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**CAN I GET A GREEN CARD BECAUSE I HAVE BEEN IN THE US MANY YEARS
OR IF MY CHILD HAS SPECIAL NEEDS ?**

By Christopher Kerosky

Many people believe you can get a green card based only on being here many years. This is not true. Others think that if their child has an illness that they too can get status on this basis alone. The law is not that simple either.

The truth is that the law in the U.S. allows undocumented immigrants to apply for something called "Cancellation of removal" based upon time in the U.S., good moral character and "exceptional and extremely unusual hardship" to a close relative. It is up to a judge hearing your case to decide if you obtain your status or not.

The eligibility for Cancellation of Removal is as follows:

First, a person must prove "continuous presence in the United States for 10 years"; this means that you must prove that you came to the U.S. over 10 years ago and never left for any significant time during that 10 year period. This can be done with various documents from your past which show your entry to the U.S. and your life here. For example, you need to gather things like medical records of you and your children, wage and employment records, pay stubs, tax records, school records for your children, rent receipts or leases, cancelled checks, other banking records, even traffic violations.

Second, you must prove that you have "good moral character". What this means is that, according to the standards of the government, the person would make a good citizen. Most importantly, a person needs to show that he has not committed any crimes or if so, they were of a minor nature. You also can submit statements from your priest or minister, friends and family members about your character, work record and support of your family.

The third and most difficult thing is that you need to prove that you have a parent, spouse or child who is a U.S. citizen or a permanent resident and that you being deported would cause your U.S. citizen or permanent resident relative "exceptional and extremely unusual hardship".

This is not easy to do because the immigration law requires you to show very unusual circumstances to qualify for this. The normal problems that a child, spouse or elderly parent would suffer because of your deportation is not enough. The best cases are when your relative has “special needs” – for example, physical, educational or psychological problems that would not receive adequate care or attention in the home country. If you can show that your child, parent or spouse has special medical or psychological needs, that will greatly increase your chances of winning this status and staying in the U.S.

Other factors such as your relative’s age, language skills, acculturation, and the conditions in your home country can also be used to strengthen your arguments.

These are difficult cases to win and no one should apply for this status without exploring all other options. The consequences if the case is denied are severe: the person has an order of deportation and must appeal the decision or leave. However, in cases where there is a child, parent or spouse with very special need to be in this country, you can win your status through cancellation and obtain a green card on that basis.

CHRISTOPHER A. KEROSKY of the law firm of KEROSKY PURVES & BOGUE has practiced law since 1984 and has been recognized as one of the top immigration lawyers in Northern California for the last seven years by San Francisco Magazine “Super Lawyers” edition (2006-2012). He graduated from University of California, Berkeley Law School and was a former counsel for the U.S. Department of Justice in Washington D.C. He has had an office in San Francisco for 20 years, but recently opened a Santa Rosa office and lives in West Sonoma County.