

Sponsored Immigrants and Benefits

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■ What is a sponsor?

A sponsor is a person who has helped an immigrant become a lawful permanent resident (a person with a green card) 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 person applying for a green card is not likely to become a “public charge.” “Public charge” is a term that has been used for many years to describe people who are dependent on the government. During the Trump administration, the U.S. Departments of State and Homeland Security published regulations that changed the definition of “public charge” and the criteria for assessing whether a person is likely to become a public charge in the future. President Biden has issued an [executive order](#) that directs the secretary of State, the attorney general, the secretary of Homeland Security, and the heads of other relevant agencies, as appropriate, to review all agency actions related to public charge.¹ For updates, see [ProtectingImmigrantFamilies.org](#).²

■ 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 was the main form used before December 19, 1997, is still used by some immigrants. The “enforceable” affidavit of support (USCIS Form I-864) has been used since December 19, 1997. It is a binding contract by the sponsor for support of the immigrant and potentially for repayment of certain benefits received by the immigrant.

■ Which immigrants must file 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

¹ <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/executive-order-restoring-faith-in-our-legal-immigration-systems-and-strengthening-integration-and-inclusion-efforts-for-new-americans/>.

² <https://protectingimmigrantfamilies.org/>.

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The following family-based immigrants do *not* have to file an “enforceable” affidavit of support:

- people with credit for 40 quarters of work history in the U.S. (including work performed by a spouse during marriage or by parents while the immigrant was under 18 years old)
- children who will automatically become U.S. citizens when they immigrate under the Child Citizenship Act

■ Which immigrants do *not* need an affidavit of support?

Many **categories of immigrants** are not required to have a sponsor file an affidavit of support on their behalf, including:³

- refugees and asylees applying for a green card
- people applying for a green card who are in the following categories:
 - applying through “registry” (having resided in the U.S. since before Jan. 1, 1972)
 - applying under the Nicaraguan Adjustment or the Cuban American Relief Act
 - applying under the Haitian Refugee Immigration Fairness Act or the Cuban Adjustment Act
 - certain Indochinese, Polish, and Hungarian parolees
 - self-petitioners under the Violence Against Women Act
 - survivors of trafficking or other serious crimes
 - applying as special immigrant juveniles

Many other people considered to be “humanitarian” immigrants are not required to have 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 \$38,350 for a household of five). The household includes:

- the immigrant
- family members joining the immigrant
- the sponsor, sponsor’s spouse, and their children under 21
- dependents
- other immigrants sponsored under the Form I-864

Sponsors who do not earn enough money can show that their assets (such as a house, car, or bank 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 cannot meet these requirements may find a joint sponsor, who also must sign an affidavit of support promising to support the immigrant.

³ <https://www.law.cornell.edu/cfr/text/8/212.23>.

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

Yes. Immigrants whose sponsors signed “enforceable” affidavits may be eligible for certain public benefits, including emergency Medicaid.

Immigrants who have been in the U.S. for less than 5 years *generally* are not eligible for the five federal “means-tested public benefits”:

- Supplemental Nutrition Assistance Program (SNAP or food stamps) for adults
- Temporary Assistance for Needy Families (TANF)
- Medicaid (nonemergency)
- Children’s Health Insurance Program (CHIP)
- Supplemental Security Income (SSI) (and there are additional SSI-related restrictions)

However, these immigrants are eligible for emergency Medicaid and most other federal benefits.

Additional benefits are available in some states. States can choose to provide Medicaid and CHIP to lawfully residing children and pregnant women regardless of their date of entry into the U.S., 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 www.nilc.org/overview-immeligfedprograms/.

■ 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 they apply for certain public benefits, such as SNAP, TANF, and SSI. Some states have applied deeming rules in their federal Medicaid or CHIP programs. The Centers for Medicare and Medicaid Services (CMS) recently issued [guidance](#) to states on various options and methodologies for doing so.⁴

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 in the SNAP program. 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. In addition, immigrants can get emergency Medicaid and many other benefits without counting their sponsor’s income.

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

It depends. A sponsor who signed the “nonenforceable” affidavit (Form I-134) is not required to repay benefits used by the immigrant. But a sponsor who signed the

⁴ <https://www.medicaid.gov/federal-policy-guidance/downloads/sho19004.pdf>.

“enforceable” affidavit (Form I-864) may be required to repay the government for “means-tested” benefits used by the immigrant after they become a lawful permanent resident. States have the option to decide whether to pursue sponsors for reimbursement.

■ Which public benefits will a sponsor have to repay?

A sponsor who signs an “enforceable” affidavit of support (Form I-864) may have to repay “means-tested public benefits” used by the immigrant after they become a lawful permanent resident. The only *federal* benefits that are considered “means-tested” are:

- Supplemental Security Income (SSI)
- SNAP
- TANF
- Medicaid (nonemergency)
- 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, if any, a sponsor may have to repay.

■ Must sponsors who sign “enforceable” affidavits repay every benefit?

No. Sponsors will not have to repay the cost of many benefits, including 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, Workforce Innovation and Opportunity Act (WIOA) 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 into the U.S., sponsors do not have to repay the cost of health services received by these groups. And sponsors who are receiving SNAP do not have to repay the cost of SNAP 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?

A sponsor who signed an “enforceable” affidavit is 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 their 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?

Affidavit of Support (U.S. Citizenship and Immigration Services),

<https://www.uscis.gov/green-card/green-card-processes-and-procedures/affidavit-of-support>.

Guide to Immigrant Eligibility for Federal Programs, 4th ed. (NILC, 2002), updates available at www.nilc.org/issues/economic-support/updatepage/.

I-864 Affidavit of Support: FAQ (U.S. Dept. of State),

<https://travel.state.gov/content/travel/en/us-visas/immigrate/the-immigrant-visa-process/step-1-submit-a-petition/i-864-affidavit-faqs.html>.

Reimbursement Obligations of Sponsors of Noncitizens and Procedures for Recovering TANF Funds (U.S. Dept. of Health and Human Services, Sept. 13, 2019, TANF-ACF-PI-2019-01), <https://www.acf.hhs.gov/ofa/resource/tanf-acf-pi-2019-01>.⁵

Sponsor Deeming and Repayment for Certain Immigrants (Medicaid and CHIP) (Centers for Medicare and Medicaid Services, State Health Officials Letter #19-004, Aug. 23, 2019), <https://www.medicaid.gov/federal-policy-guidance/downloads/sho19004.pdf>.⁵

State Enforcement of the Legal Responsibilities of Sponsors of Non-Citizens: SNAP Non-Citizen Guidance Addendum (U.S. Dept. of Agriculture, Aug. 23, 2019), <https://fns-prod.azureedge.net/sites/default/files/media/file/reimbursement-memo.pdf>.⁵

Supplemental Nutrition Assistance Program: Guidance on Non-Citizen Eligibility (U.S. Dept. of Agriculture, June 2011), <https://fns-prod.azureedge.net/snap/eligibility/non-citizen-eligibility>; www.nilc.org/wp-content/uploads/2019/05/Non-Citizen_Guidance_063011.pdf.

⁵ This guidance was issued in accordance with a Trump administration presidential memorandum on enforcing the responsibilities of sponsors. President Biden rescinded the memorandum through an executive order on February 2, 2021. That executive order directed agencies to review all agency actions taken in accordance with the Trump memorandum.