

Introduction to LegalHealth

Sunset Park Family Health Center at NYU Langone
January 2025

ABOUT NYLAG

Founded in 1990, the New York Legal Assistance Group (NYLAG), is a leading civil legal services organization combatting economic, racial, and social injustice by advocating for people experiencing poverty and engaging in policy advocacy.

ABOUT LEGALHEALTH

LegalHealth, a division of NYLAG (New York Legal Assistance Group), provides free legal assistance to New Yorkers who are experiencing serious or chronic health problems and financial hardship. We bring together legal and medical professionals to improve the lives of clients and their families.



Training Agenda

- Overview of legal services that LegalHealth provides
- Discuss how immigration status can be a social determinant of health and potential legal intervention
- Review the main types immigration statuses clients may have
- Give a brief overview of immigrant eligibility for benefits
- Identify when a legal referral is appropriate and discuss guidance in making a referral



LegalHealth at NYU Langone FHC

- **Weekly legal clinic**
 - **Where:** TBC
 - **When:** TBC
 - **Appointments scheduled through Epic**
- Training sessions



Range of immigration services LegalHealth can provide:

- Family-based petitions
- Asylum
- U visa
- T visa
- VAWA
- Special Immigrant Juvenile Status (SIJS)
- Green card applications and renewals
- Naturalization
- Temporary Protected Status
- Deferred Action
- Benefit eligibility/PRUCOL



Immigration Status as a Social Determinant of Health

- Immigration status affects a person's eligibility for benefits, such as Medicaid, and the likelihood of having a job that offers benefits such as health insurance.
- Undocumented immigrants are more likely to be uninsured and less likely to seek or receive healthcare services compared to immigrants in legal status.
- Immigration status often deters individuals from seeking financial benefits and legal protections, which can in turn affect their health outcomes.
- Public charge (and misinformation about it) further impacts access to healthcare.



Why Collaboration with Case Managers is Important

- Case managers, community health workers, and counselors are in a unique position to identify certain problems that an individual might be experiencing
- Maintain trust-based relationship with clients
- Have expertise to act on behalf of clients and prevent crisis
- *We have shared goals: to connect clients to services and reduce health inequities*



OVERVIEW OF TYPES OF IMMIGRATION STATUS



What is Immigration Status?

- Immigration status refers to *the way* in which a person is present in the United States.
- Some common statuses are:
 - U.S. Citizen (born or naturalized)
 - Legal Permanent Resident/Green Card Holder (may be able to naturalize)
 - Non-immigrant, i.e., a person with a visa that is good only for a specific duration (ex: U visa, T visa, student visas, visitor visas, persons with TPS)
 - Undocumented person (entered without papers or overstayed their visa)

IMPORTANT:

- Unless and until someone becomes a USC, they can be removed from the US



Immigration Basics

- Two main categories of immigration relief:

Paths to Remain Permanently

- Family-based Petitions
- Employment-based Petitions
- Humanitarian Relief
 - Refugee/Asylee status
 - U-visa
 - T-visa
 - VAWA
 - Special Immigrant Juvenile Status

Paths to Remain Temporarily

- Temporary Protected Status
- Deferred Action for Childhood Arrivals
- Parole
- Deferred Action for Medical Reasons (this is not a “medical visa”)



Immigration Basics: Paths to Lawful Permanent Residence and Citizenship*

- **Family-based petition** – Two-step process:
 - 1. Prove family relationship: **spouse, parent-child, siblings**
 - 2. Prove eligibility for a green card

*There are exceptions to all of these forms of relief. Refer clients to the LegalHealth clinic for full immigration screening.



Immigration Basics: Paths to Lawful Permanent Residence/Citizenship*

Humanitarian Relief

- **Refugee/Asylee** –
 - Relief for people fleeing persecution based on race, religion, nationality, political opinion, and/or particular social group
- **U Visa** – Available for victims of certain crimes (generally violent crimes) who assist law enforcement and suffer substantial harm
- **T Visa** – Available for victims of human trafficking
- **VAWA Self-Petition** – Victims of domestic violence by USC or LPR spouse or parent, or USC child age 21 or older
- **Special Immigration Juvenile Status (SIJS)** – Two-Step Process:
 - Custody/Guardianship order in Family Court based on abuse, abandonment, and/or neglect of child (under 21 in NY state) by one/both parents
 - Apply for SIJS and green card with USCIS based on Family Court order



Humanitarian Relief: Asylum

- Humanitarian relief available to those who have been persecuted in their home country on the basis of one or more of the protected grounds:
 - Race
 - Religion
 - Nationality
 - Membership in a particular social group
 - Political opinion
- Experienced recent and direct harm by government actors or people government can't control
- Fear of returning home
- Must apply within 1 year of entering the U.S.



Asylum, cont'd

- Generally, asylum not available for claims relating to:
 - Economic conditions;
 - Criminal activity/widespread crime;
 - General discrimination;
 - Firm resettlement in 3rd country; or
 - Claims filed beyond the one-year filing deadline.



Immigration Basics: Common Paths to Temporary Permission to Stay

- **Temporary Protected Status (TPS):** Allows nationals of designated countries following political crisis or natural disaster to remain in the U.S. for a set period of time and provides work authorization.
- Countries with new registration periods include:
 - **Afghanistan**
 - **Burma (Myanmar)**
 - **Cameroon**
 - **Ethiopia**
 - **Haiti**
 - **Lebanon**
 - **Somalia**
 - **South Sudan**
 - **Sudan**
 - **Syria**
 - **Ukraine**
 - **Venezuela**
 - **Yemen**
- The following countries have been extended for re-registration only:
 - **El Salvador**
 - **Honduras**
 - **Nepal**
 - **Nicaragua**



Immigration Basics: Common Paths to Temporary Permission to Stay Cont'd

- **Deferred Action for Childhood Arrivals (DACA):**
2012 Executive Order benefitting young people brought to US as children and educated here
- The DACA final rule, designed to preserve and fortify DACA, took effect on Oct. 31, 2022.
- The final rule is subject to ongoing litigation that prohibits DHS from approving any new applications for DACA.
- Under the DACA final rule, DHS can accept and approve application to **renew** DACA.



Case Example: Jose

- Jose is 20 years old and is undocumented. He grew up in a small village in rural Mexico and crossed the southern border into the United States in order to further his education goals and because of the extreme poverty in his community. He was working in the fields prior to coming to the United States and was not enrolled in school.
- Jose was referred by his social worker to LegalHealth, where the attorney conducted a screening and confirmed his potential eligibility for Special Immigrant Juvenile Status.



Case Example: Jose (cont.)

- It was extremely important to submit Jose's application prior to his 21st birthday to preserve eligibility for relief. Ultimately, a successful argument was put forward establishing that Jose had been neglected by his parents and that reunification with his parents in Mexico is not viable. This application was filed with USCIS just in time before Jose's 21st birthday. This would not have been possible but for the timely referral to LegalHealth.



Case Example: Ibrahima

- Ibrahima, a 47-year-old man, came to the U.S. in 1996 from Guinea, which had a military government. He overstayed his tourist visa, making him undocumented, and has lived here and raised a son, and has been supporting his family by driving a livery car.
- Over 12 years ago, Ibrahima was diagnosed with End Stage Renal disease and began dialysis 3x weekly. His physicians thought he was a good candidate for a kidney transplant; however, he only had Emergency Medicaid and could not be listed.
- Ibrahima's physician referred him to the on-site legal clinic at the hospital. The attorney met with him to do a full immigration screening, analyzed his immigration history, and determined that upon his son's 21st birthday, the son could file a family relative petition for Ibrahima. After the petition was filed and acknowledgment of receipt was received, Ibrahima was eligible to apply for NYS Medicaid.
- Not only has he been transplanted, but he is also in the process of adjusting his status to become a lawful permanent resident (get a green card).



Case Example: Sascha

- Sascha presents facts nearly identical to Ibrahima: she has a U.S. citizen adult child and needs an organ transplant. However, she crossed the southern border without documents 25 years ago and she reports some interaction with the police, although she doesn't know what happened to those arrests.
- *The outcome for Sascha may be very different despite some similarities in their background.*
- This will require going through the months-long process of fingerprinting, obtaining her full criminal record, possibly requesting her full immigration record, and doing any other due diligence to weigh the risks of filing a family relative petition – and Sascha has no ability to ultimately adjust status in the U.S. (get a green card).



Deferred Action

- Discretionary determination by U.S. Citizenship and Immigration Services (USCIS) to defer removal due to serious medical situation.
 - Ability to travel and availability of treatment option in the client's country of origin are important parts of the analysis.
- Only filed when there are **no** other options for immigration relief to establish PRUCOL eligibility for Medicaid.
- LegalHealth tracks trends, which is important because the approval grants are completely discretionary.
- Denials come with greater risks and possible Medicaid ineligibility.



IMMIGRANTS AND ACCESS TO PUBLIC BENEFITS



Emergency Medicaid

- Emergency Medicaid provides payment for treatment of an emergency medical condition for people who meet all Medicaid eligibility criteria in the state (such as income and state residency), ***regardless of immigration status.***
- Emergency Medicaid does **not** cover organ transplants or bone marrow/stem cell transplants.



New York's More Expansive Insurance Eligibility

- Qualified residents during 5-year waiting period
- **PRUCOL immigrants**
- Medicaid for youth (< 19) and pregnant women regardless of immigration status
- Temporary non-immigrants who can establish New York residency
- **Coverage for all 65+ regardless of immigration status!**
 - Individuals 65+ on January 1, 2024, were converted to Medicaid; individuals turning 65 are notified of eligibility before their 65th birthday.



New York: PRUCOL

- NYS Constitution and *Alliessa* case establishes NYS Medicaid eligibility for individuals permanently residing under color of law (PRUCOL)
- PRUCOL is **not** an immigration status
- PRUCOL is a NYS benefit eligibility category for Medicaid and Essential Plan
 - Immigrants are considered PRUCOL if they are permanently residing in the United States with the “ ‘knowledge and permission or acquiescence’ of the federal immigration agency and whose departure from the U.S. the agency does not contemplate enforcing.”
 - *See* 18 NYCRR §360-3.2(j)(1)(ii); State of New York Department of Health Information Letter (08-OHIP/INF-4).



New York: PRUCOL cont'd

- There is **not** a PRUCOL application filed with immigration.
- Rather, immigration filings may make a client PRUCOL eligible under the NYS rules, such as:
 - Pending application for a green card (I-485)
 - Pending / approved:
 - Relative petition (I-130)
 - Medical deferred action
 - Temporary Protected Status
 - Deferred Action for Childhood Arrivals (DACA)
 - U or T visas
 - VAWA petitions
 - Stay of removal
 - Order of supervision
 - *Other applications for a permanent/long-term benefit*



New York: Who is Not PRUCOL?

- Those who are here during a period of authorized stay on a valid visitor, student, or work visa.
 - NOTE: They may be eligible for insurance as a Temporary Non-Immigrant if they can show NYS residency.
- Persons with final orders of deportation, unless deportation is being deferred or if they are under an order of supervision.
- Persons who never filed or are ineligible for any immigration benefit.



Does Applying for Benefits Affect a Person's Immigration Status?

- Public charge inadmissibility rules apply to:
 - immigrants applying to become legal permanent residents (“green card” applicants) through sponsorship by a family member or employer;
 - individuals entering the U.S. from abroad with visitor visas or other non-immigrant visas (such as a student visa);
 - individuals applying to extend their period of authorized stay or change status.



Does Applying for Benefits Affect a Person's Immigration Status? cont'd

- Public charge inadmissibility rule does not apply to:
 - Those who already have a green card
 - Those seeking humanitarian relief, including asylum, refugees, U and T visa recipients, TPS holders, VAWA, and special immigrant juveniles, and many others
 - Benefits received by U.S. citizen family members will not affect a person's ability to apply for immigration relief in the future.
 - The use of health, nutrition, and housing programs cannot be considered in the public charge test.



Current Public Charge Test

- Effective December 23, 2022, the public charge rule returned to the 1999 standard.
- The rule considers whether the individual is likely to become primarily dependent on the government for subsistence, as demonstrated by:
 - Cash benefits, such as SSI or Temporary Assistance for Needy Families, or comparable state or local benefits, AND/OR
 - Institutionalization for long-term care at government expense.
 - *Does not consider community Medicaid or SNAP.*
- If an individual is determined “likely to become a public charge,” s/he may be denied a green card through a family member, or denied entry to the U.S.



Public Charge Rule: Totality of Circumstances Test

USCIS considers an individual's 1) age, 2) health, 3) family status, 4) assets, resources, and financial status and 5) education and skills. An affidavit of support signed by the sponsor is required.

- Forward-looking test
- Only includes benefits received by individual, not family members



Case Example

- Maria is a client from El Salvador who has been residing in U.S. for many years with Temporary Protected Status. She has a 4-year-old U.S. citizen son, James. She and James both receive Medicaid and James receives SNAP. Maria has chronic heart disease and has been receiving treatment. She recently married Jonathan, a U.S. citizen who would now like to sponsor her for a green card. Jonathan earns just enough income to be able to sponsor Maria. Maria believes she can't get a green card because she is on Medicaid and her son is on SNAP. *Is this right?*
 - Receipt of Medicaid by Maria or her son does not make her a public charge.
 - James' receipt of SNAP does not make Maria a public charge – he is not applying for an immigration benefit.



Public Charge Takeaways

- Narrow category of immigrants affected, primarily:
 - Applicants for a green card through a family member and have received public benefits,
 - Applicants for visitor visas and extensions of stay.
- Many circumstances are exempted, including immigrants with humanitarian forms of relief are exempt (asylees, refugees, U/T visas, VAWA, SIJS, etc.)
- Immigrant eligibility for public benefits is already limited.
 - Many federal benefits available only after 5 years of lawful status.
- Rules do not apply to LPRs seeking citizenship.



What Can You Do?



Prioritizing Immigrants for Legal Health Referrals

- **Look for these indicators when referring clients:**
 - Children (SIJS eligible)
 - Young adults (DACA-renewal eligible)
 - Victims of Crime (U-visa eligible)
 - Victims of Domestic Violence (VAWA/U-visa eligible)
 - Victims of Trafficking (T-visa eligible)
 - Immigrants with U.S. citizen children or family members
 - Immigrants with debilitating illnesses
 - Immigrants who recently fled their home country or fear returning to their home country
 - Immigrants from the countries designated for TPS
 - Immigrants in need of life saving care



Guidance for Making a Legal Referral

- A referral means the chance to meet with an attorney from NYLAG's LegalHealth unit where the individual will have a comprehensive legal intake to understand what the legal issue is.
- **Set reasonable expectations** for clients you refer:
 - Communicate why you are giving them this referral.
 - The first appointment (intake) is to gather information, identify legal issues, and provide brief advice if possible.
 - Every case must be evaluated individually to determine the nature of the matter, whether remedies exist, and whether the client would benefit from representation.
 - There is a spectrum of available assistance from **advice** to **full representation**.



Guidance for Making a Legal Referral cont'd.

- **Reminders:**

- Clients must have capacity to be referred for legal services and to retain an attorney. If questionable, lawyer can assess capacity for legal purposes.
- If the individual already has an attorney for an issue, they cannot retain an additional attorney for same issue.
- Lawyers have a duty of confidentiality to clients and cannot disclose case info to case managers without client consent.



Important Points

- A comprehensive screening and any subsequent immigration intervention is intended to move people toward more regularized status that comes with legal protections and eligibility for benefits.
- Every client presents with their own set of facts, and each case must be examined carefully, considering:
 - Client's goals
 - Immigration history
 - Criminal history
 - Medical needs
 - Immigration status of family members
- Certain cases can require months of evaluation and requesting documents from the government.
- Sometimes we cannot help (there may be a conflict of interest, serious criminal history, etc.)



Thank you!

*We are excited to partner with you and
continue this important work!*



Questions?



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THANK YOU

More information at legalhealth.org



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