1613).

⁴¹ HHS, Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), "Interpretation of 'Federal Means-Tested Public Benefit,'" 62 Fed. Reg. 45256 (Aug. 26, 1997); U.S. Dept. of Agriculture (USDA), "Federal Means Tested Public Benefits," 63 Fed. Reg. 36653 (July 7, 1998). The CHIP program, created after the passage of the 1996 welfare law, was later designated as a federal means-tested public benefit program. See Health Care Financing Administration, "The Administration's Response to Questions about the State Child Health Insurance Program," Question 19(a) (Sept. 11, 1997).

⁴² For purposes of the exemptions described in this article, the term *Amerasians* applies only to individuals granted lawful permanent residence under a special statute enacted in 1988 for Vietnamese Amerasians. See § 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in § 101(c) of Public Law 100-202 and amended by the 9th proviso under Migration and Refugee Assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Public Law 100-461, as amended).

⁴³ 8 U.S.C. § 1612 (b)(2)(A)(Medicaid/TANF must be provided at a minimum during first seven/five years after refugee or other humanitarian status granted); 8 U.S.C. § 1613 (b)(1)(exemption from five year waiting period for persons admitted as refugees, etc.). See also Department of Health and Human Services, Centers for Medicare and Medicaid Services, "Questions and Answers on the Five-Year Bar" (Q. 5) at <https://niwaplibrary.wcl.american.edu/wp-content/uploads/2015/pdf/PB-faq-QA5YearBar-06.23.04.pdf>

children. In addition, children who receive federal foster care are exempt from the five-year bar in the Medicaid program.

The 2025 reconciliation act further restricted access to SNAP, Medicaid and CHIP, excluding the “humanitarian” immigrants unless and until they adjust to lawful permanent resident status. But since the 2025 law did not modify PRWORA’s exemptions from the five-year bar, these individuals are not subject to a waiting period once they obtain LPR status. The 2025 law preserved the other exemptions from the five-year bar, as well as the state option to cover lawfully residing children and pregnant people in Medicaid and CHIP without a waiting period.

The Impact of Sponsorship on Eligibility

Under the 1996 welfare and immigration laws, family members and some employers eligible to file a petition to help a person immigrate must become financial sponsors of the immigrant by signing a contract or “affidavit of support” with the government. Under the enforceable affidavit (Form I-864), the sponsor promises to support the immigrant and to repay certain benefits that the immigrant may use.⁴⁴

Immigrants whose sponsors sign an enforceable affidavit of support are subject to additional eligibility restrictions. When an agency is determining a lawful permanent resident’s financial eligibility for TANF, SNAP, SSI, nonemergency Medicaid, or CHIP (as described below),⁴⁵ the law in some cases requires the agency to “deem” the income of the immigrant’s sponsor or the sponsor’s spouse to be available to the immigrant. The sponsor’s income and resources are added to the immigrant’s, which often disqualifies the immigrant as over-income for the program. The 1996 laws imposed deeming rules in certain programs until the immigrant becomes a citizen or secures credit for 40 quarters (approximately 10 years) of work history in the U.S.

Domestic violence survivors and immigrants who would go hungry or homeless without assistance (“indigent” immigrants) are exempt from sponsor deeming for at least 12 months.⁴⁶ Some programs apply additional exemptions from the sponsor-deeming rules.⁴⁷ The U.S. Department of Agriculture (USDA) has issued helpful guidance on the indigence exemption and other deeming and liability issues.⁴⁸

⁴⁴ For more information on sponsored immigrants and benefits, see [Sponsored Immigrants and Benefits](#) (NILC, Feb 2021).

⁴⁵ Welfare law § 421 (8 U.S.C. § 1631).

⁴⁶ IIRIRA § 552 (8 U.S.C. § 1631(e) and (f)).

⁴⁷ Children, for example, are exempt from deeming in the Supplemental Nutrition Assistance Program. In states that choose to provide Medicaid and CHIP to lawfully residing children and pregnant persons, regardless of their date of entry, deeming and other sponsor-related barriers do not apply to these groups.

⁴⁸ 7 C.F.R. § 274.3(c). See also [Supplemental Nutrition Assistance Program: Guidance on Non-Citizen Eligibility \(USDA, June 2011\)](#). See also Deeming of Sponsor’s Income and Resources to a Non-Citizen (HHS, TANF-ACF-PI-2003-03, Apr. 17, 2003), <https://www.acf.hhs.gov/ofa/policy-guidance/tanf-acf-pi-2003-03-deeming-sponsors-income-and-resources-non-citizen>.

Eligibility for Major Health & Benefits Programs

Immigrant eligibility for benefits is governed by the federal laws, regulations and guidance outlined above, and in some cases may vary by state. This section will discuss how these rules operate in the major public benefits programs. Updates on federal and state policies are available on NILC's website.⁴⁹

TANF, Medicaid, and CHIP

Access to Medicaid and the Children's Health Insurance Program ("CHIP") for immigrants was further restricted by the 2025 reconciliation act. Under the 1996 welfare law, states could receive federal funding for TANF, Medicaid, and CHIP to serve qualified immigrants who have completed the federal five-year bar as described above.⁵⁰ However, starting October 1, 2026 (with exceptions for children and pregnant people in some states), federal matching funds for non-emergency Medicaid and CHIP services have been available only to lawful permanent residents, Cuban and Haitian entrants, and people residing under COFA. The 1996 law's restrictions (such as the five-year waiting period) and exceptions to these restrictions also apply. As discussed in the section above, lawful permanent residents who entered as or were previously granted a "humanitarian immigrant" status are exempt from the five-year bar. Emergency Medicaid services will remain available to otherwise eligible individuals, regardless of their immigration status.⁵¹

The 2025 reconciliation act's restrictions do not affect the state options to cover lawfully residing children or pregnant people, or the options to provide prenatal care regardless of the pregnant person's immigration status. Beyond the federal baseline, more than half the states have used state funds to provide TANF, Medicaid, and/or CHIP to immigrants who are subject to the five-year bar on federally funded services, or to a broader group of immigrants.⁵² Many states and counties provide health coverage to children and/or pregnant persons regardless of their immigration status. New York and Illinois have offered health coverage to seniors

⁴⁹ *Guide to Immigrant Eligibility for Federal Programs* (NILC), www.nilc.org/updatepage/.

⁵⁰ States were also given an option to provide or deny federal TANF and Medicaid to most qualified immigrants who were in the U.S. before Aug. 22, 1996, and to those who enter the U.S. on or after that date, once they have completed the federal five-year bar. Welfare law § 402 (8 U.S.C. § 1612). Six states (Mississippi, Montana, North Dakota, South Carolina, South Dakota, and Texas) require lawful permanent residents who complete the five-year bar to have credit for 40 quarters of work history in the U.S. in order to qualify for Medicaid. Of these states, Montana, North Dakota, South Carolina, and Texas provide health coverage to lawfully residing children, while North Dakota and South Carolina cover lawfully residing pregnant persons regardless of their date of entry into the U.S. South Dakota and Texas provide prenatal care regardless of the pregnant person's status. Five states (Indiana, Mississippi, Ohio, South Carolina, and Texas) fail to provide TANF to all qualified immigrants who complete the federal five-year waiting period. For more detail, see NILC's "Table: Overview of Immigrant eligibility for Federal Programs," endnotes 5-6, at www.nilc.org/table_ovrw_fedprogs/.

⁵¹ CMS State Health Officials letter, "Implementation of Section 71109 'Alien Medicaid Eligibility' of the Working Families Tax Cut Legislation (Public Law 119-21)" (April 8, 2026), <https://www.medicaid.gov/federal-policy-guidance/downloads/sho26001.pdf>

⁵² See *Guide to Immigrant Eligibility for Federal Programs* (NILC)(including updated tables), www.nilc.org/updatepage/.

regardless of their immigration status. Five states (California, Colorado, Minnesota, Oregon, Washington) and the District of Columbia have offered public or private health coverage with state subsidies to all otherwise eligible immigrants regardless of their immigration status. Due to state budget constraints, however, California, Illinois, Minnesota, and the District of Columbia have ended or paused new enrollment for some immigrant adults.⁵³

Where federal matching funds are available, forty-five states have chosen to cover immigrant children and/or pregnant people, or to provide prenatal care regardless of immigration status.⁵⁴ In 2009, states were granted an option to provide federally funded Medicaid and CHIP to "lawfully residing" children and/or pregnant persons regardless of their date of entry into the U.S.⁵⁵ As of October 2026, thirty-nine states⁵⁶ plus the District of Columbia have opted to take advantage of this federal funding for immigrant health care coverage, which became available on April 1, 2009.

Twenty-four states and the District of Columbia use federal funds to provide prenatal care regardless of immigration status, under an option enabling states to provide prenatal services through CHIP. Under this option, the pregnant person's fetus is technically the recipient of CHIP-funded services. This approach potentially limits the scope of services available to the pregnant person to those directly related to the fetus's health.⁵⁷ However, several states have used another CHIP option or state funds to provide 12 months of post-partum care, regardless of status.

New Jersey, and Vermont use state or local funds to provide prenatal care regardless of the pregnant person's immigration status.

Affordable Care Act

While the federal health care reform law, known as the Affordable Care Act (ACA),⁵⁸ did not alter immigrant eligibility for Medicaid or CHIP, it opened new pathways for lawfully present

⁵³ See *Medical Assistance Programs for Immigrants in Various States* (NILC), <https://www.nilc.org/issues/health-care/medical-assistance-various-states/>.

⁵⁴ *Id.*

⁵⁵ Section 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) (H.R.2), Public Law 111-3 (Feb. 4, 2009).

⁵⁶ As of October 2026, Indiana's law extending coverage to lawfully residing children and pregnant people had not yet been implemented.

⁵⁷ Postpartum care is not covered by these federal funds unless a state normally pays for this care as part of a bundled payment or global fee method. HHS Letter to State Health Officials (Nov. 12, 2002). See also *Medical Assistance Programs for Immigrants in Various States* (NILC), www.nilc.org/medical-assistance-various-states/. However, some states have used the CHIP program's Health Services Initiative funding to offer 12 months of post-partum care regardless of the person's immigration status. See, e.g. CMS letter to California Department of Health Care Services (Sept. 14, 2021), available at www.dhcs.ca.gov/formsandpubs/laws/Documents/CHIP-SPA-21-0032-Approval.pdf.

⁵⁸ Pub. Law No. 111-148, as amended by the Health Care and Education Act of 2010, Pub. Law No. 111-152. For more information about immigrant eligibility for coverage under the Affordable Care Act, see *Immigrants and the Affordable Care Act (ACA)* (NILC), www.nilc.org/immigrantshcr/.

immigrants to obtain health insurance. The 2025 reconciliation act will strip access to health coverage subsidies for low-income noncitizens and will allow only a small subset of noncitizens earning at least 100% of the federal poverty level to qualify for these subsidies.

Currently, coverage purchased in the ACA's health insurance marketplaces is available to most lawfully present noncitizens. Advanced Premium Tax Credits make coverage more affordable for income-eligible individuals, and cost-sharing reductions assist with out-of-pocket costs.⁵⁹ Although lawfully present immigrants will still be able to purchase coverage in the health insurance marketplaces at full cost, beginning in taxable years after December 31, 2026, only lawful permanent residents, Cuban and Haitian entrants, and people residing under COFA earning at least 100 percent of the federal poverty level will be eligible for ACA premium tax credits.⁶⁰

Prior to the 2026 taxable year, a "special rule" allowed immigrants with incomes under 100 percent of the federal poverty level to obtain subsidized marketplace coverage if their immigration status makes them ineligible for Medicaid.⁶¹ The 2025 reconciliation act eliminated this exception. Since January 2026, lawfully present immigrants earning under 100 percent of the federal poverty level have been ineligible for premium tax credits in the ACA health insurance marketplaces.

SNAP

Immigrant eligibility for the Supplemental Nutrition Assistance Program (SNAP, formerly known as the Food Stamp Program) has been limited and partially restored several times. The 2025 reconciliation act drastically restricted immigrant access to the program. Although the legislation did not specify an implementation date, the U.S. Department of Agriculture notified states on October 31, 2025, that the bill's eligibility restrictions would take effect the next day.⁶²

⁵⁹ HHS initially excluded persons granted Deferred Action for Childhood Arrivals (DACA) from its lawful presence definition. 45 C.F.R. § 152.2 (8). In April 2023, HHS proposed to include DACA recipients in its lawful presence definition for purposes of the ACA and the option to cover children and pregnant people in Medicaid and CHIP; the proposed rule also clarified eligibility for certain other lawfully present individuals. 88 Fed. Reg. 25313 (April 26, 2023). In May 2024, HHS finalized its rule to include DACA recipients in its lawful presence definition for ACA purposes, and to clarify eligibility for certain other groups. 89 Fed. Reg. 39392 (May 8, 2024), adding 45 C.F.R. § 155.20. But in June 2025, HHS finalized a new rule that excluded DACA recipients but preserved the clarifications in the prior rule. The new rule became effective on August 25, 2025. 90 FR 27074 (June 25, 2025)(revising 45 C.F.R. § 155.20). For more information on the noncitizens considered lawfully present for ACA purposes, see "Lawfully Present Individuals: The Affordable Care Act" (NILC), <https://www.nilc.org/resources/lawfullypresent/>.

⁶⁰ In 2025, the federal poverty level in the 48 contiguous states for a household of four is \$32,150. Poverty Guidelines (ASPE), <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

⁶¹ 45 CFR § 155.305(f)(2).

⁶² 22 states filed a lawsuit, arguing that they should not be penalized for failure to implement (or any errors in implementing) these changes immediately. *State of New York v. Rollins* (D. OR, filed Nov. 26, 2025), <https://www.courtlistener.com/docket/71966888/state-of-new-york-v-rollins/>. On September 17, 2026, the court ruled that USDA must give states 120 days after it issues an implementing memorandum, and must provide adequate notice of when a state must implement the changes under H.R. 1 in order to exclude errors prior to the state's implementation.

Only lawful permanent residents, Cuban and Haitian entrants and people residing under COFA who are otherwise eligible are now eligible to apply for SNAP. Current recipients were able to retain their SNAP benefits until their regular recertification period.

Because the 2025 reconciliation act did not revise the 1996 law directly, it must be read in tandem with PRWORA, which provides several exceptions from the five-year waiting period. Persons residing under COFA and Cuban/Haitian entrants are not subject to this waiting period. Lawful permanent residents are eligible without a waiting period if they meet one of the law's exemptions for: children under 18 years old; veterans, active-duty military and their spouses and children; individuals with credit for 40 quarters of work history; certain Native Americans; Hmong and Laotian tribe members; and persons receiving disability-related assistance.⁶³ Lawful permanent residents who were born before August 22, 1931, may be eligible if they were lawfully residing in the U.S. on August 22, 1996. And lawful permanent residents who entered as a refugee, were granted asylum or withholding of deportation/removal, Amerasian immigrant, Iraqi and Afghan Special Immigrant Visas, and survivors of trafficking are similarly eligible without a five-year waiting period.⁶⁴ Other lawful permanent resident adults must wait until they have had a "qualified" status for five years before they can secure this critical nutrition assistance.

In addition to the federal benefits, five states — California, Illinois, Maine, Minnesota, and Washington — provide state-funded nutrition assistance to some of the immigrants who are ineligible for the federal SNAP program.⁶⁵

SSI

In 1996, Congress imposed its harshest restrictions on immigrant seniors and immigrants with disabilities who seek assistance under the Supplemental Security Income (SSI) program.⁶⁶ Although advocacy efforts in the two years following the welfare law's passage achieved a partial restoration of these benefits, significant gaps in eligibility remain. For example, SSI continues to exclude not-qualified immigrants who were not receiving the benefits on August

⁶³ The disability-related programs (for the purpose of "immigrants receiving disability-related assistance") include SSI, Social Security disability, state disability or retirement pension, railroad retirement disability, veteran's disability, disability-based Medicaid, and disability-related General Assistance, if the disability determination uses criteria as stringent as those used for SSI.

⁶⁴ 8 U.S.C. §1612(a)(2)(A); 8 U.S.C. § 1613 (b)(1). *See also* SNAP Provisions of the One Big Beautiful Bill - Alien SNAP Eligibility - Question and Answers #1 Revised (USDA, Dec. 9, 2025), <https://www.fns.usda.gov/snap/obbb-alien-eligibility-qas1>; *State of New York v. Rollins* (D. Or, September 17, 2026)(confirming that humanitarian immigrants who adjust to lawful permanent residence are not subject to a waiting period before becoming eligible for SNAP), available at <https://storage.courtlistener.com/recap/gov.uscourts.ord.190652/gov.uscourts.ord.190652.107.0.pdf>.

⁶⁵ *See State-Funded Food Assistance Programs* (NILC). In 2026, New Mexico allocated \$12 million for a one-time payment equal to six months of the household's average SNAP benefit, for "qualified" immigrants whose SNAP benefits cannot be renewed in 2026, due to H.R. 1's immigrant eligibility restrictions.

⁶⁶ Welfare law § 402(a) (8 U.S.C. § 1612(a)).

22, 1996, as well as most qualified immigrants who entered the country after the welfare law passed and seniors without disabilities who were in the U.S. before that date.⁶⁷

“Humanitarian” immigrants (including refugees, people granted asylum or withholding of deportation/removal, Amerasian immigrants, Cuban and Haitian entrants, Iraqi and Afghan Special Immigrants, and survivors of trafficking) can receive SSI, but only during the first seven years after having obtained the relevant status. The main rationale for the seven-year time limit was that it was intended to provide a sufficient opportunity for humanitarian immigrant seniors and those with disabilities to naturalize and retain their eligibility for SSI as U.S. citizens. However, a combination of factors, including immigration backlogs, processing delays, former statutory caps on the number of asylees who can adjust their immigration status, language barriers, and other obstacles made it impossible for many of these individuals to naturalize within seven years. Although Congress enacted an extension of eligibility for refugees who faced a loss of benefits due to the seven-year time limit in 2008, that extension expired in 2011.⁶⁸ Subsequent attempts to reauthorize the extension were unsuccessful, and the exclusion from SSI of thousands of seniors and people with disabilities continues. In March 2024, Congress removed the restrictions on access to SSI for people residing under COFA.

Six states — California, Hawaii, Illinois, Maine, New Hampshire, and Washington — provide cash assistance to certain immigrant seniors and people with disabilities who are ineligible for SSI; some others provide much smaller general assistance grants to these immigrants.

Refundable Tax Credits

Tax benefits are generally available to all tax filers on the same terms. However, Congress has amended the tax code several times to make certain tax credits available only to individuals with a Social Security number (SSN). Under PRWORA, the Earned Income Tax Credit (EITC) is available only if all members of the tax filing household (the tax filer, spouse, and dependents) have a Social Security number. Under the 2017 Tax Cuts and Jobs Act, only children with an SSN may be claimed for the refundable portion of the Child Tax Credit (CTC). The 2025 reconciliation act further restricted the refundable portion of the CTC by making it available only to households in which at least one tax filer and the child being claimed have an SSN that is valid for work purposes. That law also restricted eligibility for the American Opportunity Tax Credit (AOTC), the Lifetime Learning Tax Credit, and the new deductions for tips and overtime to only tax filers with such an SSN.

In August 2026, the Internal Revenue Service and Department of the Treasury issued a proposed rule that, without statutory authority, would make the refundable portions of the EITC, CTC, AOTC, and Adoption Tax Credit available only to “qualified” immigrants under PRWORA.⁶⁹

⁶⁷ Most new entrants cannot receive SSI until they become citizens or secure credit for 40 quarters of work history (including work performed by a spouse during marriage, persons “holding out to the community” as spouses, and by parents before the immigrant was 18 years old).

⁶⁸ The SSI Extension for Elderly and Disabled Refugees Act, Pub. Law. 110-328 (Sept. 30, 2008).

⁶⁹ 91 Fed. Reg. 53812 (Aug. 20, 2026), <https://www.govinfo.gov/content/pkg/FR-2026-08-20/pdf/2026-16985.pdf>

Barriers that Impede Access to Benefits for Eligible Immigrants

Confusion about Eligibility

Confusion about eligibility rules is widespread in immigrant communities and benefit agencies. The confusion stems from the complex interaction of the immigration and welfare laws, differences in eligibility criteria for various state and federal programs, and a lack of adequate training on the rules as clarified by federal agencies. Recent changes in laws further complicate the implementation of programs, making it even more difficult for states to administer programs accurately. Consequently, many eligible immigrants have assumed that they should not seek services, and eligibility workers have turned away eligible immigrants mistakenly. This confusion has been compounded by the current administration's persistent and unsupported claims that immigrants are receiving benefits improperly.⁷⁰

Fear of Being Considered a Public Charge

The immigration laws allow officials to deny a noncitizen's application for lawful permanent residence or entry into the U.S. if the authorities determine that the person is "likely to become a public charge."⁷¹ In deciding whether an immigrant is likely to become a public charge, immigration or consular officials review the "totality of the circumstances," including the person's health, age, income and resources, education and skills, family circumstances, and the affidavit of support. Under the DHS' prior regulations and longstanding policy, officials could consider the receipt of only two types of public benefits in a public charge assessment:

- Public cash assistance for income maintenance, and
- Long-term institutionalization at government expense.⁷²

The prior rules continue to apply to people who filed an application for lawful permanent residence (Form I-485) before September 18, 2026.

The Department of Homeland Security's new public charge rules, which went into effect on September 18, 2026, govern applications filed on or after that date. The rule rescinds the prior regulations, including the definition of "public charge," and grants immigration officers unbounded discretion in making these determinations. The rule and implementing guidance, published in USCIS' Policy Manual⁷³ ("Policy Guidance") allow immigration officers to consider virtually any means-tested public benefit received on or after September 18, 2026 in determining whether a person is likely to become a public charge in the future.⁷⁴ (Only cash

⁷⁰ See, e.g. Executive Order 14218 "Ending Taxpayer Subsidization of Open Borders" 90 Fed. Reg. 10581 (Feb. 25, 2025).

⁷¹ INA § 212(a)(4).

⁷² 8 CFR § 212.21.

⁷³ [Part G - Public Charge Ground of Inadmissibility | USCIS](https://www.uscis.gov/policy-manual/volume-8-part-g), available at <https://www.uscis.gov/policy-manual/volume-8-part-g>.

⁷⁴ 90 Fed. Reg. 52168 (November 19, 2025).

assistance for income maintenance or long-term institutionalization may be considered if received before September 18, 2026.)

The rule and implementing guidance enable immigration officers to make public charge determinations in a manner that departs from the longstanding approach to this test. In addition to the five factors that must be considered under the law (age, income/resources, health, education/skills and family size), and the contract (affidavit of support) signed by an immigrant's sponsor, officers are directed to consider the use of any public benefit that is based on income, including cash, nutrition assistance, health coverage, housing, financial aid for college, and any other public program that conditions eligibility on income or resources. Benefits that are "earned" such as Social Security retirement, Medicare, or unemployment insurance should not be counted, and services that are available without regard to income (e.g. universal school lunch) similarly should not be considered. Benefits used by children or dependents could be considered as an indication of the green card applicant's financial situation.

The predictable consequence, as acknowledged by DHS, is that immigrants and their U.S. citizen children – including many individuals who are not subject to a public charge test – will be deterred from seeking critical services for which they are eligible. NILC remains concerned that implementation of this rule and guidance will not only exacerbate this chilling effect but will result in biased and arbitrary decision-making by immigration adjudicators.⁷⁵ At least three lawsuits – filed by states, cities and counties, and non-profit organizations – have challenged DHS' rule and accompanying guidance.⁷⁶

In November 2025, the Department of State (DOS), which oversees public charge decisions made by consular officers abroad, sent a cable to its officers, signaling a similar change to its policies, and allowing for the consideration of a broad range of factors in a public charge decision.⁷⁷ DOS then announced that effective January 21, 2026, it would "pause" immigrant visa issuances to nationals of 75 countries, due to public charge concerns.⁷⁸ Individuals and organizations challenged the blanket visa ban and the public charge cable. On August 21, 2026,

⁷⁵ See Comment Submitted by the National Immigration Law Center to Notice of Proposed Rulemaking: Public Charge Ground of Inadmissibility USCIS-2025-0304-0001 (Dec. 19, 2025), available at <https://www.regulations.gov/comment/USCIS-2025-0304-3877>.⁷⁶ *State of New York et al. v. US Department of Homeland Security* (S.D.N.Y. filed Sept. 14, 2026); *City of New York et al. v. United States Department of Homeland Security* (S.D.N.Y. filed Sept. 14, 2026); *Make the Road New York v. United States Department of Homeland Security* (S.D.N.Y. filed Sept. 17, 2026).

⁷⁶ *State of New York et al. v. US Department of Homeland Security* (S.D.N.Y. filed Sept. 14, 2026); *City of New York et al. v. United States Department of Homeland Security* (S.D.N.Y. filed Sept. 14, 2026); *Make the Road New York v. United States Department of Homeland Security* (S.D.N.Y. filed Sept. 17, 2026).

⁷⁷ Amanda Seitz, *Immigrants With Health Conditions May Be Denied Visas Under New Trump Administration Guidance* (KFF Health News, Nov. 6, 2025), <https://kffhealthnews.org/news/article/visa-public-charge-health-conditions-trump-state-department/>.

⁷⁸ Immigrant Visa Processing Update for Nationalities at High Risk of Public Benefit Usage (DOS, updated Aug. 28) <https://travel.state.gov/content/travel/en/News/visas-news/immigrant-visa-processing-updates-for-nationalities-at-high-risk-of-public-benefits-usage.html>.

a District court vacated the ban, finding that it was contrary to law and unlawfully discriminated against applicants based on nationality.⁷⁹ Soon afterwards, however, DOS announced a *global* pause on immigrant visa processing - to allow them to conduct public charge training. Plaintiffs are seeking enforcement of the court's order, as well as more information on the public charge standards being used by the Department. The chilling effect caused by improper public charge policies has been documented over the years. During the period immediately after the 1996 welfare and immigration laws passed, the misapplication of the public charge ground of inadmissibility contributed significantly to the chilling effect on immigrants' access to services. The 1996 immigration law (IIRIRA) codified the factors traditionally considered by courts in a public charge determination, without altering its interpretation. The use of programs such as Medicaid or SNAP had never weighed heavily in determining whether individuals were inadmissible under the public charge ground. Confusion and fear about these rules, however, became widespread.⁸⁰ Immigrants' rights advocates, health care providers, and state and local governments organized to persuade federal agencies to clarify the limits of the rules. In 1999, the Immigration and Naturalization Service (INS, whose functions were later assumed by DHS) issued helpful guidance and a proposed regulation on the public charge doctrine.⁸¹ The guidance clarified that receipt of health care and other noncash benefits would not jeopardize the immigration status of recipients or their family members by putting them at risk of being considered a public charge.

The first Trump administration attempted to alter this policy dramatically by issuing rules in 2019 that made it much more difficult for low- and middle-income families to immigrate, and that profoundly exacerbated the chilling effect on access to services. Multiple courts found that the rules were likely unlawful. The Biden administration dismissed the appeals of these decisions, allowed an order vacating the DHS rule to take effect, and formally withdrew the prior administration's DHS public charge rule.

On September 9, 2022, US Citizenship and Immigration Services (USCIS) published a final rule addressing the public charge inadmissibility ground.⁸² That rule became effective on December 23, 2022. DOS applied a similar policy to applications that are processed abroad.⁸³ The 2022

⁷⁹ *Catholic Legal Immigration Network, Inc. v. Rubio* (S.D.N.Y., Aug. 21, 2024), [gov.uscourts.nysd.657161.83.0.pdf](https://www.uscourts.nysd.657161.83.0.pdf). For updates on this litigation, go to <https://www.nilc.org/litigation/clinic-v-rubio/>.

⁸⁰ Claudia Schlosberg and Dinah Wiley, *The Impact of INS Public Charge Determinations on Immigrant Access to Health Care* (National Health Law Program and NILC, May 22, 1998).

⁸¹ DOJ, "Field Guidance on Deportability and Inadmissibility on Public Charge Grounds," 64 Fed. Reg. 28689-93 (May 26, 1999); see also DOJ, "Inadmissibility and Deportability on Public Charge Grounds," 64 Fed. Reg. 28676-88 (May 26, 1999); U.S. Dept. of State, INA 212(A)(4) Public Charge: Policy Guidance, 9 FAM 40.41.

⁸² 87 Fed. Reg. 55472 (Sept. 9, 2022).

⁸³ In 2023, DOS reverted to the regulatory text in effect prior to its 2019 interim final rule, 88 Fed. Reg. 60574 (Sept. 5, 2023) (restoring 22 C.F.R. § 40.41, effective October 5, 2023), and continued to apply the public charge guidance in its Foreign Affairs Manual, 9 FAM 302.8 (U) PUBLIC CHARGE - INA 212(A)(4) (state.gov), available at <https://fam.state.gov/FAM/09FAM/09FAM030208.html>.

USCIS public charge rule was largely consistent with the 1999 Field Guidance and included some helpful clarifications. DHS has rescinded this rule.

The current administration's practices and proposals have exacerbated the confusion and concern about public charge, deterring many more eligible immigrants and US citizen family members from seeking critical services.⁸⁴

Requirement of Affidavits of Support

The 1996 laws enacted policies that make it more difficult to immigrate to the U.S. to reunite with family members. As noted above, since December 19, 1997 relatives (and some employers) who sponsor an immigrant have been required to meet strict income requirements and to sign a long-term contract, or affidavit of support (Form I-864), promising to maintain the immigrant financially at 125 percent of the federal poverty level and to repay certain means-tested public benefits the immigrant may receive.⁸⁵

The specific federal benefits for which sponsors may be liable have been defined to be TANF, SSI, SNAP, nonemergency Medicaid, and CHIP. Affidavit of support regulations issued in 2006 make clear that states are not obligated to seek reimbursement from sponsors. The regulations prohibit states from collecting reimbursement for any services used before the state issues a public notification that the services are considered means-tested public benefits for which sponsors will be liable.⁸⁶

Most states have not designated which programs would give rise to sponsor liability, and, for various reasons, agencies generally have not attempted to seek reimbursement from sponsors. However, the specter of making their sponsors financially liable has deterred eligible immigrants from applying for critical services.

⁸⁴ See, e.g., Samantha Artiga, et al, *Potential "Chilling Effects" of Public Charge and Other Immigration Policies on Medicaid and CHIP Enrollment* (KFF Health News, Dec. 2, 2025),

<https://www.kff.org/medicaid/potential-chilling-effects-of-public-charge-and-other-immigration-policies-on-medicare-and-chip-enrollment/>. Concerns about public charge take years to address, persisting even after the longstanding policy was restored. See, e.g. Dulce Gonzalez and Hamutal Bernstein, *One in Four Adults in Mixed-Status Families Did Not Participate in Safety Net Programs in 2022 Because of Green Card Concerns* (Urban Institute, Aug. 17, 2023), <https://www.urban.org/research/publication/one-four-adults-mixed-status-families-did-not-participate-safety-net-programs?emci=60d4ae08-0f41-ee11-a3f1-00224832eb73&emdi=9d1aff00-c541-ee11-a3f1-00224832eb73&ceid=4797771>; Health and Health Care Experiences of Immigrants: The 2023 KFF/LA Times Survey of Immigrants (Sept. 17, 2023), <https://www.kff.org/racial-equity-and-health-policy/issue-brief/health-and-health-care-experiences-of-immigrants-the-2023-kff-la-times-survey-of-immigrants/>.

⁸⁵ Welfare law § 423, amended by IIRIRA § 551 (8 U.S.C. § 1183a).

⁸⁶ U.S. Dept. of Homeland Security, "Affidavits of Support on Behalf of Immigrants," 71 Fed. Reg. 35732, 35742-43 (June 21, 2006).

Language Access

Many immigrants face significant linguistic and cultural barriers to obtaining public benefits. As of 2024, 74 million or approximately 22 percent of the U.S. population (5 years of age and older) spoke a language other than English at home.⁸⁷ More than 28 million people report speaking English less than very well, indicating they have Limited English Proficiency (LEP).⁸⁸ Due to the complexity of applications, these individuals cannot effectively apply for benefits or communicate meaningfully with a health care provider without appropriate language services.

Title VI of the Civil Rights Act of 1964 prohibits recipients of federal funding from discriminating based on national origin, which has long been interpreted by the courts and federal agencies to prohibit discrimination based on language.⁸⁹ All recipients of federal funds, including benefit agencies and health care providers, are required to ensure that individuals with LEP have access to their programs.

Section 1557 of the ACA extends these protections, prohibiting discrimination based on national origin by entities, *including federal agencies*, that provide or administer federally funded health care services. Health programs administered by HHS, as well as health insurance marketplaces like HealthCare.gov and other entities established under Title I of the ACA are also subject to Section 1557's requirements.⁹⁰

Several other federal laws require language access. The Food Stamp Act requires that state agencies utilize bilingual personnel and appropriate printed materials where there are a large number of low-income households that speak a language other than English.⁹¹ The Fair Housing Act prohibits national origin discrimination in housing transactions and services.⁹² The Stafford Act requires the Federal Emergency Management Agency to account for needs of people with LEP in disaster planning and prohibits discrimination on the basis of English proficiency in provision of assistance.⁹³

Federal regulations detail how federal funding recipients may comply with these requirements. For example, HHS issued regulations explaining that entities covered by section 1557 of the ACA are required to take reasonable steps to provide, free of charge, meaningful access to persons with LEP who are eligible to be served or likely to be affected by the covered entity's health programs.⁹⁴ They also are required to implement written policies and procedures for

⁸⁷ Selected Social Characteristics in the United States (American Community Survey table, 2024). <https://data.census.gov/table/ACSDP1Y2024.DP02>

⁸⁸ *Id.*

⁸⁹ See, e.g. *Lau v. Nichols*, 414 U.S. 563 (1974).

⁹⁰ 42 U.S.C. § 18116.

⁹¹ 7 U.S.C. § 2020(e)(1)(B).

⁹² 42 U.S.C. § 3604.

⁹³ 42 U.S.C. § 5196f and § 5151.

⁹⁴ 44 CFR § 92.201.

providing language assistance services⁹⁵ and to provide notices of the availability of language assistance in the 15 most common languages in the state or states where the entity operates health-related programs.⁹⁶

Compliance with these laws and regulations has varied widely, and language access remains a challenge. In 2025, the Department of Justice rescinded its Title VI language access guidance and has not replaced it.⁹⁷ The provision of language services by federal agencies will depend on program specific requirements.

Verification

Rules that require benefit agencies to verify applicants' immigration or citizenship status have been misinterpreted by some state or local agencies, leading them to demand immigration documents or Social Security numbers (SSNs) in situations when applicants are not required to submit such information.

In 1997, the U.S. Department of Justice (DOJ), the department primarily responsible for implementing and enforcing immigration laws prior to the creation of DHS in 2002, issued interim guidance for federal benefit providers to use in verifying immigration status.⁹⁸ The guidance, which remains in effect, directs benefit agencies already using the Systematic Alien Verification for Entitlements (SAVE) process to continue to do so.⁹⁹ Previously, the use of SAVE

⁹⁵ 45 CFR § 92.8(d).

⁹⁶ 45 CFR § 92.11.

⁹⁷ Memorandum from the Attorney General to all Federal Agencies, "Implementation of Executive Order No. 14,224: Designating English as the Official Language of the United States of America," available at <https://www.justice.gov/ag/media/1407776/dl>.

⁹⁸ DOJ, "Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 62 Fed. Reg. 61344–416 (Nov. 17, 1997). In Aug. 1998, the agency issued proposed regulations that draw heavily on the interim guidance and the Systematic Alien Verification for Entitlements (SAVE) program. See DOJ, "Verification of Eligibility for Public Benefits," 63 Fed. Reg. 41662–86 (Aug. 4, 1998). Final regulations have not been issued. Once the regulations become final, states have two years to implement a conforming system for the federal programs they administer.

⁹⁹ SAVE is used to help state benefits agencies verify eligibility for several major benefits programs. See 42 U.S.C. § 1320b-7. DHS verifies an applicant's immigration status by tapping numerous databases and/or through a manual search of its records. This information is used to verify eligibility for benefits and may not, according to the law, be used for civil immigration enforcement purposes. See the Immigration Reform and Control Act of 1986, 99 Pub. L. 603, § 121 (Nov. 6, 1986); DOJ, "Verification of Eligibility for Public Benefits," 63 Fed. Reg. 41662, 41672, and 41684 (Aug. 4, 1998). See also [FAQ: Navigating the DHS SAVE System](https://www.nilc.org/resources/faq-navigating-the-dhs-save-system/) (NILC, April 2026), <https://www.nilc.org/resources/faq-navigating-the-dhs-save-system/>; *The Systematic Alien Verification for Entitlements (SAVE) Program: A Fact Sheet* (American Immigration Council, Aug. 3, 2021), <https://www.americanimmigrationcouncil.org/research/systematic-alien-verification-entitlements-save-program-fact-sheet>.

in the SNAP program was an option that could be exercised by each state, but the 2014 Farm Bill mandated that SAVE be used in SNAP nationwide.¹⁰⁰

Some important protections for immigrants who are subject to verification remain in place. Applicants for major benefits programs are guaranteed a “reasonable opportunity” to provide requested immigration documents, including, in some cases, receipts confirming that the person has applied for replacement of lost documents. For federal programs required by law to use SAVE, applicants who declare that they have a satisfactory status and who provide documents within the reasonable opportunity period should remain eligible for assistance while verification of their status is pending. Under the law, information submitted to SAVE may not be used for civil immigration enforcement purposes.

However, as part of the current administration's efforts to collect and share information from all federal and state agencies,¹⁰¹ the Department of Homeland Security signaled its intent to expand the use of SAVE, and the data it taps into. These plans would shift the SAVE system from its narrow role as a service for benefit-granting agencies to a potential tool for addressing benefits misuse, seeking reimbursement from immigrants' sponsors, (non-civil) immigration enforcement or other law enforcement functions.¹⁰² Voting rights and privacy groups challenged the expansion of the SAVE system, including its use for purging alleged non-citizens from the voter rolls. On June 22, 2026, a District Court vacated the SAVE modified system, finding that its disclosures are contrary to law, arbitrary and capricious, exceed statutory authority, and failed to provide notice and an opportunity for the public to comment as required by law.¹⁰³ However, on September 25, 2026, the Supreme Court granted a stay of the District Court's order, allowing the administration to reinstate DHS' modified citizenship

¹⁰⁰ 113 Pub. L. 79, § 4015 (Feb. 7, 2014).

¹⁰¹ Executive Order 14243, “Stopping Waste, Fraud, and Abuse by Eliminating Information Silos” 90 Fed. Reg. 13681 (Mar. 20, 2025), available at <https://www.govinfo.gov/content/pkg/FR-2025-03-25/pdf/2025-05214.pdf>.

¹⁰² 90 Fed. Reg. 48948 (Oct. 31, 2025)(modifying DHS' system of records notice on the SAVE system). DHS is expanding SAVE to tap into information on U.S. born citizens, including the last four digits of an SSN, passport number, driver's license number and other SSA information. The information may be shared with federal, state or local benefit agencies as well as other DHS components engaging in law or immigration enforcement, or other functions. The notice reiterates that information in SAVE, including records submitted by user agencies, cannot be used for administrative (non- criminal) immigration enforcement purposes. See Immigration Reform and Control Act (IRCA), Public Law 99–603, Part C, Section 121(c)(1) (Nov. 6, 1986).

¹⁰³ League of Women Voters v. U.S. Department of Homeland Security (D.D.C. June 22, 2026)(finding that the 2025 modified SAVE system violates the Social Security Act, the Privacy Act, and the Administrative Procedure Act), available at <https://www.courtlistener.com/docket/71499795/league-of-women-voters-v-us-department-of-homeland-security/>. DHS later revealed its plans to allow four states (Florida, Ohio, Iowa and Indiana) involved in a separate case to use the new SAVE system, including a bulk upload feature and SSN records searches. The defendants disabled the new SAVE system for all other states, and litigation in the Florida case is ongoing. State of Florida v. League of Women Voters, available at <https://www.courtlistener.com/docket/73646286/state-of-florida-v-league-of-women-voters/>

verification database while the government's appeal proceeds.¹⁰⁴ The litigation challenging the expanded use of the SAVE system is ongoing.

The 1997 DOJ guidance recommends that agencies make decisions about financial and other eligibility factors before asking an applicant for information about their immigration status.

Questions on Application Forms

In the past, federal agencies worked to reduce the chilling effect of immigration status–related questions on benefit applications. In 2000, HHS and USDA issued a “Tri-Agency Guidance” document, recommending that states delete from benefit applications questions that are unnecessary and that may chill participation by immigrant families.¹⁰⁵ The guidance confirms that only the immigration status of the applicant for benefits is relevant. It encourages states to allow family or household members who are not seeking benefits to be designated as nonapplicants early in the application process. Similarly, under Medicaid, TANF, and SNAP, only the applicant must provide a Social Security number. In 2011, the USDA issued a memo instructing states to apply these principles in their online application procedures.¹⁰⁶ These principles are also codified in Medicaid and CHIP regulations, and in the Affordable Care Act.¹⁰⁷

SSNs are not required for people seeking only emergency Medicaid.¹⁰⁸

Disclosing Information to the Department of Homeland Security

Immigrant communities have long been concerned that using government services will place them or their family members at risk of immigration enforcement. Protections in statutes, regulations, and historical agency practice have helped reassure eligible consumers who seek assistance or who wish to pay taxes. Recent agency actions, however, have systematically dismantled these safeguards, undermining access to services for eligible citizens and immigrants, and prompting multiple lawsuits that are currently in process. Despite these threats, some protective laws and policies remain in place.

¹⁰⁴ Department of Homeland Security v. League of Women Voters, available at https://www.supremecourt.gov/opinions/25pdf/26a308_poko.pdf.

¹⁰⁵ Letter and accompanying materials from HHS and USDA to State Health and Welfare Officials: “Policy Guidance Regarding Inquiries into Citizenship, Immigration Status and Social Security Numbers in State Applications for Medicaid, State Children’s Health Insurance Program (SCHIP), Temporary Assistance for Needy Families (TANF), and Food Stamp Benefits” (Sept. 21, 2000).

¹⁰⁶ *Conforming to the Tri-Agency Guidance through Online Applications* (USDA, Feb. 2011), www.fns.usda.gov/sites/default/files/Tri-Agency_Guidance_Memo-021811.pdf.

¹⁰⁷ 42 C.F.R. § 435.907(e) (Medicaid); 42 C.F.R. § 457.320 (CHIP); 42 U.S.C. §18081(g)(ACA). See also Privacy Protections in Selected Federal Benefits Programs (NILC, et al, Feb. 2025), <https://www.nilc.org/wp-content/uploads/2025/03/Privacy-Protections-in-Selected-Federal-Benefits-Programs-Feb-25-2025-1.pdf>.

¹⁰⁸ The Medicaid rules also require that agencies assist eligible applicants in obtaining an SSN, may not delay or deny benefits pending issuance of the SSN, and provide exceptions for individuals who are ineligible for an SSN or who have well-established religious objections to obtaining one. 42 C.F.R. § 435.910(e), (f), and (h).

For decades, federal and state agencies have assured taxpayers and consumers that their information would be used only to determine their eligibility or administer a program. In 2025, federal agencies abruptly departed from their longstanding policies by entering into agreements to share information with DHS. An Executive Order aimed at eliminating “silos” between federal agencies also demanded “unfettered access” to state data.¹⁰⁹ Numerous reports indicate that the federal government is building a massive database of personal information from federal and state agencies to surveil and track immigrants and citizens.¹¹⁰

One long-time source of concern was a 1996 provision that requires benefits-administering agencies to report to DHS the names people whom the agencies *know* are not lawfully present in the U.S. This requirement, as interpreted for decades, is quite narrow in scope.¹¹¹ It applies only to three programs: SSI, certain federal housing programs, and TANF.¹¹² In 2000, federal agencies outlined the limited circumstances under which the reporting requirement is triggered.¹¹³ Only people who are seeking benefits for themselves (not relatives or household members applying on their behalf) are subject to the reporting requirement. Agencies are not required to report such applicants unless there has been a formal determination, subject to administrative review, on a claim for SSI, public housing, or TANF. The conclusion that the person is unlawfully present also must be supported by a determination by the immigration authorities, “such as a Final Order of Deportation.”¹¹⁴ Findings that do not meet these criteria (e.g., a DHS response to a SAVE inquiry indicating an immigrant’s status, an oral or written admission by an applicant, or suspicions of agency workers) are insufficient to trigger the

¹⁰⁹ Exec. Order No. 14243, “Stopping Waste, Fraud, and Abuse by Eliminating Information Silos” 90 Fed. Reg. 13681 (March 25, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/03/stopping-waste-fraud-and-abuse-by-eliminating-information-silos/>.

¹¹⁰ See Priscilla Alvarez, et al., *DOGE is Building a Master Database for Immigration Enforcement, Sources Say* (CNN, April 25, 2025), <https://www.cnn.com/2025/04/25/politics/doge-building-master-database-immigration/>; Makena Kelly & Vittoria Elliott, *DOGE Is Building a Master Database to Surveil and Track Immigrants* (WIRED, April 18, 2025), <https://www.wired.com/story/doge-collecting-immigrant-data-surveil-track/>; Muzaffar Chishti & Colleen Putzel-Kavanaugh, *Seeking to Ramp Up Deportations, the Trump Administration Quietly Expands a Vast Web of Data* (Migration Policy Institute, May 29, 2025), <https://www.migrationpolicy.org/article/trump-ice-data-surveillance>; See also *The DHS Data Grab Is Putting US Citizens at Risk* (WIRED, Dec. 10, 2025), <https://www.wired.com/story/dhs-data-grab-putting-us-citizens-at-risk/>.

¹¹¹ Welfare law § 404, amended by BBA §§ 5564 and 5581(a) (42 U.S.C. §§ 608(g), 611a, 1383(e), 1437y).

¹¹² *Id.* See also H.R. Rep. 104–725, 104th Cong. 2d Sess. 382 (July 30, 1996). The Food Stamp Program (now called the Supplemental Nutrition Assistance Program, or SNAP) had a reporting requirement that preexisted the 1996 law.

¹¹³ Social Security Administration, HHS, U.S. Dept. of Labor, U.S. Dept. of Housing and Urban Development, and DOJ – Immigration and Naturalization Service, “Responsibility of Certain Entities to Notify the Immigration and Naturalization Service of Any Alien Who the Entity ‘Knows’ Is Not Lawfully Present in the United States,” 65 Fed. Reg. 58301 (Sep. 28, 2000). USDA similarly has clarified that “State agencies must conform to the reporting requirements of the Interagency Notice.” See *Supplemental Nutrition Assistance Program: Guidance on Non-Citizen Eligibility* (USDA, June 2011), <https://www.fns.usda.gov/snap/eligibility/non-citizen-eligibility>, pp. 48–52. See also 7 C.F.R. § 273.4(b)(1).

¹¹⁴ *Id.*

reporting requirement. Agencies are not required to submit reports to DHS unless they have knowledge that meets the above requirements. Finally, the guidance stresses that agencies are not required to make immigration status determinations that are not necessary to confirm eligibility for benefits. A recent memo from the Office of Legal Counsel reconsiders this interpretation, asserting that the requirement applies to *all agencies* within a state, and suggests a significantly lower threshold for “knowing” that an individual is not lawfully present.¹¹⁵ This opinion has not been implemented by any agency, and does not withdraw the multi-agency guidance issued in 2000.

There is no federal reporting requirement in health programs. States are required to adopt safeguards that restrict the use or disclosure of information about applicants and recipients to purposes directly connected with the administration of the Medicaid plan.¹¹⁶ State Medicaid agencies seeking federal matching funds provide detailed information to the Centers for Medicare and Medicaid Services (CMS) for the specific purpose of receiving those funds. In July 2025, a news media article revealed that data from these states had been shared with DHS, despite the efforts of some Medicaid officials to block the transfer.¹¹⁷ In litigation filed by more than twenty states, CMS provided a copy of its information exchange agreement with DHS.¹¹⁸ In December 2025, DHS rescinded its 2013 memo which had assured applicants and family members seeking Medicaid, CHIP, or ACA health coverage that their information would not be used for civil immigration enforcement purposes.¹¹⁹ DHS asserted that the agency has a right to obtain information on noncitizens held by other federal agencies, including HHS. On December 29, 2025, a District Court issued an order, allowing HHS and DHS to share specific information about Medicaid recipients who are not lawfully present in the U.S., but preliminarily blocking the agencies from sharing other information.¹²⁰ This litigation is ongoing.

¹¹⁵ “Reconsidering State Reporting Requirements in Section 404 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996” (Office of Legal Counsel memorandum opinion, Sept. 1, 2026)(withdrawing its own 1998 opinion), <https://www.justice.gov/olc/media/1459981/dl>.

¹¹⁶ 42 U.S.C. §1396a(a)(7). The Affordable Care Act includes particularly strong confidentiality provisions, 42 U.S.C. §18081(g).

¹¹⁷ Kimberly Kindy and Amanda Seitz, *Trump gives data of immigrant Medicaid enrollees to deportation officials* (AP News, June 14, 2025), <https://apnews.com/article/medicaid-deportation-immigrants-trump-4e0f979e4290a4d10a067da0acca8e22>; Kindy and Seitz, *Trump administration hands over nation's Medicaid enrollee data to ICE* (AP News, July 17, 2025), <https://apnews.com/article/immigration-medicaid-trump-ice-ab9c2267ce596089410387bfc40eeb7>.

¹¹⁸ Defendants' Response to Preliminary Injunction, Exh. A, in *State of California v. U.S. Department of Health and Human Services*, No. 3:25-cv-05536 (N. D. CA, filed July 25, 2025). On August 12, 2025, the District Court preliminarily enjoined DHS from using Medicaid data obtained from the plaintiff states for immigration enforcement purposes, and HHS from sharing Medicaid data from the plaintiff states with DHS for immigration enforcement purposes. The preliminary injunction was set to remain in place until the litigation terminates or 14 days after DHS and HHS have completed a reasoned decision-making process or rulemaking.

¹¹⁹ *Clarification of Existing Practices Related to Certain Health Care Information* (DHS, Oct. 25, 2013), available at www.ice.gov/doclib/ero-outreach/pdf/ice-aca-memo.pdf.

¹²⁰ After the agencies asserted that they had completed a reasoned decision-making process, the court issued an order allowing HHS and DHS to share specific information beginning January 5, 2026. The court

USDA also requested detailed information from states about individuals and households receiving SNAP, going back five years. Twenty states and the District of Columbia challenged the federal agency's demand.¹²¹ HUD signed a Memorandum of Understanding with DHS, promising to post a staff person at the immigration enforcement agency.¹²² Similarly, despite a particularly strong privacy law,¹²³ and over the objections of agency counsel, the Internal Revenue Service (IRS) agreed to share taxpayers' personal information with DHS.¹²⁴ Several lawsuits sought to block IRS' disclosure. A district court blocked the IRS from sharing the information, and the District of Columbia upheld this preliminary injunction.¹²⁵ Another district court preliminarily enjoined DHS from using the data it obtained for immigration enforcement purposes.¹²⁶ Litigation challenging the sharing of personal data by the IRS, USDA, CMS, SSA and DHS is ongoing.

These breaches of confidentiality violate the public's expectation that information provided to a government agency will be used to assist them in paying taxes, securing health care, nutrition assistance and other critical services for which they are eligible. The weaponization of personal data makes it virtually impossible for state agencies, and health care and social service providers to reassure taxpayers and consumers that their privacy will be protected. It also

preliminarily enjoined the agencies from sharing data from the plaintiff states unless the information: is from the Medicaid program; focuses only on noncitizens not lawfully residing in the US; and discloses only their citizenship and immigration status, address, phone number, date of birth, and Medicaid ID number. Order Granting in Part and Denying in Part Motion for Preliminary Injunction (N.D. CA, Dec. 29, 2025), *available at*

<https://storage.courtlistener.com/recap/gov.uscourts.cand.452203/gov.uscourts.cand.452203.148.0.pdf>

¹²¹ *State of California v. United States Department of Agriculture*, No. 3:25-cv-06310 (N.D. Cal., filed July 28, 2025), *available at* <https://www.courtlistener.com/docket/70945300/state-of-california-v-united-states-department-of-agriculture/>. On October 15, 2025, the District Court preliminarily enjoined USDA from disallowing SNAP funding based on Plaintiff States' failure to comply with its demand for data, *available at* <https://storage.courtlistener.com/recap/gov.uscourts.cand.453513/gov.uscourts.cand.453513.106.0.pdf>.

¹²² Memorandum of Understanding between Dept. of Homeland Security and HUD (signed March 24, 2025), *available at* <https://www.hud.gov/sites/default/files/PA/documents/DHS-HUD-MOU-032425.pdf>.

¹²³ 26 U.S.C. § 6103.

¹²⁴ William Turton, Christopher Bing and Avi Asher-Schapiro, "The IRS Is Building a Vast System to Share Tax Records With ICE" (ProPublica, July 15, 2025); Memorandum of Understanding between U.S. Treasury Dept. and the U.S. Dept. of Homeland Security (signed April 7, 2025), filed as Attachment #1, Exh. A to Declaration of Kathleen Evey Walters, in *Centro de Trabajadores Unidos v. Bessent*, at gov.uscourts.dcd.278147.311.pdf.

¹²⁵ *Center for Taxpayer Rights et al. v. Internal Revenue Service*, Civ. Action No. 25-0457 (D.D.C., Nov. 21, 2021) (preliminarily enjoining IRS disclosures that don't strictly comply with the exception at 26 U.S.C. § 6103(i)(2)), *available at* <https://storage.courtlistener.com/recap/gov.uscourts.dcd.277519/gov.uscourts.dcd.277519.53.0.pdf>. On September 8, 2026, the District of Columbia Court of Appeals upheld the preliminary injunction, *available at* gov.uscourts.cadc.42769.2191763.0.pdf.

¹²⁶ *Community Economic Development Center of Southeastern Massachusetts v. Bessent* (D. MA, Feb. 5, 2026), *available at* gov.uscourts.mad.289669.75.0.pdf.

leaves the data vulnerable to breaches by third parties. Individuals will need to weigh the substantial benefits of securing health care and critical services against the possibility that (if their whereabouts are not already known), doing so could make it easier to locate them,

Looking Ahead

The federal administrative and legislative actions targeting immigrants promise to harm individuals, families, and local communities profoundly. The reconciliation act's cuts in immigrant eligibility for health care, nutrition, and tax credits, along with the law's other Medicaid and SNAP restrictions, have shifted costs to states that are struggling to protect the health and safety of their residents. The administration's unlawful reinterpretations of the federal public benefits definition and its public charge policies also could leave many immigrants without access to basic care. The breaches of consumer privacy will deter consumers from engaging with government agencies to pay taxes, or secure health coverage, nutrition, or housing assistance. Coupled with the rescission of the "protected areas memo" that limited immigration enforcement in health care and social services facilities,¹²⁷ and the 2025 law's exponential increase in funding for immigration enforcement,¹²⁸ these changes promise to undermine the health care, education, and social service infrastructure that serves all residents.

Although the full effects of these actions have not played out, the public is reacting to the administration's overreach, altering their view of its immigration policies. States and localities are working to safeguard constitutional rights, strengthen privacy, and preserve critical programs. Advocates and allies are coalescing to defend the rights of community members, and to counter the campaign of misinformation and fear. A Gallup poll conducted in June 2026 found that "Americans broadly continue to think immigration is a good thing for the U.S. (73%)".¹²⁹ Because immigrants and citizens live together in families and communities, excluding any person from health care or critical services compromises our collective health and well-being. Similarly, ensuring that every person can contribute to and benefit from these programs will help all of us thrive.

¹²⁷ Lynn Damiano Pearson, *Trump's Rescission of Protected Areas Policies Undermines Safety for All* (NILC, Feb. 26, 2025), <https://www.nilc.org/resources/factsheet-trumps-rescission-of-protected-areas-policies-undermines-safety-for-all/>.

¹²⁸ Heidi Altman, et al, *The Anti-Immigrant Policies in Trump's Final 'Big Beautiful Bill,' Explained* (NILC, Aug. 20, 2025), available at <https://www.nilc.org/resources/the-anti-immigrant-policies-in-trumps-final-big-beautiful-bill-explained/>.

¹²⁹ *Americans' Support for Immigration Down, Still Strong* (July 9, 2026) available at <https://news.gallup.com/poll/712289/americans-support-immigration-down-strong.aspx>.