

Immigrant Eligibility for Public Benefits in New York State



| Public benefit-related immigration categories 1, 2, 3 | Immigration Status | Supplemental Security Income (SSI) ⁴ | TANF (Family Assistance) ⁵ | SNAP (Food Stamps) ^{5, 6} | Public Housing/ Section 8 | Federal Medicaid ⁷ | Safety Net Assistance (SNA) ^{5, 8} | New York State Medicaid ⁹ | Qualified Health Plans and Essential Plans (EP) ^{10, 11} | Children's Health Insurance Program (CHIP) & AIDS Drug Assistance Program (ADAP) | Emergency Medicaid ¹² | Risk that Countable Benefits* will be Considered as part of "Public Charge" determination No public charge risk. No public charge risk, BUT if applying for green card, Countable Benefits used while in this status may be counted in public charge determination. Person will undergo a public charge test and Countable Benefits will be used in public charge determination, BUT benefits receipt does not mean that the person will automatically be considered a public charge. |
|--|-----------------------------|---|---------------------------------------|------------------------------------|---------------------------|-------------------------------|---|--------------------------------------|---|--|----------------------------------|--|
| | | | | | | | | | | | | |
| | Refugees and Asylees | <p>Eligible for 7 years after entry as refugee or grant of asylum; No 7-year limit if in refugee or asylee status before 8/22/96</p> | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | No | <p> No Public Charge risk while a refugee or asylee.</p> |

This chart was updated by the NYIC, Legal Aid Society and EJC.

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|---|---|--|---|------------------------------------|--|---|---|--------------------------------------|---|--|----------------------------------|--|
| Lawfully Present ¹ Qualified Aliens ² | Withholding (W/H) of Deportation or Removal under the INA¹⁴ | Eligible for 7 years after granted withholding; No 7-year limit if granted W/H before 8/22/96 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | No | ● No Public Charge risk while granted Withholding of Deporation or Removal. |
| | Battered Spouses and Children of U.S. citizens or LPRs who have a prima facie determination or approved I-360 self-petition under VAWA or a pending or approved I-130 <small>15, 16</small> | Eligible if lawfully present on 8/22/96 and disabled at time of application | Eligible if entered US before 8/22/96 and continuously resided in US until qualifying as battered immigrant; Eligible after 5 years in qualified status if entered US after 8/22/96 | Yes ¹⁷ | Eligible after 5 years in qualified status; No 5-year bar if child <18 OR receiving disability based benefit | Eligible after 5 years in qualified status; No 5-year bar if pregnant or child <21 | Yes | Yes | Yes | Yes | No | ● No Public Charge risk while Battered Spouses and Children. |
| | Cuban/Haitian Entrant (C/H)¹⁸ | Eligible for 7 years after entering US in C/H status; No 7-year limit If entered before 8/22/96 | Yes | Yes | No, unless in parole status | Yes | Yes | Yes | Yes | Yes | No | ● No Public Charge risk while Cuban / Haitian Entrant. |
| | Paroled for 1 Year or More (Afghan/Ukrainian Nationals - see row below) | Eligible if lawfully present in US on 8/22/96 AND currently in parole status AND disabled at time of application | Eligible after 5 years in parole status | Yes | Eligible after 5 years in Qualified Alien status; No 5-year bar if child <18 OR in receipt of disability based public benefit | Eligible after 5 years in Qualified Alien status; No 5-year bar if pregnant or child <21 | Yes | Yes | Yes | Yes | No | ● No Public Charge risk while Paroled for 1 year or more. |
| | Iraq/Afghan SIV Holders and certain Afghan/Ukrainian humanitarian parolees | Eligible for 7 years after entering US | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | No | ● No Public Charge risk while Iraq/ Afghan SIV Holders and certain Afghan/Ukrainian humanitarian parolees. |

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|---|--|--|---------------------------------------|------------------------------------|---------------------------|-------------------------------|---|--------------------------------------|---|--|----------------------------------|---|
| Lawfully Present ¹ Qualified Aliens ² | Lawfully residing armed services connected noncitizens (including veterans) and their dependents | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | No | ● No Public Charge risk while lawfully residing armed services connected noncitizens. |
| | Canadian Born Native Americans | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | No | ● No Public Charge risk while Canadian born Native American. |
| | Amerasian Immigrant | Eligible for 7 years after entering US; - No 7-year limit if entered before 8/22/1996 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | No | ● No Public Charge risk while Amerasian Immigrant. |
| | Citizens of Micronesia, Palau, and Marshall Islands often referred to as COFA, permitted to reside in the US in non-immigrant status and have unlimited eligibility for work authorization | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | No | ● No Public Charge risk while Citizen of Micronesia, Palau, and Marshall Islands. |
| | Victims of Trafficking (T nonimmigrant status ["T visa"] granted "continued presence," or certified by ORR) and their derivatives | Eligible for 7 years after grant of continued presence, certification, or T-visa | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | No | ● No Public Charge risk while Victim of Trafficking (T nonimmigrant status, or "T-visa"). |

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|--|---|---|---------------------------------------|------------------------------------|---------------------------|-------------------------------|---|--------------------------------------|---|--|----------------------------------|---|
| Lawfully Present ¹ PRUCOL ³ | Individuals Granted Withholding or Deferral of Removal under the Convention Against Torture ¹⁴ | No | No | No | No | Only if pregnant or child <21 | Yes | Yes | Yes | Yes | No | <ul style="list-style-type: none"> No Public Charge risk while Individual Granted Withholding or Deferral of Removal under CAT. |
| | Nonimmigrant status - student, work, or tourist visa (not U, T, and S visas) | No | No | No | No | Only if pregnant or child <21 | No | Yes, if resident of New York State | Yes | Yes, if resident of New York State | No | <ul style="list-style-type: none"> No Public Charge risk while in Nonimmigrant Status - student, work, or tourist visa. <p>* Applicants for student, work, or tourist visa will be subject to a public charge test, however.</p> |
| | U Nonimmigrant Status ("U-visa") | No | No | No | No | No | Only if pregnant or child <21 | Yes | Yes | Yes | No | <ul style="list-style-type: none"> No Public Charge risk while in U nonimmigrant status ("U-visa"). |
| | S Nonimmigrant Status ("S visa") | No | No | No | No | No | Only if pregnant or child <21 | Yes | Yes | Yes | No | <ul style="list-style-type: none"> No Public Charge risk while in S nonimmigrant status ("S visa"). |
| | SIJS (Special Immigrant Juvenile Status) Grantees | No | No | No | No | No | Only if pregnant or child <21 | Yes ¹⁹ | Yes | Yes | No | <ul style="list-style-type: none"> No Public Charge risk while granted SIJS. |
| | Applicants for adjustment to LPR status accepted by USCIS as properly filed. | No | No | No | No | No | Only if pregnant or child <21 | Yes | Yes | Yes | No | <ul style="list-style-type: none"> An applicant for adjustment of status (LPR status/green card) will face a public charge test unless they are adjusting from a status that is exempt from public charge. Statuses exempt from public charge include but are not limited to: asylee, refugee, U-visa, T-visa, S-visa, Battered Spouses and Children ("VAWA"), SIJS, Registry, NACARA, HRIFA, Cuban Adjustment Act. <p>Note: Receipt of Countable Benefits does not automatically mean a person will be deemed a public charge.</p> |

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|--|---|---|---------------------------------------|------------------------------------|---------------------------|-------------------------------|---|--------------------------------------|---|--|----------------------------------|--|
| Lawfully Present ¹ PRUCOL ³ | Applicants for adjustment under NACARA, HRIFA, Cuban Adjustment Act or Registry (noncitizen who has continuously resided in the US since before 1/1/1972) | No | No | No | Yes | Only if pregnant or child <21 | Yes | Yes | Yes | Yes | No | <ul style="list-style-type: none"> No Public Charge risk while an applicant for adjustment under NACARA, HRIFA, Cuban Adjustment Act or Registry. |
| | Paroled for less than 1 year | No | No | No | Yes | Only if pregnant or child <21 | Yes | Yes | Yes | Yes | No | <ul style="list-style-type: none"> No Public Charge risk while paroled for less than 1 year. |
| | Temporary Protected Status (TPS) | No | No | No | No | Only if pregnant or child <21 | Yes | Yes | Yes | Yes | No | <ul style="list-style-type: none"> No Public Charge risk while in TPS status. |
| | Deferred Action | No | No | No | No | Only if pregnant or child <21 | Yes | Yes | Yes | Yes | No | <ul style="list-style-type: none"> No Public Charge risk while a grantee of Deferred Action. <p>Note: If receive Countable Benefits while a grantee of Deferred Action, and later apply for LPR status via a family-based petition, benefits received while a grantee of Deferred Action could be considered in a public charge test. Receipt of countable benefits does not automatically mean a person will be deemed a public charge.</p> |
| | DACA Recipients ²¹ | No | No | No | No | No | No | Yes | Yes, even those whose DACA has expired | Yes | Yes | No |

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|---|---|---|---------------------------------------|------------------------------------|---------------------------|--|---|--------------------------------------|---|--|----------------------------------|---|
| Lawfully Present ¹ PRUCOL ³ | Order of Supervision | No | No | No | No | Only if pregnant or child <21 with Employment Authorization Document (EAD) | Yes | Yes | Yes, if granted EAD | Yes | No | <p>● No Public Charge risk while under an Order of Supervision.</p> <p>Note: If receive Countable Benefits while under an Order of Supervision, and later apply for LPR status via a family-based petition, benefits received while under an Order of Supervision could be considered in a public charge test. Receipt of countable benefits does not automatically mean a person will be deemed a public charge.</p> |
| | Deferred Enforced Departure (DED) ²² | No | No | No | No | Only if pregnant or child <21 | Yes | Yes | Yes | Yes | No | <p>● No Public Charge Test while under Deferred Enforced Departure (DED).</p> <p>Note: If receive Countable Benefits while under DED, and later apply for LPR status via a family-based petition, benefits received while under DED could be considered in a public charge test, depending on the country designation. Receipt of countable benefits does not automatically mean a person will be deemed a public charge.</p> |
| | Granted stays of deportation or removal | No | No | No | No | No | Only if pregnant or child <21 | Yes | Yes | Yes | Yes | No |

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|--|---------------------|---|---------------------------------------|------------------------------------|---------------------------|-------------------------------|---|--------------------------------------|---|--|----------------------------------|---|---|
| APPLICANTS FOR: | | | | | | | | | | | | | |
| Lawfully Present | PRUCOL ³ | | | | | | | | | | | | |
| | | Special Immigrant Juvenile Status (SIJS) | No | No | No | No | Only if pregnant or child <21 | Yes | Yes ¹⁹ | Yes | Yes | No | <ul style="list-style-type: none"> ● No Public Charge Test while applying for SIJS. |
| | | Asylum / Withholding of Removal | No | No | No | No | Only if pregnant or child <21 with Employment Authorization Document (EAD); if child <14, EAD not necessary but the application must have been pending for 180 days | Yes | Yes | Yes, if granted EAD OR child <14 | Yes | No | <ul style="list-style-type: none"> ● No Public Charge Test while applying for asylum or Withholding of Removal. <p>Note: If receive Countable Benefits while an applicant for asylum, and later apply for LPR status via a family-based petition, benefits received while applying for asylum could be considered in a public charge test. Receipt of countable benefits does not automatically mean a person will be deemed a public charge.</p> |
| | | Cancellation of Removal | No | No | No | No | Only if pregnant or child <21 with Employment Authorization Document (EAD) | Yes | Yes | Yes, if granted EAD | Yes | No | <ul style="list-style-type: none"> ● No Public Charge Test while applying for Cancellation of Removal. |
| | | Temporary Protected Status (TPS) | No | No | No | No | Only if pregnant or child <21 with Employment Authorization Document (EAD) | Yes ²³ | Yes | Yes, if granted EAD | Yes | No | <ul style="list-style-type: none"> ● No Public Charge Test while applying for TPS. |

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| PRUCOL ³ | PRUCOL ONLY: | | | | | | | | | | | |
| | Persons on whose behalf an immediate Relative Petition has been approved and family members covered by the petition Non-citizens who are immediate relatives include the spouse, parent, or unmarried child of a U.S. citizen who has filed an I-130 Relative Petition on their behalf. | No | No | No | No | No | No | Yes | Yes | No | No | <p>● Persons on whose behalf an immediate relative petition (Form I-130) has been approved will face a public charge test when applying for LPR status/green card.</p> <p>Note: Receipt of Countable Benefits does not automatically mean a person will be deemed a public charge.</p> |
| | DACA applicants | No | No | No | No | No | No | Yes ²⁴ | Yes | No | Yes | <p>● No Public Charge Test while applying for DACA.</p> <p>Note: If receiving Countable Benefits while an applicant for DACA, and later apply for LPR status via a family-based petition, benefits received while an applicant for DACA could be considered in a public charge test. Receipt of Countable Benefits does not automatically mean a person will be deemed a public charge.</p> |
| Noncitizens who can show continuous residence since on or before 1/1/1972 but who have not applied for LPR status (registry aliens) ²⁰ | No | No | No | No | No | No | Yes | Yes | No | Yes | <p>● No Public Charge Test while applying for Registry.</p> | |

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|--|---|---|---------------------------------------|------------------------------------|---------------------------|-------------------------------|---|--|---|--|---|--|
| PRUCOL ³ | Request for Deferred Action | No | No | No | No | No | Yes | Yes | No | Yes | Yes, until and unless becomes eligible for state Medicaid | <p>● No Public Charge Test while applying for Deferred Action.</p> <p>Note: If receive Countable Benefits while an applicant for Deferred Action, and later apply for LPR status via a family-based petition, benefits received while an applicant for Deferred Action could be considered in a public charge test. Receipt of Countable Benefits does not automatically mean a person will be deemed a public charge.</p> |
| | NO LAWFUL STATUS: | | | | | | | | | | | |
| | Entry across border without inspection (EWI) and Visa Overstays | No | No | No | No | No | No | No, unless 65+, pregnant, or within 12 months of pregnancy ²⁵ | No | Yes | Yes | <p>● No Public Charge Test while Undocumented</p> |

Endnotes

1. The categories of noncitizens included in the classification “lawfully present” depend to some degree on the particular federal benefit program involved. For example, the definition of “lawful presence” for the purpose of noncitizen eligibility for Social Security Disability and Retirement benefits is found at 8 C.F.R. § 1.3. As of November 1, 2024, HHS expanded the definition of “lawful presence” for the purpose of noncitizen eligibility under the ACA found at 45 C.F.R. § 152.2 to include DACA recipients. See 89 Fed. Reg. 39392, et seq. (May 8, 2024).
2. The immigrant categories included in the “Qualified Alien” classification are found at 8 U.S.C. § 1641 to describe noncitizen eligibility for federal “means tested benefit programs,” defined to include TANF, Medicaid, SSI and SNAP (“Food Stamps”).
3. “PRUCOL” stands for Persons Residing Under Color of Law. It was once an eligibility category for federal benefit programs but was eliminated by 1996 federal welfare reform. Since 1996, noncitizens considered PRUCOL are eligible only for New York state benefit programs. A person is considered residing “under color of law” if the federal government is aware of their presence in the U.S. and is not currently contemplating enforcing their removal. For a long time, NYS Office of Temporary and Disability Assistance (OTDA) and NYS Department of Health (DOH) defined differently which noncitizens were included in this category for the Safety Net program and the Medicaid program, respectively. Litigation and changes in department policy eliminated most of these differences. For OTDA’s definition of PRUCOL for Safety Net eligibility, see GIS 23TA/DC039 (5/12/23). For the noncitizen categories that NYS DOH considers PRUCOL, see GIS 24 MA/06 (7/10/24).
4. For general information on immigrant eligibility for SSI, see SI 00502.100 Basic SSI Alien Eligibility Requirements: <https://secure.ssa.gov/apps10/poms.nsf/lnx/0500502100> For more information on eligibility for SSI for immigrants who were lawfully residing in the US before 8/22/96 and are blind or disabled, see SI 00502.142 Qualified Aliens Who Are Blind Or Disabled And Were Lawfully Residing in the U.S. On 8/22/96: <https://secure.ssa.gov/apps10/poms.nsf/lnx/0500502142>
5. For more information on immigrant eligibility for TANF, SNAP, and SNA, see Non-Citizen Eligibility Desk Aid, HRA-209 (6/1/2023): http://onlineresources.wnyc.net/nychra/docs/pd__23-06-eli_1_.pdf
6. For more information on immigrant eligibility for SNAP, see USDA’s SNAP Policy on Non-Citizen Eligibility: <https://www.fns.usda.gov/snap/eligibility/citizen/non-citizen-policy>
7. For information on immigrant eligibility for Federal Medicaid and required documentation, see Documentation Guide for Citizen and Non-Citizen Eligibility for Health Insurance Coverage in New York State, OHIP-0046 (6/24) : https://www.health.ny.gov/health_care/medicaid/publications/docs/gis/24ma06_att1.pdf
8. For OTDA’s PRUCOL definition for Safety Net Assistance see, GIS 23TA/DC039 (5/12/23), <https://otda.ny.gov/policy/gis/2023/23DC039.pdf>
9. For DOH’s clarification of PRUCOL status for purposes of Medicaid eligibility, see GIS 24 MA/06 (7/10/24): https://www.health.ny.gov/health_care/medicaid/publications/docs/gis/24ma06.pdf This DOH GIS confirms that people who have had a pending request for immigration status/relief denied remain PRUCOL so long as the U.S. government has not initiated removal.
10. For more information on what immigration statuses qualify for coverage in the healthcare marketplace, visit: <https://www.healthcare.gov/immigrants/immigration-status>
11. If a noncitizen covered by the Essential Plan is also financially eligible for Medicaid, and the Essential Plan does not cover a particular benefit that would be covered by State Medicaid, the insured immigrant will receive wraparound benefits funded by NYS Medicaid.
12. For noncitizens between the ages of 19-64 who are financially eligible for Medicaid but do not have an eligible immigration status, Emergency Medicaid may be available. It is a federally funded program that provides healthcare coverage for residents of NY state ineligible for health insurance who are suffering from a condition that manifests itself by acute symptoms such that absence of immediate medical attention could put the individual in serious jeopardy or seriously impair bodily function or cause serious dysfunction to an organ or bodily part. Noncitizens who are 65+ and do not have any immigration status are now eligible for state-funded, comprehensive Medicaid.
13. Refers to public charge ground of inadmissibility, as outlined in the 2022 Final Rule, 87 FR 55427: <https://www.federalregister.gov/documents/2022/09/09/2022-18867/public-charge-ground-of-inadmissibility>
14. Withholding of removal under the Immigration and Nationality Act (INA) is granted to those whose life or freedom would be threatened in their home country because of their race, religion, national origin, political opinion, or membership in a particular social group. Under the Convention Against Torture, Withholding of Removal may be granted to those who can prove they would be tortured, without regard as to whether such torture is based on a protected ground. The International Convention Against Torture (CAT) was ratified by the U.S. in 1998 through Public Law No. 105-277, div. G, Title XXI Section 2242. Some CAT beneficiaries, usually because of criminal or security issues, are only granted deferral of removal under CAT. Noncitizens granted withholding of removal under CAT are considered Lawfully Residing/PRUCOL for benefits purposes. Individuals granted deferral of removal are considered “lawfully residing” only if they have work authorization (Employment Authorization Document or “EAD”).
15. Also included in the broader definition of “VAWA Self-Petitioners” in Section 101(a)(5) of the INA are those with VAWA cancellation, and battered family members protected under NACARA, HRIFA and the Cuban Adjustment Act.
16. Battered spouses and children’s eligibility for benefits. See O6-INF-14 Revised: http://onlineresources.wnyc.net/pb/docs/06-inf-14_revised.pdf
17. Note that VAWA qualified immigrants are not listed in the federal housing law at 42 U.S.C. § 1436a as being in a qualifying status but HUD has acquiesced to their eligibility for government-subsidized housing since they are considered “qualified aliens” under federal immigration law.
18. Cuban/Haitian Entrants are defined in the Administration for Children and Families (ACF’s) Fact Sheet: https://www.acf.hhs.gov/sites/default/files/documents/orr/orr_fact_sheet_cuban_haitian_entrant.pdf
19. SIJS *awardee* eligibility for Safety Net Assistance was established in 2021. See GIS 21 TA/DC059 (8/18/21): <https://otda.ny.gov/policy/gis/2021/21DC059.pdf> SIJS *applicants* have been eligible since May 12, 2023. See GIS 23TA/DC039 (5/12/23), <https://otda.ny.gov/policy/gis/2023/23DC039.pdf>
20. Note that under the “lawfully present” category, the individual has to actually file an application for permanent residence and provide the documents necessary to prove that he or she entered the US before January 1, 1972 and has lived in the US continuously since that time. The PRUCOL category does not require the individual to file an application with USCIS and the evidentiary showing is generally more relaxed with a benefits agency. For more guidance regarding documentation for proving PRUCOL status, see Documentation Guide: https://www.health.ny.gov/health_care/medicaid/publications/docs/gis/24ma06_att1.pdf
21. On May 8, 2024, the Department of Health and Human Services published a Final Rule, with a target implementation date of November 1, 2024, making several changes in the eligibility of noncitizens for Marketplace programs. 89 Fed. Reg. 39392, 39392-39437. Most significant is the inclusion of DACA grantees in the category of noncitizens considered to be “lawfully present” and who thus become eligible for Qualified Health Plans and related subsidy programs. 89 Fed. Reg. 39392, at 39436. See 08 OHIP/INF-4 for details.
22. As of the publication of this chart, DED has been authorized by President Biden for Liberians, Palestinians, eligible Hong Kong residents and certain Lebanese nationals.
23. For TPS eligibility for Safety Net Assistance, see GIS 16 TA/DC053 (10/14/16): <https://otda.ny.gov/policy/gis/2016/16DC053.pdf>
24. For DACA applicant eligibility for Safety Net Assistance, see Non-citizens Recognized as Permanently Residing Under Color of Law (PRUCOL) for Safety Net Assistance (SNA) Eligibility, GIS 23TA/DC039, (May 12, 2023): <https://otda.ny.gov/policy/gis/2023/23DC039.pdf>
25. For postpartum eligibility for NY Medicaid, see New York State Medicaid Update, March 2023, Vol. 39, No. 6: https://health.ny.gov/health_care/medicaid/program/update/2023/no06_2023-03