

Medical, Social and Legal Services for Immigrants

CalOptima Snack & Learn
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Benefits for Immigrants: Outline

- Some Definitions
- Introductory Considerations When Assisting Immigrants
- Categories of Immigrants plus Public Charge
- Categories of Benefits/Services (N. Rimsha/LASOC)
 - Medical
 - Income Supports
 - Sustenance
 - Housing
- Special Issues

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Services and Benefits for Immigrants: Intro

- This is a massive field, combining two very technical and not necessarily straightforward areas
- Reams of material written on this
- So what can we accomplish today?
 - Understanding the Terminology--Definitions
 - Preliminary Considerations—How to Help Everyone You Encounter
 - Sending People in the Right Direction (Exhibitors!)
 - Some Basic Immigration Law Categories
 - Some Basic Benefits Law Categories

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Definitions: Categories

- USC= United States Citizen
- LPR=Legal Permanent Resident (“green card”) May be due to family or employment or other issues.
- Refugees & Asylees: Immigrants granted refugee or asylee status by fed govt due to fear of persecution in their homelands. See also: Cuban/Haitian entrants, certain Amerasians, victims of trafficking
- Temporary or Provisional Immigrants: e.g. Deferred Action for Childhood Arrivals aka DACA aka Dreamers
- Undocumented = Individuals who lack permission to be in the U.S., due to e.g. arrival without authorization or stayed past permission

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Definitions, Misc

- A#=Number Assigned to Each Application by U.S. Government
- Visa=Permit to enter/stay
- FOIA= Freedom of Information Act
- Naturalization= from LPR to Citizen
- PRUCOL= Permanently Residing Under Color of Law (*not* an immigration status—a *benefits* category)

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Definitions, cont'd

- Public Charge: Further discussion, *infra*, but immigrants who are found “likely to become a public charge” can be denied admission or denied status as an LPR. In some circumstances, a basis for removal. A multi-factorial test, probably leading to considerable confusion.
- Qualified Alien: A window and a door. A term developed in 1996 legislation to make distinctions re benefits. See discussion, *infra*.

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Preliminary Considerations

- What is the client’s immigrant status?
 - Do they know?
 - Do not assume! Amazingly enough, sometimes clients actually do not know
- Use of Questionnaire: But: technical & time-consuming
- How can they find out? Their Provider, the Immigration Line, FOIA or Immigration office

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Preliminary Considerations

- When in doubt: “First Do No Harm”
- Refer client back to their attorney/representative

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Preliminary Considerations

- YOU CAN ALWAYS HELP!
- They can check on their status!
- Be aware of risk to clients of fraudulent service providers
 - Immigration service providers (a focus of California State Bar currently)
 - “Notario fraud”
 - Defensive vs. offensive filings
 - Health Insurance providers (fake ACA and Covered California) already starting

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Preliminary Considerations

- Advise regarding importance of obtaining and keeping **accurate** documentation of identity, income and residence
- ***All benefits are income-dependent and/or residence-dependent; some are time-dependent***
 - Start organizing now!
- ***If client lacks identity documents—start now!***

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Immigration Categories: Categories Determine Benefits

- Begin at the beginning--
- In general, an “alien” is a foreign-born person who is not a citizen or national of the U.S.
- Four classes:
 - 1 people seeking admission
 - 2 people admitted permanently (green card)
 - 3 people admitted as *nonimmigrants* (intend to return home)
 - 4 undocumented or “illegal” aliens

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Immigration Categories: specific categories determine benefits

- Family-based Petitions
- Employment-based Petitions
- Diversity –based petitions
- Victim-based Petitions
 - U Visa (victim of a crime)
 - T Visa (human trafficking victim)
 - VAWA (Violence Against Women Act)
- Asylum/Refugees/CAT(Convention Against Torture)/Withholding of Removal

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Immigration Categories, cont'd

- New:
 - DACA: aka "Dreamers"
 - Pending Legislation? Future unknown (political prognostications are beyond the scope of this presentation!)

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Immigration: Inadmissible categories

- An alien seeking to immigrate might be "inadmissible" for any one of a number of reasons, for example:
 - Health-related (previously HIV)
 - Criminal background
 - Lack of proper degree for job being sought
 - Polygamy (!?)
 - Likelihood of becoming a public charge

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Immigration and Deportation

- Similarly, many grounds to Deport an individual
 - One is having become a public charge within five years of entry (not common)
 - Grounds for Deportation can be waived
 - Re-entry can re-open the problem

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Immigration and Naturalization

- Many benefits to Naturalization, i.e., to becoming a citizen.
 - Citizen cannot be deported
 - Citizen can vote and run for office
 - Citizen can obtain benefits including full-scope MediCal and Covered California (i.e. status is not a bar)

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Immigration and Public Charge

- See Public Charge Fact Sheet issued by U.S. Citizenship and Immigration Services in your materials (April 29, 2011)
 - An individual who is likely to become “primarily dependent on the government for assistance, as demonstrated by the receipt of either public cash assistance for income-maintenance or institutionalization for long-term care at government expense.”
 - A multi-factorial test
 - Potentially Problematic: SSI, TANF, GR , MediCal for long-term care

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Immigration categories: “Qualified”

- Source: Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (Aug. 22, 1996) and Illegal Immigration Reform and Immigrant Responsibility Act of 1996, enacted as Division C of the Defense Department Appropriations Act, 1997, Pub. L. No. 104-208, 110 Stat 3008 (Sept. 30, 1996)
- Effect was to limit benefits to certain *categories of immigrants—those who are “qualified”*

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Immigrant Categories: Qualified

- Qualified Immigrant category includes:
 - LPR (largest category-“green card”)
 - Refugees, asylees/withholding of removal/CAT/conditional entrants
 - Persons granted parole by Dept of Homeland Security for at least 1 year
 - Cuban and Haitian entrants
 - Certain VAWA-related immigrants and their family
 - Certain trafficking victims

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Immigrant Categories: Qualified

- Everyone else: Not Qualified
 - Undocumented = Not Qualified
 - Some people lawfully present (lawfully admitted and present with a VISA)= Not Qualified
 - Broadly, Not Qualified = No Benefits *BUT* some benefits are available to those Not Qualified
 - For any given benefit, must dig deeper
 - Does “Qualified “= Benefits?
 - NO! Must evaluate more extensively.

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Benefits:

What is Available, to Whom and When

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If eligible, applicant should get the benefit

- If you show you meet the rules, you should be approved
- Eligibility staff make errors
- Whether someone qualifies is not always clear

Rules

- Qualifying events/status
- Income
- Resources
- Immigration Status

Rules

- Appeals
- Constitutional right to entitlements if qualified
- If government takes away or reduces must give “due process”
 - Notice
 - Opportunity to contest

General Structure

- **Benefits based on work**
 - Generally no resource rules
 - Legal Immigrants generally eligible
 - Not considered for Public Charge evaluation
- **Benefits payable even if you don't work/pay in**
 - Usually have income/resource rules and limitations on immigrant eligibility

Benefits based on work

- **If you work legally and pay in, you can qualify**
 - Unemployment
 - State Disability
 - Worker's Compensation
 - Private Disability
 - Social Security
 - Disability
 - Retirement

Unemployment/State Disability - Immigrants

- If you have work authorization, you can collect UIB/SDI if otherwise eligible
- No accompanying health coverage

Social Security

- Federal Benefit – apply on-line, phone or Social Security office
- Formal name is
 - Retirement, Survivors and Disability Insurance
 - Have to have worked and paid in to program

Social Security Retirement

- You can retire at 62
- If you do, you get less than if you wait until 66
- If immigrant worked **legally** can be **eligible**
- If worked under different SS number you might be able to get wages transferred to valid number

Social Security Disability (SSDI)

- Must have medically determinable mental and/or physical impairment which has lasted or is expected to last for 12 months or more or result in death, and which prevents the applicant from engaging in substantial gainful activity

SSDI – Immigrants

- If worked legally can be eligible
- Many people have paid in but worked illegally and can never collect – if person becomes legal might be able to collect

SS/SSDI – Health benefits

- Those on SS over 65 or on SSDI - Medicare
 - Part A – no premium if get SS/SSDI
 - Part B – most pay \$104.90/mo.
 - Part C – Medicare Advantage Plans (HMO/PPO), most include prescription coverage
 - Part D – Prescription coverage – separate plan/premium

Medicare – SSDI

- Medicare 2 years, 5 months from onset date
- Exceptions – renal failure, ALS – immediate eligibility

Medicare if didn't pay in

- Available at age 65
 - US Citizen
 - Legal Permanent Resident > 5 years residing in US
- Can buy Part A and B (\$441/mo. + \$104.90/mo.)
- If income < \$931 state pays A and B premium
- If income < \$1257 state pays Part B premium

Medicare Health Reform

- Eligibility changes have to do with health assessments and screenings at no charge
- No changes to immigrant eligibility

Non Work-Related Benefits

- Generally you must be poor
- Many income/resource rules
- Immigrant eligibility varies
- Many errors in eligibility determination
- All programs have appeals
- Look at chart – Major Benefit Programs Available to Immigrants in California

Non Work-Related Cash Benefits

- SSI – Supplemental Security Income
- CAPI – California Assistance Program for Immigrants
- CalWorks
- Food Stamps
- General Relief

Immigrants and Non Work-Related Benefits

- For many must be “qualified immigrant”
 - LPR, Refugee/asylee; Cuban/Haitian entrant; battered spouse/child or victim of trafficking under certain circumstances; veterans + family
 - People who worked 40 quarters with > 5 years legal residency
- Otherwise “not qualified”

Immigrants and Non work-related benefits

- Even if Legal Permanent Resident may not qualify
 - Distinctions based on when entered US
 - Before or after August 22, 1996
 - Additional factor is income of sponsor if sponsored immigrant
 - Cash benefit may be considered Public Charge (usually evaluated when you apply to become LPR)

Social Security Supplemental Security Income (SSI)

- Federal benefit – apply same as SSDI
- For aged (65+) and disabled
- Supplements Social Security Retirement/Disability up to \$886.40/mo. total
- If insufficient SS quarters can get SSI alone (\$866.40/mo.)
- Same disability criteria as SSDI and same process to determine disability

SSI Immigrants

- Even if Legal Permanent Resident may not be eligible
- Eligible if Refugee, asylee, Cuban Haitian, victim of trafficking (only eligible for 1st 7 years after status granted)
- Eligible if worked 40 quarters
- Eligible if Veteran/Native American

- Apply and if denied based on immigration status, apply for CAPI

California Assistance Program for Immigrants– CAPI

- In 1996 many legal immigrants removed from SSI
- State created program for disabled/elderly immigrants who can't qualify for SSI
- Pays same as SSI – plus you can get Food Stamps/Medi-Cal

SSI – health coverage

- Medi-Cal
 - Direct through SSI - no County worker

CalWorks

- **Cash benefit for low-income children and some parents**
 - Apply at County Social Services office or www.benefitscal.org
- **Qualified Immigrants eligible with > than 5 years US legal residency**
- Citizen children of ineligible parents can receive
 - But public charge?

SSI, CAPI, CalWorks

- All include Medi-Cal coverage

General Relief

- County funded benefit
- \$277/month
- Must be U.S. Citizen or documented non-citizen
- Includes Medical Services Initiative (MSI)

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Food Stamps

- Federal/State program – apply at County Social Services office or www.benefitscal.org
- Some working families or SS/SSDI may qualify for Food Stamps
- SSI – no Food Stamps

Food Stamps – Immigrant

- Children under 18 if qualified immigrant even if <5 years
- Legal Permanent Resident for >5 years, refugee, Cuban/Haitian, VAWA, 10 years work, veteran, etc.
- Should not be considered for Public Charge

Medi-Cal – 2013

- You can apply for Medi-Cal even if no SSDI/SSI or CalWorks
- Child, Parent, Disabled or over 65
- Special programs for developmentally disabled children, breast/cervical cancer/pregnant women/long term care

Medi-Cal 2013 Immigrants

- In many other states no Medicaid for lawfully present immigrants during first 5 years after entry
- **In CA immigrant eligibility broad – if legally here and living in CA you can usually get Medi-Cal if otherwise eligible.**
 - Standard is Permanently Residing Under Color of Law (PRUCOL)
- **Medi-Cal should not count for Public Charge determination**

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County Health Coverage – 2013

- Medical Services Initiative (MSI)
- Income limit 200% FPL (\$1915 – 1 person)
- No asset limits
- Immigrant eligibility like Medi-Cal
 - If CA resident and in CA legally you can qualify for MSI if otherwise eligible

Medi-Cal – 2014 Health Reform

- **-Medicaid (Medi-Cal in CA) – Newly eligible group**
 - No need to prove disabled
 - No asset limits
 - Income level (\$1274/month - 1 person, \$2611/month - family of 4)
 - Uses Internal Revenue Service (IRS) adjusted gross income
 - **If less than 5 years legal residency will enroll in private Covered California plan. State will pay premiums and copayments**

Medi-Cal – 2014 Health Reform

- All of the current Medi-Cal categories and eligibility will also still exist
 - Aged/Disabled
 - Working Disabled
 - Medically needy (share of cost families/disabled)
 - Breast and Cervical Cancer

Medi-Cal – 2014 Health Reform

- Undocumented Immigrants
 - Health reform does not change CA coverage
 - Pre-natal, pregnancy, post-partum
 - Emergency coverage
 - Long term care
 - Breast and Cervical Cancer treatment

MSI – 2014 Health Reform

- Many will be on Medi-Cal
- County plans that MSI revert to urgent/emergent coverage program
- Income limits – 138-200% FPL (\$1300-\$1900 – 1 person)
- Those who fail to purchase private coverage?
 - Encourage to buy
 - Any care available until open enrollment?

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Private Insurance – 2014 Covered California - Immigrant eligibility

- To purchase plan in Covered California must have satisfactory immigration status - be legally here and otherwise eligible
- Undocumented cannot purchase insurance in Covered California and cannot get premium subsidy

Undocumented children

- Medi-Cal for emergency
- California Kids – primary/specialty care private coverage \$82/month per child
- OC Cares - Children's Health Initiative will link with community clinic medical home

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Special Considerations

Panel Discussion

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Special Considerations

- Right to Safety in Family
 - E.g. Guardianship, by statute, Not an Issue
- Right to Fair Employment
- Right to Fair Housing
- Protection of Disability Laws

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Certain sources of Healthcare

- PLWH – Ryan White (because of the infectious nature of disease)
- Community Clinics
 - But in OC not MSI or MSI/LIHP
 - PRUCOL: Extremely limited and government must be aware of client's presence (“under color of law”)

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