

Sponsored Immigrants & Benefits

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■ What is a sponsor?

A sponsor is a person who has helped an immigrant become a lawful permanent resident (green card-holder) by signing an "affidavit of support."

■ What is an affidavit of support?

An affidavit of support is a contract signed by the sponsor to show that the immigrant applying for a green card is not likely to become dependent on the government, or a "public charge." Public charge is a term to describe persons who rely on cash welfare for their income, or who are in long-term care (nursing homes). See "Federal Guidance on Public Charge: When Is It Safe to Use Public Benefits?" at www.nilc.org/ce/ceindex.htm#pubchrg.

■ Are affidavits of support enforceable?

It depends on which type of affidavit the sponsor signed. There are two major types of affidavits. The "nonenforceable" affidavit of support (USCIS Form I-134), which is the main form used before December 19, 1997, is still used by some immigrants. The "enforceable" affidavit of support (USCIS Form I-864) went into use on December 19, 1997. It is a binding contract by the sponsor for support of the immigrant and for repayment of certain benefits received by the immigrant.

■ Which immigrants must use an "enforceable" affidavit of support?

- Most immigrants who apply for a green card through a family member after December 19, 1997.
- Most immigrants who apply for a green card through an employer after December 19, 1997, if the employer is a relative or if a relative owns more than five percent of the business.

Note: Persons with credit for 40 quarters of work history in the United States (including work

performed by a spouse during marriage and parents while the immigrant was under 18 years old) do not need to file an "enforceable" affidavit of support. Children who will automatically become citizens when they immigrate under the Child Citizenship Act similarly do not need to file an "enforceable" affidavit of support.

■ Which immigrants do not need to use an affidavit of support?

Several types of immigrants do not need to have sponsors, for example:

- Refugees and asylees applying for a green card.
- Persons applying for a green card through "registry" (residence in the U.S. since before January 1, 1972), the *Nicaraguan Adjustment and Cuban American Relief Act*, the *Haitian Refugee Immigration Fairness Act*, and the *Cuban Adjustment Act*. Certain Indochinese, Polish and Hungarian parolees, and persons applying as special immigrant juveniles also don't need sponsors.

■ Are there income requirements for sponsors who sign the "enforceable" affidavits?

Yes. Sponsors who sign "enforceable" affidavits must show that they earn enough to support a household at 125 percent of the federal poverty level (currently \$32,238 for a household of five). The household includes:

- The immigrant,
- Family members joining the immigrant,
- The sponsor, sponsor's spouse, and children under 21,
- Dependents, and
- Other immigrants sponsored under the I-864.

Sponsors who don't earn enough money can show that their assets (such as a house, car, or bank



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account) are worth 5 times the difference between 125 percent of the federal poverty level and their income (or 3 times this difference, if a U.S. citizen is petitioning for a spouse or child). Sponsors who can't meet these requirements may find a joint sponsor who also must sign an affidavit of support promising to support the immigrant.

■ Can immigrants whose sponsor signed an “enforceable” affidavit get benefits?

Yes. Immigrants whose sponsors signed “enforceable” affidavits may get certain benefits. Immigrants who have been in the country for less than 5 years *generally* are not eligible for the five federal “means-tested public benefits”: food stamps for adults, Temporary Assistance for Needy Families (TANF), Medicaid (nonemergency), the Children’s Health Insurance Program (CHIP), and Supplemental Security Income (SSI). There are additional restrictions in SSI. However, these immigrants are eligible for emergency Medicaid and most other federal benefits. States can choose to provide Medicaid and CHIP to lawfully residing children and pregnant women regardless of their date of entry, without sponsor-related barriers. In some states, immigrants can get state-funded medical, food, or cash assistance. For more details on the immigrant eligibility rules, see National Immigration Law Center, *Guide to Immigrant Eligibility for Federal Programs* (4th ed. 2002), at www.nilc.org/pubs/Guide_promo.htm (ordering information) and www.nilc.org/pubs/Guide_update.htm (updates).

■ Does the sponsor’s income count when the immigrant applies for public benefits?

Sometimes. Under “immigrant sponsor deeming,” the income and resources of the immigrant’s sponsor are considered, or “deemed,” to be available to the sponsored immigrant when he or she applies for certain public benefits, such as food stamps, TANF, and SSI. In some states, deeming also may be relevant for immigrants applying for federal Medicaid or CHIP. Deeming rules usually make the immigrant ineligible for benefits because adding the sponsor’s income and resources renders the immigrant “over-income.” There are exceptions to the deeming rules — for example, for domestic violence survivors or immigrants who would go

hungry or homeless without assistance. Children are not subject to deeming with respect to food stamps. In states that elect to provide Medicaid and CHIP to lawfully residing children or pregnant women regardless of their date of entry, deeming does not apply to these immigrants. Additional exceptions may be available, depending on the program. And, immigrants can get emergency Medicaid and many other benefits without counting their sponsor’s income. See *Guide to Immigrant Eligibility for Federal Programs*.

■ Will the sponsor need to repay benefits used by the sponsored immigrants?

It depends. Sponsors who signed the “nonenforceable” affidavits (Form I-134) are not required to repay benefits used by the immigrant. But sponsors who sign the “enforceable” affidavit (Form I-864) may be required to repay the government for “means-tested” benefits used by the immigrant after he or she becomes a lawful permanent resident.

■ Which public benefits will a sponsor need to repay?

Sponsors who sign “enforceable” affidavits of support (Form I-864) may need to repay “means-tested public benefits” used by the immigrant after he or she becomes a lawful permanent resident. The only *federal* benefits that are considered “means-tested” are: Supplemental Security Income (SSI), food stamps, TANF, Medicaid (nonemergency), and CHIP. Many immigrants whose sponsors signed “enforceable” affidavits of support are not eligible for these federally funded programs for at least five years after they enter the U.S. Some states provide benefits to immigrants, using state funds. But most states have not decided which state-funded benefits a sponsor may need to repay.

■ Do sponsors who sign “enforceable” affidavits need to repay every benefit?

No. Sponsors will not need to repay the cost of emergency Medicaid or other emergency medical care, immunizations or testing and treatment for communicable disease symptoms (outside of Medicaid), short-term noncash emergency aid, school breakfast or school lunch, Head Start, student financial aid, Job Training Partnership Act programs, certain noncash services that are available regardless of income, or many other programs that have not

been named as “means-tested” benefits. Sponsors are not liable to repay benefits used before a public notice determining that the benefit is a “means-tested public benefit” is published.

In states that choose to provide Medicaid and CHIP to children and pregnant women regardless of their date of entry, sponsors do not need to repay the cost of health services received by these groups. And, sponsors who are receiving food stamps do not need to repay the cost of food stamps received by the sponsored immigrant.

■ Are sponsors responsible for benefits used by the immigrant’s U.S. citizen children?

No. Sponsors are not responsible for benefits used by the sponsored immigrant’s citizen children or by any other “nonsponsored” family members.

■ When does the sponsor’s responsibility begin?

The sponsor’s responsibility begins when the immigrant becomes a lawful permanent resident.

■ When does the sponsor’s responsibility end?

Sponsors who signed “enforceable” affidavits are not responsible for benefits used after the immigrant:

- Becomes a U.S. citizen; or
- Earns credit for 40 quarters (about 10 years) of work history in the U.S., according to the Social Security Administration, either through his/her own work or the work of a spouse or parent; or
- Leaves the U.S. permanently; or
- Dies. The sponsor’s obligation also ends if the sponsor dies.

However, any obligations that accrued before the termination of the sponsor’s responsibility would continue.

■ Where can I find more information on affidavits of support, deeming, and public charge?

“Federal Guidance on Public Charge: When Is It Safe to Use Public Benefits?,”

www.nilc.org/document.html?id=164.*

“Public Charge Fact Sheet” (U.S. Citizenship and Immigration Services, Nov. 6, 2009),

<http://tinyurl.com/chhx3j9>.*

“Questions and Answers: USCIS Issues Final Rule Regarding Affidavits of Support” (USCIS, June 21, 2006),

www.uscis.gov/sites/default/files/files/pressrelease/AffSupp_062106QA.pdf.**

“General Information & Frequently Asked Questions: Affidavit of Support (Form I-864)” (U.S.

Department of State),

<http://travel.state.gov/pdf/I-864GenInfo-FAQ-Final.pdf>.

“Eligibility Determination Guidance: Non-Citizen Requirements in the Food Stamp Program” (U.S. Dept. of Agriculture, Jan. 2003),

www.fns.usda.gov/snap/rules/Legislation/pdfs/N on_Citizen_Guidance.pdf.*

“Temporary Assistance for Needy Families: Program Instruction: Deeming of Sponsor’s Income and Resources to a Non-Citizen” (U.S. Dept. of Health and Human Services, April 17, 2003, No. TANF-ACF-PI-2003-03),

<http://archive.acf.hhs.gov/programs/ofa/policy/pi-ofa/2003/pi2003-3.htm>.*

Guide to Immigrant Eligibility for Federal Programs, 4th ed. (NILC, 2002), order form available at

www.nilc.org/guidefed.html, updates available at www.nilc.org/guideupdate.html.*

* Revised Oct. 2012 to update website address/hyperlink or to link to a more recent resource.

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