

Immigrant Access to Health Care in New York

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Sponsor: CHCANYS

Programs Not Subject to Citizenship Rules

- Prenatal Care Assistance (PCAP)
- Child Health Plus B
- AIDs Drug Assistance Program (ADAP)
- Emergency Medicaid
- Healthy New York
- Worker's Compensation
- Community Health Centers
- County Public Health Services

Prenatal Care Assistance Program

- All pregnant women whose income is below 200% of poverty
- Pays for all prenatal care and 60 days of post-natal care
- Pays for non-pregnancy related care for women with income at less than 100% of FPL
- Presumptive eligibility determined by qualified health care provider

AIDs Drug Assistance Program (ADAP)

- For New York residents with income below \$44,000 (h'hold of 1) and less than \$25,000 in assets
- One application for ADAP, ADAP Plus (outpatient care in hospitals and clinics) and HIV Home Care
- APIC – ADAP Plus Insurance Continuation Program for people with health insurance who need help paying premiums

Emergency Medicaid

- For undocumented immigrants and non-immigrant visa holders
- Eligibility requirements: meet Medicaid income, resource limitations and be state resident
- For treatment of “emergency medical” condition: sudden onset, acute systems (including pain) which, left untreated could place applicant’s life or health in jeopardy
- Does not cover organ transplants
- 90 day recertification requirement

Healthy New York

- Health insurance for uninsured workers
- If employer does not provide insurance
- Income at or below 250% of poverty
- Employed full or part time or episodic
- Must be NY state residents
- Program operates through HMOs
- Co-pays

Rights of Uninsured to Low Cost Services in Hospitals & Clinics

- All general hospitals must provide sliding scale fees to patients at or below 300% of FPL
- For individuals with income at FPL, hospitals cannot charge more than \$150
- Hospitals must establish financial assistance policies that include application procedures and appeal rights
- Notice of policies must be provided in languages spoken by more than 1% of population in service area

Prescription Assistance for Uninsured

- Website RXAssist
- Forms must be completed by MD
- 6 months to 1 year worth of medications
- Walmart reduced price medications

Immigration Status Requirements for Public Health Insurance Programs

Citizenship Rules for Most Low Income Insurance Programs

- U.S. Citizen
- “Qualified Alien”
- Permanently Residing Under Color of Law (PRUCOL)
- Ineligible if undocumented or out of status or a non-immigrant visa holders

Undocumented and Non-immigrant Visa Holders

- Students (F visas)
- Workers (H visas)
- Cultural Exchange (J visas)
- Tourists (B visas)
- Religious workers (R visas)
- Undocumented: EWI and Visa Overstays

U.S. Citizens

- By birth
- By naturalization
- By derivation
- By acquisition

Benefits Related Immigration Classifications

- Qualified Immigrants
 - Lawful Permanent Residents (LPR)
 - Humanitarian Immigrants
 - Battered spouses and children of US citizens or lawful permanent residents in process of adjustment
- Canadian born Native Americans
- Permanently Residing Under Color of Law

Immigrants with a Qualified Status

How can one become an LPR?

- Employment
- Petitioning Relatives who are US Citizen or Lawful Permanent Residents
- Admission in Humanitarian Status
- Diversity visa
- Special Immigrants
- Cancellation of Removal/Deportation

Who are humanitarian immigrants?

- Refugees and asylees
- Cuban/Haitian Entrants
- Amerasians
- Persons Granted Withholding of Removal
- Victims of Trafficking (T visa)

Requirements for qualified status based on battery or abuse

- An approved or pending (prima facie eligible):
 - Family petition (I-130) or
 - Self-petition under VAWA, or
 - Application for cancellation of removal or suspension of deportation under VAWA and
- Victim of abuse or battery and
- Applicant no longer lives with abuser and
- Substantial connection between abuse and need for benefits

Permanently Residing Under Color of Law (PRUCOL)

PRUCOL Eligibility

- **P**ermanently **r**esiding **u**nder **c**olor **o**f **l**aw
- Eliminated as an eligibility category for federal public benefits
- BUT in New York, PRUCOL immigrants are eligible for state funded cash assistance (SNA) and state funded Medicaid benefits.

Who is PRUCOL?

- Someone who is residing in the U.S., generally for indefinite period
- Who is known by USCIS to be here
- And to whom USCIS has given permission to stay or
- In whose continued residence USCIS is acquiescing

Knowledge and Permission

- Deferred Action (e.g. approved self-petitioners)
- Order of Supervision
- Registry Alien (statutory “permission” for those in U.S. since 1/1/1972)
- Parole of less than 1 year

And...

- Victims of crime with U visas
- Spouses and children of US citizens with K3 and K4 visas
- Spouses and children of LPRs with V visas
- And individuals with Temporary Protected Status (TPS)

Acquiescence

- Evidence that USCIS has been made aware of the individual's presence and
- Individual is in category against whom USCIS ordinarily does not enforce departure

Examples of Acquiescence

- Approved Immediate Relative Petition (USC spouse, parent or child)
- Pending I-360 self-petition
- Properly filed application for adjustment
- Evidence of a pending application for an immigration benefit

07 OHIP/INF-2 (3/15/2007)

Health Insurance Programs Requiring Qualified Or PRUCOL Status

- Medicaid
- Child Health Plus A
- Family Health Plus
- Breast and Cervical Cancer Treatment Program
- Family Planning Benefit Program

Verifying Eligible Status

- I-551 (Green Card)
- I-94 Arrival / Departure Record
- Stamp or Visa in Foreign Passport
- Employment Authorization Card
- I-797: USCIS “Notice of Action”
- Immigration Court Decisions

The **PERMANENT RESIDENT CARD**, Form I-551, was introduced in December 1997. Noticeable differences on the front of the card include: Change of card title from RESIDENT ALIEN CARD to PERMANENT RESIDENT CARD, a three line machine readable zone and a hologram.

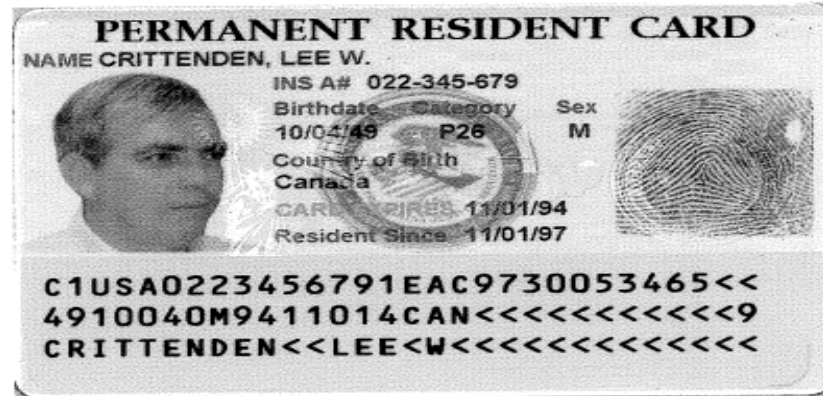
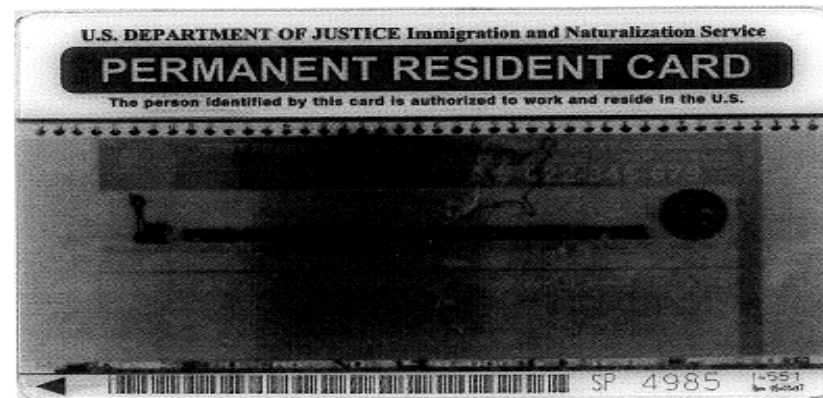


PHOTO SIDE



REVERSE

The Optical Memory Stripe contains encoded cardholder information as well as a personalized etching which depicts the bearer's photo, name, signature, date of birth, alien registration number, card expiration date and card number.

When an alien has been granted admission into the U.S. by an Immigration Inspector at an authorized Port of Entry, he/she is issued an **ARRIVAL/DEPARTURE RECORD**, Form I-94, the bottom portion of which is stapled to a page in the Alien's passport. This document explains how long the bearer may remain in the U.S. and the terms of admission.

Departure Number 742831632 01		U.S. IMMIGRATION 250 WAS 177	
Immigration and Naturalization Service		SEP 13 1991	
1-94 Departure Record		ADMITTED B-2 UNTIL MARCH 12, 1992	
14 Family Name DOE		16 Birth Date (Day/Mo/Yr) 01.01.91	
15 First (Given) Name JOHN			
17 Country of Citizenship ENGLAND			
See Other Side		STAPLE HERE	

Warning - A nonimmigrant who accepts unauthorized employment is subject to deportation.

Important - Retain this permit in your possession; *you must surrender it when you leave the U.S.* Failure to do so may delay your entry into the U.S. in the future.

You are authorized to stay in the U.S. only until the date written on this form. To remain past this date, without permission from immigration authorities, is a violation of the law.

Surrender this permit when you leave the U.S.:

- By sea or air, to the transportation line;
- Across the Canadian border, to a Canadian Official;
- Across the Mexican border, to a U.S. Official.

Students planning to reenter the U.S. within 30 days to return to the same school, see "Arrival-Departure" on page 2 of Form I-20 prior to surrendering this permit.

Record of Changes

Port: _____ Departure Record

Date: _____

Carrier: _____

Flight #/Ship Name: _____

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402

Form I-94

000001

THE UNITED STATES
OF AMERICA
NONIMMIGRANT VISA
ISSUED AT

SUVA

30 JAN 1955

CLASSIFICATION DATA ISSUED

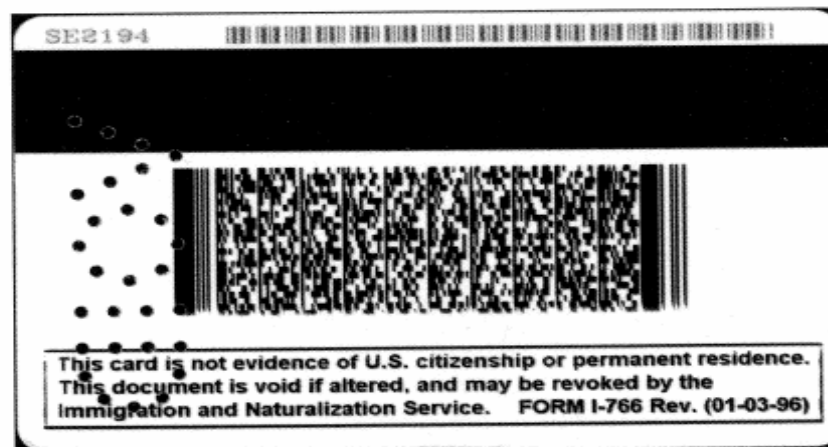
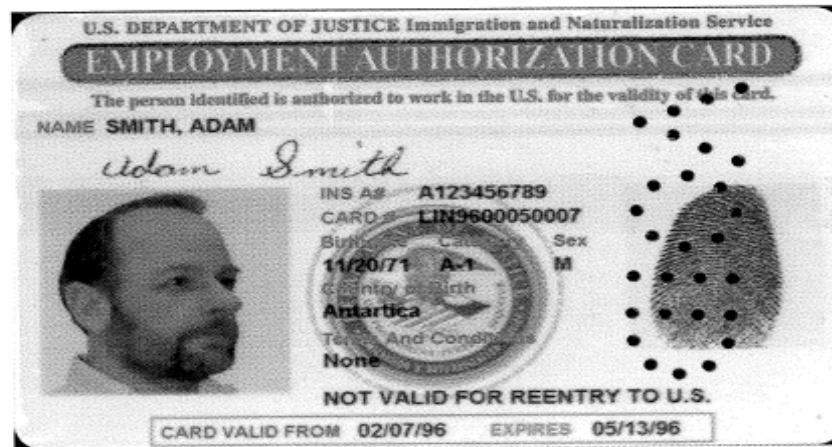
VALID FOR
APPLICANT'S COUNTRY OF TRAVEL

ISSUED TO: BEARER(S)

Consular Officer



In January 1997, INS began issuing a new **EMPLOYMENT AUTHORIZATION CARD**, Form I-766. The new card is a credit card-type of document. The front of the card contains a photo, fingerprint, and signature of the rightful holder. The reverse contains a standard bar code, magnetic strip, and a two-dimensional bar code which will contain unique card, biographic, and biometric data.



Form I-766 (January 1997)

I-797 — NOTICE OF ACTION

This form is used by the INS to notify applicants and petitioners for immigration benefits that the agency has taken some kind of action in the case. For example, the form is used to notify individuals who have filed a petition for an immigrant visa on behalf of a relative that the petition has been approved. As in the example below, it is also used to notify abused immigrants who have filed a self-petition under the Violence Against Women Act (VAWA) that their self-petitions have been found to establish a prima facie case. As in the example on the next page, the form is also used to notify applicants for Family Unity that they have been granted Family Unity status.

U.S. Department of Justice Immigration and Naturalization Service		Notice of Action	
THE UNITED STATES OF AMERICA			
Receipt Number EAC6		Case Type: I-360 PETITION FOR AMERASIAN, WIDOW(ER), OR SPECIAL IMMIGRANT	
Receipt Date December 15, 2000	Priority Date	Petitioner	
Notice Date December 22, 2000	Page 1	A-File Number A	
C/O LEGAL AID FDN OF LOS ANGELES 5228 E WHITTIER BLVD LOS ANGELES CA 90022		Section: Self-Petitioning Spouse of U.S.C. or L.P.R. ESTABLISHMENT OF PRIMA FACIE CASE	
The above petition has been reviewed and found to establish a prima facie case for classification under the self-petitioning provisions of the Violence Against Women Act.			
THIS NOTICE MAY BE USED TO ASSIST YOU IN RECEIVING PUBLIC BENEFITS.			
THIS PRIMA FACIE DETERMINATION IS VALID FOR A PERIOD OF 150 DAYS FROM THE NOTICE DATE SHOWN ABOVE, AND EXPIRES ON THE DATE INDICATED AT THE BOTTOM OF THE PAGE.			
We will send you a written notice as soon as we make a decision on this case. It is expected that a final decision will be made in this case before the end of 150 days. In a few cases, the adjudication may not be completed in this time frame. If this period is coming to a close and you need an extension of this prima facie determination in order to continue receiving public benefits, please submit a written request for extension at least 15 days prior to expiration.			
A COPY OF THIS NOTICE MUST ACCOMPANY ANY REQUEST FOR AN EXTENSION OF THIS DETERMINATION.			
PLEASE NOTE: ESTABLISHING A PRIMA FACIE CASE FOR CLASSIFICATION UNDER THE SELF-PETITIONING PROVISIONS OF THE VIOLENCE AGAINST WOMEN ACT DOES NOT NECESSARILY MEAN THAT YOUR PETITION WILL BE APPROVED.			
***** EXPIRATION DATE: May 22, 2001 *****			
You will be notified separately about any other applications or petitions you filed. Save this notice. Please enclose a copy of it if you write to us about this case, or if you file another application based on this decision. Our address is: IMMIGRATION AND NATURALIZATION SERVICE VERMONT SERVICE CENTER 75 LOWER WELDEN STREET ST. ALBANS, VT 05479-0001			

Form I-797 (Rev. 09/07/00)

I-797 — Notice of Action (finding establishment of prima facie case)

Application Rights at DSS

- Right to apply for benefits with assistance of person of app's choice.
- Right to be provided with a written notice of eligibility determination and the basis of it.
- Decision within:
 - 90 days if disabled
 - 45 days for adults
 - 30 days for children and pregnant women
- Immediate needs medical assistance

Challenging Delay or Denial of Benefits

- May ask for a conference with the local district or
- Request State Fair Hearing:
 - By phone: 1(800) 342-3334
 - By fax: 1(518) 473-6735
 - On-line: www.otda.state.ny.us/oah/forms.asap
 - By mail: Fair Hearing Section, NYS Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, NY 12202.

Immigrant Concerns

- Public Charge
- Sponsor Liability
- DSS communication with ICE

Public Charge

- Means “primary dependence on government for subsistence”.
- If USCIS determines that an immigrant may become a public charge, the application for a visa or for adjustment – green card – can be denied.
- Public charge only applies to family based immigrants and, except very rarely, only at the time of adjustment to permanent residence.

Medical Assistance does not make someone a “public charge”

- Only the receipt of institutionalized, long care can justify a finding of public charge.
- Cash income assistance like welfare and SSI can also lead to a public charge determination.

Reporting to USCIS/ICE

- Applicants for Medicaid or other forms of health insurance should never be reported to USCIS or ICE. (GIS 04 MA/014)
- Immigration documents provided in support of application can be authenticated with immigration.
- If an applicant for benefits provides false documents or an Order of Deportation to LCDSS, agency must provide name and address to OTDA. (99 INF-17)

Applications Made on Behalf of Eligible Family Member

- Adult household member without qualified or PRUCOL status may apply on behalf of household members who are eligible citizens and/or qualified immigrants.
- State must make sure that application process does not deter program access of eligible household members.

Affidavit of Support and Sponsor Liability

- Affidavit introduced for use in **family based** immigration on 12/19/1997
- Must accompany all relative applications for admissions or adjustment of status after 12/19/97 as evidence that immigrant will not become a public charge.
- Exemptions:
 - Battered spouses and children who have not yet adjusted to LPR status
- Widows and widowers

Obtaining SSN as Condition of Eligibility

- LCDSS cannot require an SSN before allowing individual to apply.
- May require that individual applying for assistance (not children or pregnant women) apply for SSN at SSA.
- May not delay or deny medical assistance application while SSN application is pending.
- Must provide benefits even if SSN denied (assuming eligible immigrant status).

08 OHIP/INF-2 (1/28/2008)

Language Access to Benefits and Medical Services

- Regulations requiring the provision of language appropriate services apply to all public and private hospitals in New York.
- LCDSS' must provide equal access to benefits to LEP applicants by providing applications in different languages, and interpreter and translation service.

Websites

- NYS DOH: www.health.state.ny.us
- Medicaid Resource Guide: www.health.state.ny.us/-health_care/medicaid/reference/mrg
- NY Immigration Coalition: www.thenyic.org
- Empire Justice Health Resource Page: www.empirejustice.org
- NYS OTDA: www.otda.state.ny.us
- USCIS: www.uscis.gov/portal/site/uscis