

May 13, 2010



State House Immigration Workshop



Massachusetts Immigrant & Refugee Advocacy Coalition



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MIRA's Objectives



- **Mission Statement**

MIRA works to advocate for the rights and opportunities of immigrants and refugees. In partnership with its members, MIRA advances this mission through education, training, leadership development, organizing, policy analysis and advocacy.

- **4-Pronged Strategy**

1. Policy Analysis and Advocacy
2. Organizing and Leadership Development
3. Strategic Communications
4. Training and Technical Assistance

Agenda



- Selected Immigration Statistics: Massachusetts and National
- Introduction to Immigration Law
- Immigrant eligibility for benefits

Selected Immigration Statistics: Nationally and in Massachusetts



US: Nation of Immigrants



- As of 2008, **37,960,935** foreign-born residents live in the U.S.
- **12.5%** of total population
- Of foreign-born, 53.6% are from Latin America, 26.8 % from Asia, 13.1% from Europe, 3.7% from Africa, and 2.8% North America & Oceania

Source: American Community Survey 2006-2008, US Census Bureau

Massachusetts - 8th Largest Immigrant Population in US



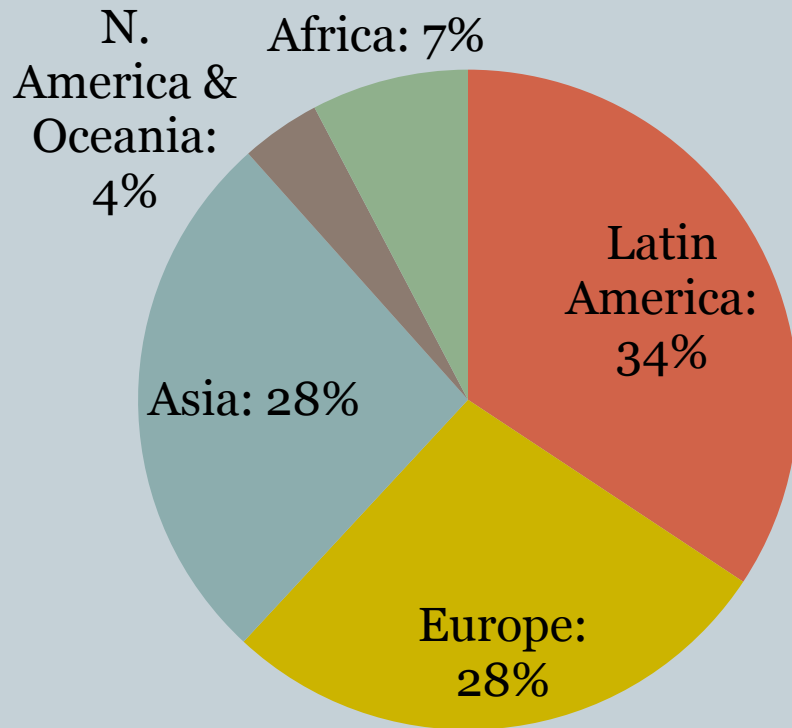
- As of 2008, **919,771 immigrants** live in MA
- **14.2%** of total population
- Of foreign-born, 34.3% from Latin America, 27.6% from Asia, 26.5% from Europe, 7.7% from Africa, and 3.9% North American & Oceania

Source: American Community Survey 2006-2008, US Census Bureau

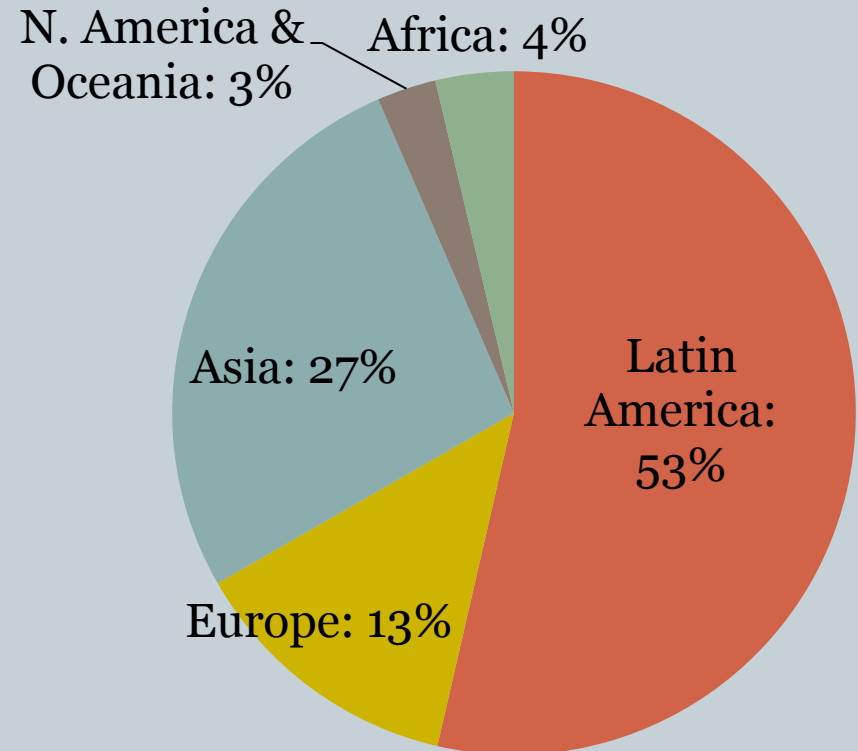
State vs. National Foreign-born Origins



Massachusetts



United States



Trends in Population Growth



Between 2000 and 2007, **274,187** new immigrants came to MA. Massachusetts' population would have decreased if not for immigrants.

Time Period	MA Population Growth	New Immigrants	Immigrants as % of Growth
1980-1990	279,388	285,034	102%
1990-2000	332,672	350,209	105%

Immigrant Contributions



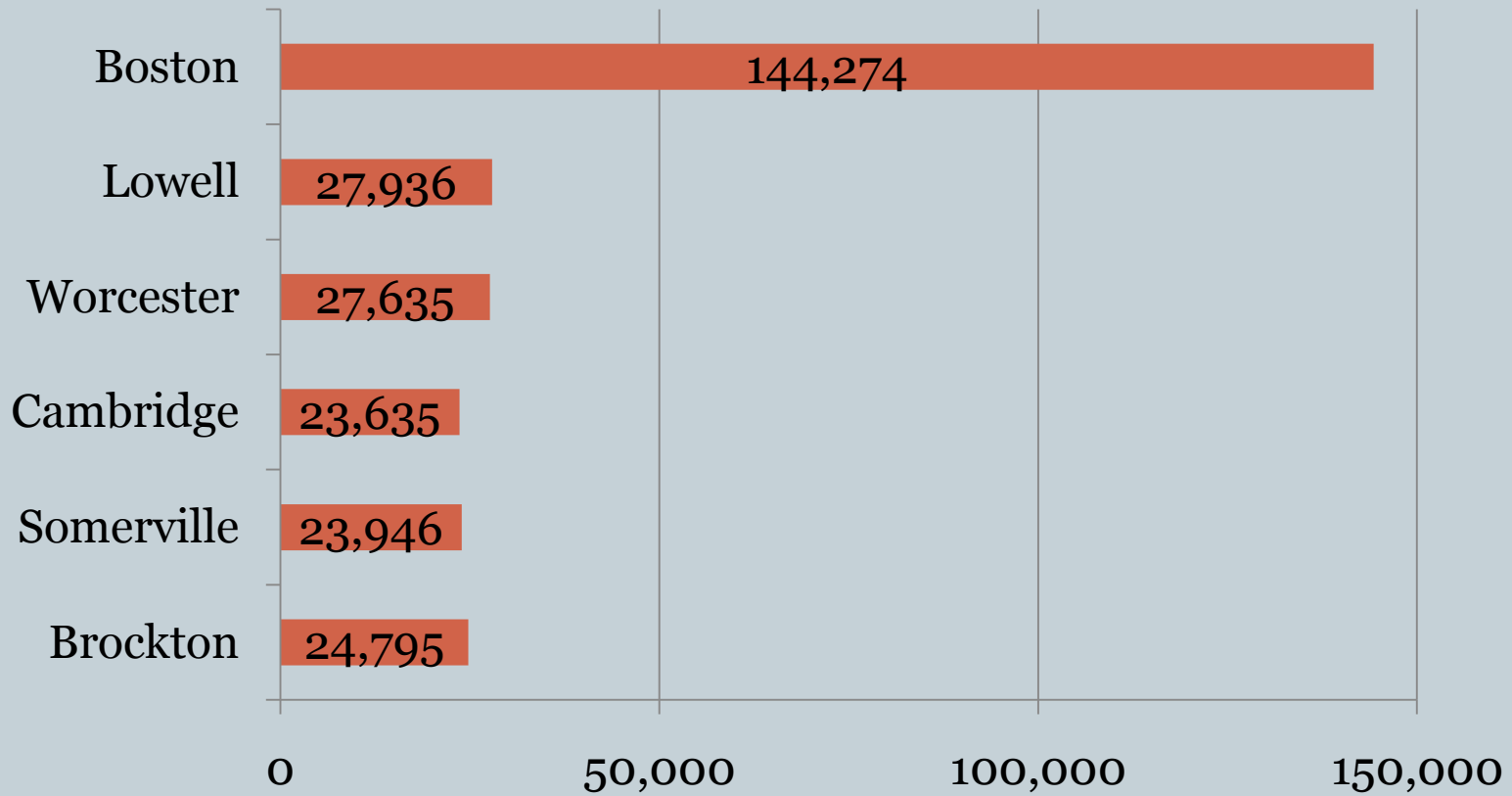
- Immigrants make up **17%** of **the state's workforce** and **35%** of Boston's
- **1 in 5 workers** between ages 22 and 44 **are immigrants** in Massachusetts
- Immigrants paid **\$1.2 billion in income taxes**, **\$346 million** in state sales and excise taxes, and **\$1.06 billion** in property taxes in 2006
- Immigrant headed households account for **14.5%** of **consumer spending** in MA (in 2007)

Immigrant Contributions

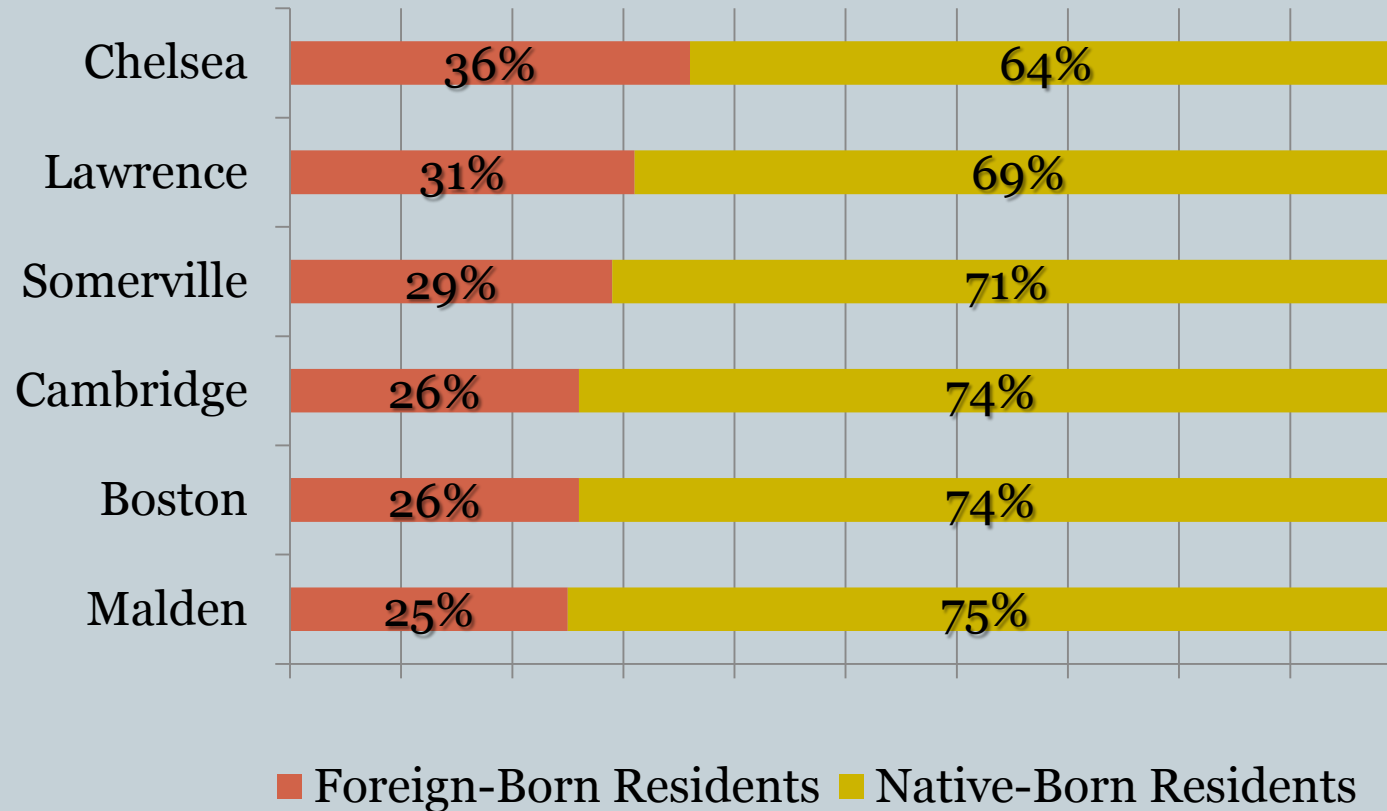


- Massachusetts's **Asian and Latino** owned **business** alone had receipts of over **\$7.1 billion** and employed over **over 52,000 people** (in 2002, the last year for which data is available)
- More than **one in four bio-technology** firms in MA were founded by immigrants
- **65,033** foreign-born individuals are actively serving in the US Armed Forces as of February 2008, making up **more than 5%** of active-duty personnel across all branches of the US Military

Cities with Largest Immigrant Populations: Number of Foreign-Born Individuals



Cities with Largest Immigrant Populations: Percentage of Total Population



Top Countries of Origin in MA



<i>Rank</i>	<i>Country</i>	<i>Number</i>	<i>Percent</i>
1	Brazil	74,931	8.3%
2	Portugal	62,604	6.9%
3	China, excluding Hong Kong and Taiwan	56,944	6.3%
4	Dominican Republic	52,426	5.8%
5	Haiti	41,421	4.6%
6	India	40,044	4.4%
7	Canada	34,974	3.9%
8	Vietnam	33,933	3.7%
9	Italy	25,769	2.8%
10	El Salvador	24,706	2.7%
	Total	447,752	49.3%



An Introduction to Immigration Law



Basic Immigration Terminology



- **US Department of Homeland Security**
 - US Citizenship and Immigration Services (USCIS)
 - US Immigration and Customs Enforcement (USICE)
 - US Customs and Border Protection (USCBP)
- **Immigration and Nationality Act (INA)**
- **8 Code of Federal Regulations (8 CFR)**



What is an Undocumented Immigrant?



- A person who is present in the US without the permission of the US government
 - Legal entry on a temporary visa, remaining in the US beyond the expiration date of the visa (4 out of 10 enter legally)
 - Illegal entry without being inspected by an immigration officer, or by using false documents
 - Legal entry on any type of visa, violating the terms of that visa

Non-immigrants



- Persons seeking entry into the U.S. for a limited period of time and for a specific purpose
- 22 nonimmigrant categories: A-V
- Most common types of non-immigrants:
 - B-2 visitors for pleasure
 - F-1 students
 - H-1B professional workers
 - H-2A short-term agricultural workers
 - H-2B temporary non-agricultural workers
 - J-1 exchange students or trainees
 - K-1 fiancé visa

Non-immigrant Documentation



- Nonimmigrant Visa – Documentation issued by the U.S. Consulate (Dept. of State) for admission into the U.S.
- Nonimmigrant Status – Authorization given by immigration – Dept. of Homeland Security that enables an individual to enter and remain in the U.S.
 - Evidenced by the Arrival-Departure Record (I-94)

IMMIGRANTS



- Lawful Permanent Residence (LPR) – the status of being lawfully accorded the privilege of permanently residing in the U.S. as an immigrant
 - May engage in almost all types of employment
 - After requisite period of residence – may apply for U.S. citizenship
 - Can be deported if subject to a ground of deportation
 - May lose status if deemed abandoned

Obtaining Permanent Residency Status



- Family Sponsored
- Employment Based
- Special Immigrants (battered spouses and children, religious workers, juveniles)
- Diversity Immigrants
- Refugees and Asylees
- Special Programs (Cubans, Haitians, etc.)

Family-Based Process



- **First step:** US citizen or LPR relative (petitioner) files petition for foreign family member (beneficiary)
- **Second step:** Beneficiary applies to immigrate either in the U.S. through adjustment of status or at a U.S. consulate in home country through consular processing

Who can apply for whom?



- US citizen may petition for: spouse, parents, children (any age, married or unmarried), siblings
- LPR may petition for: spouse and children (any age, unmarried)
- Divided into immediate relatives (no annual limit) and the preference system (under annual quota)

Immediate Relative



- Spouse of U.S. Citizen
- Parent of U.S. Citizen
- Unmarried Child under 21 of U.S. Citizen

Family-sponsored Immigration



- Immediate relatives can come to the US right away, unlimited visas- includes USC's spouse and/or unmarried minor children and USC over 21's parents.
- Family preference category- wait in line, limited visas
 - 1st preference: USC over 21- unmarried adult children
 - 2nd Preference "A": LPR- spouse and minor children
 - 2nd Preference "B": LPR over 21- unmarried adult children
 - 3rd Preference: USC – married adult children
 - 4th Preference: USC over 21- siblings (12-20 years)

Family-sponsored Immigration



Category	All Except...	China	India	Mexico	Philippines
1 st	09/08/04	09/08/04	09/08/04	10/15/92	11/01/94
2A	12/01/06	12/01/06	12/01/06	06/01/05	12/01/06
2B	07/01/02	07/01/02	07/01/02	06/15/92	11/15/98
3 rd	06/08/01	06/08/01	06/08/01	10/22/92	05/01/92
4 th	05/15/00	05/15/00	05/15/00	12/08/95	12/08/87

Employer Sponsored Immigration



- US employer can sponsor someone for a specific position where there is a demonstrated absence of US workers
- Most employment based-aliens must obtain a Labor Certification (US Dept of Labor verifies that no American worker is available, qualified, and willing to take the job at the prevailing wage)

5 Different Categories



- **1st Preference:** People of extraordinary ability in science, art, education, business, or athletics, and outstanding professors, researchers, and multinational executives and managers (40,000)
- **2nd Preference:** Professionals with advance degrees or people of exceptional ability in science, arts, or business (40,000)

5 Categories (cont.)



- **3rd Preference:** Skilled and unskilled workers, recently graduated professionals, and those with a bachelor's degree (40,000)
- **4th Preference:** Certain special immigrants, including ministers, religious workers, and others (10,000)

5 Categories (cont.)



- **5th Preference:** People who have between \$500,000 and \$3 Million dollars to invest in a job-creating enterprise in the US. At least 10 US workers must be employed by each investor. The Amount of money can vary depending on which area of the country will benefit from the investment (10,000)

Employer Sponsored Immigration



Category	All Except	China	India	Mexico	Philippines
1 st	Current	Current	Current	Current	Current
2 nd	Current	09/22/05	02/01/05	Current	Current
3 rd	04/22/03	04/22/03	10/01/01	N/A	04/22/03
4 th	Current	Current	Current	Current	Current
5 th	Current	Current	Current	Current	Current

What is a Refugee?



- Person outside of the US who seeks protection on the grounds that he or she fears persecution in his or her homeland

- To attain refugee status, proof of “well-founded fear of persecution on the basis of five internationally recognized grounds:
 1. Race
 2. Religion
 3. Membership in a particular social group
 4. Political opinion
 5. National origin

What is an Asylee?



- A person who has already entered the US, and who fears persecution if sent back to his/own country
- Must prove the same “well-founded fear of persecution” on the same grounds as a refugee



Withholding of Removal or Deportation:



- Individuals must meet higher substantive standard than for asylum
 - Life or freedom would be threatened
- Unlike asylum because it is non-discretionary
- No basis to apply for LPR status
- May receive employment authorization

Violence Against Women Act (VAWA)



- Passed by Congress in 1994
- Spouses and children of US citizens or lawful permanent residents (LPR) may **self-petition to obtain** lawful permanent residency
- Certain battered immigrants may file for immigration relief without the abuser's assistance or knowledge, in order to seek safety and independence from the abuser



Who is eligible to file for a self-petition?



1. Battered Spouse married to a US citizen or lawful permanent resident. Unmarried children under the age of 21, who have not filed their own self-petition, may be included on your petition as *derivative beneficiaries*

Self-petition (cont.)



2. Parent of a child who has been abused by US citizen or LPR spouse.

Children (under age 21 and unmarried), including those who may not have been abused, may be included on petition as derivative beneficiaries, if they have not filed their own self-petition

Self-petition (cont.)



3. Battered child (under 21 and unmarried) who has been abused by US citizen or LPR parent

Children (under 21, unmarried) including those who may not have been abused, may be included on petition as derivative beneficiaries

Victims of Human Trafficking



- At least 50,000 women and children and an undetermined number of men are trafficked into the US every year
- Congress allotted 5,000 “T” visas for victims of these crimes (can apply for green card after 3 years)
- To be eligible for benefits:
 - Must be certified by ORR
 - Must have filed a ‘bona fide’ application for a “T” visa that has not been denied, or presence necessary for prosecution of traffickers
- Benefits agencies must accept ORR certification letter in place of CIS documentation
- Technically not “qualified,” but eligible for all federal benefits, and all state benefits administered by federal agency or funded with federal funds to the same extent as refugees
- Also eligible for refugee programs

Requirements for a T-visa



A T-visa is a non-immigrant category for victims of trafficking for illicit sexual purposes and slavery

1. Be physically present in the US, American Samoa, the Commonwealth of the Northern Mariana Islands, or a US port of entry because of such trafficking
2. Have complied with any reasonable request for assistance to law enforcement in the investigation or prosecution of acts of trafficking, or be under the age of 15; and
3. Be likely to suffer extreme hardship involving unusual and severe harm upon removal

The Attorney General may, in order to avoid extreme hardship, permit the spouse, children and parents of an alien under 21, and the spouse and children of an alien over 21 to accompany or follow to join the principal alien

What is a U Visa?



- The U Visa was created by the Victims of Trafficking and Violence prevention Act, enacted in October 2000. It is available to non-citizens who:
 1. Have suffered substantial physical or mental abuse resulting from qualifying criminal activity,
 2. Have information concerning that criminal activity,
 3. Have been helpful, are being helpful, or are likely to be helpful with the investigation or prosecution of the crime, and
 4. The criminal activity must have violated the laws of the United States or occurred in the U.S.

- The U Visa provides eligible immigrants with authorized stay in the US and employment authorization. They can eventually become eligible for lawful permanent residency and citizenship.

Other Non-immigrant Categories



- Aliens with temporary status: Congress or Department of Homeland Security will on occasion, grant temporary permission to live and work in the U.S. to certain groups of aliens

Temporary Protected Status (TPS)



- Granted to nationals of countries in crisis who are presently in the U.S.
 - On-going armed conflict
 - Natural disaster
 - Extraordinary temporary conditions
- May last for 6, 12 or 18 months
- Cannot apply for TPS from home country

Temporary Protected Status (*cont.*)



- Individuals from these countries do not automatically qualify for TPS unless they applied by cut-off dates
- Qualifying Countries (Effective Dates):
 - El Salvador (through September 9, 2010)
 - Honduras (through January 5, 2011)
 - Nicaragua (through January 5, 2011)
 - Somalia (through March 17, 2011)
 - Sudan (through November 11, 2011)
 - *Liberia (terminated Oct. 1, 2007)*
 - *Burundi (terminated Oct. 29, 2007)*
 - Haiti (Began on January 21, 2010 for 18 months)



Deferred Enforced Departure (DED)



- Humanitarian designation to delay the deportation of groups of individuals who would otherwise be placed in danger should they be deported to countries where there is instability for political or other reasons
- 12 or 18 months
- Liberia (through September 30, 2011)

Examples of Immigrants Eligible for Work Authorization Based on Status



- Citizens
- LPR's
- Conditional Permanent residents
- Refugees/Asylees
- Granted withholding of removal
- Family unity
- NACARA

Examples of Non-immigrants not Eligible for Work Authorization



- **B visas:** Visitor
 - B-1: Temporary business visitors.
 - B-2: Temporary pleasure.
- **F Visas:** Student
 - Exceptions: May work part-time under certain circumstances. They may also work for one-year after each level of their higher-education in the U.S.

Examples of Non-Immigrants Eligible for Work Authorization



- **H Visa:** Temporary Workers
 - H-2B: Temporary Seasonal Workers
 - H-2A: Agricultural short-term labor
 - H-1B: Visas for Professionals
- **T Visa:** Victims of Trafficking
- **U Visa:** Victims of Violent Crime
- Parolees
- Deferred action status (Deferred Enforced Departure)
- Temporary Protected Status (TPS)
- Applicants for asylum

Who is a US Citizen?



- **Acquisition**: Anyone born in the US and subject to the jurisdiction of the US is a US citizen (mandated by the 14th Amendment of the US Constitution)
 - People who are born in another country to parents who are US citizens may become citizens themselves through acquisition of citizenship
 - Exception: children born to high-ranking foreign diplomats while in the US are not US citizens

Who is a US Citizen?



- **Derivation**: after February 27, 2001
 - Child under 18
 - Legal Permanent Resident
 - Parent becomes United States Citizen
 - Physically present in the United States
 - In the physical and legal custody of USC parent

Who is a US Citizen



- Naturalization: Process by which an immigrant applies to become a US Citizen
- What's the process?
 - Application
 - Biometrics (Fingerprints)
 - Interview
 - Swearing-in

Legal Requirements for Naturalization



- At least 18 years old
- Legal Permanent Resident (LPR)
- Physically present in the US for at least half of the 5 year period (except under certain circumstances)
- No disruption of US residence for 5 years



Legal Requirements for Naturalization (cont.)



- Good moral character, keeping in mind certain “bars” to naturalization
- Capable of holding a fairly simple conversation, of reading, and of writing in English
- Pass a test on US history and government
- Swear loyalty to the US by taking the oath

Immigrant Eligibility for Public Benefits



General Barriers to Accessing Benefits



- Laws and Regulations
- Fear of government, applying for benefits
- Misinformation about eligibility; application process
- Limited English proficiency
- Discrimination

Key Terms



- Mixed Status Household
- 5 Year Bar
- ACARDSs
- PRUCOLs (Permanently Residing Under Color of Law)

Mixed Status Household



- Household in which there are people with different immigration statuses
 - Examples: LPR husband and citizen wife or undocumented dad with citizen children
- Can make people reluctant to apply for benefits because they feel they have to reveal the immigration status of everyone in the family

5-year Bar



- Refers to the 5-year waiting period for green card holders and parolees before they become eligible for some federally-funded benefits, such as Medicaid, Food Stamps and TAFDC.
- Result of 1996 Welfare Reform Law (PRWORA)

ACARDs



- DTA acronym to remember the statuses of those immigrants who do not need to wait 5 years:
 - Asylees
 - Cuban-Haitian Entrants
 - Amerasians (Vietnamese)
 - Refugees
 - Deportation Withhold

Permanently Residing Under Color of Law (PRUCOL)



- Immigrants with PRUCOL statuses are lawfully residing in the U.S., known to DHS and DHS is not effectuating deportation proceedings
- PRUCOL Statuses Include:
 - Temporary Protected Status (TPS)
 - Deferred Enforced Departure (DED)
 - Applicants for asylum or adjustment of status granted work authorization and lawfully present in U.S.
 - 26 other categories

Law Governing Immigrant Access to Benefits



- Since passage of the 1996 Welfare Law (PRWORA), eligibility depends primarily on the following factors:
 - **The individual's immigration status**
 - Federally eligible Immigrants
 - Non-federally eligible immigrants
 - **Subject to the 5-year bar?**
 - Less than 5 years as LPR or parolee AND Physically entered U.S. **on or after Aug. 22, 1996**

“Qualified Aliens” defined



- LPRs and Parolees with more than 5 years in status or entered prior to 8/22/96
- “ACARDS” – DTA term for:
 - Asylees
 - Cuban/Haitian entrants
 - Amerasians (Vietnamese)
 - Refugees
 - Deportation or Removal withheld
- Native Americans born in border communities
- Victims of trafficking
- US veterans
- Certain battered immigrants, their children and/or parents

Who Is not a “Qualified Alien?”



- LPRs and Parolees subject to 5-year bar
- PRUCOL:
 - Temporary Protected Status (TPS)
 - Deferred Enforced Departure (DED)
 - Applicants for asylum or adjustment of status - even if they have work authorization and are lawfully present in U.S.
 - 26 other categories
- Non-immigrants (people with tourist or student visas)
- Undocumented immigrants

Immigrant Eligibility for Health Care in MA



Eligibility for MassHealth and Commonwealth Care



- Immigrants must meet all other eligibility requirements AND prove eligible immigration status
- Federally-eligible or “qualified” immigrants can get all coverage types (same as U.S. citizens)
- State-funded “special status” immigrants only qualify for certain types

Who Are “Special Status” Immigrants?



- MassHealth term to describe certain legal immigrants
 - Most not federally eligible due to 5 year bar
 - Children exempt from 5 year bar
- Not eligible for federally-funded MassHealth
- LPRs and parolees who entered US after 8/22/96 & have had status for less than 5 years
- PRUCOL
 - Temporary protected status
 - Application pending for asylum, adjustment of status
 - Others known to USCIS to be legally present
 - At least 26 statuses fall into this category

What coverage is available to “Special Status” Immigrants?



- Children under 19 can get Family Assistance (income < 200% FPL) or CommonHealth (if disabled)
- Elderly or disabled adults can get MassHealth Essential (income < 100% FPL)
- 27,000+ “special status” immigrants (over 90% are LPRs under 5 year bar) on Commonwealth Care as of August 31, 2009 eligible for new “CeltiCare Bridge” program
- Others eligible for Health Safety Net and/or MassHealth Limited

Commonwealth Care Bridge



- Major Areas of Concern:
 - Network Adequacy
 - ✦ BMC, CHA not in Greater Boston Provider Network
 - Increased Cost Sharing
 - ✦ Co-pays and Premiums
 - Cap on Future Enrollment
 - ✦ Only for 27,000+ “special status” immigrants whose Commonwealth Care coverage was terminated on 8/31/09
 - ✦ Other “special status” only eligible for Health Safety Net and some MassHealth Limited
 - Cultural and Linguistic Competency and Outreach

MassHealth Limited/HSN



- MassHealth Limited only covers emergency care, including:
 - Hospital stays and visits for emergencies, prescriptions for emergency conditions, ambulance transportation, and childbirth
- Health Safety Net
 - Reimbursement for safety net institutions for services rendered; not insurance
 - Coverage scope depends on health center/hospital
 - Limited access

Immigrant Eligibility for SSI: Supplemental Security Income



- Persons receiving SSI on 8/22/96 (or SSI applications pending on that date)
- Persons who are blind or have disabilities, who were lawfully present in the U.S. on 8/22/96, and are now “qualified” immigrants
- Lawful permanent residents with credit for 40 quarters of work

Immigrants Eligible for SSI (cont)



- **ACARDS** during the first seven (7) years after obtaining status, some have received 2-year extension
- **Victims of trafficking**
- **Veterans and active duty military personnel**
- **Certain Native Americans born outside US**

Immigrants Eligible for Food Stamps



- LPRs and humanitarian parolee adults - who have had that status for at least five (5) years
- LPR and parolee children under 18 – regardless of their date of entry
- ACARDs
- LPRs and parolee adults receiving disability-related assistance regardless of their date of entry
- LPRs with credit for 40 quarters of work history
- Veterans, active duty military, spouse, surviving spouse and children
- Seniors born before 8/22/31, who were lawfully residing in the U.S. on 8/22/96, and are now “qualified” immigrants
- Certain Native Americans born outside US

Immigrants eligible for TAFDC



- “Qualified” immigrants (LPRs, parolees) who physically entered the U.S. on or after 8/22/96, and have been in a “qualified” immigrant status for at least five years.
- “Qualified” immigrants who physically entered the U.S. before 8/22/96
- ACARDs
- Veterans/active duty military members, spouses, surviving spouses and children
- Victims of domestic violence
- Certain Native Americans born outside US

Immigrant eligibility for other state programs



- **Emergency Assistance – family shelters**

- Homeless families with children are required to demonstrate that at least one family member is a U.S. citizen, LPR or PRUCOL

- **EAEDC – cash assistance**

- Available to all legally present immigrants, including PRUCOLs and those subject to 5-year bar

Access to Higher Education



- **Financial Aid:** Qualified immigrants who have an intent to stay in the US (the FAFSA form has LPRs, asylees, refugees, parolees)
- **In-State Tuition Rates:** The Board of Higher Ed released a policy stating that all legal immigrants including PRUCOLs can pay in-state tuition rates to our state colleges and universities
- **Undocumented students treated as international students** who must pay out-of-state tuition rates (nearly three times those of in-state rates)

Right to Interpretation



- Any entity that receives federal funding needs to provide interpretation services for LEP patients/clients (required by Civil Rights Act)
- This includes hospitals, schools, public assistance programs, family health center and clinics, MassHealth agency, Connector, etc.

Documents Proving Eligible Immigration Status



- Green Card (LPR)
- Employment Authorization Card with certain codes
- Visa with certain codes from a foreign passport
- I-94 card with certain codes
- Other kinds of immigration papers

Verification



- Core federal and state safety net programs require SSN, used in State Data Exchange system and other systems to confirm identity, income, other eligibility factors
- Verification of status for most benefits using System for Alien Verification of Entitlements (SAVE)

Current Legislation Impacting Immigrants



- **State:**
 - FY11 Budget: Commonwealth Care Bridge, RISE, ABE/ESOL, Citizenship
- **National:**
 - DREAM Act
 - Comprehensive Immigration Reform

For more information



- Mass Immigrant and Refugee Advocacy Coalition:
www.miracoalition.org
(617) 350-5480
- Mass Law Reform Institute:
www.masslegalservices.org
(617) 357-0700
- Health Care for All Helpline:
(800) 272-4232
www.hcfama.org

Immigration law information:
www.uscis.gov



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