

Immigration and cancer

Information for people affected by cancer

If you have been diagnosed with cancer, and you have immigrated from another country or you have family overseas, you may have questions about immigration law. You may wonder whether you are eligible for free health care in Australia, and whether members of your family can come to Australia to care for you.

This fact sheet covers the visa categories that might apply to you, as well as other issues such as Medicare and social security.

Visa categories

There are a number of different types of visas that may be relevant for you and/or your family. Different eligibility criteria apply to each visa type.

Carer visas – For people who need to come to Australia or remain in Australia to care for a family member who has a medical condition, such as cancer. The person with cancer must be an Australian citizen or permanent resident, or an eligible New Zealand citizen. The following conditions also apply:

- the visa applicant (the carer) must meet health and character requirements (see below)
- there must be no other person or organisation in Australia who can provide the same level of assistance to the patient
- the patient is likely to need ongoing care for at least two years which is assessed by a medical examination with Bupa Visa Medical Services.

Medical treatment visas – For people who need to travel to Australia or remain in Australia for medical treatment or to donate an organ. This visa can also be used by a selected person wanting to accompany the person requiring medical treatment. This visa is usually valid for the duration of the treatment plan (usually from 3-12 months).

While in Australia the visa holder can study for up to 3 months but cannot work. They must also prove that they have enough money to cover all travel and treatment expenses as applicants are not eligible to receive Medicare or other government benefits on this visa.

Family visas – For people who have a partner, parent or child living in Australia as a citizen or permanent resident.

Visa requirements

Various requirements that may be relevant are set out below.

Health clearances

- Applicants for permanent visas will need to have a health assessment that includes a medical examination, chest x-ray (applicant must be 11 and older) and HIV/AIDS test (must be 15 and older). The examination is performed by doctors and radiologists chosen by the Australian Government.
- A visa will be refused if the applicant has a health condition that may require costly medical treatment, or services that are in short supply in Australia.
- Sometimes the health requirement may be waived for humanitarian visa applicants (e.g. refugees) or where the applicant has a close family relationship (spouse or child) with an Australian citizen or permanent resident.

Character requirements

- An applicant for a permanent visa must be of good character.
- The applicant may be requested to provide police certificates for each country where they have lived for 12 months or more during the last 10 years.

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Assurance of support and bonds

An Assurance of Support (AoS) is a legal agreement between an Australian resident (the assurer) and the Australian Government that the assurer will personally repay any social security payments made to a migrant during the initial period of their residency. The AoS is usually refunded after the proposed period (minus any amounts used during this time).

Types of assurance of support

Mandatory – People applying for a Parent visa or Aged dependent relative visa will need an AoS.

Discretionary – An AoS may be needed for some other visa types if the Government thinks the visa applicant may need to rely on Australia's social security system. The Government will consider education, skills, employment history, English language skills and age of both the visa applicant and sponsor when making their decision.

Time periods

Assurances of support vary depending on the type of visa granted:

- for Contributory parent and Contributory aged parent visa holders the AoS runs for 10 years
- for any other visa types the AoS runs for 2 years.

The assurer does not have to repay social security benefits received after the time period has ended.

Assurance of Support bonds

An assurer/s providing a mandatory AoS must also lodge a bond with the Australian Government. If the migrant receives social security payments from Centrelink during the AoS period, the total amount paid is deducted from the bond. Centrelink will return the bond (or the amount remaining after deductions) to the assurer at the end of the AoS period. The bond amount is:

- Permanent Contributory Parent (including Contributory Aged Parent) – \$10,000 for the main applicant and \$4,000 for the secondary applicant
- Permanent Parent (including Aged Parent), Aged Dependent Relative and Remaining Relative \$5,000 for the main applicant and \$2,000 for the secondary applicant.

The AoS must be provided before the visa can be granted and cannot be waived.

Appealing visa decisions

In some cases, if your visa application is refused, you can appeal the decision to the Administrative Appeals Tribunal (AAT). There is often a time limit for making an appeal. The AAT's cost is around \$1,673 to lodge an appeal application, but this can be reduced by 50% if the AAT considers that paying the full payment would cause substantial hardship.

Decisions relating to the cancellation or refusal of visas and refusal to approve sponsors are usually reviewable. Decisions about visa cancellations for people outside Australia and refusal of offshore visa applications are not usually reviewable unless there is a relevant party attached to the application (sponsor) in Australia.

Having a visa refused or cancelled can limit the possibilities you have to apply for another visa whilst in Australia and it is suggested that you seek professional advice if this is the case.

If you are in Australia without a valid visa, you are at risk of being placed in immigration detention and deported. Sometimes, your local MP may be able to advocate for you in relation to immigration decisions.

Eligibility for free medical treatment (Medicare)

Permanent visa holders – eligible to receive free medical treatment in the public hospital system through Medicare. Most visa applicants (except parent visa applicants) can enrol for Medicare while you wait for your visa application to be processed.

Temporary visa holders – not generally eligible for Medicare. Many temporary visa types require the holder to have private medical insurance.

Reciprocal Health Care Agreements

Australia has Reciprocal Health Care Agreements with several countries. Citizens or permanent residents of the United Kingdom, Sweden, Finland, Norway, the Netherlands, Belgium, Malta and Italy can receive free emergency medical treatment in Australia.

Australian citizens and permanent residents can also receive free emergency medical treatment if they are visiting these countries.

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Eligibility for social security (Centrelink) payments

Most new migrants will have a waiting period during which they are not eligible to apply for social security through Centrelink. Even after the waiting period, the migrant may still be within the assurance of support period, which means that their assurer needs to reimburse the Australian Government for any payments made by Centrelink to the migrant.

International Social Security Agreements

Australia has International Social Security Agreements with several countries. This means that any time you have lived in one of these countries can be counted towards the waiting period for Centrelink payments in Australia.

Usually, each country will pay you a part pension. You will be paid a proportion of the full foreign pension by the overseas (agreement) country, depending on how long you have lived there. Centrelink will pay you a 'top up' Australian pension. You can apply for both the foreign and Australian pensions by contacting Centrelink. For countries with which Australia does not have an agreement, you can only claim a foreign pension by contacting the local authority in the relevant country.

Eligibility to attend school

Parents of children living in Australia who have temporary resident visas can enrol their children in their local primary or secondary school.

Parents will need to pay tuition fees 12 months in advance.

Partner visa holders experiencing family violence

If you hold a family stream (temporary) visa (such as a partner or spouse visa), you can usually apply for the subsequent permanent visa approximately 2 years from the date of lodgement of the temporary visa. To be eligible, you usually need to remain in the married/de facto relationship.

If you are experiencing family violence (either actual or threatened), and can prove that your relationship was genuine, but it has now broken down due to family violence, you do not need to continue living together to make an application for permanent residency. It is suggested that you seek professional assistance if this is the case.

Where to get help and information

- Department of Immigration
www.immi.gov.au/immigration/
13 18 81
- Medicare Australia
www.medicareaustralia.gov.au
13 20 11
- Centrelink
www.centrelink.gov.au
13 28 50
- Cancer Council Pro Bono Program
13 11 20

Note to reader

This fact sheet provides general information and is not a substitute for legal advice. You should talk to a lawyer about your specific situation.

Cancer Council Victoria
615 St Kilda Road, Melbourne VIC 3004
Cancer Council 13 11 20 for Information and Support
Facsimile (03) 9514 6800
Email enquiries@cancervic.org.au
Website cancervic.org.au



For information and support on cancer-related issues, call Cancer Council **13 11 20**. This is a confidential service.