

Addendum 1:

# Federal Benefit Eligibility for Unauthorized Immigrants

2/24/2014

In general, unauthorized immigrants within the United States **are not eligible for any federal public benefits, except:**

- Emergency medical treatment under Medicaid, if the individual otherwise meets the eligibility requirements and the medical condition is not related to an organ transplant procedure
- Immunizations for immunizable diseases and testing for and treatment of symptoms of communicable diseases (does not include assistance from Medicaid)
- Short-term, non-cash, in-kind emergency disaster relief
- Programs, services, or assistance that deliver in-kind services at the community level, do not have conditions for assistance on the recipients' income or resources, and are necessary for the protection of life and safety
  - Includes access to soup kitchens, crisis counseling and intervention, short-term shelter, mental health services, and child and adult protective services
- To the extent that an immigrant was receiving assistance on 8/22/96, programs for housing, community development, or financial assistance administered by the HUD Secretary, which include:
  - Financial assistance in rural areas to farmers, owners, developers, and the elderly for loan insurance, the purchase of property, housing for trainees, and low rent housing for farm workers under title V of the Housing Act of 1949
  - Loans and grants for water access and waste treatment to alleviate health risks under Section 306C of the Consolidated Farm and Rural Development Act
- Free public education for grades K-12
- Federally subsidized school lunch and school breakfast programs for individuals eligible for free public education under state or local law
- At state option, medical coverage under SCHIP, including prenatal care and delivery services, for unborn children who meet other program eligibility criteria

Note: Exceptions 2 and 3 above only grant access to disaster relief and emergency assistance for the protection of life and safety, and do not extend to non-emergency aid based on each recipient's need.

Unauthorized immigrants are eligible for the following nutrition assistance programs:

- Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
- Child and Adult Care Food Program (CACFP)
- Summer Food Service program
- Special Milk program
- Commodity Supplemental Food Program (CSFP)
- The Emergency Food Assistance Program (TEFAP)
- Food Distribution Program on Indian Reservations (FDPIR)

Note: States may, at their discretion, deny unauthorized immigrants' access to the above programs.

Unauthorized immigrants also appear to be able to receive services provided by federally funded community health centers regardless of immigration status; however, migrant health center services are statutorily prohibited to unauthorized immigrants by Title IV of PRWORA.

Affordable Care Act: Unauthorized immigrants and Deferred Action for Childhood Arrivals (DACA) grantees are not eligible to purchase insurance on the exchanges or receive premium tax credits or lower copayments; they are exempt from the individual mandate.

## Addendum 2:

### **The Violence Against Women Act**

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The United States passed the federal law The Violence Against Women Act of 1994 (Title IV, sec. 40001-40703 of the Violent Crime Control and Law Enforcement Act of 1994) on September 13, 1994. VAWA's origins were from the collective effort of the battered women's movement, law enforcement agencies, sexual assault advocates, the courts, and attorneys who urged Congress to create legislation that protects women from intimate partner violence.

The VAWA act created the Department's Office on Violence Against Women to support a permanent federal response to violence against women. The 1994 act provided \$1.6 billion over 6 years toward investigation and prosecution of violent crimes against women and imposed automatic and mandatory restitution for those convicted. Through the STOP (Services Training Officers and Prosecutors) Formula Grant Program, from 1995 to 2000, an excess of \$440 million was awarded to support 9,000 projects that address intimate partner violence.

The VAWA act addresses domestic violence, dating violence, sexual assault, and stalking. It emphasizes development of coordinated community care among law enforcement, prosecutors, victim services, and attorneys. It funds support groups and battered women houses and shelters, in addition to supporting the training of personnel who provide services to victims of IPV. VAWA also makes IPV a federal crime when state lines are crossed. VAWA provides grants to states for programs that prevent violence against women or provide services for victims of violence. VAWA currently provides support for work with tribes and tribal organizations to end domestic violence, dating violence, sexual assault, and stalking against Native American women. VAWA also changed the criminal and civil justice system by doubling federal penalties for repeat sex offenders.<sup>19</sup> Since passage of VAWA in 1994, every state has enacted laws making stalking a crime and each state strengthened criminal rape statutes.

### **Still Needed: Protection for Immigrant Victims of IPV**

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The reauthorized VAWA 2013 includes legislation for many marginalized groups that have been forgotten in the past, including legislation for LGBTQ individuals, Native Americans, and victims of human trafficking. It expands protection for immigrant women by adding stalking to the list of crimes covered by U Visas. However, VAWA 2013 did not expand the number of U Visas or increase the government's research interest in violence in the immigrant communities. According to the Migration Policy Institute,<sup>40</sup> immigrant women comprise 18.9 million, or 12%, of total women in the United States. Because national studies have not been done to investigate IPV in immigrant communities, the number of immigrant IPV victims is unknown.

Violence against women is found in immigrant populations and is intensified by some characteristics unique to immigrant populations. In one study, 48% of Latinas reported that their partner's violence against them had increased since they immigrated to the United States.<sup>41</sup> A survey of immigrant Korean women to the United States found that 60% had been battered by their husbands.<sup>41</sup> Immigrant women victims of IPV may feel isolated because of language,

economic, and social barriers. Also, some women come from male-dominated cultures where IPV does not carry the same legal and cultural consequences as it does for Americans. Some immigrant women may not think services exist for them or do not know how to access these services.

Nava et al.<sup>42</sup> found that the level of acculturation of an immigrant woman who is exposed to IPV may influence her physical safety, her willingness to seek help and her mental anguish over the situation. Women from minority populations are at higher risk for experiencing mental health problems from IPV than the general U.S. population. According to a study by Rodriguez et al.,<sup>43</sup> 51% of pregnant Latina survivors of IPV, most of which were not U.S. citizens, experienced depression, which is much higher than the 14% rate of depression among pregnant white women survivors of IPV.

Immigrant victims of IPV may choose not to tell authorities of their abuse because of fear of deportation or changes in their immigration status if they separate from their abuser. In one study by Raj et al.,<sup>44</sup> the odds of reporting IPV (23% of the sample) were higher for immigrant women who reported that their partners refused to change their immigration status (odds ratio [OR] 7.8; confidence interval [CI] 1.4) or threaten them with deportation (OR 23.0, CI 4.5) and for those on spousal dependent visas (OR 2.8, CI 1.1) than they were for other immigrant women.

In 1994, VAWA created special routes to immigration status for certain battered noncitizens who were spouses of U.S. citizens or permanent residents. U visas give victims of certain crimes of domestic abuse temporary legal status and work eligibility in the United States for up to 4 years. On November 30, 2011, Senator Patrick Leahy introduced legislation that would expand the annual number of U visas issued from 10,000 to 15,000 per year for a limited period and would expand the definition of abuse under the U visa provisions to include stalking. Leahy's bill was rejected by the House in 2012.<sup>45</sup> This year the Senate did not include U Visa expansion proposals in the VAWA 2013 bill.

### Addendum 3:

([https://www.ilrc.org/sites/default/files/resources/proseuvisamanual\\_english.pdf](https://www.ilrc.org/sites/default/files/resources/proseuvisamanual_english.pdf))

#### **Were you the victim of a crime?**

To be eligible for a U-Visa, you must have been the victim of one of the crimes listed below. It does not matter whether the person who hurt you was convicted or even arrested for the crime. It also does not matter whether the person who hurt you had immigration papers. Different laws sometimes use different names to describe the same crime. As long as the crime is the same as one on the list, it does not matter if the police where you live call it something different. You can still apply for a U-Visa.

#### **Did the crime happen in the U.S.?**

You can apply for a U-Visa only if the crime happened in the United States.

#### **Did you help law enforcement?**

To be eligible for a U-Visa, you must have helped law enforcement. There are many ways of doing this. The box below shows you some of them. Even if you only helped law enforcement in one way—for example, calling 911—you may still apply for a U-Visa.

#### **Were you hurt?**

To qualify you for the U-Visa, you must have been hurt. You need to have suffered either physical or mental harm or both. Sexual abuse will almost always make a person eligible for a U-Visa, because it causes both physical and mental harm. It does not matter whether you were hurt by a single act, or by many acts over time, such as domestic violence.

#### **Asking the government to forgive any reason it might have for deporting you.**

Many people have done things (such as committing a crime or entering the U.S. illegally) that make it difficult for them to get permission from the government to stay in the U.S. The good news is that the U-Visa is different from most other visas because the government will forgive almost anything you have done in the past if you ask. The process of asking the government for forgiveness is called a “waiver.” When you ask for a waiver, you list all the things you want the government to forgive. Most U-Visa applicants apply for a waiver, and the government is usually generous in granting these waivers. If you are in detention, you need to ask for forgiveness of crimes and/or immigration violations you committed.