

## **Accessing Resources: Public benefits**

*Eligibility requirements:* Applications for benefits on behalf of children who qualify<sup>1</sup>

Families that include children and parents of different citizenship and immigration status are often called “mixed status” families. All children born in the US are eligible for public benefits, regardless of whether they were born to citizens, lawful permanent residents, or undocumented immigrants. Immigrant parents who are ineligible for public benefits may file an application on behalf of their US-born children.

When benefits are sought only for the child, the child is considered the applicant and the state is required to establish the citizenship and immigration status only of the child (see “Verification and Reporting” in the *Immigration & Advocacy Toolkit* (2016) for more information). This permits eligible members of an immigrant family to apply for and receive benefits without putting other family members at risk.

Two federal laws limit states’ abilities to inquire about the immigration status of applicants for benefits:

**Title VI of the Civil Rights Act** limits inquiries into the citizenship and/or immigration status of non-applicants. Title VI prohibits discrimination based on race, color, or national origin by recipients of federal funds. Federal agencies have clarified that unnecessary inquiries about immigration status raise Title VI concerns. States or benefits workers that require applicants’ family members (i.e. persons who are not applying for benefits themselves) to disclose their citizenship or immigration status risk violating Title VI and losing federal funds.

The US Departments of Health and Human Services and of Agriculture issued joint guidance regarding state applications for Medicaid, Children’s Health Insurance Program (CHIP), Temporary Assistance for Needy Families (TANF), and Supplemental Nutrition Assistance Program (SNAP) benefits:

[...] states are required to establish the citizenship and immigration status of applicants for Medicaid (except emergency Medicaid), SCHIP [now CHIP], TANF and SNAP.

However, states may not require applicants to provide information about the citizenship or immigration status of any non-family applicant or household member or deny benefits to an applicant because a non-applicant family or household member has not disclosed his or her citizenship or immigration status.<sup>2</sup>

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<sup>1</sup> Excerpted from: Olavarria, C., Baran, A., Orloff, L. & Huang, G. (2013). Public benefits access for battered immigrant women and children. In K. Sullivan & L. Orloff (Eds.) [Breaking Barriers: A Complete Guide to Legal Rights and Resources for Battered Immigrants](#). National Immigrant Women’s Advocacy Project, Washington College of Law at American University, and Legal Momentum.

<sup>2</sup> Department of Health and Human Services and Department of Agriculture, [Policy Guidance Regarding Inquiries Into Citizenship, Immigration Status and Social Security Numbers in State Applications for Medicaid, State Children’s Health Insurance Program \(SCHIP\), Temporary Assistance for Needy Families \(TANF\), and Food Stamp Benefits](#).

The ***Privacy Act of 1974*** restricts abilities to require SSNs from non-applicants. Section 7 of the Privacy Act generally prohibits states from denying benefits to individuals who do not disclose their Social Security numbers (SSN), unless doing so is required by federal statute. The abovementioned federal benefits programs and Supplemental Security Income (SSI) all require that applicants seeking benefits for themselves have SSNs.

States and benefits workers risk violating the Privacy Act if they require applicants' family members (i.e., persons who are not applying for benefits themselves) to disclose their SSNs as a *condition* for approving an applicant's eligibility. Although there is no prohibition against requesting the SSN of non-applicants, states that do so are required to inform the non-applicant if the disclosure is voluntary or mandatory and what use will be made of the SSN, or information about the lack of a SSN.

TANF and SNAP generally require families or households to apply for benefits as a unit. If a household member declares they are not seeking benefits and/or does not disclose citizenship or immigration status or provide an SSN, that individual is determined ineligible to receive benefits. The state agency cannot, however, deny benefits to eligible household members. The amount of the benefit is reduced to reflect a smaller family or household unit size. States have flexibility in administering TANF, and have enacted policies that facilitate applications on behalf of children from mixed status families:

- Some states have policies that provide for the exclusion of certain family members, who would be considered "non-applicants" and do not need to provide documentation of citizenship or immigration status or SSNs.
- Almost all states allow for "child-only" cases, where children are eligible to receive TANF even if all other family members are non-applicants or ineligible.

Similarly, individual children are encouraged to apply for and receive Medicaid and CHIP benefits. Again, states are required to establish the citizenship or immigration status only of individuals who will be receiving the benefits.

#### *Role of the advocate*

- Advocates working with immigrant survivors should review specific program rules and practices, and support "qualified immigrant" survivors and/or members of their families or households to apply.
- It is important to accompany immigrant survivors when applying for public benefits, both to help the survivor file for benefits for household members who qualify and to ensure that benefits workers limit inquiries about immigration status and, if appropriate, abuse, to the applicant(s).