§ 1613. Five-year limited eligibility of qualified aliens for Federal means-tested public benefit

(a) In general

Notwithstanding any other provision of law and except as provided in subsections (b), (c), and (d), an alien who is a qualified alien (as defined in section 1611 of this title) and who enters the United States on or after August 22, 1996, is not eligible for any Federal means-tested public benefit for a period of 5 years beginning on the date of the alien's entry into the United States with a status within the meaning of the term "qualified alien".

(b) Exceptions

The limitation under subsection (a) shall not apply to the following aliens:

(1) Exception for refugees and asylees

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act [8 U.S.C. 1157].

(B) An alien who is granted asylum under section 208 of such Act [8 U.S.C. 1158].

(C) An alien whose deportation is being withheld under section 243(h) of such Act [8 U.S.C. 1253] (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act [8 U.S.C. 1221(b)(3)] (as amended by section 305(a) of division C of Public Law 104-208).

(D) An alien who is a Cuban and Haitian entrant as defined in section 501(c) of the Refugee Education Assistance Act of 1980.

(E) An alien admitted to the United States as an Amerasian immigrant as described in section 1612(a)(2)(A)(i)(V) of this title.

(2) Veteran and active duty exception

An alien who is lawfully residing in any State and is—

(A) a veteran (as defined in section 101, 1101, or 1301) or as described in section 107 of title 38) with a discharge characterized as an honorable discharge and not on account of alienage and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38.

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B) or the unmarried surviving spouse of an individual described in clause (i) or (ii) who is deceased if the marriage fulfills the requirements of section 1304 of title 38.

(3) Exception for citizens of freely associated states

An individual described in section 1612(b)(2)(G) of this title, but only with respect to the designated Federal program defined in section 1612(b)(3)(C) of this title.

1 See References in Text note below.

2 So in original. Probably should be “paragraph (A) or (B)”. 

Known as the Food Stamp Act of 1977, considered to refer to the supplemental nutrition assistance program established under that Act, see section 4002(c) of Pub. L. 110-246, set out as a note under section 2012 of Title 7, Agriculture.

Effective Date of 2020 Amendment

Pub. L. 110-260, div. CC, title II, § 208(e), Dec. 27, 2020, 134 Stat. 2896, provided that: "The amendments made by this section [amending this section and sections 1614 and 1641 of this title and section 1308 of Title 42, The Public Health and Welfare] shall apply to benefits for items and services furnished on or after the date of the enactment of this Act [Dec. 27, 2020]."

Effective Date of 2008 Amendment

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 701 of Title 7, Agriculture.


Effective Date of 2002 Amendment

Amendment by section 4401(a) of Pub. L. 107-171 effective Oct. 1, 2002, except as otherwise provided, see section 4406 of Pub. L. 107-171, set out as an Effective Date note under section 1611 of Title 2, The Congress.


Pub. L. 107-171, title IV, § 4401(c)(2), May 13, 2002, 116 Stat. 334, provided that: "The amendment made by paragraph (1) [amending this section] takes effect on April 1, 2003."

Effective Date of 1998 Amendment


Effective Date of 1997 Amendments

Pub. L. 105-53, title V, § 5308, Aug. 5, 1997, 111 Stat. 603, provided that: "Except as otherwise provided, the amendments made by this subtitle [subtitle D (§§3801-3808) of title V of Pub. L. 105-33, enacting sections 1625 and 1646 of this title and amending this section and sections 1613, 1622, and 1641 of this title] shall be effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Pub. L. 104-193]."

Amendment by sections 5562 and 5563 of Pub. L. 105-33 effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5562 of Pub. L. 105-33, set out as a note under section 1307 of this title.

Pub. L. 105-18, title II, § 6005(b), June 12, 1997, 111 Stat. 191, provided that: "The amendment made by subsection (a) [amending this section] shall be effective as if included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [this section]."

Effective Date of 1996 Amendment

(c) Application of term Federal means-tested public benefit

(1) The limitation under subsection (a) shall not apply to assistance or benefits under paragraph (2).

(2) Assistance and benefits under this paragraph are as follows:

(A) Medical assistance described in section 1611(b)(1)(A) of this title.

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C) Assistance or benefits under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.].

(D) Assistance or benefits under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

(E) Public health assistance (not including any assistance under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(F) Payments for foster care and adoption assistance under parts B and E of title IV of the Social Security Act [42 U.S.C. 620 et seq., 670 et seq.] for a parent or a child who would, in the absence of subsection (a), be eligible to have such payments made on the child’s behalf under such part, but only if the foster or adoptive parent (or parents) of such child is a qualified alien (as defined in section 1641 of this title).

(G) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General’s sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance upon the amount of assistance provided, or the cost of assistance provided on the individual recipient’s income or resources; and (iii) are necessary for the protection of life or safety.


(J) Benefits under the Head Start Act [42 U.S.C. 9831 et seq.].

(K) Benefits under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.].

(L) Assistance or benefits provided to individuals under the age of 18 under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(d) Benefits for certain groups

Notwithstanding any other provision of law, the limitations under section 1611(a) of this title and subsection (a) shall not apply to—

(1) an individual described in section 1612(a)(2)(G) of this title, but only with respect to the programs specified in subsections (a)(3) and (b)(3)(C) of section 1612 of this title; or

(2) an individual, spouse, or dependent described in section 1612(a)(2)(K) of this title, but only with respect to the specified Federal program described in section 1612(a)(3)(B) of this title.


Editorial Notes

REFERENCES IN TEXT


Section 501(e) of the Refugee Education Assistance Act of 1980, referred to in subsec. (b)(1)(D), is section 501(e) of Pub. L. 96–422, as amended, which is set out in a note under section 1522 of this title.


The Richard B. Russell National School Lunch Act, referred to in subsec. (c)(2)(C), is act June 1, 1946, ch. 281, 69 Stat. 220, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, the Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Child Nutrition Act of 1966, referred to in subsec. (c)(2)(D), is Pub. L. 89–624, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.


Section 501(e) of such Act, referred to in subsec. (c)(2)(F), is Pub. L. 96–422, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Higher Education Act of 1965, referred to in subsec. (c)(2)(H), is Pub. L. 89–914, Nov. 8, 1965, 79 Stat. 1219, as amended, Titles IV, V, IX, and X of the Act are classified generally to subchapters IV (§ 1070 et seq.) and V (§ 1101 et seq.) of subchapter IV and subchapter XIX (§ 1396 et seq.), respectively, of chapter 7 of Title 20, Education. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Public Health Service Act, referred to in subsec. (c)(2)(H), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Titles III, VII, and VIII of the Act are classi-
§ 1614. Notification and information reporting

Each Federal agency that administers a program to which section 1611, 1612, or 1613 of this title applies shall, directly or through the States, post information and provide general notification to the public and to program recipients of the changes regarding eligibility for any such program pursuant to this subchapter.


Editorial Notes

References in Text

This subchapter, referred to in text, was in the original “this subtitle”, meaning subtitle A of title IV of Pub. L. 104–193, Aug. 22, 1996, 110 Stat. 2261, as amended,