

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is a light blue color. The hourglass is centered on the page.

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February 2, 2009

Congressional Research Service

Report 97-400

*IMMIGRATION-RELATED WELFARE PROVISIONS IN
105TH CONGRESS LEGISLATION*

Joyce C. Vialet, Education and Public Welfare Division

Updated November 6, 1998

Abstract. The 1996 changes in the rules governing noncitizen eligibility for public assistance proved controversial, particularly the termination of benefits for noncitizens already receiving them. P.L. 105-33 and P.L. 105-185 continue or restore SSI, Medicaid, and food stamps for some previous beneficiaries, and extend refugee eligibility for 2 years. While the estimated cost of these benefits is more than half the savings estimated by CBO for the noncitizen provisions of the 1996 welfare law, the basic policy set by that law remains in place for most noncitizens entering after its enactment date.

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CRS Report for Congress

Received through the CRS Web

Immigration-Related Welfare Provisions in 105th Congress Legislation

Joyce Vialet, Education and Public Welfare Division
Larry M. Eig, American Law Division

Summary

In 1996, the 104th Congress made major changes in rules governing the eligibility of noncitizens for public assistance. The 105th Congress subsequently addressed the more controversial of these revisions, particularly the termination of benefits for aliens who were already receiving them. Three new laws continue or restore SSI, Medicaid, and food stamps for many beneficiaries. The period during which refugees may receive assistance also was extended. CBO estimates that the cost of these modifications will cut the estimated savings of the 1996 changes by more than half. Nevertheless, the basic policy set by the 1996 law remains in place for aliens who enter after its enactment.

Background

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA; P.L. 104-193) significantly restricted the eligibility of noncitizens for needs-based public assistance. Before PRWORA, legal aliens who settled here generally qualified for public assistance on the same basis as citizens did. However, PRWORA discontinued this similar treatment. It bars most legal aliens, regardless of when they arrived or whether they were already receiving benefits, from Supplemental Security Income (SSI), which provides cash assistance for needy persons who are aged, blind, or disabled, and from the Food Stamp Program. It further allows the states to limit alien access to Medicaid, Temporary Assistance for Needy Families (TANF), and activities funded under Social Services Block Grant (SSBG). A separate PRWORA restriction bars most legal aliens who arrive after August 22, 1996, from most programs defined as means-tested for 5 years after arrival. Yet another restriction — one which requires a sponsor to pledge support in a legally binding affidavit — may affect the TANF and Medicaid eligibility of immigrants who applied for immigrant status after December 19, 1997, on the basis of a family relationship.¹

¹ See CRS Report 97-1054, *Immigration: The New Affidavit of Support—Questions, Answers*, (continued...)

In setting forth its restrictions, PRWORA introduced the term “qualified aliens” into law, a term that may be somewhat misleading because even most “qualified aliens” are barred by PRWORA for much needs-based federal assistance.² “Qualified aliens” roughly corresponds to the classes of aliens who were eligible for assistance under earlier law. Among “qualified aliens” are legal permanent residents, refugees, aliens paroled into the United States for at least 1 year, aliens granted asylum or related relief, certain abused spouses and children, and Cuban/Haitian entrants.

PRWORA’s changes in the alien eligibility rules proved controversial, particularly those that would have terminated benefits for aliens who were already receiving them on August 22, 1996, the date on which PRWORA became law. In response, the 105th Congress passed three laws continuing or partially restoring SSI, Medicaid, and food stamps to some previous beneficiaries. P.L. 105-33 “grandfathers” eligibility for SSI and Medicaid for recipients who are “qualified aliens,” while P.L. 105-185 addresses eligibility for food stamps. Meanwhile, P.L. 105-306 addresses the SSI and Medicaid eligibility of certain recipients not already covered under P.L. 105-33. Additionally, the 105th Congress also expanded the period during which refugees may receive public assistance. Noncitizen eligibility for SSI, Medicaid, and food stamps under the three acts is summarized in **Table 1**.

The Congressional Budget Office (CBO) estimated the cost of these enactments at \$12.34 billion over 5 years. This amount is more than half of CBO’s estimate of the reduction in federal outlays resulting from the noncitizen provisions of PRWORA — \$23.7 billion (over seven years). However, while expensive, these modifications are limited in scope. Only three programs are substantially affected, and the modifications primarily benefit noncitizens who were here before August 22, 1996. The restrictive policy laid out in PRWORA remains essentially unchanged for most noncitizens entering since then.

Noncitizen SSI and Medicaid Eligibility under P.L. 105-33³

Eligibility for SSI and Medicaid eligibility was restored to some noncitizens under P.L. 105-33, the Balanced Budget Act of 1997, signed on August 5, 1997. CBO estimated the cost of the immigration-related provisions of the 1997 Act at \$11.5 billion over the 5-year period 1998-2002 (\$9.5 billion for SSI, \$2 billion for Medicaid).

¹ (...continued)

and Issues, by Joyce Vialet. For more information on current eligibility rules, see CRS Report 96-617, *Alien Eligibility for Public Assistance*, by Joyce C. Vialet and Larry M. Eig.

² For example, special rules applying to refugees and asylees (including Cuban/Haitian entrants and Amerasians) make them eligible for SSI, Medicaid, and food stamps for 7 years after entering as refugees or being granted asylum, and for TANF for 5 years. Other exceptions allow certain benefits for “qualified aliens” who are veterans, who are on active military duty, or who have worked in the U.S. for at least 40 “qualifying quarters.”

³ Separately, the Act also contains most of the technical corrections from House-passed H.R. 1048 and Senate-passed H.R. 2015. (See CRS Report 97-493 ALD, *Alien Eligibility for Benefits: “Technical Corrections,”* by Larry M. Eig and Joyce C. Vialet.)

Briefly, the Balanced Budget Act:

- Continues SSI and related Medicaid for “qualified aliens” noncitizens receiving benefits on August 22, 1996;⁴
- Allows SSI and Medicaid benefits for aliens who were here on August 22, 1996 and who later become disabled;⁵
- Extends the exemption from SSI and Medicaid restrictions for refugees and asylees from 5 to 7 years after entry;
- Classifies Cuban/Haitians and Amerasians as refugees, as they were prior to 1996, thereby making them eligible from time of entry for TANF and other programs determined to be means-tested, as well as for refugee-related benefits; and
- Exempts certain Native Americans living along the Canadian and Mexican borders from SSI and Medicaid restrictions.

Noncitizen Food Stamp Eligibility under P.L. 105-185

Food stamp eligibility is provided to approximately 250,000 legal immigrants by P.L. 105-185, the “Agricultural Research, Extension, and Education Reform Act of 1998,” at a cost of \$818 million for FY1999-FY2003. Under P.L. 105-185, the following groups became eligible for food stamps on November 1, 1998:

- Noncitizen children under age 18 who entered by August 22, 1996;
- Legal immigrants here by August 22, 1996, who were age 65 and over or disabled on that date, or who become disabled after that date;
- Refugees and asylees for 7 years after entry as refugees or obtaining asylum status in the United States, as opposed to 5 years under PRWORA;
- Hmong refugees from Laos who came here after the Vietnam War; and
- Certain Native Americans living along the Canadian and Mexican borders.

Noncitizen SSI and Medicaid Eligibility under P.L. 105-306.

P.L. 105-306 completes the process of continuing SSI and related Medicaid eligibility for all aliens receiving those benefits when PRWORA became law on August 22, 1996. It does so by continuing eligibility for an estimated 3,400 recipients who are not “qualified aliens.” CBO estimates the cost of this provision at \$41 million over five years. Separately, P.L. 105-306 makes clear that PRWORA is not to affect the eligibility of foreign professionals for professional licenses issued by the states.

⁴ The 1997 law also included a grandfather clause through FY1998 for aliens identified by the Social Security Administration (SSA) as receiving benefits on August 22, 1996, but who do not appear to fit within one of the categories of “qualified aliens” defined by the 1996 legislation.

⁵ “Disabled” refers to persons originally found eligible for SSI on the basis of disability (or blindness), and “aged” refers to persons first found eligible at age 65 or over. Some disabled are now aged, and vice versa, but for SSI purposes they retain their original classification.

1. Noncitizen Eligibility for SSI, Medicaid, and Food Stamps under P.L. 105-33, P.L. 105-185, and P.L. 105-306

| Provision | Supplemental Security Income (SSI)* | Medicaid* | Food Stamps* |
|--|---|---|--|
| Eligibility of “qualified aliens”*** here on 8/22/96 | Continues eligibility both for <i>aged</i> and for <i>disabled</i> “qualified aliens” receiving SSI as of 8/22/96, as well as those <i>disabled</i> after 8/22/96 | SSI recipients remain eligible; for others, Medicaid is a state option | Eligible if 65 or over by 8/22/96, subsequently disabled, and/or while under 18 |
| Eligibility of non-”qualified aliens”*** receiving benefits on 8/22/96 | Continues eligibility both for <i>aged</i> and for <i>disabled</i> recipients | Eligible as long as they continue to receive SSI; otherwise ineligible | Ineligible |
| Refugee and asylee exemption (including Cuban/Haitian entrants and Amerasians) | Refugees and asylees exempted for <i>7 years</i> from bar against SSI | Refugees and asylees exempted for <i>7 years</i> from bar against Medicaid (at which point it becomes a state option) | Refugees and asylees exempted for <i>7 years</i> from bar against food stamps |
| Hmong eligibility | Covered by 7-year refugee exemption, if applicable | Covered by 7-year refugee exemption, if applicable | Exempts members of Hmong tribes that assisted U.S. during Vietnam war, and immediate family members |
| Native American exemption | Exempts members of Indian Tribes and certain Native Americans born in Canada from SSI bar on “qualified aliens” | Exempts members of Indian Tribes and certain Native Americans born in Canada from Medicaid bars on “qualified aliens” | Exempts members of Indian Tribes and certain Native Americans born in Canada from food stamp bar on “qualified aliens” |

* Restrictions do not apply to “qualified aliens” who meet 10-year work requirement; or are veterans or certain active duty personnel, and close family. The alienage restrictions do not apply to aliens who become citizens through naturalization.

** “Qualified aliens” include legal permanent residents, refugees, aliens granted asylum or similar relief, aliens paroled into the U.S. for at least 1 year, and certain battered family members; plus Cuban/Haitian entrants added by Balanced Budget Act.