

Department of Social and Health Services
Olympia, Washington
EAZ Manual

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Category Citizenship and Alien Status - Definitions
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Revision Author: Bob Thibodeau
Division CSD
Mail Stop 45470
Phone 360-725-4634
Email thiborl@dshs.wa.gov

Summary

WAC 388-424-0001 – “Citizenship and Alien Status - Definitions

The Community Services Division, Basic Food Program policy unit has added some direction and clarification to the “Worker Responsibilities” in the EA-Z Manual under WAC 388-424-0001, *Citizenship and Alien Status – Definitions*. Basic Food policy is providing a comparison of the definitions of U.S. Nationals and certain non-citizens that are Permanently Residing under Color of Law (PRUCOL) to help reduce ACES coding errors that can lead to incorrect funding (federal versus state) of benefits and Quality Assurance payment errors.

The addition of the text to the EA-Z Manual in this section did not change any rule or policy. Some paragraphs had to be renumbered as a result of the addition of this text.

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WAC 388-424-0001

CITIZENSHIP AND ALIEN STATUS - DEFINITIONS

WORKER RESPONSIBILITIES

1. The first step for staff is to determine a client's immigration status based on the information in this Definitions section.
2. **Documents and verification.** Obtain proof of alien status. Consult the [National Immigration Law Center \(NILC\) Guide in Appendix II](#) for descriptions of common documents that verify immigration status. If the alien does not have documents to verify immigration status, follow verification procedures (as with any documentation requirement) to get reasonable documentation of status (including client's signed statement). See [VERIFICATION](#) for proper verification procedures.
3. **Expired documents.** Sometimes the only immigration document a client has is expired but this does not necessarily mean their immigration status has expired. In such cases, consider the following:
 - a. Determine whether the client has applied for renewal of the document or adjustment to a different status. If the client has applied for renewal and you have no reason to believe renewal will be denied, assume continuation of current status. If the client has applied for adjustment of status, assume continuation of current status while the application is pending.
 - b. The I-551 Resident Alien or "green card" (which became the Permanent Resident card in 1997) did not include an expiration date until August 1989 (see pages 64-66 in the [NILC Guide in Appendix II](#)). These cards are usually valid for 10 years from date of issue and must be renewed, but an expired card does not mean the immigrant's lawful status has expired.
 - c. An expired Employment Authorization Document (EAD) does not mean the client's underlying immigration status has expired (see Worker Responsibilities #13 below). Seek other documentation, if needed, to determine the client's status.
 - d. Note that some immigration documents have clear beginning and end dates, while others are open-ended. Some immigration documents are commonly issued for short periods of time only. For example, VAWA self-petitioners (see [WAC 388-424-0001](#)) may receive a Notice of Prima Facie Approval for an initial period of 150 or 180 days, followed by repeated 60 day extensions while their case is still pending (this can sometimes take years).
 - e. While it is a client's responsibility to produce current documentation, they may need some assistance in doing so. DSHS offers financial assistance, if needed, to obtain necessary documents (see [WAC 388-490-0005](#) (7) in the Verification Chapter).
4. **PRUCOL versus undocumented.** Since either a PRUCOL or undocumented person may have an expired immigration document (see Worker Responsibilities #3 above), the following additional questions may need to be asked:
 - a. **Has the person's actual immigration status (as opposed to their documentation) expired?** If not, then determine eligibility based on that status and encourage the immigrant to renew their documentation. If the person's immigration status has expired, then answer the following question:

- b. **Has the person applied for renewal or adjustment of status?** If not, the person may be undocumented, at least until such time as he once again seeks or obtains a legal status. If the person has applied for renewal or adjustment and/or USCIS otherwise knows they are here and is not seeking to deport them, then they meet the definition of PRUCOL (see example above).

5. US National versus PRUCOL. A U.S. National is a person who owes permanent allegiance to the U.S. and may enter and work in the U.S. without restriction.

- a. Residents of the Northern Mariana Islands who did not elect to become U.S. citizens and persons born in American Samoa or Swain's Island (after 12/24/52) are U.S. Nationals.
- b. Citizens of the Marshall Islands, Micronesia, and Palau have special rights under Compacts of Free Association and are lawfully allowed to enter, reside, and work in the U.S., but are not U.S. Nationals. Unless they have some other status that would qualify them for Federal benefits, they are PRUCOL.

~~5.6.~~ For persons who automatically become citizens under terms of the **Child Citizenship Act of 2000** or previous legislation (see [WAC 388-424-0001](#)), USCIS issues no documentation unless requested. Clients themselves may not be aware that they or their children are already citizens. In these cases, staff will have to determine if the client or their children met or meet the required conditions.

If uncertain about a child's lawful permanent resident status, check first to see whether the child is listed on a parent's immigration document, consulting Table 5, pages 61-62 in the [NILC Guide in Appendix II](#). However, be aware that sometimes USCIS will list only the parent on a document even when the whole family is included in the application. This is particularly common in domestic violence and political asylum cases. In general, you can assume that children are included in a parent's application for legal status. If a minor child has become a citizen automatically because their parent has naturalized, a statement from the parent and copy of the parent's certificate of naturalization is acceptable proof of the child's citizenship.

If there is uncertainty about whether a particular client has met the conditions for automatic citizenship, you might want to refer them to an immigration attorney or to the Northwest Immigrant Rights Project in Western Washington at 206-587-4009 or in Eastern Washington at 509-854-2100.

For eligibility purposes, clients who become citizens automatically (under the Child Citizenship Act or other legislation) are not required to show direct proof of their citizenship. Since clients may encounter other situations where proof of citizenship would be helpful or even necessary, staff may want to advise clients to request this verification from USCIS anyway.

~~6.7.~~ **Non-citizen American Indians:**

- a. To prove either tribal membership or 50 percent American Indian blood, ask the client for an enrollment membership card, a treaty fishing card, Bureau of Indian Affairs (BIA) certification, or other tribal document such as a letter from the tribe verifying 50 percent American Indian blood.

- b. For a current list of federally-recognized Indian tribes in Washington State, refer to the [Governor's Office of Indian Affairs website](#).
- c. For current lists of federally-recognized Indian tribes in other states and of Alaska native villages and corporations, refer to the [July 12, 2002 Federal Register Notice](#).

~~7.~~8. **Hmong or Highland Laotian tribe members:**

- a. Determine if the client is eligible based on the individual's qualified alien status. For example, often tribe members are admitted as refugees.
- b. If not eligible under a qualified alien status, verify that they are lawfully residing in the U.S. and have them sign the following statement under penalty of perjury:
- c. **I was a Hmong (or Highland Laotian) tribe member when the tribe assisted the U.S. military during the Vietnam era (August 5, 1964 to May 7, 1975).** See [Appendix III](#) for a printable version of this statement.
- d. Verify that the tribe member was born prior to May 8, 1975. The tribe member's spouse and unmarried dependent children do not have to be tribal members in order to qualify for federal benefits.

~~8.~~9. An immigrant who is a **victim of domestic violence or abuse** may be unable to get documents because they have been in the control of the abuser. For guidance on verification of the status of an abused immigrant, see Verification Chapter, [WAC 388-490-0005](#), Worker Responsibilities #6). See Table 5, page 62 in the [NILC Guide in Appendix II](#) for a list of documents verifying the "qualified" status of battered aliens.

~~9.~~10. For information about documenting **asylee status**, see "Asylum Documentation" under [WAC 388-466-0005](#), Clarifying Information.

~~10.~~11. **Victims of Trafficking** can receive benefits the same as a refugee as long as they have a letter from the federal Office of Refugee Resettlement (ORR) within the Department of Health and Human Services that certifies them as victims of trafficking. Victims under 18 years of age do not receive a "certification" letter but are instead issued a similar "letter of eligibility". Whether the applicant is an adult or child, call the Trafficking Verification line at 202-401-5510 or toll-free at 866-401-5510 to confirm the validity of the letter prior to approving benefits. For more information, see "Certification of Victims of Human Trafficking" under [WAC 388-466-0005](#).

Immediate family members of a victim of trafficking do not need to be themselves certified or approved by ORR in order to be treated like refugees for the purpose of receiving public benefits.

An alien who is 18 or older who claims to be a victim of trafficking but has not yet been issued a letter from ORR should be referred to the Department of Justice's Trafficking Hotline at 888-428-7581 to request assistance. An alien who is under age 18 should be referred to Covenant House at 888-373-7888, which is under contract with the Department of Health and Human Services to refer them to a pre-screened aid organization in the victim's area.

Victims of Trafficking are often in great danger of being re-victimized by the trafficker, and like domestic violence victims have often suffered physical abuse and psychological

trauma. If the client is not already receiving such help, be sure that she/he is referred to a shelter or other safe residence for a safety plan, counseling services, and other emergency assistance.

~~11.12.~~ For guidance on documentation requirements and benefits eligibility for **Special Immigrants' from Iraq and Afghanistan** please see "[Implementing Short-Term Benefits to Iraqi and Afghan Special Immigrants](#)" document.

~~12.13.~~ **Reporting or release of information regarding immigrants**

Release of information about immigrant clients is subject to the same confidentiality rules that govern release of all client information to outside parties, including law enforcement agencies such as USCIS. See the Confidentiality Chapter in the EA-Z Manual.

The Department is only obligated to report legal immigrants in the case of the “indigence exemption” from sponsor deeming. See [WAC 388-450-0156](#) for a description of this reporting requirement.

The Department’s obligation to report the presence of undocumented immigrants to USCIS has been very narrowly defined by the federal government. Such a report is **only** to be made in the following circumstances:

- a. An administrative law judge (ALJ) has determined that an individual is unlawfully present in the U.S., in the course of the individual’s pursuing eligibility for a federally funded benefit (including TANF, non-emergency Medicaid, SCHIP, SSI, and federal Basic Food); and
- b. The ALJ’s finding is supported by a determination by USCIS, such as a Final Order of Deportation.

The Department is only expected to make a determination about an individual’s legal or illegal immigrant status if such determination is necessary to decide whether the individual is eligible for benefits. Undocumented immigrants should never be required to contact USCIS themselves.

If you believe a report to USCIS is required, based on the above circumstances, contact the immigrant eligibility program manager in the Community Services Division. Do not contact USCIS directly. (See Worker Responsibilities #12 below regarding potential civil rights violations.)

~~13.14.~~ When requesting information necessary to determine citizenship or alien status, be sensitive to the right of clients not to be discriminated against on the basis of race, color, or national origin. All similarly situated clients should be treated in the same manner. For example, while it is necessary to clarify questionable information to establish eligibility, clients should not be singled out for closer scrutiny simply because they look or sound “foreign.”

~~14.15.~~ **Employment Authorization Documents (EADs)** contain coded information that indicates a client’s immigration status. Consult the “Key to Employment Authorization Documents”, pages 88-89 in the [NILC Guide in Appendix II](#), for the meaning of the various codes. Note that EADs must be renewed on a yearly basis and sometimes there are delays in receipt of a new card. An expired EAD does not mean that a person’s immigrant status has expired and should not in itself be a reason to deny benefits.