

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

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421 U.S. CITIZENSHIP AND ELIGIBLE ALIEN STATUS

To receive APA, a person must be:

- A United States citizen;
- A U.S. national; or
- A qualified alien, as described in section 421-2. Qualified aliens may be subject to limited eligibility as explained in section 421-3.

421-1 UNITED STATES CITIZENS AND UNITED STATES NATIONALS

United States citizens and nationals include:

- Individuals born in one of the 50 states, the District of Columbia, Puerto Rico, Guam, Virgin Islands, and the Northern Mariana Islands;
- Naturalized citizens;
- U.S. Nationals born in American Samoa or Swain's Island. An individual who was not born in American Samoa or Swain's Island, but one of his or her parents were born in American Samoa or Swain's Island, may be a U.S. National.

U.S. citizenship is verified only when questionable. Sources of verification include birth certificates, certificates of citizenship or naturalization provided by the U.S. Citizenship & Immigration Services (USCIS), U.S. passports, and official identification cards showing U.S. citizenship. U.S. National status may be verified with a U.S. passport stamped "U.S. National."

421-2 QUALIFIED ALIENS

A qualified alien is:

- An alien who is lawfully admitted for permanent residence;
- An alien who is granted asylum;

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- A refugee;
- An alien granted parole for at least one year by the U.S. Citizenship & Immigration Services (USCIS);
- An alien who has had deportation withheld under section 241(b)(3) or 243(h) of the Immigration and Nationality Act (INA);
- An alien granted conditional entry under immigration law in effect before April 1, 1980;
- A Cuban/Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980;
- A battered spouse or child, or parent or child of a battered person, with a petition pending under INA section 204(a) or 244(a); or
- A victim of trafficking under the Trafficking Victims Protection Act of 2000, including certain family members of victims of a severe form of trafficking.

421-3 FIVE YEAR BAR

Qualified aliens who entered the U.S. on or after August 22, 1996 cannot receive APA benefits until they have been in the U.S. for five years or until they become U.S. citizens.

This five-year bar does not apply to:

- Refugees admitted under Section 207 of the Immigration and Naturalization Act (INA);
- Asylees admitted under Section 208 of the INA;
- Aliens whose deportation is being withheld under sections 241(b)(3) or 243(h) of the INA;
- A Cuban/Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980;
- An alien admitted as an Amerasian immigrant;

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- U.S. military veterans or active-duty military, their spouses, and dependent children;
- Victims of trafficking under section 107(b)(1) of the Trafficking Victims protection Act of 2000, including certain family members of victims of a severe form of trafficking.

Qualified aliens in these categories may immediately receive APA benefits regardless of their date of entry into the U.S.

Note: In determining when a qualified alien entered the U.S., use the individual's original date of entry, regardless of any subsequent changes in alien status.

421-4 PROOF OF QUALIFIED ALIEN STATUS

To be eligible for APA, an alien must provide proof of his or her qualified alien status. The following documents are acceptable for determining qualified alien status and whether the qualified alien meets the five-year limitation.

Note: If an applicant presents a receipt indicating that he or she has applied to USCIS for a replacement document for one of the documents identified below, contact the USCIS to verify status by filing a Document Verification Request (G-845 form) with the local USCIS district office and attach a copy of the receipt.

- **Lawful Permanent Resident**
 - Form I-551, or
 - For recent arrivals, a temporary I-551 stamp in a foreign passport or on Form I-94.

Note: Form I-551 has replaced Forms I-151, AR-3, and AR-3a. If an applicant presents one of these old forms as evidence of status, contact USCIS to verify status by filing a Document Verification Request (G-845 form) and attaching a copy of the old form. Refer the applicant to USCIS to apply for a replacement card.

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- **Refugee**
 - Form I-94 annotated with stamp showing admission under section 207 of the INA;
 - Form I-688B annotated "274a.12(a)(3)";
 - Form I-766 annotated "A3"; or
 - Form I-571(Refugee Travel Document).
- **Asylee**
 - Form I-94 annotated with stamp showing grant of asylum under section 208 of the INA;
 - Form I-688 annotated "274a.12(a)(5)";
 - Form I-766 annotated "A5";
 - A copy of the grant letter from the Asylum Office of USCIS; or
 - The alien's copy of the order of the immigration judge granting asylum.
- **Parolee:**
 - Obtain a currently valid Form I-94 that indicates the alien has been paroled pursuant to section 212(d)(5) of the INA, with an expiration date of at least one year from the date issued or indefinite.

Note: Form I-688B annotated "274a.12(a)(4)" or "274a.12(c)(11)" or I-766 annotated "A4 or C11" indicates status as a parolee but does not reflect the length of the parole period. If an individual cannot provide Form I-94, contact USCIS to verify status and length of the parole period.

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- **Alien whose deportation has been withheld under Section 243(h) of the INA or whose removal was withheld under section 241(b)(3) of the INA:**
 - An alien's copy of the order from an immigration judge showing deportation withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under section 241(b)(3) of the INA;
 - Form I-688B annotated "274a.12(a)(10)";
 - I-766 annotated "A10".
- **Alien granted conditional entry under the immigration law in effect before April 1, 1980:**
 - Form I-94 identifying the bearer as "REFUGEE-CONDITIONAL ENTRY" and a citation of section 203(a)(7).
- **Battered spouse or child of U.S. citizen or permanent legal resident:**

All three of the following criteria must be met:

- An approved or pending petition with USCIS showing a prima facie case that the battered individual is protected under the Violence Against Women Act;
- Verification that the individual responsible for the battery or cruelty is no longer living in the household of the victim; and
- A determination by the DPA case worker that there is a substantial connection between the abuse and the need for public assistance.

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- **Victims of Trafficking**

- Letter of certification from the Office of Refugee Resettlement (ORR). The caseworker must verify the validity of this letter and notify ORR of the benefits for which the individual has applied by calling the toll-free trafficking verification line at 1-866-401-5510.
- Form I-797a indicating Class T-1 Visa.
- Form I-797a indicating T-2 (spouse), T-3 (child), T-4 (parent), or T-5 (unmarried sibling under 18 years on the date such alien's T visa application was filed), known as a "Derivative Visa."

Note: T status is valid for three years from the date of approval and is not renewable. However, the individual may adjust to lawful permanent resident status within the 90-day period immediately preceding the expiration of T status.

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AMERICAN INDIAN BORN IN CANADA

An American Indian born in Canada may freely enter and reside in the U.S. and is considered to be lawfully admitted for permanent residence if he or she is at least one-half American Indian blood. As such, he or she is a qualified alien. This provision also extends to non-citizen members of Federally recognized Indian tribes. This provision does not include the spouse or child of such an Indian, nor a non-citizen whose membership in an Indian tribe or family is created by adoption, unless that person is also at least one-half American Indian blood.

The five-year bar on qualified aliens does not apply to American Indians born in Canada or to non-citizen members of federally recognized Indian tribes. A federally recognized Indian tribe means any Indian tribe, band nation, or other organized group or community which is eligible for special programs or services provided by the U.S. to Indians because of their Indian status. This includes any Alaska Native village or Alaska Native Claims Settlement Act (ANCSA) corporation.

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421-6 NON-QUALIFIED ALIENS

Non-qualified aliens include aliens who are permanently residing in the U.S. under color of law, non-immigrants, and illegal aliens. An alien who is not a **qualified** alien is not eligible for APA benefits.

A. PERMANENTLY RESIDING UNDER COLOR OF LAW (PRUCOL)

Aliens in this category are legal permanent residents of the U.S. even though they did not go through the process of applying for and being admitted for permanent residence. This group includes aliens residing in the U.S. with the knowledge and permission of the USCIS whose departure the USCIS does not contemplate enforcing.

B. NON-IMMIGRANTS

Some aliens may be lawfully admitted but only for a temporary or specified time (visitors, tourists, students, diplomats, crewmen on shore leave, temporary workers, members of the foreign press, etc.) These aliens are not eligible for APA because of the temporary nature of their admission status.

C. ILLEGAL ALIENS

An illegal alien is any alien who either was never legally admitted to the U.S., or was admitted for a limited period of time and did not leave when that time expired.

421-7 SPONSORED ALIENS

Aliens who seek admission to the U.S. as permanent residents must show that they will not become "public charges". Many aliens show that they will not be public charges by having sponsors who pledge to support them.

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With certain exceptions, the income and resources of an alien's sponsor are considered available, after certain resource exclusions and income allocations and exclusions are allowed, to meet the needs of the alien for a set period of time. This is the alien sponsor deeming period (see section 421-8 below). However, if an alien becomes blind or disabled after entry into the U.S., alien sponsor deeming ends the month the blindness or disability begins.

*Note: The Medicaid program does not count the income and resources of an alien sponsor when determining Medicaid eligibility for certain individuals who arrived before February 19, 1997. Persons who are not eligible for APA **solely** because of the income and resources of an alien sponsor may be eligible for Medicaid. (Refer to Medical Assistance manual section 5011-9.)*

421-8 ALIEN SPONSOR DEEMING PERIOD

The alien sponsor deeming period begins with the month that the alien is admitted into the U.S. for permanent residence or is granted permanent resident status, and lasts for three years.

Whenever a permanent resident alien applies for APA benefits, determine the date the individual's permanent resident alien status began. If the alien is still within the alien sponsor deeming period, the income and resources of the alien's sponsor are considered available to meet the needs of the alien.

Note: The alien sponsor deeming provisions changed effective October 1, 1996. In addition, the U.S. Citizenship & Immigration Services (USCIS) is now using new, legally binding affidavits of support for sponsored aliens. Please contact Central Office policy staff for guidance on processing APA applications for sponsored aliens who applied before October 1, 1996, or sponsored aliens who are admitted under the new INS affidavit of support.

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421-9 CITIZENSHIP STATUS DECLARATION (CSD)

In most cases, APA recipients are automatically eligible for Medicaid. However, before Medicaid coverage can begin, Medicaid rules require that all applicants and recipients complete a Citizenship Status Declaration (CSD) stating that they are either a United States citizen or a qualified alien in lawful immigration status. Although the Citizenship Status Declaration is not an eligibility requirement for the APA program, it is required for individuals to be eligible to receive Medicaid. If an individual does not complete and sign the CSD, he or she may receive APA cash benefits, but not Medicaid. (Refer to Medical Assistance manual section 5011.)

421-10 SSI ALIEN STATUS REQUIREMENTS

Alien status requirements for the SSI program may be more restrictive than those of the APA program. Because of this, there will be situations where an alien will meet the alien status requirements of the APA program, but not SSI. If it appears an individual will not be eligible for SSI because of their alien status, do not refer that person to apply for SSI. The individual may qualify for APA if all other APA eligibility requirements except for SSI eligibility are met.

Aliens who appear eligible for SSI must be referred to apply for SSI. Any alien who meets SSI alien status requirements will also be considered to have met the alien status requirements for APA.

The following categories of qualified aliens may be eligible for SSI:

A. QUALIFIED ALIENS ELIGIBLE FOR SSI WITHOUT RESTRICTIONS

These aliens are not subject to either the seven-year time limit or the five-year bar described in B. and C. below.

- An alien lawfully residing in the U.S. and receiving SSI benefits on August 22, 1996;
- An alien lawfully residing in the U.S. on August 22, 1996 who is blind or disabled;

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- An alien lawfully residing in the U.S. before August 22, 1996 who can be credited with 40 quarters of coverage under the Social Security Insurance system;
- U.S. military veterans or active-duty military, their spouses, and dependent children;
- A battered spouse or child of a U.S. Citizen or permanent legal resident who is a military veteran or active-duty military; or
- An American Indian born in Canada or a non-citizen member of a Federally recognized Indian tribes.

B. QUALIFIED ALIENS LIMITED TO SEVEN YEARS OF SSI ELIGIBILITY

SSI eligibility for these aliens is limited to a maximum of seven years.

- An alien admitted as a refugee under section 207 of the Immigration and Nationality Act (INA) for seven years from their date of admission or the date refugee status was granted;
- An alien granted asylum under section 208 of the INA for seven years from their date of admission;
- An alien whose deportation has been withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or whose removal has been withheld under section 241(b)(3) of the INA, for seven years after the date deportation or removal is withheld;
- A Cuban or Haitian entrant for seven years after their date of admission;
- An alien who is an Amerasian immigrant for seven years after their date of admission.

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**C. QUALIFIED ALIENS WHO MUST SERVE A FIVE-YEAR
WAITING PERIOD**

These aliens must serve a five-year waiting period before they can qualify for SSI.

- An alien lawfully admitted for permanent residence in the U.S. after August 22, 1996 if the individual can be credited with 40 quarters of coverage under the Social Security Insurance system.

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