

APPENDIX H-WELFARE BENEFITS FOR NONCITIZENS

CONTENTS

Introduction..... H-1
Immigration and Naturalization Policy and Trends H-2
 Legal Immigration H-2
 Naturalization..... H-4
 Illegal Aliens H-6
 Current Foreign-Born Residents..... H-7
Noncitizens' Eligibility for Benefits Prior to 1996..... H-10
 "Public Charge" and Development of Eligibility Standards..... H-11
 State and Local Law Before 1996 H-12
 1996-2002 Federal Legislative Revisions..... H-13
Alien Eligibility for Federal Assistance H-14
 Program Bars H-14
 Permanent Bar H-17
 State Option..... H-17
 Other Programs H-18
 Expanded Sponsor-to-Alien Deeming and Affidavits
 of Support H-22
 Eligibility Standards for Unauthorized Aliens H-23
 Special Immigrant Juveniles H-24
Noncitizens' Use of Federal Assistance Programs H-25
 Analysis of Program Participation Data H-26
 Family Cash Assistance H-28
 Analysis of Current Population Survey (CPS) Data H-31
Verification of Status and Reporting Requirements H-34
 Verification Requirements H-35
 Reporting Requirements H-36
References H-36

INTRODUCTION

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) changed almost every aspect of noncitizen eligibility for Federal, State, and local government assistance programs. (The terms noncitizen, foreign national, and alien are generally synonymous and used interchangeably in this appendix.) It established comprehensive new restrictions on the eligibility of legal permanent resident (LPR) aliens for means-tested public assistance, and also further restricted public benefits for illegal aliens and nonimmigrants (foreign nationals temporarily here for expressed purposes such as to visit, attend school, or work). Subsequently in the 104th Congress, provisions of

the new welfare law were amended, supplemented, and further tightened by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, enacted as division C of the Omnibus Consolidated Appropriations Act of 1997 (Public Law 104-208).

The 1996 changes made in the alien eligibility rules proved very controversial, particularly the termination of benefits for those who were receiving Supplemental Security Income (SSI) as of the date the new welfare law was enacted (August 22, 1996). The termination date for SSI for these recipients was extended from August 22 to September 30, 1997 by Public Law 105-18, signed June 12, 1997. More extensive modifications to the new alienage rules were included in Public Law 105-33, the 1997 Balanced Budget Act (BBA) signed into law on August 5, 1997. The BBA amended the welfare law to provide that legal immigrants who were receiving SSI as of August 22, 1996 will continue to be eligible, regardless of whether their claim was based on disability or age. In addition, qualified aliens who were in the United States by August 22, 1996 and who subsequently become disabled will be eligible for SSI.

Congress also expanded food stamp eligibility in Public Law 105-185, the Agricultural Research, Extension, and Education Reform Act of 1998, to include those legal immigrants who were in the U.S. by August 22, 1996, who were 65 years old or older, who were disabled or subsequently became disabled, or who were under 18 years old. In 2002, the comprehensive legislation that reauthorized Agriculture Department programs (P.L. 107-171) opened up food stamp eligibility to LPRs who meet a 5-year residence test and all LPR children (regardless of date of entry or length of residence).

This appendix begins with a brief discussion of U.S. immigration policy and trends, including naturalization requirements and statistics. A summary of noncitizen eligibility requirements under prior law and a review of the current alien eligibility law follow. An analysis of noncitizen use of Federal benefits over the past few years reveals usage changes since the enactment of the 1996 alien eligibility rules. Provisions relating to verification of status and concerns about illegal aliens and benefits conclude the appendix.

IMMIGRATION AND NATURALIZATION POLICY AND TRENDS

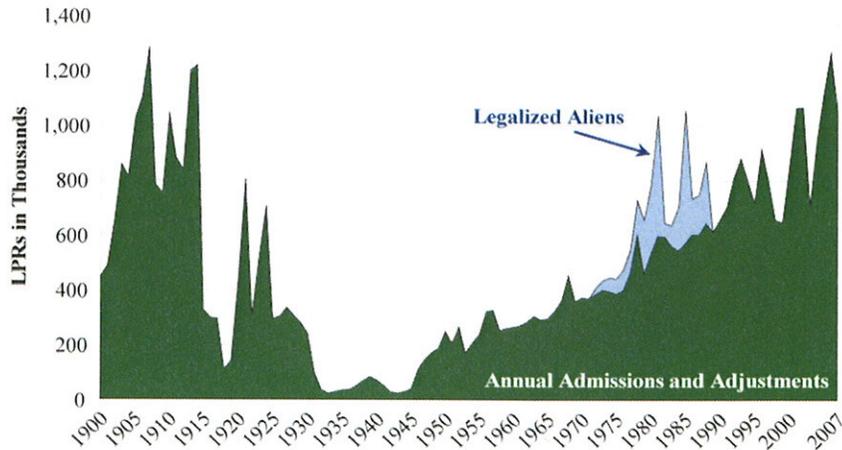
LEGAL IMMIGRATION

The change in noncitizen eligibility for Federal benefits occurred as the United States was experiencing increases in immigration not seen since the turn of the 20th Century. Three major traditions underlie U.S. policy on legal immigration: the reunification of families, the admission of immigrants with needed skills, and the protection of refugees. These traditions are implemented through the Immigration and Nationality Act (INA), the basic law regulating the admission of immigrants allowed to reside in the United States permanently. While most foreign

nationals, such as tourists, foreign students, international business people, or temporary workers, enter the United States only temporarily, about 1 million aliens become LPRs each year.

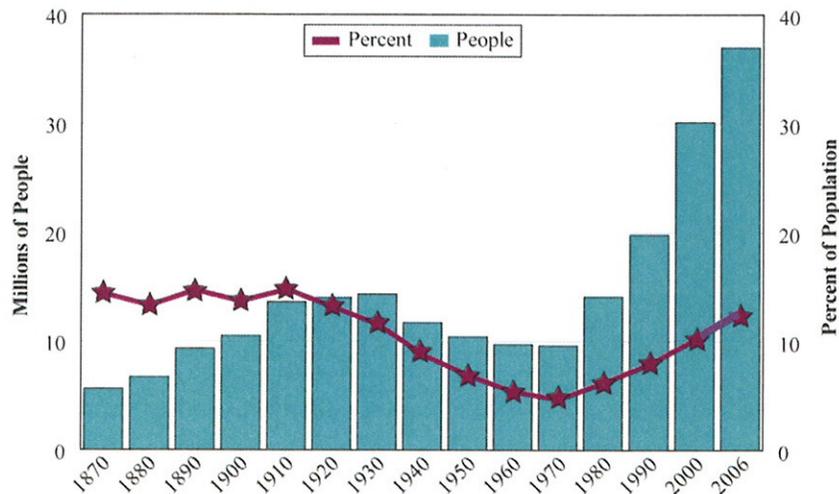
As Chart H-1 shows, the annual number of immigrants to the United States rose gradually after World War II, and it currently matches immigration levels of the early 20th Century. Data in chart H-1 include aliens arriving as LPRs from abroad as well as aliens already in the United States who adjusted to LPR status. Chart H-2 illustrates that, although the percent of the population that is foreign born is lower than earlier periods, the sheer number (37 million in 2006) is at the highest point in U.S. history (Wasem, 2008).

CHART H-1--ANNUAL IMMIGRANT ADMISSIONS AND STATUS ADJUSTMENTS, 1900-2007



Source: *Statistical Yearbook of Immigration*, U.S. Department of Homeland Security, Office of Immigration Statistics, multiple fiscal years. Aliens legalizing through the Immigration Reform and Control Act of 1986 are depicted by year of arrival.

CHART H-2--FOREIGN-BORN RESIDENTS OF THE UNITED STATES,
1870-2006



Source: CRS presentation of data from *The Foreign-Born Population: 1994*, by K. A. Hansen & A. Bachu, U.S. Bureau of Census (1995); *The Population of the United States*, by Donald J. Bogue (1985); and the March Supplement of the CPS.

The growth in immigration after 1980 is partly attributable to the fact that the total number of admissions under the basic system, consisting of immigrants entering through a preference system as well as immediate relatives of U.S. citizens, was augmented considerably by legalized aliens and refugees. These latter two categories together accounted for 35 percent of total immigration during the period 1980-95. The number of refugees admitted increased from 718,000 in the period 1966-80 to 1.6 million during the period 1981-95, after enactment of the Refugee Act of 1980 (P.L. 96-212) (Violet, 1997). Although the admission of refugees has subsided, the Immigration Act of 1990 (P.L. 101-649) increased the ceiling on employment-based immigration from 54,000 to 140,000 annually.

NATURALIZATION

Another tradition of U.S. immigration policy is to allow immigrants an opportunity to integrate fully into society. Under U.S. immigration law, all legal permanent resident aliens are potential citizens. To naturalize, aliens must have continuously resided in the United States for 5 years as permanent residents (3 years in the case of spouses of U.S. citizens), show that they have good moral character, demonstrate the ability to read, write, speak, and understand English, and pass an examination on U.S. Government and history. Applicants pay a fee now set at \$675 to the U.S. Citizenship and Immigration Services in the Department of Homeland

Security (DHS) when they file their materials and have the option of taking a standardized civics test or of having the U.S. Citizenship and Immigration Services examiner test them on civics as part of their interview.

The language requirement is waived for those who are at least 50 years old and have lived in the United States at least 20 years or who are at least 55 years old and have lived in the United States at least 15 years. Special consideration on the civics requirement is given to aliens who are over 65 years old and have lived in the United States for at least 20 years. Both the language and civics requirements are waived for those who are unable to comply due to physical or developmental disabilities or mental impairment. Certain requirements are waived for those who serve in the U.S. military.

The number of immigrants petitioning to naturalize surged in the mid-1990s, jumping from just over half a million applicants in fiscal year 1994 to more than 1 million in fiscal year 1996 (Table H-1). There were an unprecedented 1.4 million petitions in fiscal year 1997, but the number fell to 460,916 petitions in fiscal year 2000. Petitions filings remained under 800,000 for several years. Most recently, the number of LPRs who filed naturalization petitions rose to 1.4 million in fiscal year 2007.

TABLE H-1--NATURALIZATION CASELOAD, 1990-2007

Fiscal Year	Petitions Filed	Approved	Denied
1990	233,843	267,586	6,516
1991	206,668	307,394	6,268
1992	342,238	239,664	19,293
1993	521,866	313,590	39,931
1994	543,353	429,123	40,561
1995	959,963	485,720	46,067
1996	1,277,403	1,040,991	229,842
1997	1,412,712	596,010	130,676
1998	932,957	461,169	137,395
1999	765,346	837,418	379,993
2000	460,916	886,026	399,670
2001	501,643	606,259	218,326
2002	700,649	572,646	139,779
2003	523,370	462,435	91,599
2004	662,796	537,151	103,339
2005	602,972	604,280	108,247
2006	730,642	702,589	120,722
2007	1,383,275	660,477	89,683

Source: DHS Office of Immigration Statistics, *2007 Yearbook of Immigration Statistics*, (2008).

There are several factors that may account for the increase in naturalization petitions during the mid-1990s. Most notable is the 2.8 million aliens who legalized through the Immigration Reform and Control Act of 1986 became eligible to naturalize in the mid-1990s, thus creating a one-time-only surge in the number of people seeking to naturalize. In addition to the Immigration Reform and Control Act (P.L. 99-603) legalized population, there has been a steady rise over the past 2

decades in the overall number of legal immigrants to the United States. Indeed, immigration during the 15-year period 1981-95 was almost twice that of the previous 15 years. This increased level of immigration, in turn, has increased the pool of people eligible to naturalize (Violet, 1997). The latest spike in naturalization petitions is also attributable to an increased number of LPRs eligible to naturalize, as Table H-1 illustrates.

ILLEGAL ALIENS

The three main components of the unauthorized resident alien population are: foreign nationals who overstay their nonimmigrant visas; foreign nationals who enter the country surreptitiously; and, foreign nationals who are admitted on the basis of fraudulent documents. In all three instances, these aliens are in violation of the Immigration and Nationality Act (INA) and subject to removal. The actual number of unauthorized aliens in the United States is not known, as locating and enumerating people who are residing in the United States without permission poses many methodological problems (Wasem, 2008).

The most commonly-cited estimates of the size of the unauthorized resident alien population are based upon the annual March Current Population Survey (CPS) conducted by the U.S. Census Bureau and the Bureau of Labor Statistics. Jeffrey Passel, a demographer at the Pew Hispanic Center, drew on the CPS to estimate that 11.1 million unauthorized aliens were residing in the United States in 2005. Passel further estimated the number of persons living in families in which the head of the household or the spouse is an unauthorized alien was 14.6 million as of March 2005. This estimate of 14.6 million includes the 11.1 million unauthorized aliens in its calculation. Although more recent aggregate estimations are available, the 2005 data remain the most recent analysis that breaks down the data into family characteristics (Passel, 2007).

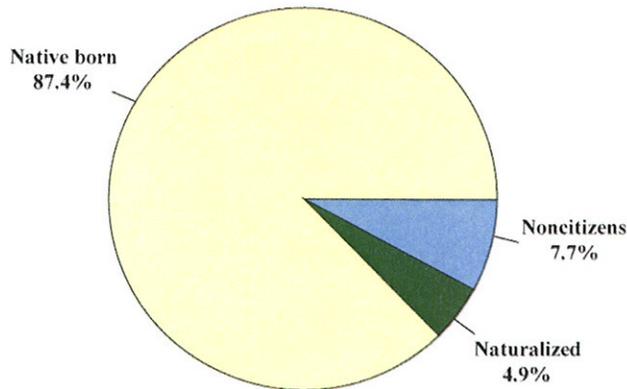
Passel also reported that there were an estimated 1.8 million children who were unauthorized and an estimated 3.1 million children who were U.S. citizens by birth living in families in which the head of the family or a spouse was unauthorized in 2005. He projected that unauthorized aliens accounted for about 4.9% of the civilian labor force in March 2005, or about 7.2 million workers out of a labor force of 148 million (Passel, 2007).

CURRENT FOREIGN-BORN RESIDENTS

The most comprehensive source of information on the foreign born population is the U.S. Census Bureau's March Current Population Survey (CPS). The Census Bureau conducts the CPS each month to collect labor force data about the civilian noninstitutionalized population. The March Supplement of the CPS gathers additional data about income, education, household characteristics, and geographic mobility for the prior year. While the data distinguish between the foreign born who have naturalized and those who have not, it does not distinguish between types of noncitizens (e.g., permanent, temporary, or illegal).

The March 2007 CPS found that about 12.6 percent of U.S. residents were foreign born (7.7 percent noncitizens and 4.9 percent naturalized citizens; see Chart H-3). There were 37.2 million foreign-born persons living in the United States, of which 14.5 million had become naturalized citizens. This total foreign-born population was up from 24.6 million persons in 1996, and the number of naturalized persons had increased from 7.9 million in 1996.

CHART H-3--CITIZENSHIP STATUS OF U.S. RESIDENTS, 2006

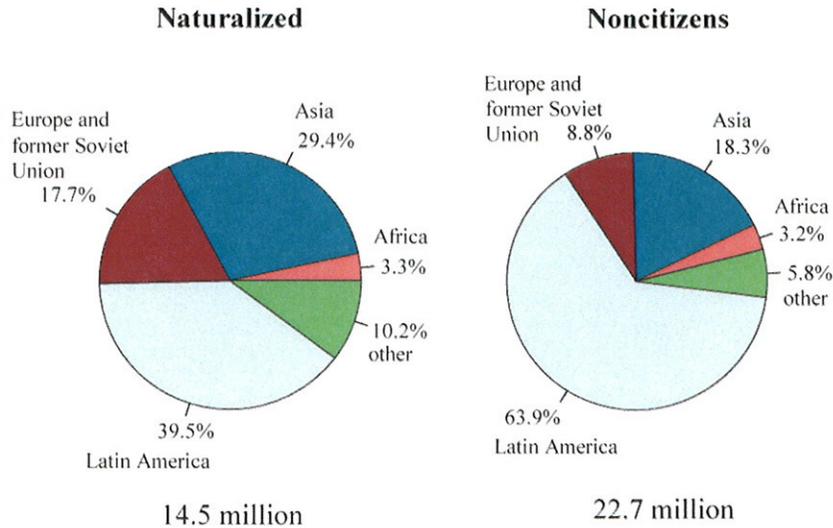


Source: CRS analysis of March Supplement of Current Population Survey, 2007

Region of Origin

Estimates from the latest CPS indicate that of the total noncitizen population, the largest percentage (63.9 percent) arrived from Latin America, which includes Mexico and Central America, South America, and the Caribbean region. The second largest group of noncitizens immigrated from Asia (18.4 percent). Those immigrants who naturalized likewise came in a similar rank order from those regions of the world, but the proportions are not as sharply skewed toward Latin America and Asia (Chart H-4).

CHART H-4--PERCENTAGE OF FOREIGN-BORN BY WORLD REGION OF ORIGIN, 2006



Source: CRS analysis of March Supplement of Current Population Survey, 2007.

Region and State of Residence

The western part of the United States is home to the largest proportion (36.5 percent) of noncitizens (Table H-2). A growing portion (33.6 percent) of noncitizens live in the South. Just under one-fifth (19.0 percent) live in the Northeast. Almost 11 percent of noncitizens reside in the Midwest. By State of residence, over one-fourth (26.0 percent) of all noncitizens live in the State of California. The State with the next largest portion of noncitizens is Texas (10.9 percent). New York is home to 9.2 percent, and Florida is the home of 9.0 percent of all noncitizens. The only other States with noteworthy shares of noncitizens are New Jersey and Illinois, each with 4.7 percent.

TABLE H-2--PERCENTAGE OF ALL NATIVE AND FOREIGN-BORN RESIDENTS LIVING IN TOP STATES AND FOUR REGIONS, 2006

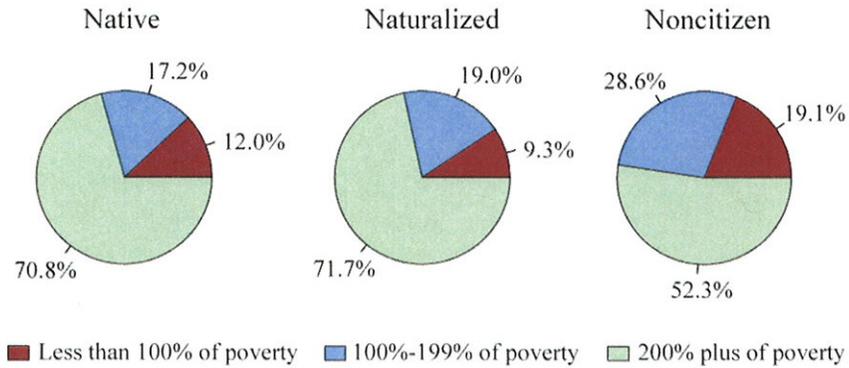
State/region	Citizen status		
	Native	Naturalized	Noncitizen
State:			
California	10.1	28.0	26.0
Texas	7.6	6.6	10.9
New York	5.8	13.8	9.2
Florida	5.6	9.7	9.0
New Jersey	2.6	5.5	4.7
Illinois	4.2	4.4	4.7
Subtotal	35.9	68.0	64.5
Region:			
Northeast	17.7	26.6	19.0
Midwest	23.6	11.3	10.9
South	37.3	25.5	33.6
West	21.4	36.6	36.5
Total	100.0	100.0	100.0
Total population (millions)	259.5	14.5	22.7

Source: CRS analysis of the 2007 CPS March Supplement.

Poverty Levels

Noncitizens differ sharply from citizens (whether native born or naturalized) in terms of poverty levels. As Chart H-5 illustrates, just under half of noncitizens sampled in the CPS were below 200 percent of the poverty level in 2006 and 19.1 percent were below 100 percent of the poverty level. By contrast, well under one-third of native and naturalized citizens are below 200 percent of the poverty level, and only 12.0 percent of natives and 9.3 percent of naturalized citizens are below 100 percent of the poverty level. There are a variety of factors that contribute to this variation, not the least of which are education levels and length of time in the United States.

CHART H-5--POVERTY LEVELS BY CITIZENSHIP STATUS, 2006



Source: CRS analysis of March Supplement of Current Population Survey, 2007.

NONCITIZENS' ELIGIBILITY FOR BENEFITS PRIOR TO 1996

Except for the general prohibition on aliens becoming public charges, to be discussed below, prior to 1996 there was no uniform rule governing which categories of noncitizens were eligible for benefits, and no single statute where the rules were described. Alien eligibility requirements, if any, were set forth in the laws and regulations governing the individual Federal assistance programs. Summarizing briefly, lawful permanent residents (i.e., immigrants) and other noncitizens who were legally present on a permanent basis (e.g., refugees) were generally eligible for Federal benefits on the same basis as citizens. With the single exception of emergency Medicaid, illegal aliens were barred from participation in all the major Federal assistance programs that had statutory provisions for noncitizens, as were tourists and most other aliens here legally in a temporary status (nonimmigrants).

However, many income, health, education, nutrition, and social service programs did not include specific provisions regarding alien eligibility; even illegal aliens were potential participants. These programs included, for example, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), child nutrition programs, earned income credits, migrant health centers, and the Social Services Block Grant (SSBG).

“PUBLIC CHARGE” AND DEVELOPMENT OF ELIGIBILITY STANDARDS

Opposition to the entry of foreign paupers and aliens “likely at any time to become a public charge” (language found in the INA today) dates from colonial times. The colony of Massachusetts enacted legislation in 1645 prohibiting the entry of paupers, and in 1700 excluding the infirm unless security was given against their becoming public charges. New York adopted a similar practice. A bar against the admission of “any person unable to take care of himself or herself without becoming a public charge” was included in the act of August 3, 1882, the first general Federal immigration law.

Preceding the 1996 legislation, applicants for immigrant status could meet the public charge requirement based on their own funds, prearranged or prospective employment, or an affidavit of support. Affidavits of support were submitted by one or more residents of the United States in order to provide assurance that the applicant for entry would be supported in this country. Starting in the 1930s and continuing until the 1980s, affidavits of support were administratively required by the former Immigration and Naturalization Service (INS) but had no specific basis in statute or regulation. Court decisions beginning in the 1950s generally held that affidavits of support were not legally binding on the U.S. resident sponsors (*Department of Mental Hygiene v. Renal*, 6 N.Y. 2d 791 (1959); *State v. Binder*, 356 Mich. 73 (1959)). The unenforceability of affidavits of support led to the adoption of legislation in the late 1970s and early 1980s intended to make them more effective.

Despite immigration policy explicitly designed to exclude potential public charges, Federal assistance laws for specific programs contained no eligibility restrictions based on immigration status until the early 1970s. In the absence of Federal law, State governments enacted restrictions, usually durational residency requirements, on the eligibility of legal aliens for assistance under State or joint Federal-State programs. However, in the landmark 1971 decision *Graham v. Richardson* (403 U.S. 365), the U.S. Supreme Court declared these State restrictions to be unconstitutional. The Supreme Court found that they violated the equal protection clause of the 14th amendment and that they encroached upon the exclusive Federal power to regulate immigration.

Beginning with the new SSI Program in 1972, Federal statutory and regulatory alien eligibility criteria were established for the major Federal assistance programs. In addition to meeting the financial need and family structure criteria applicable to U.S. citizens, noncitizens were required either to be lawfully admitted for permanent residence, or otherwise “permanently residing in the United States under color of law,” in order to be eligible for SSI, Aid to Families with Dependent Children (AFDC), Medicaid, or food stamps. These criteria were adopted with the intent of barring participation by temporary non-immigrants and particularly by illegal aliens.

In response to concerns about the unenforceability of affidavits of support and the perceived abuse of the welfare system by some newly arrived immigrants, legislation was enacted in the early 1980s limiting the availability of SSI, AFDC, and food stamps to sponsored immigrants. The authorizing legislation for the three programs was amended to provide that, for the purpose of determining financial eligibility, immigrants who had used an affidavit of support to meet the public charge requirement would be deemed to have some portion of their immigration sponsors' income and resources available to them. The sponsor-to-alien deeming period was set at 3 years for the three programs. To help finance legislation providing extended unemployment benefits, this period was temporarily increased from 3 years to 5 years for SSI, effective January 1, 1994-October 1, 1996. For those immigrants still covered under the pre-1996 rules, the duration of SSI deeming has reverted to 3 years.

The 1996 welfare and immigration reform laws significantly expanded the use of sponsor-to-alien deeming as a means of restricting the participation of new immigrants in Federal means-tested programs. It also established new, legally enforceable responsibilities for sponsors who pledge support through affidavits of support. Both deeming and the affidavits of support upon which deeming is based are intended to implement the provision of the INA that excludes aliens who appear "likely at any time to become a public charge."

STATE AND LOCAL LAW BEFORE 1996

In 1971, the Supreme Court held in *Graham v. Richardson* that the equal protection clause and the exclusive authority of Congress to regulate immigration barred States from distinguishing between citizens and legal aliens in providing State-funded or joint Federal-State benefits. More recently, the Supreme Court has recognized that States do have some authority to enact laws that adversely affect illegal aliens, at least where these laws mirror Federal immigration policy. However, this authority is circumscribed. In 1982, the Supreme Court held in *Plyler v. Doe* (457 U.S. 202) that States could not deny illegal alien children a free public education, in part because of the absence of Federal guidance on the issue.

State regulation of alien access to State and local assistance programs continued to be governed by the *Graham* and *Plyler* decisions. For example, several State supreme courts cited *Graham* to overturn State laws that imposed sponsor-to-alien deeming under State cash assistance programs. In a later example, a U.S. district court judge overturned large parts of California's proposition 187, a ballot initiative that denied illegal aliens education and other State-provided services (*League of United Latin American Citizens v. Wilson*, 908 F. Supp. 755 (C.D. Cal. 1995)). Though the judge ruled that the State did have leeway to deny illegal aliens many services (not including elementary and secondary education), she also held that the State could not make its own determinations of the legality of

individuals' immigration status nor impose its own alienage standards on services funded at least in part with Federal funds.

Because *Graham* left little leeway for State regulation of legal permanent residents, the States were required to provide needy permanent residents with the same assistance they provided needy citizens. This practice also was true under joint Federal-State programs, such as AFDC and Medicaid, which were governed by broad Federal alien eligibility rules even though the Federal Government funded only a portion of assistance. Broad alien eligibility rules set by Congress also indirectly triggered entitlement to significant State SSI supplements. Also, States could not differentiate between legal aliens and citizens under State-funded General Assistance (GA) Programs. According to an October 1996 report by the Urban Institute, cash or in-kind assistance was provided to the needy under GA Programs in all or part of 41 States (Uccello et al., 1996).

Exercising their broader authority with regard to illegal aliens, the GA laws of 36 States limited eligibility to citizens and legal residents. Though many States had thus attempted to limit expenditures for illegal aliens, some of the largest State outlays for illegal aliens (elementary and secondary education, for example) remained beyond State control.

1996-2002 FEDERAL LEGISLATIVE REVISIONS

In the 1996 welfare reform law (Public Law 104-193), Congress drew a sharp distinction between citizens and noncitizens in determining eligibility for welfare programs. Congress also emphasized that the primary responsibility for assisting needy immigrants should be borne by the immigrants' sponsors. Thus, most noncitizens were made ineligible for Federally financed welfare benefits, effective during the summer and fall of 1997. Only a few categories of noncitizens (see Table H-3) remained eligible.

Public Law 105-33, BBA 1997, modified the 1996 legislation's policy of restricting alien eligibility for Federal benefits; however, these modifications were limited in scope. Only two programs, SSI, which provides cash assistance for needy persons who are aged, blind, or disabled, and, to a lesser degree, Medicaid, were substantially affected by the changes to noncitizens' benefits in the BBA. Similarly, Congress expanded food stamp provisions in Public Law 105-185, the Agricultural Research, Extension, and Education Reform Act of 1998, to include legal immigrants who were in the United States by August 22, 1996, and who were 65 years old or older, who were disabled or subsequently became disabled, or who were under 18 years old. Generally, only noncitizens here before August 22, 1996, the enactment date of the 1996 welfare law, were affected by the 1997-98 modifications (except for new entries who benefit from a 2-year extension of refugee eligibility for SSI benefits). The comprehensive legislation that reauthorized Agriculture Department programs (P.L. 107-171) expanded up food stamp eligibility to LPRs who meet a 5-year residence test and all LPR children (regardless of date of entry or length of residence), comparable to the State-

exercised options for Temporary Assistance for Needy Families (TANF) discussed below. The basic policy laid out by the 1996 welfare law remains essentially unchanged for noncitizens entering after its enactment.

ALIEN ELIGIBILITY FOR FEDERAL ASSISTANCE

As revised in 1997, 1998, and 2002, the 1996 welfare law and, to a lesser extent, the 1996 immigration law, restricted alien eligibility for Federal benefits in three basic ways:

1. They barred access to programs conditioned on alien status;
2. They required legally binding affidavits of support from immigrants' sponsors; and
3. They required that sponsors' income be deemed available to immigrants in determining eligibility for most means-tested programs.

PROGRAM BARS

Until 1996, aliens who were lawful permanent residents or who were otherwise legally present on a permanent basis (e.g., refugees) were generally eligible for Federal benefits on the same basis as citizens. The 1996 welfare law, however, added new rules barring "qualified aliens" from participation in Federal assistance programs. Qualified aliens include aliens admitted for legal permanent residence (also known as immigrants), refugees, aliens paroled into the United States for at least 1 year, and aliens granted asylum or related relief. The 1996 immigration law added certain abused spouses and children as another class of qualified aliens, and BBA 1997 added Cuban/Haitian entrants (the terms "qualified alien" and "legal immigrant" are used interchangeably in this appendix). The laws made several exceptions to their eligibility changes, so that the restrictions discussed below do not apply to qualified aliens who are veterans or certain active duty personnel and their spouses and dependent unmarried children, or those who meet a 10-year work requirement. In order to satisfy the work requirement, the immigrant must meet a 40 qualifying quarters test. As defined by the 1996 welfare reform law, a qualifying quarter is a 3-month work period with sufficient income to qualify as a Social Security quarter and, with respect to periods beginning after 1996, during which the worker did not receive Federal means-tested assistance. Work performed by the alien, the alien's parent while the alien was under age 18, and the alien's spouse (provided the alien remains married to the spouse or the spouse is deceased) all may be counted as qualifying quarters.

The rules barring LPRs from benefits fall into three general categories, summarized below. The effect of these rules as they apply to SSI, food stamps, Medicaid, TANF, and SSBG is summarized in Table H-3, together with the change from the law prior to 1996.

TABLE H-3--ALIEN ELIGIBILITY FOR SELECTED FEDERAL PROGRAMS

Alien category	Supplemental		Food Stamps	Medicaid	TANF (formerly AFDC) and Title XX Social Services Block Grant
	Security Income	Yes, with deeming. ²			
Immigrants: ¹					
Eligibility under prior law	Yes, with deeming. ²	Yes, with deeming. ²	Yes, with deeming. ²	Yes.....	Yes, with deeming for AFDC. ²
Eligibility under current law.					
a) Here before 8/22/96 (Public law 104-193 enactment)	Yes, if on rolls 8/22/96 or disabled subsequently.	Yes, if on rolls 8/22/96 and if 65 or older at that time, disabled or disabled subsequently; if resided 5 years in U.S. or under 18.	Yes, if on rolls 8/22/96 and if 65 or older at that time, disabled or disabled subsequently; if resided 5 years in U.S. or under 18.	Yes, for SSI-derivative benefits or emergency services. Otherwise State option.	State option with Federal money.
b) New entrants -- 1 st 5 years after arrival	No ³	No.....	No.....	Emergency only.....	Not with Federal money; States may use State money.
c) New after 5 years	No ³	Yes.....	Yes.....	Yes, for emergency services. Otherwise State option, with deeming.	State option with Federal money and deeming.
Refugees and Asylees: ⁴					
Eligibility under prior law	Yes.....	Yes.....	Yes.....	Yes.....	Yes.
Eligibility under current law -- 1 st 7 years after entry or grant of asylum	Yes.....	Yes.....	Yes.....	Yes.....	Yes.
Nonimmigrants ⁵ and undocumented aliens: ⁶					
Eligibility under prior law....	No.....	No.....	No.....	Emergency only.....	SSBG only.
Eligibility under current law.	No.....	No.....	No.....	Emergency only.....	No.

¹ "Immigrants" -- Also known as permanent residents and green card holders. May live here indefinitely unless they commit a deportable act. Parolees admitted temporarily for at least 1 year under the Attorney General's immigration parole power may receive the same benefits.

² "Deeming" -- refers to the attribution of the sponsor's income to the immigrant in determining financial eligibility, and is applied to SSI, food stamps, and AFDC (replaced by TANF) for 3 years after entry (5 years for the period 1/1/94-10/1/96).

³ Lawful permanent residents who have 40 qualifying quarters or who in combination with their parents or spouses have a total of 40 quarters may be eligible for SSI beginning 5 years after their entry to the United States.

⁴ "Refugees and asylees" -- status is based on individualized persecution abroad, and they adjust to legal permanent residents after 1 year and are treated as other "qualified aliens" after 7 years. This category also includes Cuban/Haitian entrants and Amerasians.

⁵ "Non-immigrants" -- admitted temporarily for a limited purpose. Includes e.g., students, visitors, and temporary workers.

⁶ Also known as illegal aliens. Includes aliens in the United States in violation of immigration law for whom no legal relief has been extended. Note- Among immigrants and certain Native Americans living along the Mexican and Canadian borders have special access to programs, according to the program Statutes.

Source: Congressional Research Service.

PERMANENT BAR

Congress imposed a permanent bar to access by legal immigrants who entered the United States after August 22, 1996, to two Federally financed programs. These programs are SSI, which provides cash aid for needy persons who are aged, blind, or disabled; and food stamps, which provides certain low-income households with monthly benefits to enable them to afford more adequate diets. As noted above, P.L. 107-171, the Farm Security and Rural Reinvestment Act of 2002, lifted the food stamp bar for all LPR children, regardless of date of entry (it also ended requirements to deem sponsors' income and resources to these children); LPRs receiving government disability payments, so long as they pass any noncitizen eligibility test established by the disability program (e.g., SSI recipients would have to meet SSI noncitizen requirements in order to get food stamps); and all individuals who have resided in the U.S. for 5 or more years as "qualified aliens" (i.e., LPRs, refugees/asylees, and other non-temporary legal residents such as Cuban/Haitian entrants).

STATE OPTION

The second set of restrictions generally applies to three major Federal/State grant programs: Medicaid, TANF, and SSBG. Medicaid provides medical assistance for low-income persons who are aged, blind, or disabled, or members of needy families with dependent children. TANF is a block grant program established by the 1996 welfare reform law. TANF provides Federal funds to States for temporary cash and other assistance for needy families. SSBG is also a State block grant program, providing Federal funds to States for social services aimed at preventing dependency and remedying problems associated with it.

States may permit or prohibit participation by legal immigrants who entered the United States before enactment of the welfare law (August 22, 1996) from Medicaid, TANF, and SSBG. Legal immigrants entering the United States after August 22, 1996, are barred for 5 years from all benefits under these programs except emergency medical assistance. In over half of the States, LPRs ineligible for TANF, however, may receive State-funded benefits if they meet other program requirements. After 5 years, the decision as to whether legal immigrants may participate in Medicaid, TANF, and SSBG rests with the States, subject to a rule deeming sponsors' income and resources to be available to the immigrant, as discussed below (Wasem, 2004).

Many States, including those with large noncitizen populations such as California, offer a full array of public assistance to legal immigrants not eligible for Federally financed benefits. Indeed, most states have not exercised their option to bar LPRs from TANF. According to the CRS State Noncitizen Eligibility Survey (SNES), 34 states and Washington, DC, reported that they are exercising the option to provide TANF to LPRs after the five-year bar ends. In terms of funding, 27 states and Washington, DC, reported that they used their own funds as well as Federal

funds in 2000 and 2002 to cover the costs of providing TANF to those LPRs who were in the United States prior to the passage of the 1996 welfare reform act. Twenty-six states and the U.S. Virgin Islands reported that they used their own funds as well as Federal funds to cover the costs of providing TANF to those LPRs who were excluded (e.g., barred first five years) or whose eligibility had expired (e.g., refugees after five years). Preliminary data from the 2004/2006 SNES for the most part indicate a continuation of these policies (Wasem, 2004).

The 5-year bar discussed previously does not apply to refugees and asylees, nor does the State option to restrict Medicaid benefits apply to them in the same manner that it does to immigrants. Refugees and asylees who meet the other program criteria are eligible for full Medicaid benefits for 7 years after entering as refugees or being granted asylum; they are eligible for TANF and SSBG benefits for 5 years. After these respective periods of time, refugees and asylees are subject to the same State option provision that applies to legal immigrants.

State options also are available under food stamp law, and as of December 2002, 13 States report that they provide food assistance to noncitizens who are not covered by the Federal food stamps program. The number of States reporting that they provide their own food assistance program for noncitizens was down in 2002 from 16 States as of December 2000.

Finally, States have the option to grant or deny any child nutrition benefits (e.g., Summer Feeding Programs, meals in day care programs, and WIC, but not school meals), commodity supplemental and emergency food benefits, and commodity benefits for Indians on reservations based on alien status.

OTHER PROGRAMS

Most qualified aliens arriving after August 22, 1996, are barred from most other Federal means-tested programs for 5 years after their arrival. Their participation after that time is subject to sponsor-to-alien deeming, as it is for Medicaid, TANF, and SSBG. However, a number of programs are exempt from both the 5-year bar and sponsor-to-alien deeming (Table H-4). These include:

1. Treatment under Medicaid for emergency medical conditions (other than those related to an organ transplant);
2. Short-term, in-kind emergency disaster relief;
3. Assistance under the National School Lunch Act and the Child Nutrition Act;
4. Immunizations against diseases and testing for and treatment of symptoms of communicable diseases;
5. Foster care and adoption assistance under title IV of the Social Security Act, unless the foster parent or adoptive parent is an alien other than a qualified alien;
6. Education assistance under the Elementary and Secondary Education Act of 1965, specified titles of the Higher Education Act of 1965, or specified titles of the Public Health Service Act;
7. Benefits under the Head Start Act;

8. Benefits under the Job Training Partnership Act; and
9. Services or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelters) designated by the Attorney General as delivering in-kind services at the community level, providing assistance without individual determinations of each recipient's needs, and being necessary for the protection of life and safety.

Emergency services, school meals, and community-level services are available for all aliens; other nutrition programs may be provided to any alien at State option. The Attorney General published a list defining non-cash community-level services exempt from the various prohibitions (*Federal Register*, 1996). Among other services, it includes senior nutrition programs, such as Meals on Wheels.

TABLE H-4--ALIEN ELIGIBILITY PROVISIONS FOR SELECTED FEDERAL BENEFITS UNDER CURRENT WELFARE AND IMMIGRATION LAWS

Provision	Qualified aliens regardless of entry date	Qualified aliens entering after 8/22/96	Nonqualified aliens
Restricted programs	Food stamps for 5 years after entry, unless under age 18, or age 65 or older by 8/22/96, or subsequently disabled; Supplemental Security Income (SSI), unless on rolls by 8/22/96 or in the United States then and later disabled. At State option: ¹ Temporary Assistance for Needy Families, Social Services Block Grant, and Medicaid (other than emergency services and SSI-related).	For 5 years after entry, Federal means-tested public benefits (with exceptions below). Thereafter the restrictions in the left column apply.	Most Federal public benefits (with exceptions noted below).
Programs excepted from restrictions	"Qualified aliens" in the United States before 8/22/96 not barred by alienage status from programs other than those listed above.	Emergency medical services, disaster relief, public health assistance, community services, school lunch, child nutrition, foster care and adoption assistance, Head Start, certain job training, elementary, secondary, and higher education, and Public Health Service Act education assistance.	Emergency medical services, disaster relief, public health assistance, community services, housing assistance received at enactment, Social Security and Medicare benefits for lawful aliens, and school lunch and breakfast. Other child nutrition and food distribution programs at State option. (Does not change law regarding public education.)
Individuals excepted from restrictions	Refugees and asylees - 7 years for SSI, Medicaid, and food stamps and 5 years for other programs; immigrants with 40 Social Security work quarters (including quarters worked by a spouse/parent); ² and alien veterans, certain active duty personnel, and families.	Refugees and asylees (as in left column); immigrants with 40 Social Security work quarters worked by spouse/parent; and alien veterans, certain active duty personnel, and families.	Nonimmigrants only for contracts or licenses related to their authorized employment, and for benefits under reciprocal treaty agreements.

TABLE H-4--ALIEN ELIGIBILITY PROVISIONS FOR SELECTED FEDERAL BENEFITS UNDER CURRENT WELFARE AND IMMIGRATION LAWS -continued

Provision	Qualified aliens regardless of entry date	Qualified aliens entering after 8/22/96	Nonqualified aliens
Modification of sponsor-to-alien deeming	Now deeming rules only applicable to qualified aliens entering after 8/22/96 and with affidavits complying with new INA requirements - see next column.	After 5-year bar, for Federal means-tested programs until alien naturalizes or has 40 Social Security work quarters (including quarters worked by a spouse/parent); ² with exceptions similar to 5-year bar.	Not applicable.

¹ State option begins 5 years after entry for qualified aliens entering the U.S. after August 22, 1996.

² For quarters worked after 1996, no quarter during which the alien received public assistance may be counted toward the 40-quarter exception.
 Note- Among immigrants and certain Native Americans living along the Mexican and Canadian borders have special access to programs, according to program statutes.

Source: Congressional Research Service.

EXPANDED SPONSOR-TO-ALIEN DEEMING AND AFFIDAVITS OF SUPPORT

The other major limitations on noncitizen access to public benefits included in the 1996 welfare and immigration laws are legally binding affidavits of support and sponsor-to-alien deeming rules. Both are expansions of prior law and practice, and both have their roots in the public charge provision, which has been a feature of U.S. immigration law since 1882.

Affidavits of Support

The Immigration and Nationality Act (INA) was amended in 1996 by the addition of a new section 213A, which provides a statutory basis for affidavits of support and greatly extends their scope, as compared with pre-1996 law:

1. It makes them legally binding documents effective either until the sponsored immigrant naturalizes or meets the 40-quarter work requirement;
2. It requires affidavits of all family-based immigrants and employment-based immigrants coming to work for relatives;
3. It requires sponsors to have an income of at least 125 percent of the Federal poverty level and to agree to support the sponsored immigrant with resources that would equal at least 125 percent of the poverty level; and
4. It provides that both government agencies and sponsored immigrants can sue sponsors for failure to meet their obligations.

Expanded Deeming Rules

A significant difference from pre-1996 law is that all the sponsor's income and resources and that of the sponsor's spouse is deemed to be available to the immigrant in determining financial eligibility. Coupled with the fact that government agencies providing benefits to sponsored immigrants are legally entitled to sue the sponsors, the clear intent of the deeming provisions is to all but bar sponsored immigrants from participation in means-tested programs.

The sponsor-to-alien deeming rules also have been expanded in terms of duration and the number of programs and immigrants covered.

1. Deeming remains in effect until the immigrant naturalizes or meets the 40-quarter work requirement;
2. Deeming rules apply to all Federal means-tested programs except those expressly exempted by law (and to Supplemental Security Income (SSI) and food stamps, from which immigrants are barred). The excepted programs are the same as those exempted from the 5-year bar (Table H-4);
3. Deeming applies to all sponsored immigrants, a group expanded by the immigration law's requirement that all family-based immigrants have affidavits of support.

A May 2009 Government Accountability Office report, "Sponsored Noncitizens and Public Benefits: More Clarity in Federal Guidance and Better Access to Federal Information Could Improve Implementation of Income Eligibility

Rules," (GAO-09-375) notes the number of sponsored noncitizens potentially affected by sponsor deeming is unknown. Further, while most benefit administering agencies have established sponsor deeming policies for TANF, SNAP, and SSI, agencies in 20 states have not done so for Medicaid and few agencies have taken steps to implement sponsor repayment, due in part to inconsistent federal guidance.

ELIGIBILITY STANDARDS FOR UNAUTHORIZED ALIENS

Federal Benefits

The 1996 welfare reform law denies most Federal benefits, regardless of whether they are means-tested, to unauthorized aliens (i.e., foreign nationals illegally residing in the United States). The class of benefits denied is broad and covers grants, contracts, loans, and licenses as well as retirement, welfare, health, disability, housing, food, unemployment, postsecondary education, and similar benefits. So defined, this bar covers many programs whose enabling statutes do not individually make citizenship or immigration status a criterion for participation. Thus, programs that previously were not individually restricted (the earned income credit, SSBG, and migrant health centers, for example) became unavailable to illegal aliens, unless they fall within the act's limited exceptions.

These programmatic exceptions include:

1. Treatment under Medicaid for emergency medical conditions (other than those related to an organ transplant);
2. Short-term, in-kind emergency disaster relief;
3. Immunizations against immunizable diseases and testing for and treatment of symptoms of communicable diseases;
4. Services or assistance (such as soup kitchens, crisis counseling, and intervention, and short-term shelters) designated by the Attorney General as delivering in-kind services at the community level, providing assistance without individual determinations of each recipient's needs, and being necessary for the protection of life and safety (see above); and
5. To the extent that an alien was receiving assistance on the date of enactment, programs administered by the Secretary of the U.S. Department of Housing and Urban Development, programs under title V of the Housing Act of 1949, and assistance under section 306C of the Consolidated Farm and Rural Development Act. Subtitle E of title V of the Illegal Immigration Reform and Immigrant Responsibility Act (Public Law 104-208) later facilitated the removal of illegal aliens from housing assistance.

The 1996 welfare reform law also permits unauthorized aliens to receive Old-Age, Survivors, and Disability Insurance benefits under title II of the Social Security Act if the benefits are protected by that title or by a treaty or are paid under applications made before August 22, 1996. The act also states that individuals who are eligible for free public education benefits under State and local law shall remain

eligible to receive school lunch and school breakfast benefits. (The act itself does not address a State's obligation to grant all aliens equal access to education under the Supreme Court's decision in *Plyler v. Doe*.) Beyond these nutrition benefits, the act neither prohibits nor requires a State to provide unauthorized aliens other benefits funded under the National School Lunch Act, the Emergency Food Assistance Act, or similar food programs (Wasem, 2008).

SPECIAL IMMIGRANT JUVENILES

Almost two decades ago, Congress created an avenue for unauthorized migrant children who are dependents of the court to become LPRs. Any child or youth who was born in a foreign country; who lives without legal authorization in the United States; has experienced abuse, neglect, or abandonment; and who meets other specified eligibility criteria may be eligible for the LPR classification of special immigrant juvenile (SIJ).

The Immigration Act of 1990 (P.L. 101-649) added the SIJ provision (among other major revisions) to the INA in response to growing concerns over foreign children in the United States who were homeless, orphans, or victims of abusive family situations. Such unauthorized alien children raise complex immigration and child welfare concerns. The provision enables unauthorized alien children who become dependents of the courts to remain in the United States legally and permanently. Otherwise, unauthorized residents who are minors are subject to removal proceedings and deportation as are all other unauthorized foreign nationals.

To be eligible for the SIJ visa, the foreign national must be unmarried, under the age of 21, and meet three court-determined criteria. The court must have:

1. declared the child to be a dependent of the court or granted custody of the child to a State agency (e.g., the child welfare agency);
2. determined that reuniting the child with his or her parents is not a "viable option" and thus "eligible for long-term foster care"; and,
3. determined that it is not in the child's best interest to return to his/her country of birth or last habitual residence.

The court making these decisions, moreover, must be located in the United States and must have jurisdiction, under State law, to make judicial determinations about the custody and care of juveniles.

According to data from the DHS Office of Immigration Statistics, the number of SIJs has increased from 361 children in FY1992 (first year SIJ was in effect) to 796 in FY2007. The peak year for SIJs thus far was FY2006, when 912 children became LPRs.

Children who become LPRs as SIJs are eligible for parts B and E of title IV of the Social Security Act and are not subject to the 5-year bar that restricts access for most other LPRs. In particular, section 403(c)(2)(F) exempts foster care and adoption assistance from the 5-year bar so long as the foster or adoptive parent is a

qualified alien or a citizen. Because LPRs age 18 and younger are eligible for food stamps, SIJ children may also receive food stamps.

State Benefits

Unlike earlier Federal law, the 1996 welfare reform law expressly barred unauthorized aliens from most State- and locally-funded benefits. The restrictions on these benefits parallel the restrictions on Federal benefits. Illegal aliens generally are barred from State and local government contracts, licenses, grants, loans, and assistance. Exceptions also are similar to those for Federal means-tested programs.

The restrictions on State and local benefits do not apply to activities that are funded in part by Federal funds; these activities are regulated under the 1996 welfare reform law as Federal benefits. Furthermore, the law states that nothing in it is to be construed as addressing eligibility for basic public education. Finally, the 1996 law allows the States, through enactment of new State laws, to provide illegal aliens with State and local benefits that otherwise are restricted.

Despite the Federally imposed bar and the State flexibility provided by the 1996 welfare reform law, States still may be required to expend State funds for illegal aliens. Public elementary and secondary education for illegal aliens remains compelled by judicial decision, and payment for emergency medical services for illegal aliens remains compelled by Federal law (Siskin, 2004).

NONCITIZENS' USE OF FEDERAL ASSISTANCE PROGRAMS

Some of the concern with the use of public assistance by legal immigrants began in 1993 in response to a study by the Social Security Administration (SSA). The subject was the use of SSI by legal aliens entering either as lawfully admitted immigrants or "under color of law." SSA found that permanent legal aliens made up more than 25 percent of aged SSI recipients. Subsequent data presented by SSA indicated a steady increase from 1982 through 1995 in the number and percentage of lawfully admitted aliens receiving SSI, and an increased percentage of total beneficiaries who were legal aliens. Significant numbers of refugees were being admitted during this period. Legal aliens entering "under color of law," most of whom were refugees, accounted for 26 percent of the total number of legal alien SSI recipients in December 1995 (Ponce, 1996).

In the ensuing years, the question of whether legal immigrants disproportionately relied on public assistance arose frequently, and empirical research, such as the SSA study discussed above, yielded qualified responses of "sometimes" and "under certain circumstances." Following the substantial revisions of welfare law in 1996-98, the question of whether public assistance usage by legal immigrants has changed as a result of the new eligibility rules has come to the fore. This section draws on analysis of administrative program participation data and the CPS to explore this question.

ANALYSIS OF PROGRAM PARTICIPATION DATA

Supplemental Security Income (SSI)

The percentage of the SSI caseload represented by noncitizens has dropped slightly in recent years, after rising sharply in the 1980s and early 1990s (Table H-5). It stood at 9.3 percent or 674,250 participants in 2006 after peaking at 12.1 percent or 785,410 participants in 1995. In 2006, noncitizens accounted for about 28.0 percent of all aged SSI recipients, down from a high of 32.0 percent in 1995. Noncitizens accounted for 5.6 percent of disabled (or blind) recipients in 2006.

TABLE H-5--NUMBER OF NONCITIZENS RECEIVING SSI PAYMENTS
AND NONCITIZEN RECIPIENTS AS A PERCENT OF ALL SSI
RECIPIENTS BY ELIGIBILITY CATEGORY, 1982-2006

	Total		Aged		Blind and Disabled	
	Noncitizens	Percent of Total SSI	Noncitizens	Percent of Total SSI	Noncitizens	Percent of Total SSI
1982	127,900	3.3	91,900	5.9	36,000	1.6
1983	151,200	3.9	106,600	7.0	44,600	1.9
1984	181,100	4.5	127,600	8.3	53,500	2.1
1985	210,800	5.1	146,500	9.7	64,300	2.4
1986	244,300	5.7	165,300	11.2	79,000	2.8
1987	282,500	6.4	188,000	12.9	94,500	3.2
1988	320,300	7.2	213,900	14.9	106,400	3.5
1989	370,300	8.1	245,700	17.1	124,600	4.0
1990	435,600	9.0	282,400	19.4	153,200	4.6
1991	519,660	10.2	329,690	22.5	189,970	5.2
1992	601,430	10.8	372,930	25.4	228,500	5.6
1993	683,150	11.4	416,420	28.2	266,730	5.9
1994	738,140	11.7	440,000	30.0	298,140	6.2
1995	785,410	12.1	459,220	31.8	326,190	6.3
1996	724,990	11.0	417,360	29.5	307,630	5.9
1997	650,830	10.0	367,200	27.0	283,630	5.5
1998	669,630	10.2	364,980	27.4	304,650	5.8
2000	692,650	10.4	364,470	28.3	328,120	6.2
2001	695,650	10.5	364,550	28.9	331,100	6.1
2002	703,515	10.4	364,827	29.1	338,688	6.1
2003	696,772	10.1	356,298	28.9	340,474	6.0
2004	676,979	9.7	342,220	28.3	334,759	5.8
2005	680,397	9.6	344,166	28.3	336,231	5.7
2006	674,250	9.3	339,073	28.0	335,177	5.6

Note-Data as of December for each year.

Source: Social Security Administration

The decline in noncitizen SSI recipients is evident in two populous states. The largest concentration of noncitizens who received SSI benefits lived in California, and these totals fell from 260,520 recipients in 2001 to 249,284 in 2006. New York remains second, with 110,340 noncitizen SSI recipients in 2001 declining to 96,866

in 2006. In contrast, noncitizen SSI recipients rose in the two populous states of Florida and Texas from 65,400 and 54,800 recipients respectively in 2001 to 72,166 and 65,052 respectively in 2006. These State-level shifts may be more likely due to broader demographic factors than merely the well-being of noncitizens in these States. Nationally, while noncitizens comprise 9.3 percent of all SSI recipients in 2006, they make up 28.0 percent of all the recipients aged 65 years and older.

Although noncitizens from Latin America comprised an estimated 63.8 percent of noncitizens in the United States, they accounted for only 39.0 percent of the SSI noncitizen caseload in 2006. Noncitizens from Asia were an estimated 11.2 percent of noncitizen residents, but made up 31.8 percent of noncitizens who receive SSI. Noncitizens from the former Soviet Union were an estimated 1.2 percent of noncitizens in the United States, yet they were 8.4 percent of all noncitizens receiving SSI. These data lend weight to the view that noncitizens from refugee-sending parts of the world are more likely to rely on SSI, as one would expect given that refugees are among those aliens eligible to receive SSI the first 7 years after arrival. Table H-6 presents SSI recipients in 2006 by country of birth.

TABLE H-6--NONCITIZEN SSI RECIPIENTS BY REGION AND
COUNTRY OF ORIGIN, DECEMBER 2006

Region and country of origin	Total	Category	
		Aged	Blind and disabled
All noncitizen recipients	1,568,503	759,018	809,485
Latin America	595,258	302,909	292,349
Mexico	263,435	131,899	131,536
Cuba	98,345	54,412	43,933
Dominican Republic	68,981	25,013	43,968
Other	164,497	91,585	72,912
Africa	23,841	10,202	13,639
Somalia	5,636	2,383	3,253
Cape Verde Islands	1,468	940	528
Ethiopia	3,156	1,101	2,055
Other	13,581	5,778	7,803
Asia	498,796	298,559	200,237
Vietnam	105,078	46,067	59,011
China	79,439	67,963	11,476
Laos	34,086	7,070	27,016
Philippines	70,552	57,446	13,106
Other	209,641	120,013	89,628
Middle East	38,138	17,472	20,666
Lebanon	9,309	4,427	4,882
Syria	6,895	3,125	3,770
Turkey	3,579	2,207	1,372
Other	18,355	7,713	10,642
Former Soviet Republics	130,932	66,447	64,485
Europe	84,750	33,399	51,351
Portugal	7,656	4,290	3,366
Italy	6,559	2,826	3,733
United Kingdom	8,269	2,623	5,646
Poland	8,048	4,739	3,309
Former Yugoslavia	11,315	4,077	7,238
Other	42,903	14,844	28,059
Other or unknown areas	7,431	2,918	4,513

Source: Social Security Administration, Supplemental Security Record (Characteristic Extract Record format), 100 percent data.

FAMILY CASH ASSISTANCE

The U.S. Department of Health and Human Services data on characteristics of TANF recipients indicate that, as a percentage of total adult TANF recipients, noncitizens legally in the United States who receive TANF increased from 7.0 percent in fiscal year 1989 to 12.3 percent in fiscal year 1996. The percentage of noncitizens then dropped to 11.0 percent in 1998 and ultimately fell to 5.9 percent in 2006. This downward trend coincides with a much broader decline in TANF recipients (U.S. Department of Health and Human Services, 1990, 1997, 1999, 2007). Since the TANF recipient data are more limited than SSI recipient data, tables detailing characteristics and components of noncitizen usage are not available.

In 2001 (as in most prior years), California led with 16.9 percent of its 278,069 TANF adult recipients who were noncitizens. In 2006, Florida surpassed California as the State with the largest percentage of its TANF cases who were noncitizens -- 12.9 percent of 15,654 adult recipients compared to 12.3 percent of 187,313 adult recipients respectively (Table H-7). California still has the largest sheer number of noncitizens receiving TANF in 2006. New York followed closely in 2006 with 11.9 percent of its 87,067 TANF adult recipients who were noncitizens. Minnesota rounds out the top states with 11.8 percent of its 18,191 TANF adult recipients who were noncitizens in 2006.

TABLE H-7--TEMPORARY ASSISTANCE FOR NEEDY FAMILIES -
ACTIVE CASES AND PERCENT DISTRIBUTION OF ADULT
RECIPIENTS BY CITIZENSHIP STATUS
OCTOBER 2005 - SEPTEMBER 2006

State	Total		Qualified	
	Adults	U.S. Citizen	Alien	Unknown
U.S. TOTAL	996,312	94.0	5.9	0.2
Alabama	9,869	99.9	0.1	0.0
Alaska	3,011	94.7	5.3	0.0
Arizona	21,424	92.7	7.3	0.0
Arkansas	4,191	100.0	0.0	0.0
California	187,313	87.7	12.3	0.0
Colorado	10,402	96.6	3.4	0.0
Connecticut	9,886	95.3	4.7	0.0
Delaware	2,962	98.1	1.9	0.0
Dist. Of Col.	9,447	98.0	1.6	0.3
Florida	15,654	87.1	12.9	0.0
Georgia	7,431	99.4	0.4	0.2
Guam	NR(not reported)	NR	NR	NR
Hawaii	4,773	97.9	2.1	0.0
Idaho	439	96.9	3.1	0.0
Illinois	18,409	99.6	0.3	0.1
Indiana	24,017	99.1	0.9	0.0
Iowa	11,714	98.6	1.4	0.0
Kansas	14,039	98.0	2.0	0.0
Kentucky	17,441	98.1	1.9	0.0
Louisiana	3,585	99.5	0.5	0.0
Maine	7,017	97.4	2.6	0.0
Maryland	10,395	99.0	1.0	0.0
Massachusetts	28,646	91.1	8.9	0.0
Michigan	60,657	97.4	2.5	0.0
Minnesota	18,191	88.2	11.8	0.0
Mississippi	6,546	100.0	0.0	0.0
Missouri	27,823	98.8	1.2	0.0
Montana	3,082	99.8	0.2	0.0
Nebraska	6,555	96.9	3.1	0.0

TABLE H-7--TEMPORARY ASSISTANCE FOR NEEDY FAMILIES -
ACTIVE CASES PERCENT DISTRIBUTION OF ADULT RECIPIENTS
BY CITIZENSHIP STATUS
OCTOBER 2005 - SEPTEMBER 2006 --continued

State	Total		Qualified	
	Adults	U.S. Citizen	Alien	Unknown
Nevada	2,157	93.7	6.3	0.0
New Hampshire	4,238	97.5	2.5	0.0
New Jersey	29,203	96.2	3.8	0.0
New Mexico	12,368	93.8	6.1	0.1
New York	87,067	87.9	11.9	0.1
North Carolina	12,121	97.6	1.4	1.0
North Dakota	2,008	98.6	1.4	0.0
Ohio	40,267	97.5	2.5	0.0
Oklahoma	3,944	98.7	1.1	0.2
Oregon	10,664	96.1	3.5	0.4
Pennsylvania	72,058	96.8	3.2	0.0
Puerto Rico	11,842	99.6	0.4	0.0
Rhode Island	7,430	88.4	10.6	1.0
South Carolina	7,622	99.5	0.5	0.0
South Dakota	996	100.0	0.0	0.0
Tennessee	51,444	99.6	0.4	0.0
Texas	26,049	95.4	4.6	0.0
Utah	4,900	94.1	5.9	0.0
Vermont	3,785	97.7	2.3	0.0
Virgin Islands	305	90.2	9.5	0.3
Virginia	9,349	97.8	2.2	0.0
Washington	38,691	88.9	7.6	3.5
West Virginia	5,978	99.9	0.1	0.0
Wisconsin	6,853	100.0	0.0	0.0
Wyoming	54	98.6	1.4	0.0

Source: National TANF Datafile as of April 2007.

Food Stamps

The 12-year pattern for noncitizens receiving food stamps resembles that of SSI and TANF. Specifically, food stamp participation by noncitizens rose during the early 1990s. The peak occurred in 1996 when 1.8 million noncitizens comprised 7.1 percent of the 25.5 million food stamp recipients (Table H-8). After enactment of welfare reform law in 1996, the percentage of food stamp recipients who were noncitizens fell to a 10 year low of 3.1 percent of 19.8 million recipients in 1998. It stood at 3.9 percent of 26.7 million food stamp recipients in 2006.

TABLE H-8--NONCITIZENS AS A PERCENT OF ALL FOOD STAMP
RECIPIENTS, 1989-2006

Year	All Recipients (thousands)	Percent Noncitizen
1989	18,806	4.4
1990	20,049	4.7
1991	22,625	5.1
1992	25,407	5.0
1993	26,987	5.3
1994	27,474	6.7
1995	26,619	NA
1996	25,543	7.1
1997	22,858	5.5
1998	19,791	3.1
1999	18,183	4.1
2000	17,194	4.4
2001	17,318	3.7
2002	19,096	3.3
2003	21,259	3.1
2004	23,858	3.9
2005	25,718	3.9
2006	26,672	3.9

Source: Fiscal Year 2006 Food Stamp Quality Control sample.

ANALYSIS OF CURRENT POPULATION SURVEY (CPS) DATA

CRS analysis of the March 2006 CPS (for 2005) indicated public assistance usage was down generally from 1995 to 2005 for all 4 programs. In this update of that study, CRS analyzed the March 1999 CPS (for 1998) the March 2002 CPS (for 2001) and the March 2007 CPS (for 2006) and found a continuation of that decline. Although CPS data are self-reported and generally understate the actual number of program beneficiaries, it appears that the March Supplement's underreporting is quite pronounced when compared to the administrative program participation data analyzed above. Nonetheless, the downward trends in usage are consistent with those observed previously and are comparable to the general findings of the Urban Institute and others (Wasem, 2008).

One of the intriguing findings from the latest data is that the general declines in welfare use are not consistent across the programs or among the three citizenship groupings. The benefit use patterns for naturalized persons in the CPS samples, for example, offer exceptions to the general trends (Table H-9). While benefit receipt decreased for noncitizens in all four selected programs, and for natives in all but SSI, the participation of naturalized citizens went up noticeably in SSI, Medicaid, and food stamps. The substantial increase in immigration throughout the 1990s and into the 2000s is one of many factors that may be affecting these trends, as are general economic and labor force factors and family structures.

The estimated percent of the cash welfare recipients (AFDC, TANF, or GA) who were noncitizens held virtually constant between 1995 (11.8 percent) and 1998

(11.8 percent), rose slightly in 2001 (12.4 percent), and then fell in 2006 (9.0 percent) (Table H-9). The estimated proportion of welfare recipients who were naturalized increased from 2.3 percent in 1995 to 3.9 percent 1998, then fell to 2.8 percent in 2006. The percentage of cash welfare recipients who were native born dropped from 86.0 percent in 1995 to 83.8 percent in 2001; this trend reversed in 2006 with 88.2 percent of all cash welfare recipients being native born.

TABLE H-9--ESTIMATED BENEFIT USAGE BY CITIZENSHIP CATEGORIES: 1995, 1998, 2001, 2006

	Native				Naturalized				Noncitizens			
	1995	1998	2001	2006	1995	1998	2001	2006	1995	1998	2001	2006
	Estimated number of recipients (in millions)											
AFDC/TANF	4.25	2.51	1.74	1.50	0.11	0.11	0.08	0.05	0.58	0.35	0.26	0.15
SSI	4.15	4.20	4.33	4.30	0.19	0.32	0.41	0.43	0.47	0.38	0.26	0.30
Medicaid	28.53	25.06	28.30	34.08	0.55	0.79	1.09	1.60	2.54	1.80	1.99	2.60
Food Stamps	25.11	21.85	16.01	19.90	0.44	0.44	0.55	0.56	2.48	1.47	1.19	1.40
Total population	239.2	244.6	249.1	259.5	7.9	9.9	12.0	14.5	16.6	16.6	16.6	22.7
	Percent of total recipients by citizenship category											
AFDC/TANF	86.0	84.4	83.8	88.2	2.3	3.9	3.7	2.8	11.8	11.8	12.4	9.0
SSI	86.2	85.8	86.6	85.3	3.9	6.5	8.1	8.6	9.9	7.8	5.3	6.0
Medicaid	90.2	90.6	90.2	89.0	1.7	2.8	3.5	4.1	8.0	6.5	6.3	6.9
Food Stamps	89.6	90.6	90.2	91.0	1.6	2.2	3.1	2.6	8.9	7.2	6.7	6.4
	Percent of receipt within citizenship category											
AFDC/TANF	2.3	1.3	0.9	0.6	1.5	1.2	0.7	0.3	3.9	2.3	1.4	0.7
SSI	2.3	2.3	2.3	1.6	2.4	3.3	3.5	3.0	3.2	2.5	1.4	1.3
Medicaid	11.9	10.2	11.4	13.1	6.9	8.0	9.1	10.8	15.3	10.9	9.7	11.6
Food stamps	10.5	7.6	6.4	7.7	5.6	4.5	4.6	3.9	14.9	8.9	5.8	6.2

Source: CPS March Supplements, 1996, 1999, 2002, 2007
 Noncitizen is synonymous with foreign national and encompasses any resident alien who has not naturalized.

Estimates of SSI usage from the CPS suggest a different pattern, one in which noncitizen usage decreased by 36 percent from 1995 to 2006, but usage by naturalized citizens rose by 126 percent over the same period. Reciprocity among naturalized people increased as a percentage of SSI recipients from 3.9 percent to 8.6 percent over the 11-year period while noncitizens dropped from 9.9 percent to 6.0 percent.

Generally, Medicaid usage remained rather stable for everyone but naturalized citizens, who reported increased participation. It is important, however, to note that reporting of Medicaid use in the CPS has been plagued with problems. Although Medicaid usage offers little overall change in the distribution of recipients reported in the CPS, there were noteworthy changes in each of the citizenship categories. Estimated use by naturalized citizens rose from 1.7 percent in 1995 to 4.1 percent in 2006, while estimated use by noncitizens declined from 8.0 percent in 1995 to 6.9 percent in 2006 (Table H-9). Among natives, it remained at much the same levels over the 11-year period.

CPS estimates of households receiving food stamps indicated a decline for native born and noncitizens, but rose for naturalized citizens from 1995 to 2006 (Table H-9). Estimated use by naturalized citizens rose from 1.6 percent in 1995 to 3.1 percent in 2001, then fell to 3.6 percent in 2006. Estimated use by noncitizens declined from 8.9 percent in 1995 to 6.4 percent in 2006 (Table H-9). The percentage of noncitizen households that received food stamps went from 14.9 percent to 6.2 percent, experiencing the largest decline (58 percent).

VERIFICATION OF STATUS AND REPORTING REQUIREMENTS

The Systematic Alien Verification for Entitlements (SAVE) system provides Federal, State, and local government agencies access to data on immigration status that are necessary to determine noncitizen eligibility for public benefits. The U.S. Citizenship and Immigration Service (USCIS) does not determine benefit eligibility; rather, SAVE enables the specific program administrators to ensure that only those noncitizens who meet their program's eligibility rules actually receive public benefits. According to USCIS, SAVE draws on the Verification Information System (VIS) database, which is a nationally accessible database of selected immigration status information that contains over 60 million records.

SAVE's statutory authority dates back to the Immigration Reform and Control Act of 1986 (IRCA) (P.L. 99-603). The IRCA, as amended, mandates the following programs and agencies to participate in the verification of an applicant's immigration status: the Temporary Assistance to Needy Families (TANF) Program, the Medicaid Program, and certain Territorial Assistance Programs (U.S. Department of Health and Human Services); the Unemployment Compensation Program (U.S. Department of Labor); Title IV Educational Assistance Programs (U.S. Department of Education); and certain Housing Assistance Programs (U.S. Department of Housing and Urban Development). Subsequently, the 1996 welfare

reform law required the Attorney General to establish procedures for a person applying for a Federal public benefit to provide citizenship information in a fair, nondiscriminatory manner.

According to USCIS, State and local agencies may access SAVE through several different web-based internet technologies or by a manual verification (by submitting a formal document verification request). SAVE charges fees to the agencies using web-based internet access. These agencies must have a Memorandum of Understanding (MOU) and a purchase order with the SAVE program contractor to pay the transaction fees for Web-based Internet access.

In addition to establishing the SAVE system, there has been a consensus for well over a decade that immigration documents issued to aliens should include biometric identifiers. In designing these documents, the priorities have centered on document integrity as well as personal identification. The official document issued to LPRs is the permanent resident card, commonly called a "green card" because it had been printed on green stock. Now it is a plastic card that is similar in size to a credit card. Since April 1998, the card has incorporated security features, including digital images, holograms, micro-printing, and an optical memory stripe. The USCIS also issues an employment authorization document (EAD) that has incorporated security features, including digital images, holograms, and micro-printing, since 1998.

The 1996 welfare reform law and subsequent amendments in the Balanced Budget Act (BBA) of 1997 included new verification and reporting requirements. These are supplemented by provisions in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and by immigration enforcement legislation enacted as part of the Omnibus Consolidated Appropriations Act of 1997 (Public Law 104-208). In terms of obtaining Medicaid, the Deficit Reduction Act of 2005 (Public Law 109-171), as amended by the Tax Relief and Health Care Act of 2006 (Public Law 109-432), requires that States obtain satisfactory documentation of citizenship and identity to determine eligibility.

VERIFICATION REQUIREMENTS

1. The 1996 welfare reform law requires the Attorney General to adopt regulations to verify that individuals who apply for Federal public benefits are qualified aliens and eligible for assistance. As amended by the Illegal Immigration Reform and Immigrant Responsibility Act, the welfare reform law also requires the Attorney General to establish fair and nondiscriminatory procedures on proving citizenship when applying for a Federal public benefit.
2. States that administer a program which provides a restricted Federally assisted benefit must have a verification program that complies with the above regulations within 24 months of their adoption.
3. The 1996 immigration law amended the 1996 welfare reform law to allow nonprofit charitable organizations to provide Federal, State, and local public

benefits without having to verify the immigration status of the recipients.

4. The 1996 immigration law amended the Social Security and Higher Education Acts to require the transmittal to USCIS of copies of documents required to verify eligibility for Social Security and Higher Education assistance.
5. The BBA of 1997 authorized State and local governments to verify the eligibility of individuals for State and local public benefits.
6. The BBA of 1997 also requires the Attorney General, within 90 days of its enactment, to issue interim verification guidance and to adopt regulations on procedures to be used by States and local governments for determining whether applicants are subject to the new Federally imposed bars on State and local benefits; i.e., for verifying that alien applicants are qualified aliens, nonimmigrants, or short-term parolees.

REPORTING REQUIREMENTS

1. The 1996 welfare reform law requires the following entities to provide USCIS at least four times annually and at USCIS' request the name, address, and other information they have regarding each individual whom they know is in the United States unlawfully: (1) States receiving block grants for TANF; (2) the Commissioner of Social Security; (3) States operating under agreements for the payment of SSI State supplements through the Federal Government; (4) the Secretary of the U.S. Department of Housing and Urban Development; and (5) public housing agencies operating under contracts for assistance under sections 6 or 8 of the U.S. Housing Act of 1937.
2. Separately, the 1996 welfare reform law states that no State or local entity may be prohibited or in any way restricted from sending to or receiving from the USCIS information regarding an individual's immigration status.
3. The immigration law requires the Attorney General to notify, not later than 180 days after the end of each fiscal year, the House and Senate Judiciary Committees and the Inspector General of the Department of Justice on the number of public charge deportations, the number of sponsors determined to be indigent, and the number of reimbursement actions brought under affidavits of support.

REFERENCES

- Federal Register*. (1996, August 30). Specification of community programs necessary for protection of life or safety under welfare reform legislation, 61, p. 45985.
- Fix, M., & Passel, J.S. (1999). Trends in noncitizens' and citizens' use of public benefits following welfare reform, 1994-97. Washington, DC: Urban Institute.
- Fix, M., Passel, J.S., & Zimmerman, W. (1996, February 6). The use of SSI and

- other welfare programs by immigrants. Testimony before the U.S. Senate Judiciary Committee (Subcommittee on Immigration). Washington, DC: Urban Institute.
- Hoefler, M., Rytina, N., and Campbell, C. (2007) Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2006, by Michael Hoefler, Nancy Rytina, Washington, DC: Department of Homeland Security, Office of Immigration Statistics.
- O'Grady, M.J. (1995). Native and naturalized citizens and noncitizens: An analysis of poverty status, welfare benefits, and other factors (95-276 EPW). Washington, DC: Congressional Research Service.
- Passel, Jeffrey. (2006) Size and Characteristics of the Unauthorized Migrant Population in the U.S.: Estimates Based on the March 2005 Current Population Survey. Washington, DC: Pew Hispanic Center.
- Ponce, E. (1996, February). Lawfully resident aliens who receive SSI payments, December 1995. Washington, DC: Social Security Administration.
- Siskin, A. (2004). Federal Funding for Unauthorized Aliens' Emergency Medical Expenses. (CRS Report RL31630) Washington, DC: Congressional Research Service.
- Social Security Administration. (2002). Annual statistical supplement to the Social Security Bulletin, 2001. Washington, DC: Author.
- Teran, J.C., & Wasem, R.E. (1999). The foreign-born population: A profile (CRS Report RL30338). Washington, DC: Congressional Research Service.
- Uccello, C.E., McCallum, H.R., & Gallagher, L.J. (1996, October). State general assistance programs, 1996. Washington, DC: Urban Institute.
- U.S. Department of Health and Human Services. (1990). Characteristics and financial circumstances of AFDC recipients, fiscal year 1989. Washington, DC: Author.
- U.S. Department of Health and Human Services. (1997). Characteristics and financial circumstances of AFDC recipients, fiscal year 1996. Washington, DC: Author.
- U.S. Department of Health and Human Services. (1999). Characteristics and financial circumstances of TANF recipients, fiscal year 1998. Washington, DC: Author.
- U.S. Department of Health and Human Services. (2003). Characteristics and financial circumstances of TANF recipients, fiscal year 2002. Washington, DC: Author.
- U.S. Department of Health and Human Services. (2007). Characteristics and financial circumstances of TANF recipients, fiscal year 2006. Washington, DC: Author.
- Vialet, J. (1997). Immigration: Reasons for growth, 1891-95 (CRS report 87-230). Washington, DC: Congressional Research Service.
- Wasem, R.E. (2008). Noncitizen Eligibility for Federal Public Assistance: Policy Overview and Trends. (CRS Report RL33809). Washington, DC:

Congressional Research Service.

- Wasem, R.E. (2004). *State Policies on Immigrant Eligibility for Temporary Assistance for Needy Families (TANF)*. (CRS Report RL32363) Washington, DC: Congressional Research Service.
- Wasem, R.E. (2008). *Unauthorized Aliens' Access to Federal Benefits: Policy and Issues*. (CRS Report RL34500) Washington, DC: Congressional Research Service.
- Wasem, R.E. (2008). *Unauthorized Aliens Residing in the United States: Estimates Since 1986*. (CRS Report RL33874) Washington, DC: Congressional Research Service.
- Wasem, R.E. (2008). *U.S. Immigration Policy on Permanent Admissions*. (CRS Report RL32235). Washington, DC: Congressional Research Service.
- Zimmerman, W., & Fix, M. (1998, July). *Declining immigrant applications for Medi-Cal and welfare benefits in Los Angeles County*. Washington, DC: Urban Institute, Immigration Studies Program.