

18.2 CITIZENSHIP AND ALIENS

A. INTRODUCTION

All aliens are subject to immigration laws which regulate their entry and set the conditions of their stay. There are various immigration documents that might be carried by an alien who is legally in the United States and most aliens lawfully in the United States should have some kind of immigration document.

The first step in determining eligibility for federal benefits is the identification of the alien's immigration status. Then, other considerations relevant to their specific situations have to be taken into account, and, if it appears that an alien qualifies for a particular federal program, it should be insured that receipt of that benefit will not affect that person's immigration status.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) significantly changed federal means-tested benefit eligibility for individuals who are not citizens of the United States. Federal means-tested benefits must be provided to eligible citizens or nationals of the United States. Individuals who meet the eligibility requirements for these benefits but are not citizens or nationals of the United States are eligible only as provided in 18.4. Those non-citizens must also meet documentation and verification requirements as required.

NOTE: See 18.4 for more specific information regarding alien eligibility for specific benefits.

NOTE: See Section 4.3 for additional information regarding the requirements for documentary evidence of citizenship and identity for Medicaid.

B. DESCRIPTION OF IMMIGRATION CATEGORIES

1. United States Citizenship

For purposes of qualifying as a United States citizen, the United States as defined in the Immigration and Nationality Act included the 50 States, the District of Columbia, Puerto Rico, Guam, Virgin Islands, and the Northern Mariana Islands. Nationals from the American Samoa or Swain's Island are also regarded as United States citizens.

2. Aliens

Eligibility for aliens is based on whether the alien is a qualified or non-qualified alien. Regardless of whether the alien entered the United States on or after August 22, 1996 (the date of enactment of P.L. 104-193). The previous categories of lawful permanent residents and aliens permanently residing under color of law (PRUCOL) no longer apply.

The term “qualified alien” includes aliens who are lawfully admitted for permanent residence in the United States under the Immigration and Nationality Act (INA), and certain refugees, asylees, individuals whose deportation has been withheld, Cuban or Haitian Entrants and Amerasian. It also includes certain aliens who have been paroled into the United States or who have been granted conditional entry and battered spouses and battered children See Section 18.4 for extended definition.

3. American Indian Born In Canada

An American Indian born in Canada may freely enter and reside in the United States and is considered to be lawfully admitted for permanent residence if he is of at least one-half American Indian blood. As such he is a qualified alien. This does not include a spouse or child of such an Indian nor a noncitizen whose membership in an Indian tribe or family is created by adoption, unless such person is of at least fifty percent or more Indian blood. See 18.4, Section C-Medicaid.

The following documents can be used for proof of an American Indian bloodline:

- Birth or baptismal certificate issued on a reservation
- Tribal records
- Letter from the Canadian Department of Indian Affairs
- School records.