

## **IMMIGRATION STATUS REQUIREMENTS FOR LIHP ELIGIBILITY**

**General Rule:** To be eligible for the LIHP program an immigrant must meet the federal definition of a “Qualified Alien” and must not be subject to the 5-year bar on federal eligibility.

### **Qualified Aliens**

- Aliens lawfully admitted for permanent residence under the Immigration and Nationality Act (INA), 8 USC 1101 et seq.;
- Refugees, admitted under §207 of the INA;
- Aliens granted asylum under §208 of the INA;
- Cuban and Haitian Entrants, as defined in §501(e) of the Refugee Education Assistance Act of 1980;
- Aliens granted parole for at least one year under §212(d)(5) of the INA;
- Aliens whose deportation is being withheld under (1) §243(h) of the INA as in effect prior to April 1, 1997; or (2) §241(b)(3) of the INA, as amended;
- Aliens granted conditional entry under §203(a)(7) of the INA in effect before April 1, 1980;
- Battered aliens, who meet the conditions set forth in §431(c) of PRWORA, as added by §501 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L. 104-208 (IIRIRA), and amended by §5571 of the Balanced Budget Act of 1997, P.L. 105-33 (BBA), and §1508 of the Violence against Women Act of 2000, P.L. 106-386. Section 431(c) of PRWORA, as amended, is codified at 8 USC 1641(c).<sup>1</sup>
- Victims of a severe form of trafficking, in accordance with §107(b)(1) of the Trafficking Victims Protection Act of 2000, P.L. 106-386.<sup>2</sup>

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<sup>1</sup> Battered aliens were not initially included in PRWORA’s definition of qualified aliens. In passing §501 IIRIRA, Congress added a new §431(c) to PRWORA, which provides that term “qualified alien” shall include such immigrants. Section 431(c) of PRWORA subsequently was amended by §5571 of the BBA and §1508 of the Violence against Women Act of 2000.

<sup>2</sup> Trafficking victims are not included in the statutory definition of qualified alien. Under §107(b)(1)(A) of the Trafficking Victims Protection Act, however, they are eligible for means-tested benefits to the same extent as refugees.

**NOTE: Qualified aliens who have a date of entry of at least 5 years ago or who are exempt from the 5-year bar are potentially LIHP eligible.**

**Exemptions From the Five-Year Bar**

**The following Qualified Aliens are not subject to the 5-year bar, and are potentially LIHP eligible regardless of their date of entry into the United States:**

- Refugees;
- Asylees;
- Cuban and Haitian Entrants;
- Victims of a severe form of trafficking;
- Aliens whose deportation is being withheld;
- Qualified aliens who also are (1) an honorably discharged veteran, (2) on active duty in the U.S. military or (3) the spouse (including a surviving spouse who has not remarried) or unmarried dependent child of an honorably discharged veteran or individual on active duty in the U.S. military;
- Aliens admitted to the country as an Amerasian immigrant; and
- Legal permanent residents who first entered the country under another exempt category (i.e. as a refugee, asylee, Cuban or Haitian entrant, trafficking victim, or alien whose deportation was being withheld) and who later converted to LPR status.

**In addition, the five-year bar to eligibility for Medicaid does not apply to:**

- Members of a Federally-recognized Indian tribe, as defined in 25 U.S.C. 450b(e); and
- American Indians born in Canada to whom §289 of the Immigration and Nationality Act applies.