

Medical and Legal Needs for Immigrant and Refugee Families

Augmenting Opportunities for Bidirectional Care

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Overview

Types of humanitarian-based immigration status

Eligibility for benefits based upon immigration and/or documentation status

Review of timely policies that can promote and limit access to care for immigrant families

Discussion – opportunities for partnership across medical-legal fields

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Refugee vs Asylum Seeker

Refugee

Refugee is a lawful status.

“Refugee” is Defined by United Nations 1951 Convention on Status of Refugees (After WWII):

“...well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country...”

Asylum Seeker

Asylee is a lawful status, but asylum seekers do not yet have this status.

“Asylee” is Part of U.S. immigration Law (The Refugee Act of 1980)

Unable or unwilling to return to his or her home country, and cannot obtain protection in that country, due to past persecution or a...

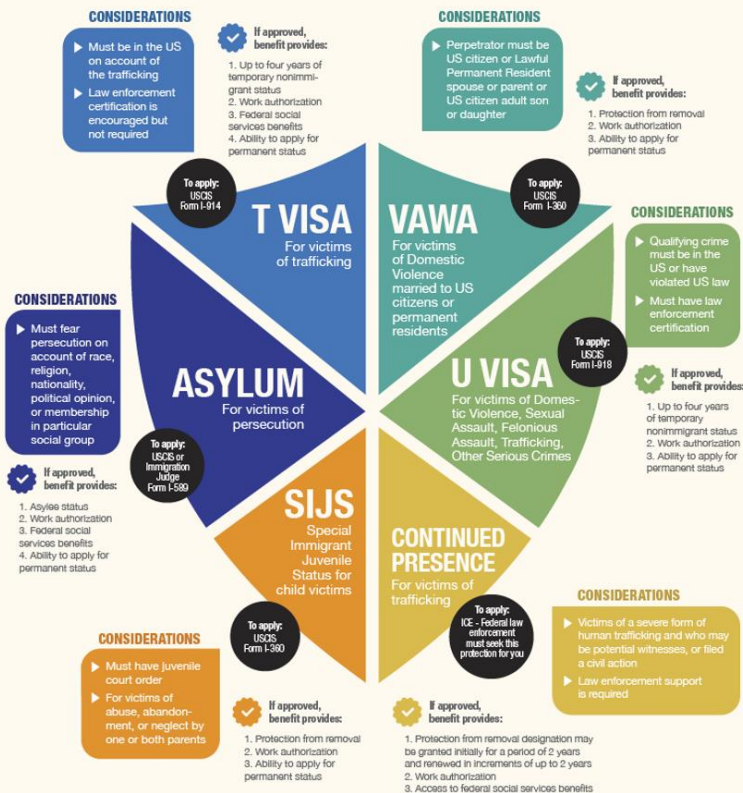
“...well-founded fear of being persecuted in the future “on account of race, religion, nationality, membership in a particular social group, or political opinion.”

What are the fundamental differences between a refugee and an asylum seeker when they arrive in the United States?



- Lawful Status
- Employment Authorization
- Access to Healthcare
- Access to Public Benefits
- Family Reunification

PROTECTIONS FOR IMMIGRANT VICTIMS



Why does immigration status matter for health?

- Access to services
 - WIC - Women Infants and Children
 - SNAP - Supplemental Nutrition Assistance Program
 - Public Health Insurance Eligibility
 - Utility (gas/electric) support through Low Income Home Energy Assistance Program
- Safety and security
 - Fear affects ability to receive needed care
- Potential traumatic experiences in detention in US
- Challenges with employment authorization
- Ability to receive health care after needs are identified by stakeholders

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Eligibility for Benefits – A Complex “Landscape of Unknowing”

Often not clear – for both medical and legal providers

- Legal side: Fear of using something incorrectly
- Medical side: Ordering tests/care/referrals without knowing financial consequences

Terminology:

- Qualified Non-Citizen/Immigrant
- Lawfully Present
- Five-year window

Breaking down silos!

Fear of Negatively Impacting Immigration Options/Applications

The majority of immigration attorneys do not understand when and under what circumstances their clients are eligible for Medicaid or other insurance options.

Concerns for immigration attorneys:

- Perception of fraud
 - Miscommunication or misunderstanding of client's immigration status
- Clients incurring significant medical debt

As a result, many immigration attorneys warn clients against applying for Medicaid or using insurance if approved. Many individuals may actually be eligible for Medicaid and access to healthcare but do not know or have been warned against trying to access care.

Who has Access to Healthcare?

Immigration Categories

Qualified Non-Citizen/Immigrant - lawful permanent residents; refugees; asylees; persons granted withholding of deportation/removal, humanitarian parolees; Cuban/Haitian entrants; and certain battered immigrants

Battered Immigrants - someone who:

- (1)(a) has been battered or subjected to extreme cruelty in the U.S. by a U.S. citizen or LPR spouse, parent or step-parent, and (b) has been approved or has a VAWA self-petition pending; or
- (2) is a victim of trafficking or a family member of a trafficking victim who has been granted T visa status or whose T visa application sets forth a prima facie case.

Lawfully Present - Qualified non-citizens without five-year waiting period, humanitarian status (Temporary Protected Status, Special Immigrant Juvenile Status, asylum applicants, CAT protection, U Visas, Trafficking survivors w/ continued presence)

Who has Access to Healthcare?

Access to Care by Category

Qualified Non-Citizen/Immigrant

Purchasing Insurance - VAWA Petitioner (w/ PFD), Refugee, Asylees, Asylum applicants (w/ work auth.), Asylum applicants under 14 (pending > 180 days) T Applicant (w/ PFD or HHS certification)

CHIP - VAWA Petitioner (FYB*), Refugees, Asylees, T Applicant (w/ HHS cert. or eligibility determination) to the same extent as refugees, T Visa (holder or applicant)(FYB)

Medicaid - VAWA Petitioner (w/ PFD)(FYB), Refugees, Asylees, T Applicant (w/ HHS cert. or eligibility determination) to the same extent as refugees, T Visa (holder or applicant)(PFD)(FYB)

Lawfully Present

Purchasing Insurance - SIJS Petitioner, U Applicant (w/ PFD or Deferred Action)

CHIP - SIJS (only when LPR)(FYB), U Visa (only when LPR)(FYB)

Medicaid - SIJS (only when LPR)(FYB), U Visa (only when LPR)(FYB)

**Five-Year Bar* - certain qualified non-citizens/immigrants (entered after 8-22-96) must wait five years in QNC status before being eligible for CHIP & Medicaid. Some categories exempt.

Connecticut– Specific Information

All persons are eligible for Emergency Medicaid no matter their immigration status

All pregnant persons are eligible for prenatal care no matter their immigration status (started April 1, 2022)

Postpartum care has been extended from 2 months to 12-months (started April 1 2022)

Beginning January 1, 2023, all children under the age of nine will be eligible for state-funded healthcare no matter their immigration status.



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Recent Policies and Updates

Federal Policies Under President Trump

- Public Charge Rule
- Limited Refugee Admissions

Federal Policies Continuing with President Biden

- Title 42 (COVID-19 policy) *
- Migrant Protection Protocols (“Remain in Mexico”)

*discontinued last week

Afghanistan-Specific Policies

- Afghanistan Appropriations Act
- Proposed Afghan Adjustment Act

Connecticut Policies and Legislation

- Expansion of HUSKY eligibility

Public Charge Rule

- “Public charge,” as defined by the former Immigration and Naturalization Service (INS, now U.S. Citizenship and Immigration Services, or USCIS), refers to an individual who is likely to become “primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense.”



**NATIONAL IMMIGRATION LAW
CENTER**

Public Charge Rule

PROGRAMS PREVIOUSLY CONSIDERED
FOR A PUBLIC CHARGE DESIGNATION

**SUPPLEMENTAL SECURITY
INCOME (SSI)**

**TEMPORARY ASSISTANCE FOR
NEEDY FAMILIES (TANF)**

**INSTITUTIONALIZED LONG-TERM
CARE**

ADDITIONAL BENEFITS CONSIDERED
UNDER THE REVISED RULE

MEDICAID

**SUPPLEMENTAL NUTRITION
ASSISTANCE PROGRAM (SNAP)**

**MEDICARE PART D
PRESCRIPTION DRUG SUPPORT**

**HOUSING ASSISTANCE
INCLUDING SECTION 8
VOUCHERS**

Public Charge Rule

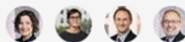


Key Findings

- Combined enrollment for Medicaid and CHIP declined in 38 states by 912,000 children nationwide in 2018.
- There is scant evidence that the enrollment drop is primarily the result of a strong economy.
- There are many proven strategies that lagging states can implement to advance enrollment and retention of eligible children.

BRIEF

One in Seven Adults in Immigrant Families Reported Avoiding Public Benefit Programs in 2018



Hamutal Bernstein, Dulce Gonzalez, Michael Karpman, Stephen Zuckerman
May 22, 2019



Public Charge Rule Today

We're back to the pre-Trump rules, which means: “***primarily*** dependent on the government for subsistence, as demonstrated by either (i) the receipt of public ***cash*** assistance for income maintenance or (ii) institutionalization for ***long-term*** care at government expense.”

What **DOESN'T** count:

- Non-cash benefits (HUSKY, WIC, food stamps, Section 8)
- Benefits received by other household members
- Short-term care (like rehab) or disaster relief (COVID checks)

Who is exempt?

LPRs, VAWA Petitioners, U Visa Holders, T Visa Holders, Asylees, Refugees, SIJS Petitioners (humanitarian-based relief generally)

Title 42

Misusing Public Health as a Pretext to End Asylum — Title 42

Anne G. Beckett, M.D., M.P.H., Loune Viaud, B.A., Michele Heisler, M.D., M.P.A., and Joia Mukherjee, M.D., M.P.H.



The NEW ENGLAND
JOURNAL of MEDICINE

March 23, 2022

DOI: 10.1056/NEJMp2200274

“Since the Title 42 order went into effect, more than **1.6 million** people entering the country from Mexico or Canada have been summarily expelled without the opportunity to seek asylum.”

“at least **8705 kidnappings, rapes, and other violent attacks on people expelled** under Title 42 were documented by human rights groups in 2021.”



The Biden administration has turned to deterrence measures as the number of border crossings in recent months has reached their highest level in decades. Paul Ratje/Agence France-Presse — Getty Images



HEALTH AND SCIENCE

WATCH LIVE

CDC will end sweeping order used to expel migrants at U.S. borders during Covid pandemic

PUBLISHED FRI, APR 1 2022-12:25 PM EDT UPDATED SAT, APR 2 2022-11:44 AM EDT



Spencer Kimball
@SPENCEKIMBALL

WATCH LIVE

KEY POINTS

- The Centers for Disease Control and Prevention will end a sweeping order the U.S. has used to expel more than 1.7 million migrants at the nation's borders during the Covid-19 pandemic.
- The CDC said the order, known as Title 42, will end on May 23 to give the Department of Homeland Security time to ramp up a vaccination program for migrants crossing U.S. borders.

Migrant Protection Protocol (MPP)

“Remain in Mexico”

- “MPP 1.0” - December 2018
 - Seeking asylum in the U.S?
 - Remain in Mexico until they are scheduled for court in the U.S. (Could be Years)
- “MPP 2.0” - December 2021
 - Biden sought to terminate the MPP, federal Court reinstated it
 - Exempt:
 - “Known mental or physical health issue,” vulnerabilities with advanced age
 - Unaccompanied children
 - At-risk of harm in Mexico because of sexual orientation or gender identity

Newsweek



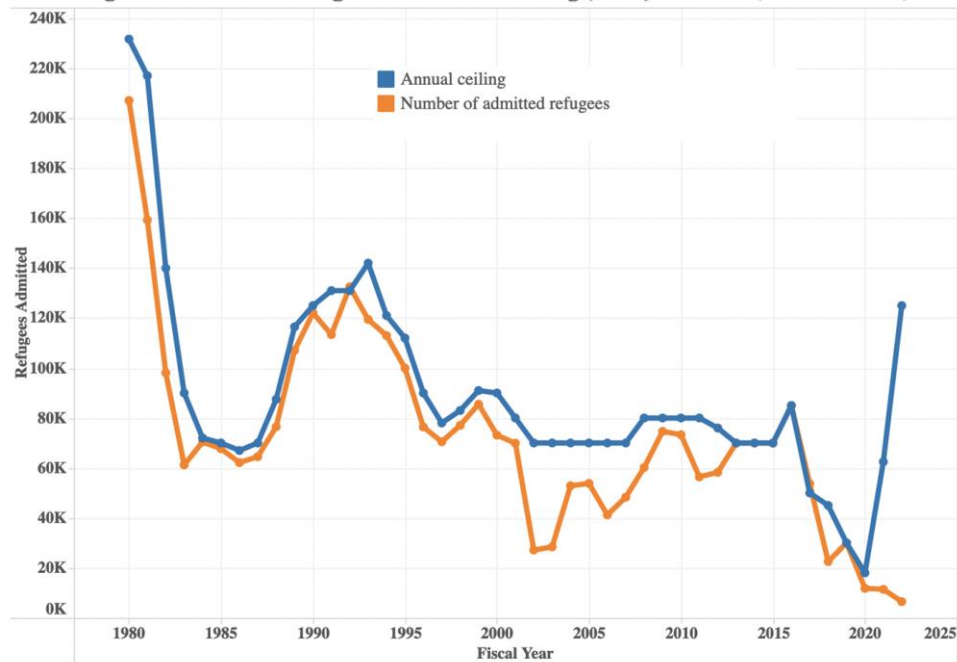
Some migrants cannot afford accommodations, electing to live in tents as their cases are processed. Here, the El Chaparral migrant encampment in Tijuana, Mexico, as seen on March 30, 2021.

ALEX ROUHANEH

****Additional Exemption**** CBP officers are now required to ask every asylum seeker about fear of returning to Mexico. Anyone who expresses a fear must be given an interview with an asylum officer

Limited Refugee Admissions

U.S. Refugee Admissions & Refugee Resettlement Ceilings, FY 1980-2022* (thru Feb 2022)



In 2019, only half a per cent of the world's refugees were resettled. Over the past decade, just over 1 million refugees were resettled, compared to 3.9 million refugees who returned to their country.

*Source: Amnesty International



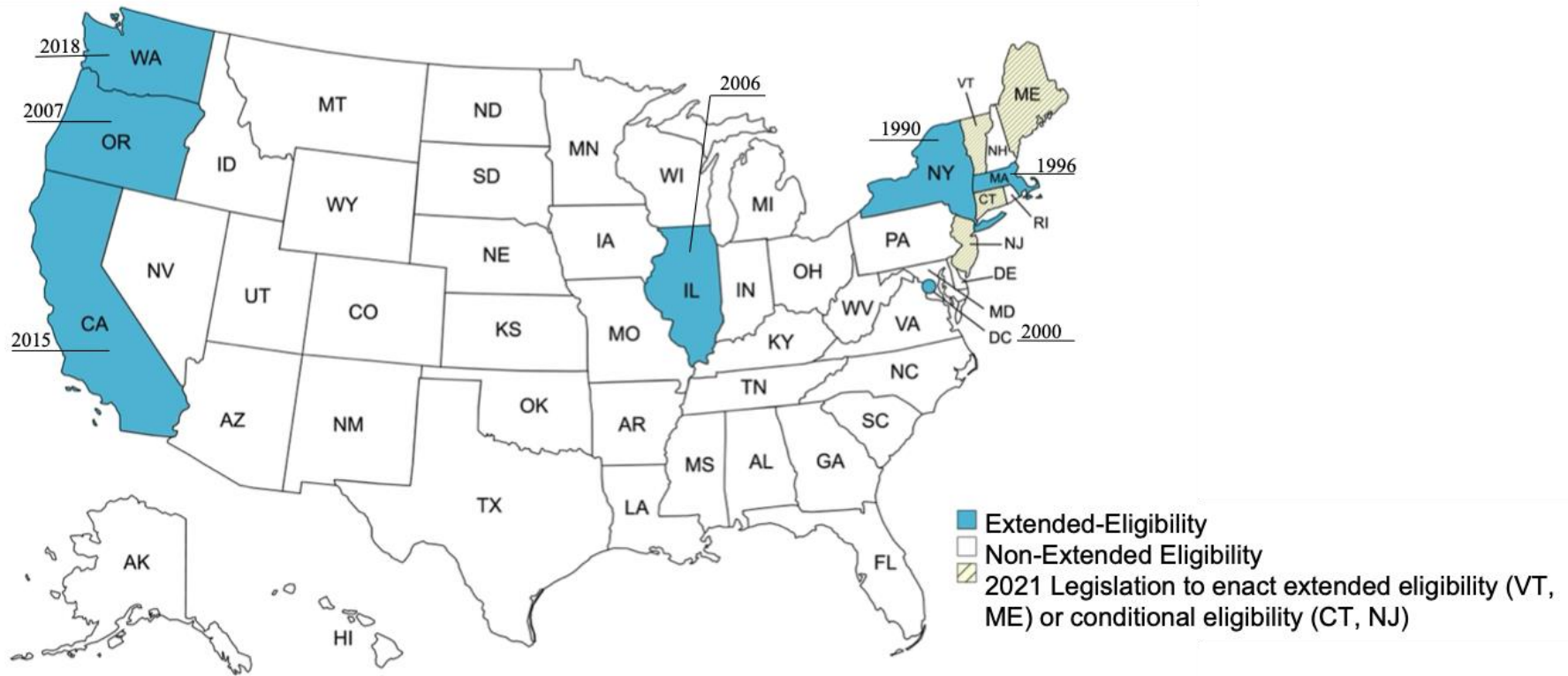
Afghanistan-Specific Policies

Options for Afghan Evacuees (76,000):

- Parolees (Afghan Placement and Assistance Program):
 - 2-year, temporary status
 - For those paroled into US between July 2021 - Sep 2022
 - May apply for benefits available for other refugees
 - Ends March 31, 2023 or end of parole term (whichever is later)
- Temporary Protected Status (Announced March 2022)
 - 18-month designation
 - Only to those residing in the US as of March 15, 2022
- Other potential status eligibility – can contact state refugee office for legal assistance support:
 - Special Immigrant Visa (SIV) or Asylum
 - Hopeful for: Afghan Adjustment Act



Connecticut-Specific Policies



Connecticut-Specific Policies

■ HEALTH

Proposal opening HUSKY to undocumented children in CT wins final approval



by Jenna Carlesso

June 9, 2021

Lawmakers not giving up on bill to expand Medicaid to undocumented kids

The bill to expand HUSKY failed in committee, but could it go into the budget implementer?



by Jenna Carlesso and Katy Golvala

March 30, 2022

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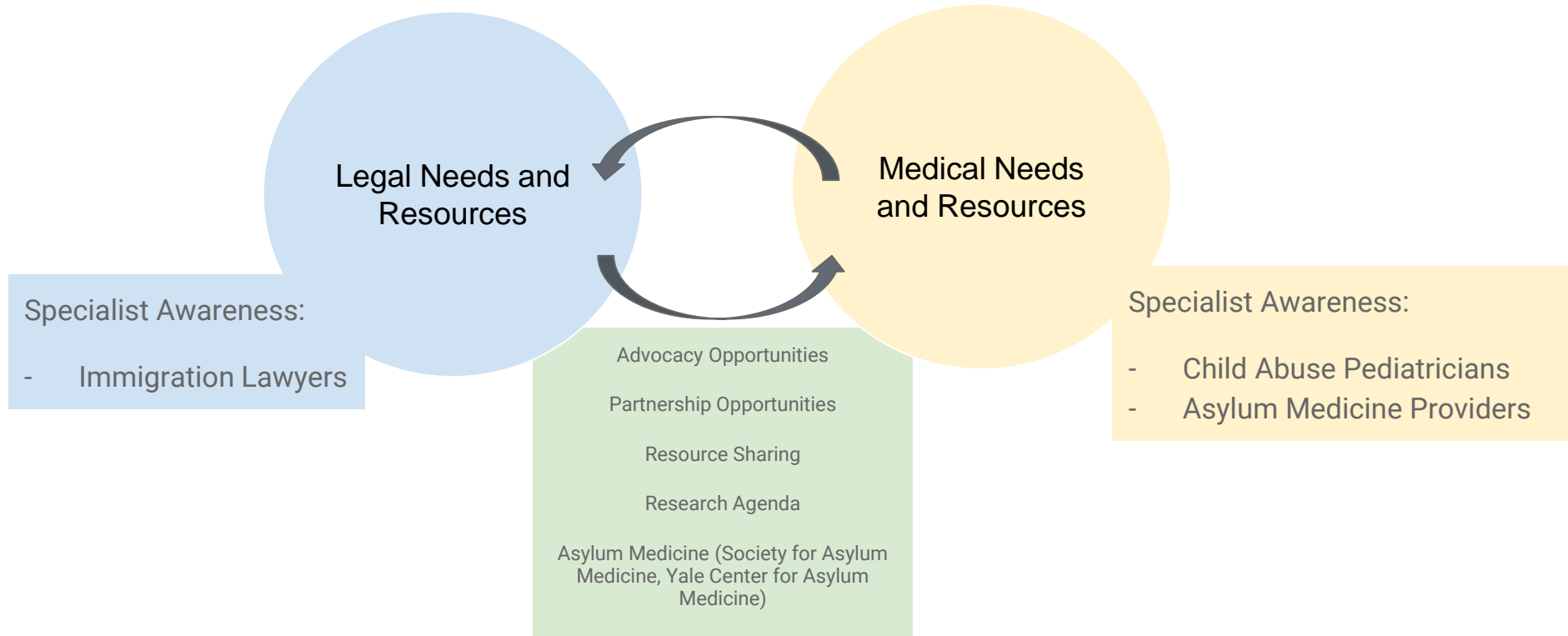
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Interdisciplinary Advocacy in Action

Hartford, CT - April 14 at 10 AM: Join us with Husky 4 Immigrants Campaign to expand HUSKY to all children of all ages





Discussion and Questions and Answers: Current Medical-Legal Opportunities and Challenges



Resource List

- Afghan Parolee Benefits (HHS): <https://www.acf.hhs.gov/sites/default/files/documents/orr/Benefits-for-Afghan-Humanitarian-Parolees.pdf>
- Migration Policy Institute, Medicaid Eligibility for Immigrant Adults: <https://www.migrationpolicy.org/research/medicaid-immigrant-adults>
- CMS Medicaid and CHIP Coverage: <https://downloads.cms.gov/cmsgov/archived-downloads/smdl/downloads/sho10006.pdf>
- National Conference of State Legislatures: Benefits Information <https://www.ncsl.org/research/immigration/federal-benefits-to-unauthorized-immigrants.aspx>
- National Immigration Law Center: Benefits Information: <https://www.nilc.org/issues/economic-support/overview-immeligfedprograms/>
- Migration Policy Institute, Afghan Adjustment Act: <https://www.migrationpolicy.org/news/afghan-adjustment-commentary>
- Husky 4 Immigrants Website: <https://www.husky4immigrants.org/>

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