

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. A qualified alien means an alien who at the time the alien applies for or receives food stamps is in one of the following categories as determined by the Immigration and Naturalization Service (INS) of the U.S. Department of Justice (DOJ):
 - Lawfully admitted for permanent residence (LPR) in the United States (holders of green cards), and has been in the United States for 5 years with this status. This category also includes "Amerasian immigrants" as defined under section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988;
 - Granted asylum under section 208 of the Immigration and Nationality Act (INA);
 - Refugee admitted to the United States under section 207 of the INA;
 - Paroled into the United States under section 212(d)(5) of the INA for at least 1 year;
 - Deportation is being withheld under section 243(h) of the INA as in effect before 4/1/97, or removal is withheld under section 241(b)(3) of the INA;

- ▶ Granted conditional entry under section 203(a)(7) of the INA as in effect before 4/1/80;
 - ▶ Cuban or Haitian entrant under section 501(e) of the Refugee Education Assistance Act of 1980; or
 - ▶ Under certain circumstances, a battered immigrant spouse, battered immigrant child, immigrant parent of a battered child or an immigrant child of a battered parent with a petition pending under 204(a)(1)(A) or (B) or 244(a)(3) of the INA.
 - ▶ Certain Hmong or Highland locations (and spouse and children).
 - ▶ To receive food stamps, qualified aliens must also meet ONE of the following conditions and are either eligible indefinitely or limited to a maximum of seven years.
- a. The following categories are eligible for food stamps indefinitely:
- ▶ An LPR who can be credited with 40 qualifying quarters of work under the Social Security system (credits may be earned individually, in combination with a spouse and in some circumstance a parent);
 - ▶ An elderly individual who was born on or before August 22, 1931 and who was lawfully residing in the United States on August 22, 1996;
 - ▶ Children under 18 years of age who are lawfully residing in the United States regardless of when they entered the United States;
 - ▶ Blind or disabled individuals receiving benefits or assistance for their condition as defined under section 3(r) of the Food Stamp Act regardless of when they entered the United States;
 - ▶ Beginning on April 1, 2003, an individual who has lived in the United States as a qualified alien for five years from the date on entry; or
 - ▶ An individual who is lawfully residing in a State and is on active duty (other than for training) in

the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard (but not full-time National Guard) or is an honorably discharged veteran whose discharge is not because of alien status. This category includes the spouse (or surviving spouse who has not remarried) or unmarried dependent children of these individuals. A discharge "Under Honorable Conditions" does not meet this requirement.

- ▶ The following qualified aliens are to receive food stamps during the first seven years they are admitted or granted status in one of the following categories. NOTE: After 5 years, if these individuals meet one of the other conditions in 2.a. above they are eligible indefinitely.
- (1) ▶ ☐ Refugee admitted under section 207 of the INA (including immigrants who have been certified by the U.S. Department of Health and Human Services to be victims of a severe form of trafficking in persons in accordance with the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386);
- ▶ ☐ Asylee granted asylum under section 208 of the INA;
 - ▶ Deportation withheld under section 243(h) or removal withheld under section 241(b)(3) of the INA;
 - ▶ Cuban or Haitian entrant under section 501(e) of the Refugee Education Assistance Act of 1980; or
 - ▶ Amerasian immigrant under section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988.
- ▶ The 7 year count begins for refugees, asylees and deportees as follows:
 - ▶ Refugees: the date they entered the United States;
 - Asylees: the date asylum was granted;
 - ▶ ☐ Deportees: the date deportation or removal was withheld.

3. Ineligible aliens include all other aliens and they are prohibited from receiving food stamps under any circumstances if they are:

- visitors, tourists, students and diplomats

(lawfully residing in the United States in a non-qualified status and are not exempt from the immigrant restrictions)

- undocumented immigrants (such as individuals who entered the country as temporary residents and overstayed their visa or who entered without a visa)
- 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 SAVE Coordinator in the Office of Family Assistance (OFA). 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 AG to the Worker are determined to be forged or; a formal order of deportation is presented to the Worker by a member of the AG during the eligibility determination process. At the point that the Worker has determined that a household member may not be included in the AG because he is an ineligible alien, withdrawal of the Food Stamp Application will not prevent the Worker from following the procedure described above for reporting the illegal alien to the SAVE Coordinator.

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 **including immigrants who have been certified by the U.S. Department of Health and Human Services to be victims of a severe form of trafficking in persons in accordance with the victims of Trafficking and Violence Protection Act of 2000 (P.L.106-386) (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 citizen 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 **including immigrants who have been certified by the U.S. Department of Health and Human Services to be victims of a severe form of trafficking in persons in accordance with the victims of Trafficking and Violence Protection Act of 2000 (P.L.106-386) (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.