



Department of Human Resources  
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## FIA ACTION TRANSMITTAL

Control Number: 98-20

Effective Date: Upon Receipt

Issuance Date: November 27, 1997

TO: DIRECTORS, LOCAL DEPARTMENTS OF SOCIAL SERVICES  
DEPUTY ASSISTANT DIRECTORS FOR FAMILY INVESTMENT  
FAMILY INVESTMENT SUPERVISORS

FROM: ~~KEVIN MAHON, EXECUTIVE DIRECTOR, FIA~~

RE: IMMIGRANTS

PROGRAM AFFECTED: FOOD STAMP PROGRAM

ORIGINATING OFFICE: OFFICE OF POLICY AND RESEARCH

### SUMMARY

Action Transmittal FIA/OPA 97-41 informed local departments of social services of the change in eligibility of immigrant for the Food Stamp Program. The 1997 Balanced Budget Reconciliation Act added new categories of eligible individuals and some of the information in 97-41 is no longer applicable. This transmittal replaces AT 97-41. The new information is in **bold print**.

### CURRENT AND NEW POLICY

PRWORA introduced a new eligibility category of "qualified alien." A qualified alien is:

- An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (INA)
- An alien granted asylum under §208 of the INA
- A refugee admitted under §207 of the INA
- An alien who is paroled under §212(d)(5) of the INA for a period of at least 1 year
- An alien whose deportation is being withheld under §§243(h) or **241(b)(3)** of the INA
- A **Cuban and Haitian entrant as defined in §501(e) of the Refugee Education Assistance Act of 1980**
- An alien who is granted conditional entry pursuant to §203(a)(7) of the INA
- Certain battered alien spouses and children

PRWORA bars most qualified aliens who enter the U.S. on or after August 22, 1996 from eligibility for "federal means-tested public benefits" for five years beginning on the date the individual entered the United States with the qualified alien status. Federal means-tested programs are Medical Assistance, Temporary Cash Assistance, Supplemental Security Income and the Food Stamp Program.

Legal immigrants are barred from receiving federal food stamps until they become citizens with a few exceptions. To be eligible for food stamps, an immigrant must be both a qualified alien and meet the criteria listed below.

- ◆ For five years after obtaining the designated status an immigrant is eligible if the individual is:
  - A refugee
  - An asylee
  - An immigrant whose deportation has been withheld
  - A Cuban and Haitian entrant
  - An Amerasian lawfully admitted for permanent residence
  
- ◆ The following immigrants who are lawfully admitted for permanent residence are eligible for an unlimited period:
  - An immigrant admitted before 8/22/96 who can be credited with at least 40 quarters of qualifying work.
  - Because the five-year bar on federal means-tested programs affects any immigrant admitted on or after 8/22/96, eligibility cannot be established until after the immigrant has been a qualified alien for more than 5 years and can be credited with at least 40 qualifying quarters of work.
    - To determine if an immigrant has worked 40 qualifying quarters of coverage, look at earnings reported to Social Security Administration and not reported to the Social Security Administration **if the individual can verify the earnings**. We expect the Quarters of Coverage History System component in the State Verification Exchange System (SVES) to be available December 1, 1997. You will receive an updated manual with directions for use of the system.
    - A qualifying quarter includes one worked by a parent of an immigrant before the date on which the child turns age 18. If the husband and wife both worked, combine the quarters worked during the marriage if they remain married or if the spouse is deceased.
    - Beginning January 1, 1997, do not count any quarter in which the immigrant received any federal means-tested public benefit as a qualifying quarter. **Federal means-tested programs are Medical Assistance, Temporary Cash Assistance, Supplemental Security Income, and the Food Stamp Program.**
  
- ◆ A veteran who was honorably discharged for reasons other than immigrant status or on active duty in the U.S. Armed Forces and the spouse or unmarried dependent children is eligible for an unlimited period of time. The following categories of immigrants with a military connection are eligible for unlimited period:

- An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (INA)
- An alien granted asylum under §208 of the INA
- A refugee admitted under §207 of the INA
- An alien who is paroled under §212(d)(5) of the INA for a period of at least 1 year
- An alien whose deportation is being withheld under §§243(h) or 241(b)(3) of the INA
- An alien who is granted conditional entry pursuant to §203(a)(7) of the INA
- **Certain battered spouses or battered children**
  - A veteran must have met the minimum active-duty service requirement of 24 months or the period for which the person was called for active duty as proven by honorable discharge records.
  - The definition of veteran includes military personnel who die during active duty service and Filipinos who served in the Philippine Commonwealth Army during World War II or as Philippine scouts following the war.
  - The surviving spouse of a deceased veteran or individual on active duty is eligible provided the spouse has not remarried and the marriage meets certain requirements. They must have been married:
    - for at least one year, or
    - before the end of a 15-year time span following the end of the period of military service in which the injury or disease was incurred or aggravated, or
    - for any period if a child was born of the marriage or before the marriage).

### Verification

Verify immigrant status using the documents currently available and the SAVE system. These documents should also verify the date of obtaining the status to determine the 5-year time limit on eligibility for a refugee, asylee or immigrant whose deportation has been withheld. **Refer to the Food Stamp Manual Section 120.5 page 4 for examples of documentation.**

Veteran status or active military duty should be verifiable through readily available documents from the Veteran's Administration or military.

Verifying the qualifying quarters of coverage is more difficult. Once it is operational, the Quarters of Coverage History System (QCHS). Until the system is in place, use the guidance provided in Action Transmittal FLA/OPR 98-15 issued October 3, 1997.

### Supplemental Security Income (SSI) Recipients

**Immigrants who are ineligible for food stamps because of their immigrant status are not made eligible because they receive SSI. This is not a change from current categorical eligibility policy.**

### State Food Stamp Program

- The State Food Stamp Program provides benefits for children who are:
  - qualified aliens, and
  - under age 18 or who are included in a TCA grant, and
  - not eligible for the federal FS Program (FSP).
  
- The benefit amount for the State-paid FSP is the difference between a benefit for all household members eligible for federal or State benefits and the amount for the federal FSP. The income and resources are treated the same as in the federal Food Stamp Program.

### Case Processing

Households with immigrants have many household compositions that will determine ineligibility, eligibility for federal food stamps, eligibility for the State program or a combination.

**In Baltimore City, the case manager will set up separate cases for the federal food stamps and State paid food stamps. The state food stamp benefits are paid by check in Category 05.**

**In CARES jurisdictions, the case manager will establish one case and include all members of a household who are eligible for the federal or State Food Stamp Program. The Regional Economic Studies Institute will calculate the correct federal benefit for Quality Control and federal reporting purposes.**

Example #1: Household A includes a mother and father who are refugees who obtained their status within the last five years, and two citizen children. The entire household is eligible for federal food stamps because the parents' refugee status is within the five-year period. This case is processed using all income and deductions for the entire household. The household is eligible for the federal Food Stamp Program under the new rules.

Example #2: Household B applied March 3. The household includes a mother age 45 and her 20-year old son. Both are lawfully admitted for permanent residence. Neither individual has an exception that would permit eligibility for federal benefits. Since there are no children in the unit, the household is not eligible for state benefits.

Example #3: Household C applied April 30, 1997, and includes a mother and her two children under age 18. All are lawfully admitted for permanent residence, but do not fall into one of the federal eligible categories. The entire household is ineligible for federal food stamp benefits. The children are eligible for state FS benefits. Open the case for the non-citizen children's state FS benefits. Use a 2/3-prorated portion of income and deductions to calculate the state FS benefit for the two children.

Example #4: Household D includes a mother and her two children who are lawfully admitted for permanent residence. Also in the household is her refugee husband who obtained his status 7 years ago and their citizen child. The citizen child is eligible for federal food stamp benefits and the legal permanent resident children are eligible for state food stamp benefits. Mrs. D has \$500 monthly unearned income. Mr. D has no income. The shelter costs total \$300.

Calculate the benefit for all members who are eligible for the state or federal benefit. The income for the three children, using  $3/5$  of the income is \$300 ( $\$500 \div 5 = \$100 \times 3 = \$300$ ) income and  $3/5$  of the shelter is \$180 ( $\$300 \div 5 = \$60 \times 3 = \$180$ ). The benefit amount for the 3 members eligible for federal and state benefits is \$294.

Federal FSP: The federal FS case for the citizen child is calculated using federal rules. A  $1/5$  prorated share of the income is \$100 ( $\$500 \div 5$ ) and  $1/5$  of the shelter is \$60 ( $\$300 \div 5$ ). The federal benefit is \$120.

State FSP: The State paid benefit amount is \$174 ( $\$294 - \$120$ ).

Example #5: Household F includes Mrs. F and her child who are lawfully admitted for permanent residence. Mr. F is also in the household. He is a citizen and receives \$484 SSI. Mrs. F receives \$300 unearned income. Mrs. F pays the \$300 rent. Mr. F pays the gas and electric bill that includes heat. Mr. F is eligible for federal food stamp benefits and the child is eligible for state benefits.

Calculate the benefit for both Mr. F and the child eligible for the State-paid FSP. Use all the SSI benefit (\$484), and a  $2/3$  portion of Mrs. F's income ( $\$300 \div 3 \times 2 = \$200$ ). To calculate the shelter cost, use a  $2/3$  prorated share of expenses paid by or billed to the ineligible immigrant ( $\$300 \div 3 \times 2 = \$200$ ). The household is entitled to the full \$183 SUA since it is billed to Mr. F. The two-person household would be eligible for an \$87 food stamp benefit.

Federal FSP: For the federal FSP for Mr. F, include all of the SSI income and a  $1/3$  prorated share of Mrs. F's income ( $300 \div 3 = \$100$ ). The shelter expense is a  $1/3$  prorated share of expenses paid by or billed to the ineligible immigrant ( $\$300 \div 3 = \$100$ ) and the \$183 SUA. Based on total income of \$584 and shelter cost of \$283, Mr. F. is eligible for a \$10 food stamp benefit.

State FSP: The State-paid food stamp benefit is \$77 ( $\$87 - \$10$ ).

### **Coding - AIMS and AMF**

When an immigrant household meets exemption criteria and is eligible for Federal FS benefits, code the case on AIMS and AMF as is done currently. Where there are some members eligible for the Federal FS and other eligible for State FS, complete two (2)  $2/3$  Bs – one APND for category 18, 02, or 22 and the other APND in category 05.

If any of the household members are non-exempt legal immigrant children, then the case manager must complete the APND for a Category 05 - State Food Stamp Program as follows:

- List all household members
- Code Federal FS members and adult non-exempt member(s) as “K status”
- Enter “00” for subcategory
- At the bottom of the APND, write “SPP =” and enter the number of children eligible to receive the State Food Stamp benefit.

When all information/verification has been received to open the State Food Stamp case, complete the AIMS 2 – AAPB as usual with the following additional information:

- Enter the SPP number
- Enter the amount of food stamps as a cash benefit in “Grant Amount”
- Enter “N” in financial screen required.

**CLEARLY DOCUMENT ALL CASE ACTIVITIES.**

**CARES:**

**FS ONLY HOUSEHOLDS:**

**Application:**

- **Pend a Federal Food Stamp AU listing all household members on the STAT screen with their respective relationship codes and financial responsibility as “PN.”**
- **On the DEM2 screen, in the Citizenship field, enter:**
  - **“I” for all ineligible federal adult recipients (regardless of actual status – CARES will prorate any earned or unearned income of the ineligible adult),**
  - **“L” for all federal eligible recipients and all children eligible for State food stamps, and**
  - **“C” for all citizens.**
- **On the ALAS screen, enter the actual:**
  - **INS Status code and verification type. For those immigrants who are eligible for 5 years after obtaining their status (i.e. refugees, asylees, parolees), if their status changes to legal permanent resident, do not change the code until the 5 year period of eligibility ends.**
  - **“Y” or “N” for Sponsored Alien,**
  - **Country of Origin,**
  - **Entry Date, (This date should reflect the date status as a refugee, Cuban and Haitian entrant, or asylee was obtained or the date deportation was withheld.)**
  - **INS Number, verification, and Verification Date, and**
  - **Enter “Y”- (Yes), “N”- (No), or “E”- (Exempt) for SPP (State Paid Program). (If citizenship code is “I”, SPP must = “N”; if citizenship code is “L”, SPP must = “E” for those adults and children who meet federal exemption criteria, “Y” for children who will be in the State FS program.)**

- Enter assets and income on the appropriate household member's screens (CARES will correctly prorate income entered for "I" coded legal immigrants).
- Calculate the correct shelter amount (including rent, mortgage, utilities, etc.) off-line according to policy, then:
  - Enter the prorated amount on the head of household's SHEL screen in the rent field. Leave the Utility Standard as "N."
  - Enter "N" in the "Is heat in the rent?" and "Do you pay light/cooking?" fields.
  - Add a remark using PF9 as to the actual rent and utility information.
- Process and finalize the application – review the ELIG screen to ensure the status of all ineligible adults is "ND" with a denial code of "202" (failed citizenship).
- After finalizing, select Option "R" and:
  - Change all legal immigrant "I" codes to "L,"
  - Enter any other information now required,
  - Reconfirm the status of ELIG and FSFI, and
  - Suppress the notice.

**NARRATE ALL CASE ACTIVITY.**

**Currently Active FS AU:**

**Using Option "R" from the AMEN:**

- On the DEM2 screen, in the Citizenship field, enter:
  - "I" for all ineligible federal adult recipients (regardless of actual status – CARES will prorate any earned or unearned income of the ineligible adult),
  - "L" for all federal eligible recipients and all children eligible for State food stamps, and
  - "C" for all citizens.
- On the ALAS screen, enter the actual:
  - INS Status code and verification type. For those immigrants who are eligible for 5 years after obtaining their status (i.e. refugees, asylees, parolees), if their status changes to legal permanent resident, do not change the code until the 5 year period of eligibility ends.
  - "Y" or "N" for Sponsored Alien,
  - Country of Origin,
  - Entry Date, (This date should reflect the date status as a refugee, Cuban and Haitian entrant, or asylee was obtained or the date deportation was withheld.)
  - INS Number, verification, and Verification Date, and
  - Enter "Y"- (Yes), "N"- (No), or "E"- (Exempt) for SPP (State Paid Program). (If citizenship code is "I", SPP must = "N"; if citizenship code is "L", SPP must = "E" for those adults and children who meet federal exemption criteria, "Y" for children who will be in the State FS program.)

- Enter assets and income on the appropriate household member's screens (income entered for all "I" coded legal immigrants will be prorated correctly by CARES).
- Calculate the correct shelter amount (including rent, mortgage, utilities, etc.) off-line according to policy, then:
  - Enter the prorated amount on the head of household's SHEL screen in the rent field. Leave the Utility Standard as "N."
  - Enter "N" in the "Is heat in the rent?" and "Do you pay light/cooking?" fields.
  - Add a remark using PF9 as to the actual rent and utility information.

**NARRATE ALL CASE ACTIVITY.**

**TCS/FS or MA/FS HOUSEHOLDS:**

**Application:**

- Complete the above procedures, making sure to finalize the FS AU first.
- After changing the citizenship code to "L," finalize the TCA or MA AU.

**Currently active households:**

- Using Option "R" from the AMEN:
  - Close the TCA or MA in the on-going month with a "554" code on the STAT screen.
  - Change the citizenship code from "L" to "I" on the DEM2 screen(s) for all ineligible adult legal immigrants.
  - Enter "Y" to recalculate eligibility on the MISC screen.
  - Confirm eligibility with a "Y" on the ELIG screen, making sure the financial responsibility code for the ineligible adults has changed to "ND" with a reason code of "202" (failed citizenship requirements).
  - Suppress the system-generated notice on the CAFI screen.
- Using option "M":
  - Reinstate the TCA or MA AU.
  - Suppress the system-generated notice on the CAFI screen.
- Using option "R":
  - Remove the "554" code from the TCA or MA STAT screen for the AU and each individual household member.
  - Change the citizenship code from "I" to "L" for all ineligible legal immigrant adults.
  - Review the food stamp SPP field on the ALAS screen to ensure the correct codes are entered for each immigrant household member.
  - Enter "Y" to recalculate eligibility on the MISC screen.
  - Confirm eligibility for the TCA or MA AU with a "Y" on the ELIG screen, making



sure the "554" reason code has been removed from all household members and that the AU status is "A" (Active).

- Confirm eligibility for the FS AU with a "Y" on the ELIG screen, making sure the financial eligibility for all ineligible legal immigrant adults' remains as "ND."

#### **NARRATE ALL CASE ACTIVITY**

### **QUESTIONS AND ANSWERS ABOUT IMMIGRANTS**

Q. Can an immigrant be credited with the quarters of Social Security coverage earned by a spouse during a period of separation?

A. Yes, an immigrant can be credited with all of the qualifying quarters worked by a spouse of the immigrant during their marriage if the immigrant remains married to the spouse or the spouse is deceased. Therefore, as long as the couple is still legally married, the quarters can be credited to the spouse.

Q. Can a child be credited with quarters worked by a parent before the child was born or adopted?

A. Yes, an immigrant is credited with quarters of coverage worked by a parent before the date on which the child turns 18.

Q. Can a child be credited with the quarters worked by a stepparent?

A. Yes, a child can be credited with the quarters earned by a stepparent during the period the child was living with the stepparent.

Q. If a child lives with a parent and stepparent and the marriage ends, can you count the stepparents quarters?

A. You can only credit the stepparent's quarters to the child while the parent and stepparent are married. They do not have to be living together. If the child is certified and the marriage ends in divorce, do not remove the credits until the next recertification. If the child applies after the marriage ends, the child is not entitled to any of the credits of the stepparent.

Q. If the child is living with a parent and a stepparent and the other parent has remarried, whose quarters can we credit to the child?

A. All of the credits of the natural parents and all the credits of the stepparents while married to the parents are credited.

Q. If a child has no parents in the U.S., can the child qualify based on the quarters of the adult who is assuming parental responsibility for the child

A. Only quarters earned by a natural, adoptive, or step-parent are credited to a child.

Q. Can quarters of coverage earned by minor children be credited to their parents?

A. No, credits can be claimed only for the work of a spouse or parent.

Q. What if a noncitizen worked in the U.S legally but lived in another country during the time the work was performed?

A. If the noncitizen worked legally in work covered by social security and paid social security taxes, the quarters worked would count. It is not necessary for the alien to reside in the U.S. during the period the work occurred.

Q. What if the applicant's spouse is deceased? Can quarters worked by the deceased spouse be credited to the surviving spouse? Does a consent form have to be completed for the deceased spouse?

A. A noncitizen can be credited with all of the qualifying quarters worked by a spouse during their marriage if they remain married or the spouse is deceased. The applicant does not have to complete a consent form for the deceased spouse.

Q. Does Supplemental Security Income (SSI) categorical eligibility mean that an SSI recipient does not have to meet the noncitizen eligibility requirements?

A. No, do not include a person as a member in any household that is otherwise categorically eligible if the person is an ineligible noncitizen.

Q. Are there any special provisions for legal noncitizen migrants?

A. No, migrants who are not citizens must meet the same noncitizen eligibility requirements as other noncitizens.

Q. Are current methods for verifying noncitizen status adequate or will they be more stringent?

A. Follow current policy for verifying the status of noncitizens. For applicants claiming eligibility based on 40 quarters of work, follow procedures outlined in Action Transmittal 98-15, issued October 3, 1997 until Social Security Administration's automated system is available. For applicants whose status is related to military service, obtain verification of a veteran's honorable

discharge or the active duty status of a person currently in the service.

Q. Are the immigrant spouse and children of a U.S. citizen who is a veteran or individual on active duty eligible?

A. Yes, provided that the spouse or unmarried dependent child of an individual is otherwise eligible.

Q. What if a living parent or spouse refuses to sign the consent form for release of quarters of coverage information from Social Security Administration record?

A. The eligibility worker cannot send the social security number of a parent or spouse to SSA without the individual's consent to release the information.

Q. When does the 5-year count begin for noncitizens that can participate for 5 years after they obtain the status of refugee, asylee or deportee?

A. The count begins the date the noncitizen was granted a particular status. For example, a noncitizen entered the country in 1991 as a student but his status was changed to asylee in 1992. If otherwise eligible, he could participate until 1997.

Q. What if an individual who is admitted as a refugee in 1993 has his status changed to lawfully admitted for permanent residence in 1996? Would he still be eligible to participate until 1998?

A. Yes. Refugees are not prohibited from participation until 5 years after the date they are admitted as refugees.

Q. Are noncitizens entitled to expedited service without verification of their status?

A. Yes. Verification of noncitizen status is not required for expedited service. Policy requires that the applicant's identity be verified and that all reasonable efforts to verify other eligibility factors within expedited processing standards. Do not delay benefits beyond 7 days because factors other than identity have not been verified.

Q. Can the case manager certify a noncitizen who has a letter from INS saying that he has met all the requirements for naturalization except the swearing-in ceremony?

A. No. To be eligible as a citizen, the noncitizen must have completed all of the requirements for citizenship and have verification of citizenship status.

Q. A noncitizen was certified based on quarters earned by a spouse. Subsequently, the couple divorced. Is the noncitizen now ineligible?

A. If the noncitizen was married at the time the eligibility determination was made (or the marriage ended because the spouse died), quarters of coverage are not lost and the individual retains eligibility.

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**120.1 Purpose.** This section:

- A. Provides alien/immigrant status and citizenship requirements for eligibility,
- B. Describes when verification is needed and provides descriptions of acceptable verification,
- C. Gives instructions for case actions to take while awaiting verification, and
- D. Gives instructions for deeming the income of certain sponsored immigrants.

**120.2 Qualified Aliens.** A noncitizen must be both a qualified alien and meet certain other eligibility requirements. A qualified alien is:

- A. An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (INA).
- B. An alien granted asylum under §208 of the INA
- C. A refugee admitted under §207 of the INA.
- D. An alien who is paroled under §212(d)(5) of the INA for a period of at least 1 year
- E. An alien whose deportation is being withheld under §§243(h) or 241(b)(3) after April 1, 1997 of the INA
- F. An alien who is granted conditional entry pursuant to §203(a)(7) of the INA
- G. Certain battered alien spouses and children
- H. Cuban and Haitian entrants

**120.3 Immigrant Status.**

A. A person must be a U.S. citizen or an eligible immigrant to qualify for **federal** food stamps. The noncitizen must be both a "qualified alien" as described in 120.2 and meet the following requirements:

(1) The immigrant is lawfully admitted for permanent residence as defined in Section 101(a)(2) of the Immigration and Nationality Act (INA) AND either:

(a) Was admitted before 8/22/96 and can be credited with at least 40 qualifying quarters of qualified work (reported to Social Security Administration and

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### 120.3 Immigrant Status. (continued)

earnings not reported to the Social Security Administration if the individual can verify the earnings).

(b) Was admitted on or after 8/22/96, has been a qualified alien, as defined in 120.2, for more than 5 years, and can be credited with at least 40 quarters of qualified work.

- A qualifying quarter includes one worked by a parent of an immigrant before the date on which the child turned age 18 and a quarter worked by a spouse during their marriage if the immigrant remains married to the spouse or the spouse is deceased.
- If a husband and wife both worked, combine the quarters worked during the marriage if they remain married or if the spouse is deceased.
- Beginning January 1, 1997, do not count a quarter in which the immigrant received any federal means-tested public benefit as a qualifying quarter. Federal means-tested programs are Medical Assistance (including MA for Pregnant Women and Children), Temporary Cash Assistance, Supplemental Security Income, and the Food Stamp Program.

(2) The immigrant is a veteran or on active duty in the U.S. armed forces or spouse or unmarried dependent child of a veteran or person on active military duty (**military connection**). The veteran or active duty person can be a citizen or an immigrant.

- (a) The following categories of immigrants with a military connection are eligible for an unlimited period:
- An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (INA).
  - An alien granted asylum under §208 of the INA
  - A refugee admitted under §207 of the INA.
  - An alien who is paroled under §212(d)(5) of the INA for a period of at least 1 year
  - An alien whose deportation is being withheld under §§243(h) or 241(b)(3) after April 1, 1997 of the INA
  - An alien who is granted conditional entry pursuant to §203(a)(7) of the INA
  - Certain battered alien spouses and children. The non-abusive parent of a battered child may also be eligible. The battered individual must provide verification of being battered and of having petitioned INS for permanent residence status. Any reasonable evidence of battery is sufficient, including police reports, information from medical or school personnel, or photographs.

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**120.3 Immigrant Status. (continued)**

The battered individual also has to verify that he or she no longer lives in the same household as the batterer.

- (b) A veteran must have met the minimum active-duty service requirements of 24 months or the period for which the person was called to active duty.
- (c) The definition of veteran includes military personnel who die during active duty service and Filipinos who served in the Philippine Commonwealth Army during World War II or as Philippine scouts following the war.
- (d) A surviving spouse of a deceased veteran or individual on active duty is eligible, provided the spouse has not remarried and the marriage meets certain requirements. They must have been married:
  - for at least one year, or
  - before the end of a 15-year time span following the end of the period of military service in which the injury or disease was incurred or aggravated, or
  - for any period if a child was born of the marriage or before the marriage.

(3) The immigrant who within the last 5 years:

- (a) Was admitted under §207 of the INA as a refugee,
- (b) Was granted asylum under §208 of the INA,
- (c) Had deportation or removal withheld under §§243(h) or 241(b)(3) of the INA.
- (d) Was admitted as a Cuban and Haitian immigrant as defined in section §501(e) of the Refugee Education Assistance Act of 1980, or
- (e) Was admitted an Amerasian pursuant to §584 of the Foreign Operations, Export, Financing, and Related Programs Appropriations Act of 1988.

**B. Ineligible immigrants include all other immigrants. For example:**

- (1) Visitors, tourists, students, and diplomats,
- (2) Those admitted under color of law,

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**120.3 Immigrant Status. (continued)**

- (3) Immigrants who have applied for eligible status but who have not been approved (except for battered spouses and children with a military connection), and
- (4) Immigrants who have a questionable or unverified status.

**120.4 State Food Stamp Program.** Food stamps will be provided for children who are:

- A. Qualified aliens as described in 120.2.
- B. Under age 18 or who are included in a TCA grant, and
- C. Not eligible for the federal FS Program (FSP).

**120.5 Verification of Immigrant Status.** Based on the application, determine if members identified as a non-citizen are eligible by requiring verification for each immigrant member.

- A. Verify alien/immigrant status using documents currently available and the SAVE system. These documents should also verify the date of obtaining the status to determine the 5-year time limit on eligibility for a refugee, asylee or immigrant whose deportation has been withheld, a Cuban or Haitian Entrant or an Amerasian. These documents include, but are not limited to:
  - (1) INS Form I-551 Resident Alien card and INS Form I-151 Alien Registration Receipt card are proof of lawful permanent resident status. The I-151, while no longer issued, may still be used to determine immigrant status.
  - (2) The INS Form I-94 Arrival/Departure Record indicates the immigration category or the section of the law under which the person is granted admission to the U.S. For Amerasians, documentation establishing eligibility is an I-94 with codes AM1, AM2, or AM3; I-551 with codes AM6, AM7, or AM8; or a Vietnam Exit Visa, Vietnamese or US passport, if stamped by INS with codes AM1, AM2, or AM3.
  - (3) If the INS form presented by the immigrant does not bear annotations needed to verify eligibility, and the individual can provide no other document, advise the immigrant:
    - (a) To obtain from INS Form G-641 Form G-641, Application for Verification of Information from Immigration and Naturalization Service Records. Once completed by INS, accept this form when presented by the immigrant as evidence of status when properly annotated at the bottom by an INS representative;

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**120.5 Verification of Immigrant Status.** (continued)

(b) If appropriate, that the individual may be eligible if acceptable verification is obtained; or

(c) That the immigrant may contact INS or otherwise obtain the necessary verification, or if the immigrant wishes and signs a written consent, the local department will contact INS to obtain clarification of the immigrant's status.

- B. If 40 qualifying quarters of coverage are needed for a permanent resident immigrant to qualify, verify through the Quarters of Coverage History System (QCHS) in the State Verification Exchange System (SVES). Make sure the SSA Consent for Release of Information is on file in the case record when requesting a QC history for Social Security numbers that are not assigned to the applicant (i.e. parent or spouse of the applicant). **DO NOT send the customer directly to the SSA office for this information.**
- C. Verify veteran status or active military duty through readily available documents from the Veteran's Administration or military.
- D. Verify countable income and deductions as described in Section 408.

**120.6 Responsibility of the Local DSS to Obtain Verification.**

- A. If an immigrant is unable or unwilling to provide an INS document or other acceptable verification showing immigrant status, the individual is ineligible. Do not continue efforts to obtain documentation.
- B. The responsibility of the local department exists only when the immigrant has an INS document that does not clearly indicate eligible or ineligible immigrant status.
- C. Do not contact INS to obtain information about the immigrant's correct status without the individual's written consent.

**120.7 Status of Household while Awaiting Verification of Eligible Immigrant Status.**

While awaiting acceptable verification, the immigrant whose status is questionable is ineligible. Determine the eligibility of the remaining household members. Treat income and resources in the same manner as an ineligible immigrant as described in section 108.4. If the verification of eligibility is subsequently received, act on the information as a reported change in household composition.



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### 120.8 Verification of Citizenship.

- A. When a household's statement that one or more of its members are United States citizens is questionable, ask the household to provide acceptable verification. Acceptable forms of verification include birth certificates, religious records, voter registration cards, certificates of citizenship or naturalization provided by INS.
- B. If the household cannot obtain the above forms and the household can provide a reasonable explanation as to why verification is not available, accept a signed statement from someone who is a U.S. citizen which declares, under penalty of perjury, that the member in question is a U.S. citizen. The signed statement shall contain a warning of the penalties for helping someone to commit fraud such as, "If you intentionally give false information to help this person get food stamps, you may be fined, imprisoned, or both."
- C. Do not require verification of citizenship of certain classes of applicant because of their race, religion, ethnic background, national origin or status as migrant farm workers. The following are legitimate reasons for requiring verification of citizenship:
  - (1) The claim of citizenship is inconsistent with statements made by the applicant or with other information on the current application or a previous application.
  - (2) The claim of citizenship is inconsistent with information received from another source.
  - (3) The applicant does not have a social security number.

### 120.9 Status of Members Pending Verification of Citizenship.

An applicant whose citizenship is in question is ineligible until proof of U.S. citizenship is obtained. While awaiting acceptable verification determine the eligibility of the remaining household members. Treat income and resources in the same manner as an ineligible immigrant, as described in section 108.4. If the verification of eligibility is subsequently received, act on the information as a reported change in household composition.

### 120.10 Reporting Illegal Immigrants.

- A. If the local department determines that a member of a household applying for or receiving food stamps is ineligible because the member is presently in the United States in violation of the Immigration and Nationality Act, inform the local INS office in writing.
- B. Do not make a determination that an individual is in violation of the Immigration and Nationality Act merely because of the immigrant's inability or unwillingness to document his/her immigrant status. When an immigrant is unwilling or unable to provide

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**120.10 Reporting Illegal Immigrants.** (continued)

documentation, classify the individual as ineligible and discontinue efforts to obtain further documentation.

- C. Report to INS only when firm evidence exists that the immigrant is in the U.S. illegally.

**120.11 Calculating the Countable Income and Resources from an Ineligible Immigrant.**

- A. Determine the amounts to be counted by calculating a prorated share of income received by the ineligible member and a prorated share of expenses paid by or billed to the ineligible member as described in section 108.4 of the manual.
- B. Do not count a deemed portion of a sponsor's income in calculating eligibility or benefit level if the sponsored immigrant is not included in the food stamp household.
- C. The total value of any resources owned by the ineligible immigrant is counted.

**120.12 Case Processing.**

Households with immigrants have many household compositions, which will determine ineligibility, eligibility for federal food stamps, eligibility for the State program or a combination. In CARES jurisdictions, set up one case that includes all members of a household who are eligible for the federal or state Food Stamp Programs. **Although only one case is established, it is important to correctly identify individuals who are paid with state funds.**

**Example #1:** Household A includes a mother and father who are refugees who obtained their status within 5 years of the food stamp application, and two citizen children. The entire household is eligible for federal food stamps because the parents' refugee status is within the five-year period. Process this case using all income and deductions for the entire household.

**Example #2:** Household B applied March 3. The household includes a mother age 45 and her 20-year old son. Both are lawfully admitted for permanent residence. Neither individual is eligible for federal benefits. Since there are no children in the unit, the household is not eligible for state benefits.

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**120.12 Case Processing. (continued)**

Example #3: Household C includes a mother and her two children under age 18. All are lawfully admitted for permanent residence but does not fall into one of the federal eligible categories. The entire household is ineligible for federal food stamp benefits. The children are eligible for state FS benefits. Open the case for the non-citizen children's state FS benefits. Use a 2/3 prorated portion of income and deductions to calculate the FS benefit for the two children.

Example #4: Household D includes a mother and her two children who are lawfully admitted for permanent residence. Also in the household are her refugee husband, who obtained his status 7 years ago, and their citizen child. The citizen child is eligible for federal food stamp benefits and the legal permanent resident children are eligible for state food stamp benefits. Mrs. D has \$500 monthly unearned income. Mr. D has no income. The shelter costs total \$300.

Calculate the benefit for all members who are eligible for the state or federal benefit. The countable income for the three children, using 3/5 of the income is \$300, ( $\$500 \div 5 = \$100 \times 3 = \$300$ ) and 3/5 of the shelter is \$180 ( $\$300 \div 5 = \$60 \times 3 = \$180$ ).

Example #5: Household F includes Mrs. F and her child who are lawfully admitted for permanent residence. Mr. F is also in the household. He is a citizen and receives \$484 SSI. Mrs. F receives \$300 unearned income. Mrs. F pays the \$300 rent. Mr. F pays the gas and electric bill, which includes heat. Mr. F is eligible for federal food stamp benefits and the child is eligible for state benefits.

Calculate the benefit for both Mr. F and the child eligible for the State-paid FSP. Use all the SSI benefit (\$484), and a 2/3 portion of Mrs. F's income ( $\$300 \div 3 \times 2 = \$200$ ). To calculate the shelter cost, use a 2/3 prorated share of expenses paid by or billed to the ineligible immigrant ( $\$300 \div 3 \times 2 = \$200$ ). The household is entitled to the full \$183 SUA since it is billed to Mr. F.