

# People with Immigrant (including USDA indigent immigrant), Refugee, or Asylee Status

## Characteristics unique to people with immigrant, refugee, or asylee status

- They were all born outside the United States (U.S.).
- The rules about which immigrants can get CalFresh have changed several times since 1996. The 2002 Farm Bill restored eligibility to many legal immigrants. As of January 2010, the current Farm Bill regulations have been in place.
- According to the California Food Assistance Program (CFAP) rules, eligible immigrants do not need to wait a specified period to receive benefits. [MPP § 63-403.]
- The 2002 Farm Bill regulations provide that if a person is originally found to be an eligible immigrant, future changes in status do not override the eligibility. If the eligibility expires, however, the agency must determine if the person is eligible under another status. [7 C.F.R. § 273.4(a)(5)(iv).]

## What is the relevant CalFresh regulation?

- **Legal Permanent Residents** (LPRs or Green Card holders) may qualify for CalFresh. LPRs do not have to wait five years, because of CFAP (state funds); however, they may need to share

sponsor deeming information. See below, under “Sponsor Deeming.”

- **Other potentially eligible immigrant groups include:**
  - Granted withholding of deportation/removal
  - Granted parole for a period of at least one year
  - Abused/battered immigrant, children and parents of abused/battered immigrants
  - Amerasian
  - Conditional entrant
  - Refugee
  - Asylee
  - Cuban/Haitian entrant
  - Noncitizen U.S. military veterans
  - Victims of trafficking or serious crimes (applying for/received T or U Visa)
  - Iraqi and Afghan special immigrants (on a Special Immigrant Visa)
- **Qualified Noncitizens immediately eligible for benefits (providing they meet all other conditions of eligibility) without needing to wait five years:**
  - Those granted asylum under Section 208 of the Immigration and Naturalization Act (INA).
  - Refugees admitted under Section 207 of INA.
  - Afghan and Iraqi Special Immigrants (individuals who provided translation services to the U.S. government) under the Department of Defense Appropriations Act of 2010, Section 8120, Public Law (P.L.) 111-118, enacted on December 19, 2009. They



are eligible for federal public benefits to the same extent and for the same time period as refugees.

- Those granted withholding of deportation/removal under 243(h) or 241(b)(3) of INA.

Cuban or Haitian entrants as defined in 501(e) of the Refugee Education Assistance Act of 1980 or paroled as a “Cuban/Haitian Entrant.”

- Certain Haitian orphans granted Humanitarian Parole after the earthquake on January 12, 2010 who entered the U.S. after the earthquake to be adopted by U.S. citizens. These individuals meet the definition of a Cuban/Haitian Entrant.
- Cuban medical professionals and spouses paroled under INA Section 212(d)(5).
- Amerasian immigrants under 584 of the Foreign Operations, Export Financing, and Related Program Appropriations Act.
- An LPR who has earned or can be credited with 40 quarters of work (could be based on quarters of spouse).
- An LPR with a military connection (veteran, on active duty, or spouse or child of a veteran or active duty service member).
- Children under age 18 (continuing eligibility will be reviewed once the child reaches age 18).
- Those lawfully in the U.S. and 65 or older as of August 22, 1996.
- Those lawfully in the U.S. and receiving government payments for disability or blindness.

*There is no longer a seven-year limit on federal eligibility for refugees, asylees, Amerasians, and Cuban/Haitian Entrants (Farm Security and Rural Investment Act of 2002).*

- **Noncitizens immediately eligible for benefits (providing they meet all other conditions of eligibility) without needing to wait five years:**
  - Noncitizen Nationals (people born in American Samoa or Swain’s Island).
  - Native Americans born in Canada and Mexico.
  - Members (born outside the U.S.) of Native American tribes under Section 450b(e) of the Indian Self-Determination and Education Assistance Act.
  - Members of Hmong or Highland Laotian tribes that helped the U.S. military during the Vietnam era and who are legally living in the U.S., as well as their spouses or surviving spouses and unmarried dependent children.
- **Undocumented immigrants *are not* eligible for CalFresh; however, there may be other people living in the house that are (especially children).**
- For additional details regarding immigrant eligibility and necessary verifications, see: [http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acin/2010/I-102\\_10.pdf](http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acin/2010/I-102_10.pdf)



### How is the regulation applied to CalFresh applicants?

- **“Sponsor Deeming”:** Noncitizens are required to submit their “sponsor’s” financial information if the sponsor signed a legally binding affidavit of support, unless the sponsor is an institution (e.g., church) or their sponsor is not providing enough financial assistance to rise above the FPL. Options for Sponsor Deeming:
  - Provide sponsor financial info (“sponsor deeming”)
  - Indigency Exception if the household income, including support received by the sponsor, is still under 130 percent of FPL (sponsor name only; all HH members apply) CFPD 63-157.3
  - “Opt Out” and apply for kids only (no sponsor info; all HH members apply) CFPD 63-157.10
  - Sponsor name may be shared with Attorney General, but sponsor will not be prosecuted (according to USCIS)
  - Diversity Visa (“lottery visa”) holders do not need to provide sponsor name
- While undocumented immigrants are ineligible, there may be other members of the household who qualify. Receiving CalFresh does not make an immigrant a “public charge.” [FNS Guidance, pp 26-27; see also the USCIS summary, A Quick Guide to Public Charge and Receipt of Public Benefits (October 18, 1999) (an immigrant will not be considered a public charge for using food stamps) and Fact Sheet.] This means that an immigrant to the United States will not be deported, denied entry to the country, or denied lawful permanent residence status on public charge grounds due to his or her receipt of nutrition assistance. This includes nutrition programs including the Supplemental Nutrition Assistance Program (SNAP) or CalFresh, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), the National School Lunch and School Breakfast Program, and other supplementary and emergency food assistance programs. Similarly, lawful receipt of food stamps (CalFresh) will not affect an immigrant’s ability to naturalize. [FNS Guidance, pp 26-27.]
- All potentially eligible immigrants listed above must provide verification of immigration status upon request. For additional details see: <http://foodstampguide.org/immigrant-eligibility-for-food-stamps/>



### Based on the regulation, what unique steps must occur to accommodate this special population?

**Prescreening:** Applicants must fall under one of the categories above.

**Eligibility:** Applicants must be able to provide appropriate verifications, including but not limited to:

- T or U Visa for victims of trafficking or severe crimes.
- An I-797 Notice of Action of Approval of Immigration Status for noncitizen battered women/children/parents.
- Memorandum of Creation of Record of Lawful Permanent Residence (I-181) for LPRs.

Eligibility workers may not require applicants to provide information about the citizenship or immigration status of any non-applicant.

The CalFresh office may not deny benefits to an applicant because a non-applicant family or household member has not disclosed citizenship or immigrant status. [FNS Guidance, p 28.]

**Benefit Retention:** Individuals must submit reporting and recertification materials like all other beneficiaries.