§ 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) of this section, an alien who is a qualified alien (as defined in section 1641 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) of this section 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. 1231 (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(e) 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 unremarried 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.

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

   (1) The limitation under subsection (a) of this section 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) of this section, 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, 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 the title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.].

(L) Assistance or benefits provided to individuals under the age of 18 under the Food Stamp Act of 1977 1 (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) of this section 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.

Footnotes

1 See References in Text note below.

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

3 So in original. The word “the” probably should not appear.


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 4, 1946, ch. 281, 60 Stat. 230, 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. 89–642, 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.

The Social Security Act, referred to in subsec. (c)(2)(E), (F), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Parts B and E of title IV and title XIX of the Act are classified generally to parts B (§ 620 et seq.) and E (§ 670 et seq.) of subchapter IV and subchapter XIX (§ 1396 et seq.), respectively, of chapter 7 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. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§ 1070 et seq.) of chapter 28 of Title 20, Education, and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42. Titles V, IX, and X of the Act are classified generally to subchapters V (§ 1101 et seq.), IX (§ 1134 et seq.), and X (§ 1135 et seq.), respectively, of chapter 28 of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.


Amendments


1997—Subsec. (b)(1)(C). Pub. L. 105–33, § 5562, substituted “section 243(h) of such Act (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 (as amended by section 305(a) of division C of Public Law 104–208)” for “section 243(h) of such Act”.


Subsec. (b)(2)(A). Pub. L. 105–33, § 5563(c), inserted “, 1101, or 1301, or as described in section 107” after “section 101”.

Pub. L. 105–33, § 5563(a), inserted "and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38“ after “alienage”.

Subsec. (b)(2)(C). Pub. L. 105–33, § 5563(b), inserted before period at end “or the unremarried 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”.


**Effective Date of 2002 Amendment**


**Effective Date of 1998 Amendments**


**Effective Date of 1997 Amendment**

Amendment by sections 5302(c)(1), 5303(c), and 5306(c) of Pub. L. 105–33 effective, except as otherwise provided, 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 5308 of Pub. L. 105–33, set out as a note under section 1612 of this title.