



Department of Human Resources
311 West Saratoga Street
Baltimore MD 21201

Family Investment Administration
ACTION TRANSMITTAL

Control Number: #03-34

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**TO: DIRECTORS, LOCAL DEPARTMENTS OF SOCIAL SERVICES
DEPUTY/ASSISTANT DIRECTORS FOR FAMILY INVESTMENT
FAMILY INVESTMENT SUPERVISORS AND ELIGIBILITY STAFF**

FROM: CHARLES E. HENRY, EXECUTIVE DIRECTOR

**RE: RESTORATION OF FOOD STAMPS TO IMMIGRANTS WHO HAVE
LIVED IN THE UNITED STATES FOR FIVE OR MORE YEARS**

PROGRAM AFFECTED: FOOD STAMP PROGRAM

ORIGINATING OFFICE: OFFICE OF POLICY, RESEARCH AND SYSTEMS

SUMMARY:

The 2002 Farm Bill (Farm Security and Rural Investment Act of 2002) restores food stamp eligibility to legal immigrants who have lived in the United States as qualified immigrants for a period of five years or longer. This change is effective April 1, 2003.

IMPORTANT: This action transmittal also provides information about the correct coding of the SPP field on the ALAS Screen. See CARES procedures on page 7.

ACTION REQUIRED:

SECTION I -- Eligibility Criteria for the Five-Year Requirement

The 2002 Farm Bill restores food stamp eligibility to legal immigrants who have lived in the United States as a qualified immigrant for a period of five years or longer.

Basic Immigrant Eligibility

To be eligible for food stamps, immigrants must meet two additional conditions that do not apply to citizens. First they must have an immigration status that food stamp rules define as qualified. Second, qualified immigrants must be in one of the groups that federal rules allow to receive food stamps.

A qualified immigrant includes immigrants who are in one of the following categories as determined by the Immigration and Naturalization Service (INS):

- ✓ Lawfully admitted for permanent residence (LPR) in the United States (holders of green cards). This category also includes “Amerasian immigrants” as defined under section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988;
- ✓ Granted asylum under section 208 of the Immigration and Nationality Act (INA);
- ✓ Refugee admitted to the United States under section 207 of the INA (the Trafficking Victims Protection Act of 2002 (Public Law 106-386) requires victims of a severe form of trafficking to be treated as refugees for food stamp purposes);
- ✓ Paroled into the United States under section 212(d)(5) of the INA for at least one year;
- ✓ Deportation is being withheld under section 243(h) of the INA as in effect before 4/1/97, or removal is withheld under section 241(b)(3) of the INA;
- ✓ Granted conditional entry under section 203(a)(7) of the INA as in effect before 4/1/80;
- ✓ Cuban or Haitian entrant under section 501(e) of the Refugee Education Assistance Act of 1980; or
- ✓ Under certain circumstances, a battered spouse, battered child or parent or child or a battered person with a petition pending under 204(a)(1)(A) or (B) or 244(a)(3) of the INA.

Questions and Answers about the 5 year waiting period

1. When does the five-year waiting period begin?

The five-year waiting period begins on the date the immigrant obtains status as a qualified immigrant through INS.

2. If qualified status is granted retroactively does the retroactive time count toward the five-year requirement?

Yes. In certain situations, the INS may grant an immigrant qualified status retroactively.

Example: An immigrant enters the country on January 1, 1996 but the INS does not complete its paperwork until a year later on January 1, 1997. At that time, the INS grants the immigrant status as an asylee beginning on the person’s date of entry on

January 1, 1996. In this case, qualified immigrant status begins on January 1, 1996 rather than January 1, 1997.

3. If a qualified immigrant is in an exempt category (e.g., asylee or refugee) and later adjusts to LPR status, does the qualified immigrant have to meet the five-year requirement?

No. Asylees, refugees, Amerasians, Cuban/Haitian entrants, trafficking victims and immigrants whose deportation was being withheld are eligible for food stamp benefits during the first seven years they are admitted or granted status in one of these exempt categories, regardless of later adjustment.

Example: An immigrant was initially granted asylum in January 2001 and then adjusted to LPR status in January 2002. Even though the immigrant has not been in a qualified immigrant status for five years on April 1, 2003 when the new law is effective, the qualified immigrant is eligible during the first seven years as an asylee.

Note: A qualified immigrant who is in one of these exempt categories for five years has automatically met the five-year requirement.

When an immigrant has adjusted to LPR status from another category, the green card will sometimes show the date of the most recent adjustment of status rather than the date of the previous status was granted. To obtain a history of an immigrant's status from the INS, you must specifically ask for the information on INS Form G-845-Supplement.

4. If an immigrant has been in the United States in an undocumented status and later obtains status as a qualified immigrant, is the qualified immigrant automatically barred from receiving food stamps because of the undocumented status?

No. If the immigrant has been in status as a qualified immigrant for five years, the immigrant meets the five-year requirement.

5. When does the five-year waiting period begin for abused immigrants?

The five-year period begins when the prima facie case determination is issued or when the abused immigrant's I-130 visa petition is approved. The relevant date for eligibility is the date the immigrant obtained qualified status as an abused immigrant rather than the date of the person's immigration status.

Note: Refer to Guidance for Verification of Immigration Status, Section II, which was issued as Information Memo #99-51 July 1, 1999.

SECTION II -- Deeming a Sponsor's Income

Many immigrants who enter the U.S. as lawful permanent residents have sponsors who have agreed to help the immigrant and have signed an affidavit promising to provide support. Any affidavit of support signed on or after December 19, 1997 is legally

enforceable. These sponsored immigrants are subject to sponsor deeming rules when they apply for food stamps. This means we count part of the sponsor's income and resources as though they were the immigrant's income and resources.

This restoration of food stamp benefits means that more immigrants with sponsors will meet food stamp eligibility requirements. See section 121 of the Food Stamp Manual for more detailed information about how to deem a sponsor's income and resources.

Questions and Answers About Sponsors and Deeming

1. What is deeming?

The income and resources of an immigrant's sponsor (and the sponsor's spouse) who has signed a *legally binding* affidavit of support are counted as belonging to the immigrant (or deemed), regardless of actual availability, when determining the immigrant's eligibility and benefit amount for food stamps.

2. Which immigrants are subject to deeming requirements?

Most immigrants who enter the U.S. must have a sponsor. The sponsor is someone who signs an affidavit promising to provide enough financial support to maintain the immigrant at or above 125 percent of the Federal poverty line (or 100 percent for active duty military). **The deeming requirements apply only to immigrants whose sponsor has signed a legally binding affidavit of support (known as 213A affidavits—Form I-864 or I-864A) on or after December 19, 1997.** Prior to this time, affidavits of support were not legally binding.

3. Which immigrants are exempt from deeming requirements?

The following groups are not subject to deeming rules:

- ✓ **Immigrants whose sponsors have not signed a legally binding affidavit of support.**
- ✓ **Immigrants without sponsors.** In general, legal immigrants who enter the country under provisions of immigration law other than the family-sponsored categories do not have sponsors. Included in this group are refugees and asylees.
- ✓ **Immigrants who are indigent as described in the Food Stamp Manual in section 121.2.** Most immigrants who are financially eligible for food stamps will qualify as indigent.
- ✓ **Certain immigrants who are victims of domestic violence:** Deeming also does not apply during any 12-month period if the immigrant is a battered spouse, battered child or parent, or child of a battered person providing the battered

immigrant lives in a separate household from the person responsible for the battery.

- ✓ **Immigrants who can be credited with 40 quarters of work.**
- ✓ **Immigrants whose sponsor is deceased.**
- ✓ **Sponsor is in same food stamp household:** If the sponsor lives in the same household as the immigrant, deeming does not apply because the sponsor's income and resources are already counted. There is, however, no deeming exemption if the sponsor receives food stamps in another household.
- ✓ **Ineligible Member:** If the sponsored immigrant is ineligible for food stamps because of immigration status the sponsor's income is not deemed to other eligible members of the immigrant's household.

4. How long does deeming last?

Deeming or attribution of the sponsor's income and resources to the immigrant lasts until the sponsored immigrant:

- ✓ Becomes a naturalized citizen;
- ✓ Can be credited with 40 qualifying quarters of work;
- ✓ Is no longer an LPR and leaves the U.S.;
- ✓ Meets one of the exceptions listed in question 3 above;
- ✓ Dies or the sponsor dies.

ACTION DUE:

Qualified immigrants meeting the five-year requirement and other program requirements can begin receiving food stamps on April 1, 2003.

Requirements for applications taken in March 2003:

Beginning March 1, 2003, case managers must follow the procedure for anticipated changes in processing households with members affected by this change. Case managers will determine eligibility and benefit amount for households with ineligible members using the same application for both March and April 2003.

Eligibility for March will be determined using the food stamp rules as they exist in March 2003. The case manager will apply the new rules to household members to determine eligibility and benefit amount for April 2003. Local departments must timely process all applications under regular processing timeframes.

INQUIRIES:

Please direct policy questions to Kay Finegan at 410-767-7939 or Marilyn Lorenzo at 410-767-7333. Please direct CARES questions to Fern Parson at 410-767-7064.

cc: FIA Management Staff
Constituent Services
DHR Help Desk
RESI

CARES PROCEDURES

Important Reminder: We have identified a significant problem with coding of the SPP field on the ALAS screen. Case managers must code these fields correctly so that we can identify which customers receive state funded food stamps and which are eligible for federally funded food stamps.

Following are the valid values to use in the SPP field.

E - Eligible for federal food stamps

Y - Yes, child eligible for State food stamps because not eligible for federal food stamps (do not code adults as Y)

N - Not eligible for federal or state food stamps

See action transmittal 03-15 for a full explanation of the correct coding of the ALAS screen.

The following is a review of CARES procedures for removing the “ND 202” code to restore Food Stamp eligibility to legal immigrants who have lived in the United States as qualified immigrant for a period of five years or longer.

CHANGING THE INELIGIBLE IMMIGRANT’S FINANCIAL RESPONSIBILITY CODE FROM “ND 202 TO “RE” WHEN ELIGIBILITY IS ESTABLISHED.

FS ONLY HOUSEHOLDS:

- Access Option **R** from **AMEN** using the ongoing month first.
- On the **STAT** screen, change the relationship of the ineligible member to “**OP**”, and change the 202-reason code to 557.
- If the ineligible member was the HOH, change one of the other household member’s relationship code to “**SE**”. (If the ineligible member is not the head of household this step can be eliminated.)
- A message will appear “HOH (SE) changed, review the HOH relationship code for all clients”, press PF4 to override this notice.
- Complete any required screens (edits will appear on required screens), override notices on the financial screens, and commit the information on the DONE screen.

Repeat these procedures for all benefit months in which the customer is eligible from 4/01/03.

- Access Option **K** from the **AMEN**, add the customer back to the AU, and enter the financial responsibility code of “**PN**” using the date that they became eligible as the application date. (The application date will be the month that the customer became eligible 4/01/03 or after)
- **Do not change the head of household’s relationship code back to “SE” at this**

time leave as “OP”.

- Process and finalize the add-a-person procedure, and appropriately code any under issuance's generated on the **FSFI** screen
- Proceed to Option **R** on the **AMEN** screen for all the months that the changes were made **beginning with the ongoing month**, and change the relationship codes back to their original status. Fast path to done and commit the data. **This last step is extremely important.**

YOU MUST COMPLETE THIS ENTIRE PROCESS IN ONE DAY.

FS HOUSEHOLDS WITH AN ASSOCIATED TCA AU:

If the Food Stamp household has an associated TCA case, you must begin with the following instructions

- Access Option **R** from **AMEN**, and on the **STAT** screen, enter code **557** in the AU Status Reasons field for the associated case.
- Fast path to **DONE** and commit the data.
- Go into the Food Stamp AU and follow the above procedures for changing the HOH financial responsibility code from **“ND 202”** to **“RE”**
- Once the food stamp process is completed, re-instate the closed TCA case using Option **M** from the **AMEN**.
- Proceed to Option **R** from the **AMEN**; on the **STAT** screen remove the 557 codes from the **AU Status Reason** field, and the **RSN** field next to each customer.
- Commit the changes.

AGAIN, YOU MUST COMPLETE THIS ENTIRE PROCESS IN ONE DAY.

DESK GUIDE TO IMMIGRANT ELIGIBILITY EFFECTIVE APRIL 1, 2003

Immigration Status	Eligible?	Subject to:	
		5-year Bar	Sponsor Deeming
Immigrants who are eligible			
Naturalized U.S. Citizens	Yes	No	No
Immigrants who entered the U.S. prior to December 19, 1997 and who have been in a qualified status for 5 or more years	Yes	No	No
<ul style="list-style-type: none"> ➤ Refugees, ➤ Asylees, ➤ Amerasians, ➤ Cuban/Haitian entrants, ➤ Trafficking victims, ➤ Immigrants whose deportation is withheld (Eligible for 7 years after entry or date of obtaining status) 	Yes	No	No
Lawful permanent residents (LPR) with 40 quarters	Yes	No	No
Lawfully residing Hmong or Laotian tribe members	Yes	No	No
Cross-border Native Americans	Yes	No	No
Immigrants who are eligible with certain restrictions			
Immigrants who entered the U.S. after December 19, 1997 and whose sponsor did not sign an enforceable affidavit of support	Yes	Yes	No
Immigrants who entered the U.S. after December 19, 1997 and whose sponsor signed an enforceable affidavit of support.	Yes	Yes	Yes
Qualified immigrants with a military connection	Yes	No	Yes
Qualified immigrants under 18 years of age (Federal or State funded)	Yes	No	Yes
Qualified Elderly Immigrants born on or before 8/22/31 who were lawfully residing in the U.S. on 8/22/96.	Yes	No	No
Qualified immigrants who are disabled	Yes	No	Yes
Ineligible Immigrants			
Non-qualified immigrants who are lawfully residing in the U.S.	No		
Undocumented immigrants	No		