

Slide 1

PUBLIC CHARGE

- History of the ground of inadmissibility and its significance
- Focus used to be on intending immigrant
- Able-bodied & employable?
- Significant public charge concerns?
- Totality of circumstances test
- Now focus is on the sponsor

1



Slide 2

TOTALITY OF THE CIRCUMSTANCES

- Age
- Health
- Family status
- Financial status
- Assets
- Education
- Job skills

2

Slide 3

AFFIDAVIT OF SUPPORT

- Nearly all family-based immigrant visa applicants regardless of their income
- Exceptions:
 - Widows/widowers
 - Battered spouses
 - Refugees
 - Asylees
 - Diversity visa lottery winners

3

Slide 4

WHAT IS THE LIABILITY?

- Sponsor must maintain immigrant at an annual income of 125% of poverty
- Sponsor must reimburse agencies that provide public means-tested benefits
- Sponsor has address reporting requirement

4

Slide 5

**AFFIDAVIT OF SUPPORT
TERMINATES:**

- Immigrant naturalizes
- Immigrant dies
- Immigrant abandons LPR status
- Immigrant ordered removed but readjusts
- Sponsor/household member dies or
- Immigrant gains/credited with 40 quarters

5

Slide 6

40 QUALIFYING QUARTERS

- Unit of wage under Social Security law
- Use intending immigrant's quarters
- Use petitioning spouse's quarters if earned during marriage and still married
- Use parents' quarters until child turns 18
- No quarters if received means-tested benefits after January 1, 1997

6

Slide 7

NO AFFIDAVIT REQUIRED

- Intending immigrant can show 40 qualifying quarters (earned or credited with)
- Submits certified Social Security earnings records
- Worker certifies did not receive benefits since January 1, 1997
- Applies in adjustment and consular processing
- File Form I-864W

7

Slide 8

NO AFFIDAVIT REQUIRED

- Child qualifies for citizenship under Child Citizenship Act of 2000
 - Is LPR
 - Under 18
 - Residing with one U.S. citizen parent
- Applies to adjustment and consular processing
- File Form I-864W

8

Slide 9

WHO CAN BE A SPONSOR/JOINT SPONSOR?

- A U.S. citizen, national, or LPR
- At least 18 years old
- Domiciled in U.S.
- Able to meet income requirements

9

Slide 10

Domicile

- Sponsor must have "principal residence" in the U.S. or U.S. territory
- Place of general abode or principal, actual dwelling place without regard to intent
- Must have intention to maintain residence for the foreseeable future
- Temporary absences OK
- Can re-establish domicile with alien spouse
- LPRs can file to preserve residence

Slide 11

HOUSEHOLD SIZE

- Petitioner/sponsor
- Sponsor's spouse and unmarried children under 21 (unless emancipated)
- Dependents on tax return
- Sponsored immigrant
- Accompanying family members
- Other sponsored immigrants (I-864)
- Other relatives if use their income

11

Slide 12

RELATIVES

- Spouse, parent, adult son or daughter, sibling
- Reside with sponsor
- Able to include their income
- No six-month residence requirement

12

Slide 13

WHOSE INCOME COUNTS?

- Petitioner/sponsor
- Relative who resides with sponsor
- Intending immigrant if spouse of sponsor or reside with sponsor and income from lawful employment will continue after becoming LPR from same source
- Dependents on tax return

13

Slide 14

IF USING RELATIVE'S INCOME

- Complete Form I-864A
- Intending immigrant does not complete I-864A unless dependents accompanying
- Proof of relationship and residence if not intending immigrant or sponsor's spouse/dependent
- Legal obligations same as sponsor
- Need not be citizen or LPR, but must be 18

14

Slide 15

INCOME

- Use current income
- Extrapolate to annual income
- Income for year in which I-864 filed determines sufficiency
- Poverty income guidelines in effect when filed
- Include I-864P

15

Slide 16

SIGNIFICANT ASSETS

- Of sponsor
- Of sponsored immigrant
- Of relative executing I-864A
- E.g., savings, stocks, bonds, CDs, real estate
- Equals 5 times shortfall in income
- Equals 3 times if intending immigrant is spouse/child over 18 of USC

16

Slide 17

JOINT SPONSORS

- Satisfies 125% by counting income & assets
- Measure household size same as petitioner
- Don't count citizen or LPR family members of intending immigrant
- Measure household income same as petitioner
- Can have up to 2 joint sponsors for petitioner and accompanying family members
- Can have more if derivatives are following to join

17

Slide 18

AFFIDAVIT OF SUPPORT

- Sponsor and relatives submit only last tax return, plus all forms and schedules (IRS transcript OK)
- I-864 does not need to be notarized
- No employer letters or pay stubs, unless current income questionable
- No original signatures on copies of I-864 for accompanying derivatives

18

Slide 19

AFFIDAVIT OF SUPPORT

- *Stump* decision
- Sponsor obligations
 - Maintain alien at 125%
 - Reimburse means-tested programs
 - Inform USCIS of address change
 - Duration of the contract
- Obligations start when intending immigrant becomes LPR
- Can withdraw I-864 before that time