

NATIONAL COALITION AGAINST DOMESTIC VIOLENCE

NCADV

Safety Net Benefits for Immigrant Survivors

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Introduction



Cristina Velez
Legal & Policy
Director
ASISTA
Immigrant
Assistance



Grace Huang.
She/her/ella/她
Director of Policy,
Asian Pacific
Institute on
Gender-Based
Violence



Rocio Molina
Deputy Director
National Immigrant
Women's Advocacy
Project,
American University
Washington College
of Law

Learning Objectives

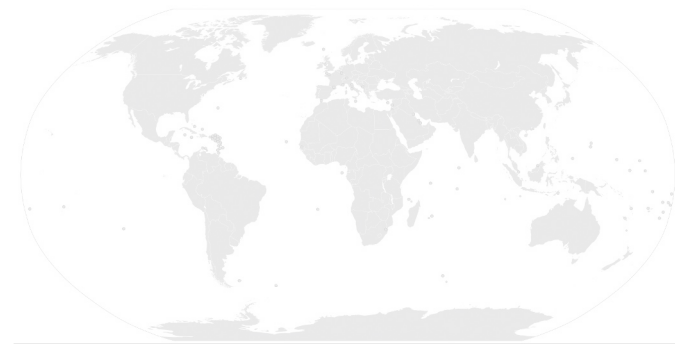


Understand services and benefits available to immigrant survivors

Examine policy shifts affecting immigrant survivors' access to benefits and other economic supports

Explore individual and systemic advocacy strategies to enhance access to benefits for survivors

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Must Have Holistic Approach

Survivors are better served when you address their needs holistically



**Access to Publicly Funded
Programs and Legal Services
Open to All Immigrant
Domestic and Sexual Violence
Survivors**

Access for All

No immigration restrictions for survivors on:

- 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 funds



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

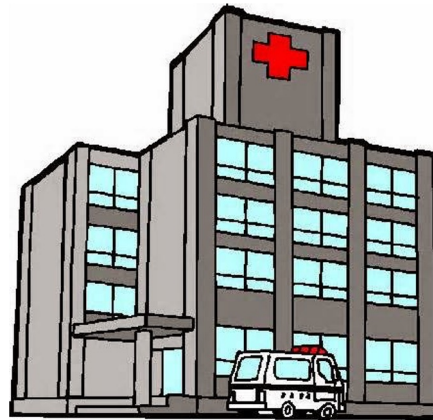
Health Care Open to All Immigrants

- Community and migrant health clinics
 - www.nachc.com
 - 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



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





Emergency Shelter and Transitional Housing

Poll: If you have worked with an immigrant survivor/victim who was turned away from transitional housing why were they denied access?

- A. Did not have work authorization
- B. Victim's immigration status
- C. Lack of self-sufficiency
- D. All of the above

Federal Housing Benefits Available to all Immigrants Include:

- Shelter, transitional housing, 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** or subgrantee 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*

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

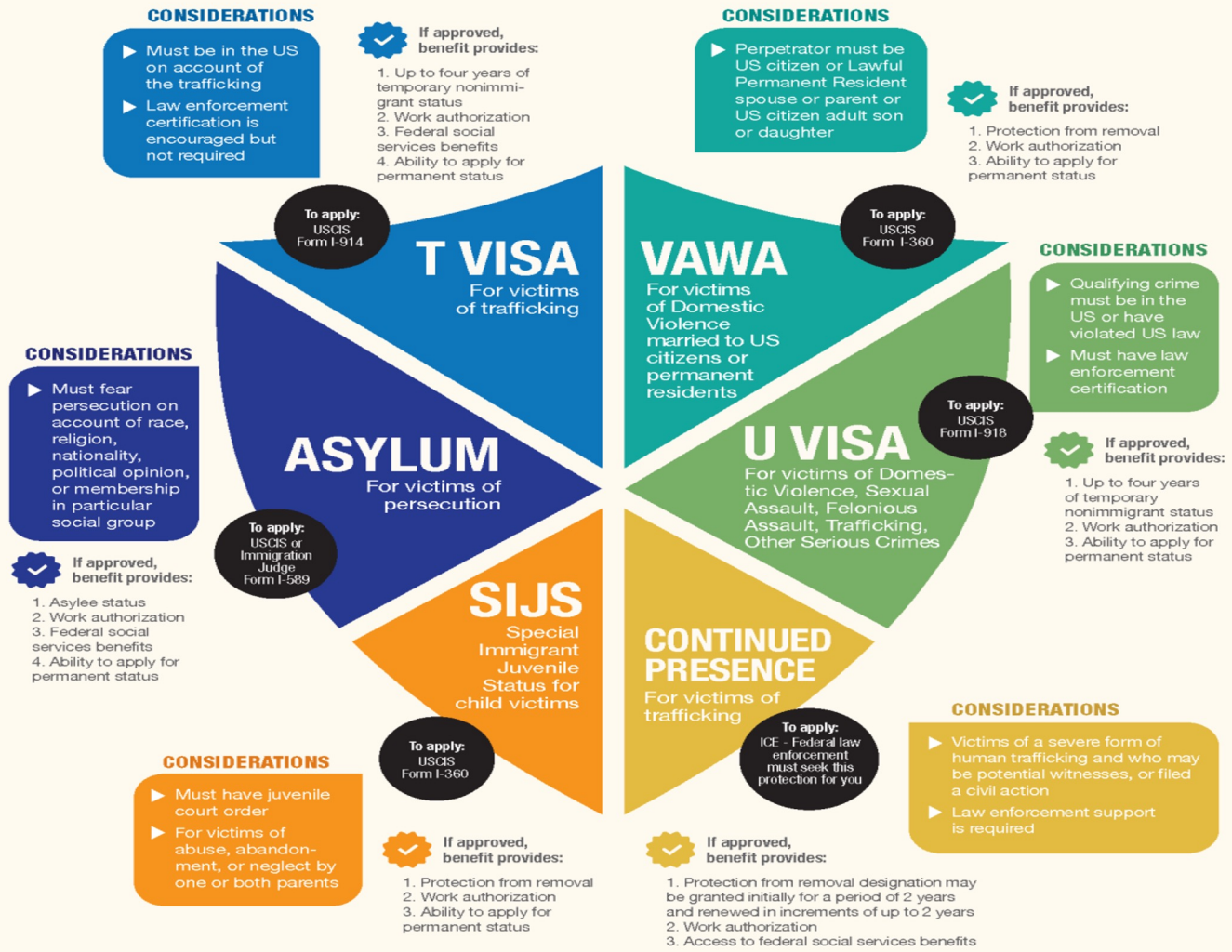
With Good Advocacy --

- Many/Most immigrant survivors can prove
 - They are on a path to self-sufficiency
 - They have resided in the jurisdiction
 - Victimization
 - They are at risk of homelessness
 - Lack of active substance abuse
 - Lack of criminal history



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

PROTECTIONS FOR IMMIGRANT VICTIMS



DHS.GOV/BLUE-CAMPAIGN

For victim support call 1-888-373-7888 or text INFO or HELP to BeFree (233733)

Immigration Relief Available for Immigrant Survivors of —

- Domestic violence (battery or extreme cruelty)
- Child abuse
 - Abandonment, neglect
- 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

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

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

Accessing Public Benefits and Support Services



FEMA



TEMPORARY ASSISTANCE



FOR NEEDY FAMILIES

Interactive Public Benefits Map

NIWAP

Web Library About NIWAP Maps by Benefit Demographics

Maps by Benefit

These maps break down available public benefits based on immigrant's state and immigration status.

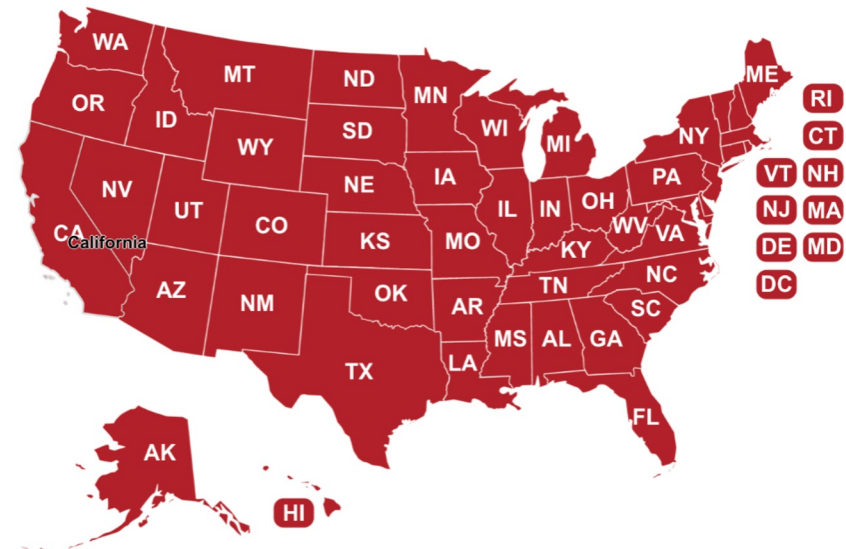
We are still working on this site, so if you cannot click on your state, check back soon for completed maps.

- Cash Assistance (TANF)**
Temporary Assistance for Needy Families (TANF) provides cash assistance to low income families with children.
[Go to Map](#)
- Child Care**
Child Care services may be provided through public benefits.
[Go to Map](#)
- Children's Health Insurance Program**
Medical assistance is available to children through the Children's Health Insurance Program (CHIP).
[Go to Map](#)
- Driver's License**
State-specific requirements to be issued a driver's license.
[Go to Map](#)
- Earned Income Tax Credit**
- Emergency Housing & Safety Programs**

NIWAP

Web Library About NIWAP Maps by Benefit Demogr

Legal Services



<http://map.niwap.org/>

Maps by Benefit

-
- Cash Assistance (TANF)
 - Child Care
 - Children's Health Insurance Program
 - Driver's License
 - Earned Income Tax Credit
 - Emergency Housing & Safety Programs
 - Emergency Medicaid
 - Federal Education Benefits
 - FEMA Assistance
 - FEMA Restricted Programs
 - Food Stamps
 - Forensic Costs Coverage
 - Income Tax Credits
 - Legal Services
 - Medicaid
 - Post-Assault Healthcare
 - Prenatal Care
 - Purchasing Health Insurance on the Exchanges
 - State Education Benefits
 - Supplemental Security Income
 - Weatherization & Energy Assistance
 - WIC
 - Unemployment (coming soon)



Resources: Healthcare for Immigrant Survivors

- State by state public benefits detailed charts with citations
- State by state charts
 - VOCA funded post assault health care
 - Emergency Medicare
 - Forensic Exams
 - Prenatal Care

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 file for benefits for their citizen or LPR children
 - State welfare worker reporting requirements

Economic Support Through Civil Court

- Child support and spousal support
- Enforceability of Affidavit of Support
- Court orders to maintain medical, car, house insurance, mortgage, rent, utility and/or debt payments
- Provide one time emergency monetary relief
 - Money to repair locks or broken windows
 - Obtain an unlisted telephone number
 - Relocation assistance

*Does accessing public benefit
and support services impact a
non-citizen survivors
immigration status?*

What is Public Charge?

Immigration code says generally that a person seeking admission to the U.S. or seeking to adjust status to lawful permanent residence (“LPR status”) is *inadmissible* if the individual, in the opinion of the consular or immigration officer, at the time of seeking admission or adjustment of status, *is likely at any time to become a public charge*

Officer must take into account

- age;
- health;
- family status;
- assets, resources, and financial status; and
- education and skill
- may also consider affidavit of support

DHS Rulemaking Process

**Three step process to a final rule
(following litigation challenging last
Administration final rule)**

ANPRM Issued

60 day Comment Period +
Agency Review

1) DHS Issued ANPRM (comments + agency review) - This was an optional step and not a standard part of the rulemaking process.

NPRM Issued

Comments + Agency Review

2) DHS issued NPRM (comments + agency review) - Comments were due on Monday, April 25.

Final Rule Issued

3) DHS issues a final rule.

When Does Public Charge Test Apply?

APPLIES

At green card determination or when seeking to enter the U.S. with a visa.*



DOES NOT APPLY

Not a consideration when lawful permanent resident (green card holders) apply for U.S. citizenship.

Does not apply to family members not seeking residency

To exempt categories

*Special note re: those seeking to extend, change non-immigrant status

Definition of Likely at Any Time to Become a Public Charge

1999 INS Guidance:

Likely at any time to become primarily dependent on the government for subsistence as demonstrated by either:

- the receipt of public cash assistance for income maintenance
- long term *institutionalization* at government expense

Public Cash Assistance for Income Maintenance:

Ongoing funds intended to pay basic living expenses

Includes

- Supplemental Security Income (SSI)
- Temporary Assistance for Needy Families (TANF)
- State and local cash assistance for income maintenance

Does Not Include

- Special purpose cash, e.g. child care assistance or energy assistance
- Disaster cash, e.g. Stafford Act or pandemic assistance
- Earned income, e.g. unemployment benefits or tax credits

Long Term Institutionalization at Government Expense

Includes

**Medicaid-funded long
term institutionalization**

**State or locally funded
long term
institutionalization**

Does Not Include

**Home and Community
Based Services**

Short-term

Rehabilitative Care

**Any other Medicaid
Benefits**

Receipt of Public Benefits

Counts as Receipt When

Individual is listed
as a beneficiary

Current and Past
Receipt

Does Not Count as Receipt When

Applying for a benefit on one's own behalf or on behalf of another

Approval for future receipt on one's own behalf or behalf of another

Solely on behalf of another, even if assists with application (e.g. parent applicant for child only TANF and child receives)

Totality of Circumstances Test

DHS will consider at a minimum all the factors:

- age; health; family status; assets, resources, and financial status; education and skills; and affidavit of support
- Will favorably consider the affidavit of support

Determination must be based on all the factors:

- No one factor, other than the lack of affidavit of support, when required, can determine whether an individual is likely at any time to become a public charge
- Current and/or past receipt of benefits on its own is insufficient
- Finding of disability under S504 of the Rehabilitation Act is insufficient

Exempt Groups

<p>Refugees, asylees, and Amerasian immigrants, at admission and adjustment to LPR</p>	<p>VAWA self petitioners</p>
<p>Special Immigrant Juveniles</p>	<p>Certain people who have been battered or subject to extreme cruelty by a USC or LPR spouse or parent</p>
<p>Petitioners for T visas, people with certain pending T visa applications or who have a valid T visa when filing to adjust status and at adjudication</p>	<p>Petitioners for U visas, people granted U visas provided they have valid U visa at time of request and adjudication to either adjust status or to receive an immigration benefit</p>

Exempt Groups (cont)

People Applying for and Who Have Temporary Protected Status	Nicaraguans and other Central Americans applying to adjust under NACARA
Afghan and Iraqi interpreters or nationals employed by US government	Certain foreign government nonimmigrant visa holders
Cuban and Haitian entrants applying to adjust status under IRCA, the Cuban Adjustment Act or Haitian Refugee and Immigration Fairness Act of 1998	People who entered the US prior to Jan 1, 1972 and meet conditions to be granted LPR status under registry

Exempt Groups (cont.)

Applicants adjusting status who qualify for a benefit under section 1703 of the **National Defense Authorization Act**

Certain nationals of **Vietnam, Cambodia and Laos** applying for adjustment of Status

Certain **American Indians** born in Canada

Certain Polish and Hungarian Parolees paroled into the US

Texas Band of **Kickapoo** Indians

Certain **Syrian** nationals adjusting status

Liberian applicants adjusting status who qualify for a benefit under LRIFA

Any **other categories** of noncitizens exempt under any other law, under section 212(a)(4) of the Immigration and Nationality Act.

How the Rule Works

I was just granted asylum status a few months ago. Can I get COVID tests and vaccines, or will it stop me from getting my green card.

I'm pregnant and need help. I'm currently enrolled in Medicaid but I'm afraid it will be used against me.

I lost my job because my employer went out of business during the COVID closures. Can I accept cash grants that the city is providing for immigrants? If I apply for unemployment, will it hurt my green card application?



The domestic violence program has an opening in their transitional housing. I'm worried if I use it, I might hurt my immigration status.

I am on a student visa and was raped after a University event. I am worried if I go to the hospital that using healthcare might impact my visa.

I don't have status but I receive cash benefits for my kids. Should I disenroll them so it doesn't hurt my chances for a green card?

How the Rule Works



I was just granted asylum status a few months ago. Can I get COVID tests and vaccines, or will it stop me from getting my green card.

I'm pregnant and need help. I'm currently enrolled in Medicaid but I'm afraid it will be used against me

I lost my job because my employer went out of business during the COVID closures. Can I accept cash grants the city is giving to immigrants? If I apply for unemployment, will it hurt my green card application?

The public charge test does not apply to asylees. In addition, USCIS has said COVID related benefits will not impact your green card application.

The public charge test will not consider Medicaid. We encourage you to get the health care that you and your baby need.

The public charge test will not apply to benefits that are not cash assistance for income maintenance. The preamble of the proposed regulation says "special purpose" public health emergency assistance, and earned cash benefits would not be assistance for income maintenance

How the Rule Works



The domestic violence program has an opening in their transitional housing. I'm worried if I use it, I might hurt my immigration status.

I am on a student visa and was raped after a University event. I am worried if I go to the hospital that using healthcare might impact my visa.

I have a pending U-visa and I have received state cash assistance for me and my US citizen kids, who are citizens. Should I disenroll so it doesn't hurt my chances for a green card?

Housing and victim services are not cash assistance for income maintenance, and should not be considered in a public charge maintenance.

Use of medical services and free counseling will not be considered in a public charge assessment.

The public charge test does not apply to US citizens. In addition, the public charge test doesn't apply to U visa applicants or U visa holders. In cases where the parent is not in an exempt status, DHS will need to consider, looking forward, whether the applicant is likely to become primarily dependent on the government. So even if someone has used cash assistance for income maintenance, USCIS will look at totality of circumstances

Advocacy

- **Lifting Immigrant Families Through Benefits Access Restoration (LIFT The BAR) Act – H.R. 5227 / S. 4311**
- **The Health Equity and Access under the Law (HEAL) for Immigrant Families Act of 2021 H.R. 3149 / S. 1660**



Creative Approaches



OUTSIDE THE BOX:
CHILDREN'S BENEFITS, STATE AND
LOCAL BENEFITS, MUTUAL AID, AND
SUPPORTS
FOR WORKING IMMIGRANTS



Benefits to USC Children

· USC children are eligible for federal benefits that their parents are not: SNAP, SSI, Medicaid/CHIP

▫ Housing assistance for mixed-status families

HUD (mixed status families headed by undocumented persons may receive pro-rated benefits) – proposed rule to bar this was withdrawn in 2021

Compare:

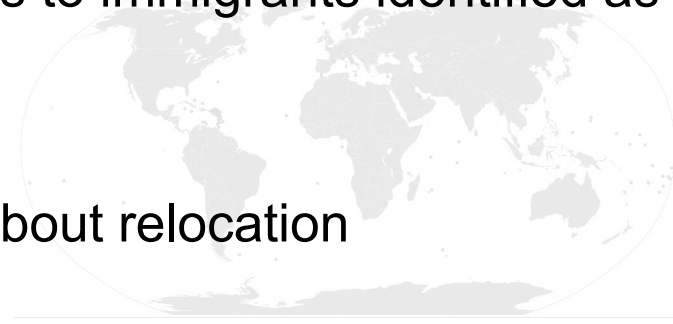
USDA Rural housing (mixed status families headed by USC ONLY, receive full benefits)

· These are excluded from the (current) public charge analysis



State and Local Benefits

- State and local systems may provide benefits that undocumented people are barred from federally
- Some federally funded benefits are administered differently by different states
 - i.e., ADAP
- “PRUCOL” = Persons Residing Under Color of Law
 - Typically those with pending applications for relief
 - Not an immigration status
 - Some states/localities extend limited benefits to immigrants identified as PRUCOL
- Benefits eligibility may factor into decisions about relocation



Mutual Aid

- Mutual aid covers a variety of assistance:
 - In-kind assistance (food, furniture, household items, child care items)
 - Housing/rental assistance
 - Cash assistance
- Not “means-tested public benefits”
 - Not included in public charge analysis
- COVID-19 mutual aid programs and funds can be institutionalized and expanded to support undocumented survivors while they establish eligibility for public benefits

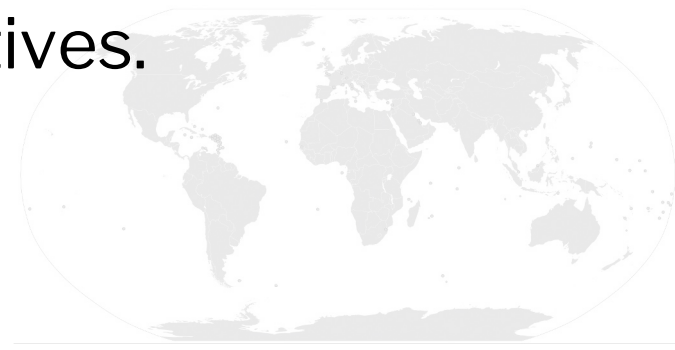


Employment Rights of U and T Visa Holders

Q: My client has an approved U or T visa petition, but they haven't received their Employment Authorization Document (EAD) or social security card.

This means they can't work yet, right?

A: WRONG – They are eligible to work based on their U/T status alone, except for T derivatives.



U & T Status Eligibility to Work

Status	Document needed	EAD card needed?
U-1 status	Form I-94 showing valid U-1 status.	No.
U derivative status	Form I-94 showing valid U derivative status.	No.
T-1 status	Form I-94 showing valid T-1 status.	No.
T derivative status	Valid Employment Authorization Document (EAD).	Yes.

Resources for U & T Visa Employment Eligibility

- On February 17, 2022, USCIS added a section 6.8 to its [Handbook for Employers](#) describing the evidence that employers should accept from T and U nonimmigrants as proof of their authorization for employment.
- **Employees may:**
 - Present proof of visa status (new form I-94) as proof of work authorization, along with acceptable identification documents;
 - Begin work before obtaining their social security numbers



Deportation Protection in Workplace Disputes

In October 2021, the Department of Homeland Security (DHS) released a memo outlining protections available to immigrant workers who exercise their workplace rights.

- DHS should consider “deferred action, parole, and other available relief” for workers.

- U.S. Department of Labor and the National Labor Relations Board have requested prosecutorial discretion for workers involved in labor disputes, as a means of support for ongoing investigations. Secretary Mayorkas instructs DHS to consider those requests on a case-by-case basis.

- More resources:

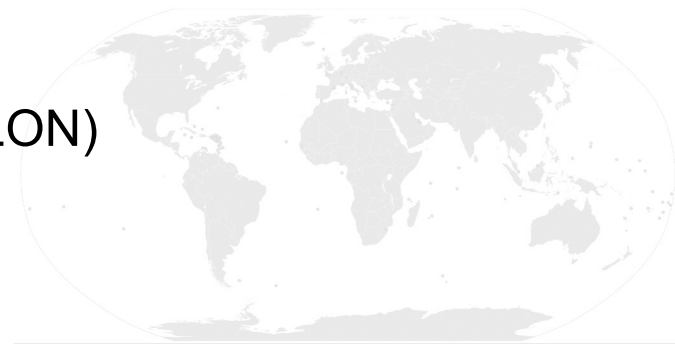
 - National Employment Law Project (NELP)

 - Jobs with Justice

 - National Day Laborers Organizing Network (NDLON)

 - Sur Legal Collaborative

 - National Domestic Workers Alliance (NDWA)



Understanding “Deferred Action”

Deferred Action is not an immigration status, but makes some immigrants eligible for employment (code (c)(31)), and certain public benefits

Deferred Action is available to immigrant survivors

- U/T visas petitioners on the waitlist
- Bona Fide Determinations
- VAWA Self-Petitioners with Prima Facie Determinations
- VAWA Self-Petitions Approved

ICE Orders of Supervision

Immigrants living with HIV/AIDS and other medical conditions

Outside of these visa categories, is not frequently granted



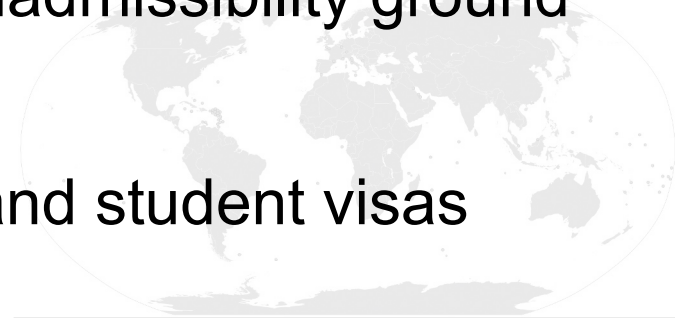
Working Without Authorization

Risks

- ▣ Workplace raids
- ▣ Abusive working conditions
- ▣ Trafficking
- ▣ Tax arrears and potential fraud charges

Impact on immigration status

- ▣ For survivor-based applications, not an inadmissibility ground
- ▣ Not a barrier to asylum
- ▣ But *will* violate the terms of tourist visas and student visas



Resources

- Alliance for Immigrant Survivors: <https://www.immigrantsurvivors.org/>

Public Charge

- **U.S. Citizenship & Immigration Service (USCIS) Resource Page:**

– <https://www.uscis.gov/green-card/green-card-processes-and-procedures/public-charge/public-charge-resources>

- **Public Charge Rulemaking Page (Federal Register)**

– <https://www.federalregister.gov/documents/2022/02/24/2022-03788/public-charge-ground-of-inadmissibility>

- **API-GBV Public Charge Advisory on Impact on Survivors:**

– <https://www.api-gbv.org/resources/advisory-public-charge/>

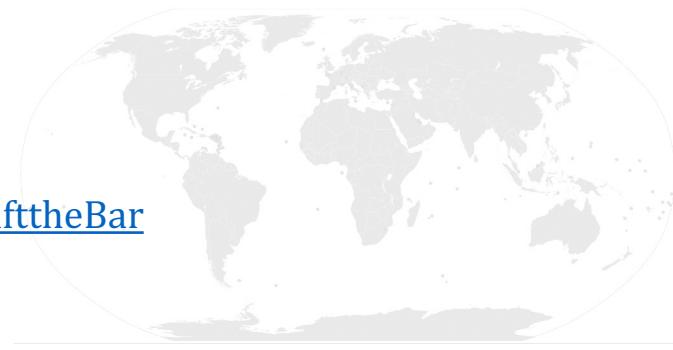
Protecting Immigrant Families <https://pifcoalition.org/>

Legislation

Lift the Bar Resources: <https://pifcoalition.org/ltbareources>

Lift the Bar's Impact on DV/SA Survivors: https://bit.ly/DVSA_LifttheBar

HEAL Act Resources: <https://www.napawf.org/heal>



Q&A

Cristina Velez - cristina@asistahelp.org

Grace Huang - ghuang@api-gbv.org

Rocio Molina - molina@wcl.american.edu

