

## Bench Card: Special Immigrant Juvenile Status Immigration and Public Benefits Eligibility Process<sup>a</sup>

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Special Immigrant Juvenile Status (SIJS) is a form of humanitarian relief that provides for a path to lawful permanent residence (LPR) for children who are unable to be reunited with one or both parents due to abuse, abandonment, neglect, or a similar basis under state law.<sup>1</sup> SIJS eligible and applicant children are able to access government funded programs and services to the same extent as undocumented immigrants. What additional state and federal public benefits an immigrant SIJS applicant qualifies to receive depends on:

- Whether the child has filed a SIJS application
- The stage that has been reached in the DHS processing of the child’s case at the time of victim’s public benefits application
  - Application filed
  - Once the child’s SIJS application has been approved whether the child has been granted deferred action and work authorization<sup>2</sup>
  - Whether the child has a pending application for lawful permanent residency
  - Victim was granted lawful permanent residency<sup>3</sup>
- When the child first entered the United States
- The number of years that have passed since the child became a qualified immigrant
- Age of the child (children under 18-years-old generally have more access to public benefits than do victims ages 19 to 21-years-old)

Immigrant children who have filed applications for SIJS may in some states qualify for state funded benefits (e.g., subsidized health care) that are available to some immigrants who are ineligible for certain federal public benefits programs.<sup>4</sup> NIWAP has developed a state benefits map and a set of state-by-state public benefits charts that include detailed citations to state and federal laws and policies that assist judges, victim advocates, attorneys, prosecutors, law enforcement officers, and other professionals in determining whether and which state or federal public benefits an individual SIJS applicant child is eligible to receive.<sup>5</sup>

Immigrant children who have filed SIJS applications are considered lawfully present under health care and some other state and federal public benefits laws.<sup>6</sup> In a few states SIJS applicants are considered persons residing under color of law (PRUCOL) and thus may be eligible for some state-funded benefits in states that offer benefits to immigrants who are PRUCOL.<sup>7</sup> However, among the forms of immigration relief available to immigrant victims of domestic violence, sexual assault, human trafficking and other

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crimes, SIJS applicants and recipients have less access to federal and state public benefits than other immigrant victims of child abuse. Violence Against Women Act (VAWA) self-petitioners, VAWA cancellation of removal applicants, VAWA suspension of deportation applicants, and trafficking victims with T visas (or bona fide determinations in T visa cases or continued presence) have more access to a greater number of state and federal public benefits than children approved for SIJS receive. SIJS applicant and recipient children have significantly greater access to federal and state public benefits than immigrant children who are U visa applicants or who are included in their parent's U visa application. Once SIJS children gain lawful permanent residency,<sup>8</sup> their access to federal and state public benefits greatly expands. Immigrant children who file SIJS applications will gain lawful permanent residency through SIJS much more quickly than through the U visa program.<sup>9</sup>

Some SIJS eligible children who are victims of child abuse will also qualify to apply for immigration benefits through VAWA or a T visa. For these potential SIJS applicants, access to public benefits can be a significant factor that results in the immigrant child choosing to pursue a VAWA or T-visa case in addition to filing an application for SIJS.<sup>10</sup>

### **Immigration Status Qualification Requirements**

SIJS was created and has been expanded over the years to offer humanitarian protection to greater numbers of immigrant children who have suffered abuse, abandonment, neglect, or similar harms perpetrated by at least one of the child's parents. This SIJS protection includes protection for abused immigrant children living with a non-abusive parent. Depending on the circumstances, immigrant children and youth may also be eligible for immigration relief under laws of asylum, the Violence Against Women Act, the U visa for immigrant crime victims, or the T visa for trafficking victims. Which form of immigration relief an immigrant child applies for can have a significant impact on the child's ability to access certain federal and state public benefits including health care, TANF and food assistance.<sup>11</sup>

The United States Citizenship and Immigration Services (USCIS) relies on required state court findings as evidence in its process of adjudicating SIJS applications. In order to complete an application for SIJS, the immigrant child applicant must submit an order from a state "juvenile" court. The definition of "juvenile court" in SIJS cases is governed by federal immigration law definitions and is not limited to the state law definition of "juvenile court."<sup>12</sup> For the purposes of SIJS cases federal immigration law requires that the court issuing the state court findings be a "court located in the United States that has jurisdiction under State law to make judicial determinations about the dependency and/or custody and care of juveniles."<sup>13</sup> The "title and the type of court that may meet the definition of a juvenile court will vary from state to state. Examples of state courts that may meet this definition include: juvenile, family, dependency, orphans, guardianship, probate, and delinquency courts."<sup>14</sup>

For an immigrant child to establish eligibility for SIJS, a state court must make three best interest and child welfare related findings:

- (1) The child has been "declared dependent on a juvenile court" or the child has been "legally committed to or placed under custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States."
- (2) The child's "reunification with [one] or both of the [child's] parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law."
- (3) It "would not be in the [child's] best interest to be returned to the [child's] or parent's previous country of nationality or last habitual residence."<sup>15</sup>

Once state juvenile court findings are made, the child must submit to USCIS:

- (1) Petition for SIJS;
- (2) The state court findings; and,
- (3) Proof of the age of the immigrant child applicant.<sup>16</sup>

### **Federal and State<sup>17</sup> Public Benefits and Other Government Funded Programs Available to Children Applying for SIJS or Who Have Been Granted Lawful Permanent Residency:**

In most states, SIJS applicants have very limited access to state and federal public benefits until they have been granted lawful permanent residency. However, SIJS applicants are eligible to receive help from programs that are open to all immigrants regardless of status including benefits and services necessary to protect life and safety.<sup>18</sup>

In addition to the state funded benefits that may be offered in the SIJS applicant's state, all qualified immigrants, including SIJS applicants who became lawful permanent residents, receive greater access to more federal public benefits programs as described below.<sup>19</sup>

#### Department of Agriculture

- Supplemental Nutrition Assistance Program (SNAP formerly Food Stamps)—*eligible upon lawful permanent residency subject to an additional condition.*<sup>20</sup>
- Federal Crop Insurance—*open to all, no immigrant restrictions*<sup>21</sup>
- Special Supplemental Nutrition Program for Women, Infants and Children (WIC)—*open to all, no immigrant restrictions*<sup>22</sup>
- Section 515 and Section 514/516 programs receiving Rural Development rental assistance—*eligible upon lawful permanent residency*<sup>23</sup>
- Rural Development Voucher Program—*eligible upon lawful permanent residency*<sup>24</sup>
- Section 514 Farm Labor Housing—*eligible upon lawful permanent residency*<sup>25</sup>
- Section 502 Direct Homeownership Loan Program—*eligible upon lawful permanent residency*<sup>26</sup>
- Section 504 Minor Rehabilitation Loan and Grant Programs for Single Family Homes—*eligible upon lawful permanent residency*<sup>27</sup>

#### Department of Education

- Title IV Federal Student Financial Aid—*eligible upon lawful permanent residency*<sup>28</sup>

#### The Department of Health and Human Services<sup>29</sup>

- Adoption Assistance—*eligible at lawful permanent residency*<sup>30</sup>
- Administration on Developmental Disabilities (ADD)—*eligible for each of the following at lawful permanent residency*<sup>31</sup>
  - State Developmental Disabilities Councils (direct services only)—*eligible at lawful permanent residency*<sup>32</sup>
  - ADD-Special Projects—*eligible at lawful permanent residency*<sup>33</sup>
  - ADD-University Affiliated Programs (clinical disability assessment services only)—*eligible at lawful permanent residency*<sup>34</sup>
- Adult Programs/Payments to Territories—*eligible at lawful permanent residency*<sup>35</sup>
- Agency for Health Care Policy and Research Dissertation Grants—*eligible at lawful permanent residency*<sup>36</sup>
- Child Care and Development Fund (CCDF)—*open to all persons without regard to immigration status*<sup>37</sup>

- Clinical Training Grant for Faculty Development in Alcohol & Drug Abuse—*eligible at lawful permanent residency*<sup>38</sup>
- Foster Care—*eligible at lawful permanent residency*<sup>39</sup>
- Health Profession Education and Training Assistance—*eligible at lawful permanent residency*<sup>40</sup>
- Independent Living Program—*eligible at lawful permanent residency*<sup>41</sup>
- Low Income Heating Energy and Assistance Program (LIHEAP)—*eligible at lawful permanent residency*<sup>42</sup>
  - Residential Energy Assistance Challenge Option (REACH)—*eligible at lawful permanent residency*<sup>43</sup>
- State Child Health Insurance Program (SCHIP)—*eligible upon filing SIJ application, potentially eligible for state funded health care healthcare subsidies depending on the state*<sup>44</sup>
  - State funded child health care<sup>45</sup>—*eligible at lawful permanent residency*
- Medicaid (except assistance for an emergency medical condition)—*eligible after age 19 at lawful permanent residency subject to 5-year bar unless state funded*<sup>46</sup>
  - State funded health care<sup>47</sup>
- Emergency Medicaid—*open to all persons without regard to immigration status.*<sup>48</sup>
- Mental Health Clinical Training Grants—*eligible at lawful permanent residency*<sup>49</sup>
- Substance Abuse and Mental Health Services
  - If necessary to protect life and safety—*open to all persons without regard to immigration status.*<sup>50</sup>
  - Longer-term Substance Abuse and Mental Health Services—*follow the same eligibility rules as SCHIP and Medicaid listed above. SISJ children may access these services without regard to immigration status through public health clinics*<sup>51</sup>
- Health Resources and Services Administration Programs (HRSA)—*open to all, no immigration restrictions*<sup>52</sup>
- Health Screenings and Immunizations—*available to uninsured people without regard to immigration status through public health clinics*<sup>53</sup>
- Native Hawaiian Loan Program—*not eligible*<sup>54</sup>
- Services for Survivors of Torture—*eligible if a survivor of torture without regard to immigration status.*<sup>55</sup>
- Social Services Block Grant (SSBG)—*immigrant restrictions vary by state.*<sup>56</sup>
- Temporary Assistance for Needy Families (TANF)—*eligible at lawful permanent residency subject to 5-year bar*<sup>57</sup>
  - State funded TANF Replacement Programs<sup>58</sup>—*eligible at lawful permanent residency, during the 5-year bar, subject to state eligibility requirements.*
  - TANF Funded Child Care—*eligible upon TANF eligibility*<sup>59</sup>

#### Department of Homeland Security

- Emergency Disaster Assistance—*open to all immigrants no immigration restriction.*<sup>60</sup>
- Disaster Assistance—*eligible at lawful permanent residency*<sup>61</sup>

#### Department of Housing<sup>62</sup>

- Unrestricted Housing Programs—*open to all immigrants no immigration restrictions*<sup>63</sup>
  - Short term shelter (emergency shelter and transitional housing)—*open to all immigrants including victims of domestic violence, homeless, or abused, abandoned or neglected children.*<sup>64</sup>

- Street Outreach Services—*open to all immigrants no immigration restriction.*<sup>65</sup>
- Safe Haven—*open to all immigrants no immigration restriction.*<sup>66</sup>
- Rapid Re-Housing—*open to all immigrants no immigration restriction.*<sup>67</sup>
- Federally-funded Transitional Housing where the grant recipient or subrecipient owns or leases the building used to provide the transitional housing—*open to all immigrants no immigration restriction.*<sup>68</sup>
- Low Income Housing Tax Credit—*open to all immigrants no immigration restriction.*<sup>69</sup>
- Section 202 Supportive Housing for the Elderly Program—*open to all immigrants no immigration restriction.*<sup>70</sup>
- Section 811 Supportive Housing for Persons with Disabilities Program—*open to all immigrants no immigration restriction.*<sup>71</sup>
- Section 211(d)(3) and (5) Multifamily Rental Housing for Moderate-Income Families—*open to all immigrants no immigration restriction.*<sup>72</sup>
- Community Development Block Grant Housing (CDBG)—*open to all immigrants no immigration restriction.*<sup>73</sup>
- HOME Program: HOME Investment Partnerships—*open to all immigrants no immigration restriction.*<sup>74</sup>
- Home Opportunities for People with AIDS (HOPWA)—*open to all immigrants no immigration restriction.*<sup>75</sup>
- Indian Housing—*open to all immigrants no immigration restriction.*<sup>76</sup>
- Rental Rehabilitation—*open to all immigrants no immigration restriction.*<sup>77</sup>
- McKinney-Vento/HEARTH Act Programs—*open to all immigrants no immigration restriction.*<sup>78</sup>
- Home Ownership and Opportunity for People Everywhere (HOPE 2)—*open to all immigrants no immigration restriction.*<sup>79</sup>
- Rural Housing Preservation Grants—*open to all immigrants no immigration restriction.*<sup>80</sup>
- Section 515 Rural Rental Housing Program—*open to all immigrants no immigration restriction.*<sup>81</sup>
- Section 538 Multifamily Loan Guarantees—*open to all immigrants no immigration restriction.*<sup>82</sup>
- Restricted Benefits Available to SIJS Applicants—*only upon receiving lawful permanent residency*
  - Public Housing Programs—*eligible at lawful permanent residency*<sup>83</sup>
  - Section 8 Housing Choice Voucher Program—*eligible at lawful permanent residency*<sup>84</sup>
  - Project-Based Section 8 Voucher Program—*eligible at lawful permanent residency*<sup>85</sup>
  - Section 236 Housing, with or without Rent Supplements (low-income units only)—*eligible at lawful permanent residency*<sup>86</sup>
  - Rental Supplement housing—*eligible at lawful permanent residency*<sup>87</sup>
  - Section 235 Homeownership housing—*eligible at lawful permanent residency*<sup>88</sup>
  - Housing Development Grants (HoDAG) (low-income units only)—*eligible at lawful permanent residency*<sup>89</sup>

#### Department of Justice

- Victims of Crime (VOCA) Victim compensation—*open to all victims without regard to immigration status except in Alabama.*<sup>90</sup>
- Victim Rights and Services – Federal Victim Witness Coordinators, Emergency Witness Assistance, Witness Security Program—*open to all, no immigration restrictions.*<sup>91</sup>

## Department of Labor

- Employment Services—*varies by state and are available to SIJS applicants with lawful permanent residency or deferred action and work authorization.*<sup>92</sup>
  - One-Stop Career Centers Core and Intensive Services—*vary by state and are available to SIJS applicants with lawful permanent residency or deferred action work authorization.*<sup>93</sup>
  - Job Corps—*vary by state and are available to SIJS applicants with or lawful permanent residency or deferred action with work authorization.*<sup>94</sup>

## Legal Services Corporation

- Legal Services Corporation—*funds can be used to represent:*<sup>95</sup>
  - *Immigrant children who are of domestic violence, child abuse, human trafficking and other U visa related criminal activities*<sup>96</sup>
    - *The caregiver of an immigrant SIJS eligible child abuse victim who needs to obtain orders from a state family court in order to file the child's SIJS application without regard to the immigration status of the caregiver*<sup>97</sup>
  - *SIJS children eligible to file for adjustment of status to lawful permanent residency*

## Social Security Administration

- Supplemental Security Income (SSI)—*eligible at lawful permanent residency if credited with 40 quarters of work, subject to 5-year bar.*<sup>98</sup>

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<sup>1</sup> See Leslye E. Orloff, *Chapter 1: Introduction to Special Immigrant Juvenile Status*, SPECIAL IMMIGRANT JUVENILE STATUS BENCH BOOK: A NATIONAL GUIDE TO BEST PRACTICES FOR JUDGES AND COURTS 1 (2018), available at <https://niwaplibrary.wcl.american.edu/pubs/chi-intro-to-sijs>.

<sup>2</sup> See USCIS to Offer Deferred Action for Special Immigrant Juveniles, U.S. CITIZENSHIP AND IMMIGRATION SERV. (March 7, 2022), <https://www.uscis.gov/newsroom/alerts/uscis-to-offer-deferred-action-for-special-immigrant-juveniles>; U.S. CITIZENSHIP AND IMMIGRATION SERV., 6 USCIS-PM G.1, USCIS POLICY MANUAL.

<sup>3</sup> Once an immigrant child becomes a lawful permanent resident their public benefits eligibility follows their lawful permanent residency. How they attained lawful permanent residency is not generally a factor in their eligibility.

<sup>4</sup> See Leslye E. Orloff, *State-Funded Public Benefits Comparison Chart* (July 22, 2021), available at <https://niwaplibrary.wcl.american.edu/pubs/state-benefits-comparison-chart>.

<sup>5</sup> For comprehensive information on benefits available to SIJS applicants, see *All State Public Benefits Charts and Map (2021)*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT, available at <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>. For a state by state analysis of state funded access to health care for immigrant crime victims, see *State-By-State Immigrant Access to Health Benefits*, NIWAP (Feb. 23, 2017), available at <https://niwaplibrary.wcl.american.edu/state-by-state-immigrant-access-to-health-benefits>.

<sup>6</sup> See DEPT. OF HEALTH AND HUMAN SERV. CTR. FOR MEDICAID, CHIP AND SURVEY & CERT., *Medicaid and CHIP Coverage of "Lawfully Residing" Children and Pregnant Women* (July 1, 2010), available at <https://niwaplibrary.wcl.american.edu/pubs/pb-gov-hhslawfullyresidingmedicaid-07-01-10-also-in-qualified-immigrants>.

<sup>7</sup> Subsidized health care up to the age of 19: CA (As PRUCOL) DC & WA (All children receive state subsidized health care without regard to immigration status); Temporary Aid for Needy Families (TANF): CA, NY, PA, WA; Food Assistance: WA. For more information and citations see *All State Public Benefits Charts and Interactive Public Benefits Map (2022)*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT (2022), <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

<sup>8</sup> See Leslye E. Orloff and Katelyn Deibler, *SPECIAL IMMIGRANT JUVENILE STATUS (SIJS) TIMELINE WITH BACKGROUND CHECKS* (June 12, 2021), available at <https://niwaplibrary.wcl.american.edu/pubs/sijs-timeline>.

<sup>9</sup> SIJS applicants will receive LPR in three years or less compared to over 15 years for the U visa.

<sup>10</sup> To determine whether your client might qualify for one of these forms of immigration relief in addition to SIJS, see Jordan Tacher and Leslye E. Orloff, *Trafficking Victim Benefits Eligibility Process*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT (Mar. 2, 2018), available at <https://niwaplibrary.wcl.american.edu/wp-content/uploads/PB-BchCrd-TraffickingVictimBenefitsEligibilityProcess-04.12.13.pdf>; Jordan Tacher and Leslye E. Orloff, *VAWA Public Benefits Eligibility Process: VAWA Self-petitioners, VAWA Cancellation of Removal, and VAWA Suspension of Deportation*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT (April 17, 2013), available at <https://niwaplibrary.wcl.american.edu/pubs/vawaeligibility-process>; See Jordan Tacher, Aditi Kumar, Abigail Whitmore, and Leslye E. Orloff, *U Visa Victim Immigration and Public Benefits Eligibility Process*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT (Oct. 1, 2014), available at <https://niwaplibrary.wcl.american.edu/pubs/u-visa-benefits-benchcard>. For a chart comparing VAWA, T, and U visa immigration relief qualifications and application process, see *Comparing Forms of Immigration Relief for Immigrant Victims of Crime*, LEGAL MOMENTUM AND

NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT (Sept. 12, 2017), available at <https://niwaplibrary.wcl.american.edu/pubs/imm-relief-forms-comparison>.

<sup>11</sup> NIWAP has created a series of bench cards tracking benefits eligibility for VAWA self-petitioners, T visas, and U visas: see Jordan Tacher and Leslye E. Orloff, *Trafficking Victim Benefits Eligibility Process*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT (Mar. 2, 2018), available at <https://niwaplibrary.wcl.american.edu/wp-content/uploads/PB-BchCrd-TraffickingVictimBenefitsEligibilityProcess-04.12.13.pdf>; Jordan Tacher and Leslye E. Orloff, *VAWA Public Benefits Eligibility Process: VAWA Self-petitioners, VAWA Cancellation of Removal, and VAWA Suspension of Deportation*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT (April 17, 2013), available at <https://niwaplibrary.wcl.american.edu/pubs/vawaeligibility-process>; See Jordan Tacher, Aditi Kumar, Abigail Whitmore, and Leslye E. Orloff, *U Visa Victim Immigration and Public Benefits Eligibility Process*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT (Oct. 1, 2014), available at <https://niwaplibrary.wcl.american.edu/pubs/u-visa-benefits-benchcard>. NIWAP has also developed screening charts that assist in comparing by state and by immigration status what an immigrant child who is a victim of crime or abuse is eligible to receive, see *All State Public Benefits Charts and Interactive Public Benefits Map* (2022), NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT, <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

<sup>12</sup> 8 C.F.R. § 204.11(a) (2022).

<sup>13</sup> 8 C.F.R. § 204.11(a) (2022).

<sup>14</sup> *Appendix D1: USCIS SIJS Policy Manual Volume 6 – Immigrants Part J – Special Immigrant Juveniles – Chapter 3(A) – Juvenile Court Orders and Administrative Documents*, IN NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT, SIJS BENCH BOOK 11 (2017), available at <http://niwaplibrary.wcl.american.edu/pubs/appendix-d1-uscis-sijs-policy-manual-full-vol-6/>. See also Rachel G. Settlege, Elizabeth A. Campbell & Veronica T. Thronson, *Special Immigrant Juvenile Status*, in IMMIGRATION RELIEF: LEGAL ASSISTANCE FOR NONCITIZEN CRIME VICTIMS 69 (ABA 2014) (noting that Special immigrant Juvenile findings are made routinely for “undocumented children in a variety of settings in which the state courts are involved in making determination of custody, such as juvenile delinquency proceedings).

<sup>15</sup> INA § 101(a)(27)(J), 8 U.S.C. § 1101(a)(27)(J).

<sup>16</sup> In the absence of birth certificate issued by the government of the child's country, which is a common occurrence, the Secretary of Health and Human Services, in consultation with the Secretary of Homeland Security, is charged with developing procedures to determine the age of a child. These procedures “shall take into account multiple forms of evidence, including the non-exclusive use of radiographs, to determine the age of the unaccompanied alien.” William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) § 235(b)(4), codified at 8 U.S.C. 1232.

<sup>17</sup> For comprehensive information on benefits available to SIJS applicants in the states, see *All State Public Benefits Chars and Map* (2022), NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT, <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

<sup>18</sup> See *Programs Open to Immigrant Victims and All Immigrants Without Regard to Immigration Status* (July 23, 2015), available at <https://niwaplibrary.wcl.american.edu/pubs/programs-open-to-all-immigrants>.

<sup>19</sup> It is important to note that in addition to immigrant eligibility to be granted access to public benefits, the child must also meet the program's eligibility requirements that apply to all applicants.

<sup>20</sup> Qualified immigrant children and stepchildren including SIJS applicants with lawful permanent residence under 18 are immediately eligible for SNAP benefits. However, SIJS applicants over 18 must wait for 5 years after becoming lawful permanent residents unless their state provides otherwise. For more information on SNAP eligibility, see Supplemental Nutrition Assistance Program, U.S. DEP'T OF AGRIC., <https://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program> (last visited Nov. 10, 2021). For a state-by-state analysis of immigrant access to SNAP, see State Funded Food Assistance Programs, NAT'L IMMIGRATION LAW CTR. (Jul. 2011), [https://www.nilc.org/issues/economicssupport/state\\_food/](https://www.nilc.org/issues/economicssupport/state_food/) (last visited Nov. 10, 2021). For information about benefits available to SIJS applicants and recipients, see *All State Public Benefits Charts and Map* (2021), NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT, available at <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

<sup>21</sup> See Bulletin No: MGR-05-008 Eligibility for Federal Crop Insurance Benefits for Non-Citizens without a Social Security Number (SSN), U.S. DEP'T OF AGRIC. (May 26, 2005), available at <https://legacy.rma.usda.gov/news/managers/2005/PDF/mgr-05-008.pdf> (last visited Dec. 31, 2021).

<sup>22</sup> For more information on WIC eligibility and how to apply for the benefits, see *WIC Eligibility Requirements*, U.S. DEP'T OF AGRIC., <https://www.fns.usda.gov/wic/wic-eligibility-requirements> (last visited Dec. 29, 2021).

<sup>23</sup> See generally NAT'L HOUSING LAW PROJECT, Federally Assisted Housing and Immigrant Eligibility Section 214 of the Housing and Community Development Act of 1980 (January 2018), available at <https://niwaplibrary.wcl.american.edu/pubs/nhlp-federally-assisted-housing-and-immigrant-eligibility-jan2018-1>; Karlo Ng, Rafaela Rodrigues, and Leslye E. Orloff, *What Shelter And Rental Housing Assistance Are Available To Immigrant Survivors During COVID-19?* 2-3 (September, 2021), available at <https://niwaplibrary.wcl.american.edu/pubs/faq-immigrant-survivors-housing-september-2021>.

<sup>24</sup> Id.

<sup>25</sup> Id.

<sup>26</sup> See generally NAT'L HOUSING LAW PROJECT, Federally Assisted Housing and Immigrant Eligibility Section 214 of the Housing and Community Development Act of 1980 (January 2018), available at <https://niwaplibrary.wcl.american.edu/pubs/nhlp-federally-assisted-housing-and-immigranteligibility-jan-2018-1>.

<sup>27</sup> Id.

<sup>28</sup> For more information about the availability of funds for SIJS applicants, see *Many Non-U.S. Citizens Qualify for Federal Student Aid*, OFFICE OF FED. STUDENT AID, U.S. DEP'T OF EDUC. (last visited Dec. 31, 2021), <https://studentaid.gov/understand-aid/eligibility/requirements/non-uscitizens>. See 8 U.S.C. § 1641(b)(1).

<sup>29</sup> See Dep't of Health and Human Servs., Interpretation of “Federal Public Benefit,” 63 Fed. Reg. 41,658, 41,659 (Aug. 4, 1998) (Since PRWORA does not identify the specific benefits that are “Federal public benefits,” and the definition in section 401(c), standing alone, does not provide sufficient guidance for benefit providers to make that determination. Thus, HHS published a list of HHS programs that are Federal Public Benefits and therefore are only open to qualified immigrants.) [hereinafter HHS Guidance].

<sup>30</sup> HHS Guidance at 41,658.

<sup>31</sup> HHS Guidance at 41,658.

<sup>32</sup> HHS Guidance at 41,658.

<sup>33</sup> HHS Guidance at 41,658.

<sup>34</sup> HHS Guidance at 41,658.

<sup>35</sup> HHS Guidance at 41,658.

<sup>36</sup> HHS Guidance at 41,658.

<sup>37</sup> For information on CCDF child care eligibility for immigrant victims, see *Guide to Immigrant Eligibility for Federal Programs*, NAT'L IMMIGRATION LAW CTR., <https://www.nilc.org/issues/economic-support/updatepage/> (last visited Oct. 25, 2021); see also Banish Anver and Leslye E. Orloff, *Immigrant Crime Victim Child Care Access*, NIWAP (Mar. 13, 2013), available at <https://niwaplibrary.wcl.american.edu/pubs/pb-chart-childcare>.

<sup>38</sup> HHS Guidance at 41,658.

<sup>39</sup> HHS Guidance at 41,658. If the child is a qualified alien who is placed in foster care with a qualified alien or United States citizen, the date the child entered the United States is irrelevant and may receive foster care payments. However, if the child is a qualified alien who entered the United States on or after August 22, 1996 and is placed with an unqualified alien, the child would be subject to the five-year residency requirement for Federal means-tested public benefits unless the child is in one of the excepted groups identified at § 403(b) of the Personal Responsibility and Work Opportunity Reconciliation Act. See U.S. DEP'T OF HEALTH AND HUMAN SERV. ADMIN. FOR CHILDREN AND FAMILIES, 7 ACF-CWPM, CHILDREN'S BUREAU CHILD WELFARE POLICY MANUAL (2022).

<sup>40</sup> HHS Guidance at 41,658.

<sup>41</sup> HHS Guidance at 41,658.

<sup>42</sup> See *Summary of Immigrant Eligibility Restrictions Under Current Law*, U.S. DEP'T OF HEALTH AND HUMAN SERV. (Feb. 25, 2009), <http://aspe.hhs.gov/hsp/immigration/restrictions-sum.shtml> (last visited Oct. 25, 2021). Trafficking victims with HHS OTIP certification or eligibility letters receive LIHEAP to the same extent as refugees. See *LIHEAP Eligibility Criteria*, U.S. DEP'T OF HEALTH AND HUMAN SERV., ADMIN. FOR CHILDREN AND FAMILIES (May 8, 2012), <http://www.acf.hhs.gov/programs/ocs/resource/liheap-eligibility-criteria> (last visited Oct. 25, 2021). For more details and information about how to apply for LIHEAP, see *Low Income Home Energy Assistance Program (LIHEAP)*, U.S. DEP'T OF HEALTH AND HUMAN SERV., ADMIN. FOR CHILDREN AND FAMILIES, <http://www.acf.hhs.gov/programs/ocs/programs/liheap> (last visited Oct. 25, 2021).

<sup>43</sup> See *Residential Energy Assistance Challenge (REACH)*, U.S. DEP'T OF HEALTH AND HUMAN SERV., ADMIN. FOR CHILDREN AND FAMILIES, <https://liheapch.acf.hhs.gov/reach.html>.

<sup>44</sup> For the definition of "lawfully residing," see *Centers for Medicare and Medicaid Services, Medicaid and CHIP Coverage of "Lawfully Residing" Children and Pregnant Women* (Jul. 1, 2010), available at <https://niwaplibrary.wcl.american.edu/wp-content/uploads/2015/pdf/PB-Gov-HHSLawfullyResidingMedicaid-07.01.10-also-in-Qualified-Immigrants.pdf>. See also "Lawfully Residing" Children and Pregnant Women Eligible for Medicaid and CHIP, NAT'L IMMIGRATION LAW CTR. (Oct. 2021), available at <https://www.nilc.org/issues/health-care/lawfully-residing-medicare-chip/> (last visited Oct. 25, 2021). When minor victims turn 21, their health care eligibility moves from SCHIP to Medicaid. Whether an immigrant child or pregnant woman who is lawfully present is eligible for SCHIP during the 5-year bar varies by state. For a state by state analysis of state funded access to health care for immigrant crime victims, see *All State Public Benefits Charts and Map (2021)*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT, available at <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

<sup>45</sup> See Leslye E. Orloff, *State-Funded Public Benefits Comparison Chart* (July 22, 2021), available at <https://niwaplibrary.wcl.american.edu/pubs/state-benefits-comparison-chart>; see *All State Public Benefits Charts and Map (2021)*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT, available at <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>; see *Medical Assistance Programs for Immigrants in Various States*, NAT'L IMMIGRATION LAW CTR., available at <https://www.nilc.org/issues/health-care/medical-assistance-various-states/>.

<sup>46</sup> Victims are eligible after the 5-year disqualification period, but the 5-year disqualification period does not apply to otherwise eligible pregnant women or children under age 19 who are qualified immigrants lawfully residing in the U.S. who live in states who have opted to provide state funded health care to children, pregnant women, or other immigrants. See *Medical Assistance Programs for Immigrants and Immigrant Crime Victims: State by State*, available at <https://niwaplibrary.wcl.american.edu/wp-content/uploads/2015/pdf/PB-Chart-MedicalAssistanceProgramsState-11.28.14.pdf>. See also *State-By-State Immigrant Access to Health Benefits*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT, <https://niwaplibrary.wcl.american.edu/state-by-state-immigrant-access-to-health-benefits> (last visited Nov. 10, 2021).

<sup>47</sup> For a state by state analysis of state funded access to health care for immigrant crime victims, see *All State Public Benefits Charts and Map*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT (2021), available at <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

<sup>48</sup> See *Chapter 17.1: Emergency Medicaid: Urgent Medical Services for Immigrant Crime Victims and Children*, EMPOWERING SURVIVORS: LEGAL RIGHTS OF IMMIGRANT VICTIMS OF SEXUAL ASSAULT (December 7, 2016), available at <https://niwaplibrary.wcl.american.edu/pubs/ch17-1-emergencymedicaid>.

<sup>49</sup> HHS Guidance at 41,658.

<sup>50</sup> See *Chapter 17.1: Emergency Medicaid: Urgent Medical Services for Immigrant Crime Victims and Children*, EMPOWERING SURVIVORS: LEGAL RIGHTS OF IMMIGRANT VICTIMS OF SEXUAL ASSAULT (December 7, 2016), available at <https://niwaplibrary.wcl.american.edu/pubs/ch17-1-emergencymedicaid>.

<sup>51</sup> Screenings are conducted by State or local health departments for the diagnosis, treatment and prevention of communicable diseases and other conditions of public health importance. PRWORA § 401(b)(3), 8 U.S.C. § 1611(b)(1)(C) (2011). This usually includes screening for tuberculosis (TB), parasites, and hepatitis B, as well as school vaccinations. All immunizations and screenings available to Medicaid or SCHIP beneficiaries are covered. See *Immunization and Vaccine Resources*, CTRS. FOR MEDICAID AND MEDICARE SVCS. (Jun. 15, 2012), available at <https://www.cms.gov/AboutCMS/Agency-Information/OMH/resource-center/Immunization-Resources> (last visited Nov. 10, 2021).

<sup>52</sup> To find an HRSA funded Health Care Center, see Find a Health Center, U.S. DEP'T OF HEALTH AND HUMAN SERV., HEALTH RES. AND SERVICES ADMIN., [http://findahealthcenter.hrsa.gov/Search\\_HCC.aspx](http://findahealthcenter.hrsa.gov/Search_HCC.aspx) (last visited Mar. 22, 2013). HRSA offers health care and support to uninsured, underserved, and special needs populations. HRSA issues grants to federally funded health centers that are available to anyone regardless of their ability to pay. The health centers charge patients using a sliding fee scale, based on their income. Health centers provide well-care checkups, treatment for sick patients, complete care for pregnant patients, immunizations and checkups for children, dental care, prescription drugs, as well as mental health and substance abuse care.

<sup>53</sup> Screenings are conducted by State or local health departments for the diagnosis, treatment and prevention of communicable diseases and other conditions of public health importance. PRWORA § 401(b)(3), 8 U.S.C. § 1611(b)(1)(C) (2011). This usually includes screening for tuberculosis (TB), parasites, and hepatitis B, as well as school vaccinations. All immunizations and screenings available to Medicaid or SCHIP beneficiaries are covered. See *Immunization and Vaccine Resources*, CTRS. FOR MEDICAID AND MEDICARE SVCS. (Jun. 15, 2012), available at <https://www.cms.gov/AboutCMS/Agency-Information/OMH/resource-center/Immunization-Resources> (last visited Nov. 10, 2021).

<sup>54</sup> Eligibility limited to Native Hawaiians and all Native Hawaiians are citizens. See also, HHS Guidance at 41,658.



<sup>55</sup> The Services for Survivors of Torture (SOT) program helps people who have been tortured in another country and are now living in the United States. See *Services for Survivors of Torture*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES, <https://www.acf.hhs.gov/orr/programs/refugees/services-survivors-torture>; *Domestic Healing Centers*, HEALTORTURE.ORG, <https://www.healtorture.org/content/domestic-healing-centers>.

<sup>56</sup> States may choose whether to allow access for qualified immigrants. See *Summary of Immigrant Eligibility Restrictions*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. (Feb. 25, 2009), available at <http://aspe.hhs.gov/hsp/immigration/restrictions-sum.shtml> (last visited Nov. 19, 2021).

<sup>57</sup> For an analysis of federally funded access to TANF see *All State Public Benefits Charts and Map (2021)*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT, available at <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

<sup>58</sup> For a state by state analysis of state funded access to access to TANF, see See Leslye E. Orloff, *State-Funded Public Benefits Comparison Chart* (July 22, 2021), available at <https://niwaplibrary.wcl.american.edu/pubs/state-benefits-comparison-chart>; Benish Anver and Leslye Orloff, *Eligibility for State Funded TANF Replacement Programs for Immigrant Crime Victims* (Dec. 15, 2016), available at <https://niwaplibrary.wcl.american.edu/pubs/pb-chart-replacementprogramstanf>; *State-Funded TANF Replacement Programs*, NAT'L IMMIGRATION LAW CTR., available at [https://www.nilc.org/issues/economic-support/guide\\_tanf/](https://www.nilc.org/issues/economic-support/guide_tanf/).

<sup>59</sup> For a state-by-state analysis of state funded access to access to TANF funded child care, see *All State Public Benefits Charts and Map (2021)*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT, available at <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

<sup>60</sup> Eligible for certain FEMA provided emergency services that are available to all victims regardless of their immigration status. These services are short term, non-cash, in-kind emergency disaster relief, including: search and rescue, emergency medical care, mass care and shelter, resources for essential needs such as food, water and medicine, and reduction of immediate threats to life, property, public health and safety. See *Disaster Assistance: Food, shelter, cash payments, loans, and other help for survivors of major disasters*, NAT'L IMMIGRATION LAW CTR., available at <https://www.nilc.org/issues/economic-support/disaster-help/> (last visited Nov. 19, 2021).

<sup>61</sup> Id.

<sup>62</sup> For a listing of all Public and Assisted Housing programs through HUD, see *HUD Programs and Immigrant Eligibility*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT, available at <https://niwaplibrary.wcl.american.edu/wp-content/uploads/2015/pdf/PB-Man-Ch16.2HUDProgramsImmEligibility-7.10.13.pdf> (last visited Dec. 31, 2021). The first section of the appendix lists programs that are only available to "qualified immigrants." The second section lists the remaining programs that are available to all immigrants regardless of their status.

<sup>63</sup> *Office of Special Needs Assistance Programs, U.S. Department of Housing and Urban Development, The Personal Responsibility and Work Opportunity Act of 1996 and HUD's Homeless Assistance Programs* (August 16, 2016), available at <https://niwaplibrary.wcl.american.edu/pubs/prworafact-sheet>; *What Shelter and Rental Housing Assistance Are Available to Immigrant Survivors During COVID-19?* (September 2021), available at <https://niwaplibrary.wcl.american.edu/pubs/faq-immigrant-survivors-housing-september-2021>; *Three Federal Agencies Issue Joint Agency Letter On Shelters and Transitional Housing* (August 12, 2016), available at <https://niwaplibrary.wcl.american.edu/joint-agency-letter-shelters-transitional-housing>.

<sup>64</sup> See *Three Federal Agencies Issue Joint Agency Letter on Shelters and Transitional Housing* (August 12, 2016), NIWAP (Aug. 12, 2016), available at <https://niwaplibrary.wcl.american.edu/joint-agency-letter-shelters-transitional-housing>.

<sup>65</sup> See PROGRAMS OF HUD, U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT 19 (2020), available at <https://www.hud.gov/sites/dfiles/Main/documents/HUDPrograms2020.pdf>; OFFICE OF SPECIAL NEEDS ASSISTANCE PROGRAMS, U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, *The Personal Responsibility and Work Opportunity Act of 1996 and HUD's Homeless Assistance Programs* (August 16, 2016) available at <https://niwaplibrary.wcl.american.edu/pubs/prwora-fact-sheet>; Karlo Ng, Rafaela Rodrigues and Leslye E. Orloff, *What Shelter and Rental Housing Assistance Are Available to Immigrant Survivors During COVID-19?* (September 2021), available at <https://niwaplibrary.wcl.american.edu/pubs/faq-immigrant-survivors-housing-september-2021>; *Three Federal Agencies Issue Joint Agency Letter On Shelters and Transitional Housing* (August 12, 2016), available at <https://niwaplibrary.wcl.american.edu/joint-agency-letter-shelters-transitional-housing>.

<sup>66</sup> Id.

<sup>67</sup> Id.

<sup>68</sup> See OFFICE OF SPECIAL NEEDS ASSISTANCE PROGRAMS, U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, *The Personal Responsibility and Work Opportunity Act of 1996 and HUD's Homeless Assistance Programs* (August 16, 2016), available at <https://niwaplibrary.wcl.american.edu/pubs/prwora-fact-sheet>; PROGRAMS OF HUD, U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT (2020), available at <https://www.hud.gov/sites/dfiles/Main/documents/HUDPrograms2020.pdf> (last visited Nov. 19, 2021).

<sup>69</sup> See generally *Federally Assisted Housing and Immigrant Eligibility Section 214 of the Housing and Community Development Act of 1980*, NAT'L HOUSING LAW PROJECT (January 2018), available at <https://niwaplibrary.wcl.american.edu/pubs/nhlp-federally-assisted-housing-and-immigranteligibility-jan-2018-1>.

<sup>70</sup> Id.

<sup>71</sup> Id.

<sup>72</sup> Id.

<sup>73</sup> Id.

<sup>74</sup> Id.

<sup>75</sup> Id.

<sup>76</sup> Id.

<sup>77</sup> Id.

<sup>78</sup> Id.

<sup>79</sup> Id.

<sup>80</sup> Id.

<sup>81</sup> Id.

<sup>82</sup> Id.

<sup>83</sup> See generally, NAT'L HOUSING LAW PROJECT, *Federally Assisted Housing and Immigrant Eligibility Section 214 of the Housing and Community Development Act of 1980* (January 2018), available at <https://niwaplibrary.wcl.american.edu/pubs/nhlp-federally-assisted-housing-and-immigranteligibility-jan-2018-1>; Karlo Ng, Rafaela Rodrigues, and Leslye E. Orloff, *What Shelter And Rental Housing Assistance Are Available To Immigrant Survivors During COVID-19?* 2-3 (September 2021) available at <https://niwaplibrary.wcl.american.edu/pubs/faq-immigrant-survivors-housing-september2021>.

<sup>84</sup> Id.  
<sup>85</sup> Id.  
<sup>86</sup> Id.  
<sup>87</sup> Id.  
<sup>88</sup> Id.  
<sup>89</sup> Id.

<sup>90</sup> For state-specific details, see *State Links*, NAT'L ASS'N OF CRIME VICTIM COMP. BDS., <https://nacvcb.org/state-information/> (last visited Nov. 22, 2021). Generally, the victim must (a) report the crime promptly to law enforcement, and cooperate with police and prosecutors (many states allow exceptions to this requirement, particularly for child victims); (b) submit a timely victim compensation application (some states provide exceptions); (c) have a cost or loss not covered by insurance or another government benefit program; and (d) not have committed a criminal act or some substantially wrongful act that caused or contributed to the crime (domestic violence, sexual assault and human trafficking victims are not be considered to have contributed to the crime). Apprehension or conviction of the offender is not required. Only two states place immigrant restrictions on access to VOCA victim assistance (Alabama and Nevada), in both states trafficking victims with ORR certification or eligibility letters or T visas should be able to receive VOCA victim assistance to the same extent as refugees. For contact information for local crime victim service providers, see *Post-assault Healthcare and Crime Victim Compensation for Immigrant Victims of Violence – Medical Coverage and Services for Immigrants* (Sept. 13, 2017), available at <https://niwaplibrary.wcl.american.edu/pubs/ch17-3-postassault-healthcare-compensation>. See also *Directory of Crime Victim Services*, OFFICE OF VIOLENCE AGAINST WOMEN, <http://ovc.ncjrs.gov/findvictimservices/search.asp> (last visited Mar. 22, 2013).

<sup>91</sup> For more information on victim and witness funds available, see *Formula Grants*, U.S. DEP'T OF JUSTICE, <http://www.ojp.usdoj.gov/ovc/grants/types.html#formulagrants> (last visited Dec. 31, 2021).

<sup>92</sup> SIJS applicants with deferred action may apply for and be granted employment authorization for the period of deferred action. See 8 C.F.R. § 274a.12; U.S. CITIZENSHIP AND IMMIGRATION SERV., 6 USCIS-PM G.1, USCIS POLICY MANUAL.

<sup>93</sup> For more information and to find a job resource center, see *Service Locator*, Career One-Stop, <http://www.servicelocator.org/> (last visited Dec. 31, 2021).

<sup>94</sup> For employment opportunities, visit Job Corps, <https://www.jobcorps.gov/> (last visited Dec. 31, 2021).

<sup>95</sup> For further guidance, see Catherine Longville, Henrissa Bassey, & Leslye E. Orloff, *Access to Publicly Funded Legal Services for Immigrant Survivors*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT (Oct. 1, 2014), available at <https://niwaplibrary.wcl.american.edu/pubs/lsc-toolaccesspubliclyfundedls>; see also 45 C.F.R. § 1626.4.

<sup>96</sup> The U visa eligible criminal activities are: abduction, abusive sexual contact, attempt to commit any of the named crimes, being held hostage, blackmail, conspiracy to commit any of the named crimes, domestic violence, extortion, false imprisonment, felonious assault, female genital mutilation, fraud in foreign labor contracting, incest, involuntary servitude, kidnapping, manslaughter, murder, obstruction of justice, peonage, perjury, prostitution, rape, sexual assault, sexual exploitation, slave trade, solicitation to commit any of the named crimes, stalking, torture, trafficking, unlawful criminal restraint, and witness tampering.

<sup>97</sup> See *Permissibility of Providing Legal Services to Noncitizen Parents and Noncitizen Guardians of Children Seeking Special Immigrant Juvenile Status*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT (Aug. 26, 2016), <https://niwaplibrary.wcl.american.edu/lsc-non-citizen-parent-guardian-sijs-ao-2016-002>

<sup>98</sup> For persons who are blind, disabled, or over 5 years of age with limited income and resources. Immigrants who entered before August 22, 1996, are eligible for Supplemental Security Income (SSI) only if they were qualified immigrants lawfully residing in the United States and were receiving SSI on August 22, 1996. See Supplemental Security Income (SSI) For Noncitizens, U.S. SOCIAL SECURITY ADMIN., <https://www.ssa.gov/pubs/EN-0511051.pdf> (last visited Nov. 12, 2021). For detailed information the limited eligibility for SSI by state immigrant survivors see *All State Public Benefits Charts and Map (2021)*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT, available at <https://niwaplibrary.wcl.american.edu/all-state-public-benefitscharts>.