

MANUAL MATERIAL TRANSMITTED					
MANUAL: INCOME MAINTENANCE			CHANGE NUMBER: 123		
DELETE			INSERT OR CHANGE		
PAGES	CHAPTER	DATED	PAGES	CHAPTER	DATED
i - ii	18	5/98	i - ii	18	11/98
7-8	18	5/98	7-8	18	11/98
13	18	5/98	13	18	5/98
14 - 51	18	5/98	14 - 51a	18	11/98
52	18	5/98	52	18	5/98
DATE: SEPTEMBER 1998			TO: All Income Maintenance Manual Holders		

This change corrects and clarifies policy that affects the WV WORKS, Medicaid and Food Stamp Programs in regards to aliens/immigrants adding spouse and 40 qualified quarters deeming income and assets and correcting eligible aliens for WV WORKS and Medicaid by Cuban or Haitian Entrant and Amerasian immigrant.

Also, the President signed Public Law 105-185, the Agricultural and Education Reform Act of 1998 (AREERA) on June 23, 1998. Effective November 1, 1998, AREERA restores Food Stamp Program eligibility to certain non-citizens who were made ineligible under the PWORA. AREERA also extends the time period for eligibility from five years to seven for qualified refugees, asylees, deportees, Cubans, Haitians and Amerasian.

Questions should be directed to Cona Chatman, Projects Unit, Office of Family Support.

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18.2 CITIZENSHIP AND ALIENS

A. Introduction

All aliens are subject to immigration laws which regulate their entry and set the conditions of their stay. There are various immigration documents that might be carried by an alien who is legally in the United States and most aliens lawfully in the United States should have some kind of immigration document.

The first step in determining eligibility for federal benefits is the identification of the alien's immigration status. Then, other considerations relevant to their specific situations have to be taken into account, and, if it appears that an alien qualifies for a particular federal program, it should be insured that receipt of that benefit will not affect that person's immigration status.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) significantly changed federal means-tested benefit eligibility for individuals who are not citizens of the United States. Federal means-tested benefits must be provided to eligible citizens or nationals of the United States. Individuals who meet the eligibility requirements for these benefits but are not citizens or national of the United States are eligible only as provided in 18.4. Those noncitizen must also meet documentation and verification requirements as required.

NOTE: See 18.4 for more specific information regarding alien eligibility for specific benefits.

- Northern Mariana Identification card (issued by INS to a collectively naturalized citizen of the United States who was born in the Mariana Islands before November 3, 1996),
- Contemporary hospital record of birth in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam (on or after April 10, 1899), the United States Virgin Islands (on or after January 17, 1917), American Samoa, Swains Island, or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction).

- veteran or on active duty in the United States Armed Forces or spouse or unmarried dependent child of veteran or person on active duty (no time limit on participation) (Eligible indefinitely);
 - Amerasian immigrant under 584 of FOEFRPAA 1988 entered the United States within last seven years (participation limited to seven years from entry into the United States);
- (b) * Is an asylee under section 208 of INA and was granted asylum within the last seven years (participation is limited to seven years from status);
- (c) * Is a refugee under section 207 of INA and entered the United States within the last seven years (participation limited for seven years from entry);
- (d) * Is an alien whose deportation has been withheld under section 243(h) or 241 (b) (3)-INA and was granted status within last seven years (participation limited to seven years from status);
- (e) * Is a Cuban or Haitian entrant under section 501(e) of REAA 1980 and entered the United States within last seven years (participation limited to seven years from entry);

NOTE: In addition to the 7 year limited participation period these aliens are also eligible aliens allowed unlimited participation if such alien (asylee, refugee, deportation withheld Cuban/Haitian) is a veteran or on active duty in the United States Armed Forces or the spouse or unmarried dependent child of a veteran or person

and children);

- American Indians born in Canada to which section 289 of INA applies, and members of Indian tribe as defined in section 4(e) of Indian Self-Determination and Education Assistance Act (Cross border Indians).

2. Ineligible aliens include all other aliens.

EXAMPLE:

- visitors, tourists, students and diplomats;
- those admitted under color of law;
- aliens who have applied for eligible status but who have not been approved (except for battered spouses and children with a military connection); and
- aliens whose status is questionable or unverified.

NOTE: When the Worker has reason to believe that any member of a household is ineligible to receive Food Stamps because the member is present in the United States in violation of the law, this is to be reported immediately in writing to the Projects Unit in the Office of Family Support. The memorandum must show the name of the alien involved, case name, address, the reason the Worker believes the client is an illegal alien, and copies of any INS documents that have been presented. The Project Unit will forward this information to INS. The local office will receive a copy of the letter sent to INS.

The Worker will have reason to believe the household contains an illegal alien when: any household member (or the authorized representative) states that illegal aliens are present in the household, INS documents

- (f) An alien who is granted conditional entry pursuant to section 203(a)(7) and section 274a.12(a)(3) of INA (eligible for five years from entry.)
- (g) Amerasian immigrant under 584 of FOEFRPAA 1988 entered the United States within last five years (participation limited to five years from entry into the United States);
- (h) Is a Cuban or Haitian entrant under section 501(e) of REAA 1980 and entered the United States within last five years (participation limited to five years from entry);
- (i) Honorably discharged veterans their spouses and unmarried dependent children.
- (j) An alien who is active in the United States Armed Forces (other than duty for training) their spouses and unmarried dependent children.)
- (k) An alien who is lawfully admitted to the United States on or after August 22, 1996 and has been a qualified alien for more than five years.
- (l) An alien who is a battered spouse or battered child of/or is a veteran or on active duty in the United States Armed Forces or spouse or unmarried dependent child of the veteran or person on active duty. The non-abusive parent of a battered child may also be eligible. Likewise, a child of a battered parent may be eligible.

2. Ineligible aliens include all other aliens

EXAMPLE:

lawfully admitted for permanent residence if he is of at least one-half American Indian blood. As such he is a qualified alien. This does not include a spouse or child of such an Indian nor a noncitizen whose membership in an Indian tribe or family is created by adoption, unless such person is of at least fifty (50) percent or more Indian blood.

TYPES OF DOCUMENTATION:

- Birth or baptismal certificate issued on a reservation,
 - Tribal records,
 - Letter from the Canadian Department of Indian Affairs, or
 - School records.
3. Medicaid eligibility for aliens is based on the alien being a qualified alien regardless of whether the alien entered the United States before or on or after August 22, 1996. The previous categories of lawful permanent residents and PRUCOL aliens no longer apply. An eligible (qualified) alien is one who is:
- (a) An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) and was admitted before August 22, 1996.
 - (b) An alien who is granted asylum under section 208-INA (eligible for seven years from entry to United States.)
 - (c) A refugee who is admitted to the United States under section 207-INA (eligible for five years

United States Armed Forces or spouse or unmarried dependent child of the veteran or person on active duty. The non-abusive parent of a battered child may also be eligible. Likewise, a child of a battered parent may be eligible.

4. Ineligible aliens include all other aliens.

EXAMPLE:

- Visitors, tourists, students, and diplomats;
 - Those admitted under color of law;
 - Aliens who have applied for eligible status but who have not been approved (except for battered spouses and children with a military connection); and
 - Aliens whose status is questionable or unverified.
5. Aliens Receiving SSI--Continue to provide Medicaid to aliens receiving SSI.
 6. Eligibility of aliens who are QMBS--The eligibility of a noncitizen who has Medicare coverage and meets the criteria to be a QMB is determined by whether the individual is a qualified alien in one of the groups covered by item C.3. above.
 7. Any alien who does not fall within the category of eligible (qualified) alien can be considered for eligibility for Medicaid emergency service (see Emergency Medicaid for Illegal/Ineligible Aliens, section 18.7).

D. LIEAP

All legally admitted aliens will be treated under LIEAP

18.5 SYSTEMATIC ALIEN VERIFICATION OF ENTITLEMENT AND 40 QUALIFYING QUARTERS OF COVERAGE.

A. SYSTEMATIC ALIEN VERIFICATION OF ENTITLEMENT

At the time of application, all individuals applying for benefits are required to declare in writing whether they are citizens or nationals of the United States or aliens.

- This is accomplished by the completion of the ES-2, section III (or Declaration of Citizenship/Alienage);
 - If the applicant is an alien, he must present original documentation of alien registration. Aliens without documentation should be referred to the local INS Office in Pittsburgh, PA.
1. It should be determined whether an applicant otherwise meets specific program requirements for benefit eligibility before initiating the alien verification process, unless determining program eligibility would be considerable more complex and time consuming than verifying immigration status.
 - a. This will reduce verification inquiries that prove unnecessary because the applicant is not otherwise eligible for benefits requested.
 - b. Verification of identification of applicant should have been completed by appropriate procedures before submittal of alien status verification request.
 2. Immigration status must be verified for TANF/WORKS, Food Stamps, and Medicaid benefits. If any member of the household is an alien, a copy of the ES2, section III along with a copy of the front and back of Immigration identification documentation must be forwarded to the State Office, Attention SAVE COORDINATOR. Once benefit eligibility has been determined.

Office, attention SAVE COORDINATOR, once benefit eligibility has been determined.

- The applicant, always use their Qualifying Quarters
- The applicant's natural parents, (unless the child has been adopted), but consider only quarters earned from time of birth through the calendar quarter the applicant attains age 18.
- The applicant's adoptive parents, but consider only quarters earned from time of birth through the calendar quarter the applicant attains age 18.
- The applicant's stepparent provided the step relationship still exists (death of the stepparent does not terminate the relationship), but consider quarters earned only while the relationship was in existence and through the calendar quarter the applicant attains age 18.

NOTE: The stepparent's relationship to the child is based on the marital relationship to the child's natural parent. Therefore, if the martial relationship ends, other than by death, the relationship also ends and the stepparent's 40 QQ's can no longer be counted.

- The applicants current spouse during their marriage as long as the marriage exists but consider the spouses quarters earned only during the marriage. If the marriage ends in divorce the applicant cannot use any quarters earned by the former spouse and if only qualifying quarters were those of the now divorced spouse, the alien is no longer eligible.
- The applicant's former spouse(s), only if the marriage ended by death while still married. Consider only for quarters earned during the marriage.

2. Determine how many years in the total from each of the relevant individuals.

Quarters can be used from more than one individual

- (a) Four quarters in each year can be credited from each individual. Credit the applicant's own quarters first.
- (b) If the process shows that the applicant does or may meet the 40 Qualifying Quarter's exception, using his and/or other relevant individuals Qualifying Quarters information process the case in RAPIDS which will generate a 40 Qualifying Quarter history printout.
- (c) If the process shows the relevant individuals have possible QQ's than can be used see item 3. below.
- (d) If this process shows that the applicant will not meet the 40 Qualifying Quarter's verification by submitting appropriate information to the Special Projects Unit (see item 4. below for procedures).
- (e) If the process shows the applicant will not meet the 40 Qualifying Quarter's exception the applicant is not eligible.

3. Requesting the 40 Qualifying Quarter History

- a. When the applicant(s) is approved in RAPIDS a 40 Qualifying Quarter data exchange will be made;
 - (1) An automatic referral will be made to Social Security Administration through RAPIDS.
 - (2) All responses will be sent to the ESS/FSS with information regarding the aliens 40 Qualifying Quarter's history.

- (1) If Qualifying Quarter's are not missing from the response make a determination based on the material already obtained.
- (2) If Qualifying Quarter's are missing from the 40 Qualifying Quarter's response obtain information from the individual (see item D. 2. below) for quarter of coverage determination. This information will be sent to the Special Projects Unit for determination.

6. Information to Credit Qualifying Quarters

There are questions to ask to applicant as well as documentation which can be used to establish earnings. The following are examples which can be used. This information is to be obtained from the applicant and sent to the Special Projects Unit, attention: SAVE Coordinator, for determination of covered/noncovered employment.

- a. Questions to ask the applicant for request documentation should include:
 - ▶ Name and address of employer
 - ▶ Date of employment
 - ▶ Amount of earnings
 - ▶ Type of business or self employment
 - ▶ Rate of pay
 - ▶ Type of work performed
 - ▶ What evidentiary proof there is of employment/earnings.

- ▶ Records of State unemployment insurance agencies,
 - ▶ Individual's personal records and statements, and
 - ▶ Any other evidence of probative value.
- c. Once it is established that noncovered earnings exist send copies of documentation as described in item 2. above to the SAVE Coordinator, Special Projects Unit for a determination. Responses will be forwarded to the requesting worker.

these programs unless there is documentation showing the alien has forty quarters of work.

- b. After the 5 year bar the income and resources of the sponsor as well as the income and resources of the current spouse (who is living with the sponsor) will be deemed as part of the alien's income in determining the aliens eligibility for benefits.
 - (1) Deeming of the sponsor's income will usual make the sponsored alien ineligible for means-tested public benefits.
 - (2) The alien is ineligible until all information needed to determine the income and resources of the sponsor and the sponsor's spouse has been provided.
 - (3) All other benefit eligibility requirements must be met.

C. EXCEPTIONS TO DEEMING

1. Battered Aliens/Aliens Subjected to Extreme Cruelty.

The phrase "battered or subjected to extreme cruelty" includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence; acts or threatened acts that, in and of themselves, may not initially appear violent may be part of an overall pattern of violence.

- a. If the battered alien lives in the same household as the batterer there is no exemption.
- b. If the battered alien is not living in the same household there could be an exemption.
 - (1) Battered aliens and aliens whose child or parent has been battered may be exempt from the deeming provision.
 - (2) The exemption is for a 12 month period provided that

- (3) An affidavit from a staff member at a shelter for battered women or homeless persons, family members, friends or other third parties with personal knowledge, or from the battered applicant himself or herself;
 - (4) Or any other records establishing that the applicant or his or her child or parent no longer resides with the abusive spouse, parent, or family member.
- e. The applicant must meet the requirements for qualified alien status by appropriate immigration documentation for which they are applying and all other eligibility requirements for the specific benefits should be determined.
- f. The worker must provide the SAVE Coordinator, Special Projects Unit, with the documented proof from the alien that battery or extreme cruelty exists regarding the abuse of the alien, the alien's child, or the alien child's parent. If further action is needed the SAVE Coordinator will notify the worker.

2. Indigent Aliens

- a. After taking into account the alien's own income plus any cash, food, housing or other assistance provided by other individuals (including the sponsor), if the worker determines that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter the amount of income and resources of the sponsor or the sponsor's spouse that shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period of one year after the date such determination is made.

NOTE: The Indigent Alien must meet all other eligibility program requirements for the specific benefits (Medicaid and/or TANF/WV WORKS), not have forty qualifying quarters of work, and meet the requirement for qualified alien status.

- b. In this instance, the worker must provide the SAVE Coordinator Special Projects Unit with the name of the sponsor and sponsored alien(s) receiving benefits and the type of benefits received. If further action is needed the SAVE Coordinator will notify the worker.

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permanent resident.

- d. The alien is not a dependent child of the sponsor or the sponsor's spouse.
- e. The alien did not receive AFDC/U or AFDC/U-related Medicaid prior to October 1, 1981.
- f. The amount actually paid to the alien by the sponsor and his spouse is less than the deemed amount.

When these conditions are met, income will be counted for the alien whether or not the income is actually made available. This income will be deemed to the alien for a period of THREE YEARS from the date established by INS as the date the alien was admitted for permanent residence and will continue for three years even if the sponsor gives up his sponsorship responsibilities.

Income of the sponsor is not deemed to members of the alien's family for whom he is not a sponsor except to the extent it is actually available.

2. Responsibility for Obtaining Information Verification from the Sponsor

When information and/or verification is not provided, the sponsored alien and any other benefit group members sponsored by the same sponsor will be excluded from the benefit group. When the sponsored alien is not included in the benefit group, his income (excluding the amount deemed from the sponsor to the alien) will be deemed to the benefit group using appropriate policy.

3. Determining the Amount to be Deemed

The following steps will be used to determine the amount to be deemed to the alien.

- a. Determine the gross monthly earnings of the sponsor.
- b. From the amount, subtract 20% of the gross monthly earnings or \$175, whichever is less.

disregard will apply only to that portion which is attributed to the benefit group.

- d. That portion of the benefit group's shelter/utility and dependent care expense which is paid from the ineligible alien's income will be prorated.
- e. All but the ineligible alien's share is counted as an expense for the remaining benefit group members.

EXAMPLE: Household consists of a father, mother and three children. The father has earnings of \$500 per month and is an ineligible alien. There is no other income in the household. Rent and utilities total \$250. Income for the benefit group will be calculated as follows:

Benefit group's prorata share of income is calculated as follows:

\$500 (father's income) divided by 5 (total number in the household) = \$100. (prorata share per person) \$100 x 4 (number in the benefit group) = \$400 benefit group's total prorata share of ineligible alien's income.

The 20 percent earned income disregard is applied to the benefit group's prorata share $400 \times 80 \text{ percent} = 320$.

\$250 (total expense) divided by 5 (number in household) x 4 (number in benefit group) = \$200.

Countable income is determined as follows:

Income (\$320) minus standard deduction (\$112) = \$208.

50 percent of net income is $\$208 \times 50 \text{ percent} = \104 .

\$200 (shelter/utility costs) - \$104 (50 percent of net income) = \$96 shelter/utility deductions.

Countable income = $\$208 - \$96 = \$112$.

The ineligible alien will not be included in the benefit group for purposes of determining coupon allotment or household size as it relates to monthly allowable income standards.

- 5. Deeming Income of Alien's Sponsor(s)

sponsor's estate or from the sponsor's surviving spouse. Should the alien change sponsors, the amount of income deemed must be recalculated to reflect the circumstances of the new sponsor and the income of the former sponsor will no longer be counted.

6. Responsibility for Obtaining Information/Verification from the Sponsor

The alien is responsible for the cooperation of the sponsor in providing information and verification necessary to determine the alien's eligibility and benefit level including the names (or other identifying factors) of other aliens for whom the sponsor has signed an agreement of support. Until needed information is received and verified, the sponsored alien will be ineligible for Food Stamps, but other members of the alien's benefit group may participate if otherwise eligible. When the sponsored alien is not included in the benefit group due to the lack of information/verification about the sponsor's circumstances, income will be treated in the same way as the income of an ineligible alien (see Item F).

If the needed information or verification is later made available and the alien can, therefore, be included in the benefit group, the addition to the benefit group will be treated as a reported change.

7. Determining the Amount to be Deemed

The following steps will determine the amount to be deemed to the alien:

NOTE: The sponsor's spouses income will be counted when the spouse lives with the sponsor even if the sponsor and spouse were married after the sponsor signed the agreement.

- (1) Determine the total monthly earned income of the sponsor and his spouse (if the spouse is living with the sponsor). This includes gross income (not gross profit) from self-employment. Multiply the total monthly earned by .80 to provide the 20% earned income deduction.

contributed to a particular alien, the deemed amount will be used as unearned income. When the contributed amount exceeds the deemed amount, the actual contribution will be used as unearned income.

NOTE: If information about other aliens for whom the sponsor is responsible is not provided by the alien (See Section G above), the deemed income is to be deemed to the applicant alien in its entirety until the information is provided.

B. INTRODUCTION - DEEMING ASSETS OF ALIEN'S SPONSOR

Assets will be deemed to sponsored aliens only for the Food Stamp and TANF/WORKS Programs. Exception: Income from an alien sponsor is prohibited under Medicaid regulations.

1. SPECIAL VERIFICATION PROCEDURES - FOREIGN REAL PROPERTY OF PHILIPPINE ALIENS (SSI-RELATED MEDICAID)

When an alien of the Philippines makes application for SSI-Related Medicaid, it will be necessary to verify whether he owns any property in that country and/or the United States.

If either the alien or the alien's spouse was born in the Philippines, has resided in the United States for less than five years, and appears to be otherwise eligible, the following special verification procedures must be followed:

- a. Contact the Veterans' Administration Regional Office in Manila requesting a check of property records to determine whether the applicant or his spouse own any real property and an estimate of the current market value of any property that is discovered.

The address is: VARO, 1131 Roxas Boulevard (Manila), APO San Francisco, California 96528. Please indicate AIR MAIL on the envelope.

The Worker must provide the Veteran's Administration the full names including maiden name of the applicant and/or his spouse and the address of their last residence in the Philippines.

6. The sponsor is not participating in the program separate and apart from the alien.
7. The amount actually paid to the alien by the sponsor and his spouse is less than the deemed amount.

When these conditions are met, income will be counted for the benefit group containing the alien whether or not the income is actually made available. This income will be deemed to the alien for a period of three years from the date established by INS as the date the alien was admitted for permanent residence and will continue for three years even if the sponsor claims to have given up his sponsorship responsibilities. In the event of the death of the sponsor, income will no longer be deemed to the alien either from the sponsor's estate or from the sponsor's surviving spouse. Should the alien change sponsors, the amount of income deemed must be recalculated to reflect the circumstances of the new sponsor and the income of the former sponsor will no longer be counted.

The responsibilities for obtaining information from the sponsor are the same for the deeming of assets as for the deeming of income.

b. Determining Amount to be Deemed

The following steps are to be used to determine the amount of the sponsor's assets and the assets of the sponsor's spouse (if living with the sponsor) which will be deemed to the alien:

1. Determine the total countable value of the assets of the sponsor and the sponsor's spouse as if they were applicant's for the Food Stamp Program. Count only assets not excluded by this Chapter and determine the value of the non-excluded assets as would be done for any Food Stamp client.
2. Subtract \$1,500 from the amount arrived at in Step 1.
3. The remainder of the value of the assets is to be deemed to the benefit group containing the alien and added to any other assets the benefit group has to

2. The sponsor is an individual NOT an organization, institution or group.
3. The sponsor must have executed an affidavit of support or similar agreement on behalf of the alien as a condition of the alien's entry or admission into the United States as a permanent resident.
4. The alien is not a dependent child of the sponsor or the sponsor's spouse.
5. The alien did not receive AFDC/U or AFDC/U-Related Medicaid prior to October 1, 1981.

When these conditions are met, assets will be counted for the alien whether or not the asset is actually available for sale or use by the alien. The asset will be deemed to the alien for a period of three years from the date established by INS as the date the alien was admitted for permanent residence and will continue for three years even if the person gives up his sponsorship responsibilities.

The responsibilities for obtaining information and/or verification from the sponsor are the same for the deeming of assets as for the deeming of income.

b. Determining Amount to Be Deemed

The following steps will be used to determine the amount in assets to be deemed:

1. Determine the value of the sponsor's total non-excluded assets following the instructions in this Chapter for TANF/WV WORKS.
2. Subtract \$1,500 from the result of Step 1.
3. The remaining amount will be divided by the number of eligible aliens sponsored and the resulting figure will be deemed as an asset to each of the sponsored aliens. Assets of the sponsor are not deemed to members of the alien's family for whom he is not a sponsor except to the extent they are actually made available.

- b. the reason for the claim;
- c. how the sponsor may repay the claim (lump sum payment or regular installments). The standard repayment agreement (ES-FS-8) is to be used as the repayment agreement;
- d. that the sponsor will not be held responsible for repayment of the claim if he can demonstrate that he had good cause or was without fault for the incorrect information.

The collection action against a sponsor may be terminated by the Economic Service Supervisor any time it can be documented that the sponsor cannot be located or when the cost of pursuing the collection is likely to exceed the amount that can be recovered.

If good cause does not exist, the sponsor does not respond to the repayment letter or responds but indicated he will not repay and meets the criteria for a referral to Internal Fraud Management (IFM), the referral is to be made.

NOTE: Sponsors are entitled to the same rights to a Fair Hearing as any other person when a claim is established.

6. COLLECTING CLAIMS AGAINST THE ALIEN'S BENEFIT GROUP

Before initiating collection against the alien's benefit group, it must be determined whether an Intentional Program Violation or Unintentional Program Violation claim is appropriate. This determination must be made on the basis of whether or not the alien (not the sponsor) intentionally misrepresented the sponsor's situation. Once this determination is made, collection of the overissuance will proceed as for any other case in which a similar determination has been made.