

ASYLEE ELIGIBILITY FOR RESETTLEMENT ASSISTANCE

A Short Guide

The National Asylee
Information & Referral Line



A JOINT PROJECT* OF:



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What is an asylee?

An asylee is legally defined as a person who flees his or her country and is unable or unwilling to return due to persecution or a well-founded fear of persecution. The persecution may be on the basis of race, religion, nationality, political opinion, or membership in a social group. Procedurally, a prospective asylee enters the United States as an alien in some other immigration category, enters without inspection, is paroled into the United States for consideration of an asylum claim, or is placed in expedited removal proceedings at the port of entry. The person then applies for asylum and if successful, is granted.

About 51% of asylum grants are handled by the immigration courts, which are located in cities throughout the U.S. About 49% of asylum grants are handled by the U.S. Citizenship and Immigration Services or “USCIS,” which has eight regional asylum offices throughout the U.S.

How is asylum status documented?

Asylees will usually have either an *Asylum Approval Letter from a USCIS Asylum Office* OR an *Order of an Immigration Judge Granting Asylum under § 208 of the INA*. An order from a judge is NOT final unless:

1. U.S. Immigration and Customs Enforcement (ICE) has waived the right to appeal the decision granting asylum; OR
2. if ICE has reserved the right to appeal the decision, 30 days have passed and ICE has not filed an appeal.

Proof of asylum status can also be found on other documents, such as the I-94 or the Employment Authorization Document (EAD). Additional information is provided in the Office of Refugee Resettlement (ORR) State Letter #00-17 on Status and Documentation Requirements for the Refugee Resettlement Program in Chart #3. This letter may be found on the ORR website at www.acf.hhs.gov/programs/orr/policy/sl00-17.htm.

Note: Asylum applicants (with the exception of Cuban and Haitian entrants) and individuals who have received a notice of recommended asylum approval are *not* eligible for federal refugee benefits and services.

Are asylees work authorized?

Yes. People who have been granted asylum are authorized to work in the U.S.

How can asylees document their work authorization?

Asylees must meet the same employment eligibility requirements as other U.S. workers. These are found on USCIS Form I-9 (Employment Eligibility Verification). The I-9 requires workers to submit either:

- one document that shows *both* identity and work authorization; OR
- one document that shows identity *and* one document that shows work authorization.

Asylees, like all other workers, can choose which documents listed on the I-9 to submit as proof of employment eligibility. By law, an employer CANNOT demand that a worker submit a particular document or refuse to hire a worker because the worker does not have

a green card. Asylees who believe they may be victims of unlawful employment discrimination based on immigration status may call the Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) at 1-800-255-7688 or visit the OSC website at <http://www.usdoj.gov/crt/osc/>, or the ORR website at http://www.acf.hhs.gov/programs/orr/policy/oscj_lt.htm.

The following documents are most commonly used by asylees to show employment eligibility. Other, additional documents may be found on the I-9.

- Employment Authorization Document (EAD): An unexpired EAD shows *both* identity and work authorization. Therefore, an unexpired EAD is sufficient by itself and does not require any additional documentation. Once an EAD expires, an asylee may still use it as proof of identity together with another document that establishes work authorization such as a social security card. The asylee is not required to keep renewing the EAD. However, it is advisable to maintain a valid EAD until the green card is received, as this will help to avoid any status documentation problems, especially with the Department of Motor Vehicles (DMV).
- Social Security Card: Asylees are authorized to receive unrestricted social security cards. An unrestricted social security card establishes work authorization and, together with a state driver's license or state ID card which establishes identity, can be used to document employment eligibility. Asylees who obtained their social security cards prior to April 2001 may have restricted cards which say, "Valid for Work Only with INS Authorization." They are authorized to return to the Social Security Administration to receive a new, unrestricted card. For more information on this policy, see ORR State Letter #01-09 on the ORR website at www.acf.hhs.gov/programs/orr/policy/sl01-09.htm.
- State Driver's License or ID Card: A state driver's license or ID card establishes identity and can be used together with an unrestricted social security card, which establishes work authorization, to document employment eligibility.

Note: USCIS recently revised the I-9 and updated its *Handbook for Employers* (M-274). The handbook, available on the USCIS website, has a helpful question and answer section.

What kind of benefits and services are asylees eligible for?*

Type of Assistance	Description	Eligibility Period for Asylees (from date of asylum grant)
Refugee Cash and Medical Assistance (RCA & RMA)	A federally funded program available to needy asylees who are not eligible for other cash or medical assistance programs such as TANF, SSI, or Medicaid.	8 months
Refugee Social Services	Designed to smooth adjustment and facilitate early self-sufficiency. These include job preparation and placement and English language classes. The range of services varies by state.	5 years (however, some refugee social services provided pursuant to discretionary grants are not time-limited)
Match Grant	An early employment program administered by private resettlement agencies as an alternative to public cash assistance. Provides job counseling and placement, case management, transitional cash, and living assistance. Selective: only those who are good candidates for early employment are chosen, and it is based on availability of slots.	180 days (but must be enrolled within 31 days of asylum grant date**)
Medical Screening	A preventive medical screening and assessment provided by the State Dept. of Public Health to asylees for early diagnosis and treatment of any illness. Usually includes screening for TB, parasites, and hepatitis, as well as school vaccinations for asylee children. Not available in every location.	Varies. Where available, medical screening is strongly recommended and should be arranged within the first 90 days after asylum grant.

* Most, but not all, of these services are funded by ORR through grants to State governments or to private voluntary agencies. However, in the award of contracts for services, States will target resources to the communities of high concentration of refugees and asylees. Therefore, these services may not be available in all communities.

Type of Assistance	Description	Eligibility Period for Asylees (from date of asylum grant)
Torture Treatment Centers	Funded by ORR for victims of torture to provide rehabilitation, including the treatment of the physical and psychological effects of torture, social and legal services, research, and training for health care providers.	No time limit
Federal Means-Tested Public Benefits		
1. Supplemental Security Income (SSI)	1. A monthly cash payment to elderly people age 65 and older and to people with certain disabilities that prevent them from working and are certified by the Social Security Administration.	1. 7 years (with exceptions)
2. Food Stamps	2. Coupons or debit card that can be redeemed at grocery stores. Allow low-income people to buy food necessary for good health.	2. No time limit
3. Temporary Assistance for Needy Families (TANF)	3. A monthly cash payment to low-income parents with children under 18.	3. Time-limited by state
4. Medicaid	4. Reimburses doctor and hospital costs for certain low-income people, primarily pregnant women, families with children, the elderly, and the disabled.	4. 7 years***

** An asylee may be enrolled within 31 days of notification of grant of asylum if an exception letter to the program guidelines is obtained from the ORR MG Team.

*** States have the option to provide Medicaid to asylees for more than 7 years, and most currently do so.

Are Cuban and Haitian asylum applicants eligible for benefits and services?

Yes. People from Cuba and Haiti who have applied for asylum are eligible for benefits and services if they have not received a final, non-appealable, legally enforceable order of removal, deportation, or exclusion. Whether a person has an order of removal, deportation, or exclusion can be difficult to determine, so ORR recommends that eligibility workers request that each applicant sign a written declaration, under penalty of perjury, that the applicant is eligible and then contact USCIS or the Executive Office for Immigration Review to verify immigration status.

The eligibility period for benefits and services begins only once, on the date of the asylum application, and does not restart after asylum is granted. The following documents may be used by Cuban and Haitian asylum applicants to show eligibility for benefits and services:

- USCIS receipt for filing Form I-589 (Application for Asylum)
- I-94 arrival/departure card stamped with “Form I-589 filed”
- Document stamped by an immigration judge showing an asylum application has been filed
- Employment Authorization Document with the code C08
- Employment Authorization Document (older version I-688B) with the provision of law 274a.12(c)(8)

For more information, refer to ORR State Letter #00-17 on Status and Documentation Requirements for the Refugee Resettlement Program at www.acf.hhs.gov/programs/orr/policy/sl00-17.htm.

How can asylees obtain an Employment Authorization Document (EAD)?

According to the Enhanced Border Security and Visa Reform Act of 2002, which took effect on 11/14/02, asylees are to receive an Employment Authorization Document (EAD) immediately upon being granted asylum. Under new procedures effective 10/1/06, the initial EAD is mailed to the asylee within 7-10 days and is valid for two years. The EAD can be renewed for a fee. The procedures for obtaining the initial EAD depend on how the asylee obtained asylum status.

Asylees granted asylum by an immigration judge, the Board of Immigration Appeals, or a federal court should schedule an appointment at their local USCIS office to obtain both an EAD and an I-94. They need to bring their copy of the order granting asylum and some form of photo identification. The I-94 is given at the appointment, and the EAD is mailed to the asylee within 7-10 days after the appointment. In some cases, the asylee may be directed to submit fingerprints at an Application Support Center before EAD card production can begin. In these cases, the EAD is mailed within 7-10 days after submitting fingerprints.

Asylees granted asylum by the USCIS Asylum Office receive the EAD in the mail within 7-10 days after receiving their asylum approval letter. The I-94 is issued together with the approval letter.

Derivative asylees (the spouse and children of an asylee) entering the U.S. through a Refugee and Asylee Relative Petition (Form I-730) will be processed for an EAD at the port of entry and receive the EAD in the mail 7-10 days later. The I-94 will still be issued at the port of entry.

What if asylees have an error on their I-94 card or lose their I-94 card?

Asylees sometimes find that their I-94 contains an error, such as a misspelled name, incorrect date of birth, incorrect date of entry, or expiration date. Rather than applying to the Nebraska Service Center for a corrected I-94 (a process that can take several months), current USCIS policy allows asylees to obtain a corrected I-94 on a walk-in basis at the USCIS district office, but *only if the initial I-94 was issued by a USCIS office*, such as the asylum office or district office. If the I-94 was issued by U.S. Customs and Border Protection (CBP) at a port of entry and contains an error, the asylee should return to the nearest port of entry or CBP deferred inspection office to obtain a corrected I-94. For a list of CBP ports of entry, refer to <http://www.cbp.gov/xp/cgov/toolbox/ports/>. There is no fee for a corrected I-94 when the error was made by USCIS or CBP. Asylees who lose their I-94 are required to apply for a replacement card using Form I-102.

Can asylees travel outside the United States?

Asylees are required to obtain prior permission from the USCIS before leaving the U.S. Otherwise, they may not be able to re-enter. Permission is obtained by filing Form I-131 to receive a Refugee Travel Document. Asylees should especially be cautious about travel to the country where they were persecuted. For more information, refer to the USCIS fact sheet on asylee travel at <http://www.uscis.gov/files/pressrelease/AsylumTravel122706FS.pdf>.

Are asylees eligible for a green card?

Yes. Asylees are eligible to apply for adjustment of status (a green card) after one year of physical presence in the U.S. (from the date of the asylum grant) using Form I-485. Professional assistance through an accredited non-profit immigration agency is recommended to ensure the application is completed correctly and includes all the required attachments. The fee for the I-485 now includes the fees for an EAD and a Refugee Travel Document. Therefore, an asylee who pays the I-485 fee is not required to pay an additional fee for the EAD or Refugee Travel Document, if needed while the I-485 is pending. Asylees who are unable to pay the I-485 fee may apply for a fee waiver.

How long does it take for asylees to receive a green card?

The Real ID Act of May 11, 2005 removed the annual cap of 10,000 asylee green cards. The cap caused a massive backlog with a 10-15 year wait. Under a settlement agreement for a class action lawsuit called *Ngwanyia v. Gonzalez*, USCIS has been working to eliminate the backlog and issue green cards to those who have been waiting. Green card processing times by date of application are posted on the USCIS website under “My case is pending.”

Can asylees bring their immediate family members to the United States?

Asylees can request derivative asylum status for their spouse or children (unmarried and under age 21) by filing Form I-730 (Refugee and Asylee Relative Petition). This allows family members to join the asylee in the U.S. The I-730 *must* be filed within two years of receiving asylum status. Family members, as derivative asylees, are eligible for resettlement assistance from the date of their entry into the U.S., which is found on the I-94 card. There is no filing fee for the I-730.

Can asylees get student loans?

Asylees are eligible for federal student financial aid, including grants, loans, and work study programs, from the U.S. Department of Education. For more information, contact the Federal Student Aid Information Center at 1-800-433-3243 or see *The Guide to Federal Student Aid* (available in English and Spanish) at http://studentaid.ed.gov/students/publications/student_guide/index.html.

The National Asylee Information & Referral Line

1-800-354-0365 (for asylees only)

The National Asylee Information & Referral Line is funded by the Office of Refugee Resettlement (ORR) and administered by Catholic Legal Immigration Network, Inc. (CLINIC) in partnership with Catholic Charities of the Archdiocese of New York. The goal of the referral line is to link asylees with local refugee service providers and benefits for which they are statutorily eligible, including job placement, English classes, cash assistance, and medical assistance. The line provides information in 19 languages and is for asylees only. Service providers or others with questions about resettlement benefits and services for asylees should contact their State Refugee Coordinator (on the ORR website at http://www.acf.hhs.gov/programs/orr/partners/state_coordina.htm) or CLINIC.



Catholic Legal Immigration Network, Inc. (CLINIC)
415 Michigan Ave., NE, Rm. 150
Washington, DC 20017
tel. (202) 635-5820 • fax (202) 635-2649
www.cliniclegal.org

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