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## ***USDA Notice on Federal Public Benefits***

### ***Updated July 14, 2025***

#### **Toplines**

On July 10, 2025, the U.S. Department of Agriculture (USDA) published a [notice](#) in the Federal Register interpreting the meaning of “Federal Public Benefit” in the 1996 welfare law. The notice:

- Takes effect right away with no specified comment period or delay.
- Confirms that under federal law, the school breakfast and lunch programs must remain available to all eligible children regardless of their immigration status.
- Confirms that states have an option to provide or deny certain FNS programs, such as WIC, to immigrants who are not “qualified”. This state option is not new.
- Suggests that recipients of certain USDA licensing, grants, payments and loan programs are receiving a “Federal public benefit” and must be qualified immigrants.

#### **More Details**

The 1996 welfare law provided a general definition of the “Federal public benefits” that are subject to its “qualified immigrant” eligibility restrictions.<sup>1</sup> With some important exceptions, the welfare law allowed Federal agencies to determine which of their programs were restricted by the law and which were exempt from restriction.<sup>2</sup>

On July 10, 2025, almost thirty years after passage of the 1996 welfare law, the U.S. Department of Agriculture (USDA) published for inspection a [notice](#) interpreting this term. While the U.S. Department of Health and Human Services (HHS) published a detailed notice outlining

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<sup>1</sup> Qualified immigrants under the welfare law –the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) – include lawful permanent residents (LPRs) or people with green card; 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; certain survivors of trafficking; and individuals residing in the U.S. pursuant to a compact of free association (COFA).

<sup>2</sup> In August 4, 1998, the U.S. Department of Health and Human Services (HHS) published a notice with a comment period clarifying which of its programs were subject to the restrictions on federal public benefits (such as Medicaid, CHIP and TANF) and which of its programs were exempt from these restrictions. USDA had not published a similar notice until this one. PRWORA's definition of qualified immigrant was not altered by the recent Reconciliation Act (OBBA, P.L. 119-106).

its interpretation in 1998, USDA had not. USDA's notice does not include a delay in its effective date to allow for public comments.

USDA's notice confirms that federal law prohibits immigrant eligibility restrictions in the school breakfast and lunch programs.<sup>3</sup> However, the notice clarifies that **states** can choose whether to provide or deny eligibility to immigrants who are not "qualified" for specific programs.<sup>4</sup> This state option is not new, but the USDA had not highlighted it in the past. The notice lists the following federally funded programs as potentially subject to the state option:

- Food Distribution Program on Indian Reservations (FDPIR).
- The Emergency Food Assistance Program (TEFAP).
- Commodity Supplemental Food Program (CSFP).
- Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).
- WIC Farmers' Market Nutrition Programs
- Senior Farmers' Market Nutrition Programs
- Child and Adult Care Food Program
- Fresh Fruit and Vegetable Program
- Special Milk Program
- Summer Food Service Program
- Summer EBT/ Sun Bucks
- USDA Food and Nutrition Service Disaster Assistance. (FNS does not administer a distinct disaster assistance program but utilizes various flexibilities, waivers, and options within the nutrition programs to provide assistance. Therefore, 8 U.S.C. § 1615 would continue to apply where relevant.)

USDA designates SNAP and the Nutrition Assistance Program for Territories as Federal public benefits available only to "qualified" immigrants.

The notice also designates a number of USDA licensing, grants, payments and loan programs – payments for the procurement of commodities or to producers of commodities, loans to enhance living conditions in rural communities, and grants to provide assistance to farmers and ranchers – as "Federal public benefits" subject to immigrant eligibility restrictions.

FNS also considers a sub-grant or sub-contract made from a prime grant or prime contract provided by FNS to be a Federal public benefit; and the beneficiary to whom the FNS funds flow, a recipient of a Federal public benefit. The notice provides two examples of how these restrictions would apply:

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<sup>3</sup> 8 USC S. 1615(a).

<sup>4</sup> 8 USC S. 1615(b) "Nothing in this Act shall prohibit or require a State to provide to an individual who is not a citizen or a qualified alien, as defined in [section 1641\(b\) of this title](#), benefits under programs established under the provisions of law described in paragraph (2)." The notice says that although these programs fall within the meaning of "Federal public benefit under § 1611(c), FNS continues to administer them in accordance with the superseding provisions of § 1615."

- A food bank receives a grant to purchase food for distribution, the individual who receives the food assistance has received a “Federal public benefit.”
  - Although the notice doesn’t address this, even some services that are “federal public benefits” may be exempt from restriction (e.g. as necessary to protect life or safety)<sup>5</sup> or from verification requirements (e.g. as a non-profit organization)<sup>6</sup>.
- FNS issues commercial licenses to retailers that authorizes them to accept SNAP benefits. Retailers authorized to engage in the commercial activity of accepting SNAP benefits for certain commercial goods are receiving a “Federal public benefit.”
  - It is not clear how this would be implemented.

The notice states explicitly that it does not address PRWORA’s verification requirements.

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<sup>5</sup> See U.S. Department of Justice Final Specification of Community Programs Necessary for Protection of Life or Safety Under Welfare Reform Legislation, 66 Fed. Reg. 3613 (Jan. 16, 2001) at <https://www.govinfo.gov/content/pkg/FR-2001-01-16/pdf/01-1158.pdf>.

<sup>6</sup> 8 USC § 1642(d).