

Qualified Immigrant (Services)

Definition of “Qualified Immigrant:” Per section 431 of PRWORA, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and the Balanced Budget Act of 1997, the term “qualified immigrant” means:

“...an immigrant who, at the time the immigrant applied for, receives, or attempts to receive a Federal public benefit, is –

1. An immigrant who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
2. An immigrant who is granted asylum under section 208 of such Act;
3. A refugee who is admitted to the United States under section 207 of such Act;
4. An immigrant who is paroled into the United States under section 212(d)(5) of such Act for a period of at least one year;
5. An immigrant whose deportation is being withheld under section 243(h) of such Act, as in effect immediately before April 1, 1997, or section 241(b)(3) of such Act;
6. An immigrant who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980;
7. An immigrant who is a Cuban or Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980)...;”or
8. An immigrant who (or whose child or parent) has been battered or subjected to extreme cruelty in the United States (see Exhibit B to Attachment 5 of the Department of Justice [DOJ] Interim Guidance, 62 Fed. Reg. 61344 [November 17, 1997], for the requirements that must be met for an immigrant to fall within this category of qualified immigrant).

Examples of persons who are not qualified immigrants include, but are not limited to: undocumented immigrants and immigrants legally admitted on a temporary basis for work, study or pleasure.

Limitations on Receipt of Federal Public Benefits: Federal foster care maintenance payments, adoption assistance payments, and Independent Living services are Federal public benefits and, accordingly, only qualified immigrants may receive assistance under these programs (see 63 Fed. Reg. 41657 [August 4, 1998]). Section 401(a) of PRWORA limits receipt of Federal public benefits, with certain specified exceptions, to qualified immigrants. The statutory definition of Federal public benefit is”

“(A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; 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 United States or by appropriated funds of the United States.”

Verification that Recipient of Federal Public Benefits are Qualified Immigrants: With a number of exceptions that are not relevant here, providers of Federal public benefits are required to verify immigration and citizenship status of applicants in order to ensure that only qualified immigrants

receive the programs' benefits and services. In compliance with section 432 of the PRWORA, the Department of Justice issued a Notice of Proposed Rule Making, 63 Fed. Reg. 41662 (August 4, 1998), to propose requirements for verifying citizenship or immigration status for receipt of Federal public benefits. States must be in full compliance with the verification requirements within two years of publication of a final rule. Until a final rule is published, verification of immigration status may be carried out using the DOJ notice, "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 (November 17, 1997).

We strongly encourage the State child welfare agencies to familiarize themselves with the DOJ interim guidance and the proposed rule in meeting the PRWORA requirements.

Residency Requirement for Federal Means-Tested Public Benefits: In addition to restricting Federal public benefits to qualified immigrants, PRWORA, at section 403, requires a qualified immigrant entering the United States on or after August 22, 1996 (date of enactment of PRWORA), unless excepted, to live in the United States for five years as a qualified immigrant before becoming eligible for Federal means-tested public benefits. However, in accordance with section 403(c)(2)(F) of PRWORA, Federal payments for foster care and adoption assistance are excluded from this five year residency requirement if the child and the foster or adoptive parent with whom he or she is placed are both qualified immigrants. Furthermore, this entire restriction does not apply if the child entering the United States after 8/22/96 is in one of the section 403(b) excepted groups: refugees; asylees; immigrants whose deportation is withheld; Cuban/Haitian entrants; or Amerasians from Vietnam.

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Immigration Status List

This list presents the categories of qualified immigration status along with the associated documentation required for proof.

Status	Proof
Refugee	USCIS Form I-94, Form I-551, Form I-688B or Form I-766
Cuban/Haitian entrant	USCIS Form I-94, Form I-551
Asylee	USCIS Form I-94, Form I-551
Amerasian immigrant	USCIS Form I-94, Form I-551
Deportation or removal withheld	Judge's order showing deportation or removal withheld
Hmong or Highland	USCIS status granted
Lawfully admitted Permanent Resident (LPR) who entered the US before 8/22/96	USCIS Form I-94, Form I-551
Lawfully admitted Permanent Resident (LPR) and entered the US on or after 8/22/96 and has been in the United States for 5 years or more	USCIS Form I-94, Form I-551
Parolee (for one year or more) who entered US before 8/22/96	USCIS Form I-94, Form I-688B, Form I-766
Parolee (for one year or more) and entered the US on or after 8/22/96 and has been in the US for 5 years or more	USCIS Form I-94, Form I-688B, Form I-766
North American Indian born in Canada (eligibility depends on status granted)	USCIS status granted
Member of a federally recognized Tribe born outside US (eligibility depends on status granted)	USCIS status granted
An immigrant serving or discharged from US Armed Forces or a discharged individual's spouse or child. Discharge must have been honorable and not for reason of "alienage" or lack of citizenship.	DD-214
A battered spouse or child of a US citizen or lawfully admitted permanent resident who entered the US before 8/22/96	USCIS "Notice of Prima Facie Case" dated within 150 days of application
A battered spouse or child of a US citizen or lawfully admitted permanent resident who entered the US on or after 8/22/96 and has been in the US for 5 years or more	USCIS "Notice of Prima Facie Case" dated within 150 days of application
A conditional entrant who entered the US before 8/22/96	USCIS Form I-94, Form I-688B, Form I-766
A conditional entrant who entered the US on or after 8/22/96 and has been in the US for 5 years or more	USCIS Form I-94, Form I-688B, Form I-766

Note: Immigrants whose immigration status is not listed above are not eligible for services except for certain emergency services.