

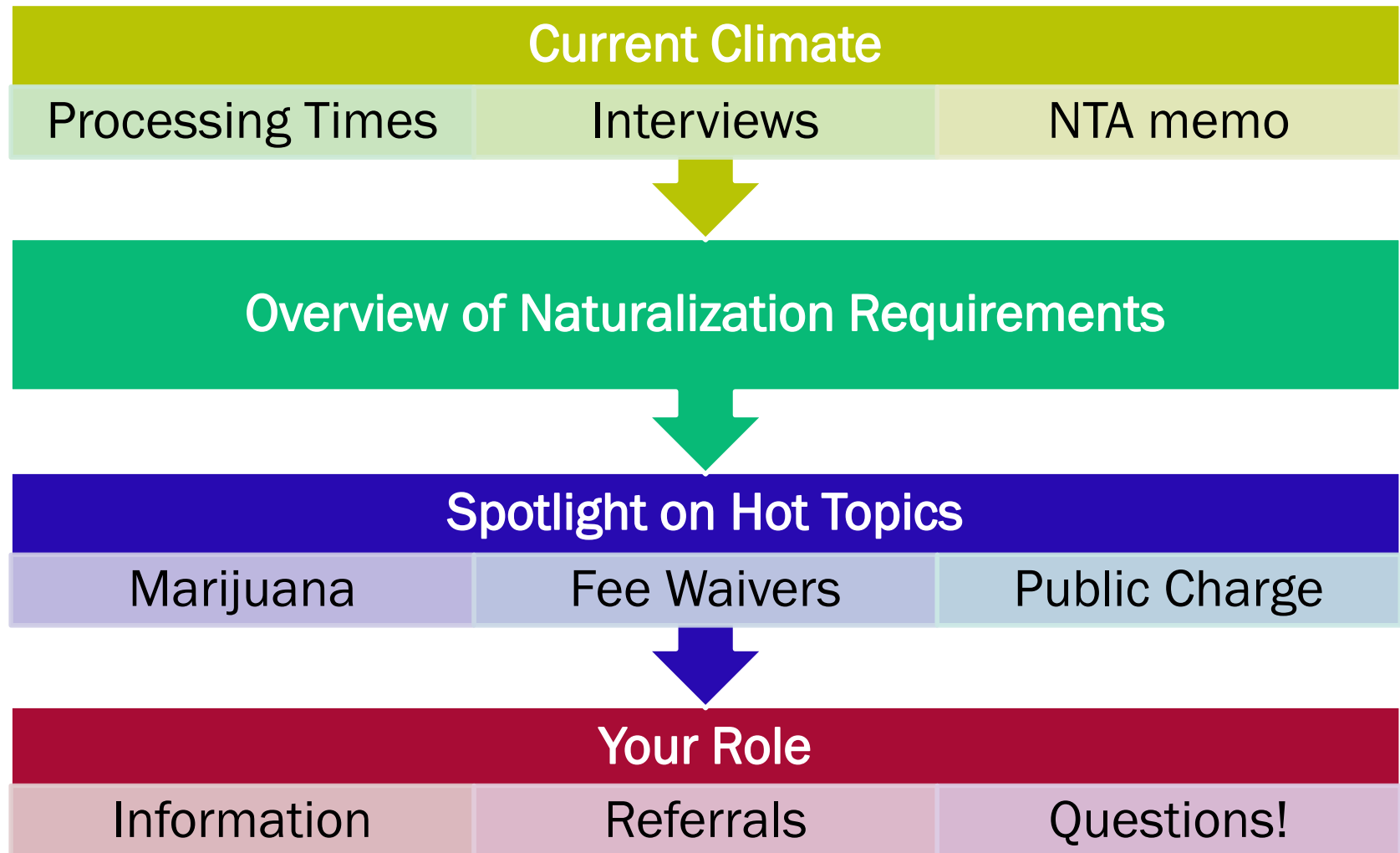
Red Flags and Hot Topics

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Immigrant Legal Resource Center

May 15, 2019



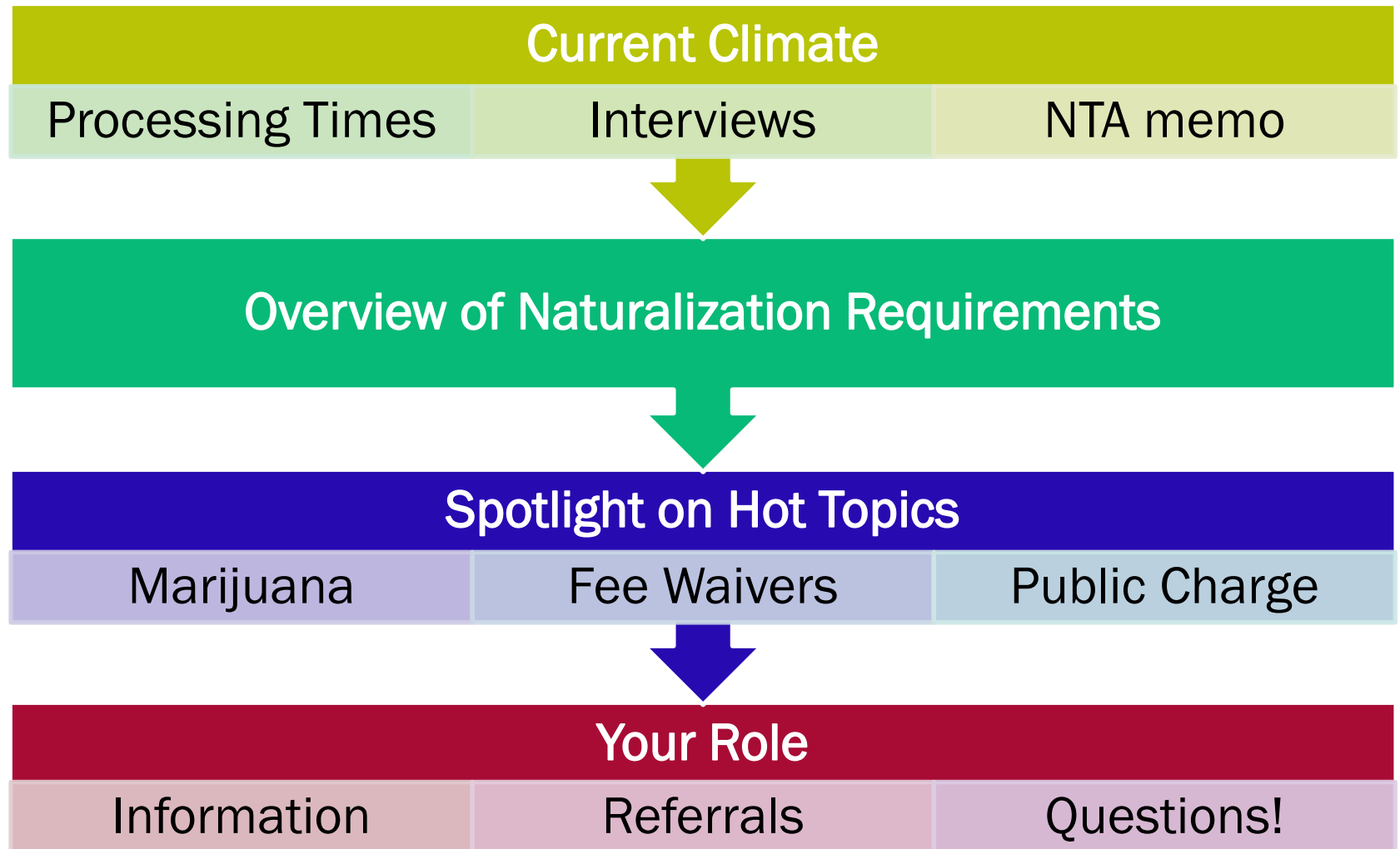
Agenda



Current N-400 Processing

- Applications taking up to 17 months to interview
- Interviews are longer
- Questioning feels more probing
- Concern will get referred to court
“NTA memo”
- Lots of bad new policies and rhetoric!

Agenda



Basic Requirements for Naturalization

- At least 18 years old
- Lawful permanent resident
- Five years of continuous residence
- Physical presence for half of the five years
- Good moral character
- Be able to pass exams on English and U.S. government and history
- Take a loyalty oath and be attached to the U.S. Constitution



Red Flags



Travel outside the US



Arrests, Convictions



Lied to Immigration, issues not disclosed getting green card



Marijuana!

Red Flag Review

Beware of the Consequences

1. Review Red Flags
2. Applicant can be:
Denied and Deported!

When in Doubt, Refer it out!

Lawful Permanent Resident Cards

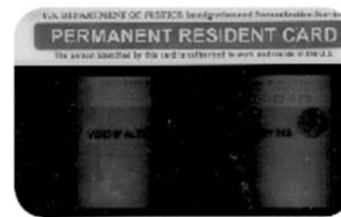
"A-number"

Date you became a Permanent Resident



"A-number"

Date you became a Permanent Resident
(January 1, 1989)



This card does not have Port-of-Entry on it.

"A-number"

Port-of-Entry or office where you were granted adjustment of status



Date you became a Permanent Resident
(April 3, 1989)

Port-of-Entry or office where you were granted adjustment of status

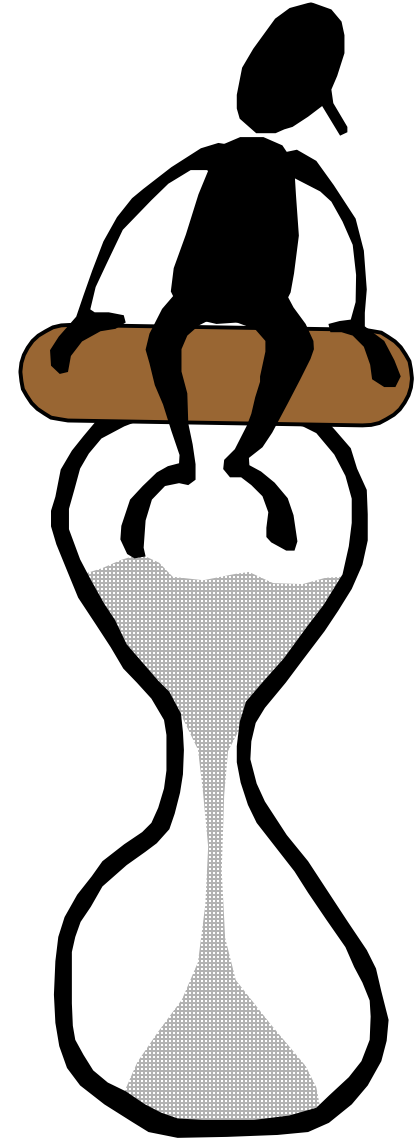


Date you became a Permanent Resident
(July 12, 1991)

"A-number"

Good Moral Character Requirement

- Must prove GMC for required statutory period (3/5 Years)
- Not moral excellence



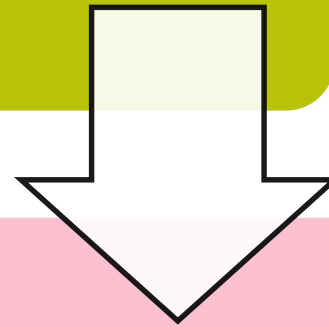
Statutory Bars to GMC

INA §101(f)

- Habitual drunkard
- Income principally from illegal gambling
- Convicted of two or more gambling offenses
- **Confined to penal institution for 180 days or more**
- Giving false testimony under oath
- **Convicted of/admitted CIMT**
- **Any offense related to a drug offense**
- **Multiple offenses where aggregate sentence is 5 years or more**
- **Reason to believe drug trafficker**
- **Prostitution**
- Alien smuggler
- Polygamy

Good Moral Character

You can't be placed in immigration court *merely* for not having GMC.



But good moral character issues might also be a reason an LPR can be put in court, a ground of deportation

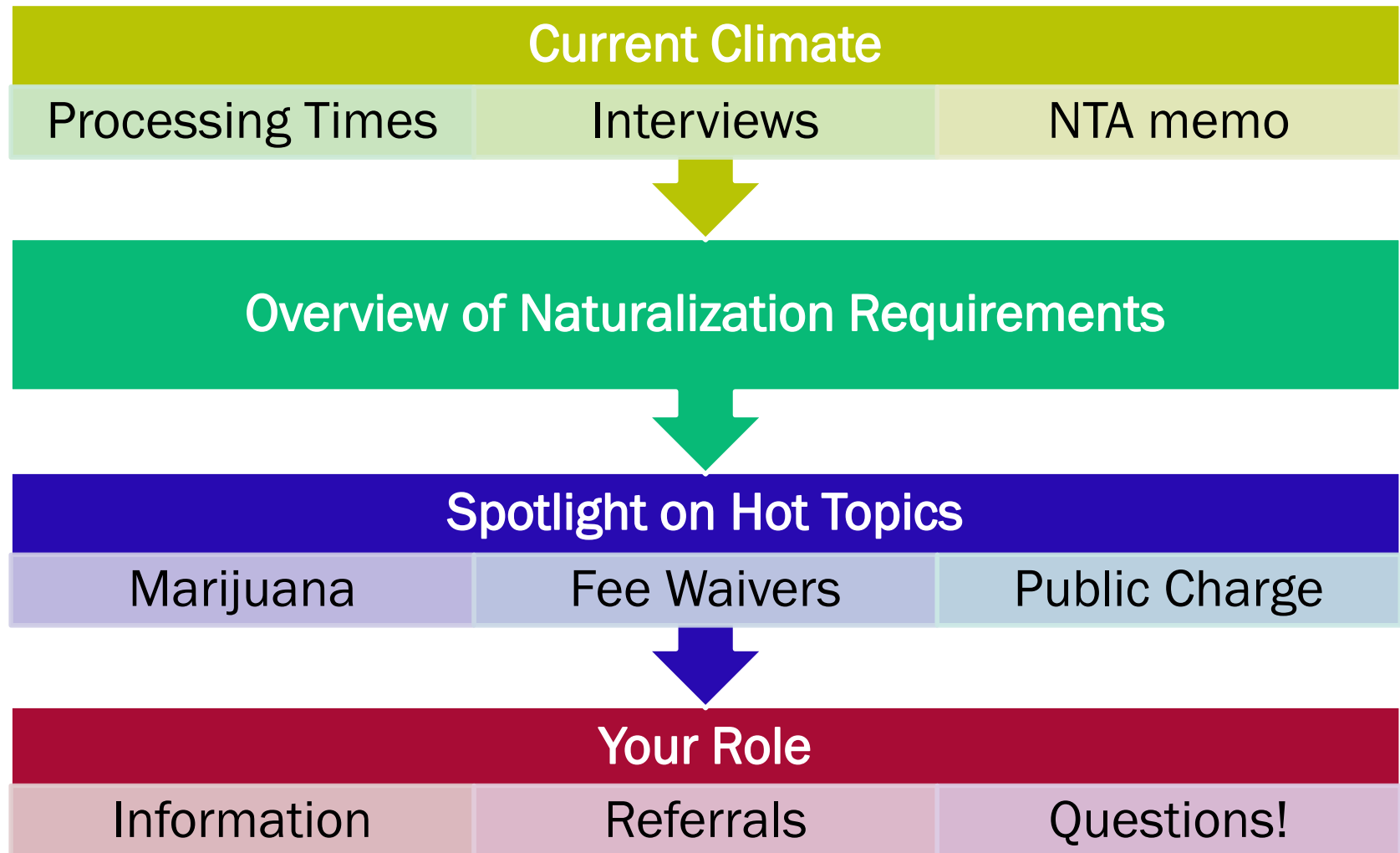
Grounds of Deportability

- Alien smuggling
- Illegal voting
- Falsely claiming you are a US citizen
- Inadmissible at time of entry/admission
- Criminal behavior
 - Crimes involving moral turpitude
 - Drug offenses
 - Aggravated felonies
 - Firearm offenses
 - Domestic violence
 - Crime of child abuse, neglect or abandonment

Crimes and the impact on Naturalization

1. Deportable?
2. Statutorily barred from showing GMC
3. If bad act does not trigger deportability AND it is not a bar, then we weigh positive and negative factors

Agenda



Some states have legalized marijuana

They might give you the impression that it's not a crime.



Marijuana is a dangerous 'crime' for noncitizens, even if their state makes it legal

Thirty-three states have legalized some use of medical mj.

Ten states and the District of Columbia have legalized medical *and* recreational mj.

But even medical mj remains a “controlled substance” for federal purposes – including immigration law.



Insider Inc.

Marijuana use/work without conviction

Even with **no conviction**, the use of marijuana or working in industry triggers an immigration consequence.



For Naturalization applicants,

it can bar showing
good moral character

Warning! LPRs should not travel!

Inadmissible and no GMC for admitting use, *even without a conviction!*

1. I'm **inadmissible** (but not deportable) for admitting I committed a federal drug offense, even if my conduct was legal under state law.



Example: At my naturalization interview, I admitted to USCIS that I used medical mj for three months under doctor's orders, which is legal in my state. They say I am inadmissible and can't show good moral character.

Inadmissible and no GMC as a drug trafficker *even though I work legally!*

2. I'm **inadmissible** (but not deportable) if DHS has “reason to believe” I helped in trafficking (selling) a federally-defined controlled substance.



Example: On my N-400, I stated that I worked as a janitor at “Cannabis R Us” until Nov. 10, 2018. They say I am inadmissible as a drug trafficker. **Inadmissible for crimes means I can't show good moral character.** They denied the N-400, and I must wait until Nov. 10, 2023 to apply again.

When can being inadmissible hurt a client?

- ✓ When they apply for naturalization, or any relief that requires good moral character, if the conduct occurred within the GMC period.
- ✓ When they apply for many forms of lawful status.
 - Such as family visa, non-LPR cancellation, TPS, VAWA, or SIJS. A refugee or asylee cannot adjust if they are inadmissible as a drug “trafficker.”
- ✓ When they apply for admission at the border.
 - LPRs who travel outside the U.S. can be stopped and excluded if they admit to using mj, or the gov’t proves they have worked in the industry.

Don't travel!!

New USCIS Policy Targets Legal Marijuana

- USCIS amended its *Policy Manual* (Chapter 5, Part C) on April 19, 2019.
- It stated that using medical or recreational mj, or working in the industry, can bar GMC for naturalization - even if it is legal under state law.
- USCIS may start asking all immigrants more questions about mj, especially in states where it is legal.
- For the announcement, go to:
<https://www.uscis.gov/sites/default/files/policymanual/updates/20190419-ControlledSubstanceViolations.pdf>

Best Practices: Legalized Marijuana

- Don't use mj until you're a citizen.
- If truly needed as medicine, get legal consult.
- Never carry mj, medical mj card, paraphernalia. No mj photos or text on phone, Facebook, etc.
- ***Never discuss mj use with any DHS employee.*** Stop talking and ask for a lawyer.



Warn Clients!

For community flyers, an EDD alert, and a memo on legal defenses, see <https://www.ilrc.org/warning-immigrants-about-medical-and-legalized-marijuana>

Is there any hope?

- Yes. Congress *might* pass a law taking mj off federal drug lists.
- If that ever happens, then new – and possibly past – admissions, employment, and convictions relating to mj will not cause immigration problems. So, some clients might want to wait to pursue an application.
- Bills might be considered in summer 2019. For updates, see www.ilrc.org/crimes



Fraudulent Receipt of Public Benefits

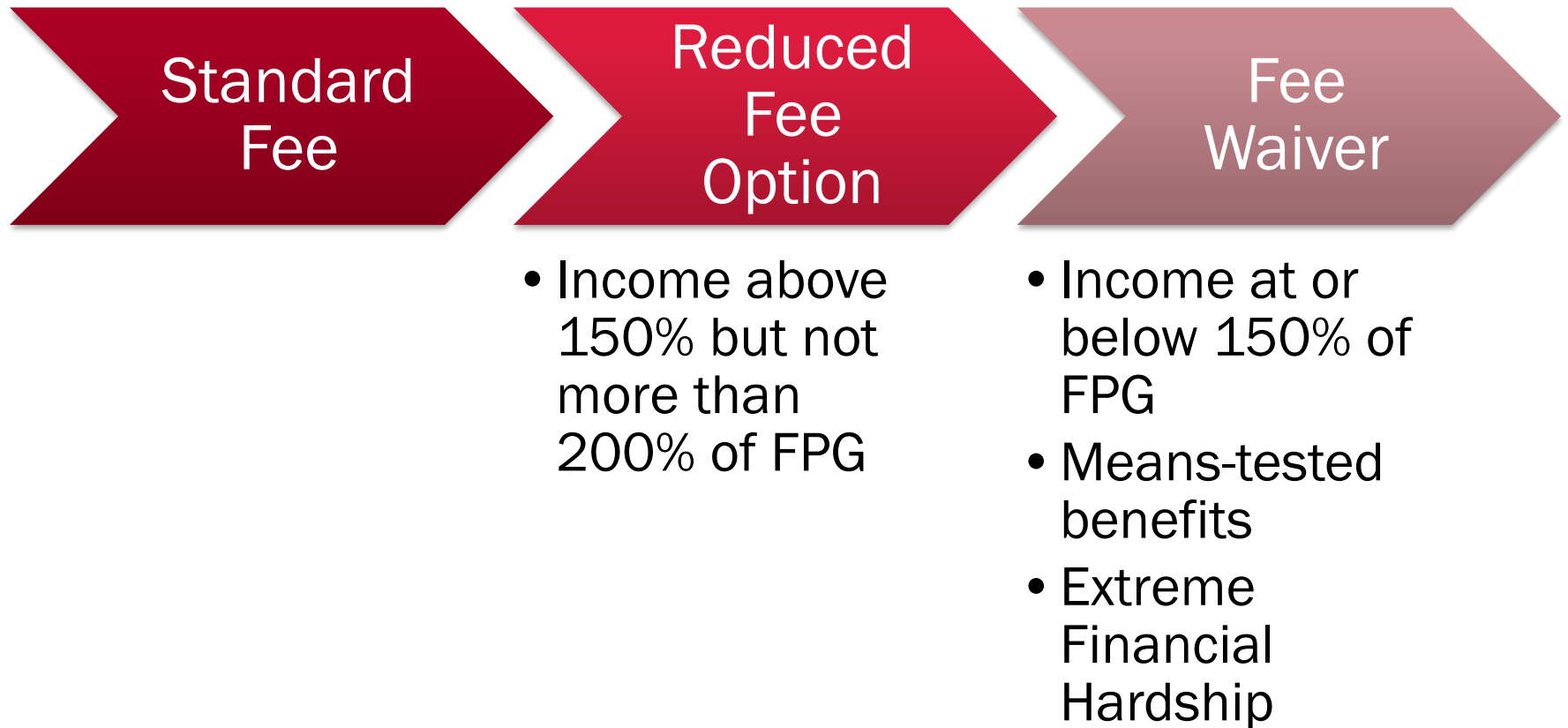
- Watch people who work under the table and don't report it to welfare department
- Watch people who have absences of 30 days or more while collecting welfare
- How would USCIS know?
 - If not working, ask how she is supporting herself.
 - Find out about public benefits and see absences.
 - Also there is a question on the N-400 about public benefits receipt.

Fee Waivers, Public Charge?, and Red Flags

Public Benefits

Legally received public benefits do not impact ability to naturalize... except it might help the applicant qualify for a fee waiver!

Overview of the Naturalization Fee Schedule



Naturalization Fee Schedule

As of December 23, 2016

Fee Option	Application Cost	Biometric Services Fee	Total Fee
Standard Fee	\$640	\$85	\$725
Reduced Fee	\$320	\$85	\$405
Fee Waiver	\$0	\$0	\$0

Citizenship Loan Programs:

<https://www.unidosus.org/issues/immigration/immigrant-integration/>

Reduced Fee

Annual Income greater than 150% but no more than 200% of the Federal Poverty Guidelines.

Household Size

- Applicant
- Head of household
- Spouse
- Parents
- Certain Unmarried Children
- Other Dependents

Household Income

- Adjusted Gross Income
- Alimony payments are deductible from AGI
- Child support payments NOT deductible from AGI

Fee Waiver

Three ways to demonstrate an inability to pay for the Naturalization Application Fee

Means-Tested Benefit

- Current Recipient
- USCIS must grant waiver

Income level

- At or below 150% of FPG
- USCIS must grant waiver

Extraordinary Financial Hardship

- Income is greater than 150% of FPG
- BUT cannot afford to pay any filing fee
- Discretionary

Fee Waiver

Fee Waiver Changes!

<https://www.ilrc.org/fee-waiver-community-alert>



Income level
<ul style="list-style-type: none">• At or below 150% of FPG• USCIS must grant waiver

Extraordinary Financial Hardship
<ul style="list-style-type: none">• Income is greater than 150% of FPG• BUT cannot afford to pay any filing fee• Discretionary

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Red Flag Screening

Additional screening questions around:

- Means-tested benefits
 - Type of benefit?
 - Benefit recipient?
 - Entitled to the benefit?
- Travel and absences from the U.S.
 - Receipt of benefit while out of the country
 - Travel leading to absence of 6 months or more

The impact of long absences

- Travel or absences from the U.S. for 6 months or more
 - NO public charge test for naturalization. But...
 - Continuous absence in excess of 180 days: seeking new admission? (INA § 101(a)(13)(C)). Consider possible public charge ground of inadmissibility (INA § 212(a)(4))

Public Benefits **Red Flags**

- Fraudulent information used on applications for benefits
- Received Public Benefits while outside the U.S.

- **Deportable if:**

Within 5 years of the applicant's entry:

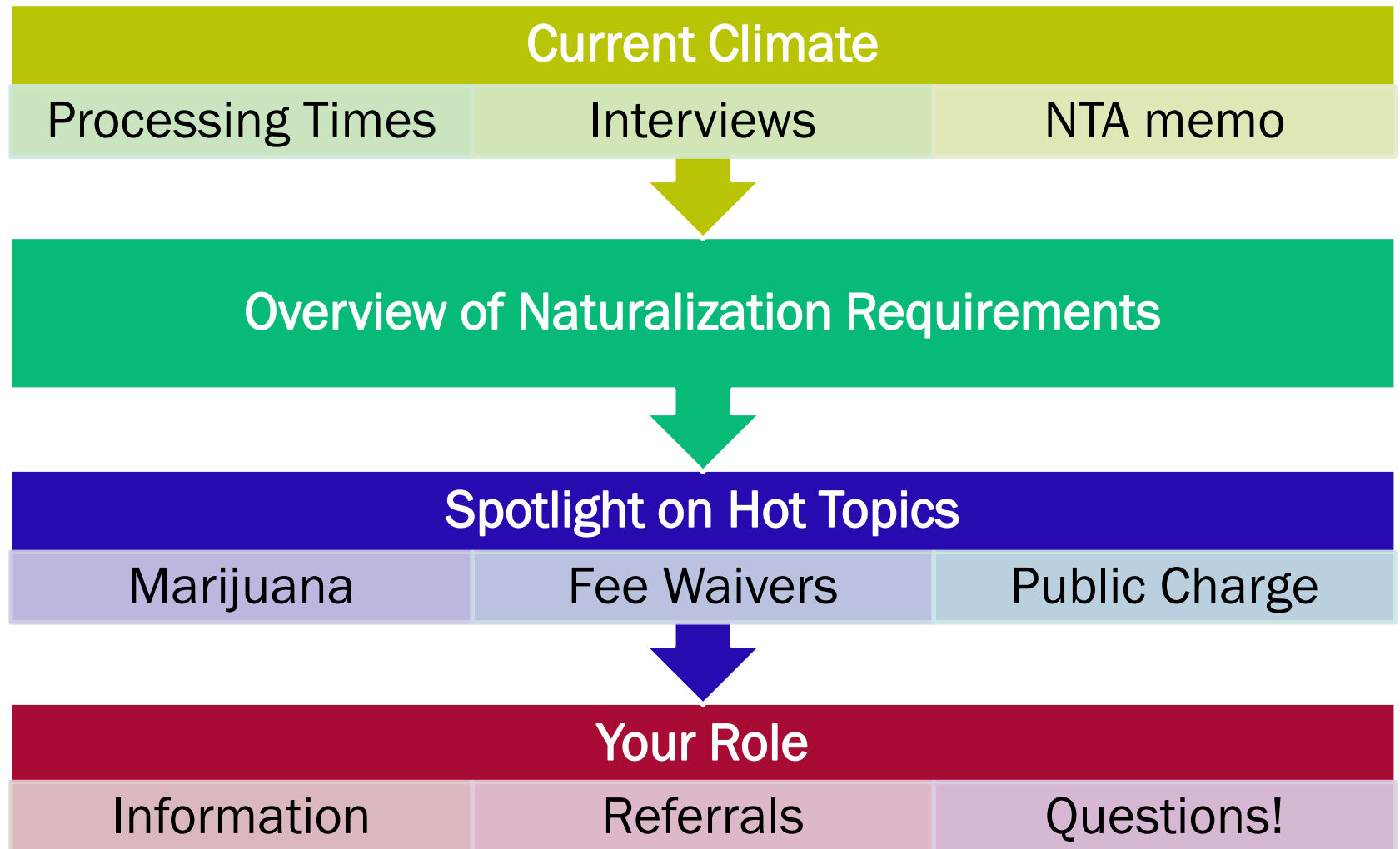
- Received cash public assistance, and
- Reason applicant received the benefit arose before the applicant's entry, and
- Law providing the public benefit written in such a way that recipient has a legal debt to govt., and
- Government demanded repayment, and
- Applicant failed to pay

New Regulations– Public Charge

- New Regulations **cannot change** naturalization requirements! No public charge test
- Using fee waiver/ benefits may impact ability to petition a family member in the future- will need a joint sponsor
- Right now, new proposed regulation only impacts inadmissibility, not deportability

<https://www.ilrc.org/public-charge>

Agenda



Your Role

- Provide Resources
see ilrc.org
- Give good information, not advice
There is no public charge test to naturalize
The fee waiver is/ is not in effect
Marijuana use is a problem, look at this flyer
- USA Learns Red Flags
- Good Referrals!

Thank you for attending!



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