

County of San Diego, Health and Human Services Agency (HHS) CalWORKs Program Guide

Eligible Noncitizen Status

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Revision Date:

March 1, 2021

Background:

The Immigration Reform and Control Act (IRCA) of 1986 mandates that a noncitizen must be admitted for permanent residence or permanently residing in the United States (U.S.) under the color of law to be eligible for CalWORKs (federal or state). Verification of eligible noncitizen status is required prior to the receipt of aid. The IRCA also requires that the noncitizen status must be verified with the United States Citizenship and Immigration Services (USCIS) through the Systematic Alien Verification for Entitlements (SAVE) system.

Purpose:

This section has been revised to complete the sunset review and to reformat the section to current standards. Additional clarification has been included to clarify state only versus federally funded CalWORKs.

Policy:

Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)

Title IV of the PRWORA of 1996, Public Law 104-193, prohibits “qualified noncitizens” not meeting exception criteria from receiving any federal means-tested public benefit, including CalWORKs, for a period of five years from the date they acquire their “qualified noncitizen” status.

CalWORKs will continue to allow all immigrants meeting the eligibility criteria to receive benefits. The State of California implemented state only funded programs to aid certain noncitizens not eligible to federally funded CalWORKs.

Eligibility Requirements

To be eligible to CalWORKs (Federal or State) a noncitizen must be a California resident who meets the definition of a “qualified noncitizen” as either lawfully admitted for permanent residency or permanently residing in the U.S. under color of law (PRUCOL). Qualified noncitizens are:

- Lawfully admitted for permanent residence:
 - Under the Immigration and Nationality Act (INA)
 - Legal Permanent Residence (LPR) Status for CalWORKs eligibility purposes does not expire, even if the I-94 or I-551 has reached an expiration date (except for Conditional Entrants) as long as the SAVE response does not indicate the individual is under order of deportation
 - For Sponsored LPRs refer to CPG 42-400.F Sponsored Noncitizens
- Admitted as a refugee under Section 207(c) after March 31, 1980
- Granted political asylum by the attorney general under Section 208
 - Must be granted asylum, proof of application for asylum is not sufficient
- Granted temporary parole status by the attorney general under Section 212(d)(5)
- Cuban/Haitian entrants as defined in section 501(e) of the Refugee Education Assistance Act of 1980
- Amerasian immigrants as described in PRWORA, Section 402(a)(2)(A)(I)(V)
- Noncitizens granted indefinite voluntary departure in lieu of deportation

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- A victim of trafficking, domestic violence or other serious crimes under Welfare and Institutions Code Section 18945, refer to CPG 70-100.A
- Noncitizens granted an indefinite stay of deportation

Note: Cuban/Haitian noncitizen eligibility to CalWORKs is dependent upon the initial immigration designation upon being admitted into the U.S. Expired status is not relevant for the purposes of determining CalWORKs eligibility.

Federally Qualified Noncitizens

Federally qualified noncitizens are those who were lawfully admitted to the U.S. prior to August 22, 1996 (effective December 26, 2007 for holders of Special Immigrant Visa's) and meet a qualified noncitizen status listed above.

Noncitizens admitted on or after August 22, 1996 are not eligible for federally funded benefits for five years from the date of their qualified noncitizen status unless they meet one of the following exception criteria:

- Lawfully admitted for permanent residence with 40 qualifying quarters of work
 - Lawfully admitted non-citizens who have worked 40 qualifying quarters of coverage under Title II of the Social Security Act or can be credited with such qualifying quarters, unless they also received a Federal means-tested public benefit during a qualified quarter, after January 1, 1997. Federal means-tested public benefits have been defined by the state as only CalWORKs/Temporary Assistance to Needy Families (TANF), Food Stamps, and/or Social Security Income (SSI). Under section 435 of the law, a qualifying quarter includes one worked by a parent of a non-citizen while the non-citizen was under 18 and a quarter worked by a spouse during their marriage if the non-citizen remains married to the spouse or the spouse is deceased.
- Granted asylum – under section 208 of the INA
- Admitted as a refugee – under section 207 of the INA
- Noncitizen granted a withholding of deportation – under section 243(h) of the INA
- Cuban/Haitian entrants – under section 501(e) of the Refugee Education Assistance Act of 1980
- Amerasian immigrants – a non-citizen admitted to the U.S. as an Amerasian immigrant as described in PRWORA, Section 402(a)(2)(A)(I)(V)
- U.S. Military Status
 - A veteran who was honorably discharged for reasons other than noncitizenship
 - Active duty (other than active duty for training) in the Armed Forces of the U.S.
 - The spouse or unmarried dependent child of these veterans or active duty personnel

State Only

Qualified noncitizens who are not federally eligible are eligible under the state only program when all of the following apply:

- The noncitizen entered the U.S. on or after August 22, 1996
- The noncitizen meets the definition of a “qualified noncitizen”
- The noncitizen does not meet the exception criteria for federally funded benefits
- The request for benefits is within the first five years of the qualified noncitizen status or is a refugee, SIV holder, or TCVAP

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- All other eligibility requirements are met

Once the aided individual has been in the U.S. for five years or acquires citizenship, the eligibility will need to be reassessed for federal eligibility. All regulations, procedures, and requirements are the same in state only and federal CalWORKs including fleeing felons, minor parent, mandatory inclusion, and employment services.

Note: Human Services Specialist (HSS) staff should refer to the Aid Code Reference Table in Eligibility Essentials for the appropriate aid codes to be used when an AU contains a noncitizen who is receiving state only CalWORKs.

Nicaraguan Adjustment and Central American Relief Act (NACARA) Noncitizens

NACARA noncitizens are admitted as LPRs to the U.S. and are eligible to the CalWORKs program. They are identified by one of five codes on their I-551 document (Permanent Resident Card). These codes are:

- NC-5 (admitted to the U.S. through normal immigration)
- NC-6 (granted adjustment of their status to LPR under NACARA)
- NC-7 (individual is the spouse of a non-citizen with NC-6 code)
- NC-8 (minor child or unmarried son/daughter of a non-citizen with NC-6 code) Z-15 (obtained status through the courts)

As NACARA was enacted prior to PRWORA, the five-year period applies to individuals lawfully admitted for permanent residence under NACARA status. The five-year period starts from the date these individuals acquired NACARA status. Therefore, if otherwise eligible, these individuals are *state only* funded cases until the five-year period has passed.

Special Immigrant Visa (SIV) Holders

Displaced persons from Iraq and Afghanistan have been and are being admitted to the U.S. with SIVs. These Iraqis and Afghans were employed by or assisted the U.S. Armed Forces with translation and interpreter services. Iraqis/Afghans who have been issued SIVs are eligible for federally funded refugee benefits and services, entitlement programs and other benefits and services to the same extent as persons who are admitted to the U.S. as refugees.

Refugee Resettlement Programs (RRP)

Specific RRP benefits and services available to SIV holders include Refugee Cash Assistance (RCA), Refugee Social Services (RSS) and Targeted Assistance (TA) employment and training services, and ORR discretionary grant services. These RRP are processed by Volunteer Agencies (VOLAGs) that assist the refugee population (includes SIV holders) to resettle in the U.S. The current VOLAG that issues RCA in the County of San Diego (COSD) is Catholic Charities.

The spouses and unmarried children (under 21 years old) of Afghan Special Immigrants, who can provide documentation that demonstrates their status, can also receive RRP benefits and services if they meet all other applicable program eligibility criteria. Eligibility for these spouses and children begins from their date of entry into the U.S., not from the date of entry of the principal applicant. Eligibility for principals begins from their date of entry or date of adjustment to Afghan Special Immigrant status within the U.S.

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The maximum length of time that any SIV holders and eligible family members can receive RRP benefits and services is eight months from their date of entry to the U.S. or, if applying for Special Immigrant Status from within the U.S., their date of adjustment of immigration status. The start date for benefits and services is the date of application.

CalWORKs Program Eligibility for Afghan (SIVs)

When an Afghan Special Immigrant is notified of the termination from RCA due to reaching their time-limit on aid, the VOLAG will refer the customer to the County Eligibility Department to determine possible eligibility for CalWORKs or General Relief.

Afghan Special Immigrants and their eligible family members may receive state only CalWORKs benefits after their federal eligibility period elapses if all other eligibility criteria are met. These Afghan Special Immigrants meet the CalWORKs eligibility requirement of “permanently residing (in the U.S.) under the color of law” or PRUCOL. Afghan Special Immigrant Documentation:

Applicant	Documentation
Principal Applicant Afghan Special Immigrant	Afghan passport with an immigrant visa stamp noting that the individual has been admitted under Immigrant Visa (IV) Category SQ1 or SI1
Spouse of Principal Applicant Afghan Special Immigrant	Afghan passport with an immigrant visa stamp noting that the individual has been admitted under IV Category SQ2 or SI2
Unmarried Child Under 21 Years of Age of Afghan Special Immigrant	Afghan passport with an immigrant visa stamp noting that the individual has been admitted under IV Category SQ3 or SI3
Principal Applicant Afghan Special Immigrant Principal Adjusting Status in the U.S.	DHS Form I-551 (LPR Card) showing Afghan nationality (or Afghan passport), with an IV code of SQ6 or SI6
Spouse of Principal Applicant Afghan Special Immigrant in SI6 Category	DHS Form I-551 showing Afghan nationality (or Afghan passport), with an immigrant visa (IV) code of SQ7 or SI7
Unmarried Child Under 21 Years of Age of Afghan Special Immigrant in SI6 Category	DHS Form I-551 showing Afghan Nationality (or Afghan passport), with an IV code of SQ9 or SI9

Refer to the USCIS Class of Admissions Codes Table.

Ineligible Noncitizens

A noncitizen with no lawful presence or who declares or presents documentation that they are lawfully present for *temporary* residency is not eligible to federal or state CalWORKs (unless granted PRUCOL).

This includes:

- Visitors
- Persons in the U.S on business or for religious purposes
- Tourists

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- Students
- Undocumented immigrants unlawfully present in the U.S

Procedure:

Desk Aid 200- Cuban/Haitian Entrants

Eligibility Operations Processes -Systematic Alien Verification for Entitlements (SAVE)

Refugee Eligible Populations Desk Aid

Program Impacts:

N/A

References:

EAS 42-430, 42-431, 42-433

ACL No. 98-65, 08-35, 09-39, 10-28

ACIN No. I-70-04

Sunset Date:

This policy will be reviewed for continuance by February 29, 2024.

Approval for Release:



Rick Wanne, Director
Eligibility Operations