

Best Practices for Serving Immigrant Victims: Enhancing Safety Planning, Access to Public Benefits and Services

2023 Maryland Crime Victims' Rights
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Introduction



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Learning Objectives

By the end of this webinar you will be better able to:

- Understand how filing for victim-related immigration benefits enhances access to public benefits safety net services
- Know which publicly funded benefits and services are open to immigrant survivors regardless of their immigration status
- Navigate NIWAP's online benefits map and state-by-state charts to look up state and/or federally-funded benefits and services for which immigrant crime victims qualify

Who is attending this workshop today?

Many Immigrant Victims of Domestic Violence, Child Abuse, Sexual Assault and Other Crimes Are Eligible for Immigration Relief

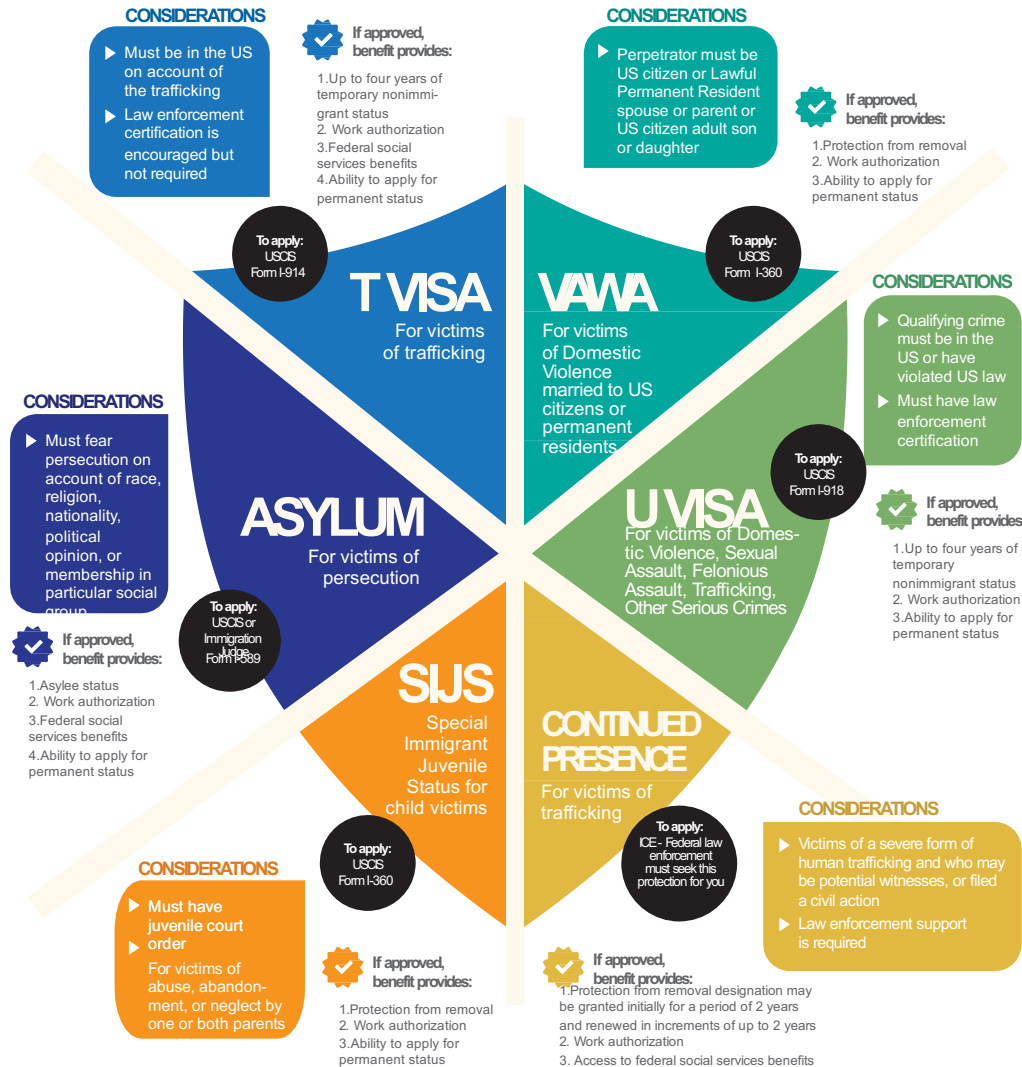
Question

How do survivors benefit from the process of applying for and by gaining legal immigration status?

Benefits for Survivors

- Protection from deportation
- Access to legal immigration status
- Ability get immigration relief for children
- Financial independence from perpetrator
 - Legal work authorization (6 months to 5 years from filing)
 - Issuance of federally recognized driver's licenses and IDs
 - Increased access to federal and state public benefits
- VAWA confidentiality

PROTECTIONS FOR IMMIGRANT VICTIMS



DHS.GOV/BLUE-CAMPAIGN

Immigration Relief Available for Immigrant Victims of ---

- Domestic violence
 - Child abuse
- Sexual assault
- Rape
- Incest
- Prostitution
- Torture
- Felonious assault
- Manslaughter
- Murder
- Female genital mutilation
- Kidnapping
- Abduction
- Trafficking
- Involuntary servitude
- Slave trade
- Being held hostage
- Fraud Foreign Labor Contracting
- Peonage
- False Imprisonment
- Blackmail
- Extortion
- Witness tampering
- Obstruction of justice
- Perjury
- Stalking
- Similar activities
 - Hate crimes, child/elder abuse
- **Parent perpetrated**
 - **Child abuse**
 - **Child neglect**
 - **Child abandonment**

Attempt, conspiracy or solicitation to commit any of these crimes or any similar activity

VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
- By a U.S. Citizen or Permanent Resident
 - spouse;
 - parent; or
 - Citizen adult son/daughter (over 21)
- With Whom Self-Petitioner Resided
 - No time period required
- Good Moral Character
- Good Faith Marriage
- VAWA cancellation of removal has similar eligibility requirements

Battered Spouse Waivers

- For domestic violence survivors, provides for waiver of the “condition” placed on the status of immigrant spouses of marriages less than two years old
- Waives both the joint filing requirement and two year wait for full lawful permanent resident status
- Requires proof that
 - Marriage to U.S. citizen or permanent resident entered into in good faith *and*
 - Spouse or child was battered or subjected to extreme cruelty
 - Child can include step-child

Immigration and Nationality Act § 216(c)(4)



Special Immigrant Juvenile Status (SIJS)

- Immigration relief for unmarried children
- Under the age of majority under state law
- Victims of abuse, abandonment, neglect, or dependency
 - By at least **one parent**
- To apply must submit required findings from a state court with jurisdiction over
 - the care, custody, or dependency of the child

U Visa Requirements

- Victim of a qualifying criminal activity
- Has been, is being, or is likely to be helpful in
 - Detection, investigation, prosecution, conviction or sentencing
- Suffered substantial physical or mental abuse as a result of the victimization
- Possesses information about the crime
- Crime occurred in the U.S. or violated U.S. law

T Visa for Trafficking Victims

- A victim of a severe form of trafficking in persons
 - Sex or labor trafficking involving victim under 18 or and adult subject to force, fraud or coercion
 - Victim is physically present in the U.S. on account of trafficking
 - Victim must comply with reasonable requests for helpfulness in investigating or prosecuting trafficking.
- Exceptions
- Under age 18
 - Physical or psychological trauma impede helpfulness/cooperation
- Removal from the U.S. would cause extreme hardship

What are Severe Forms of Human Trafficking?

- **Sex Trafficking:** in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- **Labor:** The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery

(Federal Law—"Victims of Trafficking and Violence Prevention Act of 2000 can be found at www.ojp.usdoj.gov/vawo/laws/vawo2000/)



Clara and Eduardo Case Scenario

Clara met Eduardo a lawful permanent resident when he came back to his hometown to visit his family in El Salvador. Eduardo started dating Clara who was raising her 9 year old son Miguel. After Clara became pregnant and gave birth to a baby girl Lupe, Eduardo decided to bring Clara, Miguel and Lupe to the U.S. to live with him. When they arrived in the U.S. Eduardo took Clara, Miguel and Lupe's passports and became physically and sexually abusive of Clara and abusive of Miguel who tried to protect his mother from Eduardo's abuse. Eduardo also physically beat Lupe when he said she "misbehaved". Within a year following their arrival in the U.S. Eduardo forced both Clara and Miguel to work for his family's business and never paid them for their labor. One night when Miguel was 13 and Lupe was 5, Eduardo's rage led to severe beatings with a belt of Miguel and of Lupe. When Clara intervened to protect the children, Eduardo strangled her until she passed out. The neighbors call the police for help, Clara talked to police when they arrived. The police arrested Eduardo for attempted murder and child abuse, took Clara to the hospital and placed the children in the care of the state.



Poll 1: What forms of immigration relief would Clara qualify for:

- A. U visa
- B. VAWA self-petition as the parent of Lupe
- C. T visa
- D. All of the above

▼ Feedback

☐ A

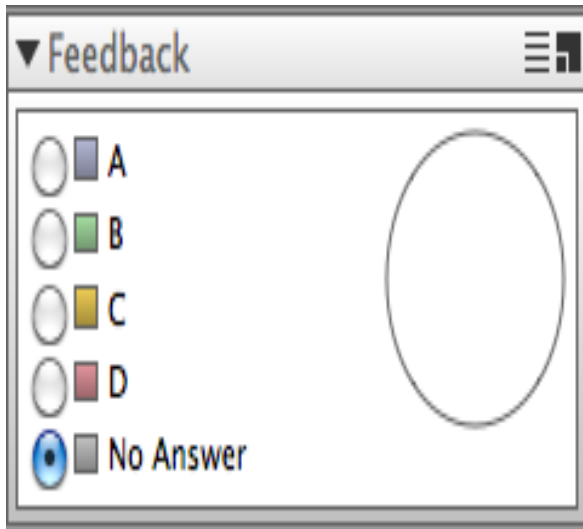
☐ B

☐ C

☐ D

☒ No Answer

Poll 2: What forms of immigration relief would Lupe not qualify for:



▼ Feedback

☐ A

☐ B

☐ C

☐ D

☒ No Answer

- A. VAWA self-petition
- B. U visa
- C. T visa
- D. SIJS

Poll 3: What forms of immigration relief would Miguel qualify for (Check all that apply) :

▼ Feedback

☐ A

☐ B

☐ C

☐ D

☒ No Answer

- A. VAWA self-petition
- B. U visa
- C. T visa
- D. SIJS

Benefits of OTIP Letters for Miguel

- The Office of Trafficking in Persons (OTIP) at HHS issues
 - Certification Letters to foreign national adults and
 - Eligibility Letters to foreign national children
- OTIP Letters provide access to public benefits, as refugees, for life.
- Must be accepted by Federal and State agencies.

Immigration & Public Benefits - Clara, Lupe & Miguel -MD

- TANF: T visa (ORR letter) VAWA self- petitioners eligible (3 mo), SIJS filed
 - U visa (bona fide determination 4-5 years)
- SNAP: T visa (ORR letter) – Clara and children
 - Children: VAWA prima facie (3 mo), SIJS-LPRs (≈ 3 years);
 - Clara: VAWA (5yr); U visa –LPR (≈ 26 yr)
- Housing: T visa (ORR letter), VAWAs, LPRs: SIJS (≈ 3 yr), U visa (≈ 21 yr)
- Health purchase on exchange:
 - T visa (ORR letter) VAWAs (3 mos), SIJS filed, U visa bona fide (≈ 4 -5 yrs)
- Health subsidies: Lawfully present children
 - T visa ORR letter, VAWA (3 mos); SIJS filed, U bona fide (≈ 4 -5 yrs), or Montgomery Co (250% FLP); Prince Georges (300% FLP)
 - Adults: T visas (ORR letter), If pregnant; Montgomery (250% FLP).
- Education (FAFSA): T visa (ORR letter); VAWA (3 mo)
 - LPRs: SIJS (≈ 3 yr), U visa (≈ 21 yr)

Access to Publicly Funded Programs and Legal Services Open to all Immigrant Survivors

Access for All

Both documented and undocumented immigrant survivors can access:

- Legal Services
- Family Court (Divorce)
- Language Access
- Police Assistance
- Protection Orders
- Child Custody & Support
- Have Their Abusers
Criminally Prosecuted
- Public Benefits for Their
Children
- Assistance for Crime Victims
- Shelter
- Transitional Housing
- GED
- WIC/school lunch & breakfast
- Primary/Secondary education
- Immunizations
- Emergency medical care
- Care from community &
migrant health clinics
- VOCA

Attorney General's List of Required Services



- In-kind services
- Provided at the community level
- Not based on the individual's income or resources
- Necessary to protect life and safety

Federal Benefits Available to ALL Immigrants



- Elementary and Secondary education
- School lunch and breakfast
- WIC
- Immunizations, testing, and treatment of communicable diseases
- Emergency Medicaid

In-Kind Services Necessary to Protect Life and Safety Open to All Immigrants

- Child and adult protection services
- Crisis counseling and intervention
- Violence and abuse prevention
- Victim assistance
- Treatment of mental illness or substance abuse
- Help during adverse weather conditions
- Soup kitchens
- Community food banks
- Shelter & transitional housing assistance
- Nutrition programs for those requiring special assistance



When children qualify and their parents/guardians do not:

- If a child qualifies for benefits as a citizen or qualified immigrant the benefits granting agency may only ask questions about the child's eligibility
- No questions may be asked about the immigration status of the child's parent if the parent is not applying for additional benefits for themselves

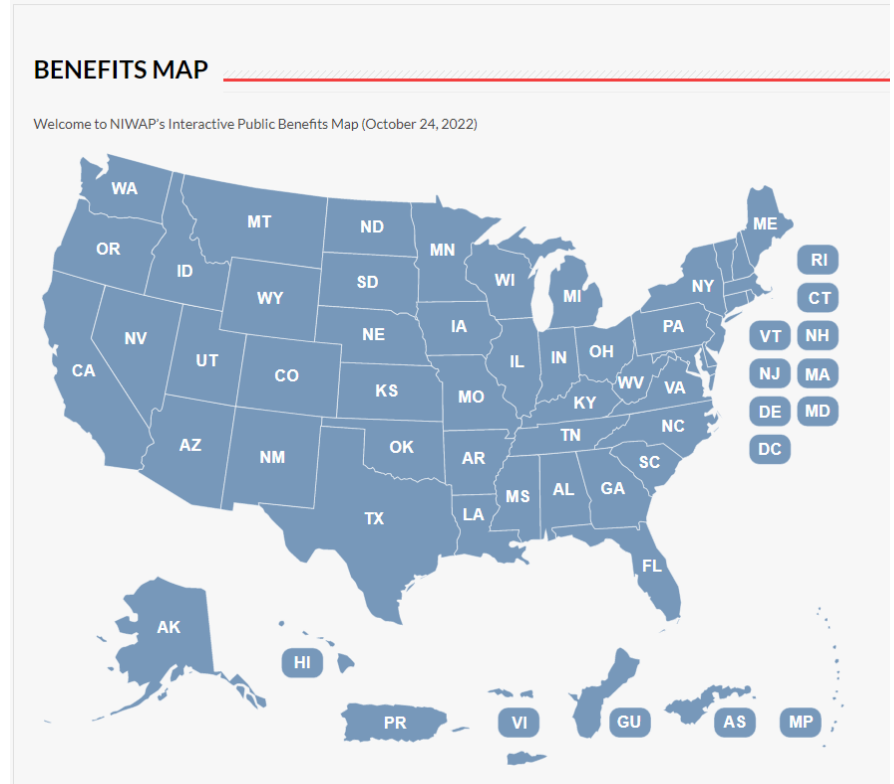
Interactive Public Benefits Map

| | Ben... | STATE & TERRITORY | Benefit Name | VAWA Self-Petitioner |
|---|--------|-------------------------|--|---|
| 1 | 309 | Florida Public Benefits | Child Care - TANF Funded | Eligible for TANF funded child care if receiving TANF. |
| 2 | 308 | Florida Public Benefits | Child Care: Child Care Development Fund (CCDF) | Eligible for CCDF |
| 3 | 310 | Florida Public Benefits | Children's Health Insurance Program (CHIP) | Eligible up to age 19 upon prima facie determination. ... |
| 4 | 311 | Florida Public Benefits | Earned Income Tax Credits (EITC) | Eligible with conditions upon receipt of work ... |
| 5 | 313 | Florida Public Benefits | Emergency Medicaid | Eligible. |
| 6 | 315 | Florida Public Benefits | Family Medical Leave Act - State Law | No state law, federal law applies. |
| 7 | 316 | Florida Public Benefits | Federal Education Student Aid, Grants, and Loans | Eligible upon prima facie determination. |

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Airtable

Download



<https://niwaplibrary.wcl.american.edu/benefits-map>

Maps by Benefit

- Cash Assistance (TANF)
- Child Care
- Children's Health Insurance Program
- Driver's License, IDs, & Professional Licenses
- Earned Income Tax Credit
- Emergency & Transitional Housing & Safety Programs
- Emergency Medicaid
- Family Medical Leave
- Federal Education Benefits
- FEMA Assistance & Restricted Programs
- Food Stamps
- Health Insurance Exchanges
- Income Tax Credits
- Legal Services
- Medicaid
- Prenatal Care
- State Education Benefits
- Supplemental Security Income
- VOCA
- Weatherization & Energy Assistance
- WIC
- Unemployment Insurance

Importance of Accompanying Immigrants in Applying for Public Benefits

- Help educate state benefits workers
- Accompanying immigrant applicants helps
 - Children and survivor get what they are legally entitled to access
 - Varies by state, immigration status, benefits program
 - Helps undocumented parents/guardians file for benefits for their eligible citizen and immigrant children
 - State welfare worker reporting requirements

Poll 4: True or False?

Immigrants applying for benefits for their children can refuse to provide immigration or social security information about themselves.



True

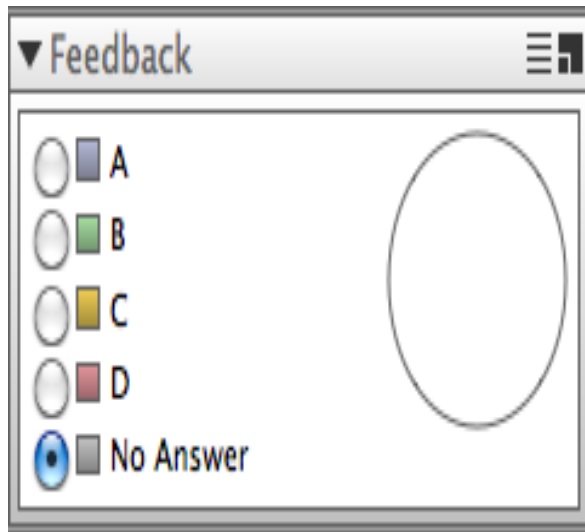


False

Importance of Accompaniment

- Federal Reporting Requirements
- Widespread Problems Nationally
 - Turned away at the door
 - No language access
 - Denied benefits for citizen children
 - VAWA eligible denied benefits
 - state benefits
- Need witnesses and documentation of treatment by benefits workers

Poll 5: What would you take with you to a public benefits agency with an immigrant survivor?



▼ Feedback

☐ A

☐ B

☐ C

☐ D

☒ No Answer

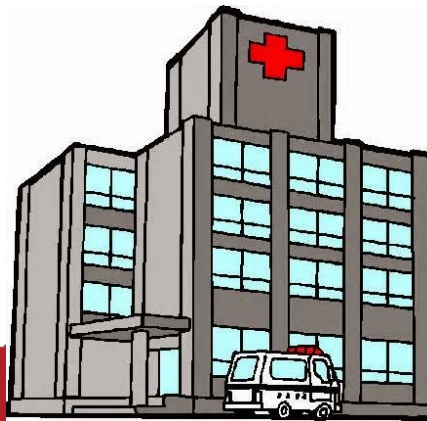
- A. Copy of the state/federal benefits statute
- B. DHS documents showing how victim is eligible
- C. Relevant state/federal policies
- D. All of the above

Discussion

Where can immigrant survivors receive subsidized health care without regard to immigration status?

Emergency Medicaid

- Available only in cases where the person needs treatment for medical conditions with acute symptoms that could:
 - place the patient's health in serious jeopardy;
 - result in serious impairment of bodily functions; or
 - cause dysfunction of any bodily organ or part
 - Includes COVID-19 testing and treatment



Health Care Open to All Immigrants

- Community and migrant health clinics
 - www.nachc.com
 - www.hrsa.gov
 - Enter zip code
 - Federally qualified health centers
 - Hill-Burton Obligated facilities
- State funded programs
- Post-assault health care paid by VOCA
- Emergency Medicaid
- Immunization, testing, treatment of communicable diseases



Federally Qualified Health Centers

- Primary care
- Diagnostic, laboratory and radiological services
- Prenatal care
- Post-assault health care
- Cancer and other disease screening
- Child wellness services
- Emergency medical and dental services
- Mental health treatment
- Immunizations
- Blood test screening
- Eye, ear and dental screenings for children
- Family planning services
- Preventative dental services
- Pharmaceutical services
- Substance abuse services

Access to Shelter, Transitional Housing and Permanent Housing



HUD, DOJ and HHS Confirmed in August 2016

- Housing providers must not turn away immigrants based on their immigration status from:
 - Emergency shelter
 - Transitional housing
 - Rapid re-housing
- Restating 1996 and 2001 law
- Open to all without regard to
 - Immigration status, citizenship, nationality, language ability

Benefits Available to all Immigrants Include:

- Short-term shelter or housing assistance, victim services counseling, and intervention for:
 - Victims of:
 - Domestic violence
 - Sexual assault
 - Stalking
 - Dating violence
 - Human trafficking
 - Child abuse
 - Other abuse
 - Homeless
 - Runaway or homeless youth
 - Abandoned children

Transitional Housing

- When transitional housing meets the in-kind, community level, and life and safety tests
 - Unit is owned or leased by the grantee and used to provide transitional housing
 - Must be open to all; No immigration restrictions
- Exception: Grantee paying rental assistance payments for participant *when regulations require income test*

Access to Benefits and Services Grows as Children and Victims Pursue Immigration Relief



Children and Crime Victims Qualified to Receive Public Benefits— Common Examples

- Qualified Immigrants benefits eligible
 - Lawful permanent residents
 - Includes U visas and SIJS
 - Refugees/Asylees
 - VAWA self-petitioners
 - Trafficking victim with
 - Continued presence or
 - Bona fide determination in T visa case
- Not generally benefits eligible some variation by state
 - Asylum applicants
 - DACA recipients
 - U visa applicants & recipients
 - Work/Student visa holders
 - Undocumented

Qualified Immigrant Access to Federal Public Benefits

- All qualified immigrants can access some federal public benefits
 - Which benefits they can access depends on:
 - Immigration status
 - When they entered the United States
 - Whether they meet heightened program requirements for some programs
 - What benefits are offered by the state

Federal Benefits Immigrant Restrictions

- Only programs that as a matter of law have immigrant restrictions are those categorized as:
 - “federal public benefits,” “state public benefits” or
 - “federal means-tested public benefits”
- Not a federal or state benefits unless payment is made directly to:
 - An individual
 - A household
 - A family eligibility unit

Examples of “Federal Public Benefits”

- **US Agency Funded/Provided:**
 - Grants
 - Contracts
 - Loans
 - Professional or commercial licenses
 - Drivers licenses
- **Federally Funded Benefits for**
 - Retirement
 - Welfare
 - Health
 - Disability
 - Postsecondary education
 - Public or assisted housing
 - Food assistance or
 - Unemployment

Who are “Qualified Immigrants”?

- Lawful permanent residents
- Refugees and asylees
- Cuban/Haitian entrants
- Veterans
- Amerasians
- Trafficking victims filing for or with T visas
- Persons granted conditional entry
- Persons paroled into U.S. one year or more
- Persons granted withholding of deportation or cancellation of removal
- VAWA: Persons who (or whose children) have been battered or subject to extreme cruelty by a U.S. citizen or lawful permanent resident spouse or parent

Survivors of Human Trafficking

- To be eligible for benefits, survivors of trafficking:
 - Must be children with an OTIP letter; Or
 - Must receive certification from the Office of Refugee Resettlement (ORR) that they are eligible for benefits as victims of trafficking
 - Based on having received a
 - Bona fide determination in their T visa case or
 - Continued presence
- Benefits agencies must accept ORR certification letter in place of typical Immigration documentation
- Also eligible for refugee programs
- OTIP children are assigned case workers

Partial List of Federal Public Benefits/Community Programs Open to All “Qualified Immigrants”

- Public and assisted housing
- Supportive housing for the elderly or disabled
- Post-secondary educational grants & loans
- Access to most subsidized child care
- Receive payments for providing foster care
- FEMA individual family grants and disaster unemployment
- Job opportunities for low income individuals
- Adoption assistance
- Low income and residential energy assistance programs
- Disability benefits
- Assistance to developmentally disabled
- Social services block grant programs

Public Benefits Eligibility by States

Poll 6: DHS requires universities to ask about immigration status of applicant or enrolling students.



True



False

Post –Secondary State Funded Education - MD

- Exempt from paying the out-of-state tuition rate at a community college in Maryland if:
 - Attended a public or nonpublic secondary school in Maryland for at least three years;
 - Either graduated from a public or nonpublic Maryland secondary school or has received the equivalent of a high school diploma in Maryland; and
 - Provides to the community college documentation that the individual's parent or legal guardian has filed a Maryland income tax return
 - Role of ITINs

Individual Taxpayer Identification Number (ITIN) Purpose

- A tax-processing number issued by the IRS to ensure that people pay taxes even if they do not have a Social Security number (SSN) and regardless of their immigration status.
- Complying with federal tax laws.
- Can open an interest-bearing bank account.
- Helps secure a driver's license.
- Proof of “good moral character” for immigration applications
- Immigrants can use tax returns to document their work history and physical presence in the U.S. in future immigration applications

Benefits in Maryland

- TANF
 - T visas & Continued Presence (CP) (ORR letter), VAWAs, SIJS applicants, U visa bona fide or waitlist
- Child care
 - TANF same as above
 - Child Care Development Fund – no restrictions
- SNAP: Children, Elderly or Disabled:
 - VAWAs, T visas/CP (ORR Letter), LPRs (SIJS & U visas)
- Education
 - Federal: VAWA, T visas/CP (ORR letter), LPRs (SIJS & U visas)
 - State: School in MD 3 yrs. + diploma + 3 yrs. taxes in MD filed by student, parent, guardian can use ITIN.

Benefits in Maryland

- Health Care
 - Exchanges: VAWA, CP, T visa, SIJS applicants, U visa bona fides
 - CHIP until 21: VAWAs, CP, T visa, U visa bona fides, SIJS filed
 - All children in Montgomery Co (250% FLP) Prince Georges Co (300% FLP)
 - Full scope adult Medicaid: CP, T visa (ORR Letter)
 - VAWAs, U visa bona fide, SIJS only if pregnant or after 5 year bar unless Montgomery Co (250% FLP)
- SSI (most limited): CP, T visa (ORR Letter)
 - VAWA & SIJS, U visa Need LPR +5 year bar+ 40 quarters work
- Driver's License
 - Maryland (not federally recognized) anyone with MD tax return
 - Federally recognized – work authorization
 - VAWA approved, T visa bona fide, CP, U visa bona fide, SIJS –LPRs, DACA

Benefits in Maryland

- Housing
 - Transitional – all victims + homeless + abused children
 - Public and Assisted: VAWA applicants, T visas/CP (ORR Letter) , LPRs (SIJS/U visa)
- LIHEAP
 - Weatherization everyone
 - LIHEAP – VAWA, T visa/CP (ORR Letter), LPRs (SIJS & U visas)
- FEMA
 - Emergency assistance: everyone
 - Individual Households Program; Individual & Family Grant Program; & US Small Business Administrations Loans
 - VAWA, T visa, CP, LPRs (SIJS & Us)
 - Disaster Unemployment Assistance: Requires work authorization

Non-Work SSNs

Example VAWA Self-Petitioners

- HUD regulations require that public and assisted housing recipients provide a Social Security Number.
- VAWA self-petitioners can request a non-work social security number from SSA.
- The victims' advocate or attorney should simultaneously request that the Public Housing Authority which received the victims' application for public or assisted housing issue a letter that the victim can request a non-work social security number from SSA.

List of Exemptions from Public Charge

- VAWA self-petitioners;
- VAWA cancellation of removal;
- VAWA suspension of deportation;
- Battered spouse waiver;
- Abused approved family-based visa applicants (I-130);
- VAWA NACARA,
- HRIFA or Cuban Adjustment;
- U visa;
- T visa applicants and holders*
- Refugees;
- Asylees;
- Special Immigrant Juvenile Status (SIJS);
- (DACA) applicants;
- Amerasians;
- Afghan and Iraqi military translators;
- certain Cuban and Haitian adjustment applicants;
- certain Nicaraguans and Central Americans under NACARA;
- Registry applicants;
- Soviet and Southeast Asian Lautenberg parolees;
- Certain visa holders**;
- Green Card holders

Public Charge Determination

- USCIS will review the following:
 - Non-citizen age, health, family status, financial status (including assets and resources), education, and skills;
 - Form I-864, *Affidavit of Support Under Section 213A of the INA*
 - Whether the person themselves (not a family member) received or are receiving:
 - Supplemental Security Income (SSI); Cash assistance for income maintenance Temporary Assistance for Needy Families (TANF); State or local income assistance “General Assistance”; or Long-term institutionalization at government expense.
- Other public benefits are excluded from the public charge determination – examples include:
 - Food stamps, nutritional assistance, CHIP, Medicaid, public or assisted housing, educational grants and loans

Web Page Materials

- Materials

<https://niwaplibrary.wcl.american.edu/MDconference2023>

- Public Benefits Training Materials

- NIWAP's public benefits map and state-by-state charts
- Benefits Open to all Immigrants -Brochure
- State Benefits Charts
- Brochure: Immigrant crime victims and public charge
- Privacy protections and benefits reporting requirements
- And more...

Technical Assistance and Materials

- NIWAP is a national organization that provides various services to professionals who work with immigrant women, children, and crime victims.
- NIWAP offers training, legal and social science research, policy development, and technical assistance to a wide range of professionals, including advocates, attorneys, local law enforcement, social services, etc.
- NIWAP Technical Assistance:
 - Call (202) 274-4457
 - E-mail info@niwap.org

NIWAP Web library

niwaplibrary.wcl.american.edu



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