



Access to Disaster Benefits for Immigrants without Status

There is an exception to the general rule that immigrants must be in a legal status to be eligible for federal public benefits and that is in the case of “short term, non-cash, in kind emergency disaster relief.” Thus emergency shelters for victims displaced by Hurricane Sandy, warming centers, and of course food pantries and soup kitchens are open to all.

FEMA Benefit Programs

Unfortunately, many of the Individual Assistance programs administered by the Federal Emergency Management Agency (FEMA) are only open to U.S. citizens or noncitizens with a “qualified alien” status as defined in federal law. Programs restricted to those in a qualifying immigration status include cash assistance, rental assistance, transitional shelter assistance and Disaster Unemployment Assistance. Only non-citizens in the following immigration statuses are eligible for most FEMA benefits:

- lawful permanent residents,
- refugees, asylees, and individuals granted withholding of deportation/removal
- Cuban/Haitian Entrants (Cubans and Haitians who entered the US with parole status at any time after April 1980, regardless of their current status)
- Certified victims of trafficking
- Individuals granted parole for a period of one year or more
- Battered spouses or children of US citizens or lawful permanent residents who are in the process of petitioning the immigration service.

Nevertheless, **mixed status households** in need of disaster relief are eligible to apply for FEMA programs as long as the household has at least one member who is a U.S. citizen or who is in a qualifying immigration status. This is true even if it is only a child in the household who meets the citizenship status requirements. The Social Security number of the eligible household member(s) must be provided. Ineligible noncitizens who are making the application on behalf of eligible family members need not provide any information about their own status. Disaster Unemployment Benefits (DUA) as an individual rather than a household benefit are only available to an unemployed worker who has one of the statuses listed above.

Nutrition Assistance Programs

Disaster Supplemental Nutrition Assistance Program (D-SNAP)¹ and replacement SNAP benefits:

Disaster related SNAP is designed to provide food assistance benefits to households that are not SNAP recipients at the time the disaster hits. Because it is designed to alleviate the hardships caused by a disaster, it has a vastly streamlined application process. Importantly, there are **no immigration status restrictions** in the D-SNAP program.

Areas which have received Presidential disaster declarations are eligible to operate a D-SNAP. States must affirmatively request and receive permission from USDA to run D-SNAP. The program cannot generally be put into place until commercial channels of food distribution are functioning again and people are able to purchase and prepare food at home.

Willingness by the local districts to operate a D-SNAP is a critical piece of making these benefits available. The counties that have been declared disaster areas and are eligible to run a DSNAP program include New York City (all five boroughs), Nassau, Suffolk, Rockland, and Westchester.

The Office of Temporary and Disability Assistance (OTDA), USDA and the disaster designated counties are currently evaluating the feasibility of implementing D-SNAP here in New York State. It is not certain at this point whether we will have a D-SNAP and if so, which counties will participate.

SNAP recipients who experience food loss or spoilage due to the disaster are eligible for a supplemental allotment called a “replacement” benefit. Although immigrants without status are not eligible for SNAP, members of the household who are U.S. citizens or immigrants with a qualifying status are eligible for this supplement.

Replacement benefits for current SNAP recipient households in these designated disaster areas have already been provided – Nassau, Suffolk, Putnam, Rockland, Suffolk and Westchester counties, and in 79 zip code areas of New York City. The automatic supplement consists of the deposit of an additional 50% of the recipient family’s October monthly benefit into the SNAP household’s account. Households that can show that their food loss was greater than 50% of their usual benefits can apply for an additional amount, up to the amount of their usual monthly benefit. New York City recipient households who live outside the 79 zip codes did not receive an automatic replacement, but can apply for an individual replacement if they experienced food loss or spoilage due to the disaster. Individual replacement requests must be made by November 28, 2012.

¹ Supplemental Nutrition Assistance Program (SNAP) is what the food stamp program is now called.

Additionally, SNAP households in designated disaster areas can use their benefits to purchase hot and prepared foods until November 30th, something that is usually not allowed by the SNAP program. The hot/prepared foods must be purchased at EBT retailer locations that are already authorized to accept SNAP benefits.

School Meals Program

All children can receive school meals regardless of their immigration status. However, some immigrant children may be newly eligible for free school meals due to the impact of Hurricane Sandy.

Children who are homeless are categorically eligible for free school meals, regardless of family income. "Homeless" for free school meals purposes includes children living in shelters or emergency housing, as well as those in doubled-up housing (staying temporarily with friends, relatives or other individuals due to a loss of housing or economic hardship). New York City was granted a waiver to provide free school meals to all children during the month of November.

WIC

The Women, Infants and Children (WIC) nutrition program is available to pregnant women and young children regardless **of immigration status**. New York has received powdered and ready-to-use infant formula from FEMA as regular supply chains recover from the storm. At this time, three regional food banks have been designated as receiving sites for the formula:

- Harry Chapin Food Bank in Hauppague on Long Island;
- Food Bank for NYC in the Bronx, and
- Food Bank for Westchester in Elmsford.

Certain rules of the WIC program have also been relaxed in disaster areas. Participants will be allowed to:

- Partially redeem WIC checks if not all items are available,
- Substitute certain foods if WIC brand or specified package sizes are not in stock and
- Substitute ready-to-use infant formula in areas with water supply issues.

NY has also been granted exemptions in the designated areas to:

- Mail checks if beneficiaries have transportation issues and can't come to the WIC agency;
- Certify applicants even if their child is not physically present at the WIC agency site, and
- Tailor food packages to reflect the fact that some people do not have access to their homes or are experiencing power outages or water issues.

These are the most recent updates available as of November 9, 2012.

Barbara Weiner (bweiner@empirejustice.org)
Senior Staff Attorney, Empire Justice Center
(518) 462-6831, ex. 104