

Public Benefits and Issues of Language Access

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Federal and State Funded Services Open to All Victims Without Regard to Immigration Status

Open to all immigrant victims (including undocumented immigrants)

- Protection Orders
- Emergency Shelter
- Transitional Housing
- Legal Services
- Child Custody and Support
- Enrollment and admission to colleges and universities
- Services for Domestic Violence, Child and Elder Abuse, Sexual Assault and Crime Victims
- Adult and Child Protective Services
- Police Assistance
- Have Their Abusers Criminally Prosecuted
- Benefits of their US citizen and qualified immigrant children
- Emergency Medicaid

Emergency Medicaid

- Every state enacted Emergency Medicaid Program
- Governed by federal law
- Federal definition of “emergency medical condition” used in most state law
- 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.

What Various States Offer Under Federal Emergency Medicaid

- Labor and Delivery (emergency and most states normal)
- Severe and acute
- Urgent pharmacy needs
- Mental health
- Inpatient substance abuse
- 72 hour release of drugs without prior approval
- Not covered:
 - Continuation of services
 - Limited to current medical condition

Health Care Open to All Immigrants

- Community health clinics
- State funded programs
- Post assault health care paid by VOCA funds
- Immunizations, testing, and treatment of communicable diseases
- Emergency Medicaid

Federally Qualified Health Centers Offer

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

Federally Qualified Health Centers

- Community Health Centers
- Migrant Health Centers
- Open to all persons
- Including immigrants
- Provide health care to underserved populations
 - unable to pay for health care
- www.nachc.com
- www.hrsa.gov
 - go to “find a health center”
 - enter zip code

Victims of Crime Act

- Generally victim must report within 72 hours
- Generally victim must cooperate with law enforcement
- Manner of reimbursement varies from state to state
 - Paying for service from onset
 - Billing victim and then reimbursing
 - Billing victim & only covering services directly related to the criminal investigation

Victims of Crime Act Provides Funding

- Provides grants to states for eligible crime victim compensation programs
- Some programs cover medical expenses
- Covers post-assault health care for victims regardless of immigration status
- Varying policies
 - Initial forensic exam
 - Follow-up exams
 - Psychological treatment
 - Prescribed medicines

Assistance for all immigrants Necessary to Protect Life and Safety

- Offered in-kind, at the community level, and not based on the individuals income or resources –
 - Crisis counseling and intervention
 - Child and adult protection services
 - Violence and abuse prevention
 - Victim assistance
 - Treatment of mental illness or substance abuse
 - Help during adverse weather conditions
 - Soup kitchens
 - Community food banks
 - Short-term shelter or housing assistance for the homeless, victims of domestic violence, or for runaway, abused, or abandoned children (*Includes emergency shelter and transitional housing up to two years.*)
 - Nutrition programs for seniors and those requiring special assistance

Access to Federal and State Public Benefits for Qualified Immigrants

Qualified Immigrants and 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 pre/post 8/22/96?
 - What benefits are offered by the state
 - Whether they meet heightened program requirements for some programs

Tools at iwp.legalmomentum.org

- **NILC State Benefits Charts**
 - State funded TANF, Health Care, Food Stamps, SSI
- **Legal Momentum State-by-State Charts**
 - Forensic Exams
 - Emergency Medicaid
 - Post Rape-Post Assault Health Care
 - Prenatal Care

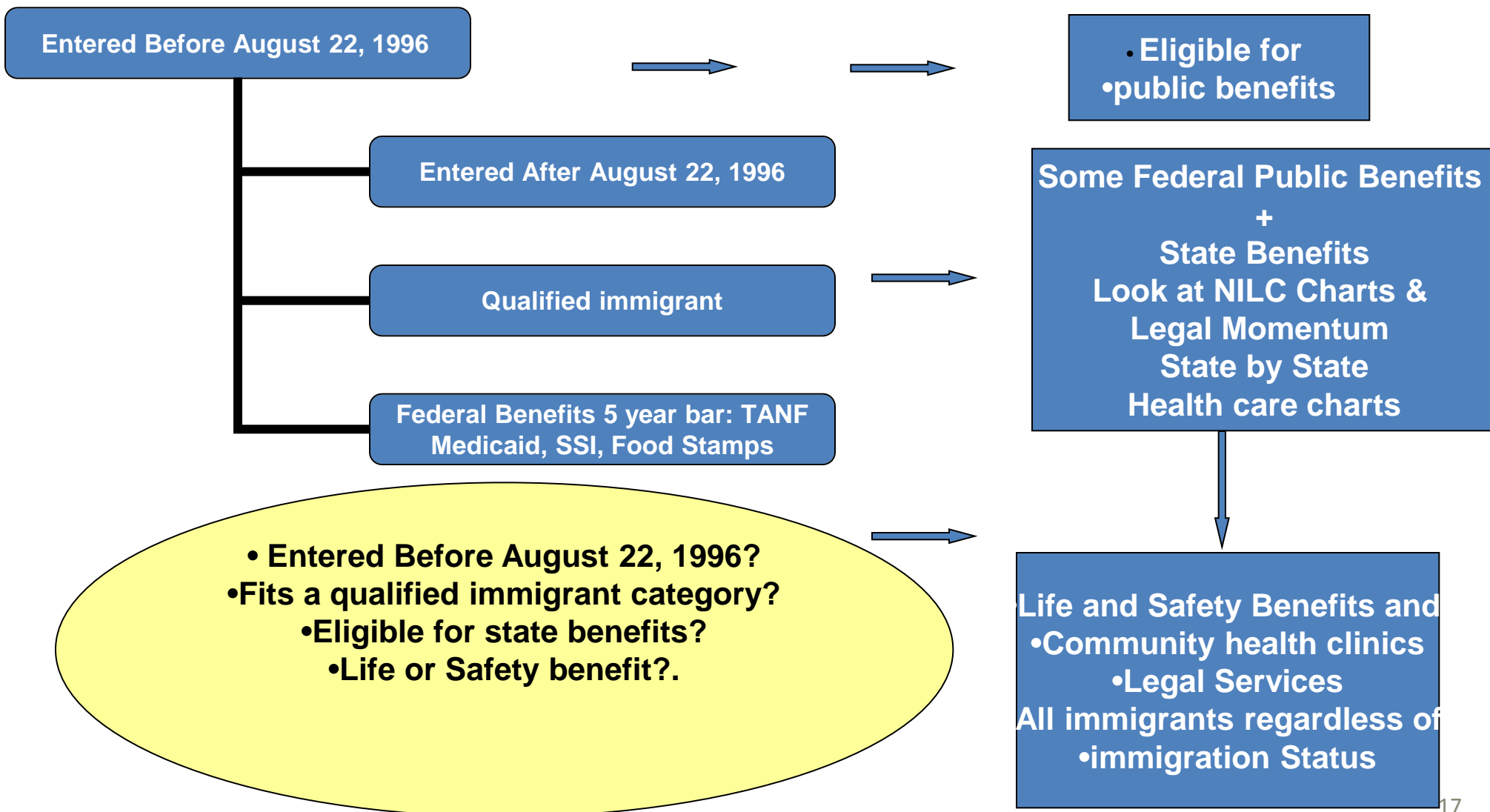
Potential Barriers:

- Immigrant benefit categories;
- Language access barriers;
- Verification barriers;
- Fear of Deportation;
- Public Charge
- Benefits agency officials with incorrect information about legal rights to access benefits for
 - immigrant victims and
 - their children.

Immigrant Benefit Classifications

- Citizens (**eligible**)
- Qualified Immigrants (**eligible may have 5 year wait**)
 - Entering US before Aug. 22, 1996
 - Entering US on or after Aug. 22, 1996 subject to 5 year bar on federal means tested public benefits (e.g. TANF, Medicaid, Child Care, SSI, Food Stamps)
- Prucol (Permanently Residing Under Color of Law)
 - States may offer state funded benefits
 - NILC charts
- Undocumented Immigrants (**not eligible**)
 - Unless VAWA self-petitioner

How to determine whether an immigrant is eligible for public benefits



Qualified Immigrants

- Lawful Permanent Resident (LPR)
- Refugee, Asylee, Withholding of Deportation/Removal, Conditional Entrant status
- Paroled into U.S. for at least 1 Year
- Cuban/Haitian Entrant
- Amerasians
- Veterans of certain US military Action
- Battered Spouse and Children of battered child and child of battered spouse
- Victim of a severe form of trafficking
 - (U-visa victims are NOT qualified immigrants)

Federal Public Benefits/Community Programs Open to Qualified Immigrants --Examples:

- Subsidized Housing Programs
- Public and Assisted Housing
- Social Security
- Head Start
- Post-Secondary Education
- Social Services Block Grant Funded Programs

Federal Means-Tested Public Program

Access Limited By:

- Immigration status, entry date, difficult program requirements
 - TANF (5 yr bar post 8/22/96)
 - Medicaid (5 yr bar post 8/22/96)
 - SCHIP qualified immigrant children no bar (ICHEA)
 - Food Stamps (very restricted except qualified immigrant children under 18 eligible)
 - SSI (most restrictive)
- Indiana provides no state funded benefits in any of these categories

Discussion

- Creative options for immigrant victims who do not qualify for state or federally funded public benefits.

Language Access for Limited English Proficient Victims

List Countries the Clients You Serve Come From

Executive Order 13166

- All recipients of federal funding (including contract agencies) must provide language access to persons with **Limited English Proficiency (“LEP”)**
- Must ensure **MEANINGFUL ACCESS** to services applicants and beneficiaries.
 - No difference in services
 - No unreasonable delay in services

What is LEP?

- Limited English Proficiency
 - English is not primary language
 - Limited ability to
 - read,
 - write,
 - speak or
 - understand English
 - Language for LEP individuals barrier to:
 - accessing important benefits or services,
 - understanding and exercising important rights,
 - complying with applicable responsibilities, or
 - understanding information provided by Federally funded programs and activities.
 - **Determination is by person, not by agency**

Policy Guidance

- Must provide access to LEP individuals
- Agencies or entities conduct the following analysis to determine what is compliance:
 - **Number or proportion of LEP individuals served or encountered in the eligible service population**
 - **Frequency of contacts**
 - **The nature and importance of the program, activity or services**
 - **Resources available**

What is the Number or Proportion of LEP Individuals in Your Service Area?

- Must include language minority populations that are eligible for programs or activities **but may be underserved because of existing language barriers.**
- How determine number of LEP individuals?
 - Census data, data from school systems and from community organizations, and data from state and local governments.
 - Community agencies, school systems, religious organizations, legal aid entities, and others can often assist in identifying populations for whom outreach is needed and who would benefit from the recipients' programs and activities were language services provided.

What is the Frequency of Contact with LEP Persons within your Agency?

- LEP persons contacting agency on a daily basis means higher responsibilities
- But even recipients that serve LEP persons on an unpredictable or infrequent basis should have a plan to provide access
- Example: being prepared to use telephonic interpretation services to obtain immediate interpreter services.

Recipients should take care to consider whether appropriate outreach to LEP persons could increase the frequency of contact with LEP language groups.

What is the Nature and Importance of the Program, Activity, or Service Provided by your Program?

Will the denial or delay of access to services or information have serious or even life-threatening implications for the LEP individual?

Example: safety, law enforcement services or services that impacts rights vs. recreational or less urgent services

What Resources Are Available?

- **Cost is not defense to non-compliance**, but programs can look to cost-sharing strategies
 - Share resources with other community groups
 - Train bilingual staff to act as interpreters and translators
 - Use telephonic and video conferencing interpretation services
 - Pool resources and standardize documents to reduce translation needs
 - Use qualified translators and interpreters to ensure that documents need not be “fixed” later and that inaccurate interpretations do not cause delay or other costs
 - Develop formal use of qualified community volunteers

Oral vs. Written Options

- Recipients have two main ways to provide language services:
 - Oral interpretation either in person or via telephone interpretation service.
 - Written translation, likewise, can range from translation of an entire document to translation of a short description of the document.
 - Need to translate VITAL DOCUMENTS

Example: A police department in a largely Hispanic neighborhood may need immediate oral interpreters available and should give serious consideration to hiring some bilingual staff.

A COMPETENT INTERPRETER WILL

- Demonstrate proficiency in and ability to communicate information accurately
 - in both English and in the other language
- Identify and employ the appropriate mode of interpreting
 - (e.g., consecutive, simultaneous, summarization, or sight translation);
- Have knowledge in both languages of
 - any specialized terms or concepts peculiar to the entity's program or activity
- Understand & follow confidentiality & impartiality rules
- Understand and adhere to their role as interpreter
 - without deviating into a role as counselor, legal advisor, or other roles (particularly in court, administrative hearings, or law enforcement contexts)

FRIENDS OR FAMILY MEMBERS, ESPECIALLY CHILDREN ARE NOT COMPETENT INTERPRETERS !

Timeliness of Services

- Interpretation should be provided in a timely manner.
- **Language assistance should be provided**
 - at a time and place that avoids the effective
 - denial of the service, benefit, or right at issue or the imposition of an undue burden on or
 - delay in important rights, benefits, or services to the LEP person.
- In providing **law enforcement, health, and safety services**, and **when important legal rights are at issue**,
 - a recipient would likely not be providing meaningful access if it had one bilingual staffer available one day a week to provide the service

In cases involving victims, timeliness is of the utmost importance !

Resources

- www.lep.gov
 - Policy guidance for specific agencies
 - Demographic data
 - Model programs

Discussion:

Creative approaches to providing language access to immigrant victims