



Immigrant Eligibility for Federal Child Care and Early Education Programs

April 2017 | Hannah Matthews

One in four children under age six has at least one foreign-born parent.¹ The vast majority (96 percent) of these young children of immigrants are U.S. citizens.² Many of these citizen children live with at least one undocumented household member. Consequently, families may be hesitant to access public benefits and programs for which they are legally eligible.

The federal government establishes immigrant eligibility policies for federal programs. This fact sheet details immigrant eligibility for early childhood programs, specifically child care subsidies and Head Start, as they exist under current law and guidance. The Trump Administration has indicated that it may attempt to rewrite policy around benefits access for immigrant families; however, there have been no changes to the following programs to date.

Many immigrant-related eligibility provisions for federal programs were established as a result of the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), which limited eligibility for “federal public benefits” to specific categories of “qualified immigrants.” PRWORA guidance from the U.S. Department of Health and Human Services identified the Child Care and Development Block Grant (CCDBG) and Temporary Assistance for Needy Families (TANF) block grant—the main sources of funding for child care assistance for low-income families—as “federal public benefits.” That means access is restricted to citizens and qualified immigrants who include lawful permanent residents (LPRs or individuals with green cards) and refugees.³ Head Start and Early Head Start are *not* considered “federal public benefits.” Therefore, Head Start services are not subject to immigration status verification.⁴

Child Care Assistance

CCDBG is the primary source of federal funding for child care subsidies for low-income working families. States may also choose to transfer funds from the TANF block grant to CCDBG or spend TANF funds directly on child care assistance.⁵ Because CCDBG and TANF were identified as “federal public benefits,” applicants for child care assistance are, with some exceptions, subject to verification of immigration and citizenship status—with eligibility limited to qualified immigrants (including lawful permanent residents and refugees).⁶ However, there are different rules governing TANF- and CCDBG-funded child care.

CCDBG-funded Child Care

Only the Child’s Immigration Status is Relevant for Verifying Eligibility for CCDBG

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- **Head Start:** No immigrant restrictions.
- **CCDBG:** Restricted to “qualified immigrants” in most circumstances.
 - Eligibility is based on the citizenship/immigration status of the child, not the parent(s).
 - Head Start collaborations are exempt from immigrant restrictions.
 - Child care subject to public educational standards is exempt from immigrant restrictions.

CCDBG regulations clarify that the child is the primary beneficiary of CCDBG; therefore, only the child's citizenship or immigration status is relevant for eligibility determination.⁷ Administering agencies may not *request* verification of a parent's citizenship or immigration status and are prohibited from *considering* the parent's citizenship or immigration status when determining eligibility. This is important because the vast majority of children in immigrant families are themselves citizens, making them CCDBG-eligible if they meet other eligibility requirements.

There are circumstances in which immigrant restrictions *do not apply* to CCDBG-funded care:

- **Head Start Collaborations.** Immigrant restrictions do not apply to children receiving CCDBG-funded services that are subject to the federal Head Start Program Performance Standards and supported by combined Head Start and CCDBG funding. Such collaborations are exempt from verifying the immigration status of any child.⁸ This includes eligibility determinations for Early Head Start-child care partnerships.⁹
- **Child Care Subject to Educational Standards.** Immigrant restrictions do not apply to children receiving CCDBG-funded services in settings that are subject to public educational standards, including public and private pre-kindergarten settings (including pre-kindergarten delivered in private child care settings) and settings subject to educational standards used for care during out-of-school time.¹⁰
- **Non-profit Exemption.** Nonprofit charitable organizations may not be required to verify citizenship or immigration status of applicants for child care assistance.¹¹ Federal guidance states that when a non-profit organization is responsible for determining eligibility, the Lead Agency retains verification responsibility and must establish verification procedures.¹²

Social Security Numbers May Not Be Required

According to federal guidance, states are prohibited from requiring Social Security Numbers (SSNs) as a condition of eligibility or receipt of CCDBG-funded child care assistance. While states are permitted to request an SSN on application forms, the form must make clear that providing an SSN is optional. The application instructions must state that the SSN is not required and that “eligibility will not be denied due to the failure of the applicant to provide a Social Security Number.” Instructions should also explain how SSNs are intended to be used (i.e., not for individual identification but for research data) as well as how the state will preserve confidentiality.¹³

TANF-Funded Child Care

Federal TANF assistance, including TANF funds spent directly on child care, is generally denied to qualified immigrants during their first five years in the United States, subject to limited exceptions. After the initial five-year period, qualified immigrants may be eligible to receive TANF-funded child care. Many states use state funds to provide TANF services to immigrants during their first five years in the country. In a mixed-status household, a citizen child may be eligible for federally funded TANF cash assistance even if parents and other family members are ineligible. However, in most states, TANF-funded child care is considered as serving the needs of the parent, preventing access for unqualified immigrant parents.

TANF funds transferred to CCDBG for child care assistance are subject to CCDBG's rules (as detailed above).

Head Start and Early Head Start

Head Start is the nation's comprehensive early childhood education program for children in poor families. Head Start eligibility is based on income or developmental or environmental risk factors. Head Start and Early Head Start are not considered federal public benefits and are not subject to PRWORA's eligibility restrictions. Any child who is otherwise eligible for Head Start may enroll without regard to their immigration status or citizenship or their parents' immigration status or citizenship.

Endnotes

¹ Jie Zong and Jeanne Batalova, *Frequently Requested Statistics on Immigrants and Immigration in the United States*, Migration Policy Institute, 2017, <http://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states>.

² Randy Capps, Michael Fix, Jie Zong, *A Profile of U.S. Children with Unauthorized Immigrant Parents*, Migration Policy Institute, 2016, <http://www.migrationpolicy.org/research/profile-us-children-unauthorized-immigrant-parents>.

³ Qualified immigrants includes: lawful permanent residents, or LPRs; refugees; people granted asylum or withholding of deportation/removal, and conditional entrants; people granted parole by the U.S. Department of Homeland Security (DHS) for a period of at least one year; Cuban and Haitian entrants; certain abused immigrants, their children, and/or their parents; and certain survivors of trafficking. See <https://www.nilc.org/issues/economic-support/overview-immeligfedprograms/>.

⁴ Non-postsecondary education benefits were omitted from the statutory definition of federal public benefits in title IV of Personal Responsibility and Work Opportunity Reconciliation Act.

⁵ Rules governing CCDBG apply also to funds that states choose to transfer from TANF to CCDBG (\$1.3 billion in 2015).

⁶ Final Rule of September 30, 2016, Child Care and Development Fund Program, Federal Register, Vol. 81, No. 190, §98.20(c) <https://www.gpo.gov/fdsys/pkg/FR-2016-09-30/pdf/2016-22986.pdf>.

⁷ Final Rule, “Child Care and Development Fund Program.”

⁸ U.S. Department of Health and Human Services, *Program Instruction: ACYF-PI-CC-98-08*, “Clarification of Interpretation of ‘Federal Public Benefit’ Regarding CCDF Services,” 1998, Office of Child Care, Administration for Children and Families, <https://www.acf.hhs.gov/occ/resource/pi-cc-98-08>; U.S. Department of Health and Human Services, *Program Instruction: CCDFACF-PI-2008-01*, “Clarification of Policy Regarding Verification of the Citizenship and Immigration States of Child Care and Development Fund Applicants,” Office of Child Care, Administration for Children and Families, 2008, https://www.acf.hhs.gov/sites/default/files/occ/pi2008_01.pdf.

⁹ Administration for Children and Families, *Information Memorandum: Policy and Program Guidance for the Early Head Start-Child Care Partnership*, 2015, US Department of Health and Human Services, 2015, https://www.acf.hhs.gov/sites/default/files/occ/acf_im_ohs_15_03.pdf.

¹⁰ U.S. Department of Health and Human Services, *Program Instruction: ACYF-PI-CC-98-08*.

¹¹ U.S. Department of Health and Human Services, *Program Instruction: ACYF-PI-CC-98-08*. A non-profit-charitable organization is defined as “an organization that is organized and operated (1) for purposes other than making gains or profits for the organization, its members or shareholders, and is precluded from distributing any gains or profits to its members or shareholders; and (2) for charitable purposes, including relief of the poor and distressed or the underprivileged, advancement of religion, or advancement of education.

¹² U.S. Department of Health and Human Services, *Program Instruction: CCDF-ACF-PI-2008-01*.

¹³ U.S. Department of Health and Human Services, *Program Instructions: ACYF-PI-CC-00-04*, “Clarifying Policy Regarding Limits on the Use of Social Security Numbers under the CCDF,” Office of Child Care, Administration for Children and Families, 2000, <http://www.acf.hhs.gov/programs/ccb/law/guidance/current/pi0004/pi0004.htm>.