

**ACCESS TO BENEFITS AND SERVICES  
GROWS AS CHILDREN AND VICTIMS  
PURSUE IMMIGRATION RELIEF**



# By the End of This Session You Will Be Able to:

- Help immigrant victims access assistance open to all persons without regard to immigration status
- Understand the connection between the form of immigration relief a victim pursues and the public benefits access a victim receives

# Immigrants and Benefits: True or False

1. Federally funded health care is available for undocumented immigrant victims
2. DHS requires universities to ask about immigration status of applicant or enrolling students
3. Undocumented victims and children can access transitional housing programs

# 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
- 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

# 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



# Federal Benefits Available to ALL Immigrants



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

# When children qualify and their parents 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



# Health Care Open to All Immigrants

- Community and migrant health clinics
  - [www.nachc.com](http://www.nachc.com)
  - [www.hrsa.gov](http://www.hrsa.gov)
  - Enter zip code
- State funded programs
- Post-assault health care paid by VOCA
- Immunizations, testing, and treatment of communicable diseases
- Emergency Medicaid

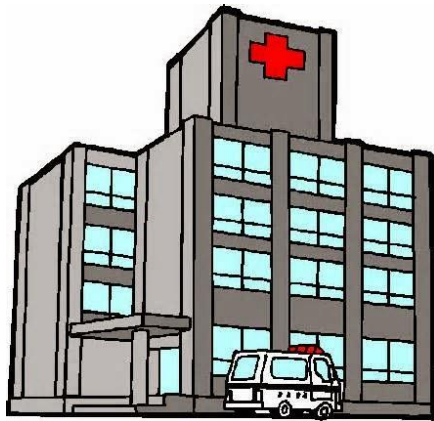


# Federally Qualified Health Centers

- 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
- Immunizations
- Blood test screening
- Eye, ear and dental screenings for children
- Family planning services
- Preventative dental services
- Pharmaceutical services
- Mental health treatment
- Substance abuse services

# 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

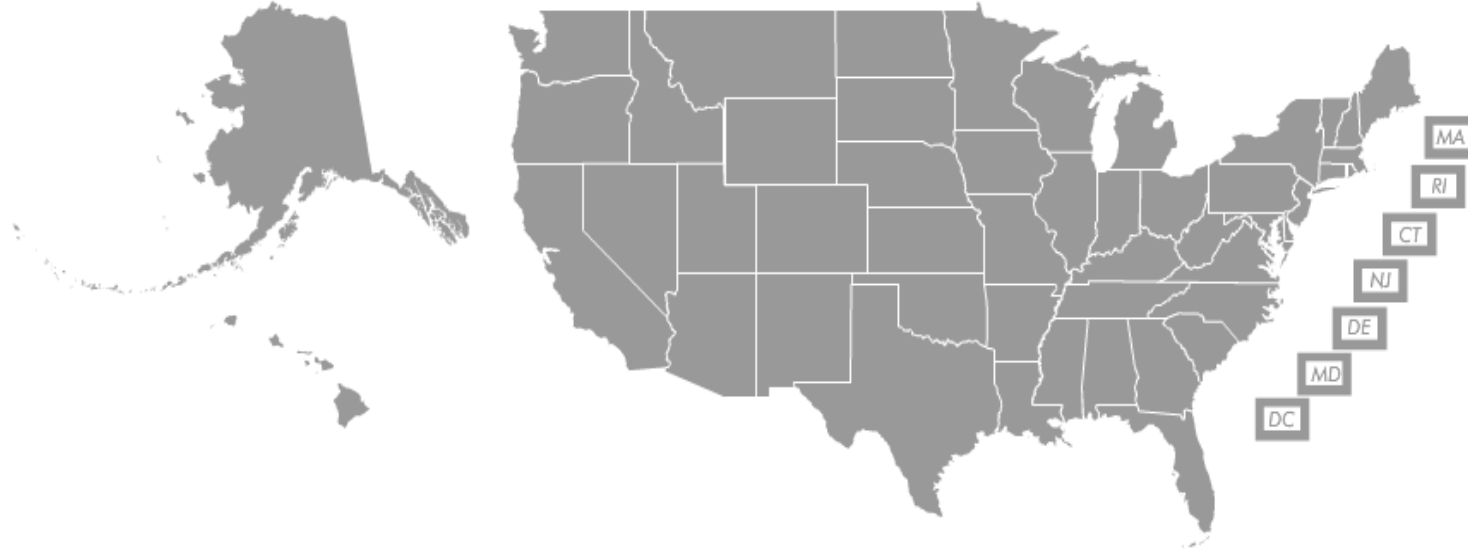


# Resources:

## Healthcare for Immigrant Victims

- State by state charts
  - Post assault health care
  - Emergency Medicare
  - Forensic Exams
  - Prenatal Care

# NIWAP Demographics Map



## Demographics

- TANF
- Health Care
- Post-Assault Care
- Pre-Natal Care
- Emergency Medicaid
- Forensic Exams
- Child Care
- Driver's Licenses
- Food Programs
- In-State Tuition
- SSI
- Energy/Weatherization

*If you have additional questions or need technical assistance on immigrant victim access to federal and state public benefits, contact NIWAP by e-mail at [info@niwap.org](mailto:info@niwap.org) or by phone at 202-274-4457.*

# Short Term, Non-Cash, In-Kind Emergency Disaster Assistance

- No immigrant restrictions
  - Search and rescue
  - Emergency medical care, mass care and shelter
  - Clearance of roads, temporary bridges
  - Public health/safety and further risk information
  - Essential needs: food, water, medicine
  - Reductions of immediate threats to life, safety, property, public health

# Disaster Relief and Immigrants

- FEMA Individual Family Grant Program and Disaster Unemployment Assistance – 1 family member is a --
  - Citizen, or
  - Qualified immigrant
    - Prima facie/approved VAWAs
    - T bona fide
    - Continued presence
    - Lawful permanent residents
    - Refugees/asylees
- Emergency Food Stamps
  - Continued presence and T bona fide
  - Otherwise very limited

# Large Group Discussion

- Have you worked with immigrant survivors who had difficulty accessing any of these programs?
- Did you accompany when they applied?



# Importance of Victim Advocacy

- Benefits law complex
- Need trained advocates and attorneys
- Importance of accompanying immigrant and LEP victims applying for benefits
- Need to prepare, bring copies of relevant laws and advocate
- Link benefits providers to legally correct information about benefits immigrant victims qualify to receive

# **Immigrant Survivors' Legal Rights to Access Federal and State Funded Benefits**

# 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” or
  - “federal means-tested public benefits”

# Only considered a Federal Public Benefit if:

- Payment made or assistance provided 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

# Immigration Relief Expands Benefits Access

## VAWA self-petition

- Qualified Immigrant (2-3 months after filing)
  - Self-petitioner and children

## Battered spouse waiver

- Qualified Immigrant

## Continued Presence

- Benefits access like refugees
- Need HHS certification

## T visa

- Benefits access like refugees (7 years) with HHS certification
- Qualified Immigrant with bona fide determination

## U visa

- Lawfully present upon wait-list approval

## Special Immigrant Juvenile

- Health care due to lawful presence upon filing
- Qualified Immigrant upon approval and receipt of lawful permanent residency

## Deferred Action for Childhood Arrival (DACA)

- No access to health care exchanges or subsidies

## Undocumented

- No federal public benefits
- Some states limited state benefits for victims

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

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



# 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
- 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

# Additional requirements for a battered immigrant spouse or child to be a “qualified immigrant”:

- The child’s immigrant parent must not have actively participated in the battery or cruelty
- There must be a “substantial connection” between the battery or extreme cruelty and the need for the public benefit sought
- The battered immigrant or child no longer resides in the same household as the abuser.

# “Substantial Connection” Exists When

- Access to benefits helps ensure the safety of the survivors, their children or a parent
- A survivor had to leave her job for safety reasons
- The survivor loses a dwelling or a source of income following separation
- The survivor needs medical attention or mental health counseling or has become disabled
- The survivor’s fear of the abuser jeopardizes the survivor’s ability to take care of her children

# “Substantial Connection” Exists When Public Benefits Are Needed...

- To alleviate nutritional risk or need resulting from the abuse or following separation
- When the survivor has lost her job or earns less because
  - of the battery or cruelty or
  - because of involvement in legal proceedings
- To provide medical care during a pregnancy resulting from the relationship with the abuser
- To replace medical coverage or health care services lost following separation.

# Survivors of Human Trafficking

- To be eligible for benefits, survivors of trafficking:
  - Must receive certification from the Office of Refugee Resettlement (ORR) that they are eligible for benefits as victims of trafficking; *Or*
  - Have received bona fide determinations in their T visa case making them qualified immigrants
- Benefits agencies must accept ORR certification letter in place of typical Immigration documentation
- Also eligible for refugee programs

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

- **Public and assisted housing**
- **Post-secondary educational grants & loans**
- **Driver’s Licenses**
- **Access to most subsidized child care**
- Low income and residential energy assistance programs
- Disability benefits
- Assistance to developmentally disabled
- Job opportunities for low income individuals
- Adoption assistance
- Foster care

# Education

- DHS does not require universities to ask about immigration status of applicant or enrolling students
- Immigrants eligible for student federal student loans
  - VAWA self-petitioners and their children
  - Permanent residents including SIJS
  - Trafficking victims
  - Refugees/asylees
  - SIJS recipients of lawful permanent residency

# Post secondary educational grants & loans

- Battered immigrant self-petitioners, T visa bona fide, and their children are qualified immigrants eligible to receive DOE funded grants and loans
- Universities are to accept DHS/Immigration Judge
  - Documentation of VAWA self-petition/cancellation status
- On FAFSA check “eligible noncitizen” and provide “A” number
- Explains no-match with DOE/DHS computer system and
  - DOES NOT require verification
- DHS documents must be current at each time of re-application
- Students remain eligible after age of majority unless
  - VAWA/T case is denied
- Children who receive SIJS/lawful permanent residency also qualify



# Post –Secondary State Funded Education

- In-state tuition for immigrants who are not citizens or lawful permanent residents
  - States with tuition equity laws/policies = 8
    - Plus scholarships = 3
    - Plus some state financial aid = 11

# Federal Means-Tested Public Programs Have Most Limited Immigrant Access:

- **TANF**
  - 5 yr. bar if entered the U.S. after August 22, 1996
- **SSI**
  - Lawful permanent residents only if 40 quarters or work credit + “qualified immigrant” status and 5 year bar if entered the U.S. after August 22, 1996
  - Refugee
  - Trafficking victim
  - Veteran and “qualified immigrant” spouses, children
- **Food Stamps**
  - “Qualified Immigrants” 5 year bar post August 22, 1996 and children
- **Medicaid and Child Health Insurance Program**
  - Health Care reform opened up access to immigrants who are “lawfully present”

# The Five Year Bar

- Due to 1996 welfare reform, qualified immigrants, including battered immigrant women, that enter the United States after August 22, 1996 are ineligible for “federal means-tested public benefits” for the first five years of holding qualified status.
- Certain immigrants are not subject to the five year bar including:
  - Refugees,
  - Asylees
  - Amerasian immigrants
  - Cuban/Haitian entrants,
  - Immigrants granted withholding of deportation
  - Victims of severe forms of human trafficking

# Immigrants and Health Care

- Naturalized citizens same as U.S. Born Citizens
- Legal Immigrants
  - Subject to individual mandate and tax penalties (unless low income)
- Lawfully present immigrants (VAWA, U visa wait list, SIJS applicants, trafficking victims with HHS certification)
  - May purchase from state insurance exchanges (no wait)
  - Eligible for tax credits & cost-sharing reductions (no wait)
  - Eligible for state's temporary high risk pools and basic health plans
  - 5 year bar to Medicaid for qualified immigrants
    - State option

# Health Care Subsidies – State Funded Benefits During 5 Year Bar

- T – Visa Bona Fide or Continued Presence
  - All states
- Qualified immigrants = 30 states
  - VAWA Self-Petitioners (2-3 months)
  - SIJS lawful permanent resident (1 year)
  - U visa lawful permanent residents (18+ years)
- U Visa Wait list approval (3 years) = 29 states
- SIJS applicants = 29 states
- U visa applicants = 6 states

# Child Care: Immigrant Restrictions Depend on Funding source CCDF vs. TANF

## Child Care Development Fund

- Only the citizenship/immigration status of the child considered (child is the primary beneficiary of the child care benefit)
- Open to “qualified immigrants” and victims of trafficking and their children
- CCDF child care open to all without immigration restrictions if
  - Subject to public educational or Head Start standards, or
  - Eligibility determined by a non-profit organization
- CCDF parents have the right to choose their child care provider, (e.g. relative, a family child care home, or child care center)
- Provider may be required to have an SSN
- State agencies *cannot require* an SSN from persons seeking CCDF-funded child care and cannot deny the benefit to families that do not provide an SSN (even if TANF funds included in CCDF)

# TANF and TANF Child Care – State Funded Benefits During 5 Year Bar

- T – Visa Bona Fide or Continued Presence
  - All states
- Qualified immigrants = 18 states
  - VAWA Self-Petitioners (2-3 months)
  - SIJS lawful permanent resident (1 year)
  - U visa lawful permanent residents (18+ years)
- U Visa Wait list approval (3 years) = 8 states
- SIJS applicants = 7 states
- U visa applicants = 5 states

# Federal SNAP (Food Stamps)

- Qualified immigrant children under 18 regardless of date of entry
  - Children included in VAWA self-petitions
  - T visa bona fide
  - SIJS children with lawful permanent residency
- Qualified immigrants who receive a disability benefit, regardless of date of entry
- Qualified immigrants living in the US for five years
- Trafficking victims adults and children
  - With HHS certification
  - T bona fide and Continued Presence



# State Funded SNAP

- VAWA self-petitioners
  - CA, CT, ME, MN (50+), WA
- U visa applicants
  - CA, IL, ME, MN (50+), WA
- T visa applicants
  - All states

# SSI

- Federal
  - Persons already receiving SSI before 8/22/96 or whose SSI apps were pending
  - Persons who are blind or have disabilities who were lawfully residing in the U.S. on 8/22/96 and are now “qualified”
  - LPRs with 40 quarters of work
  - LPRs who entered after 8/22/96 have the additional burden of being “qualified” for 5 years
- State
  - VAWA self-petitioners = 5 states
  - U visa applicants = 5 states
  - T visa bona fide = all states

# Drivers' Licenses

- Upon receipt of work authorization federally recognized license or ID
  - VAWA approved cases with deferred action
  - U wait list approvals
  - T vis bona fide
  - Continued presence
  - DACA
  - SIJS when granted lawful permanent residence
- State issued drivers' licenses and IDs =  
14 states

# LIHEAP and DOE Weatherization

- LIHEAP – Heating, Cooling & Crisis Assistance and Single Family LIHEAP DOE Weatherization
  - VAWA self-petitioners
  - T Visa bona fide
  - Continued Presence
  - SJIS upon receipt of lawful permanent residence
- LIHEAP & DOE Weatherization Assistance
  - Multi-Unit Dwellings – no immigration restrictions

# Disaster Relief and Immigrants

- FEMA Individual Family Grant Program and Disaster Unemployment Assistance – 1 family member is a --
  - Citizen, or
  - Qualified immigrant
    - Prima facie/approved VAWAs
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# Small Group Activity

Hypothetical Case  
Federal and State Public Benefits  
Options

Maura is 17 years old and from Mexico. She came to the U.S. at age 5, crossing the border with her mother; her father abandoned Maura when she was 3 months old. When Maura was 15 years old, her mother married Jose, a lawful permanent resident abuser.

After enduring 5 years in the abusive household and sexual advances from her step-father, Maura left home and moved in with Juan a U.S. citizen, who started battering Maura when she became pregnant with their child.

During an incident of abuse, the neighbors heard Maura screaming and called the police. When they arrived, Maura described the incident to the police officer, but fearing that she would get deported, she did not appear at the hearing on the domestic violence charge. The charge was amended to misdemeanor battery. Juan pled no contest and was convicted of battery.

**How would Maura's benefits options be different if Maura was married to Juan and had filed a VAWA self-petition compared to if she was not married to Juan and had filed for a U visa?**

# Large Group Report Back

- VAWA housing and benefits access?
- U visa housing and benefits access?