

Immigration 101 for medical providers



Healthy Tomorrows – August 2006

- Presented by Harry Ferguson, Veronica Lopez-Wells, and Carolyn Pointer
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Why should medical providers care about immigration law?



- Immigration Status impacts families' medical decisions
- Immigration Status impacts families' access to public benefits
- Misinformation in the immigrant community is a major problem

Two paths to U.S. citizenship

- Birth in U.S.
- Naturalization
 - Medically-based waivers of English and Civics exams
 - Fee waiver applications

What's a green card?

- LPR (Lawful Permanent Residence)
- Right to live and work in U.S. (subject to a variety of conditions)
- Green card is evidence of LPR status
- Public health issues can arise during application process
 - Medical exam by civil surgeon designated by USCIS
 - HIV Waiver

Paths to LPR status

- Family/Spousal Sponsorship
- Employer Sponsorship
- Asylum / Refugee status
- Diversity Visa Lottery
- Domestic Violence-based remedies

What if a patient has LPR status?

- The patient has obligations to fulfill to USCIS
- The patient can be deported for some criminal offenses
- The patient may not be eligible for some public benefits. These are state-by-state decisions.
- Public Charge issues usually don't apply

Where can I find out about my state's rules and regulations for immigrants?

- http://www.nilc.org/immspbs/sf_benefits/index.htm
- http://www.nccp.org/pub_fpr05.html

What is a public charge?

“The term describes persons who cannot support themselves and who depend on benefits that provide cash—like Temporary Assistance for Needy Families (TANF) or Supplemental Security Income (SSI)—for their income. Depending on your immigration status, the Immigration and Naturalization Service (INS) and State Department consular officers abroad can refuse to let you enter the U.S., re-enter the U.S., or become a permanent resident, if they think you will not be able to support yourself without these benefits in the future.”

<http://www.nilc.org/immspbs/bu/ebupdate995.htm>

When should patients worry?

- *Sometimes* arises during green card application process (refugees, asylees, and some others are exempted)
- *Never* arises during naturalization process (so not a problem after getting green card)
- Related to, but different from, Affidavit of Support and sponsor-deeming issues

How does USCIS decide?

- “Totality of the circumstances” test
- Factors include:
 - Age
 - Health / disability
 - Family status
 - Income, assets, resources, and financial status
 - Education and skills
- Get copy of May 25, 1999 INS Field Guidance and related materials

Public Charge factors

Cash Benefits

****USCIS can consider receipt of these benefits in making determination***

- TAFDC/welfare
- SSI
- long-term institutional care

Non-Cash Benefits

****USCIS cannot consider receipt of these benefits in making determination***

- Food Stamps
- Housing Subsidies
- Health Coverage (Medicaid, CHIP, etc.)
- WIC
- School Lunch/Breakfast
- Child care subsidies
- LIHEAP / energy assistance
- Head Start benefits
- Job training

Types of Temporary Status

- Temporary Protected Status (TPS)
 - Applies to some people from Burundi, El Salvador, Honduras, Liberia, Nicaragua, Somalia, Sudan
- Visa
 - Distinguish visa expiration date from I-94 card deadline
 - 3- and 10-year bars

False rumors

- Rumors of “Guest Worker Program” / “Amnesty”
 - Congress has not yet passed any of the immigration proposals currently being debated
- Medical Visas
 - No such thing

Decisionmakers

DHS (Department of Homeland Security)

USCIS (U.S. Citizenship and Immigration Services)

- f/k/a BCIS (Bureau of Citizenship and Imm. Services)
- f/k/a INS (Immigration and Naturalization Service)

ICE (Immigration and Customs Enforcement)

U.S. Department of Justice (DOJ)

- Executive Office of Immigration Review (EOIR)
 - (BIA) Board of Immigration Appeals
 - Immigration Court

Advice you can give patients

- Keep copies of all documents sent to and received from USCIS and other agencies
- Send all correspondence by certified mail
- Remember to submit Change of Address forms
- If you are unsure of your immigration status or the progress of a particular application, do not go to your local USCIS office before consulting with an experienced advocate or lawyer; also consider a FOIA (Freedom of Information Act) request

New Medicaid Rules - 7/1/2006

- Previously, applicants checked the box to show citizenship of legal immigrant status
- Now – must show actual documentation of citizenship and identity
- Specific list of acceptable documentation to prove citizenship (4 levels)
- Then must show proof of identity

Reasonable Opportunity

- Must have a reasonable opportunity to present the required documentation
- If enrolled in Medicaid, will remain eligible if you continuously show good faith effort
- States should assist you if documents aren't available or if applicants need special assistance

For more information

- National Immigration Law Center www.nilc.org
- U.S. Citizenship and Immigration Services
<http://www.uscis.gov/graphics/index.htm>
- American Immigration Lawyers Association
<http://www.aila.org/>
- National Immigration Project of the National Lawyers Guild
<http://www.nationalimmigrationproject.org/>