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## CHAPTER 4

### Citizens and Alien Status

#### 400 Citizens and Aliens Who Are Qualified and Eligible

The following persons are eligible to participate in the Food Assistance Program if they reside in the United States and meet all other conditions of eligibility.

1. A citizen of the United States:
  - a) A person born in one of the states or in the District of Columbia, Puerto Rico, Guam, the U. S. Virgin Islands, or the Northern Mariana Islands.
  - b) A naturalized U. S. citizen.
  - c) A person born outside of the United States to at least one U.S. citizen parent, subject to certain exceptions and qualifications.
2. A United States non-citizen national:
  - a) A person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession; or
  - b) A person whose parents are U. S. non-citizen nationals, subject to certain residency requirements.
3. An individual who is:
  - a) An American Indian born in Canada to which Section 289 of the Immigration and Nationality Act applies.
  - b) Members of specific Indian tribes as defined in Section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) which is recognized as eligible for the special programs and services provided by the Bureau of Indian Affairs to Indians because of their status as Indians.
  - c) An individual who is lawfully residing in the United States and was a member of the Hmong or Highland Laotian tribe at the time the tribe rendered assistance to United States personnel in military or rescue operations during the Vietnam era beginning August 4, 1964 and ending May 7, 1975. This status also applies to individuals who have one of the following relationships with the member or deceased member of the Hmong or Highland Laotian tribe.
    - ❖ A spouse or surviving spouse.
    - ❖ An unmarried dependent child under the age 18 or if a full-time student under the age of 22. If the member of the Hmong or Highland Laotian tribe is deceased, the child must have been a dependent prior to the death.

- ❖ An unmarried disabled child age 18 or older who was disabled and dependent on this person prior to the child's eighteenth birthday. (Child means the legally adopted or biological child).

The above group (3a, b, and c) of non-citizens are not qualified aliens but may be eligible. These individuals do not have to meet any other non-citizen requirement to be eligible.

- d) An individual who is an alien that has been subjected to a severe form of trafficking in persons and who is certified by the Department of Health and Human Services. An alien who has been subjected to a severe form of trafficking in persons and is under the age of 18.

The spouse, child, parent or unmarried minor sibling of a victim of a severe form of trafficking in persons under 21 years of age, and who has received a derivative T visa.

The spouse or child of a victim of a severe form of trafficking in persons 21 years of age or older, and who has received a derivative T visa.

Trafficking victims and their family members are eligible to the same extent as refugees.<sup>[1]</sup>

- 4. Qualified Aliens: A qualified alien is a non-citizen who has one of the following immigration statuses. For most non-citizens, the non-citizen must be both a qualified alien and meet one of the eligibility requirements.

Those non-citizens listed below in 4a, b, c, and d must meet one of the food assistance eligibility requirements in number 5 to be eligible for food assistance benefits.

- a) An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act. LPRs also include "**Amerasian**" immigrants as defined under Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988.<sup>[2]</sup>
- b) An alien who is paroled into the U. S. under section 212(d) (5) of the INA for a period of at least 1 year.
- c) An alien who is granted conditional entry according to section 203(a)(7) of the INA as in effect prior to April 1, 1980.
- d) An alien who has been battered or subjected to extreme cruelty in the U.S. by a spouse or a parent or by a member of the spouse or parent's family residing in the same household at the time of the abuse or an alien child whose parent has been battered.

Those non-citizens listed below in 4e, f, g, h, i, j and k are eligible for food assistance benefits without a 5 year waiting period and without having to meet a food assistance eligibility requirement.

- e) An alien who is granted asylum under section 208 of the INA.
- f) A refugee who is admitted to the U.S. under section 207 of the INA.
- g) An alien whose deportation or removal is withheld under section 243(h) and 241 (b) (3) of the INA as in effect prior to April 1, 1997.

- h) An alien who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.
  - i) An alien who has been subjected to a severe form of trafficking. Victims under the Trafficking Victims Protection Act of 2000.
  - j) An Iraqi and Afghan who is granted special immigrant status under Section 101(a)(27) or the Immigration and Nationality Act (INA).
  - k) An “Amerasian” immigrant as defined under Section 684 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988. <sup>[3]</sup>
5. Food Assistance Alien Eligibility Requirements:
- a) An alien with one of the following military connections:
    - ◆ A veteran who was honorably discharged for reasons other than alien status, who has fulfilled the minimum active-duty service requirements of 38 U.S.C. 5303A (d), including an individual who died in active service. This also includes an individual who served before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the U. S.
    - ◆ An individual on active duty in the Armed Forces of the U. S other than for training.
    - ◆ Military connections described apply to the spouse and unmarried children under the age of 18, or under the age of 22 if a student or an unmarried dependent 18 or older if the child was dependent and disabled prior to the 18th birthday.
    - ◆ The status also applies to a spouse of a deceased veteran if the marriage fulfilled the requirements of 38 U. S. C. 1304 and the spouse has not remarried as well as to the dependents described above.
  - b) Aliens who on August 22, 1996 were lawfully residing in the U.S and were born on or before August 22, 1931.
  - c) Aliens lawfully residing in the U.S. and under age 18.
  - d) Aliens lawfully residing in the U.S. receiving blind or disability benefits.
  - e) Aliens who have lived in the U.S. for a period of five years from the date of entry. The five year waiting period begins on the date the alien obtains status as a qualified alien through INS.
  - f) An alien lawfully admitted for permanent residence under the Immigration and Nationality Act is eligible if s/he has worked 40 qualifying quarters of coverage under Title II of the Social Security Act, including qualifying quarters of work not covered by Title II of the Social Security Act. (See the Automation for All Staff Manual Section 1208 for instructions on how to request qualifying quarters.) A qualifying quarter includes one worked by alien, one worked by a parent of the alien who was under age 18 (including qualifying quarters worked before the alien child was born or adopted), or quarters worked by a spouse during their marriage if the alien remains married to the spouse or the spouse is deceased. If the determination of eligibility is made using the quarters of a spouse, and the couple later divorces, the alien's eligibility will continue until the next recertification. At this time the alien's eligibility must be determined without the qualifying quarters of the spouse. Any quarter beginning on or after January 1, 1997, will not be considered a qualifying quarter worked by the alien or by another person whose qualifying quarters can be

used if the alien received any federal means-tested public benefits during that quarter such as Food Assistance, Medicaid, SSI and TANF.

Each category of eligible alien status stands alone. When eligibility expires under one eligible status, it must be determined if eligibility exists under another status.

### **Verification Procedure for 40 Qualifying Quarters Determination**

The following steps should be taken by the worker when dealing with aliens whose qualification for food assistance is dependent upon 40 quarters of wages.

1. Verify the alien's quarters of coverage.
2. Establish the necessary relationships to the alien before requesting a qualifying quarter history unless it is clear the alien meets the 40 qualifying quarter requirement because of his/her own work. Up to four quarters in each year can be credited to the alien from each individual.
3. Obtain a Consent for Release of Information (SSA-3288) signed by the parent/spouse social security number holder when requesting a qualifying quarter history for social security numbers that are not assigned to the alien. A consent form is not needed to request information on a deceased individual's social security number through the Quarters of Coverage History System (QCHS).

**Important:** If someone refuses to cooperate and will not complete the consent form, the Quarters of Coverage History System cannot be used to obtain the Qualifying Quarters data. For these cases, use Form SSA-513, Request for Quarters of Coverage History Based on Relationship, to request the needed information. See instructions for form, SSA-513 in Section VI of the Forms for Eligibility Manual. The consent form must be maintained in the food stamp case record. SSA will request to see these forms as part of its quality control if a question is raised.

The record received will not show current year earnings or possibly last year's earnings, depending on when the request is made. Earnings for this period are called LAG earnings. Because these quarters represent recent work history, the applicant should have acceptable evidence of the earnings available, i.e., W-2 and/or W-2c, employer prepared wage statements or an IRS copy of the individual's tax returns. Assume the earnings are covered if the proof submitted indicates FICA taxes were withheld.

## **401 Ineligible Aliens**

Only the qualified aliens listed in [Section 400](#) are eligible to participate. All other aliens are ineligible to participate. Alien visitors, tourists, diplomats and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country are also included as ineligible aliens. Undocumented non-citizens and those who are unable or unwilling to provide documentation of their immigration status are ineligible for food assistance benefits. <sup>41</sup>

## **402 Income and Resources of Ineligible Aliens**

The income and resources of an ineligible alien are handled in accordance with [Section 1102](#).

## 403 Awaiting Verification of Alien Status

If verification of eligible alien status as required in [Section 205\(B\)](#) is not provided on a timely basis by the household, determine the eligibility of the remaining household members. The income and resources of the individual whose alien status is unverified are handled as outlined in [Section 1102\(B\)](#).

If verification of eligible alien status is subsequently received from the household, act on the information as a reported change in household membership in accordance with appropriate timeliness standards.

## 404 Reporting Illegal Aliens

The county department may report unlawful presence only those non-citizens who have applied for food assistance benefits; not other household members, and not adults applying strictly for their children. In making this determination, guidance and clarification is stated in an Interagency Notice published in the Federal Register (65 FR 58301). It states, "**A government entity knows that a non-citizen is not lawfully present in the United States only when the entity's finding or conclusion of unlawful presence is made as part of a formal determination by the entity, is subject to administrative review and is supported by a determination of the Department of Homeland Security (DHS) or the Executive Office for Immigration Review, such as a Final Order of Deportation.**" If the county department "knows" as explained in the Interagency Notice that a non-citizen is not lawfully present in the United States, then the county department must report to INS only the non-citizen who is present in the United States in violation of the IN A. Suspected unlawful presence of non-citizens must not be reported if the county department does not have verification of a formal determination of unlawful presence.<sup>[5]</sup>

## 405 Additional Information

Listed below is additional information regarding battered aliens.

For an alien who is a battered spouse or child, a determination must be made that there is a substantial connection between the battery and the need for benefits. A substantial connection between the battery and the need for benefits may be established if it is necessary for the individual to set up a new living arrangement, the individual has never worked or is now unemployed, the battery is such that the individual is unable to work due to physical injury, heightened visibility in the community poses a continued threat, or other circumstances as evaluated/determined by the worker. Any reasonable evidence of battery offered by the individual should be sufficient, including police reports, information from medical or school personnel, social service records or photographs. In addition, the battered individual must establish that s/he no longer lives in the same household with the batterer.

## 406 A Guide for Determining Food Stamp Alien Eligibility

A person must be a U.S. citizen or an eligible non-citizen to qualify for food assistance. For most non-citizens, the non-citizen must be both a qualified alien as listed in the left column of the table below and meet one of the eligibility requirements to be eligible.

Qualified Aliens	Food Assistance Eligibility Criteria
<p>Lawfully admitted for permanent residence (LPR). Paroled under Section 212(d)(5) of INA for at least one year Granted conditional entry under 203(a)(7) of INA in effect prior to 4/1/1980</p> <p>A battered spouse, battered child or parent or child of battered person with a petition pending under 204(a)(1)(A) or (B) or 244(a)(3) of INA</p> <p>Granted asylum under Section 208 of INA Refugee admitted under Section 207 of INA</p> <p>Deportation withheld under 243(h) or 241(b)(3) of INA</p> <p>Cuban or Haitian entrant as defined in 501(e) of Refugee Education Assistance Act of 1980</p> <p>Trafficking victims under the Trafficking Victims Protection Act of 2000 and certain family members (spouses, children &amp; minor siblings)</p> <p>Iraqi and Afghan Special Immigrants (SIV - Special Immigrant Visas)</p> <p>Amerasian immigrants defined under Section 584 of the Foreign Operations, Export Financing &amp; Related Programs Appropriations Act of 1988</p>	<p>Numbers 1 -4, under qualified aliens, must meet one of these requirements below:</p> <p>The following are eligible indefinitely:</p> <ul style="list-style-type: none"> <li>• Military connection (veteran, active duty, spouse and children)</li> <li>• Lawfully in U.S. and under 18</li> <li>• Lawfully in U.S. and receiving blind or disability benefits</li> <li>• Lawfully in U.S. and 65 or older on 8/22/96</li> <li>• Lived in U.S. in a qualified status for 5 years</li> <li>• LPR who can be credited with 40 quarters of work</li> </ul> <p>Numbers 5-11, under qualified aliens, are eligible without having to meet an additional requirement</p>

The following aliens may be eligible even if they are not qualified aliens as specified in the left column and they may be eligible for an indefinite period of time.

- Certain Hmong or Highland Laotians and spouse and children (many are admitted as refugees);
- American Indians born in Canada to whom Section 289 of INA applies and members of Indian tribes as defined in Section 4(e) of the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450(e). This provision was intended to cover Native Americans

who are entitled to cross the U.S. border into Canada or Mexico. It includes, among others, the St. Regis Band of Mohawk in New York, the Micmac in Maine, the Abenaki in Vermont, and the Kickapoo in Texas.

- U. S. Non-citizen National. A person born in an outlying possession of the U.S. (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession or a person whose parents are U.S. non-citizen nationals, subject to certain residency requirements. <sup>[6]</sup>

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<sup>[1]</sup> Revised 3-13-12

<sup>[2]</sup> Revised 3-13-12

<sup>[3]</sup> Revised 3-13-12

<sup>[4]</sup> Revised 3-13-12

<sup>[5]</sup> Revised 3-13-12

<sup>[6]</sup> Revised 3-13-12