

"This is not a city of pastel colors," Bryan said. "People in Las Vegas have come to expect a little pizzazz and zip from their mayor, even something a little outrageous. ... Oscar can provide that. He doesn't need a personality transplant."

California Listed as Among Most Generous Aid Givers to Noncitizens

By Patrick J. McDonnell
Los Angeles Times

Despite its anti-immigrant reputation, California has been among the most generous of the 50 states in providing public aid to needy noncitizens who lost benefits in the 1996 federal welfare overhaul, a new study shows.

The analysis by the Urban Institute found California did more to provide food, money and health care to affected legal immigrants than either New York, Florida or Texas—the three states with the largest number of immigrants after California.

"When looking across the four states with the biggest immigrant populations, California has done the most to restore benefits to legal immigrants," said Wendy Zimmerman, senior research associate at the Urban Institute, a nonpartisan, Washington, D.C.-based public policy research organization.

Experts say California's seemingly contradictory attitudes about immigration and aid to immigrants underscore widespread mixed feelings about the state's demographic transformation.

California was home to ballot initiatives during the 1990s targeting illegal immigrants, affirmative action and bilingual education campaigns that spread, in limited fashion, to other states.

"This is another example of the great ambivalence with which the public in California addresses one of the great social and economic changes ever in this state, which is the rapid immigration that has occurred over the past two decades," said Mark Baldassare, survey director for the Public Policy Institute of California, an independent research group.

The new study ranked California with several states including Illinois, Washington and Massachusetts that were classified as "most generous" to noncitizens, based on efforts to make up for aid lost under the 1996 federal law.

Only California and Maine—which has relatively few immigrants—created four key new programs for needy legal immigrants: food stamps, medical insurance, cash welfare for families, and cash aid for the elderly and disabled.

The historic overhaul of the nation's welfare system resulted in a vast difference between how the government treats its U.S. citizens and its noncitizen legal residents. The changes shifted broad authority to the states to decide whether to help legal immigrants. Even before the 1996 law, illegal immigrants were already barred from most major government aid programs.

No state has been nearly as generous toward needy legal immigrants as California, home to about one-third of the nation's immigrants.

This year, California taxpayers are spending more than \$100 million to provide both food assistance to 89,000 legal immigrants and cash aid to another 5,000 elderly and disabled made ineligible for federal benefits. Just last week, the Assembly approved an expansion and extension of those aid efforts.

California's considerable effort to make up for immigrants' lost benefits was the study's "most surprising finding," the authors wrote.

A principal reason that the new aid won approval during the administration of former Gov. Pete Wilson is that it was clearly targeted for legal immigrants. The outcry from Wilson and others focused on illegal immigration. Proposition 187, the 1994 ballot initiative championed by Wilson, was aimed at denying services to illegal immigrants and speeding their deportation.

Architects of the aid programs crafted after the 1996 welfare law used Wilson's rhetoric about legal immigrants to force him to support programs for legal immigrants," said Assembly Speaker Antonio R. Villaraigosa, a Democrat, leading author of the new aid programs.

California's changing political landscape and the increasing clout of newly naturalized voters, especially Latinos also boosted efforts to assist immigrants.

Whale Deaths May Show Population Is Peaking

By Kim Murphy
Los Angeles Times

SEATTLE A record number of gray whales have washed up dead on West Coast beaches this year, and the number of calves migrating this season is the lowest ever recorded, leading scientists to believe that the once-endangered mammals may have rebounded past the Pacific Ocean's capacity to nurture them.

If the gray whale population is indeed nearing carrying capacity along the Pacific Coast, it would mark the first time a whale species nearly wiped out by a century of hunting had recovered to its maximum potential—the largest number that the ocean can support.

Scientists cautioned that unusual ocean temperatures, a late breeding migration and food supply problems in the Arctic feeding grounds also could be affecting the whale population. But, they said, the 26,000 whales now plying the Pacific Coast are very close to what is believed to be the maximum populations that existed before the advent of commercial whaling in the 19th century.

"What we're seeing is not inconsistent with the idea that gray whales may be nearing what the environment can handle," said Wayne Perryman of the National Marine Fisheries Service, which has counted calf production off the California coast since 1994. "What naturally limits populations generally is either space or food, and I'd guess that's what we're starting to see now."

The emaciated carcass of a 2-year-old, 27-foot female that washed up on a suburban Seattle beach last weekend was the most visible of the whale deaths, drawing flocks of onlookers and an impromptu rendition of "Amazing Grace" to mourn her passing.

Five more whales have washed up on Washington beaches since then, bringing this year's total to a record 17, well above the average over the last 20 years. Higher-than-normal death rates have been recorded along the coasts of Oregon, California and Mexico as well.

Whale deaths in California over the last two years have been double the average in the last 15 years, reaching 15 so far, said Joe Cordero of the National Marine Fisheries Service in Long Beach, Calif. And because most whale deaths occur in June, at the end of the whales' 4,000-mile migration between Baja California and Alaska, that number is expected to rise.

As many as 65 whales have died off the coast of Mexico this year, biologists said.

Most of the dead whales this year were extremely thin, leading researchers to believe that they either starved or succumbed to other problems because of their poor condition. And while most of them were juveniles—the group that typically washes ashore when there are deaths during the migration—biologists for the first time this year documented a number of nearly full-grown, 40-foot-long whales, said Joe Scordino, a biologist for the federal fisheries service in Seattle.

No one is ready to say what is definitely causing the higher number of deaths, especially since there is only a year of data. It may simply be that there are more deaths because there are more whales, Scordino said. Gray whales, once they reach whatever the Pacific's carrying capacity is, could be expected to die off and to lower their reproductive rates because normal food supplies can sustain only a certain population.

The maximum capacity theory may fuel arguments in favor of whaling by the Makah Indian nation, a

Patchwork Policies: State Assistance for Immigrants under Welfare Reform

Wendy Zimmermann

Karen C. Tumlin

The Urban Institute

Occasional Paper Number 24



Assessing
the New
Federalism

An Urban Institute

*Program to Assess
Changing Social Policies*

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The Urban
Institute

2100 M Street, N.W.
Washington, DC 20037
Phone: 202.833.7200
Fax: 202.429.0687
E-Mail: poaffairs@ui.urban.org
<http://www.urban.org>

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This report is part of the Urban Institute's *Assessing the New Federalism* project, a multiyear effort to monitor and assess the devolution of social programs from the federal to the state and local levels. Alan Weil is the project director. The project analyzes changes in income support, social services, and health programs and their effects. In collaboration with Child Trends, the project studies child and family well-being.

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The nonpartisan Urban Institute publishes studies, reports, and books on timely topics worthy of public consideration. The views expressed are those of the authors and should not be attributed to the Urban Institute, its trustees, or its funders.

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Assessing the New Federalism

Assessing the *New Federalism* is a multiyear Urban Institute project designed to analyze the devolution of responsibility for social programs from the federal government to the states, focusing primarily on health care, income security, employment and training programs, and social services. Researchers monitor program changes and fiscal developments. In collaboration with Child Trends, the project studies changes in family well-being. The project aims to provide timely, nonpartisan information to inform public debate and to help state and local decisionmakers carry out their new responsibilities more effectively.

Key components of the project include a household survey, studies of policies in 13 states, and a database with information on all states and the District of Columbia, available at the Urban Institute's Web site. This paper is one in a series of occasional papers analyzing information from these and other sources.

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Patchwork Policies: State Assistance for Immigrants under Welfare Reform

Overview

For immigrants, the passage of federal welfare reform meant much more than ending the entitlement to cash assistance. The law restricted noncitizen eligibility for a wide range of public programs, including Temporary Assistance for Needy Families (TANF), food stamps, Supplemental Security Income (SSI), and Medicaid, and it gave states broad new authority to set social welfare policy for immigrants.

Since the law's enactment, the President and Congress have restored many, but not all, of the benefits from which immigrants were originally barred. Many children, elderly, and disabled immigrants have had their eligibility for food stamps and SSI restored. But most working-age adults remain ineligible for food stamps and most immigrants entering the United States after the law's passage are ineligible for the major federal assistance programs for at least five years.

Although the Congress has gone a long way toward undoing the Personal Responsibility and Work Opportunity Reconciliation Act's (PRWORA) immigrant restrictions, it has left another of the law's legacies intact: the devolution of authority from the federal government to the states to determine immigrants' eligibility for public benefits. Before PRWORA's passage, the federal government had sole responsibility for deciding which immigrants had access to which benefits. In fact, the Supreme Court had

ruled that states could not even bar legal noncitizens from their own benefit programs. The new federal welfare law, however, allows states to bar noncitizens from their own cash and medical assistance programs and from TANF and Medicaid, which are funded with federal dollars. By limiting immigrants' access to federal assistance and vesting states with the authority to set eligibility rules for immigrants, the federal law implicitly gave states another choice: whether to create new state-funded substitute benefits for immigrants.

In many ways, then, welfare reform's immigrant provisions represent a new experiment in federalism and, as a result, raise a number of far-reaching questions. For example, since the federal government determines how many and which immigrants are admitted to the United States, does the federal government have a special obligation to provide for them? What are the implications of this new devolution given that most of the immigrant population is concentrated in only a handful of states? Is the federal goal of promoting self-sufficiency achieved by devolving eligibility decisions to the states?

New State Choices

In this report, we examine what states have done with their newfound responsibilities and assess some of the implications of their policy choices for the questions raised above. PRWORA presented states with five key sets of decisions. States must decide whether to:

- provide federally and state-funded TANF and Medicaid to pre-enactment immigrants (i.e., those already in the United States on August 22, 1996);
- provide new state-funded substitute benefits for immigrants losing eligibility for federal assistance, including the following:
 - (1) a food stamp substitute program;
 - (2) an SSI substitute program;
 - (3) TANF for post-enactment immigrants (i.e., those entering after August 22, 1996) who are subject to a five year bar on federally funded assistance; and
 - (4) Medicaid for the same post-enactment group.
- extend their existing cash and health safety net programs (such as General Assistance, or GA) to immigrants losing federal eligibility;
- implement new restrictions on eligibility for federal, state, and local public benefits for undocumented and other "unqualified" immigrants; and
- create or expand programs to promote naturalization.

Generosity at First Glance

Many states have chosen to provide considerable assistance to immigrants, particularly when the costs are shared with the federal government. Despite fears of a race to the bottom with states providing as few benefits as possible, nearly every state has opted to maintain TANF and Medicaid eligibility for immigrants who were already in the United States when the federal welfare law passed. But even where the costs are borne by the states and localities, many states have stepped in to provide assistance. Over half the states have opted to provide one of the four key substitute programs to immigrants listed above.

Giving with the Right Hand, Taking with the Left

Upon closer inspection, though, many of the new substitute programs states created are limited in the extent to which they actually reach immigrants. For example, many states target only discrete groups such as children or the elderly. While targeting these groups may seem to help the most vulnerable populations, it leaves out the largest group: working-age adults. Further, targeting noncitizen children helps relatively few families since three-quarters of all children in immigrant families are U.S.-born citizens who never lost eligibility. Since their noncitizen parents remain ineligible, however, the household still receives fewer benefits than before welfare reform.

Most states providing substitute benefits to immigrants also limit the reach of their substitute programs by imposing additional conditions on eligibility, such as sponsor-deeming. Under sponsor-deeming the income of an immigrant's sponsor—who signs an affidavit promising to support the immigrant—is counted as the immigrant's when making benefit eligibility determinations. The result usually disqualifies the immigrant for benefits. States also restrict immigrants' access to benefits by imposing residency requirements and by mandating that immigrants apply to naturalize in order to receive assistance. Finally, some of the new substitute programs for immigrants are temporary and expire by the year 2000.

Existing State Cash and Health Programs: A Similar Story

Although many states have kept immigrants eligible for their existing cash programs for the low-income population (usually called GA programs), they are often limited by design. Nearly half the states do not have a state or locally funded cash assistance program and those that do often serve only discrete populations, such as the elderly, disabled, or children. These programs also provide more limited benefits than their federal counterparts. On average, GA programs for the elderly and disabled provide only 77 percent of the average monthly SSI benefit. Further, many GA programs are time-limited, intended to provide interim assistance only until federal assistance can be obtained. Finally, states have often conditioned eligibility for GA by imposing sponsor-deeming and residency requirements.

Few states have restricted immigrants' access to state health insurance programs for those ineligible for Medicaid, nor have they conditioned eligibility with sponsor-deeming, residency, and other requirements to the extent that they did in their GA programs. But fewer than half the states have a health insurance program covering some portion of the low-income population. Those states with programs often serve only selected populations, provide more limited services than Medicaid, or have limited enrollment slots.

Unqualified Immigrants

Another of PRWORA's legacies is the new distinction drawn between "qualified" and "unqualified" immigrants. Undocumented or illegal immigrants have long been ineligible for most public benefits, but this new classification broadens both the groups of immigrants ineligible for assistance and the set of public programs from which they are barred. The law barred undocumented immigrants as well as certain lawfully present immigrants from most federal, state and local public benefits. Consequently, while PRWORA broadened states' authority to set policy for qualified immigrants, it narrowed states' authority to make policy for unqualified immigrants.

California is the only state to take an aggressive approach to implementing the new restrictions on unqualified immigrants. Under the leadership of former Governor Pete Wilson, at least 20 California agencies have issued regulations to bar unqualified immigrants from public services, ranging from the Lead Hazard Control Program to the issuance of commercial driver's licenses. Like his earlier efforts under Proposition 187, which sought to bar undocumented immigrants from public education and other services, most of the state's efforts have been stymied by court challenges. A handful of other states that provided state and local cash or health assistance to immigrants regardless of legal status have since barred the undocumented, but none has attempted to impose restrictions as wide-ranging as California's.

What Explains State Choices?

When we look across the decisions that states have made, a number of patterns emerge. While most states with large immigrant populations (such as California, New York and Illinois) have chosen to provide substantial assistance to immigrants, many states with small immigrant populations (such as Maine and Nebraska) have also made generous decisions. States that have strong existing safety nets—they provide generous state-funded cash assistance and health care to their general population—also tend to make generous choices when it comes to providing assistance to immigrants. States with higher per capita incomes are also generally more likely to provide assistance than states with lower per capita incomes. However, states with large budget surpluses do not appear to provide more assistance than those with small surpluses.

Implications of New Federal and State Policies

Despite the federal benefit restorations and the many states that have chosen to assist immigrants, the social safety net for immigrants remains weaker than before welfare reform and noncitizens generally have less access to assistance than citizens. Some vulnerable groups remain without assistance and variation in services offered across state immigrant safety nets has increased.

Immigrant exceptionalism embedded at the federal and state levels

PRWORA institutionalized the concept of immigrant exceptionalism—treating noncitizens differently from similarly situated citizens—to a new and unprecedented degree in social welfare policy. In some instances, the states have followed the Congress’s lead by imposing new types of restrictions on immigrants’ access to benefits, including immigrant-specific residency requirements or time limits.

State programs do not fully substitute for federal assistance

Because state assistance programs are limited in their reach, only a handful of states have been able to fully replace lost TANF, Medicaid, or SSI benefits for ineligible immigrants.

Differences between citizens and noncitizens exaggerated

States with more extensive safety nets for their low-income populations tend to be the states that choose to provide assistance to immigrants, leaving immigrants in those states with greater access to assistance than the immigrants living in states with weak safety nets. As a result, states often have both a new substitute program for immigrants and an existing one, or they have neither one. In fact, over half the states have neither a new or existing state-funded cash assistance program available to post-enactment immigrant families during their first five years in the United States. The same is true for state-funded health insurance programs. Because states have more authority to restrict immigrants’ access and immigrants have fewer federal benefits to fall back on, devolution has led to even greater variation across state safety nets for immigrants than citizens.

California is different

Despite its anti-immigrant rhetoric, California provides more assistance to immigrants than almost every other state. At the same time, California stands out as the only state to aggressively pursue cutting unqualified immigrants off state and local benefits. This divided approach to immigrant policy reflects the unique politics of immigration in California, where increasing numbers of immigrants are naturalizing in order to vote and immigrant advocacy organizations are growing in strength, yet ballot initiatives such as those limiting affirmative action and bilingual education are approved by the public.

Limited assistance for post-enactment immigrants

Despite their newfound authority to set their own eligibility rules, many states report modeling their policy choices on the example set by the federal government. Some states have followed the federal government's lead by restricting post-enactment immigrants' access to state cash and medical assistance programs, just as the federal government restricted post-enactment immigrants' access to several federal programs. Their choices have meant that state safety net programs intended to provide assistance to those ineligible for federal programs—such as General Assistance—restrict eligibility to the very groups that lost federal assistance. As a result, the same immigrants who are barred from federal programs often fall through the cracks of state programs as well.

Passing the buck

By barring many immigrants from federal assistance, the federal government shifted costs to states, many of which already bore a fiscal burden for providing assistance to immigrants. States that opted to provide substitute benefits to immigrants clearly bear an even greater fiscal responsibility. Because some state safety net programs are paid for in part or whole by localities (California's General Relief and New York's food substitute program, e.g.), a portion of the fiscal responsibility has been passed through from the states to local governments.

Eligibility does not ensure access

Although this report focuses on state eligibility decisions, the rules alone do not ensure that immigrants receive assistance for which they qualify. It may be the case that even if states make every effort to keep immigrants eligible for public benefits, they may not apply for it. Recent analyses of immigrants' use of public benefits indicate that many noncitizens are not seeking assistance for which they remain eligible. The sheer complexity of and constant changes in eligibility rules are likely to play a role. But concerns (some of which are unfounded) about the impacts of benefit receipt on an immigrant's ability to sponsor a relative or naturalize are also having a chilling effect on immigrants' use of public benefits.

Decisions still to be made

It has been over two and a half years since the federal welfare law passed, but states are not done setting policy for immigrants. States face a host of immigrant-related decisions that have not been addressed here, such as whether and how to enforce the new affidavits of support signed by immigrants' sponsors. The federal government may restore benefits to more legal immigrants, leaving states with new decisions about whether to shift their substitute programs to cover populations still ineligible for federal benefits. States may also choose to change the decisions they have made at any time. They may scale back benefits if economic times worsen or they may provide more benefits if the impacts of restrictions on immigrant families is too great.

One thing that is not likely to change, however, is the devolution of authority from the federal government to the states to determine immigrant access to public benefits. States will continue to make decisions for their immigrant populations and, consequently, play an increasingly important role in shaping the nation's immigrant policy.



New Choices, New Programs: States Step in but Barriers Remain

Generosity at First Glance

Given the restrictive immigration measures adopted by Congress and enacted in California around the time PRWORA became law,³⁵ it may be surprising that, on one level, states have made far more generous choices than many would have anticipated.

Continuation of Benefits

Every state except Alabama is continuing to provide TANF benefits to eligible immigrants who entered the United States before August 22, 1996.³⁶ And only Wyoming is denying pre-enactment immigrants access to Medicaid. One explanation for these choices is that the cost of providing benefits for these pre-enactment immigrants is shared by the federal government.³⁷

Substitute Benefits

Even where some costs are not picked up by the federal government, however, more states than might have been expected are providing state-funded substitute services to immigrants losing eligibility for federal assistance. Regarding four key benefits—(1) a food stamp substitute for immigrants losing food stamps, (2) an SSI substitute for immigrants losing SSI eligibility, (3) TANF to post-enactment immigrants during the five-year bar, and (4) Medicaid to the same group—28 states have

opted to use their own funds to provide at least one, 15 at least two, 10 at least three, and two (California and Maine) all four (figure 3).

More states (19) are providing TANF during the five-year bar than any of the other substitute programs (table 4). Food stamp substitution is not far behind (17 states). This may change, however, because many state food substitute decisions were made before federal food stamp reinstatement seemed likely. In fact, one state (Florida) ended its food assistance program following the federal food stamp restorations.³⁸ Fourteen states are providing Medicaid during the five-year bar. SSI substitute benefits have been enacted by only five states. Many more had planned to provide this benefit for elderly and disabled immigrants, but the timing of federal SSI restorations allowed them to abandon their plans.

The likelihood of a state enacting substitute benefits for immigrants is not necessarily connected to the size of its immigrant population. Although the largest immigrant states are faced with the greatest number of people in need, they are also faced with the highest costs if they meet that need. Of the 10 states with the largest noncitizen populations, all but Arizona created at least one substitute program for immigrants. At the same time, two of the states with the smallest immigrant populations (Maine and Nebraska) are providing extensive substitute benefits.

The Illusion of Eligibility

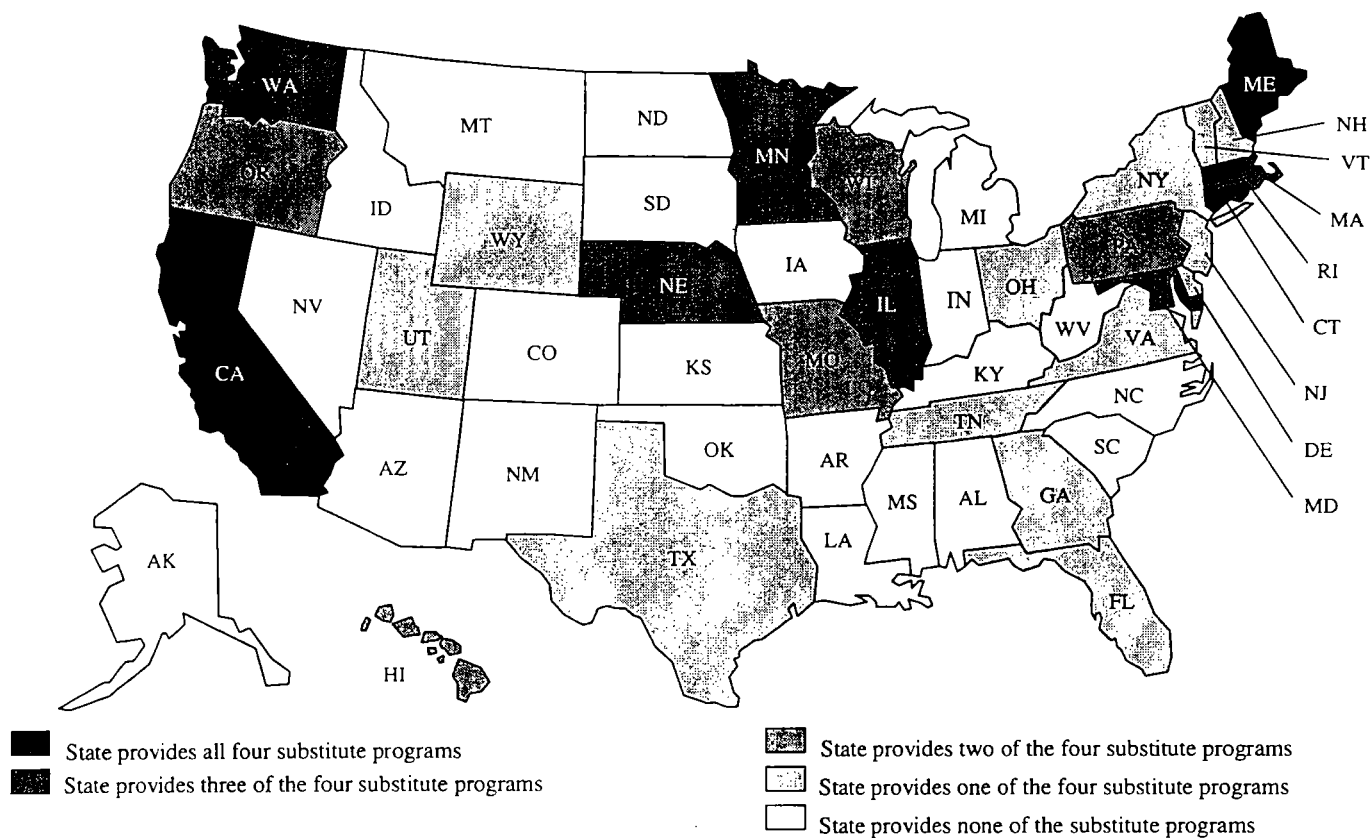
Even though the immigrant eligibility decisions states have made seem quite generous, reading the fine print reveals that states have often imposed conditions on eligibility that keep many immigrants from receiving assistance. The three major ways they have done this is by limiting assistance for post-enactment immigrants, limiting the population groups eligible for their substitute programs, and deeming the income of an immigrant's sponsor to the immigrant.

Limiting Assistance for Post-enactment Immigrants

The most striking way in which states have limited what they do for immigrants is by providing far less for post-enactment immigrants than they do for those who entered before PRWORA was signed into law. In this respect, states have followed the example set by the federal government. Perhaps even more important than the distinction that PRWORA draws between citizens and noncitizens is the distinction it draws between pre-enactment immigrants and post-enactment immigrants and the financial incentives it sets up for assisting the two groups. PRWORA gave states the option to provide pre-enactment immigrants with TANF and Medicaid, funded jointly with federal dollars. But, by barring post-enactment immigrants from federally funded TANF and Medicaid for their first five years in the United States, PRWORA forced states that wanted to provide such assistance to pay for it themselves. In other words, states had a financial incentive to provide benefits to pre-enactment but not post-enactment immigrants.



Figure 3 Key State Substitute Programs: State-Funded Food Programs, SSI Substitute Programs, and TANF and Medicaid during the Five-Year Bar



Notes: SSI = Supplemental Security Income; TANF = Temporary Assistance for Needy Families. All data presented above were current as of summer/fall 1998, unless otherwise noted. Shading may indicate full or partial coverage; see detailed tables for complete information. Florida's food program ended on 10/31/98. Colorado created a county-administered Emergency Assistance program. This program is not comparable to other state substitute programs, however, so it is not included on this map. The District of Columbia provided none of the key substitute programs.

Further underscoring the distinction between pre- and post-enactment immigrants' access to the safety net are the federal benefit restorations. PRWORA made most immigrants—regardless of entry date—ineligible for food stamps and SSI. When the federal government restored eligibility for these two programs it did so only for pre-enactment immigrants, not for post-enactment immigrants.³⁹

In fact, many states have explicitly stated that their decisions on immigrant eligibility have “followed the federal government’s lead” in that they are providing assistance to pre- but not post-enactment immigrants. Almost every state chose to keep pre-enactment immigrants eligible for TANF and Medicaid, but the majority of states did not step in with their own funds to cover post-enactment immigrants (table 5). Of the 17 states that created food stamp substitute programs, 8 provided substitute benefits for pre- but not post-enactment immigrants.⁴⁰ Of the 5 states with an SSI substitute program, 2 are not providing assistance to post-enactment immigrants (Illinois and New Hampshire).⁴¹

The number of states that have opted not to provide TANF and Medicaid to post-enactment immigrants following the five-year bar—when costs will once again be shared by the federal government—provides further evidence that states are choosing to limit post-enactment immigrants' access to the safety net. Even though all states but one chose to provide TANF to all pre-enactment immigrants (for whom costs are covered by the federal government and the states), eight states reported that they did not plan to provide TANF to post-enactment immigrants following the five-year bar.⁴² Similarly, while only one state opted not to provide Medicaid to pre-enactment immigrants, six states reported that they would not provide Medicaid to post-enactment immigrants after the five-year bar.⁴³ Of course, these decisions may change, as the provision is not relevant until August 2001 when the first post-enactment immigrants reach the end of their five-year bar. Seven states reported that they were undecided regarding the provision of Medicaid to immigrants following the five-year bar, while five states reported that they were undecided about providing TANF.⁴⁴

California and Massachusetts—both with significant immigrant populations—stand out as important exceptions to states that limit assistance available to post-enactment immigrants. California is providing state-funded food stamps and SSI to post-enactment immigrants whose sponsor is deceased, abusive, or disabled. Massachusetts is providing state food stamps to all eligible post-enactment immigrants. Both California and Massachusetts are providing TANF and Medicaid to post-enactment immigrants during the five-year bar. Among states with smaller immigrant populations, Maine and Nebraska also stand out as providing substantial assistance to post-enactment immigrants.

Limiting the Population Groups Covered

In addition to limiting assistance to post-enactment immigrants, many states are targeting their programs to discrete subpopulations of immigrants. Several of the food programs provide assistance only to some combination of noncitizen children, the elderly, and the disabled, leaving out the largest group of immigrants who lost



federal eligibility: working-age adults (table 6). Of the 17 states with food substitute programs, for example, 12 provide assistance to working-age adults. California, New Jersey, and Illinois are the only states with large immigrant populations to do so, and they did so only after the federal government restored food stamps to other groups.⁴⁵

A few states also limit their assistance programs by covering only those who were receiving benefits when welfare reform passed, leaving out those who were eligible but not receiving assistance at that time. Texas limits its food assistance program to those who received food stamps at some time between September 1996 and August 1997. Missouri restricts benefits to an even narrower group: those receiving food stamps and TANF on both August 22, 1996, and April 1, 1998. This type of limitation, of course, excludes many who are needy but did not happen to be enrolled during the particular time mentioned. As research has shown, a large share of the poor move into, out of, and back into poverty frequently.⁴⁶

Several states targeted their food substitute programs to effectively the same groups that were covered under the 1998 federal food stamp restorations—children, the elderly, and the disabled—virtually eliminating the need for these state programs (table 6). Two states, in fact, ended their food programs at the same time the federal restorations took effect (Florida and Illinois), though Illinois reinstated its food program for certain groups not covered by the restorations. Two other states (California and New Jersey) also refocused their programs on populations remaining ineligible for federal benefits. What other states will do with the funds they had set aside for their food programs remains to be seen.

Some state-funded Medicaid and TANF programs for post-enactment immigrants during the five-year bar are also directed to discrete immigrant subpopulations (tables 7 and 8). Only Rhode Island limits TANF in this way, but four states (Illinois, Maryland, Virginia, and Rhode Island) have limited Medicaid to discrete populations, usually children and pregnant women.

Targeting Immigrant Children

Some states have targeted assistance to noncitizen children in their state-funded food stamps, TANF, and Medicaid programs. Such targeting may appear to focus resources on the most vulnerable population but, in fact, helps relatively few immigrant families because, contrary to popular belief, most children in immigrant families are citizens.

In fact, three-quarters of all children in families with at least one noncitizen parent are citizens (figure 4). These children remain eligible for benefits such as food stamps, but their family receives less assistance than before PRWORA because their noncitizen parent(s) has been cut from the food stamp (or other benefit) unit.⁴⁷ More immigrant families have a citizen child than have a noncitizen child (82 vs. 29 percent). And helping noncitizen children reaches only a small share of the total immigrant population: 14 percent of immigrants are under age 18 compared with 28 percent of citizens.⁴⁸

Figure 4 <i>Mixed-Status Families</i>	
Percentage of immigrant families that are mixed status	82%
Percentage of children in immigrant families who are citizens	77%
Percentage of all children who live in a mixed-status family	10%

Source: Urban Institute calculations of the March 1997 U.S. Bureau of the Census Current Population Survey.

Note: Immigrant families have at least one noncitizen parent. Mixed status families have at least one noncitizen parent and at least one citizen child.

Sponsor-Deeming

Most immigrants who enter the United States must have a sponsor—someone who signs an affidavit promising them financial support. Before welfare reform, when eligibility for Aid to Families with Dependent Children (TANF's precursor), SSI, and food stamps was determined, the income of an immigrant's sponsor was deemed available to the immigrant for three years.⁴⁹ Because deeming usually raises the apparent income level too high to qualify the immigrant for means-tested programs, sponsor-deeming keeps most sponsored immigrants from receiving benefits.

Federal welfare and immigration reform makes deeming an even greater barrier to immigrant benefit receipt by expanding the categories of immigrants who are required to have sponsors, the number of programs to which deeming applies, and the length of time deeming lasts. PRWORA applies deeming to all federal means-tested public benefits, which include Medicaid and the new CHIP program, as well as all programs to which deeming already applied. It extends the deeming period from three years to when the immigrant either naturalizes or meets the 40-quarter work requirement (usually 10 years). In addition, the law gives states the option to deem for state-funded public benefit programs. Finally, the law revised the required affidavit of support. The new affidavit is legally enforceable, enabling federal, state, and local agencies to sue the sponsor for any benefits received by the immigrant.⁵⁰

Many states have opted to impose deeming on their state-funded programs, further limiting the extent to which these programs help post-enactment immigrants. Nine of 17 states are deeming in their state-funded food programs,⁵¹ 8 of 14 are deeming in their Medicaid programs for post-enactment immigrants, and 1 of 5 is deeming in its SSI substitute program. Every state but 2 is deeming in its state-funded TANF programs for post-enactment immigrants. However, several states with large- and medium-sized immigrant populations (including California, Massachusetts, and Maryland) have chosen not to deem in their state-funded Medicaid programs. These states may reason that although a sponsor might be expected to provide cash support, even a middle-income sponsor is likely to find it difficult to pay for health care.⁵²

Following federal welfare reform, states were allowed to choose whether to deem in their TANF programs for *pre-enactment* immigrants.⁵³ Only seven states opted not to impose sponsor-deeming in these cases.



Residency Requirements

Another way in which states have limited the access of immigrants (and others) to public assistance is by requiring applicants for public benefits to live in the state for a certain period of time or since a certain date as a condition of benefit receipt. Many states have created a two-tier benefit system in which persons new to the state get a lower benefit level than other state residents do for a set period. These two-tier benefit systems, which are intended to keep low-income people from moving across state lines in search of more generous public assistance, were struck down by the Supreme Court before passage of federal welfare reform. They are again being litigated following PRWORA's explicit provision allowing states to establish residency requirements in their TANF programs.⁵⁴

Seven states with state-funded TANF programs for post-enactment immigrants have imposed some type of residency requirement. In two of the states, the two-tier TANF residency requirements have been applied to post-enactment immigrants with quite different implications. Pennsylvania's requirement that TANF applicants receive benefits at the level of their previous state of residence for one year would keep post-enactment immigrants from receiving any benefits at all because they have no prior state of residence. Maryland put a different twist on its residency requirement. Post-enactment immigrants whose previous state of residence did not provide them with TANF substitute benefits are ineligible for state-funded TANF for their first 12 months in the state.

In Medicaid, residency requirements have provided states with a new way to treat immigrants differently than citizens. Although no state has imposed a residency requirement on citizens receiving Medicaid, Washington and Connecticut require noncitizens to live in the state for one year and six months, respectively, in order to receive assistance in their state-funded Medicaid programs.

Several states limit access to their food assistance programs for immigrants by requiring that they live either in the state for a certain time or in the same state or local area they were living in when welfare reform passed. For example, immigrants who moved to Florida, Minnesota, Rhode Island, and Ohio after a certain date—even if they were in the United States before welfare reform—are ineligible for state-funded food stamps.⁵⁵

New York applies similar logic to moves within the state. Because New York's food stamp substitute program is paid for by both the state and the counties and because the program is optional for counties, New York requires that immigrants applying for food assistance live in the same county in which they resided on August 22, 1996.⁵⁶

Naturalization Requirements

To ensure that their assistance programs do not become permanent substitutes for federal assistance, a number of states require that immigrants apply to naturalize as a condition of benefit receipt. Although applying for citizenship may seem an easy

requirement to meet, it can in fact pose serious financial barriers for those most in need of public assistance. Applying for citizenship is expensive, especially since the cost increased from \$95 to \$225 per person on January 15, 1999.⁵⁷ Further, applicants must pass a language and citizenship test in order to naturalize, which can be difficult for disabled or elderly immigrants and those with little education.⁵⁸

Comparatively few states have imposed a naturalization requirement on their key substitute programs. No state has imposed a naturalization requirement on its state-funded Medicaid or SSI programs. Three of the 19 states with state-funded TANF programs for post-enactment immigrants (Massachusetts, Connecticut, and Minnesota) have naturalization requirements, despite the fact that most post-enactment immigrants will not be eligible to naturalize until after five years as permanent residents in the United States.⁵⁹ Five of the 17 states with a food assistance program (New York, Florida, New Jersey, Minnesota, and Ohio) imposed a naturalization requirement on applicants.⁶⁰

The extent to which these naturalization requirements actually keep immigrants from receiving assistance varies depending on how they are implemented. In New York City, for example, few immigrants are kept from receiving food assistance because the naturalization requirements have not always been strictly enforced. At the other extreme, New Jersey reported that if the immigrant applied but was denied citizenship he or she would no longer get state-funded food stamps. In most other states, immigrants need only apply for citizenship to satisfy the requirement.

Time-Limiting Substitute Food Programs

Ten of 17 states providing state food assistance to immigrants have programs that expire by the year 2000, clearly signaling the intent to use them only as bridge programs until immigrants can naturalize.⁶¹ One state program (Florida) as noted, expired at the end of October 1998, when the federal food stamp restorations became effective.

Providing Lower Benefits

One potential cost-saving device for the states is to provide lower benefit levels to immigrants than to citizens. But states that have done so are more the exception than the rule. Only Illinois provides lower benefits to immigrants than to citizens in its substitute food program. Two of five states (California and Oregon) provide lower benefits to immigrants in their substitute SSI programs (table 9).⁶² No states provide fewer benefits in their substitute TANF or Medicaid programs.

Substitute Benefits? An Overall Assessment

When we look across the four key types of substitute programs states have created for immigrants losing federal assistance, we see that states have often given with

one hand but taken away with the other. While over half (28) of the states have created at least one key substitute program, almost all have imposed restrictions on these programs that limit the extent to which they actually help immigrants. For Medicaid, only two states (California and Massachusetts) provide immigrants with full substitute services—equivalent to the assistance provided to immigrants prior to PRWORA in terms of who is covered and what is provided. For TANF, only two states (Utah and Tennessee)—both with small immigrant populations—provide benefits equivalent to what immigrants received prior to PRWORA.⁶³ Only Maine has an SSI substitute program that provides comparable assistance. No state provides comparable food assistance.

Do Existing State Assistance Programs Provide an Effective Safety Net for Immigrants?

In addition to creating the new substitute programs for immigrants that we have discussed, states can also provide benefits to immigrants through their existing cash, health, and food programs for low-income state residents.⁶⁴ Although most states have kept immigrants eligible for their existing programs, these state programs are limited by design: not all states have them, they often cover only specific demographic groups, and they provide more limited benefits than their federal counterparts. This section reviews the coverage of and gaps in these programs in the context of immigrants who have lost eligibility for federal benefits. We focus, in turn, on state cash assistance, state health assistance, and state food assistance.

State Cash Assistance⁶⁵

State cash assistance programs (usually called General Assistance, or GA), are programs of last resort and therefore would seem to provide a natural safety net for immigrants losing federal eligibility for either SSI or TANF. However, only 33 states have statewide GA or a state mandate requiring counties to run such a program.⁶⁶

As testament to the fact that states have not engaged in a race to the bottom, many states with GA programs have not made immigrants expressly ineligible, as PRWORA permitted them to do. But GA programs usually cover more limited populations, provide lower benefits, and have stricter time limits than federal cash assistance programs. Immigrants may be further limited by state-imposed conditions on their eligibility, such as the types of sponsor-deeming, residency, and naturalization requirements discussed earlier.

Limited Populations

GA programs often do not provide benefits to all the major population groups covered by SSI and TANF programs: the elderly and disabled and families or children. All but one of the 27 statewide GA programs provide assistance to the elderly or disabled, but only half (14) of these states assist both these groups.⁶⁷ The other 12 statewide programs cover only the disabled (table 10). Only 17 of the 27 statewide GA programs provide benefits to families or children (table 11). Further, these programs are usually targeted to very specific groups ineligible for TANF, such as children in families with unrelated caregivers.⁶⁸

Most states have not opted to provide GA to post-enactment immigrant families with children losing TANF eligibility. Only three of the 17 states with GA for families or children (New York, New Mexico, and Alaska) have expanded GA eligibility to cover immigrant families during the five-year bar on TANF. Nine of the remaining 14 states, however, have state-funded TANF programs for immigrant families and children. Therefore, most (12 out of 17) states that provided GA to families or children before PRWORA still provide coverage for post-enactment immigrant families barred from TANF for five years.

Lower Benefit Levels

In addition to covering limited populations, GA programs often provide lower benefits than SSI and TANF (also shown in tables 10 and 11). Almost all state GA programs provide lower benefits than are available to the elderly and disabled under the SSI program. The average maximum monthly benefit for an elderly or disabled person receiving GA in 1998 was only 77 percent of the average monthly SSI benefit (\$268 vs. \$348).⁶⁹ Ohio went some distance toward eliminating this difference in benefit levels. Its GA maximum benefit is higher for immigrants than citizens, but still lower than the state's average SSI payment.

GA benefits are more comparable with federal TANF benefits.⁷⁰ In all states with GA programs for families with children, the average maximum monthly GA benefit for a family of three in 1998 is 85 percent of the equivalent TANF benefit (\$452 vs. \$533).⁷¹

Time Limits

In addition to providing lower benefits, GA programs are often time-limited while SSI is not, thereby limiting how well they serve as a safety net for immigrants. Of the 26 states with statewide GA programs serving the elderly or disabled, 9 impose some type of time limit.

Six of the state GA programs with time limits provide only interim assistance to the elderly and disabled during the SSI determination process, which can be lengthy. Three of these 6 states (Maryland, Missouri, and Nebraska) are conspicuous excep-

tions, however. They have expanded their interim assistance programs to become substitute SSI programs for immigrants, allowing them to receive GA benefits for the length of their disability. One of the other 3 states, Oregon, created a separate SSI substitute program for immigrants ineligible for federal assistance.

In addition to the time limits inherent in GA programs that are designed to provide only interim assistance, states have also limited their GA programs by imposing lifetime or periodic time limits on the receipt of benefits.⁷² In contrast to GA programs for the elderly and disabled, GA programs for families with children are less time-limited than their federal counterpart, TANF. Only 3 of the 17 states that provide GA to families with children have a time limit.⁷³ In contrast, all states but Michigan are imposing either the federal 60-month lifetime limit or some shorter lifetime limit on their TANF programs.⁷⁴ In this respect, state GA programs could serve as a safety net for immigrants and citizens who exceed their TANF time limit. New York's Safety Net Assistance program is already serving that function, in fact, providing in-kind benefits to TANF families who reach their lifetime limit.

New Jersey has used time limits to introduce a new dimension of immigrant exceptionalism. It established a time limit that is stricter for immigrants than for citizens. Many noncitizens are eligible for only six months of assistance compared with five years for citizens.⁷⁵

Work Requirements

Immigrants who rely on state GA programs must meet requirements that participants work or seek work in order to continue receiving benefits, much like the requirements in TANF programs. Of the 17 states providing GA benefits to families with children, 8 have work requirements. These requirements vary widely across states, however. Some states simply require recipients to register with the state Department of Labor's employment service. Others impose stricter requirements modeled after their TANF programs, complete with work participation timetables and sanctions for noncompliance.⁷⁶ As is true for the TANF programs themselves, it remains to be seen how immigrants will fare under these GA work requirements.

Few Outright Immigrant Bars

In strong refutation of the "race to the bottom" theory, no state has barred pre-enactment immigrants from its GA program, even though GA costs are paid entirely by state and local governments. Most states have not explicitly barred post-enactment immigrants from GA. But in those states that do, the same immigrants losing federal eligibility also lose eligibility for the existing state safety net. Michigan's GA rules for immigrants mirror federal SSI eligibility rules, for example, despite the fact that its program is designed to provide cash assistance to those ineligible for federal benefits.

Following PRWORA, 10 out of 26 states with GA programs for the elderly or disabled made post-enactment qualified immigrants ineligible. Five out of 17 states providing GA to families with children have taken the same step.

Sponsor-Deeming, Residency, and Naturalization Requirements

When states do provide GA benefits to immigrants, they often place a host of new conditions on their eligibility, including sponsor-deeming, residency, and naturalization requirements.⁷⁷ Over half of the states that provide GA benefits to elderly or disabled immigrants (14 out of 26 states) or to families with children (10 out of 17 states) impose sponsor-deeming. Five states (California, New Jersey, Maryland, Washington, and Kansas), however, have opted to impose a shorter sponsor-deeming period on post-enactment elderly and disabled immigrants than is required under federal programs (limiting it to three or five years vs. until citizenship or 40 quarters of covered employment are achieved).⁷⁸

Far fewer states (4) impose residency requirements on their GA programs than on their TANF programs (at least 15).⁷⁹ Minnesota, for example, mandates that GA participants receive the benefit level of their previous state of residence for their first year in the state. As a result, newly arriving immigrants receive no benefits for that year.⁸⁰ Immigrants in New York fare somewhat better, because the state provides the benefit level of the previous state of residence or 50 percent of New York's benefit level for the first year in the state, whichever is higher. As in its TANF program, Connecticut requires only noncitizens to live in the state for six months before receiving assistance.

Only a few states impose naturalization requirements on their GA programs,⁸¹ and these requirements vary in the extent to which they actually keep immigrants from getting benefits. In New Jersey, immigrants who are eligible are required to naturalize within six months of first receiving GA benefits.⁸² This requirement places, in essence, a time limit on receipt of benefits by noncitizens who may have difficulty naturalizing. Connecticut, by contrast, has a naturalization requirement on the books for its GA program, but the steps an immigrant must take to fulfill this requirement have not been defined.

GA for Employable Adults without Children

One way that a handful of states have supplemented their existing safety net is to provide cash assistance through their GA programs to a group not categorically eligible for federal assistance programs: employable adults without children. Of the 27 statewide GA programs, 7 cover employable single adults. All of these impose work requirements and all except Alaska and Vermont impose additional conditions on immigrants, such as sponsor-deeming, that further limit their receipt of benefits (table 12).

GA Programs as Safety Net? An Overall Assessment

Across the states as a whole, the ability of GA programs to provide a safety net for immigrants losing eligibility for SSI and TANF is severely limited. Not all states have GA programs serving the elderly and disabled and families with children. Of those that do, only 2 states (Colorado⁸³ and Vermont) provide GA benefits to elderly and disabled immigrants comparable to what they received under SSI before federal welfare reform. No state has a GA program that provides assistance to immigrant families with children that is equivalent to what they received under AFDC. All states cover only unattached children or other special family arrangements, have lower benefit levels than TANF, or impose other conditions on immigrants' eligibility.

Do GA programs serve as a safety net for immigrants in states that are not providing new state-funded substitute TANF and SSI benefits? Only 3 states (New York, New Mexico, and Alaska) have GA programs serving post-enactment immigrant families with children who are ineligible for TANF. Since 19 others have TANF substitute programs, this leaves over half the states (29) with no cash assistance program for post-enactment immigrant families with children.⁸⁴ Twenty-four of the states that did not create a new SSI substitute program for immigrants have no existing statewide GA program to cover even a portion of the immigrant elderly or disabled populations.⁸⁵

Overall, then, state GA programs do not do a great deal to fill the holes left in the immigrant cash safety net. The states that have new substitute assistance programs for immigrants who lose federal benefits tend to provide GA as well. The states that do not have substitute assistance programs tend not to provide GA assistance, either. As a result, about half the states have no cash assistance program available to immigrant families losing TANF eligibility or to elderly or disabled immigrants losing SSI eligibility.

State Health Insurance Programs

In addition to funding public hospitals that have long provided emergency services to their low-income, uninsured population, states have sought to supplement the health services available to the uninsured by creating their own state-funded health insurance programs. The intent of these programs is to provide primary care or other special health services to low-income, uninsured people who do not qualify for Medicaid.⁸⁶ In this section, we discuss the range of state health insurance programs for vulnerable populations and the ability of these programs to serve immigrants ineligible for federal assistance.⁸⁷ The discussion covers health insurance coverage for non-Medicaid eligibles, in-home long-term care, and CHIP programs, in that order.

Health Insurance Coverage for the Low-Income Population

Hardly any states that have insurance programs for those ineligible for Medicaid have barred immigrants from them or conditioned their eligibility with sponsor-deeming, residency, or naturalization requirements. Immigrants' access to these programs, then, is more comparable to citizens' access than is the case regarding cash assistance. Not all states, however, have such programs. And those that do often serve only selected populations, provide limited services, or have limited enrollment slots.

Although the number of states providing health insurance has increased recently,⁸⁸ in 1998 fewer than half of the states (23) had health insurance programs covering even some portion of the low-income population ineligible for Medicaid.⁸⁹ The majority (13 out of 23) are the medical components of state GA cash programs.⁹⁰ Of the state health insurance programs, 17 out of 23 state health programs provide services to either the elderly or the disabled, but only 9 cover both (table 13). Similarly, 19 out of 23 state health programs cover families or children, but only 13 cover both children and families (table 14).⁹¹ On the other hand, 10 states have opted to supplement their health safety nets by making childless adults—a group not covered by Medicaid—eligible for their state-funded health programs (table 15).

With respect to scope of coverage, state health insurance programs vary widely, from providing fairly comprehensive inpatient and outpatient services to covering only specific services such as prescription drugs (tables 13 and 14). But virtually all state health insurance programs offer a less complete range of services than Medicaid.⁹²

Unlike cash assistance, federal and state-funded health insurance programs are generally not time-limited.⁹³ In fact, only four states impose time limits on their programs.⁹⁴ Only three states have limited their health insurance programs by imposing residency requirements.⁹⁵

As with state-funded cash assistance programs, most states have opted to keep both pre- and post-enactment immigrants eligible for their state health insurance programs. No state has restricted pre-enactment immigrants, and only 4 of 23 have explicitly barred post-enactment immigrants.⁹⁶ Only 2 states (New Jersey and Connecticut) require immigrant recipients to pursue naturalization to retain benefits.

Although few states made immigrants expressly ineligible for their health insurance programs, nearly half of the states providing state health insurance to the elderly or disabled (8 of 17 states) and one-third of the states covering children and families (6 of 19 states) impose sponsor-deeming that renders many immigrants ineligible. Still, fewer states require deeming for health than cash assistance. And the states that do require such deeming require it for shorter periods.

When all these program dimensions are taken into account, no state health insurance program provides comparable services to those immigrants received under Medicaid before federal welfare reform. Although few states impose restrictions on immigrant eligibility as such, most states provide fewer services under their state-funded health programs than are provided under Medicaid, for citizens and noncitizens.

zens alike. Another reason state health insurance programs fall short is that about half impose sponsor-deeming, which was not imposed on Medicaid before federal welfare reform.

As with state-funded cash assistance, states with existing state-funded health insurance programs covering immigrants are often the same states that have new state-funded substitute Medicaid programs.⁹⁷ States without the first are often without the second as well. Twenty-five states have neither a state-funded Medicaid substitute program for post-enactment immigrant families or children during the five-year bar nor a state health insurance program for these populations. Thirty-one states have neither a new nor an existing health program for their elderly or disabled populations.

In-Home Assistance Programs

When providing in-home care to some of the most vulnerable populations, states have remained fairly inclusive in their treatment of immigrants.⁹⁸ In fact, the majority (13 out of 21) of states that have in-home assistance programs for the elderly, disabled, and other homebound persons have maintained the eligibility of all persons in the state without regard to immigration status. Only four states restricted immigrants' access to their in-home assistance programs following federal welfare reform.⁹⁹ Three of these states have restricted immigrants' eligibility to match eligibility rules of other federal programs, effectively barring many post-enactment immigrants from care.¹⁰⁰ And only four states have limited immigrants' access to benefits by imposing federal sponsor-deeming rules on their home-assistance programs.¹⁰¹ California, however, took a notable step to safeguard immigrants' eligibility for in-home assistance. When it appeared that immigrants in California were going to lose not only their SSI benefits but also state In-Home Supportive Services (IHSS)—for which eligibility was tied to SSI receipt—the state protected immigrant access to IHSS by linking immigrant eligibility to the criteria in place before passage of the federal welfare law.

State Children's Health Insurance Program (CHIP)

In 1997, following efforts by states to expand health insurance coverage of low-income children, the federal government created the largest new health care program since Medicaid—CHIP. CHIP was the first federal program created since PRWORA to be considered a “federal means-tested public benefit.” Consequently, noncitizen children entering the United States after August 22, 1996, are ineligible for federal CHIP funds for their first five years in the United States.¹⁰² However, recent proposals to restore benefits would allow states to cover under CHIP or Medicaid qualified post-enactment children during their first five years in the United States.

In the meantime, some states have covered these immigrant children by keeping their preexisting child health programs separate from their CHIP funds. Of the 19 states with state-funded health programs that covered children before the creation of

CHIP, 3 states have decided to incorporate their CHIP funds into their existing state programs. These states will, however, bifurcate their CHIP programs in order to serve post-enactment immigrant children with their own state funds.¹⁰³ Thirteen others will cover certain post-enactment immigrant children ineligible for Medicaid and CHIP in other state health programs.

State Food Programs

Unlike for cash and health programs, most states did not have state- or locally funded food safety net programs before the passage of federal welfare reform.

Only one state created a new program for immigrants that provides food assistance separately from state-funded food stamps. Colorado established a new Emergency Assistance program for immigrants losing benefits as a result of welfare reform. This program allocated funds to counties to run their own programs, which could include food assistance.¹⁰⁴ A number of states, however, appropriate money to food banks; contribute state funds to the food supplement program for Women, Infants, and Children (WIC); and participate in the federal-state Emergency Food Assistance Program.¹⁰⁵ Nine states have appropriated additional or new funds to food banks and pantries in response to welfare reform. Fourteen states supplemented the federal WIC program with state funds in FY 1998.¹⁰⁶ Overall, though, these nutrition programs are limited in scope. As a result, states that have not created food stamp substitute programs generally have little food assistance available to immigrants losing eligibility for federal food stamps.

Uneven Assistance for Unqualified Immigrants

While PRWORA gives states more choices regarding assistance to qualified immigrants, it gives states fewer options regarding unqualified immigrants, mandating that they be barred from most “federal, state and local public benefits.” If states want to provide state and local benefits to undocumented and other unqualified immigrants—even if they were providing these benefits before passage of PRWORA—they are required to pass a new law.¹⁰⁷ Federal guidance interpreting the term “federal public benefits” has been slow in coming, however. The United States Department of Health and Human Services (HHS) issued its interpretation of federal public benefits in August 1998—two years after the passage of PRWORA. Other federal agencies have yet to do the same.¹⁰⁸ In deciding which programs count as state and local public benefits, states have been left even more to their own devices.

The issue is not a simple one. Although the reach of the restrictions on unqualified aliens is at first glance quite broad, the federal welfare law includes important exemptions aimed at retaining such assistance as is necessary for the protection of life or safety. That is, the unqualified remain eligible for assistance such as emergency Medicaid; short-term, noncash emergency relief; immunizations; and testing and treatment of symptoms of communicable diseases.¹⁰⁹ HHS provided a strict interpretation of federal public benefits. Although services provided under the Social Services Block Grant and the Child Care and Development Block Grant were included in the agency’s interpretation, other key services such as those provided by Head Start, the Maternal and Child Health Block Grant, and migrant and community health centers were excluded.

California Takes an Aggressive Approach

The lack of clear definitions for what constitutes federal, state, and local public benefits has led most states to take a wait-and-see approach to barring unqualified immigrants. California provides a notable exception. The state has a recent history of restricting public benefits for undocumented immigrants that dates back to the passage of Proposition 187 in 1994. Under that initiative, implementation of which has been stalled in the courts, former Governor Pete Wilson sought to restrict undocumented immigrants' access to a wide range of services, including public education. On the heels of PRWORA's passage, Wilson renewed his efforts, issuing an executive order mandating state agencies to identify programs subject to the bars on unqualified immigrants. The state subsequently released a list of some 200 programs from which unqualified immigrants would be barred.

At least 20 California state agencies have now issued regulations barring unqualified immigrants from various federal and state benefits and state-issued professional licenses, ranging from the assistance provided by the Department of Housing and Urban Development (HUD) under its Lead Hazard Control Program to the issuance of commercial driver's licenses. These regulations had not been implemented as of September 1998, however, primarily because of successful court challenges and the state legislature's refusal to authorize funding for state agencies to pay for verification systems.¹¹⁰

Some of the regulations would even bar unqualified immigrants from programs that may not be considered federal public benefits. For example, the state has issued regulations barring unqualified immigrants from services provided under the Community Services Block Grant, which HHS did not define as a federal public benefit. And the restrictions on lead hazard control assistance were made in the face of HUD's directive that states should not implement any new bars until the agency issues regulations defining what it considers federal public benefits.

The most visible and, perhaps, controversial, of Wilson's efforts was his attempt to bar low-income undocumented women from state-funded prenatal care, which began with Proposition 187. Both before and since PRWORA, these efforts were stymied by a long series of court challenges. Attempts by California's new governor, Gray Davis, to put the dispute over Proposition 187 before a mediator have reignited debate over the issue.¹¹¹

Ironically, the latest court decision in the long and winding path that the California prenatal care issue has taken found that PRWORA itself contains a provision prohibiting the state from implementing the prenatal care bar. The court ruled that depriving unqualified immigrant women of state-funded prenatal care might infringe on PRWORA's requirement that they be eligible for immunizations as well as treatment and testing for the symptoms of communicable diseases.

Other States Act More Cautiously

While a few other states have restricted unqualified immigrants from state assistance, none has cast its net as widely as California. Those states that have imposed new restrictions on the unqualified have focused their efforts on state-funded health or cash assistance.

Just as states are more likely to provide qualified immigrants with access to state health care programs than to state cash assistance programs, they view health care as a higher priority for unqualified immigrants. Nine states (out of the 23 with statewide programs)—including New York, Florida, and New Jersey—provide undocumented immigrants access to their health insurance programs following welfare reform (table 16). Only one state (Maine) that previously granted undocumented immigrants access to state health insurance cut them off after passage of federal welfare reform.

With respect to the eligibility of undocumented women in state-funded prenatal programs, most states that provided prenatal care to the undocumented before welfare reform are continuing to do so.¹¹² California is not the only state, however, to have had heated debate over this issue. An Illinois proposal to end prenatal coverage for undocumented women provoked such a public protest that it was withdrawn following a hearing on the issue.

Only two states (Minnesota and Maine) provided GA to immigrants regardless of immigration status before welfare reform. Both have since barred undocumented immigrants from their programs.

No state has opted to bar unqualified immigrants from the WIC program (which provides nutrition assistance to pregnant women and infants) as they were permitted to do under the welfare law.¹¹³ The WIC program is completely funded by the federal government, however, providing states with little incentive to implement potentially cumbersome procedures to determine and verify immigration status.

The Gray Zone: Assistance to Immigrants Residing “under Color of Law”

Before welfare reform, some immigrants without permanent resident status were given access to federal benefits by the courts because they were considered to be “permanently residing under color of law,” or PRUCOL.¹¹⁴ The federal welfare reform law, as noted, grouped these immigrants with the undocumented into the new category of unqualified immigrants, who are ineligible for most federal, state, and local public benefits.

The PRUCOL standard applied to three key federal benefit programs—AFDC, SSI, and Medicaid—but the definition varied across these programs.¹¹⁵ The federal welfare reform law categorized all groups that had been considered PRUCOL for

AFDC as qualified aliens.¹¹⁶ But certain groups of immigrants considered PRUCOL for SSI and Medicaid were not categorized as qualified aliens and therefore faced losing these benefits following welfare reform.

Congress restored SSI eligibility for about 12,000 elderly and disabled unqualified immigrants who had been slated to lose assistance on September 30, 1998. This population does not include any undocumented immigrants, who have long been ineligible for SSI. Ironically, it may not even cover more than a few PRUCOL immigrants. A nationally representative survey conducted by the Social Security Administration (SSA), as well as state-sponsored surveys in Los Angeles and New York City, indicates that most of this group are, in fact, citizens or legal residents who were miscoded in the SSA records.¹¹⁷

States have demonstrated a substantial willingness to pay for assistance to PRUCOL immigrants, many of whom gained their PRUCOL status through the legal system because they were particularly vulnerable and in need of serious medical assistance. Many states (19, including California, New York, and New Jersey) are using their own funds to provide Medicaid to immigrants who were formerly considered PRUCOL but are now unqualified.¹¹⁸ An even larger number (23) are providing state-funded assistance to one particular Medicaid population: PRUCOL immigrants in need of long-term care, including nursing home care.¹¹⁹ The alternative—forcing elderly or disabled immigrants out of nursing homes and onto the street—proved to be a sufficient incentive. In addition, all the states providing health insurance and prenatal care to undocumented immigrants are also covering care to those immigrants formerly considered PRUCOL.

As we have seen for other immigrant populations, when we look below the surface there is significant variation across states in the assistance they actually provide to PRUCOL immigrants. For example, 14 out of 23 states providing long-term care to PRUCOLs cover only those—or a subset of those—in nursing homes around the time PRWORA passed. These states include the large immigrant states of New York, Texas, and New Jersey as well as Massachusetts.

States vary also in how they define PRUCOL and, hence, which groups they assist. Most states apply one of the federal definitions that list discrete immigrant groups previously determined by court decisions to be eligible for federal assistance programs. But Massachusetts and Colorado use broader definitions, encompassing, for example, all those with pending applications for legal permanent resident status.

Implementing Verification Rules

States are required to follow new federal guidelines to verify immigration status for federal public benefits. But they have the option of verifying immigration status for state and local public benefits. Whether and how states verify status in their state programs vary substantially. Although some states use automated databases to check the immigration status of program applicants, others do not ask about immigration status at all. In fact, a number of states do not explicitly make undocumented immigrants eligible for benefits under their state programs but do so implicitly by simply

not verifying immigration status. Some of these states have small immigrant populations, for which the costs of verifying immigration status are likely to outweigh the costs of providing the service. Except for California—which, as discussed earlier, has issued regulations to screen unqualified immigrants out of many of its state programs—no state has implemented changes to its previously existing verification systems for state cash and health programs following the passage of federal welfare reform.

PRWORA mandated that the federal government create a new automated verification system, the use of which is required for federal public benefits. It remains to be seen whether states will opt to use the new federal verification system for state and locally funded benefits once the new system is in place.

Naturalization Initiatives

Naturalization remains a certain road to regaining public benefit eligibility. Several states, therefore, have added to their safety nets for immigrants various initiatives encouraging them to become citizens. As we have seen, some states imposed requirements that immigrants apply to naturalize in order to receive state-funded services. Several states have also devoted resources for assisting immigrants in preparing and applying for citizenship (table 17). These have generally been small sums (ranging from about \$75,000 to \$4,000,000). Some counties, including over half of California's, have also developed naturalization programs.¹²⁰

The types of assistance that states provide under these naturalization initiatives also range across states, with most providing English and civics classes to help immigrants meet the requirements of the naturalization process and some devoting funds to outreach campaigns informing immigrants about the advantages of becoming citizens. At least one state (Washington) offsets some of the considerable costs to immigrants of naturalizing by reimbursing applicants for fingerprinting and other INS fees.

Making it clear that the goal of most of these initiatives is simply to get immigrants off state assistance and back onto federal assistance, some states have targeted their programs to immigrants losing federal benefits. In New York, New Jersey, and Washington, for example, such funds can be used only for immigrants made ineligible for federal assistance by PRWORA.

What Explains State Choices?

In virtually every program area, states' choices regarding immigrants' eligibility span a wide continuum—with states that have created new programs and maintained eligibility for existing ones at one end and states that bar immigrants from most federal and state programs at the other. Alabama, for example, is at one end, providing very little to its noncitizens. Massachusetts is at the other, giving immigrants virtually full access to one of the country's most generous safety nets. What, then, explains the choices states have made?

To better examine what accounts for the choices states made in the wake of welfare reform, we created a scale, mapping state decisions regarding immigrants' access to federal and state programs. For each program area—cash, food, and health—states were awarded points for providing immigrants with access to new and existing programs. Choices that required states to provide assistance entirely funded with their own dollars were weighted more heavily than choices that continued to provide benefits funded with a mix of federal and state dollars.¹²¹ For example, states received 10 points for continuing to provide federally and state-funded Medicaid to pre-enactment immigrants while states received 20 points for continuing eligibility for state health programs or creating new state-funded Medicaid programs for post-enactment immigrants. In keeping with our discussion, states that extended benefits to immigrants with one hand but used sponsor-deeming, residency, or naturalization requirements to limit their eligibility on the other hand lost points.¹²² (Appendix B outlines the points assigned for each eligibility decision.) Table 18 groups states according to the extent to which they have made their safety nets available to immigrants, mapping them against the size of states' noncitizen populations, the strength of states' existing safety nets (determined with a similar point scale measuring the existence and reach of state GA and health programs), states' per capita incomes, and states' budget balances as a percentage of expenditures.

Both Large and Small Immigration States Provide Assistance

Most states with large noncitizen populations have maintained immigrants' access to substantial pieces of their safety net, except for Texas. What may be more surprising is how many states with small immigrant populations—such as Maine and Nebraska—provide immigrants with broad access to their state safety nets.

Generous States Set Generous Immigrant Policies

When states are grouped by the strength of their existing safety nets, we see that states providing a substantial safety net to their general population tend to keep that safety net open to immigrants.¹²³ In some ways, this is not surprising. States such as Massachusetts and Washington that have historically provided assistance to the needy are likely to do so for immigrants as well. Providing a strong safety net is in line with their political culture.¹²⁴ In other ways, however, this trend is surprising. We might well have expected states with an extensive safety net to bar immigrants in order to preserve that safety net for citizens, particularly at a time when welfare was dramatically scaled back for immigrants and citizens alike.

Wealthy States Provide Assistance

States with higher per capita incomes are generally more likely to provide assistance than states with lower per capita incomes. States with the lowest per capita incomes almost uniformly provide fewer benefits, with Maine—a poor but generous state—being the lone exception. As a result, states with the neediest populations provide the fewest benefits to immigrants.

Budget Surpluses Do Not Appear to Matter

States with larger budget surpluses do not appear to make more generous decisions about immigrants than states with smaller surpluses. This pattern—suggesting that the availability of specific funds is not necessarily a driving factor behind states' decisionmaking—is in line with the fact that few states planned to use their TANF windfall money to pay for TANF for immigrant families ineligible for the federal program. Similarly, few states count the costs of such assistance toward their federal Maintenance of Effort (MOE) requirements under TANF.¹²⁵ Only nine states counted their TANF substitute expenditures toward their MOE requirement, and two of these states used windfall funds to finance their programs.¹²⁶

Other Factors Also Make a Difference

The strength of a state's advocacy community is likely to play an important role in influencing state decisions. California, Illinois, and Massachusetts, for instance, have strong immigrant advocacy coalitions. The political leadership of a state can also influence state policies. Many of the states (e.g., Texas) choosing to provide fewer services to immigrants had Republican governors and often a Republican-led legislature as well. On the other hand, California's advocacy community and state legislature helped set that state's comparatively generous policies under the Republican governorship of Pete Wilson. The way states set policy can also make a difference. California did not pass a new law to provide TANF and Medicaid to post-enactment immigrants during the five-year bar. Rather, it simply did not change its old eligibility rules and began picking up the full costs of assistance. These policy decisions, then, are more the result of inaction (deliberate as it may be) than of a considered policy debate among state leaders.

Conclusions and Implications of a New Immigrant Policy

Immigrant Exceptionalism Embedded at the Federal and State Levels

PRWORA introduced the concept of immigrant exceptionalism by singling out immigrants for differential treatment. State decisions to follow the federal lead and exclude immigrants—particularly post-enactment immigrants—from some programs have meant that immigrant exceptionalism is now embedded in state policy as well. In some instances, states have introduced new dimensions of immigrant exceptionalism not contemplated by the federal law. For example, some states have imposed residency requirements only on immigrants, or established stricter time limits for immigrants than citizens.

State Programs Do Not Fully Substitute

Many states are giving with the right hand but taking away with the left. Although a number of states have stepped in and created new substitute food, cash, and health programs for immigrants losing federal benefits, they have also limited who this assistance reaches and its amount. Existing state programs do not fill the remaining gaps. Many states have no cash or health programs, and though many of those that do have kept immigrants eligible, they often limit immigrants' participation by imposing sponsor-deeming and other restrictions.

Policy Choices Increase Inequality across States

The states with the strongest existing safety nets tend to make the most generous decisions for immigrants, resulting in increased inequality across state immigrant safety nets. The states making the fewest efforts to replace lost benefits tend to be the states with the weakest existing safety nets—leaving immigrants in those states with markedly less access to assistance than the immigrants living in the states with stronger safety nets. While devolution leads to variation across states for citizens as well, differences from state to state are exaggerated for immigrants. They lose access to federal assistance and states can bar them from federal and state programs.

Take Texas and Massachusetts as examples. Before welfare reform, immigrants in Massachusetts generally had the same access to federal and state assistance as citizens. The same was true in Texas, but both groups—immigrants and citizens—had more assistance available in Massachusetts than Texas, because Texas provides few state benefits to any group. Following welfare reform, many immigrants in all states lost federal food stamps, and post-enactment immigrants were barred from TANF and Medicaid for five years. In Massachusetts, those immigrants get state-funded food stamps, TANF, and Medicaid, and they retain access to state-funded GA cash and health benefits if they need them. In Texas, a more limited group of immigrants gets food stamps, none get state-funded TANF or Medicaid, and there is no state-funded cash or medical assistance program. Not only do immigrants in Texas get fewer substitute benefits than immigrants in Massachusetts do, but they also have fewer state services to fall back on.

This increased variation across state safety nets raises a series of interesting questions about the impacts of federal welfare reform on immigrants. For example, will the patterns of state decisions lead to interstate migration, with more immigrants moving to California and other states providing relatively more assistance to immigrants? Will immigrants in states providing food and health assistance be in better health than immigrants in states not providing such assistance? Are differing benefit policies leading to varying demands for naturalization and varying naturalization rates across states?

Giving Greater Authority to States Shifts Immigrant Costs

The welfare reform law clearly gives states greater authority to set eligibility rules for immigrants, but given the states' reactions, it has also shifted substantial costs to states and localities. The clearest example of this is the surprisingly large number of states that have opted to use their own funds to pay for food assistance, TANF, and Medicaid for post-enactment qualified immigrants during the five-year bar. For these states, the bars on immigrants' receipt of benefits have resulted in a direct cost-shift, which can be significant. For example, California estimates that it was spending more

than \$1.8 million monthly to provide only partial restoration of food benefits to immigrants.¹²⁷

Here, too, inequality across states has been exacerbated. The nation's immigrant population is concentrated in a handful of states that bear a disproportionate share of the fiscal burden associated with immigrants. To the extent that these states provide more generous benefits to immigrants than states with smaller immigrant populations, they shoulder an even greater share of the total immigrant costs.

The cost-shift to the states has broader implications as well, in that it deepens the divide between immigration and immigrant policy. Before welfare reform, the federal government had authority over setting policy for immigrants but the states paid much of the costs of providing services to immigrants. Under the new setup, states have a bigger role in setting immigrant policy and paying for it. But the federal government retains exclusive authority over immigration policy, determining how many and which immigrants enter each year. As a result, our federally set immigration policy remains fairly liberal and inclusive while our immigrant policy, now largely in the hands of the states, has become more exclusionary and fragmented.

States Are More Likely to Provide Health Care Than Cash Assistance

Although providing health benefits is generally more expensive than providing cash benefits, more states have opted to keep qualified and unqualified immigrants eligible for their state health than for their cash programs. This pattern suggests that cost is not the only factor states consider. States may realize that it is difficult for even working immigrant families to find affordable health insurance. Irrespective of the immigrant coverage issue, the federal government and many states and localities have worked on increasing health insurance rates among children (e.g., through Medicaid expansions and CHIP). In places with large numbers of immigrants, restricting noncitizens' access to health care would fly in the face of efforts to increase overall coverage for children. Finally, states may be opting to provide health coverage in spite of its cost because of the perceived health benefits to the community of providing such care. They may also realize that the costs of providing emergency assistance may well outweigh the costs of providing preventive care.¹²⁸

Vulnerable Groups Are Left Out

Although most states have kept immigrants who entered the United States by August 22, 1996, eligible for many benefits, most immigrants who enter after that date have more limited access to public assistance programs. This is partly because many states mirrored federal restrictions by making post-enactment immigrants ineligible for state-funded assistance.

In addition, elderly but nondisabled immigrants who were not covered under the federal SSI restorations have few state programs to fall back on. Only a handful of states have created new substitute programs for this population, and existing state cash and health programs are more likely to cover the disabled than the elderly.

Although federal law exempts refugees from the immigrant bars for their first five or seven years in the United States, refugees (especially those arriving after PRWORA's passage) not covered under federal restorations or state programs may not be able to learn English quickly enough to naturalize and retain eligibility for federal assistance. This group may be particularly hard hit by federal and state exclusions because they have lower incomes than other immigrants. Over half of all noncitizen refugees have incomes under 200 percent of the federal poverty level even after residing in the United States for more than seven years.¹²⁹ Further, unlike other post-enactment immigrants, refugees do not have sponsors with legally enforceable affidavits of support.

Targeting Immigrant Children Provides Little Aid

State substitute programs targeting assistance to noncitizen children do not help many immigrant families since three-quarters of all children in those families are citizens. The large share of immigrant families that are made up of noncitizen parents and citizen children do not benefit at all when replacement benefits are targeted in this way. Assisting noncitizen parents may be a more effective strategy if covering children is the real objective, since it would increase the assistance available to the citizen and noncitizen children in those families.

California Is Different from the Rest of the United States

Perhaps our most surprising finding is that, despite its anti-immigrant reputation, California provides substantial benefits to its qualified immigrant population. At the same time that California is one of the most generous states in providing assistance to qualified immigrants, it is the most aggressive in trying to bar the unqualified from state public benefits. This dichotomy is in keeping with the state's history of attempting to control illegal immigration (with Proposition 187, e.g.) while maintaining its tradition of providing one of the more extensive state safety nets in the country. The state's immigrant eligibility decisions can be partly attributed to the unique and changing politics of immigration in California. Despite the success of ballot initiatives limiting affirmative action and bilingual education, the state has succeeded in putting in place some of the most comprehensive state-funded benefits for immigrants. The state's large and increasingly powerful immigrant community and advocacy network may not yet be affecting voter initiatives, but they are clearly being heard by the state legislature and other policymakers.



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California may also be a trendsetter. Its decision to provide food stamps and SSI to post-enactment immigrants whose sponsor is deceased, disabled, or abusive may provide a model for other states that have yet to feel the impact of restrictions on the still relatively small number of post-enactment immigrants. Most of these immigrants have sponsors who have promised to support them. But if those sponsors become unable to do so, few states have safety nets available to the sponsored immigrants left without support.

What Happens to Immigrants Who Remain Eligible for TANF?

As nearly every state has opted to keep pre-enactment immigrants eligible for TANF, and nearly half are providing TANF to post-enactment immigrants as well, it remains to be seen what will happen to immigrants who are still eligible for or are still receiving TANF. What are the implications of work requirements for those who do not speak English and for recently arrived refugees? Are immigrant welfare recipients more or less likely than citizens to drop off welfare rolls and get a job? More generally, are states taking into account these immigrant populations as they shift their welfare programs from an education and training focus to a “work-first” orientation?

Eligibility Does Not Ensure Access

We have focused on the eligibility rules that govern immigrants’ access to public benefits. But rules alone do not determine the extent to which immigrants actually receive benefits. Recent analyses of both Los Angeles County and national data indicate that immigrants are increasingly reluctant to use benefits for which they remain eligible.¹³⁰ A number of factors may explain the drops in benefit use by immigrants. The complex and constantly changing eligibility rules may have left many immigrants confused about whether they are eligible for assistance. Further, “public charge” concerns about the implications of receiving benefits for obtaining legal permanent resident status or naturalizing, as well as the new verification and reporting rules, may also be chilling benefit use by immigrants.¹³¹ States can play an important role in the extent to which they inform immigrant communities about new eligibility rules and the implications of public benefit receipt.

Decisions Are Still to Be Made

Although states have made a wide range of choices regarding immigrant access to benefits, a number of important decisions for states remain. With the federal restorations of food stamps for some legal immigrants, it still remains to be seen