

## 18.4 BENEFIT PROGRAMS

To receive WV Works, Medicaid or Food Stamps, the individual applying must be a resident of the United States as a citizen or a legal alien and meet eligibility standards as set by each program. Among those excluded are alien visitors, tourists, diplomats and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country.

An illegal or ineligible alien residing in the United States who has need for emergency medical care is eligible for Medicaid for the length of time medically required to avert the medical emergency (see Section 18.6 of this chapter).

### A. FOOD STAMPS

A person must be a United States citizen, a national of the United States or an eligible alien, (qualified alien) to qualify.

#### 1. An eligible alien is one who

- (a) Is currently admitted for permanent residence as defined in Section 101 (a)(2) of the Immigration and Nationality Act (INA) AND either:
  - was admitted BEFORE August 22, 1996 and can be credited with at least 40 quarters of qualified work (their own or a spouse or parents) (see section 18.5 for 40 quarter information. (Eligible indefinitely);
  - was admitted ON OR AFTER August 22, 1996, is a lawful permanent resident and can be credited with at least 40 quarters of qualified work (their own or a spouse or parent's); (Eligible indefinitely);

- veteran or on active duty in the United States Armed Forces or spouse or unmarried dependent child of veteran or person on active duty (no time limit on participation)(Eligible indefinitely);
  - Amerasian immigrant under 584 of FOEFRPAA 1988 entered the United States within last seven years (participation limited to seven years from entry into the United States);
- (b) \* Is an asylee under section 208 of INA and was granted asylum within the last seven years (participation is limited to seven years from status);
- (c) \* Is a refugee under section 207 of INA and entered the United States within the last seven years (participation limited for seven years from entry);
- (d) \* Is an alien whose deportation has been withheld under section 243(h) or 241 (b)(3)-INA and was granted status within last seven years (participation limited to seven years from status);
- (e) \* Is a Cuban or Haitian entrant under section 501(e) of REAA 1980 and entered the United States within last seven years (participation limited to seven years from entry);

**NOTE:** In addition to the 7 year limited participation period these aliens are also eligible aliens allowed unlimited participation if such alien (asylee, refugee, deportation withheld Cuban/Haitian) is a veteran or on active duty in the United States Armed Forces or the spouse or unmarried dependent child of a veteran or person on active duty.

- (f) Is a conditional entrant under section 203(a)(7)-INA and is a veteran or on active duty in United States Armed Forces or spouse or unmarried dependent child of veteran or person on active duty (no time limit on participation);
- (g) Is a parolee under section 212(d)(5)-INA and status is granted for at least one year and is a veteran or on active duty in the United States Armed Forces or spouse or unmarried dependent child of a veteran or person on active duty (no time limit on participation);
- (h) Is a battered spouse or battered child of/or is a veteran or on active duty in United States Armed Forces or spouse or unmarried dependent child of veteran or person on active duty. The non-abusive parent of a battered child may also be eligible. Like wise, a child of a battered parent may be eligible.
- (i) Is an alien lawfully in the United States on August 22, 1996 and under 18 (participation permitted until child turns 18);
- (j) Is an alien lawfully in the United States, regardless of the date of entry, and is disabled or blind (eligible indefinitely);
- (k) Is an alien in the United States and 65 or older on August 22, 1996 (eligible indefinitely);
- (l) The following aliens may be eligible even if they are not qualified aliens as specified above and they may be eligible for an indefinite period of time:
  - Certain Hmong or Highland Laotians (and spouse and children);

- American Indians born in Canada to which section 289 of INA applies, and members of Indian tribe as defined in section 4(e) of Indian Self-Determination and Education Assistance Act (Cross border Indians).

2. Ineligible aliens include all other aliens.

**EXAMPLE:**

- visitors, tourists, students and diplomats;
- those admitted under color of law;
- aliens who have applied for eligible status but who have not been approved (except for battered spouses and children with a military connection); and
- aliens whose status is questionable or unverified.

**NOTE:** When the Worker has reason to believe that any member of a household is ineligible to receive Food Stamps because the member is present in the United States in violation of the law, this is to be reported immediately in writing to the Projects Unit in the Office of Family Support. The memorandum must show the name of the alien involved, case name, address, the reason the Worker believes the client is an illegal alien, and copies of any INS documents that have been presented. The Project Unit will forward this information to INS. The local office will receive a copy of the letter sent to INS.

The Worker will have reason to believe the household contains an illegal alien when: any household member (or the authorized representative) states that illegal aliens are present in the household, INS documents

presented by the benefit group to the Worker are determined to be forged or; a formal order of deportation is presented to the Worker by a member of the benefit group during the eligibility determination process. At the point that the Worker has determined that a household member may not be included in the benefit group because he is an ineligible alien, with drawl of the Food Stamp Application will not prevent the Worker from following the procedure described above for reporting the illegal alien to the Project Unit.

B. TANF/WV WORKS

A person must be a United States Citizen, a national of the United States or an Eligible Alien (Qualified Alien) to qualify.

1. An eligible alien is one who is

- (a) An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) and was admitted before August 22, 1996.
- (b) An alien who is granted asylum under section 208-INA (eligible for five years from entry to United States.)
- (c) A refugee who is admitted to the United States under section 207-INA (eligible for five years from entry to United States.)
- (d) An alien who is paroled into the United States under section 212(d)(5) of INA for a period of at least one year (eligible for five years from date of status.)
- (e) An alien whose deportation is being withheld under section 243(h) of INA (eligible for five years from date of status.)

- (f) An alien who is granted conditional entry pursuant to section 203(a)(7) and section 274a.12(a)(3) of INA (eligible for five years from entry.)
  - (g) Amerasian immigrant under 584 of FOEFRPAA 1988 entered the United States within last five years (participation limited to five years from entry into the United States);
  - (h) Is a Cuban or Haitian entrant under section 501(e) of REAA 1980 and entered the United States within last five years (participation limited to five years from entry);
  - (i) Honorably discharged veterans their spouses and unmarried dependent children.
  - (j) An alien who is active in the United States Armed Forces (other than duty for training) their spouses and unmarried dependent children.)
  - (k) An alien who is lawfully admitted to the United States on or after August 22, 1996 and has been a qualified alien for more than five years.
  - (l) An alien who is a battered spouse or battered child of/or is a veteran or on active duty in the United States Armed Forces or spouse or unmarried dependent child of the veteran or person on active duty. The non-abusive parent of a battered child may also be eligible. Likewise, a child of a battered parent may be eligible.
2. Ineligible aliens include all other aliens

**EXAMPLE:**

- visitors, tourists, students, and diplomats;
- those admitted under color of law;
- aliens who have applied for eligible status but who have not been approved (except for battered spouses and children with a military connection); and
- aliens whose status is questionable or unverified.

C. MEDICAID

1. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PL 104-193) significantly changed Medicaid eligibility for individuals who are not citizens of the United States. Medicaid must be provided to eligible citizens and nationals of the United States. Individuals who meet the eligibility requirements of Medicaid but are not citizens or nationals are Medicaid eligible only as provided below.
  - (a) For the purposes of qualifying as a United States citizen, the United States as defined by the Immigration and Naturalization Act include the fifty states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands. Nationals from American Samoa, or Swain's Island are also regarded as United States citizens for purposes of Medicaid.
  - (b) Applicants for Medicaid whose documents presented raise a question about their alien status must provide documentation of their citizen/alien status before eligibility can be determined.
2. An American Indian born in Canada may freely enter and reside in the United States and is considered to be

lawfully admitted for permanent residence if he is of at least one-half American Indian blood. As such he is a qualified alien. This does not include a spouse or child of such an Indian nor a noncitizen whose membership in an Indian tribe or family is created by adoption, unless such person is of at least fifty (50) percent or more Indian blood.

**TYPES OF DOCUMENTATION:**

- Birth or baptismal certificate issued on a reservation,
  - Tribal records,
  - Letter from the Canadian Department of Indian Affairs, or
  - School records.
3. Medicaid eligibility for aliens is based on the alien being a qualified alien regardless of whether the alien entered the United States before or on or after August 22, 1996. The previous categories of lawful permanent residents and PRUCOL aliens no longer apply. An eligible (qualified) alien is one who is:
- (a) An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) and was admitted before August 22, 1996.
  - (b) An alien who is granted asylum under section 208-INA (eligible for seven years from entry to United States.)
  - (c) A refugee who is admitted to the United States under section 207-INA (eligible for five years from entry to United States.)



- (d) An alien who is paroled into the United States under section 212(d)(5) of INA for a period of at least one year (eligible for seven years from date of status.)
- (e) An alien whose deportation is being withheld under section 243(h) of INA (eligible for seven years from date of status.)
- (f) An alien who is granted conditional entry pursuant to section 203(a)(7) and section 274a.12(a)(3) of INA (eligible for seven years from entry.)
- (g) Amerasian immigrant under 584 of FOEFRPAA 1988 entered the United States within last five years (participation limited to seven years from entry into the United States);
- (h) Is a Cuban or Haitian entrant under section 501(e) of REAA 1980 and entered the United States within last five years (participation limited to seven years from entry);
- (i) Honorably discharged veterans their spouses and unmarried dependent children.
- (j) An alien who is active duty in the United States Armed Forces (other than duty for training) their spouses and unmarried dependent children.
- (k) An alien who is lawfully admitted to the United States on or after August 22, 1996 and has been a qualified alien for more than five years.
- (l) An alien who is a battered spouse or battered child of/or is a veteran or on active duty in the

United States Armed Forces or spouse or unmarried dependent child of the veteran or person on active duty. The non-abusive parent of a battered child may also be eligible. Likewise, a child of a battered parent may be eligible.

4. Ineligible aliens include all other aliens.

**EXAMPLE:**

- Visitors, tourists, students, and diplomats;
  - Those admitted under color of law;
  - Aliens who have applied for eligible status but who have not been approved (except for battered spouses and children with a military connection); and
  - Aliens whose status is questionable or unverified.
5. Aliens Receiving SSI--Continue to provide Medicaid to aliens receiving SSI.
6. Eligibility of aliens who are QMBS--The eligibility of a noncitizen who has Medicare coverage and meets the criteria to be a QMB is determined by whether the individual is a qualified alien in one of the groups covered by item C.3. above.
7. Any alien who does not fall within the category of eligible (qualified) alien can be considered for eligibility for Medicaid emergency service (see Emergency Medicaid for Illegal/Ineligible Aliens, section 18.7).

D. LIEAP

All legally admitted aliens will be treated under LIEAP

Eligibility guidelines no different than any other applicant for LIEAP Benefits.

E. EMERGENCY ASSISTANCE (EA)

All legally admitted aliens will be treated under Emergency Assistance guidelines no different than any other applicant for EA Benefits.