

Asylee Eligibility for Resettlement Assistance

The National Asylee Information & Referral Line



A joint project of Catholic Legal Immigration Network, Inc. and Catholic Charities, Archdiocese of New York. Funding provided through a grant awarded by the Office of Refugee Resettlement, Administration for Children and Families, U.S. Department of Health and Human Services.

Asylee Eligibility for Resettlement Assistance

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 47% of asylum grants are handled by the immigration courts, which are located in cities throughout the U.S. About 53% 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 (call the EOIR Case Status Line at 1-800-898-7180 and enter the A-number of the applicant to find out if ICE has 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 <http://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/>.

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) that contains a photograph (Form I-766):** 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 provide other documents to satisfy the I-9 requirements. 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). (The expiration date on the EAD applies only to the EAD itself and not to the immigration status of asylee, which does not expire.)

- **Social Security Card:** Asylees are authorized to receive unrestricted social security cards. An unrestricted social security card is evidence of 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 <http://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: The I-9 requires all documents to be unexpired. Also, older versions of the EAD (Forms I-688, I-688A, and I-688B) are not acceptable. USCIS' *Handbook for Employers* (M-274), available on the USCIS website, has a helpful question and answer section on the I-9.

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 by mail 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 may apply to USCIS for a replacement card using Form I-102 with the correct fee.

What kind of benefits and services¹ are asylees eligible for?

Type of Assistance	Description	Eligibility Period for Asylees (from date of asylum grant)
Federal Means-Tested Public Benefits		
1. Supplemental Security Income (SSI)	1. A monthly cash payment to low-income people with few resources who are age 65 or older, blind, or disabled.	1. 7 years (with exceptions) ²
2. SNAP (formerly Food Stamps)	2. Debit card that can be used 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 or relatives caring for children under 18 in the same household.	3. Varies ³
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. Varies ⁴
Means-Tested Refugee Cash and Medical Assistance (RCA & RMA)	A federally funded program available to needy asylees <i>who are not eligible for other cash or medical assistance programs</i> such as TANF, SSI, or Medicaid.	up to 8 months

1 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.

2 As this guide is going to print, legislation is pending in Congress that would extend the eligibility period from 7 years to 9 years. For updated information, refer to the National Immigration Law Center website at <http://nilc.org/immspbs/ssi/index.htm>.

3 The eligibility period is determined by the state. Some states (IN, MS, OH, SC, and TX) limit TANF for asylees who entered the U.S. on or after 8/22/96 to the first 5 years after obtaining asylum status.

4 AL, MS, ND, OH, TX, VA, and WY have time limits on Medicaid for asylees. These states limit Medicaid for asylees who entered the U.S. on or after 8/22/96 to the first 7 years after obtaining asylum status.

Type of Assistance	Description	Eligibility Period for Asylees (from date of asylum grant)
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)
Matching 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 ⁵)
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.
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

5 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.

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 and the application for asylum is still pending. 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, should asylum be 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 <http://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) at no charge immediately upon being granted asylum. 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, which can be waived if the asylee is unable to pay. 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 InfoPass appointment at their local USCIS office at least three business days after the date on the order granting asylum 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 (card delivery can take up to 2 additional weeks). 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 2-4 weeks 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 2-4 weeks later. The I-94 will still be issued at the port of entry.

Can asylees travel outside the United States?

Prior to their departure from the U.S., asylees are required to obtain USCIS permission to re-enter the U.S. after their trip abroad. Permission is obtained by filing Form I-131 to receive a Refugee Travel Document. Asylees should be especially 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/presentation/AsylumTravel122706FS.pdf>.

Are asylees required to report a change of address?

Yes. Asylees (like all aliens in the U.S.) are required to report a change of address to the Department of Homeland Security by filing Form AR-11 with USCIS. The Form AR-11 can be filed by mail or online. It can be found on the USCIS website at <http://www.uscis.gov>.

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 immigration attorney or a Board of Immigration Appeals recognized non-profit organization is recommended to ensure the application is completed

correctly and includes all the required attachments. A list of recognized organizations is available on the U.S. Department of Justice website at <http://www.justice.gov/eoir/ra.html>.

The fee for the I-485 now includes the fees for an EAD and a Refugee Travel Document. Therefore, an asylee who pays the current 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. On 9/17/09, USCIS released a list of questions and answers about adjustment of status for asylees, available on its website, <http://www.uscis.gov>, under “News.”

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

Green card processing times are posted on the USCIS website, <http://www.uscis.gov>. As of the date this guide is being printed, asylee green card processing times are 4-8 months.

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

Asylees can request derivative asylum status for their spouse and unmarried children under age 21 by filing Form I-730 (Refugee and Asylee Relative Petition). There is no filing fee for the I-730. The I-730 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.

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.

Where can I find more information?

Visit the CLINIC website at <http://cliniclegal.org/asylees>.

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 18 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.



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