

Migrant Protection Protocols / Remain in Mexico Frequently Asked Questions

This advisory is not legal advice, but provides basic information on the Migrant Protection Protocols (“MPP”). Individuals should seek a legal consultation from a qualified immigration attorney or DOJ accredited representative for full assessment of their cases.

1. What is/was MPP?

MPP stands for “Migrant Protection Protocols.” MPP, also known as “Remain in Mexico,” was a program initiated in January 2019 through which asylum seekers were forced to wait in Mexico while pursuing asylum in the United States. Many people subjected to MPP experienced serious harm, including kidnapping, assault, and family separation. MPP was terminated by executive order in January 2021. In February 2021, approximately 20,000 people stranded in MPP began the process of being paroled into the United States. Thus far, only people with “active” immigration cases are eligible for parole under this program.

2. Is everyone who was in MPP allowed to enter the United States now?

Not yet. As of March 2021, only people with “active” immigration cases are authorized to seek parole into the United States through the MPP wind down process. Those who were ordered removed or whose cases were never filed with the immigration courts are not yet eligible to enter the United States through the MPP wind down program. It is unclear whether procedures will be created for these individuals or others who were in MPP. Individuals with final removal orders who subsequently entered the United States without inspection could be subject to removal.

3. Can someone who was in MPP but returned to their country of origin enter the U.S. now?

Not yet. As of March 2021, only people who have “active” immigration cases are eligible for parole into the United States through the MPP wind down program. People who were ordered deported while in MPP may be eligible under a future program and should watch for updated information. Some people who were ordered deported while in MPP may be eligible to file motions to reopen their cases with the immigration courts to request that their deportation orders be rescinded. This is a complex process and usually requires the assistance of an attorney. Depending on the facts of an individual case, it may be necessary to file such a motion within 90 or 180 days of when the deportation order was issued.

4. What are next steps for someone who entered the United States after MPP?

Individuals who were in MPP likely remain in removal proceedings and should regularly check for their next court hearing date and location by calling 1-800-898-7180 or visiting <https://portal.eoir.justice.gov/>. Whether someone was paroled into the U.S., entered without inspection, or came through ORR custody, they may need to file a change of address on Form E-33 and request a change of venue to the nearest court. If paroled into the United States through the MPP wind-down program, the venue of one’s court proceedings may have automatically been changed.

5. Can someone who was in MPP get employment authorization?

In many cases, asylum seekers with active cases are eligible to apply for employment authorization once their applications have been pending for 365 days. Some asylum seekers may qualify to request employment authorization 150 days after applying for asylum and may not be required to pay the filing fee. Asylum seekers should discuss employment authorization eligibility with a legal service provider to determine whether they can benefit from this shorter, cheaper process. Alternatively, if one has proof of a humanitarian parole pursuant to INA §212(d)(5), they can request employment authorization by explaining the need for a work permit (primary

caregiver or source of financial support for a spouse, parent, or child with significant and debilitating health conditions). These requests are granted on a discretionary basis.

6. What do I do if I missed a court hearing while I was in MPP?

Call 1-800-898-7180 or visit <https://portal.eoir.justice.gov/> to learn if the immigration judge ordered you removed in your absence (an “*in absentia*” order). You may need to file a motion to reopen with the court that ordered your removal explaining why you were unable to attend court. You should discuss eligibility to reopen your removal proceedings with an attorney. You likely will have only one opportunity to file a motion to reopen and it is important to include all the necessary factual information and legal arguments in the motion.

7. How can I find my family member from whom I was separated while in MPP?

If the family member is in the United States, they may be in government custody. If the person is 18 years old or older, visit locator.ice.gov to see if they are in ICE custody. Parents or guardians looking for a child up to 17 years old should contact the ORR National Call Center at 1-800-203-7001 or via email at information@ORRNCC.com.

ADDITIONAL INFORMATION FOR SERVICE PROVIDERS

1. How will I know if a potential client has been through MPP?

People were placed in MPP beginning January 2019 through about March 2020. Someone who was in MPP will have a normal-looking Notice to Appear (NTA) and will have been placed in INA § 240 removal proceedings. They may have a separate “tear sheet” that instructs them to present at the border on the date of their scheduled hearing. While some people in MPP never received court dates, most did. They will not have had a credible fear interview (because they were never in expedited removal).

2. How can I distinguish between individuals who were “metered” and those who were in MPP?

It is possible some people will seem like they may have been in MPP if they were “metered” (forced to wait in Mexico until their name reached the top of a list before being permitted to enter the U.S.) prior to the beginning of the MPP program. To distinguish people who were metered from people who were in MPP, try to determine if the person was issued an NTA and then returned to Mexico and/or had a court dates scheduled even though they were in Mexico. Both of these things are signs the person was in MPP.

3. What legal services will people need if they were in MPP?

Most people who were placed in MPP were asylum seekers and will be in need of asylum representation. Others may be eligible for other forms of immigration relief, like family-based petitions, U-visas, protection under the Cuban Adjustment Act, or Special Immigrant Juvenile Status. Many people who came through MPP have complex procedural postures and will need motions to reopen and other remedial actions. Groups nationwide are advocating for special benefits for people subjected to MPP and individuals who came through MPP and legal service providers should watch for emerging news on such programs.

Many people who were placed in MPP and are now in the United States will need motions to change venue to bring their cases before their local immigration courts. While the government appears likely to automatically change venue for people paroled in from MPP, that system will be imperfect and individuals may require additional advocacy to change venue. People who were in MPP and subsequently entered without inspection or came through federal custody as unaccompanied minors likely will not benefit from the automatic venue change procedure and will require assistance with that process.

4. What other services do people who were in MPP need?

In addition to legal services, people who experienced MPP may require social service, mental health, and material resource support. Many people who experienced MPP fled danger and trauma and arrived at the U.S. border only to be returned a perilous situation in Mexico, where many experienced violence and instability for months or more. Many people in MPP were separated from family members. Many spent all their resources on subsistence in Mexico, where they had limited opportunities for employment and limited access to support.

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