SSA Intranet

Sponsored Noncitizens 100-C8

Approved: ***Signature on File*** 10/01/08

TL Number 2008-16

PURPOSE

To provide instructions for sponsored noncitizens in accordance to ACIN 1-03-01. These regulations are applicable to both sponsored adults and sponsored children under the age of 18.

Effective June 1, 2001 federal deeming law was changed to provide that all income and resources of the sponsor and the sponsor's spouse shall be considered in the determination of eligibility for sponsored noncitizens requesting assistance under federal or state programs.

In addition, the federal law specifies that a 12-month exception to the deeming requirement may be applied to an indigent noncitizen or to a battered noncitizen who (or whose children or parent) has been subjected to battery or extreme cruelty.

DEFINITIONS

Sponsor- An individual who has signed form I-864 or I-864A, agreeing to provide support to the noncitizen.

Affidavit of Support- Forms I–864 and I-864A, are legally binding contracts that a sponsor has executed on behalf of a noncitizen as a condition of the noncitizen's entry or admission into the U.S.

Sponsored noncitizen- a noncitizen who was "sponsored" into the U.S. by an individual(s) who have signed an affidavit of support in which the sponsor has agreed to support the noncitizen as a condition of the noncitizen's entry into the U.S.

ELIGIBILITY CRITERIA

Sponsorship status must be explored on all Legal Permanent Residents (LPR) with the date of entry on or after December 19, 1997.

Note: Noncitizens who enter the U.S. on or after August 22, 1996 are not eligible to federally funded benefits during the first five years from the date they acquire status as a qualified noncitizen.

Refer to Noncitizen Eligibility Policy 100-C3.

Sponsored provisions apply until the noncitizen achieves one of the following:

Achieves Unites States citizenship through naturalization;

Has worked or can be credited with 40 qualifying quarters under Title II of the Social Security Act, and did not receive federal means-tested public benefit during that period;

- Leaves the country permanently;
- Dies or the sponsor dies

Sponsored provisions do not apply if the noncitizen:

- Is paroled into the U.S. as a refugee;
- Is granted political asylum;
- Is of Cuban or Haitian nationality;
- Entered the country with an I-134 Affidavit of Support (used for entries prior to 12/19/97);
- Is sponsored by an Employment-based organization

EXCEPTIONS

Sponsorship provisions will not be applied when the noncitizen has been determined to be indigent or battered.

Indigent

When a sponsored noncitizen is unable to provide the necessary information, the county has not been able to contact the sponsor, and it has been determined the sponsored noncitizen would go hungry and homeless without aid, the sponsorship provisions will not apply for a period of 12 months beginning on the date of the determination. This exception is not renewable and it is granted only once in a lifetime.

Battered Noncitizen

Sponsorship provisions will not be applied to any abused noncitizen or an abused parent of a noncitizen child for 12 months.

This exception will apply if:

• The noncitizen 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.

• The noncitizen child has been battered or subjected to extreme cruelty in the U.S. by the parent or spouse, or family members of the noncitizen.

The 12 month exception may be extended if:

• The abuse is recognized in an order of a judge or administrative law judge; or

• U.S. Department of Homeland Security has made a determination that abuse did occur; AND

• The CalWORKs eligibility is met.

DEEMING

All income and resources of a noncitizen's sponsor, and the sponsor's spouse, who is not receiving CalWORKs, Supplemental Security Income (SSI) or other public cash assistance payment will be considered, or "deemed" to be available to the sponsored noncitizen.

The sponsored noncitizen must provide information and documentation of the sponsor's income and resources. **Assistance will be denied only to the noncitizen(s)**, if the noncitizen is unwilling or fails to provide the information.

DETERMINATION OF RESOURCES

The resources of the noncitizen's sponsor and the sponsor's spouse living with the sponsor are deemed to be the sponsored noncitizen's resources.

• The total value of real and personal property of the sponsor and the sponsor's spouse is determined as if they were applying for aid.

• If the person is the sponsor for more than one noncitizen, the resources will be divided by the total number of sponsored noncitizens receiving CalWORKs including those noncitizens in separate assistance units. This amount is deemed to be the resources of each sponsored noncitizen.

• If the deemed resources alone or in combination with other property of the assistance unit exceed the property limits, **only the sponsored noncitizen(s) will be ineligible.**

These resources are not considered available to other applicants or recipients in the family who are not sponsored noncitizens, unless the resources are actually available to the assistance unit.

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DETERMINATION OF INCOME

The income of the sponsor and the sponsor's spouse who lives with the sponsor, and who is not receiving cash aid, SSI, or other public cash assistance payments is deemed to be the sponsored noncitizen's income. The income is determined as follows:

1. Determine the total amount of unearned income of the sponsor and his/her spouse.
2. Determine the total amount of earned income by the sponsor and his/her spouse, such as wages or salary, or as net earnings from self-employment.
3. If the sponsor is the sponsor of more than one noncitizen, divide the total gross income by the total number of sponsored noncitizens who are applying for or receiving cash aid including those in separate assistance units. This amount is deemed to be the income of each sponsored noncitizen applicant or recipient. **Note that income deductions are not applicable.**

• When the sponsored noncitizen is **not included in the AU**, the portion of his/her income, which has been deemed from the sponsor, is not to be used in determining his/her contribution to the AU unless the income is actually available to the AU.

• When the sponsored noncitizen **is a member of the AU**, the deemed income from the sponsor and his/her spouse is treated as unearned income for the entire AU.

If the deemed income exceeds the MAP limits, deny or discontinue the entire case.

• If the sponsored noncitizen is either an excluded parent or stepparent, his/her income shall be treated in accordance with the excluded parent or stepparent deeming computation.

Note: Sponsored noncitizens whose needs are being met by the sponsor **must be excluded** from the AU.

QUARTERLY REPORTING

The recipient will submit a completed Sponsors Quarterly Income and Resources Report (QR 72) in addition to the Quarterly Eligibility Report (QR 7). The recipient is responsible for obtaining all information necessary to complete the QR 72 and for obtaining any cooperation necessary from the sponsor.

Failure to provide a completed QR 72 shall result in discontinuance only for those members of the AU who are sponsored noncitizens.

VERIFICATION

The caseworker will provide the sponsored noncitizen with the Coversheet and Sponsor's Statement of Facts for Income and Resources (QR22) to be completed and signed by the sponsor. The sponsor must provide verification of all income and resources.

Sponsored noncitizens are required to obtain and provide acceptable Immigration and Naturalization Service (INS) documentation. Acceptable documentation includes a form from the INS that contains an alien registration number. (See Attachment 1 for specific Sponsored Noncitizen resident alien codes) Noncitizen applicants who do not have acceptable INS documentation are responsible for obtaining it for themselves and must be given the address of the nearest INS office.

The Immigration Reform and Control Act of 1986 mandates that the immigration status of each noncitizen applicant/recipient **must** be verified with INS as a condition of eligibility for CalWORKs. The SAVE system must be used to verify each noncitizen's immigration status.

• Enter the noncitizen number in the Collect Individual Demographics window in CalWIN. This entry will generate a SAVE document

• Verify sponsor information from the QR22 by submitting a Secondary SAVE G845 and G-845S to:

Department of Homeland Security
U.S. Citizenship and Immigration Services
300 N. Los Angeles St. RM 2031
Los Angeles, CA 90012

CalWORKs regulations require that a CalWORKs application be approved or denied no later than 45 days following the date of application. This time period applies to SAVE. SAVE does not change CalWORKs payment requirements.

Deny the noncitizen member(s) of the AU if the requested noncitizen documentation is not provided by the 45th day following the date of application.

Do not delay granting aid to the remaining members(s) of the AU, pending documentations of noncitizen status, if the AU is otherwise eligible prior to the 45th day.

FOOD STAMPS

Refer to the Food Stamp Handbook for Food Stamp regulations.

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CALWIN

Refer to Sponsored Noncitizen RG for CalWIN entries.

ATTACHMENTS

- Attachment 1
- Policy 100-C3
- Sponsors Quarterly Income and Resources Report (QR 72)
- Coversheet and Sponsor’s Statement of Facts for Income and Resources (QR22)
- SAVE G845
- G-845S

REFERENCES

ACIN 1-03-01,1-23-03, 01/71/00

EAS 40-181 (.25) (QR)

EAS 42-205 (.5) (.51) (.52) (.53) (.54)

EAS 43-119 (.1)(.22(.23) (.24))(.123) (.124)(.125)(.126) (.2)

(.22)(214)(.221) (.222) (.223)(.231) (.3)

EAS 44-133 (.7)(.71)(.711)(.712)(.713)(.714)(.715)(.716)

(.8)(.25)

EAS 82-832(.e)

Department of Homeland Security I-864 Affidavit of Support

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