

Health Care Access for Immigrants and Refugees

**A GUIDE TO UNDERSTANDING ELIGIBILITY
FOR HEALTH CARE IN NEW JERSEY**



Prepared for
The Access Project



by Helene Tobin
New Jersey Immigration Policy Network

October, 2001

The Access Project is a national health care initiative funded by The Robert Wood Johnson Foundation and the Annie E. Casey Foundation, in partnership with Brandeis University's Heller Graduate School and the Collaborative for Community Health Development. It began its efforts in early 1998. The mission of The Access Project is to improve the health of our nation by assisting local communities in developing and sustaining efforts that improve health care and promote universal coverage, with a focus on people who are without insurance.

If you have any questions or would like to learn more about our work, please contact us.

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New Jersey Immigration Policy Network, Inc. (NJIPN) is a broad-based, non-profit, statewide coalition dedicated to a fair and humane immigration policy that ensures respect, dignity, and justice for all newcomers to the United States and that better the life of the community as a whole. Established in 1984, NJIPN is comprised of nonprofit social service agencies, community-based ethnic organizations, health care providers, civil rights organizations, educational and religious groups, labor unions, immigration attorneys, and other interested members of the community. We seek to inform the community at large, legislators, and other policymakers of relevant immigrant issues as well as to undertake advocacy for newcomers as appropriate.

If you would like to learn more about our work, please contact us.

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Should you have any questions about the content of this guide, please contact NJIPN directly. An order form is included for obtaining additional copies.

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The Access Project would like to acknowledge the expertise and commitment of New Jersey Immigration Policy Network (NJIPN). It seemed like a perfect marriage of their expertise and our resources to work together on creating this manual.

A special thank you to Helene Tobin for her work in creating this guide. Ms. Tobin is the assistant director at NJIPN. She coordinated “The New Jersey Citizenship Campaign” (1997–2000), a statewide initiative consisting of twenty-one community-based organizations that provided naturalization services to more than 11,000 low-income, elderly, and disabled immigrants and refugees. In an effort to make health care more accessible for New Jersey’s noncitizens, Ms. Tobin coordinated the health care initiative funded by The Access Project, “A Special Project to Promote Immigrant Health Access” (1999–2000) and is currently coordinating and overseeing two statewide initiatives: “The Haitian Community Outreach Program,” and “The Refugee and Asylee Healthcare Services and Low-Income Program.” Along with advocates from across the country, Ms. Tobin attends monthly meetings with the Immigration and Naturalization Service (INS) to address INS guidance, regulations, and policies impacting the naturalization process and service areas and is also a member of its “Disabilities and Accommodations Working Committee.” Ms. Tobin earned a certificate in Immigration Advocacy and Law and has earned additional credits in Immigration Law. She holds an MA in Education/Major in English from Rutgers University, and a BA in Education/Major in English/Major in Art from Queens College.

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Introduction

The 1996 federal welfare law, while devastating to all low-income families, particularly affected working poor, disabled, and elderly legal immigrant families by eliminating or restricting their eligibility for Medicaid and other federal public benefits. In fact, 44 percent of the cost savings realized by the law resulted from cutting federal benefits for immigrants. Congress's rationale for these policies was that such restrictions would limit legal immigration to the United States because immigrants enter the United States for benefits. As most researchers have documented, this belief is largely unfounded. According to the Urban Institute, the top three reasons immigrants migrate to the United States are: 1) to reunify with family members, 2) to flee persecution, and 3) to seek employment.

These changes not only affected individual immigrants, but also impacted their families and children. Approximately 85 percent of immigrant families are “mixed-status” families—households that are composed of both citizens and noncitizens.¹ Studies document that the welfare law has had a chilling effect on children in these immigrant families. Many are eligible for health care and other benefits, but do not receive them because the immigration and welfare policies themselves present barriers to health care access. Immigrants are often confused by the eligibility and sponsorship rules, reluctant to ask for benefits for fear of Immigration and Naturalization Service repercussions, or simply lack interpreter services that would help them comprehend their rights. This disparity between immigrants and citizens is alarming. For example, in 1997, 49 percent of poor noncitizen children were uninsured versus 19 percent of poor citizen children with U.S.-born parents.² Adult underutilization of health care is just as dramatic.

This guide was created for New Jersey health outreach workers and immigrant advocates to help them better understand immigrants' and refugees' eligibility for health care and the barriers that exist to enrolling immigrant families in health programs.

¹ Michael Fix and Wendy Zimmerman, *All Under One Roof: Mixed-Status Families in an Era of Reform*. Urban Institute, June 1999.

² Richard Brown, Roberta Wyn, and Victoria Ojeda, *Noncitizen Children's Rising Uninsured Rates Threaten Access to Health Care*. UCLA Center for Health Policy Research, June 1999.

It is important to note that immigration, health, and welfare laws are constantly changing.

If you have questions, you may contact New Jersey Immigration Policy Network at 973-622-6448, Legal Services of New Jersey at 732-572-9100, the Division of Medical Assistance and Health Services at 609-588-2556, or your County Board of Social Services. Interpreter services and general information about Medicaid and NJ FamilyCare/KidCare are available by calling 800-701-0710. You can also obtain information on the New Jersey Division of Medical Assistance and Health Services Web site at **www.state.nj.us/humanservices**.

Did You Know...

- New Jersey ranks 5th in the nation in the percentage of foreign-born residents.
- New Jersey's current population is estimated to be 8.1 million, with an estimated foreign-born population of 1.2 million.
- Since 1990, the largest number of immigrants coming to New Jersey are from India, Dominican Republic, Philippines, Poland, and China (includes Hong Kong and Taiwan).
- 55% of New Jersey's foreign-born population lives in Bergen, Hudson, Essex, and Union counties (which comprise one-third of the state population).
- In New Jersey, over 90% of recent immigrants live in four metropolitan areas: Newark, Jersey City, Bergen-Passaic, and Middlesex-Somerset. These four metropolitan areas generate over 80% of the jobs in the state.
- 1 in 5 children in the United States is an immigrant or the child of an immigrant.
- 89% of all mixed households (households with citizens and noncitizens) have children who are citizens.
- Approximately 14% of households in the United States speak a language other than English at home.
- Undocumented immigrants pay taxes.
- Immigrants do not migrate to the United States because of welfare benefits: 64% migrate to rejoin family members; 16% are fleeing persecution; 14% migrate for employment.
- Poor noncitizen families (those with incomes below 200% of the federal poverty level) use public benefits at a lower rate than do poor citizen families (14% vs. 25.8%).
- 49% of noncitizen children do not have health insurance (vs. 19% of citizen children).
- 31% of immigrant children under the age of 18 did not visit a doctor in the past year. (This is double the rate for citizen children.)
- Latinos represent 11.6% of the U.S. population, yet make up more than 21% of those without health insurance.

PART ONE

Immigrants' Eligibility for Health Programs

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Section 1: Factors Determining Immigrants' Eligibility for New Jersey Health Care

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the Balanced Budget Act of 1997 changed the criteria that are used to determine an immigrant's eligibility for federal public benefits. The basis for an immigrant's eligibility is now, in part, dependent on whether the immigrant can prove to be a "qualified alien." Only immigrants in New Jersey who meet the criteria are eligible for broad scope Medicaid coverage. This includes immigrants who need long-term care, which is only covered by Medicaid, and who meet new eligibility rules under the federal law. However, nonimmigrants such as students, tourists, or those who cannot prove a legal status are ineligible for such coverage.

In New Jersey, an immigrant’s eligibility for Medicaid currently depends on two factors:

- 1. The individual’s current immigration status:** There are three categories under which an immigrant’s eligibility for health care is determined: “Qualified” alien, temporary resident (workers, students, and tourists), and undocumented immigrant (those without proof of immigration status).
- 2. When the individual entered the United States:** Even if immigrants would otherwise be eligible, most immigrants who entered *on or after* August 22, 1996, would not be eligible for the first five years in the United States unless they qualify under certain exceptions.

The following chart summarizes health programs available to immigrants and refugees in New Jersey:

Federal Health Program with Some Immigrant Restrictions	State Health Programs with Fewer Immigrant Restrictions	Health Programs Without Immigrant Restrictions
Medicare	NJ FamilyCare	Medical Emergency Payment Program for Aliens
NJ KidCare	Healthy Start	Charity Care
Medicaid	Food Stamp Program	Hill-Burton
Specified Low-Income Medicare Beneficiary (SLMB) Program	Senior-Dent	Catastrophic Illness in Children Relief Fund
Food Stamp Program	Pharmaceutical Assistance for the Aged & Disabled (PAAD)	Women, Infants and Children (WIC)
	Hearing Aid Assistance to the Aged & Disabled (HAAAD)	NJ Supplementary Prenatal Care Program
		Public Health Departments
		Meals on Wheels
		PAAD (65+ years)
		HAAAD (65+ years)
		Senior-Dent (65+years)

Terms Used to Determine Immigrants' Eligibility for Health Care

"QUALIFIED" IMMIGRANTS

Qualified immigrants represent a group of individuals who are sometimes eligible for Medicaid if they meet all other requirements for the program; thus qualified immigrants are not always "eligible." Some qualified immigrants are not eligible for Medicaid until they have resided in the United States for five years. The following list includes short definitions of qualified immigrants. *(Full definitions for these terms are available in the glossary on page 47.)*

- **Lawful Permanent Residents (LPR):** Immigrants with "green cards" who come to the United States through family members or an employer.
- **Person paroled for over one year:** Immigrants who come to the United States in an emergency or because their entry serves an overriding public interest. Parole may be granted for humanitarian, legal, or medical reasons. Parolees are "qualified" if they have been granted the status for at least one year.
- **Refugee/Asylee:** A noncitizen granted legal immigration status based on a claim of persecution or feared persecution in his or her home country on account of race, religion, nationality, membership in a particular social group, or political opinion. Asylum is granted when a person is in the United States; refugee status is granted to those still outside the United States. Refugees and asylees are eligible to apply for LPR status one year after entering the country.
- **Person granted Withholding of Removal/Deportation:** A status granted to a noncitizen who proves that he or she would be persecuted if returned to his or her country.
- **Cuban/Haitian entrants:** A special status granted to nationals of Cuba and Haiti who have been granted parole status, applied for asylum, or granted any other special status under the U.S. immigration laws for nationals of Cuba or Haiti.
- **Certain battered women and children under the Violence Against Women Act (VAWA):** An immigrant who has been battered by an LPR or citizen spouse or parent or other family member with whom the immigrant no longer lives and who has since filed an application for adjustment of status under the Violence Against Women Act (VAWA).
- **Certain Native Americans:** Native Americans with at least 50 percent American Indian blood who were born in Canada.
- **Amerasians:** Vietnamese nationals granted LPR status because they were born to or married a U.S. citizen during the years of U.S. conflict in that region.

IMMIGRANTS PERMANENTLY RESIDING UNDER COLOR OF LAW (PRUCOL)

PRUCOL refers to immigrants who are legally in the United States, but who are not “qualified.” Some examples of PRUCOLs include, but are not limited to:

- **Immigrants with Temporary Protected Status (TPS):** TPS is granted to people living in the United States who are from certain designated countries where unsafe conditions would make it a hardship for them to return. Grants of TPS are initially made for periods of 6 to 18 months and may be extended depending on the situation.
- **Deferred Enforced Departure (DED):** A special temporary status granted to designated national groups in the United States because conditions in their countries of origin are “unstable.”
- **Parolees granted status for less than one year:** Immigrants who come to the United States in an emergency or because their entry serves an overriding public interest. Parole status may be granted for humanitarian, legal, or medical reasons. Parolees are PRUCOL if they have held the status for less than one year or have been granted the status for less than one year.
- **Applicants for asylum or other statuses:** Immigrants who have officially filed an application with the INS for asylum or other statuses, such as a green card.
- **Registry immigrants:** Immigrants who have applied for Lawful Permanent Resident status under a provision of immigration law for people who have continuously resided in the United States in an unlawful status since January 1, 1972.

NOTE: *PRUCOLs are not eligible for Medicaid in New Jersey except for the Medical Emergency Payment Program for Aliens.*

IMMIGRANTS WITHOUT PROOF OF STATUS

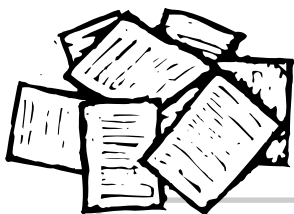
Immigrants who do not have INS permission to live in the United States or immigrants who have remained in the United States after a temporary visa has expired are eligible for some benefits, such as the Medical Emergency Payment Program for Aliens, Charity Care, Hill-Burton, Catastrophic Illness in Children Relief Fund, WIC, Public Health Programs, Meals on Wheels, PAAD (65+ years), and HAAAD (65+ years). They are considered immigrants without proof of status.

See pages 12–13 for other benefits.



Advocacy Note . . .

PRUCOLs are any other immigrants living in the United States with the knowledge and consent of the INS and whose departure the INS does not contemplate enforcing. There are many other temporary statuses that an immigrant may have that are not included in this list.



To receive an application for NJ FamilyCare or assistance in filling out the application, call 800-701-0710.

Section 2: Immigrants' Eligibility for Medical Benefits in New Jersey

New Jersey provides health care benefits to low- and medium-income families and pregnant women; medium-income children; and low-income aged, blind, or permanently disabled individuals through the Medicaid and NJ KidCare programs. Although recent federal laws put certain restrictions on coverage of noncitizens who immigrated on or after August 22, 1996, many legal immigrants continue to qualify. In addition, New Jersey elected to cover restricted, but otherwise qualified, individuals under programs that were not federally funded, i.e., the NJ FamilyCare program. For most immigrants who do not qualify for any other program, including those who are documented for a temporary purpose, Medicaid provides coverage for emergency services through the Medical Emergency Payment Program for Aliens.

The benefits provided through New Jersey Medicaid, NJ KidCare, and NJ FamilyCare include a comprehensive package of health care services mainly through health maintenance organizations (HMOs). The services include well-child and other preventative services, hospitalization, physician care, lab and x-ray services, prescription drugs, mental health services, and vision and other services. In some cases long-term care services are provided.

NEW JERSEY MEDICAID, NJ KIDCARE, AND NJ FAMILYCARE ELIGIBILITY IS AVAILABLE TO THE FOLLOWING GROUPS:

- Individuals 65 years of age or older, blind, or permanently disabled
- Pregnant women
- Children under 21 years of age (Medicaid) or under 19 (NJ KidCare)
- Caretaker relatives of children under 18 years of age (Medicaid)
- Caretakers of children under 19 years of age (NJ FamilyCare)

Financial Eligibility Limits

Members of a family with children under age 18 in the household or individuals who are under age 21 with total family incomes below:

Family Size	MEDICAID		NJ FAMILYCARE
	Monthly Unearned Income	Earned Income Limit	200% FPL
1	\$185	\$ 952	\$1,432
2	\$369	\$1,287	\$1,935
3	\$443	\$1,622	\$2,439
4	\$507	\$1,957	\$2,942
5	\$567	\$2,291	\$3,445
6	\$624	\$2,626	\$3,949

Those who are age 65 or over, blind, or permanently disabled and have total monthly income and resources below:

	Monthly Income	Resources
Single	\$716	\$4,000
Couple	\$968	\$6,000

Pregnant women and children under the age of 1 (one) qualify if their income is below:

Pregnant women and children under the age of 1 (one) with family income below:			Children under the age of 19 with family income below:
MONTHLY INCOME LIMIT			MONTHLY INCOME LIMIT
Number of Children	Medicaid Children	NJ FamilyCare Pregnant Women*	NJ KidCare Guidelines
1	\$1,325		\$2,506
2	\$1,790	\$1,935	\$3,387
3	\$2,256	\$2,439	\$4,267
4	\$2,721	\$2,942	\$5,148
5	\$3,187	\$3,445	\$6,029
6	\$3,653	\$3,949	\$6,916

(There are no resource limits for applicants in these categories.)

*Medicaid covers pregnant women without any other children at the same income level as children under the age 1 (one).

In New Jersey, all recipients of Supplemental Security Income (SSI) are eligible for Medicaid.

IMMIGRANTS ELIGIBLE FOR COVERAGE IF THE ABOVE REQUIREMENTS HAVE BEEN MET

- Refugees, asylees, and those who have had deportation withheld are eligible aliens regardless of their date of entry into the United States.
- Cuban/Haitian entrants, Amerasian immigrants, certain American Indians born in Canada and aliens who are honorably discharged or on active military duty as well as their spouse and unmarried children are also eligible aliens regardless of their date of entry.
- The following immigrants are eligible aliens if they entered the United States prior to 8/22/96. If they entered on or after 8/22/96, they are not eligible until five years after entering the United States:
 - Lawful Permanent Residents
 - those granted parole
 - those granted conditional entry
 - those certain legal aliens who are victims of domestic violence



Advocacy Note . . .

If an immigrant has a green card, check the immigration code to see if the immigrant had a previous status. For example, an immigrant with a green card who entered the United States as a refugee would be eligible for Medicaid or NJ KidCare even if he or she entered after 8/22/96!

- Pregnant women must qualify based upon their immigration status. For those who do not qualify, services are available through the New Jersey Supplementary Prenatal Care Program, the Medical Emergency Payment Program for Aliens, and the NJ FamilyCare program. However, children who will be born in the United States can qualify for Medicaid and NJ KidCare regardless of the mother’s status (including those of mothers who are undocumented).
- As the result of PRWORA, PRUCOL is no longer a covered immigration category for Medicaid eligibility. This includes certain categories of aliens who were considered “permanently residing in the United States under color of law.” This category of Medicaid beneficiary was to be terminated from Medicaid at the next redetermination unless he/she is able to change their alien status with INS. Those who were in Medicaid-approved nursing facilities prior to January 29, 1997, will remain Medicaid eligible through state-only funding. We currently have no answer for PRUCOLs who are ineligible because they entered a nursing facility on or after 1/29/97.
- Undocumented aliens and nonimmigrants (tourists, students, and visitors on business) are eligible for Medical Emergency Payment Program for Aliens only. This includes labor and delivery for pregnant women.

NOTE: *If an immigrant was in the United States before August 22, 1996, in a nonimmigrant status or other lawful status, and subsequently obtained qualified alien status (regardless of the date that the immigrant applied for a change of status or if the immigrant’s visa expired prior to obtaining qualified alien status), Medicaid eligibility can be established if the individual was continuously present in the United States from the latest date of entry prior to August 22, 1996, until the date he or she obtained qualified alien status. Any single absence from the United States of more than 30 days, or a total of aggregate absences of more than 90 days, should be considered an interruption of continuous residence. Absences should be verified by reviewing the individual’s foreign passport for stamps showing all entries into the United States.*

NJ FAMILYCARE

This program was initiated on September 1, 2000, and provides health insurance for uninsured families with incomes up to 200 percent of the federal poverty level. There is no asset test. It provides a comprehensive package of health care services through health maintenance organizations (HMOs). For many families, NJ FamilyCare will be free. Other families will pay a small monthly premium and small copayments for some services, depending on family income.

Family Size	1	2	3	4	5	6
Maximum monthly income for eligibility*	\$1,432	\$1,935	\$2,439	\$2,942	\$3,445	\$3,949

*2001 figures

QUALIFIED IMMIGRANTS

Those families who meet the definition of eligible alien under the Medicaid program and those who do not qualify for Medicaid or NJ KidCare solely due to the fact that they entered the United States on or after 8/22/96 could qualify for NJ FamilyCare. Additionally, single adults and married couples without children who do not qualify for WorkFirst New Jersey General Assistance for this same reason can also qualify for NJ FamilyCare.

A pregnant woman could also qualify for the program based on the family's income even if there are no other children in the household. For pregnant women, the family size includes the unborn child(ren).

NEW JERSEY SUPPLEMENTARY PRENATAL CARE PROGRAM (NJSPCP)

This state-funded program provides prenatal services to immigrant women who are residing in New Jersey and are ineligible for Medicaid or NJ FamilyCare because of their alien status.

Eligibility for the program requires that these women must meet all requirements of the New Jersey Care...Special Medicaid Program for Pregnant Women and Infants. To be eligible for this program, the applicant must have income no more than 185 percent of the federal poverty level.

Services for this program are limited to outpatient hospital care; physician and certified nurse midwife services; and pharmaceutical, radiological, and clinical laboratory services.

This program provides no labor and delivery services or postpartum care. Therefore, eligibility for the Medical Emergency Payment Program for Aliens will be established by the county board of social services (CBOSS) during the third trimester. Eligibility for emergency services will not require a new application. A pregnant woman, after eligibility has been established, remains eligible for the duration of her pregnancy, regardless of her income or change in circumstances. Therefore, an emergency (whether or not relating to pregnancy) that occurs during her period of eligibility for NJSPCP can be covered by the Emergency Medical Payment Program for Aliens.

NOTE: *With the implementation of the NJ FamilyCare program, it is assumed that most women who would meet the requirements of this program would qualify for the NJ FamilyCare program and would receive the comprehensive services package that includes prenatal care.*

MEDICAL EMERGENCY PAYMENT PROGRAM FOR ALIENS

An immigrant who does not qualify as an eligible alien but who is a resident of New Jersey and would otherwise qualify for medical assistance or NJ KidCare-Plan A will only be entitled to care and services necessary for the treatment of an emergency medical condition. This includes undocumented aliens as well as those documented for a temporary purpose such as tourists, students, and workers who are residents of New Jersey. Labor and delivery services will be considered emergencies for purposes of this program. Emergency services must be provided in an acute care hospital (or in any setting for labor and delivery procedures). The symptoms must be severe enough (including severe pain) that not providing immediate medical attention would probably:

- Place the patient's health in serious danger;
- Seriously impair the patient's bodily functions; or
- Seriously impair the use of any body part or organ.

An applicant for payment of emergency services would have to meet all eligibility criteria for a particular category of Medicaid, including the Medically Needy program, or NJ KidCare-Plan A. Those who apply as disabled individuals who do not receive Social Security disability benefits would have to have their disability determined by Medicaid's Medical Review Team, the same as an individual applying for other Medicaid programs.

When an applicant is determined to be eligible for payment of emergency services, eligibility is given for the month or months in which the emergency occurred. In instances where the applicant is admitted to a hospital directly or through the emergency room and the stay extends into the next month, eligibility could be given for up to two months.

If an immigrant who is later found eligible for payment of emergency services receives care in an acute care hospital (inpatient, outpatient, or emergency room) and his/her diagnosis meets the above criteria, his/her hospital, physician, and other related medical costs can be covered by this program. However, he/she will not be eligible for services (including pharmacy) following discharge.

Physician, nurse-midwife, and other related medical costs (including ambulance service) can be covered by the program if the applicant received labor and delivery services. Additionally, labor and delivery can be covered when performed in any setting.

NON-MEDICAID ALTERNATIVES

New Jersey Department of Health and Senior Services' "Charity Care" Program

All New Jersey hospitals should cover immigrants who meet the income and asset criteria (including undocumented) if they reside in New Jersey. Migrant workers are considered New Jersey residents if they live in New Jersey at the time of the service.

For help through this program, an applicant would have to have income at or below 300 percent of the federal poverty level. Individual assets cannot exceed \$7,500 and family assets cannot exceed \$15,000. Application for this program is made at the admissions or business office of the hospital where services will be provided or were provided.

The Department of Health and Senior Services has a toll-free number to assist with any questions of concerns. The telephone number is 800-367-6543.

Federally Qualified Health Centers

New Jersey has several Federally Qualified Health Centers where noncitizens may receive a variety of health services using a sliding-fee scale. A list of these facilities in New Jersey follows:

Federally Qualified Health Centers

**CAMcare Health Corporation
(Camden County)**

Riverview Towers, 130 Mickle Blvd.
Camden, NJ 08103
Mark K. Bryant, *President/CEO*
Sharon Buttress, M.D., *Medical Director*
856-541-3270 Fax: 856-541-4997

**Community Health Care, Inc.
(Cumberland County)**

105 Manheim Ave., PO Box 597
Bridgeton, NJ 08302
Gil Walter, *Executive Director*
Lori Talbot, M.D., *Medical Director*
856-451-4700 Fax: 856-451-0029

**Eric B. Chandler Health Center
(Middlesex County)**

277 George St.
New Brunswick, NJ 08901
Rosemary McAndrew, *Executive Director*
Eric G. Jahn, M.D., *Medical Director*
732-235-6963 Fax: 732-235-6726

**Henry J. Austin Health Center, Inc.
(Mercer County)**

321 North Warren St.
Trenton, NJ 08618
Nelson Xavier Cruz, *Executive Director*
Eric Schwartz, M.D., *Medical Director*
609-989-3599 Fax: 609-695-3532

**Horizon Health Center
(Hudson County)**

706–714 Bergen Ave.
Jersey City, NJ 07306
Marilyn W. Bennett, *Executive Director*
Joan Fritz, M.D., *Medical Director*
201-451-6300 Fax: 201-451-0619

**Jersey City Family Health Center
(Hudson County)**

935 Garfield Ave.
Jersey City, NJ 07304
Larry McReynolds, CHE, MHA, LNHA,
Executive Director
Patrick Beaty, M.D., *Medical Director*
201-946-6457 Fax: 201-946-6489

**Newark Community Health Centers, Inc.
(Essex County)**

PO Box 1960 (741 Broadway, 07104)
Newark, NJ 07101
Gerald Belgrave, DDS, *Acting Executive Director*
Anita Vaughn, M.D., *Medical Director*
973-483-1300 Fax: 973-483-3787

**North Hudson Community Action Corporation
Health Center
(Hudson County)**

5301 Broadway
West New York, NJ 07093
Michael A. Leggiero, *Executive Director*
Jorge L. Vereza, M.D., *Medical Director*
201-866-9320 Fax: 201-866-7588

**Paterson Community Health Center
(Passaic County)**

32 Clinton St.
Paterson, NJ 07522
Mary Gamer, Ph.D, *Chief Executive Officer*
Peter Brault, M.D., *Medical Director*
973-278-2600 Fax: 973-790-7703

**Plainfield Health Center
(Union County)**

1700–58 Myrtle Ave.
Plainfield, NJ 07063-1038
Julane Miller, *President/CEO*
Susan Walsh, M.D., *Medical Director*
908-753-6401 Fax: 908-753-7570

**Southern Jersey Family Medical Centers
(Atlantic and Salem Counties)**

860 So. Whitehore Pk., Bldg. A
Hammonton, NJ 08037
Linda Flake, *CEO*
Nancy Merle, M.D., *Medical Director*
609-567-0200 Fax: 609-567-1169

**VNA of Central Jersey Community Health Center
(Monmouth County)**

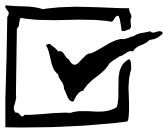
572 Cookman Ave
Asbury Park, NJ 07712
Ellen Toughill, RN, Ph.D, *Executive Director*
Bryan Roper, M.D., *Medical Director*
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Section 3: Health Programs Without Immigrant Status Requirements

To be eligible for the following programs, applicants must be New Jersey residents. New Jersey residents are either people who are currently residing in New Jersey or people who intend to reside in New Jersey. Bills, library cards, or any official documents showing the person's address can be used to document residency. The person can also self-declare that he or she is a New Jersey resident by writing and signing a statement under penalty of perjury. Immigrants who *intend* to reside in the state are New Jersey residents.

These benefits do not require information about the person's immigration status, and receipt of these benefits will not affect a person's ability to obtain a green card in the future.

- **New Jersey Supplementary Prenatal Care Program:** (See page 8 for more information.)
- **Medical Emergency Payment Program for Aliens:** Free medical services for immigrants who would be eligible for Medicaid, except for their citizen status. This program is for the treatment of an emergency medical condition that is of sudden onset and manifested by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part. An emergency medical condition includes all labor and delivery services for a pregnant woman.
- **Charity Care:** Free or reduced-cost inpatient hospital care for persons below 300 percent FPL who are ineligible for Medicaid and not insured.
- **Hill-Burton:** In 1946 Congress passed the Hill-Burton Act. It was the nation's major health facility construction program initially designed to provide federal grants to modernize public and nonprofit community health centers and hospitals. In return, facilities agreed to provide free or reduced cost medical services to persons unable to pay who meet financial eligibility criteria. There is also a "community service" obligation that lasts in perpetuity. It has been interpreted by the Office for Civil Rights to include the provision of language-appropriate services by recipients of these funds.
For more information call 800-638-0742.
- **Catastrophic Illness in Children Relief Fund:** Financial assistance for families whose children have experienced an illness or condition that is not fully covered by insurance, public programs, or other sources, such as fundraising; uncovered medical expenses must exceed 10 percent of family income plus 15 percent of excess income over \$100,000.
For more information call 800-335-3863.



Remember . . .

Applicants do not need a Social Security Number (SSN) to participate in these programs. SSNs are only required if one is available.

See page 33 for more information on verification requirements.

- **Women, Infants and Children (WIC):** Nutritional assistance for low- and moderate-income pregnant or breast-feeding women and children under age five who are at nutritional risk.
For more information call 800-328-3838.
- **Public Health Departments:** Free immunizations and well-child clinics.
Call your municipal building or town hall for more details.
- **Meals on Wheels:** Meals for seniors 60 years of age and older.
Call your municipal building or town hall for more details.
- **Pharmaceutical Assistance for the Aged and Disabled (PAAD):** Provides subsidized prescription medicine for low-income persons over 65 or receiving Social Security Disability who do not have prescription coverage; \$5.00 copay per medication.
For more information call 800-792-9745.
- **Hearing Aid Assistance to the Aged and Disabled (HAAAD):** Provides \$100.00 reimbursement to persons eligible for PAAD.
For more information call 800-792-9745.
- **Senior-Dent:** Free or reduced dental services for persons who are eligible for PAAD who do not have dental insurance.
For more information call 800-792-8820.

Section 4: Health Eligibility Chart

PERSONAL RESPONSIBILITY & WORK OPPORTUNITIES RECONCILIATION ACT OF 1996 (PRWORA) AND BALANCED BUDGET ACT OF 1997

Immigrants' eligibility for New Jersey Medicaid benefits depends on:

- Their immigration status; and
- Whether they entered the United States before the federal PRWORA passed on August 22, 1996.

Under new federal laws:

- Naturalized citizens are eligible for Medicaid as if they were citizens by birth.
- "Qualified" aliens who entered the United States prior to August 22, 1996, are eligible for Medicaid.
- "Non Qualified" aliens are eligible for Medical Emergency Payment Program for Aliens only.

Who Was Medicaid Eligible? (Old Rules)	Who Is Medicaid Eligible Under the New Rules?		Eligible for NJ FamilyCare Now?
	ENTERED THE UNITED STATES PRIOR TO 8/22/96	ENTERED THE UNITED STATES ON OR AFTER 8/22/96	
Legal permanent resident ("green card" holder)	Legal permanent resident ("green card" holder)	Legal permanent resident ("green card" holder) but only after residing in the United States for five years	Yes
Refugee, pursuant to section 207 of the Immigration and Nationality Act	Refugee, pursuant to section 207 of the Immigration and Nationality Act	Refugee, pursuant to section 207 of the Immigration and Nationality Act	N/A
Asylee, pursuant to section 208 of the Immigration and Nationality Act	Asylee, pursuant to section 208 of the Immigration and Nationality Act	Asylee, pursuant to section 208 of the Immigration and Nationality Act	N/A
Alien who has had deportation withheld pursuant to section 243(h) of the Immigration and Nationality Act	Alien who has had deportation withheld pursuant to section 243(h) of the Immigration and Nationality Act	Alien who has had deportation withheld pursuant to section 243(h) of the Immigration and Nationality Act	N/A
Alien who has been granted parole for at least one year by the Immigration and Naturalization Service pursuant to section 212(d)(5) of the Immigration and Nationality Act	Alien who has been granted parole for at least one year by the Immigration and Naturalization Service pursuant to section 212(d)(5) of the Immigration and Nationality Act	Alien who has been granted parole for at least one year by the Immigration and Naturalization Service pursuant to section 212(d)(5) of the Immigration and Nationality Act but only after residing in the United States for five years	Yes

Who Was Medicaid Eligible? (Old Rules)	Who Is Medicaid Eligible Under the New Rules?		Eligible for NJ FamilyCare Now?
	ENTERED THE UNITED STATES PRIOR TO 8/22/96	ENTERED THE UNITED STATES ON OR AFTER 8/22/96	
Alien granted conditional entry pursuant to section 203(a)(7) of the immigration law in effect before April 1, 1980	Alien granted conditional entry pursuant to section 203(a)(7) of the immigration law in effect before April 1, 1980	Alien granted conditional entry pursuant to section 203(a)(7) of the immigration law in effect before April 1, 1980, but only after residing in the United States for five years	Yes
Cuban/Haitian entrants pursuant to section 501(e) of the Refugee Education Assistance Act of 1980	Cuban/Haitian entrants pursuant to section 501(e) of the Refugee Education Assistance Act of 1980	Cuban/Haitian entrants pursuant to section 501(e) of the Refugee Education Assistance Act of 1980	N/A
Alien who is honorably discharged or on active duty in the United States armed forces, his or her spouse and the unmarried dependent children of the alien or spouse	Alien who is honorably discharged or on active duty in the United States armed forces and his or her spouse and the unmarried dependent children of the alien or spouse	Alien who is honorably discharged or on active duty in the United States armed forces and his or her spouse and the unmarried dependent children of the alien or spouse	N/A
There were no special provisions for Amerasian immigrants	Amerasian immigrants pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988	Amerasian immigrants pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988	N/A
There were no special provisions for certain American Indians born in Canada	Certain American Indians born in Canada are treated the same as a U.S. citizen for purposes of Medicaid eligibility	Certain American Indians born in Canada are treated the same as a U.S. citizen for purposes of Medicaid eligibility	N/A
There were no special provisions for victims of domestic violence	Certain legal aliens who are victims of domestic violence and when there is a substantial connection between the battery or cruelty suffered by an alien and his or her need for Medicaid benefits, subject to certain conditions	Certain legal aliens who are victims of domestic violence and when there is a substantial connection between the battery or cruelty suffered by an alien and his or her need for Medicaid benefits, subject to certain conditions but only after residing in the United States for five years	Yes
Certain categories of aliens, not listed above, who were considered "permanently residing in the United States under color of law (PRUCOL)," i.e., "continuously residing in the United States since prior to 1/1/1972"	No Longer Eligible (An alien with PRUCOL status is not considered a "qualified alien" and therefore is not Medicaid eligible)	No Longer Eligible (An alien with PRUCOL status is not considered a "qualified alien" and therefore is not Medicaid eligible)	No

NOTE: *Undocumented aliens and nonimmigrants (tourists, students, and visitors on business) have never been Medicaid eligible. Under the new rules, these aliens, as well as the above categories of aliens who have five-year restrictions, are eligible for Medical Emergency Payment Program for Aliens only.*

Section 5: Case Studies

The following case studies describe the process of determining immigrants' eligibility for health programs. Use the Health Eligibility Chart on pages 14–15, the immigration document codes on pages 35–39, and federal poverty level guidelines on page 52 for each case. When determining eligibility, always address these three basic questions:

- 1. If your client were not an immigrant, which health program would he or she be eligible to receive?** Always look for the health program that provides the greatest coverage before assuming that your client is restricted because of immigration rules. (See chart of programs on page 2.)
- 2. What is the person's immigration status?** Determine whether your client is a "qualified" immigrant, is an immigrant with mandatory coverage, or had a previous status, such as refugee, that would make him or her eligible for Medicaid.
- 3. When was your client granted his or her immigration status?** Most immigrants who were granted their immigration status after August 22, 1996, are barred from receiving Medicaid for their first five years in the United States. However, they may be eligible for other New Jersey programs.

A. CASE #1

Loretta entered the United States on December 5, 1997, and has an Employment Authorization Card with the code 274a.12(c)(11). Her first child, Carlos, was born in the United States on April 16, 1998. Loretta works part-time and earns under \$369 per month. Loretta and Carlos are both in need of health care.

- 1. If your clients were not immigrants, which health program would they be eligible to receive?**
 - Loretta has a child under the age of 18 and her income is under \$369 per month, so Carlos and Loretta are eligible for Medicaid if they meet the immigrant eligibility requirements.
- 2. What are their statuses, and do they have any previous status?**
 - The code 274a.12(c)(11) is for people with parole. Loretta is a "qualified" immigrant because she has been a parolee for over one year.
 - Carlos is a citizen.
- 3. When were they granted their immigration status?**
 - Loretta entered the United States on December 5, 1997, which is after August 22, 1996, so she is barred from receiving Medicaid for her first five years in the country (until December 5, 2002).
 - Carlos is a citizen and so this question does not apply to him.

4. What health benefit is the family eligible to receive?

- Loretta is eligible for NJ FamilyCare because she is a “qualified” immigrant who is ineligible for AFDC Medicaid since she entered the United States after August 22, 1996, and is barred from receiving Medicaid for her first five years in the country.
- Carlos is eligible for Medicaid because he is a citizen and meets the income eligibility requirements.

B. CASE #2

Martha and her son, Patrick, who is four years old, do not have proof of their immigration status. Martha also has a citizen daughter, Kathleen, who is two years old. Martha and Patrick entered the country on August 1, 1996. Martha is pregnant and due to have her third child in October 2001. Martha’s ex-husband gives her \$9,000 a year in child support. The family needs health care.

1. If your clients were not immigrants, which health program would they be eligible to receive?

- Martha has children under the age of 19 and meets the income guidelines. Her family is eligible for NJ KidCare/FamilyCare if they meet the immigrant eligibility requirements.

2. What are their statuses, and do they have any previous status?

- Martha and Patrick do not have proof of status.
- Kathleen is a citizen.

3. When were they granted their immigration status?

- Martha and Patrick do not have proof of status and entered the country in 1996 so would not be able to apply to INS for permanent resident status as a Registry immigrant. (See page 4)
- Kathleen is a citizen and so this question does not apply to her.

4. What health benefit is the family eligible to receive?

- Martha does not have proof of status and so is eligible only for the Medical Emergency Payment Program for Aliens or “Charity Care.” Because she is pregnant, Martha is also eligible for the New Jersey Supplementary Prenatal Care Program, Health Start, and WIC.
- Patrick does not have proof of status and so is eligible only for Medical Emergency Payment Program for Aliens or “Charity Care.” Patrick is also eligible for WIC because he is under five years old.
- Kathleen is eligible for NJ KidCare because she is a citizen and meets the NJ KidCare eligibility requirements.



Don't Forget!

Immigrants without proof of status who have resided in the United States since before January 1, 1972, are able to apply for a green card as Registry immigrants. People who may be eligible to apply for a green card under the Registry provision should see an immigration lawyer before going to the Immigration and Naturalization Service.

C. CASE #3

Yakov, who is 90, entered the country in 1965 and does not have proof of immigration status. His wife, Natasha, who is 80, entered the United States on December 5, 1998, with an I-94 (Arrival/Departure Record) with the code 207. They have \$5,000 in income per year. Yakov and Natasha need health care.

1. If your clients were not immigrants, which health program would they be eligible to receive?

- Yakov is 90 and Natasha is 80, so both are eligible for Medicaid if they meet the immigrant eligibility requirements.

2. What are their statuses and do they have any previous status?

- Yakov does not have proof of immigration status, but entered in 1965 and so meets the requirements for Registry immigrants. If he hasn't applied for a green card, he should see an immigration lawyer.
- Natasha is a qualified immigrant. The code "207" on her I-94 means that she is a refugee.

3. When were they granted their immigration status?

- We would need to find out if Yakov has submitted an application for a green card.
- Natasha entered the country after August 22, 1996, but is a refugee, and so has mandatory coverage under Medicaid.

4. What health benefit is the family eligible to receive?

- Yakov is eligible for Medicaid as soon as he adjusts his status to Lawful Permanent Resident.
- Natasha is eligible for Medicaid because she is a refugee.

D. CASE #4

Nam, who is 40, entered the United States with a green card with the code IR-1 on January 5, 1998, to join his U.S. citizen wife. They were in a major car accident in August of 1999, and he was left severely disabled. He is not working and needs long-term care.

1. If your client were not an immigrant, which health program would he be eligible to receive?

- Nam is disabled and does not have any income and so would be eligible for Medicaid.

2. What is his status?

- Nam is a qualified immigrant because he is a Lawful Permanent Resident and got his green card through his wife.

3. When was he granted his immigration status?

- Nam entered the country in 1998, so he is subject to the five-year bar from receiving Medicaid.

4. What health benefit is he eligible to receive?

- Nam is eligible for NJ FamilyCare (state-only funding), which does include long-term care because he has income of less than 50 percent of the federal poverty level. After he has been in the United States for five years (January 5, 2003), he will be eligible for Medicaid with federal funding.

NOTE: *An individual who would not meet the resource requirements for New Jersey Care...Special Medicaid Programs would not qualify for the long-term care benefit.*

Barriers to Health Care

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Section 1: Introduction

Even with new immigrant restrictions on federal health programs, New Jersey has a variety of state-funded health programs that are available to all legal immigrants. Additionally, there are health programs, such as Medical Emergency Payment Program for Aliens, and Charity Care, that are available to all people, regardless of immigrant status. Despite the availability of health care, national statistics demonstrate that noncitizens use health care at a lower rate than citizens do.

This disparity in health care utilization between noncitizens and citizens can be attributed to immigration and welfare policies that have created uncertainty about the relationship between use of health care and repercussions with the Immigration and Naturalization Service (INS).

This part of the manual will address the relationship between receipt of health care and immigration status and distinguish the myths from the facts. At the end of each section is a summary of the specific barriers to health care for each policy and how to respond to the concerns of immigrants and their families.

The Four Barriers to Health Care Include:

- **Public Charge:** Fear that utilization of health care will prevent immigrants from getting a green card or returning to the United States after they travel abroad.
- **Affidavit of Support:** Fear that utilization of health care will prevent an immigrant from sponsoring his or her family member to come to the United States or fear that a sponsor will have to pay back the cost of health care obtained by the sponsored immigrant.
- **Verification and Reporting:** Fear that all family members will have to verify their immigration status when applying for health care and uncertainty about whether that information will be shared with the INS.
- **Language Policies:** Lack of knowledge about the obligations of state agencies, hospitals, and health centers to provide interpreter services to people who don't speak English or who are Limited English Proficient.

Section 2: Public Charge³

A. Overview

“Public charge” is a term used in immigration law to describe individuals who cannot financially support themselves and who depend on government benefits for support—such as Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), or Medicaid for long-term institutional care. Depending on an individual’s immigration status, the Immigration and Naturalization Service (INS) and State Department consular officers abroad can refuse to let immigrants enter the United States, reenter the United States, or become Lawful Permanent Residents (green card holders) if they think these individuals will not be able to support themselves without these government benefits in the future. Under very rare circumstances, the INS can also deport immigrants who become a public charge within five years of entering the United States. Public charge does not apply to immigrants who already have a green card and are applying for citizenship. Public charge also does not apply to refugees or persons granted asylum.

The INS or State Department considers a number of factors when determining whether an immigrant is likely to become a public charge in the future, none of which include the receipt of health care services unless they are receiving Medicaid for long-term institutional care. Although the government can look at whether immigrants used *cash* welfare in the past, it cannot make its decision based solely on what happened in the past. The government must look at all of the following five factors together to decide whether an immigrant might become a public charge in the future:

- **Age:** Is the immigrant elderly or very young and likely to need support?
- **Health:** Does the immigrant have an illness that requires costly treatment?
- **Income:** Is the immigrant low-income or poor with no assets?
- **Family size:** Does the immigrant have a large family to support?
- **Education and skills:** Is the immigrant working now, or can the person easily find a job?

When immigrants seek to enter the United States or apply for a green card, the government may ask questions to see whether they are likely to become a public charge in the future. It is important, therefore, for immigrants to give the INS information that shows they will not need benefits to support themselves. For example, if they are elderly but have family in the United States with enough money to support them, or if they have a special skill

³ Portions of this section were adapted from the National Immigration Law Center’s Public Charge Guidance.

that will enable them to get a good job, they should give this information to the government.

B. Highlights of the New Public Charge Guidance

On May 25, 1999, the U.S. government issued new guidance on “public charge,” which describes when receipt of public benefits may affect an immigrant’s status or ability to return to the United States after travel abroad. The new guidance gives clear rules about when it is and is not safe to use health care and other public benefits.

1. Use of Medicaid, NJ FamilyCare, NJ KidCare, or other health services by immigrants or their family members *will not* make immigrants a public charge unless they use Medicaid or other government funds to pay for long-term care (nursing home or other institutionalized care).⁴
2. Use of food stamps, WIC, public housing, or other noncash programs by immigrants and their family members *will not* make immigrants a public charge.
3. Use of cash welfare (such as SSI or TANF) by an immigrant’s children or other family members *will not* make an immigrant a public charge unless these benefits are the family’s only income.
4. An immigrant’s use of cash welfare (such as SSI or TANF) *might* make an immigrant a public charge depending on the situation. The INS or State Department can count these benefits in deciding whether immigrants are likely to become a “public charge.”

C. Applying for a Green Card

1. If an immigrant was in institutional care several years ago, but is not today, will the person have trouble getting a green card?

Past receipt of cash assistance or institutionalization doesn’t mean that an immigrant will be found to be a public charge. However, the person will need to show that he or she is not likely to need cash welfare in the future or that the institutionalization was short term.

2. If an immigrant is very sick and is living in a nursing home, could that person have trouble getting a green card?

Yes. If an immigrant is in a nursing home or has a serious long-term illness, he or she will have trouble getting a green card unless the person can show that he or she will be able to attain the care needed in the future without relying on Medicaid or other publicly funded programs to pay for the institutional care (*see footnote 4*).

⁴ The public charge guidance does not clearly define what is meant by long-term care at government expense. However, the guidance does make it clear that short-term institutional care for periods of rehabilitation does not demonstrate dependence on the government. Contact your local legal services agency if you have concerns about your client.

3. If an immigrant does not have health insurance, will that person be denied a green card?

A person cannot be denied a green card because he or she doesn't have health insurance. However, if a person is very sick and doesn't have any income or family members that can offer support, the INS may require that person to purchase health insurance to demonstrate that he or she will not need to rely on long-term care in the future. The INS should not require anyone else to have private insurance.

D. Refugees and Others Not Subject to Public Charge

1. Will refugees have problems if they use public benefits?

No. The public charge law does not apply to:

- Refugees or persons granted asylum in the United States
- Cubans or Nicaraguans applying for adjustment of status under the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA)
- Applicants for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998
- Cubans applying for adjustment under the Cuban Adjustment Act who were paroled as refugees before April 1, 1980
- Amerasian immigrants when they are first admitted to the United States
- "Lautenberg" parolees (certain Soviet and Indo-Chinese parolees applying for adjustment of status)
- Registry immigrants (persons who have resided in the United States continuously since January 1, 1972)
- Special immigrant juveniles

The use of any benefits, including cash welfare, will not subject these immigrants to a finding of public charge unless they are seeking permanent residence through a family member or other similar immigrant categories.

E. Immigrants with Green Cards

1. Can an immigrant with a green card receive health care and other public benefits while outside of the United States?

If an immigrant plans to leave the United States for more than 30 days, he or she should check with the agency providing the benefit(s) in question. It may be against the rules for the person to continue receiving public benefits while outside of the United States. It could hurt the immigrant's chances of reentering the United States or becoming a U.S. citizen if a person received benefits that he or she was not supposed to receive.

2. When immigrants return from a trip abroad, can the government make them pay back benefits, such as Medicaid or Charity Care, that they received before they left?

No. The government may not require immigrants to reimburse it for benefits unless the person received them improperly (for example, if the immigrant was not really living in this state but claimed to be a resident). If an immigrant is at the airport or the border and the INS or other agency asks him or her to pay back benefits, the individual should seek legal help immediately. This is the case regardless of the individual's immigration status.

3. Can the INS deport an immigrant with a green card because the person receives health care?

No. The INS cannot deport an immigrant with a green card just for using health care that the person is qualified to receive. Furthermore, an immigrant cannot be deported for using benefits unless *all* of the following are true:

- The person was in *long-term institutional care* for reasons that existed before he or she entered the United States, *and*
- The person received long-term care *less than five years after he or she entered the United States, and*
- The person, or the person's sponsor, has a *legal debt*⁵ to the government agency that provided the long-term care, and the person and his or her sponsor received a notice from the government that the person owed the debt within five years of entering the United States, *and*
- The person, or the person's sponsor, *refused to repay* the benefits after the government filed a lawsuit and won in court.

Remember, if an immigrant needs benefits because he or she became sick, had an accident, or underwent some other crisis after coming to the United States, then the immigrant cannot be deported for using those benefits. Likewise, if the immigrant began using benefits more than five years after entering the United States, then he or she cannot be deported even if the person or his or her sponsor owes the government money for these benefits.

F. Citizens and Applying for Citizenship

1. If an immigrant has a green card and receives Medicaid or other health benefits, will this prevent the person from becoming a U.S. citizen?

No. If a person with a green card is properly receiving public benefits, the person cannot be denied citizenship for receiving them. But if an immigrant ever received public benefits improperly, or misled the INS

⁵ In the future, long-term care may create a debt for the sponsor. Currently there is no sponsor liability in any Medicaid program.

when he or she got a green card, the INS may decide that he or she does not have “good moral character,” and he or she may have trouble becoming a U.S. citizen.

2. Can U.S. citizens lose their citizenship if they receive Medicaid or other health benefits?

No. U.S. citizens cannot lose their citizenship if they receive benefits. Once an immigrant becomes a U.S. citizen, the INS cannot deport him or her, and the INS must always let these individuals reenter the United States after a trip to another country.

G. Sponsoring Relatives

1. Will people have trouble sponsoring relatives if they have used Medicaid or other health benefits?

Use of benefits should not affect a person’s ability to sponsor an immigrant relative. Potential sponsors will need to show that they or their cosponsor earn enough income to support their relative. To meet this requirement, they cannot count as income benefits that they receive or have received. Currently, the Affidavit of Support asks whether the sponsor or household members have used benefits within the past three years. This question is included only to make sure that sponsors do not count any cash welfare when they add up their family’s income.

Why Public Charge Is a Barrier to Accessing Health Care

1. Lack of knowledge in immigrant communities about the new guidance

Many immigrants do not know about the new public charge guidance and do fear that use of health care will affect their ability to get a green card. Advocates need to reach out to the immigrant communities and educate them about this important new guidance. Outreach methods could include working with local ethnic media, distributing translated materials, and working with the New Jersey Division of Medical Assistance and Health Services or the New Jersey Department of Public Health.

2. Lack of knowledge within the provider community regarding the new guidance

Many people who work in the health care field do not know about the new public charge guidance. If advocates, outreach specialists, and service providers don’t know, then they can’t inform the community. Be sure to distribute information about public charge within your own agency and to colleagues in the field. Include information about the new guidance in a newsletter or in-service training. Get the word out!

3. Skepticism about how the INS is implementing the new policy

Fear of the INS is deep. Convincing immigrant communities that it is O.K. to use health care will be a challenge. In addition to doing outreach to the immigrant community, advocates must monitor implementation of the policy at INS and report any discrepancies to NJIPN.

Section 3: Affidavit of Support and Sponsor Deeming

A. Overview of the Affidavit of Support and Sponsor Deeming

Most immigrants who apply for permanent residence (i.e., obtain a “green card”) through a relative must demonstrate to the INS or State Department that they will not depend on cash government benefits when they come to the United States. One method to prove this is to have a person in the United States, a sponsor, sign an Affidavit of Support (I-864) promising to provide support and give assistance to the immigrant if necessary. Immigrants who have someone sign an Affidavit of Support for them are called sponsored immigrants.

1. How did the Affidavit of Support rules change in 1997?

Individuals petitioning for green cards for their family members on or after December 19, 1997, must have an income of at least 125 percent of the federal poverty level. Additionally, if a petitioner sponsors a relative, the Affidavit of Support (I-864) is now required and legally enforceable. This means that if the sponsored immigrant receives any means-tested government benefits while the Affidavit of Support is in effect, the government may sue the sponsor to recover the cost of these benefits. Federal benefits that have been designated as means-tested include Supplemental Security Income (SSI), food stamps, TANF, and Medicaid; however, as of October 2001, New Jersey does not enforce sponsor reimbursement in Medicaid.

2. Which immigrants must have sponsors?

Most family-based immigrants must submit the new Affidavit of Support at the same time they file their adjustment of status applications. If they are applying for a visa abroad, they must bring the Affidavit of Support to their interview with the consular agent. In addition, employment-based immigrants who are coming to work for a relative, or for companies in which their relative owns 5 percent or more of the company, must submit the new Affidavit of Support.

3. Are any immigrants excused from having a sponsor under the I-864?

Certain battered wives or children and widowers or widows who qualify to file their own visa petition are excused from having to file an I-864.

4. Who can be a sponsor?

To be a sponsor, a person must be: 1) a U.S. citizen, national, or Lawful Permanent Resident; 2) at least 18 years old; and 3) domiciled within the United States or in any U.S. territory or possession.



Don't Forget!

Refugees and asylees do not need to file an I-864.

B. Income and Asset Requirements

1. What are the new income and asset requirements that a sponsor must meet?

A sponsor must earn at least 125 percent of the federal poverty level for the total number of members in the sponsor’s household, including the sponsored immigrant. Household members include all relatives who live with the sponsor, dependents listed on the sponsor’s federal tax return (even if they do not live with the sponsor), and the relatives whom the person wishes to sponsor. The sponsor must also include other individuals for whom he or she signed a new Affidavit of Support if he or she is still legally responsible for them.

2. How much is 125 percent of the federal poverty level?

For all states except Alaska and Hawaii, 125 percent of the 2001 poverty level equals an annual income of \$14,512 for a family of two. If a sponsor is serving in the U.S. armed forces and wants to bring his or her spouse or children to the United States, that person only needs to show the ability to support the family at 100 percent of the poverty level. The federal poverty level is updated each year by the U.S. Department of Health and Human Services.

2001 Federal Poverty Level Guidelines

# of Household Members (including sponsor)	100% of Poverty Income in 48 Contiguous States (excludes Alaska and Hawaii)	125% of Poverty Income in 48 Contiguous States (excludes Alaska and Hawaii)
2	\$11,610	\$14,512
3	\$14,630	\$18,292
4	\$17,650	\$22,065
5	\$20,670	\$25,837
6	\$23,690	\$29,617
7	\$26,710	\$33,394
8	\$29,736	\$37,170
Additional Family Members	Add \$3,020 for each additional person	Add \$3,780 for each additional person

Example: A man has three children and a wife who live with him. Another child who is away at school is listed as a dependent on his federal income tax return; thus he has a total of five dependents. He wants to sponsor his father to immigrate to the United States. To meet the sponsor income requirements, the man’s income must be no less than 125 percent of the poverty guidelines for a family of seven, or \$33,394.

3. What documents must a sponsor use to prove that he or she meets the income requirement?

A sponsor must submit copies of his or her federal income tax returns from the last three years. A sponsor should also include evidence of current employment and salary, such as pay stubs or a letter from his or her employer. If the sponsor did not file taxes but should have done so, that person should see a tax lawyer or consultant immediately.

4. If the sponsor does not meet the income requirement, will the INS consider the sponsor's assets?

Yes. However, the INS will only count those assets that are worth five times the value of the difference between 125 percent of poverty and the total household income. Furthermore, the sponsor's assets must be the kind that can be sold for cash within one year. Examples of possible assets include savings accounts; stocks; bonds; certificates of deposit; a house or other real estate; and personal property, such as cars, furniture, or jewelry. Information on any liens and liabilities relating to these assets must also be provided.

5. Can a sponsor count his or her spouse's income or the income of other household members?

Yes. If the sponsor's own income and assets do not meet the 125 percent requirement, he or she may still satisfy the minimum income requirement. The sponsor can include the income and assets earned by other relatives in the household, as well as the income earned by the immigrant being sponsored, provided they have been living with the sponsor for the last six months. The sponsor can include the assets of the sponsored immigrant, regardless of whether he or she lives with the sponsor. In addition, the sponsor may count the income and assets earned by dependents listed on his or her most recent federal tax return, even if they don't live with the person.

6. If the sponsor's combined household income and assets are still not enough, can a person outside of the household be a sponsor?

Yes. Another individual who can meet the income requirement may submit an additional Affidavit of Support and become a joint sponsor. However, the primary sponsor cannot add his or her income to the joint sponsor's income to meet the income requirement. That joint sponsor must be able to meet the income or asset requirement independently. He or she will also be legally responsible for the family members being sponsored.

Example: A man supports his wife, two children, and his elderly parents; thus he has a total of five dependents. He wishes to sponsor his brother to come to the United States. To meet the income requirements, he must show that his annual income is no less than 125 percent of the poverty guidelines

for a family of seven, or \$33,394. However, his income is \$15,000 and his wife earns \$5,000, for a combined household income of \$20,000. In this situation, a friend can be a joint sponsor if that person's income is at least enough to cover him- or herself and the sponsored immigrant, or \$14,512. Both the man and his friend will each become legally and individually responsible to provide support for the man's brother.

7. What if a sponsor is receiving health care?

Use of health care services should not affect a person's ability to sponsor a relative. Potential sponsors will need to show that they or their co-sponsor earn enough income to support their relative. To meet this requirement, they cannot count as income the benefits that they receive. Currently, the Affidavit of Support form for sponsors asks whether the sponsor or household members have used benefits within the past three years. This is only to ensure that sponsors do not count any cash welfare when they add up their family's income while not denying them the ability to become a sponsor.

Why the Affidavit Is a Barrier to Accessing Health Care

1. A question on the Affidavit of Support asks about the sponsor's receipt of means-tested benefits.

The new Affidavit of Support (I-864) currently asks about the sponsor and the sponsor's household's use of means-tested public benefits. Medicaid is a means-tested public benefit; however, in the new public charge guidance, the INS clarified that the question is not to keep people who have used public benefits from becoming sponsors. The purpose of the question is to ensure that sponsors are not counting any cash assistance toward their income and asset requirement.

The receipt of health benefits is not important. It is important that the sponsor demonstrate that he or she meets the income or outside sources.

2. Immigrants may assume that if they are sponsored they aren't eligible to receive health care benefits.

Although the federal welfare law states the option to restrict sponsored immigrants' eligibility for Medicaid, the New Jersey Division of Medical Assistance and Health Services currently has no such restrictions. If the immigrant meets the requirements for the program, the person is eligible.

3. Fear that sponsored immigrants will have to reimburse the government for health care benefits used.

The federal welfare law states the option to seek reimbursement from sponsors if the sponsored immigrant receives any means-tested benefits, which includes Medicaid. However, the New Jersey Division of Medical Assistance and Health Services currently does not seek reimbursement from sponsors, and most sponsored immigrants are ineligible for Medicaid because they are barred from Medicaid for their first five years in the country.

C. Deeming and Enforcement of the Affidavit of Support

1. How will the Affidavit of Support be enforced?

The law allows agencies that provide means-tested public benefits to request reimbursement from sponsors for the amount of benefits that sponsored immigrants receive and to sue them if they do not repay. Federal means-tested benefits include SSI, TANF, Food Stamps, and Medicaid. They do not include the Medical Emergency Payment Program, student loans, or school lunch programs. *(The New Jersey Division of Medical Assistance and Health Services currently does not request reimbursement from sponsors.)*

2. Will signing the Affidavit of Support make a sponsor responsible if his or her relative has a car accident, commits a crime, or files for bankruptcy?

No. Sponsors are not responsible for the private debts of their relatives.

3. What is deeming?

If sponsored immigrants on the I-864 apply for a federal means-tested public benefit (SSI, TANF, Food Stamps, or Medicaid), the agency that administers the benefit will consider or “deem” the sponsor’s income and resources as well as the income and resources of the sponsor’s current spouse to be available to the immigrant in determining the eligibility of the immigrant for benefits. Deeming of the sponsor’s income usually will make the immigrant ineligible for means-tested public benefits temporarily or permanently. *(As of the writing of this document, there is no sponsor deeming for any Medicaid or other health programs.)*



Advocacy Note . . .

To be safe, undocumented immigrants should never divulge their immigration status to a state agency.

Benefits that undocumented people can receive don't require proof of status.

Community-based organizations and agencies should refrain from asking questions about immigration status unless it is absolutely necessary to do so.

Section 4: Verification and Reporting Policies

A. Overview

The 1996 federal welfare law created new rules that require benefits-granting agencies, including the New Jersey Division of Medical Assistance and Health Services, to verify the immigration status of applicants for most state programs, except programs such as Charity Care and the Medical Emergency Payment Program for Aliens. Although the federal government has yet to issue guidance to the states on how to verify immigrants' status, the Department of Justice has issued interim guidance that outlines the verification procedure. Agencies administering federal benefits must:

1. Determine first if the benefit is a federal public benefit that requires verification
2. Determine if the applicant is financially or otherwise qualified for the benefit before verifying immigration status
3. Verify the applicant's status only and not family members who are not applying

Nonprofit agencies are exempt from the verification requirement unless it is for the purpose of enrolling people in Medicaid.

Reporting requirement. The welfare law requires agencies that administer SSI, TANF, and Federal Housing to report immigrants *known* to be in the United States unlawfully. An immigrant can't be *known* to be in the United States unlawfully unless he or she is under an order of deportation. As of the writing of this document, no agency has begun such reporting. *The New Jersey Division of Medical Assistance and Health Services is not required to report immigrants to the INS and does not share information with the INS.*

It is important to note that civil rights laws prohibit discrimination on the basis of race, color, national origin, gender, religion, and disability. Therefore, verification procedures must be administered in a nondiscriminatory way. Hospitals and benefits agencies are prohibited from singling out individuals who look foreign or speak with an accent to provide additional documentation.

B. Verification of Immigration Status Requirements

1. Is an immigrant's status as listed on applications for benefits, such as Medicaid, currently being "verified" by the New Jersey Division of Medical Assistance and Health Services?

Applicants for Medicaid are required to provide proof of their legal immigration status, and DMAHS can verify this information with the INS. Immigrants who apply for benefits such as WIC, Charity Care, and Medical Emergency Payment Program for Aliens are not required to

provide proof of their status, nor are the agencies that administer those benefits seeking any proof of status.

2. Does every family member need to prove his or her immigration status?

The requirement only applies to people applying for the benefit. For example, immigrants applying for Medicaid or NJ KidCare/FamilyCare only for their children are only required to provide proof of the children's immigration status or Social Security Numbers. U.S. citizen children or other citizen applicants can simply self-declare citizenship.

C. Social Security Number Requirements

1. Do both parents of a child applying for a public benefit have to give Social Security Numbers (SSNs) for income verification?

Yes, but only if they have SSNs. If they do not have an SSN, then they should state on the application form that none is available. Federal guidance is very clear that SSNs are not required for nonapplicants.

2. If an immigrant does not have an SSN but is working, how should he or she show proof of income?

The immigrant can self-declare his or her income. The applicant should submit in writing a document that states "I verify under penalty of perjury that the following information is true," and include his or her name, weekly salary, hours worked per week, length of employment at current job, and any information about his or her previous job.

3. What penalties will an immigrant incur for giving a false SSN on an agency application?

If an agency finds that an individual has failed to provide information or intentionally provided false information, it will likely refer the individual to the Bureau of Special Investigations for a fraud investigation and prosecution. Advocates and health care workers should tell immigrants to give accurate information. If the immigrant happens to be using a false SSN, *he or she should not provide that SSN* on the application. Also, use of a fraudulent SSN may result in a criminal conviction if a case is referred for prosecution.

4. If a person doesn't have a green card but does have a Social Security Number, is the SSN likely to be illegal?

No. SSNs are issued to immigrants who have authorization to work, even though they may not have a green card. In very limited circumstances, legal immigrants may have SSNs for nonwork purposes.

D. Reporting Requirements

1. Is the New Jersey Division of Medical Assistance and Health Services mandated to report immigrants known to be in the United States unlawfully to the INS if they learn this information when a person applies for a benefit?

The only agencies that must report are those that administer TANF, SSI, and federal public housing. Those agencies are the Division of Family Development, the Social Security Administration, and Department of Housing and Urban Development. These agencies are not currently reporting to INS because without federal guidance it is not clear how agencies will interpret what “unlawful status” means and how an agency would confirm that status. Furthermore, under New Jersey’s Privacy laws, an agency cannot divulge information without client consent. Currently, none of these agencies has implemented the reporting requirement, and the NJ DMAHS is *not* required to report.

2. Can a state law prevent agencies from reporting people to the INS?

The federal welfare law bars federal, state, and local laws from prohibiting government entities from exchanging information with the INS. Furthermore, no individual may be restricted from sharing information with the INS.

E. Immigration Documents

Documents relating to Lawful Permanent Resident status I-551 Permanent Resident Card*

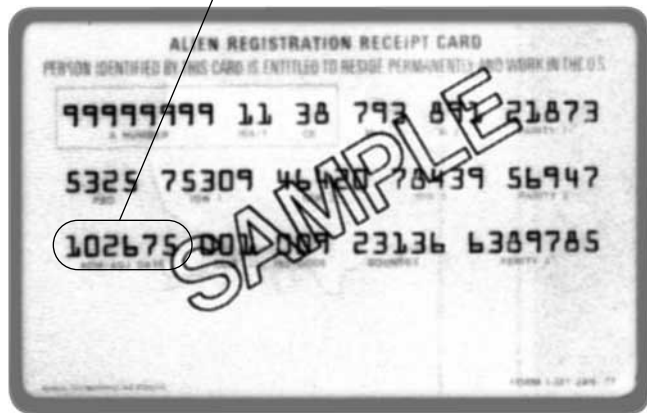
This card—various versions of which have been issued since 1978—is proof of Lawful Permanent Resident status. Now known as the “Permanent Resident Card,” this card was previously known as the “Resident Alien Card” or “Alien Registration Receipt Card.” These cards are all commonly referred to as “green cards,” even though recent versions of these cards are multi-colored. Until 1989, these cards had no expiration date, but cards now being issued expire 10 years after the date of issue. At the end of the 10 years, the Lawful Permanent Resident (LPR) does not lose his or her status, but must simply renew the card. Conditional permanent residents are issued cards that are coded “CR” and expire after two years. All I-551 cards include codes showing how the individual obtained LPR status—whether through work skills, as the relative of a U.S. citizen or permanent resident, through

***PLEASE NOTE:** A much more complete description and explanation of INS documents is contained in the *Guide to Immigrant Eligibility for Federal Programs*, National Immigration Law Center. To order a copy, please contact NILC Publications, 3435 Wilshire Blvd., Suite 2850, Los Angeles, CA 90010, 213-639-3900, 213-639-3911 (fax).

Front



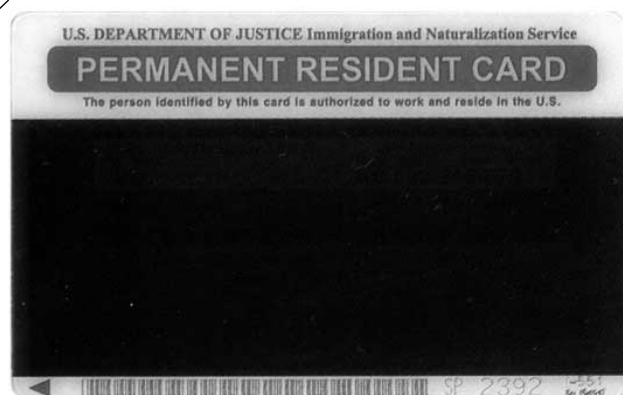
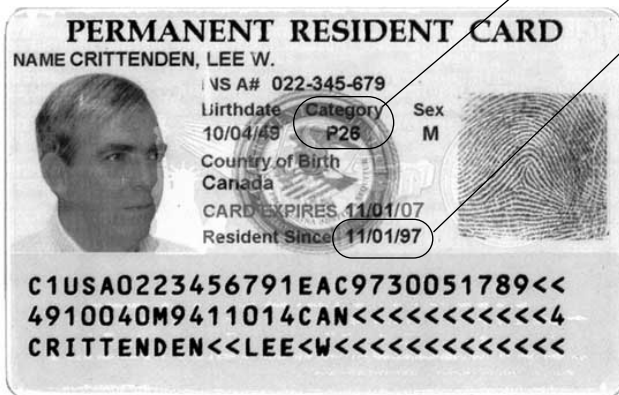
Back



Older versions of Form I-551

Immigration code

Date received status



Current versions of Form I-551

the visa lottery, as a refugee or asylee, or otherwise. For a listing of some of these codes, see page 37. The cards also indicate the date on which the individual is considered to have obtained permanent resident status. This is often different from the date the person “entered” the United States.

Key to I-551 and I-151 Cards (“Green Cards”)

The codes on a green card indicate how an LPR immigrated to the United States. This information is critical to an immigrant’s eligibility for health care. For example, if the person entered the United States as a refugee, he or she would be eligible for Medicaid.

Immediate Relative Codes

Code for Processing Abroad	Code for Adjustment	Meaning
	CF-1, CF-2	Spouse and minor stepchild of a U.S. citizen who was admitted as a fiancé(e), and is subject to 2-year conditional residency
CR-1, CR-2	CR-6, CR-7	Spouse and stepchild of a U.S. citizen subject to 2-year conditional residency
	IF-1, IF-2	Spouse and minor stepchild of a U.S. citizen who was admitted as a fiancé(e)
IR-1	IR-6	Spouse of a U.S. citizen
IR-2	IR-7	Child of a U.S. citizen
IR-3, IR-4	IR-8, IR-9	Orphan adopted or to be adopted by a U.S. citizen
IR-5	IR-0	Parent of a U.S. citizen
IW-1, IW-2	IW-6, IW-7	Widow or widower and child of a U.S. citizen
	MR-0, MR-6, MR-7	Parent, spouse, or child of a U.S. citizen, presumed to be LPR, from the Northern Marianas
	Z4-3	Immediate relative of a U.S. citizen or special immigrant granted LPR status through private bill

Other Immigrants

Code for Processing Abroad	Code for Adjustment	Meaning
AA-1, AA-2, AA-3	AA-6, AA-7, AA-8	Diversity visa lottery winners and dependents, 1991–1994
A1-1, A1-2, A3-1, A3-2, A3-3	A1-6, A1-7, A3-6, A3-7, A3-8	Amerasians and family members from Cambodia, Korea, Laos, Thailand, or Vietnam
AM-1, AM-2, AM-3	AM-6, AM-7, AM-8	Vietnamese Amerasians and family members
AR-1	AR-6	Amerasian child of U.S. citizen born in Cambodia, Korea, Laos, Thailand, or Vietnam
	AS-6, AS-7, AS-8	Asylee principal, spouse, and child
	CH-6, CN-P, CU-6, CU-7	Cuban/Haitian entrant; Cuban Adjustment Act
	R8-6	Refugee paroled into United States prior to April 1, 1980
	RE-6, RE-7, RE-8, RE-9	Refugees and their dependents
	Y6-4	Refugee (prior to July 1, 1953)
	Z1-3, Z5-6	Granted suspension of deportation

NOTE: *This list is not comprehensive, even as to codes currently in use, and many codes that were used in the past are not included here. Anyone with a green card is an LPR, and a “Qualified Immigrant,” regardless of the particular code on the card.*

Documents Relating to Persons Fleeing Persecution

I-94 Arrival/Departure Record

The I-94 is a 3×5 card that is issued to almost all noncitizens upon entry to the United States. It is also issued to individuals who entered the country without inspection and subsequently have contact with the INS. The card is stamped or handwritten with a notation that indicates the individual's immigration category or the section of the law under which the person is granted admission or parole. The words "Employment Authorized" may also be stamped onto the card. Noncitizens with I-94s include LPRs, persons fleeing persecution, persons with permission to remain in the United States based on a pending application, persons in deportation or removal proceedings, nonimmigrants, and undocumented persons whose period of admission or parole has expired.

Departure Number	742832036 01		SAMPLE
			U.S. IMMIGRATION 250 WAS
Immigration and Naturalization Service			SEP 13 1991
I-94 Departure Record			ADMITTED <u>B-2</u> UNTIL (CLASS)
14. Family Name	DOE		July 10, 1993
15. First (Given) Name	JOHN		16. Birth Date (Day/Mo/Yr)
17. Country of Citizenship	U.K.		16.04.62

KEY TO I-94

Codes on the I-94 indicate the provision of law related to the individual's status.

NOTE: *This list is not comprehensive.*

Persons Fleeing Persecution

Code	Meaning
203(a)(7)	Conditional entrant
207 or REFUG	Refugee
208	Asylum
243(h) or 241(b)(3)	Withholding of deportation or removal
AM 1, 2, 3	Amerasian

Persons Granted Permission to Remain in the United States

Code	Meaning
106	Granted indefinite stay of deportation
242(b)	Granted voluntary departure
212(d)(5)	Parolee

Nonimmigrants

Code	Meaning
A-1, -2, -3	Foreign government official, dependents, and employees
B-1	Visitor for business
B-2	Visitor for pleasure (tourist)
C-1, -2, -3	Aliens in transit
D	Crewmember of ship or aircraft
E-1, -2	Treaty trader, investor, and dependents
F-1, -2	Foreign student and dependents
G-1, -2, -3, -4, -5	Representative of international organization, dependents, and employees
H-1A	Registered nurse
H-1B	Alien in specialty occupation
H-2A	Temporary agricultural worker
H-2B	Temporary worker
H-3	Trainee
H-4	Spouse or child of "H" worker (see categories above) or trainee
I	Foreign information media representative and dependents
J-1, -2	Exchange visitor and dependents
K-1, -2	Fiancé(e) of U.S. citizen and children
L-1, -2	Intracompany transferee and dependents
M-1, -2	Vocational/nonacademic student and dependents
N-8, -9	Parent of special immigrant and children
NATO-1 through -7	Representatives of NATO, dependents, and employees
O-1, -2, -3, -4	Persons with extraordinary ability in the sciences, arts, education, business, and athletics, and dependents
P-1, -2, -3	Artists, entertainers, and athletes who are performing, teaching, or on an exchange program
Q	Cultural exchange
R-1, -2	Religious workers and dependents
S5, -6, -7	Alien supplying information relating to crime or terrorism, and qualified family members
TWOFV	Transit without a visa
TC	Canadian citizen seeking temporary entry pursuant to Free Trade Agreement
TN, -D	NAFTA professional and dependents
WB	Visitor for business admitted under visa waiver pilot program
WT	Visitor admitted under visa waiver pilot program

Sample Documents Relating to Employment Authorization and Indicating Immigration Status

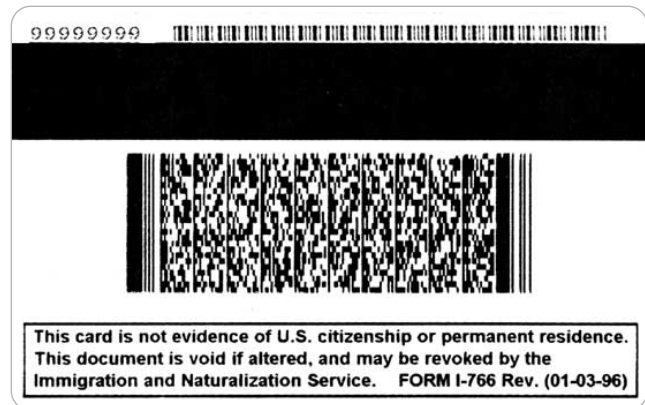
I-766 Employment Authorization Document (EAD)

This document is one of several that indicate an immigrant has been granted permission to work in the United States. Codes on the front of the card indicate the person’s immigration status by referencing the subsection of the regulation authorizing employment—8 CFR § 274a.12. For example, an asylum applicant would be issued a card with the code “(c)(8),” which refers to 8 CFR § 274a.12(c)(8).

Front



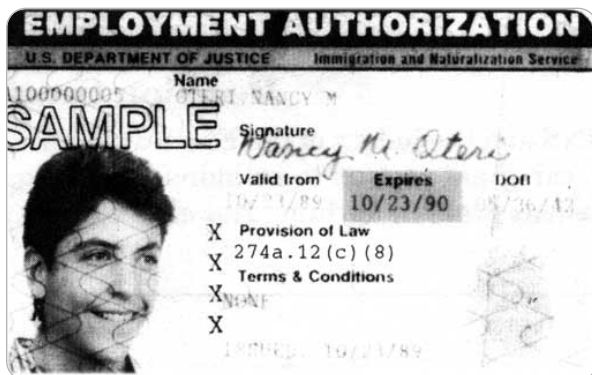
Back



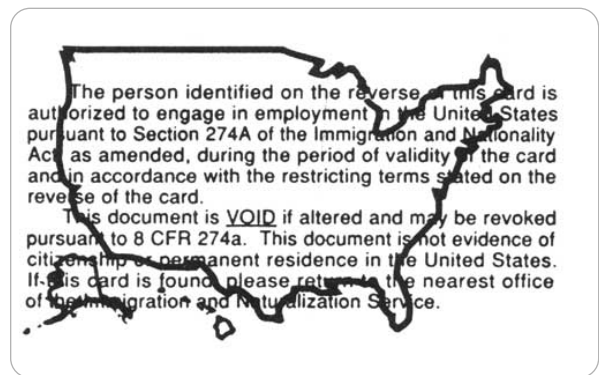
I-688B Employment Authorization Document (EAD)

This document is an earlier version of the Employment Authorization Document for immigrants who have been granted permission to work in the United States. As with the I-766, there are codes on the front of the card that indicate the person’s immigration status and refer to the section of the regulation authorizing employment. For example, an asylum applicant would be issued a card containing the code “274a.12(c)(8).”

Front



Back



Key to Employment Authorization Cards

“Category” or “Provision of Law” on the front of the card indicate the section of 8 CFR under which the person was granted work authorization. The categories are:

8 C.F.R. § 274A.12:

Code	Meaning
(a)(3)	Refugee
(a)(4)	Paroled as refugee
(a)(5)	Granted asylum
(a)(6)	Fiancé(e) of U.S. citizen or dependent of fiancé(e)
(a)(7)	Parent or child of an individual granted LPR status as a special immigrant due to employment by an international organization
(a)(8)	Citizen of the Federated States of Micronesia or the Marshall Islands
(a)(10)	Granted withholding of deportation or removal
(a)(11)	Granted extended voluntary departure
(a)(12)	Granted Temporary Protected Status (TPS)
(a)(13)	Granted voluntary departure under Family Unity
(c)(1)	Dependent of foreign government official
(c)(2)	E-1 nonimmigrant
(c)(3)(i)–(iii)	Foreign students
(c)(4)	Dependent of employee of international organization
(c)(5)	Dependent of exchange visitor
(c)(6)	Foreign student seeking employment for practical training
(c)(7)	Dependent of NATO employee
(c)(8)	Asylum applicant
(c)(9)	Applicant for adjustment to Lawful Permanent Resident status
(c)(10)	Applicant for suspension of deportation or cancellation of removal
(c)(11)	Paroled for emergent or public interest reasons
(c)(12)	Granted Family Unity benefits
(c)(14)	Granted deferred action
(c)(16)	Applicant for registry (resided in United States since before January 1, 1972)
(c)(17)(i)	Employee of business visitor
(c)(17)(ii)	Employee of U.S. citizen living abroad on visit to United States
(c)(17)(iii)	Employee of foreign airline
(c)(18)	Under order of supervision
(c)(19)	Applicant for Temporary Protected Status (TPS)
(c)(20)	Applicant for Special Agricultural Worker legalization (INA § 210)
(c)(21)	Nonimmigrant witness or informant and dependents (s-visa)

Why Verification Requirements Are a Barrier to Accessing Health Care

- 1. Immigrants in mixed-status households (those in which citizens and noncitizens reside together) believe they will have to report the immigration status and Social Security Number of all household members to the New Jersey Division of Medical Assistance and Health Services.**

The Medicaid application is very clear that immigrants who do not fall under the eligible immigration statuses for the program do not have to provide a Social Security Number and their names will not be given to the INS.

- 2. Undocumented parents with citizen children believe that applying for health care for their children may result in their deportation.**

The New Jersey Division of Medical Assistance and Health Services and The New Jersey Department of Public Health will not share information about applicants with the INS. However, undocumented household members should never divulge their status since it isn't necessary to do so. If asked, these household members should simply state that they are either ineligible for the benefit (if it is one with immigration requirements) or that information about their status isn't required to qualify for the program (i.e., Charity Care or WIC).

- 3. Undocumented parents believe that if they don't share information about their immigration status, the benefits agency will assume that they are undocumented.**

It is a violation of civil rights law for agencies to make assumptions about people based on their race or national origin. If people are being harassed, they should file a complaint with the U.S. Department of Health and Human Services Office for Civil Rights. All complaints are confidential. **The toll-free hotline is 800-368-1019.**

Section 5: Language Access and Health Care

A. Overview of Language Access and Health Care

Nationwide, close to 32 million people in the United States speak a language other than English at home. Many immigrants have been unable to communicate with workers at benefits agencies and hospitals because no one speaks their language. Often, small children and relatives are forced to interpret for these applicants because they are not informed of their right to an interpreter. This practice is against civil rights law. The U.S. Department of Health and Human Services Office for Civil Rights (OCR) has defined the obligations of service agencies with Limited English Proficient (LEP) applicants and recipients under Title VI of the Civil Rights Act of 1964. Specifically, Title VI prohibits an agency that receives U.S. Department of Health and Human Service (HHS) funds, including hospitals, nursing homes, and health care centers, from adopting and implementing policies and procedures that exclude people in their programs, benefits, or activities.

B. Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 protects individuals from discrimination based on their race, color, or national origin when they participate in programs and activities that receive federal financial assistance. People who are eligible for public assistance, Medicaid, or other social services cannot be denied assistance because of their race, color, or national origin.

1. Some of the programs that may be covered by Title VI are:

- Extended care facilities
- Public assistance programs
- Nursing homes
- Adoption agencies
- Hospitals
- Day care centers
- Mental health centers
- Senior citizen centers
- Medicaid
- Family health centers and clinics
- Alcohol and drug treatment centers

2. Prohibited Discriminatory Acts

There are many forms of illegal discrimination based on race, color, or national origin that frequently limit the opportunities of minorities to gain equal access to services. A recipient of federal financial assistance may not, based on race, color, or national origin:

- Deny services, financial aid, or other benefits provided as a part of health or social service programs
- Provide a different service, financial aid, or other benefit, or provide them in a different manner from those provided to others in the program
- Segregate or separately treat individuals in any matter related to the receipt of any service, financial aid, or other benefit

C. Obligations of Hospitals and Benefits Agencies to Serve People Who Have Limited English Proficiency⁶

The U.S. Department of Health and Human Services Office for Civil Rights (OCR) plays a crucial role in defining a health care provider's obligations under the law. OCR offices are responsible for investigating formal complaints regarding discrimination based on Limited English Proficiency. OCR requires recipients of federal funds to:

1. Provide translation services at no cost to the Limited English Proficient (LEP) individual
2. Have written policies regarding language access services and staff who are aware of the policies
3. Determine the language needs of prospective patients at the earliest possible opportunity
4. Systematically track LEP clients and clients' needs
5. Identify a single individual or department charged with ensuring the provision of language-accessible services
6. Provide written notices to clients in their primary language informing them of their right to receive interpretive services
7. *Not* use minors to translate
8. Use family and friends as translators only as a last resort and only with informed consent
9. Ensure the availability of a sufficient number of qualified interpreters on a 24-hour basis—including telephonic services
10. Use only qualified and trained interpreters with demonstrated proficiency in both English and the other language, knowledge of specialized terms and concepts in both languages, and the ethics of interpreting

D. Filing a Complaint with the Office for Civil Rights (OCR)⁷

If your client believes that he or she has been discriminated against on the basis of disability, race, color, or national origin (including LEP) by an entity

⁶ Schlosberg, Claudia, *Immigrant Access to Health Benefits: A Training Manual*. National Health Law Project and The Access Project, 1999.

⁷ *Ibid.*

receiving federal funds from the U.S. Department of Health and Human Services, he or she may file a complaint with OCR within 180 days from the date of the alleged discriminatory act. The OCR may extend the 180-day period if he or she can show “good cause.”

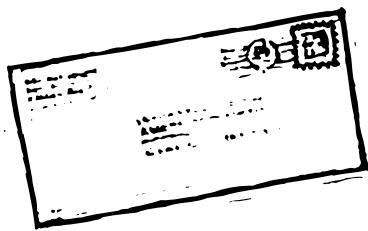
You can also file a complaint on behalf of your client.

If you would like assistance with a complaint contact OCR at 800-368-1019 (phone) 800-537-7697 (fax).

In your complaint, include the following information:

1. Your name, address, and telephone number. You must sign your name. (If you are filing a complaint on someone else’s behalf, include your name, address, telephone number, and a statement of your relationship to the individual, such as, spouse, attorney, friend.)
2. Name and address of the institution or agency you believe discriminated against you.
3. How, why, and when you believe you were discriminated against.
4. Any other relevant information.

You can send your complaint to the OCR Regional Office II in New York (New York, New Jersey, Puerto Rico, Virgin Islands):



**Regional Director, Office for Civil Rights
U.S. Department of Health and Human Services
Jacob Javits Federal Building
26 Federal Plaza, Suite 3312
New York, NY 10278
Phone 212-264-3313 Fax 212-264-3039 TDD 212-264-2355**

Upon receipt of your complaint, the OCR will review it. If your complaint raises covered issues, an investigation will be initiated. If discrimination is found, the OCR will negotiate with the institution or agency to voluntarily correct the discrimination. If negotiations are unsuccessful, enforcement proceedings may be instituted to suspend federal funding. You may also have the right to consult a private attorney and seek relief through the filing of a private lawsuit.

Section 504 of the Rehabilitation Act and Title VI of the Civil Rights Act prohibit the alleged discriminating party from taking retaliatory action. You should notify the OCR immediately in the event of any retaliatory action.

If you require a quick answer regarding a civil rights problem, **call OCR at: 800-368-1019 (phone) or 800-537-7697 (fax).**

E. New Jersey Laws That Require Language Appropriate Health Care Services

In response to New Jersey's highly diverse immigrant community, state legislatures and administrative agencies have taken some steps toward creating a more linguistically appropriate health care system. The chart below includes some of the statutes and laws that require state agencies, service agencies, and health care facilities with whom the state has contracted to provide language appropriate services.⁸

New Jersey Laws

N.J.S.A. 26:2-168	Department of Health must disseminate informational brochure on breast cancer in English and Spanish.
N.J.S.A. 26:2H-12.8(h)	Patients have the right to expect that, within their capacity, hospitals will make reasonable responses to requests for services, including the services of an interpreter, if 10 percent or more of the population of the hospital's service area speaks that language.
N.J.S.A. 30:4-27.11	Patients admitted to psychiatric facilities have the right to have examinations and services provided through interpreters in their primary means of communication at the earliest possible time.
N.J.S.A. 30:1-1.1	Requires the Department of Human Services to establish a comprehensive social services information hotline operating in Spanish and English.
N.J.A.C. 2:36-1.5	Applications for child nutrition programs (WIC) must be provided in other languages than English where non-English-speaking parents are possible applicants.
N.J.A.C. 8:33-4.10(a)(8)	For approval of certificate need, hospital must show how the project will promote access for racial and ethnic minorities and must document effective communication between the staff of the proposed project and the non-English-speaking people.
N.J.A.C. 8:42-13.1(b)5	Each patient of a home health agency has the right to receive, as soon as possible, the services of a translator or interpreter to facilitate communication between the patient and health care personnel.
N.J.A.C. 8:42A-6.7	Drug and alcohol treatment facilities must provide interpreter services if their patient population is non-English speaking.
N.J.A.C. 8:42C-5.1	Each patient of a hospice agency has the right to receive, as soon as possible, the services of a translator or interpreter to facilitate communication between the patient and health care personnel.
N.J.A.C. 8:43H-6.1(a)(14)	Rehabilitation hospitals must provide interpreter services if their patient population is non-English speaking.

⁸ Perkins J., Simon H., Cheng F., Olson K., Vera Y., *Ensuring Linguistic Access in Health Care Settings: Legal Rights and Responsibilities*. National Health Law Program, 1998.)

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Glossary

Affidavit of Support: A legal document required for most people who apply for a green card through a family member. The family member or “sponsor” promises to support the immigrant when he or she comes to the United States.

Amerasian: Child fathered by a U.S. citizen in certain Southeast Asian countries during the years of U.S. conflict in that region. Amerasians were granted lawful permanent status under special provisions of immigration law.

Asylee: A noncitizen granted legal immigration status based on a claim of persecution or feared persecution in his/her home country. Persecution or fear may be based on race, religion, nationality, membership in a particular social group, or political opinion. Unlike refugee status, which is granted to people when they are outside of the United States, asylum is granted to people currently in the United States. Asylum status (also called “political asylum”) lasts until terminated or until the asylee becomes a Lawful Permanent Resident (LPR). Asylees are eligible to apply for LPR status after one

year of residency. Individuals granted asylum, who are LPRs, are eligible to file for citizenship five (5) years from the date granted permanent residency. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 imposed a one-year deadline (from the date of entry into the United States) by which a person fearing persecution must apply for asylum status or be forever barred from doing so.

Citizenship: The country in which a person is born (and has not rescinded citizenship) or naturalized; the country to which that person owes allegiance and is entitled to its protection.

Cuban/Haitian Entrant: A national of Cuba or Haiti who has been granted parole status as a Cuban/Haitian entrant (status pending) or granted any other special status under the U.S. immigration laws for nationals of Cuba or Haiti. Also refers to any national of Cuba or Haiti who was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act (INA). In addition, the term refers to any national of Cuba or Haiti who is the subject of removal proceedings under the INA, or has an application for asylum pending with the INS, but has not received a final, nonappealable, and legally enforceable order of deportation. Cuban/Haitian entrants qualify for benefits in the same way as refugees.

Deeming: The attribution of a sponsor's income to the sponsored immigrant when the sponsored immigrant applies for benefits. Deeming of the sponsor's income usually will make the immigrant ineligible for means-tested public benefits temporarily or permanently. As of the writing of this document, there is no deeming for Medicaid or other health programs.

Deferred Enforced Departure/Extended Voluntary Departure: A special temporary status granted to designated national groups in the United States because conditions in their countries of origin are "unstable." Immigrants in this status are temporarily allowed to remain in the United States until conditions in their home country change.

Hill-Burton Act: A federal law that provided grants to states to build hospitals and other health care facilities. Hospitals and health care facilities built with Hill-Burton funds assume obligations to provide community services and, to a more limited degree, free care.

Lawful Permanent Resident (LPR): Immigrants are granted LPR status by either the U.S. State Department abroad or by the INS in the United States. The two most typical ways to obtain LPR status are: 1) being related to a U.S. citizen or LPR (family reunification), or 2) having job skills that are needed by a U.S. employer. Other ways to obtain LPR status include: having refugee or asylee status for one year, winning a slot in the diversity visa lottery, being granted amnesty after having lived a long time in the United States, or being given the status by an immigration judge on the basis of hardship or other reasons.

Native Americans: Native Americans with at least 50 percent American Indian blood who were born in Canada.

Naturalized Citizen: Lawful Permanent Residents are eligible to apply for U.S. citizenship through a process called naturalization. To qualify to naturalize, applicants must reside in the United States for five years (three if they are married to a U.S. citizen); demonstrate a knowledge of U.S. history and government; prove that they are of “good moral character”; and demonstrate that they can understand, speak, and write English.

Nonimmigrant: A person who seeks temporary entry into the United States for a specific purpose. Examples of nonimmigrant categories include foreign government officials, visitors for business and for pleasure, and students.

Parolee: The Justice Department has discretionary authority to permit certain persons or groups to enter the United States in an emergency or because it serves an overriding public interest. Parole may be granted for humanitarian, legal, or medical reasons.

Permanently Residing Under Color of Law: PRUCOL has historically been used by welfare programs to include noncitizens who are not LPRs, but who either have been affirmatively granted an immigration status by INS, have a formal INS application for status pending, or are known to INS and whom the INS is not planning to immediately deport. In New Jersey, the definition of PRUCOL includes, but is not limited to, applicants for asylum, people who have been granted Deferred Enforced Departure, people granted Temporary Protected Status, people who have filed for an adjustment of status with INS, and people who have applied for a green card based on being continuously present in the United States since 1972 (registry aliens) and other groups of individuals.

Qualified Immigrant: A term used to describe certain immigration statuses, including: Lawful Permanent Resident, refugee, asylee, people paroled for over one year, immigrants granted Withholding of Deportation, Cuban/Haitian entrants, VAWA applicants, Amerasians, and Native Americans born in Canada.

Qualified Quarters of Work: Quarters of work are determined by the amount of wages a person earns in a year. The maximum a person can earn is four quarters per year, so it takes approximately 10 years to earn 40 quarters of work. Immigrants can also be credited for work earned by their spouse or parent, but they are not allowed to use these quarters until they have been in the United States for five years.

Refugee: A noncitizen granted legal immigration status based on a claim of persecution or feared persecution in his or her home country, on account of race, religion, nationality, membership in a particular social group, or political opinion. Unlike asylum status, which is granted when a person is already in the United States, refugee status is granted to noncitizens who are outside

the United States. Refugees are eligible to apply for LPR status one year after entering the country and are eligible to apply for citizenship five years after entering the country. (If they marry a U.S. citizen, it's three years.)

Registry Date: Immigrants who have continuously resided in the United States in an unlawful status since January 1, 1972, are eligible to adjust to Lawful Permanent Resident status under the registry provision.

Temporary Protected Status (TPS): TPS is granted to people living in the United States who are from certain designated countries where unsafe conditions would make it a hardship for them to return. Grants of TPS are initially made for periods of 6 to 18 months and may be extended depending on the situation. Deportation proceedings are suspended against aliens while they are in TPS; however, people must register with the government each year or the government will revoke TPS if the person fails to do so. To find out which countries are currently designated as TPS, check the INS Web site at www.ins.usdoj.gov.

Undocumented Immigrant: An undocumented immigrant or an immigrant without proof of immigration status is a person who is present in the United States without the permission of the U.S. government. Undocumented immigrants enter the United States either:

- Illegally, without being inspected by an immigration officer, or by using false documents; or
- Legally, with a temporary visa, and then remain in the United States beyond the expiration date of the visa. Four out of ten undocumented immigrants enter the United States legally.

VAWA Applicant: An immigrant who was battered by an LPR, citizen spouse, parent, or other family member with whom the immigrant no longer lives and has since filed an application for adjustment of status under the Violence Against Women Act (VAWA).

Veteran: Qualified immigrants meet the veterans' exemption if they are: 1) on active duty in the military, 2) honorably discharged, or 3) the spouse, un-remarried surviving spouse, or unmarried dependent child of a veteran or active-duty service member. The surviving spouse is eligible if: 1) they were married to the veteran for at least one year, 2) they had a child with the veteran, or 3) the cause of the veteran's death was due to injury or disease incurred during military service and the marriage existed within 15 years after termination of the period of service in which the injury or disease was incurred or aggravated. Filipino war veterans who fought under U.S. command in WWII are considered veterans for purposes of the welfare bill. A "Congressional Statement" provides that Hmong and other Highland Lao veterans who fought under U.S. command during the Vietnam War should be considered as veterans for purposes of continuing benefits.⁹

⁹ *Immigrant Eligibility for Public Benefits*. National Immigration Law Center. September 1999.

Withholding of Removal: A status granted to a noncitizen who proves that he or she would be persecuted if returned to his or her country. Unlike refugee/asylee status, withholding of deportation does not lead to a grant of permanent residence. The 1996 immigration law changed the name of this status from “Withholding of Deportation” to “Withholding of Removal” for those granted status after the law went into effect.

Web Sites with Immigration Resources

- American Civil Liberties Union (ACLU) www.aclu.org
- American Immigration Lawyers Association www.aila.org
- Centers for Medicare and Medicaid Services (formerly HCFA) www.hcfa.gov
- HHS Office for Civil Rights www.hhs.gov/progorg/ocr
- Immigration and Naturalization Service www.ins.usdoj.gov
- Interpreter Releases www.fedpub.com
- Legal Services of New Jersey www.lsnj.org
- National Health Law Project www.healthlaw.org
- National Housing Law Project www.nhlp.org
- National Immigration Forum www.immigrationforum.org
- National Immigration Law Center www.nilc.org
- National Lawyers’ Guild www.nlg.org
- National Senior Citizens Law Center www.nslc.org
- New Jersey Division of Medical Assistance and Health Services www.state.nj.us/humanservices
- New Jersey Immigration Policy Network www.njipn.org
- State of New Jersey www.state.nj.us
- State of New Jersey Department of Health and Senior Services www.state.nj.us/health
- The Access Project www.accessproject.org
- UCLA Center for Health Policy Research www.healthpolicy.ucla.edu
- Urban Institute www.urban.org

Interpreter and Translation Services

A. Telephonic Interpreter Services

Three major private companies offer telephonic interpreting services, 24 hours a day, seven days a week. All charge for their services.

- **Certified Languages International:** Offers over 103 languages for medical, legal, social service, and technical interpretation.
Call 800-237-8434 for more information.
- **Pacific Interpreters, Inc.:** Offers 100 languages.
Call 800-870-1069 for more information.
- **Language Line Services:** Offers 140 languages for medical, legal, social service, and technical interpretation.
Call 800-752-6096 for more information or visit their web site at www.language.com.

B. Interpreter and Translation Services

- **International Institute of New Jersey:** Professional interpreting and translation services in 46 languages, including American Sign Language.
Call 201-653-3888 x 42 for more information or visit their Web site at www.iinj.org.

2001 Federal Poverty Level Guidelines

The Division of Medical Assistance (DMA) compares the family's income (before taxes or other deductions) to the federal poverty level.

DMA updates the federal poverty levels each April based on changes made by the federal government. The income levels below reflect the standards as of April 1, 2001.

Yearly Income for 2001 Federal Poverty Level (FPL) Guidelines

Family Size	100% of FPL	133% of FPL	150% of FPL	185% of FPL	200% of FPL	350% of FPL
1	\$ 8,590	\$11,425	\$12,885	\$15,892	\$17,180	\$30,065
2	\$11,610	\$15,442	\$17,415	\$21,479	\$23,220	\$40,635
3	\$14,630	\$19,458	\$21,945	\$27,066	\$29,260	\$51,205
4	\$17,650	\$23,475	\$26,475	\$32,653	\$35,300	\$61,775
5	\$20,670	\$27,492	\$31,005	\$38,240	\$41,340	\$72,345
6	\$23,690	\$31,508	\$35,535	\$43,827	\$47,380	\$82,915
7	\$26,710	\$35,525	\$40,065	\$49,414	\$53,420	\$93,485
Additional Persons	+ \$3,020	+ \$ 4,017	+ \$4,530	+ \$5,587	+ \$6,040	+ \$10,570



Order Form

HEALTH CARE ACCESS FOR IMMIGRANTS AND REFUGEES

A Guide to Understanding Eligibility for Health Care in New Jersey

The guide *Health Care Access for Immigrants and Refugees: A Guide to Understanding Eligibility for Health Care in New Jersey* was prepared by New Jersey Immigration Policy Network (NJIPN) for The Access Project, a national health care initiative located in Boston, MA.

Health Care Access for Immigrants and Refugees is intended as a resource for health care and legal providers, government agency staff, county welfare intake workers, community and grassroots organizations, social workers, and immigrant and refugee advocates who would like a better understanding about eligibility requirements.

This guide is for individuals who would like to know more about:

- Basic eligibility requirements for NJ health care services and programs
- Health services and programs without immigration status requirements
- Barriers to health care for immigrants and refugees and their families

This guide is for individuals who would find these tools useful:

- Web sites with immigration resources
- Immigration documents and corresponding key to immigration codes
- Case studies
- Glossary of immigration terms
- Interpreter and translation services

This guide is for individuals who would like answers to these and other questions:

- Can the INS deport an immigrant with a green card because the person receives health care?
- Does every family member need to prove his or her immigration status?
- Will refugees have problems if they use public benefits?
- Which immigrants must have sponsors?
- Which agencies are mandated to report people to the INS?

The cost of the guide is \$5 for nonprofit NJIPN members, \$15 for nonprofit non-members, and \$25 for for-profit non-members. Please indicate the number of guides you would like and make checks payable to New Jersey Immigration Policy Network (NJIPN). Mail your orders to: NJIPN, 972 Broad St., 8th Floor, Newark, NJ 07102.

Please print or type:

Number of guides _____ x \$ _____ per manual = Total cost \$ _____

Name _____ Organization _____

Address _____ City, State, Zip _____

Phone _____ Fax _____ E-mail _____

Amount enclosed \$ _____

