

## Evidence List<sup>1</sup>

### FOR BATTERED IMMIGRANT WOMEN SEEKING PUBLIC BENEFITS<sup>2</sup>

***This is a fairly inclusive list. In most cases, these documents are not mandatory. However, the more documentation available, the easier it will be for a VAWA self-petitioner to be successful in her application.***

This list is designed to provide advocates working with battered immigrants with a tool that will help them work more effectively with battered immigrants preparing to apply for public benefits such as TANF, Food Stamps, Medicaid, and SSI. This checklist should be utilized as a guide to determine whether a battered immigrant is eligible to receive cash benefits. This checklist is not an exhausted list of documentation needed to prove eligibility requirements. Advocates are strongly encouraged to accompany their clients to the benefits agency to insure their clients are not denied these benefits by caseworkers who do not fully understand the process and eligibility requirements involved. Advocates should not be deterred from applying for a benefit if the applicant meets the requirements set forth below. It is important to apply for the benefit, receive a determination, and if the determination is unfavorable, appeal the decision. By working with this checklist, advocates can help improve the success battered women will have in obtaining public benefits. *A checklist of evidence required to obtain a non-work social security number provided in a separate publication: Krisztina Szabo, Amanda Baran, Soraya Fata and Leslye E. Orloff, Evidence List for an Undocumented Immigrant and/or Child to Obtain Social Security Numbers (March 21, 2014)*

#### 1. IMMIGRATION DOCUMENTS PROVING QUALIFIED IMMIGRANT STATUS

Documented and undocumented battered immigrants are "qualified immigrants" if they prove the following:

Exists	Brought In	
_____	_____	VAWA Prima Facie Determination – i.e. Receipt Notice evidencing the filing of a VAWA Self-petition; OR
_____	_____	Approved VAWA self-petition; OR
_____	_____	Approved family-based petition; OR
_____	_____	Documents proving the battered immigrant has been granted

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<sup>2</sup> This document has been updated and adapted from one developed jointly by Legal Momentum, Organization en California de Lideres Campesinas, and the Iowa Coalition Against Domestic Violence that was included in *Breaking Barriers: A Complete Guide to Legal Rights and Resources for Battered Immigrants* (Legal Momentum, Washington, D.C. 2004) and Legal Momentum and Organizacion en California de Lideres Campesinas, "Advocacy To Improve Service For Battered Migrant and Immigrant Women Living In Rural Communities: A Manual" (Legal Momentum, Washington, D.C. 2002).

cancellation of removal by an immigration judge (the deportation process has been stopped and the woman has been given a green card).

**2. DOCUMENTS PROVING ENTRY INTO THE UNITED STATES PRIOR TO AUGUST 22, 1996**

Exists	Brought In	
_____	_____	Asylum application filed prior to 8/22/96; OR
_____	_____	Notice to Appear evidencing date of entry prior to 8/22/1996; OR
_____	_____	Order to Show Cause evidencing date of entry prior to 8/22/1996; OR
_____	_____	I-94 card with entry stamp prior to 8/22/1996; OR
_____	_____	Passport evidencing entry stamp prior to 8/22/1996; OR
_____	_____	Approved work authorization (approved prior to 8/22/96); OR
_____	_____	Documentation proving physical presence (copy of lease of new home, utility bills, letter from battered women’s shelter, monthly bank statement, etc., demonstrating continuous physical presence in the United States from 8/22/1996 to the present).

**3. DOCUMENTS TO PROVE ABUSE**

The immigrant or the immigrant's child has been abused by their U.S. citizen or lawful permanent resident spouse or parent, or by the spouse's or parent's family member living in the same household.

Exists	Brought In	
_____	_____	Protective Order
_____	_____	Police reports
_____	_____	Transcript from 911 calls
_____	_____	Medical records
_____	_____	Hospital records documenting the abuse (even if she did not tell anyone at the hospital that her partner caused the abuse and even if she denied that the cause was domestic violence)
_____	_____	Photographs of any injuries
_____	_____	Torn clothing or destroyed property or photographs of these
_____	_____	Affidavit from shelter workers
_____	_____	Affidavit from doctors, nurses, counselors, mental health professionals or social workers whom you or your children have spoken with or received treatment from in relations to the domestic violence.
_____	_____	Affidavit from neighbors, friends, or family who witnessed the abuse: witnessed any incident of the abuse, saw your bruises, heard you scream, witnessed your abuser’s threats against you, your children or

your family members.

#### **4. EVIDENCE THAT VICTIM IS NO LONGER RESIDING WITH THE ABUSER**

The battered immigrant or child must no longer live with the abuser. (Note that the benefits agency may decide that the battered immigrant is ineligible for benefits *if she is still living with the abuser.*)

Exists	Brought In	
_____	_____	Copy of lease agreement of new home
_____	_____	Letter from battered women's shelter, friend, family member evidencing place of residence.
_____	_____	Utility bills (i.e. Electric, Gas bills) evidencing new address
_____	_____	Monthly bank statement evidencing new address

#### **5. EVIDENCE OF SUBSTANTIAL CONNECTION BETWEEN ABUSE AND NEED FOR PUBLIC BENEFITS**

The battered immigrant or child must prove there is a "substantial connection" between the abuse and the need for the public benefit. To establish this connection, the applicant will need to assert that she has been a victim of abuse and that she is in need of public benefits in order:

- To help the victim of abuse be able to support herself economically without help from the abuser and/or the abuser's community.
- To ensure the safety of the woman and her children.
- To make up for the loss of financial support due to the separation.
- To make up for the loss of a job or income because of the abuse or because of time spent in domestic violence legal proceedings.
- To make up for the loss of a place to live as a result of the abuse.
- To help the victim take care of the children when fear of the abuser interferes with child care.
- To meet nutritional needs resulting from the abuse or separation.
- To provide for medical care during a pregnancy that resulted from the abuse.
- To replace medical coverage or health care services that were lost because of the separation from the abuser.

#### **6. EXEMPTION FROM DEEMING REQUIREMENTS**

In order for any person to qualify to receive public benefits, the state benefits granting agency must determine whether the applicant is "income eligible" to receive the benefit. If a person obtained lawful permanent resident status through a family member, an affidavit of support is required. This affidavit states that the sponsor is willing to be financially responsible for that immigrant. Therefore when

seeking public benefits, the benefits granting agency assumes, for the purposes of determining income eligibility, that the immigrant has full access to the income and assets of her sponsor. The following groups of battered immigrants are exempt for 12 months from meeting the deeming requirements:

Exists	Brought In	
_____	_____	VAWA self-petitioners (with prima facie determinations, approved self-petitions, or those who have received lawful permanent residency under VAWA);
_____	_____	VAWA cancellation of removal or suspension of deportation applicants (with prima facie determinations, approved self-petitions, or those who have received lawful permanent residency under VAWA);
_____	_____	Battered immigrants with approved I-130 petitions filed for them by their spouses or parents;
_____	_____	Children whose battered immigrant parent qualifies for benefits due to VAWA or an approved family-based visa petition;
_____	_____	Lawful permanent residents and any dependent children who obtained their status through a family-based visa petition and were battered before and/or after obtaining lawful permanent residency;
		and
_____	_____	Certain indigent immigrants who the benefits provider determines to be unable to obtain food and shelter in the absence of assistance.