

LIBRE

LINKING IMMIGRANTS TO BENEFITS, RESOURCES, AND EDUCATION

Sponsorship Issues and Public Benefits

Training Outline



- Quick refresher on the LIBRE Project
- Overview of immigrant eligibility for public benefits
- Sponsorship issues related to receiving public benefits
- Discussion and questions

The LIBRE Model



- By Linking Immigrants to Benefits, Resources and Education, we are building the better future we all believe is possible. Together, we are LIBRE.
- We train and support community-based organizations who serve immigrants about eligibility for safety net services and dispel myths about effects on immigration status.
- We develop outreach materials for community partners to distribute to their communities.
- We assist clients who face issues accessing safety net services.

Benefits Available to U.S. Citizens



- Uhm...all of them.

Benefits Available to Legal Permanent Residents



- Legal Permanent Residents can apply for any public benefits.
 - If the LPR has a sponsor, the agency might count the income and resources of the sponsor. If the sponsored LPR uses public benefits, the government agency could ask sponsor to re-pay the agency.
 - ✦ This does not apply to VAWA petitioners.
 - If receiving SSI/CAPI/GA/CW/LTC AND out of the U.S. for more than 6 months, could be deemed a “Public Charge” and denied re-entry.

Benefits Available to Undocumented Immigrants



- Undocumented immigrants can get some Safety Net benefits without fear of being considered a “Public Charge.” These include:
 - Health Care Benefits (Restricted Medi-Cal, ACE, Healthy Kids, and AIM)
 - Food Program Benefits (WIC, and School Meals)
 - Other Non-Cash Programs (Public Housing, Disaster Relief, Childcare Services, Job Training, and Transportation Vouchers)
- Undocumented immigrants are not eligible for CASH benefits such as CalWORKs, Social Security, and General Assistance.

Benefits Available to Citizen Children of Undocumented Immigrants



- Citizen or Legal Permanent Resident children of undocumented parents may receive ALL public benefits.
 - **SNAP/CalFRESH**-- the grant will be pro-rated based on the number of documented people in the home.
 - **Public Housing**-- if at least one member of the household is eligible based on immigration status, the family may qualify, but the subsidy will be pro-rated to give the benefit only to the documented members of the household.
 - An undocumented parent can obtain **CalWORKs** or **SSI** for the documented children in their family.
 - ✦ This will not raise a “Public Charge” issue as long as this is not the only source of income for the family.

Immigration Documentation are Not Required for Many Benefit Programs



- **Restricted Medi-Cal**
- **Full-Scope Medi-Cal for Children** for 2 months through CHDP
- **Healthy Kids** for children
- **Breast, Cervical, and Prostate Cancer Treatment Programs**
- **Family PACT** (family planning services)
- **Medical care at the County public hospital and clinics**
- **Access for Infants and Mothers (AIM)** for pregnancy care or for a newborn
- **California Children's Services (CCS)** if a child has a serious medical condition
- **Child Nutrition Programs**
- **Other Non-cash Assistance Programs**

Sponsorship Issues



Affidavit of Support



“Enforceable” Affidavit of Support (I-864)

- Affidavit of support (in effect since December 19, 1997)
- Promise of sponsor to support immigrant at 125% FPL (100% if active duty military)
- Enforceable by sponsored immigrant and by federal/state benefit agencies
- Triggers extended “deeming” of sponsor’s income in some programs

“Non-Enforceable” Affidavit of Support (I-134)

- “Traditional” affidavit of support – still used by some immigrants
- Anyone can sign (e.g., no income requirements)
- Not legally enforceable against sponsor but at government’s discretion whether to grant it weight

Who Doesn't Need a Sponsor?



- Refugees
- Asylees
- Registry applicants
- Victims of Trafficking
- Applicants for cancellation of removal
- Applicants under Cuban Adjustment Act, Haitian Refugee Immigrant Fairness Act, and NACARA
- Religious workers
- Special Immigrant Juveniles
- Certain Indo-Chinese, Eastern European parolees

Who Must Submit the Enforceable Affidavit (Form I-864)?



- Family-based immigrants
- Employment-based immigrants if relative is employer or owns > 5% of business
- *Exceptions*
 - Battered spouses and children
 - Widows/widowers
 - Person with credit for 40 quarters of work history
 - Children eligible under Child Citizenship Act

Sponsors



Who can be a sponsor?

- US Citizen or National or LPR
- 18 years old
- Domiciled in U.S.
- Able to meet income/asset requirements
- Family petitioner must be sponsor
 - ✦ Can have joint sponsor if unable to meet financial requirements

Sponsorship ends when the immigrant:

- Becomes a citizen
- Earns credit for 40 quarters of work
- Leaves U.S. permanently, or
- Dies (estate may be liable)

Sponsor Income Requirements (I-864)



- Household income of 125% of FPL (100% if active duty military)
- Household includes:
 - Sponsor
 - “Intending Immigrant”
 - Immigrant family members accompanying or following
 - Relatives residing with sponsor
 - Any others claimed as “dependents”
 - Any other immigrants sponsored

If Sponsor Cannot Meet Income Requirements



- Use income of other “household” members
 - Spouse, parent, adult son or daughter who reside with sponsor
 - Included as “dependents” on tax return
 - Contract with sponsor and agree to joint and separate support liability (I-864A)
- Recruit joint sponsor
- Add assets
- Can use immigrant’s income if spouse of sponsor or live with sponsor and income will continue from same source after become LPR

Sponsor Deeming



- A Sponsor's income may be “deemed” available to the immigrant when applying for means-tested public benefits
 - Some exceptions to sponsor deeming:
 - ✦ Domestic violence survivors
 - ✦ If immigrant would go hungry or homeless without the benefit
- **NEW:** Lawfully residing children and pregnant women covered under new CHIPRA state option are **NOT** subject to sponsor deeming or sponsor liability
- California deeming rules:
 - No deeming of sponsor's income in health programs (e.g. Medi-Cal, Healthy Families)
 - Deeming rules apply to: SSI, CAPI, CalWORKs, SNAP, CFAP, GA

Sponsor Liability



- I-864 Sponsor may have to repay government if sponsored immigrant uses certain means-tested benefits
- Means-tested benefits:
 - SSI, TANF, Medicaid (non-emergency), SNAP (Food Stamps) (Unless sponsor also gets SNAP), CHIP (Healthy Families), and other state programs as defined by the state.
 - Excludes: Emergency Medi-Cal, immunizations, treatment/testing of communicable diseases, school meals, Head Start, foster care, student assistance, and Job Training Partnership Act.
- California has not yet pursued sponsors to repay any program
 - States are not required to pursue sponsors and cannot pursue sponsors for state benefits used before designating them formally as “means-tested”

Summary of Sponsorship Issues



- Sponsor(s) sign an Affidavit of Support with USCIS to financially support certain immigrants who become LPRs
- Sponsor liability starts AFTER the sponsored immigrants becomes an LPR
- Sponsor liability can end after immigrant becomes U.S. citizen or has sufficient work history
- Some sponsors may be required to repay certain benefits used by the sponsored immigrant, BUT CA has not yet required repayment from sponsors
- Sponsors are not liable for benefits received by citizen children of sponsored immigrants
- Receipt of benefits does not automatically prevent a person from becoming a sponsor

QUESTIONS?

