



## Implementation of Five-Year Requirement for Qualified Aliens

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#### **The following policy has changes as described below:**

1. FSC 1621 - Information about qualified alien status has been moved to FSC 1621.1, and information about lawfully admitted aliens has been moved to FSC 1621.3. A statement has been added to clarify which aliens are allowed to participate in the Food Stamp Program.
2. FSC 1621.1 - This section now provides an explanation of qualified aliens.
3. FSC 1621.1.1 - This is a new section. It provides a definition of a battered alien and explains which battered aliens may receive food stamp benefits if otherwise eligible.
4. FSC 1621.2 - This section now explains which qualified aliens may receive food stamp benefits for up to seven years from their date of entry into the country if otherwise eligible.
5. FSC 1621.3 - There are three changes:
  - This section now explains which aliens may receive food stamp benefits indefinitely if otherwise eligible.
  - There is a new category of aliens who may receive food stamps indefinitely - those who have lived in the U.S. as a qualified alien for five years or longer.
  - The explanation of aliens who are considered to be lawfully residing in the United States has been moved to item 7 of this section. Item 7 explains the provisions for members of Hmong or Highland Loatian tribes who wish to receive food stamp benefits. (These individuals must be lawfully residing in the United States but do not need to be classified as qualified aliens.)
6. FSC 1621.3.1 - This is a new section. It provides instructions for determining if an alien has had qualified alien status for five years.
7. FSC 1621.3.2 - This section now provides information about determining if an alien has 40 qualifying quarters of SSA coverage.
8. FSC 1621.3.2 - This section now provides instructions for determining if a qualified alien has a military connection.

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9. FSC 1621.4 - This section now provides information about the documentation an alien must furnish. Some of the information has been updated. The addresses of the two INS offices that serve Arkansas have been moved to this section.
10. FSC 1621.5.3 - The address to which requests for secondary verification should be submitted has been corrected.
11. FSC 1621.7 - This section contains additional information about which aliens may have a sponsor and when the sponsor's income must be deemed. There is also new information about verifying sponsorship.
12. FSC 1621.7.4 - The examples of income and resource deeming have been updated.
13. FSC 1621.8 - This is a new section. It contains a chart that summarizes alien eligibility.

### **SPECIAL IMPLEMENTATION INSTRUCTIONS**

The Farm Security and Rural Investment Act of 2002, commonly referred to as the 2002 Farm Bill, restores food stamp eligibility to many aliens who have lived in the United States as a qualified alien for at least five years. This provision is effective April 1, 2003.

#### **Notices to Affected Households**

See notice attached to this transmittal. This notice will be mailed to all households with members coded as ineligible aliens.

#### **Initial Applications**

Households consisting entirely of members who will become eligible under these provisions may apply any time during the month of March. If the household is otherwise eligible, the application will be approved

If a household where some (but not all members) are classified as ineligible aliens under the current policy submits an initial application in March, the worker will establish or re-establish the ineligible alien's current eligibility based on the new policy. If the alien will become eligible in April 2003, the application will not be delayed solely to add the alien as an eligible household member. Instead a variable budget will be keyed with the alien included as an eligible household member effective April 2003.

#### **Recertifications**

If a household with a member who is classified as an ineligible alien under the current policy submits a timely or untimely application for recertification in March 2003, the worker will establish or re-establish the ineligible alien's current eligibility based on the new policy. If the alien has become eligible to participate in the Food Stamp Program, his or her status will be changed to eligible household member when the application for recertification is processed.

Any alien who does not supply the information required to establish eligible alien status will continue to be classified as an ineligible alien.

#### **Quarterly Reports**

If a household with a member who is classified as an ineligible alien under the current policy submits a quarterly report in March for the report month of April, the worker will establish or re-establish the ineligible alien's current eligibility based on the new policy when the QR is processed. If the alien has become eligible to participate in the Food Stamp Program, his or her status will be changed to eligible household member when the quarterly report is processed.

If a quarterly report submitted for the report month of March is being reinstated in April, the reinstatement action will not be delayed solely for the purpose of determining if an ineligible household member will become eligible under the new rules. Instead, if there is a household member who is an ineligible alien, the worker will advise the household of the new rule using the procedures in FSC 12440. (The worker will send the household a copy of the notice attached to this directive.) If the household provides the information needed to determine that the alien has become eligible to participate in the Food Stamp Program, the alien will be added as an eligible household member.

Any alien who does not supply the information required to establish eligible alien status will continue to be classified as an ineligible alien.

#### **Midpoint Reviews**

If a household with a member who is classified as an ineligible alien under the current policy submits a midpoint review in March for the report month of April, the worker will establish or re-establish the ineligible alien's current eligibility based on the new policy when the midpoint review is processed. If the alien has become eligible to participate in the Food Stamp Program, his or her status will be changed to eligible household member as the midpoint review is processed.

Any alien who does not supply the information required to establish eligible alien status will continue to be classified as an ineligible alien.

**Reported Changes**

If a household with a member who is classified as an ineligible alien reports a change in the household's circumstances during the month of March, the worker will establish or re-establish the ineligible alien's current eligibility based on the new policy. If necessary, the worker will issue a request for contact to obtain the documentation needed to assess the alien's status as a qualified alien.

Any alien who does not supply the information required to establish eligible alien status will continue to be classified as an ineligible alien.

**Requests to Change Member's Status**

If a household contacts the county office in writing, by telephone, by electronic transmission, or in person to request that a household member be added to a food stamp case, the county will act on this request. If the documentation needed to determine the alien's status is provided with the request, the alien will be added to the food stamp case within 10 days of the date of the request. If additional documentation is needed to determine the alien's status, a request for contact will be issued to the household as instructed in FSC 12400. The alien will not be added to the food stamp case until the documentation is provided.

**Inquiries to:** Betty Helmbeck, Food Stamp Section, 501-682-8284  
[Betty.Helmbeck@mail.state.ar.us](mailto:Betty.Helmbeck@mail.state.ar.us)

## NOTICE

Our records show that someone in your food stamp household is classified as an ineligible alien.

Under the 2002 Farm Bill, qualified aliens who have lived in the United States for five years or longer may be able to get food stamp benefits beginning in April 2003. (Your household must still meet income and resource guidelines.)

See the Chart below for a description of a qualified alien.

Category of Alien	Conditions
Legally admitted for permanent residence in the United States	Holders of green card
Amerasian immigrants	Defined under section 584 of Foreign Operations, Export Financing and Related Programs Appropriation Act of 1988
Asylee	Granted asylum under section 208 of the Immigration and Nationality Act
Refugee	Admitted under section 207 of the Immigration and Nationality Act
Trafficking victim	Treated as refugee for food stamp purposes under the Trafficking Victim Act of 2002
Parolee	Paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act for at least one year
Deportation withheld	Deportation withheld under section 243(h) of the Immigration and Nationality Act <u>OR</u> Removal withheld under section 241(b)(3) of the Immigration and Nationality Act
Granted conditional entry	Granted conditional entry under section 203(a)(7) of the Immigration and Nationality Act as in effect before April 1, 1980.
Cuban or Haitian Entrant	Entered under section 501(e) of the Refugee Education Assistance Act of 1980
Battered spouse, child or parent	Under certain conditions, a battered person with a petition pending under 204(a)(1)(A) or (B) or 244(a)(3)

A qualified alien's five year waiting period began on the date he or she gained status as a qualified alien according to Immigration and Naturalization Service records.

**Contact your local DHS county office if you want the county office to determine if this person may now begin getting food stamp benefits.**

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The county office worker must determine if the household composition shown on the application is correct. This is a three-step process.

First, determine if all household members declared on the application are actually living in the home.

Second, determine if all members shown on the application may participate in the Food Stamp Program.

Third, determine if there are other people living in the home who should be included in the food stamp household. These steps are fully explained in FSC 16610-1640.

**1610      Declaration of Household Members      12-01-00**

The county office worker will carefully review the household members listed on the application.

If the actual presence of any declared member is questionable, verification of household composition will be requested. Verification of household composition is normally accomplished through collateral contact. See the Glossary, definition of "Collateral Contact."

**1620      Evaluating Eligibility of Members      12-01-00**

The county office worker will evaluate each household member listed on the application to determine if that member is eligible to participate in the Food Stamp Program. The categories of individuals who are not eligible to participate in the Food Stamp Program are listed below.

1. Ineligible Aliens - See FSC 1621 for details about the citizenship requirements.
2. Certain Students Enrolled in an Institution of Post Secondary Education - See FSC 1622.2 for an explanation of which students are ineligible to participate in the program.
3. Disqualified Individuals - This includes people disqualified for any of the following reasons:
  - a. An intentional program violation (IPV) as defined in FSC 15410
  - b. Failure to comply with the social security number (SSN) requirement as explained in FSC 2100
  - c. Failure or refusal to comply with the work registration requirements explained in FSC 3400
  - d. Noncompliance with the Workfare requirement explained in FSC 3700
  - e. Having committed a certain type of drug-related felony as explained in FSC 1622.20
  - f. Being currently classified as a fleeing felon as explained in FSC 1622.10
4. Boarders - See FSC 1624 for an explanation of boarder policy.
5. Residents of Institutions - See FSC 1800 for a definition of an institution and the exceptions to this rule.

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**1621**     **Citizenship Status**

**04-01-03**

Participation in the Food Stamp Program is limited to U.S. citizens and certain non-citizens who are lawfully residing in the United States.

Proof of citizenship will only be requested if an individual's U.S. citizenship is questionable.

A United States citizen is:

- A person (other than the child of a foreign diplomat) born in the United States of America or in the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, or the Northern Mariana Islands who has not renounced or otherwise lost his or her citizenship.
- A person born outside of the United States to at least one U.S. citizen parent. (*These individuals are sometimes referred to as "derivative citizens."*)
- A naturalized U.S. citizen.

Individuals who claim to be naturalized citizens must have completed all the requirements for citizenship, including the swearing in, and must have verification of their status as a naturalized citizen before they can participate in the Food Stamp Program as a citizen. (*They may participate as a non-citizen if they meet those requirements.*)

A United States non-citizen national is:

- A person born in American Samoa or Swain's Island on or after the date the U.S. acquired the possession of either territory.
- A person whose parents are U.S. non-citizen nationals.

U.S. non-citizen nationals are treated as U.S. citizens.

The DHS county office worker must accept participation in another program as acceptable verification if verification of citizenship or non-citizen national status was obtained for that program. For other household members whose citizenship is questionable, the worker may accept any of the following documents as proof of citizenship:

- Birth certificate showing birth in one of the 50 states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, Swain's Island or the Northern Marianna Islands.
- United States passport except for limited passports which are issued for periods of less than five years.
- Report of birth abroad of a U.S. citizen issued by the Department of State.
- Certificate of birth by a foreign-service post.
- Certificate of Naturalization.
- Certificate of Citizenship issued to individuals who derive their citizenship through a parent.
- Northern Marianna Identification Card
- Statement provided by a U.S. consular officer certifying that the individual is a U.S. citizen.
- American Indian Card with a classification code "KIC"
- Adoption Finalization Papers that show the child's name and place of birth in the United States or one of its territories.

If none of these documents is available, the individual may provide secondary evidence such as religious records, school records, or census records that indicate birth in the United States.

If the household cannot obtain any of the forms listed above to verify citizenship and the household can provide a reasonable explanation as to why verification is not available, the worker will accept a signed statement, under penalty of perjury, from a third party indicating a personal knowledge that the member in question is a U.S. citizen or non-citizen national. The signed statement must contain a warning of the penalties for helping someone commit fraud. In the absence of verification or third party attestation of U.S. citizenship or non-citizen national status, the household member whose citizenship status is in question will be treated as an ineligible alien (FSC 1621.6) until the issue is resolved.

A legal immigrants who has lived in the United States as a qualified alien for a period of five years or longer may participate in the Food Stamp Program if otherwise eligible. See FSC 1621.1.

Not all aliens who are residing in the United States are allowed to participate in the Food Stamp Program. With some exceptions, aliens will be allowed to receive food stamp benefits only if:

1. The alien meets the criteria to be classified as a "qualified alien"; and
2. The alien meets one of the conditions under which a "qualified alien" may receive food stamp benefits.

See FSC 1621.1 for an explanation of a qualified alien.

An alien who will be allowed to participate in the Food Stamp Program is referred to as an "eligible alien." However, "eligible aliens" must also meet Food Stamp Program requirements such as income and resource limits.

Ineligible aliens include aliens such as, but not limited to:

- Visitors and tourists;
- Students;
- Diplomats;
- Aliens admitted under color of law;
- Aliens who have applied for eligible status but have not yet been approved; and
- Aliens who have a questionable or unverified status.

**1621.1 Qualified Aliens**

**04-01-03**

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A qualified alien is:

- An alien who is lawfully admitted for permanent residence under the Immigration and Naturalization Act (INA). This category also includes “Amerasian immigrants” as defined under section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988.
- An alien who is granted asylum under section 208 of the INA.
- A refugee admitted to the United States under section 207 of the INA. This includes victims of severe forms of trafficking. Under the Trafficking Victims Protection Act of 2002, victims of a severe form of trafficking are to be treated as refugees for food stamp purposes. "Severe forms of trafficking" means:
  - sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
  - the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- An alien who is paroled into the United States under section 212(d)(5) of the INA for a period of at least one year.
- An alien whose deportation is being withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or whose removal is withheld under section 241(b)(3) of the INA.
- An alien granted conditional entry under section 203(a)(7) of the INA as in effect before 4/1/80.
- An alien who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.
- A battered alien. See FSC 1621.1.1 below for additional information about battered aliens.

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**FSC 1621.1.1 Battered Aliens**

**04-03-01**

An alien may be classified as a qualified alien if he or she has been subjected to battery or extreme cruelty in the United States by a family member with whom they reside. Qualified alien status also extends to an immigrant whose child has been abused or to an immigrant child whose parent has been abused. Battered aliens are exempt from the deeming requirements for a 12-month period. See FSC 1621.7.1. To gain qualified alien status as a battered alien, the alien must meet all of the following four requirements:

1. The alien must show that he or she has an approved or pending petition which makes a prima facie case for immigration status in one of the following categories:
  - An INS Form I-130 (*Petition for Alien Relative*) filed by their spouse or, in the case of the child, by the child's parent.
  - An INS Form I-130 (*Petition for Alien Relative*) filed as the widow or widower of a U.S. citizen.
  - An approved self-petition under the Violence Against Women Act, including those filed by a parent.
  - An application for cancellation of removal or suspension of deportation filed as a victim of domestic violence.

2. The alien, the alien's child or the alien child's parent has been abused in the United States under any one of the following circumstances:
  - The alien has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the alien, or by a member of the spouse's or parent's family residing in the same household if the spouse or parent consents to the battery or cruelty.
  - The alien's child has been battered or subjected to extreme cruelty in the U.S. by a spouse or a parent of the alien, or by a member of the spouse's or parent's family residing in the same household if the spouse or parent consents to the battery and cruelty, and the alien did not actively participate in the battery or cruelty
  - The parent of an alien child has been battered or subjected to extreme cruelty in the United States by the parent's spouse, or by a member of the spouse's family residing in the same household as the parent, if the spouse consents to or acquiesces in such battery or cruelty.
3. There is a substantial connection between the battery or extreme cruelty and the need for food stamp benefits. (Examples of a substantial connection are: Receipt of food stamp benefits will enable the alien to become self-sufficient. Receipt of food stamp benefits will allow the alien to escape the abuser. Food stamp benefits are needed due to the alien's separation from the abuser and subsequent loss of financial support or loss of a dwelling. Receipt of food stamp benefits will alleviate nutritional risk. Receipt of food stamp benefits will allow the alien to seek medical attention or mental health counseling. The alien is disabled due to the abuse.)
4. The battered alien, child or parent no longer resides in the same household as the abuser.

Being granted status as a battered alien does not automatically give eligible alien status. Instead the alien must meet the other conditions for eligibility specified in FSC 1621.3.

In order to be classified as a battered alien, an alien must present evidence of having petitioned INS for permanent resident status (see item 1 above) and reasonable proof of battery. Reasonable proof of battery includes, but is not limited to, police reports, information from medical or school personnel, and/or photographs. A collateral statement may be accepted to verify that battered individual no longer lives with the batterer.

**FSC 1621.2**      **Participation for up to Seven Years**

**03-01-03**

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Any of the following qualified aliens may participate in the Food Stamp Program for up to seven years from the date of admission to the United States if otherwise eligible:

- Aliens who were granted asylum under section 208 of the INA.
- Aliens who were granted status as a refugee under Section 207 of the INA.
- Aliens whose deportation was withheld under section 243(h) or, after April 1, 1997, section 241(b)(3) of the INA.
- Aliens who were admitted as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988.
- Aliens who were admitted as a Cuban or Haitian entrant under 501(e) of the Refugee Assistance Act of 1988.

Refugees that are admitted under Section 207 of the Immigration and Nationality Act are given refugee status before the person enters the country. Therefore, for refugees, the seven year count begins the date the refugee enters the U.S. The seven-year limit for refugees does not change once established. This applies even if the refugee's immigration status is later changed to another legal immigration status.

For other aliens such as, but not limited to, asylees, the seven-year count begins the date the alien was granted the particular status.

Example: A non-citizen entered the country in September 1998, as a student. In December 1999, his status was changed to asylee admitted under Section 208 of the INA. If otherwise eligible, he can participate in the Food Stamp Program through the month of November 2006, without meeting another alien eligibility status rule.

Once a seven-year period has been established, subsequent changes in the alien's citizenship status will have no impact on his or her eligibility to participate in the Food Stamp Program.

Example: An individual is admitted to the United States as a refugee under Section 207 of the INA in September 1998. In September 2000, his status changed to lawfully admitted for permanent residence. If he is otherwise eligible, this individual may participate in the Food Stamp Program based on his status as a refugee for up to seven years. (NOTE: In September 2003, he will have been in the United States for five years as a qualified alien. See FSC 1621.3.1.)

When eligibility expires under one eligible alien status, the county office worker must determine if the alien is eligible under another status.

Example: An individual is admitted to the United States as a refugee under Section 207 of the INA in September 1993. In August 2001, his eligibility as an eligible alien will expire. Before his status is changed from eligible to ineligible household member, the DHS county office worker must determine if he will be classified as an eligible alien under FSC 1621.3.1, Participation After Five Years as a Qualified Alien, or another alien status.

Any of the following aliens may participate in the Food Stamp Program for an unlimited period if otherwise eligible.

1. Any alien who has lived in the United States as a qualified alien for a period of five years or longer may participate in the Food Stamp Program if he or she is otherwise eligible." See FSC 1621.3.1. This includes those aliens described in FSC 1621.2.

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2. Any alien who is CURRENTLY ADMITTED FOR PERMANENT RESIDENCE as defined in Section 101(a)(2) of the INA and who can be credited with 40 quarters of work (their own, a spouse's or a parent's). See FSC 1621.3 for instructions on determining if the alien meets 40 quarters of work.
  3. Any qualified alien (as defined in FSC 1621) who is a veteran of or is on active duty in the U.S. armed forces (e.g., has a military connection) OR any alien who is the spouse and/or dependent child of an individual with a military connection. See FSC 1621.4 for additional information about aliens with a military connection
  4. Any qualified alien who was lawfully present, as defined in FSC 1621, in the United States on August 22, 1996, and:
    - Is currently under 18 years of age; or
    - Was age 65 or older on August 22, 1996 (*i.e., were born on or before August 22, 1931*).
  5. Any qualified alien who is currently receiving one of the payments for blindness or disability listed in the Glossary, definition of “Aged/Disabled Household.”
  6. Any American Indian born in Canada who possesses at least 50 per centum of blood of the American Indian race to whom the provisions of section 289 of the INA apply.
  7. Any member of an Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act when the tribe is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians . (*This provision covers Native Americans who are entitled to cross the United States border into Canada or Mexico. These Indian tribes include, among others, the St. Regis band of the Mohawk in New York State, the Micmac in Maine, the Abanaki in Vermont, and the Kickapoo in Texas.*)
  8. Any individual who is lawfully residing (as defined below) in the United States and who was a member of a Hmong or Highland Loatian tribe at the time the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era beginning August 5, 1964, and ending May 7, 1975. The spouse or surviving spouse (if not remarried) and unmarried, dependent children (natural or legally adopted) of such an individual may also receive food stamp benefits if otherwise eligible. (*This includes unmarried, dependent children under the age of 18, unmarried, dependent children between the ages of 18 and 22 who attend school full time, and unmarried, dependent disabled children age 18 and older so long as the child was disabled and dependent prior to his or her 18<sup>th</sup> birthday. It also includes the unmarried children of a deceased tribe member if the child meets one of the criteria stated above and was dependent on the tribe member at the time of his or her death.*)

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The following aliens are considered by the Department of Justice to be lawfully residing in the United States.

- A qualified alien.
- An alien who has been inspected and admitted to the United States and who has not violated the terms of the status under which he or she was admitted or to which he or she was changed after admission.
- An alien who has been paroled into the United States pursuant to section 212(d)(5) of the INA for less than one year.
- An alien currently in temporary resident status pursuant to section 210 or 245A of the INA.
- An alien currently under Temporary Protected Status pursuant to section 244A of the INA.
- A Cuban Haitian entrant as defined in section 202(b) Public Law 99-603, as amended.
- A Family Unity beneficiary pursuant to section 301 of Public Law 101-649, as amended.
- An alien currently in deferred action status pursuant to Service Operations Instructions at OI 242.1(a)(22).
- An alien who is the spouse or child of a United States Citizen whose visa application has been approved and who has a pending application for adjustment of status.
- An applicant for asylum under section 208(a) of the INA and applicants for withholding of deportation under section 243(h) of the INA who have been granted employment authorization and such applicants under the age of 14 who have had an application pending for at least 180 days.

**FSC 1621.3.1      Participation after Five Years as Qualified Alien**

**04-01-03**

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Any alien who has lived in the United States as a qualified alien for a period of five years or longer may participate in the Food Stamp Program if he or she is otherwise eligible. The Immigration and Naturalization Service (INS) has the sole responsibility for determining the status of an immigrant as a qualified alien. The five year waiting period begins on the date the immigrant obtains status as a qualified alien through the INS.

**Example**    An alien was lawfully admitted for permanent residence on January 1, 1998. As of January 2, 2003, the alien has met the five-year waiting period and may participate in the Food Stamp Program if otherwise eligible.

Even though some refugees may be granted qualified alien status prior to entering the United States, the five-year waiting period will begin with the date of entry into the United States.

**NOTE:** Refugees (and other qualified aliens as specified in FSC 1621.2) may participate in the Food Stamp Program for up to seven years. However, after the five-year waiting period, the seven-year limitation will no longer apply: these qualified aliens may participate in the Food Stamp Program indefinitely if otherwise eligible.

**Example** An alien was given granted refugee status on January 1, 1999. He actually entered the United States on January 1, 2000, so he may participate in the Food Stamp Program until December 31, 2006 under the provisions in 1621.1 if he is otherwise eligible. However, his five-year waiting period began on January 1, 2000 (his date of entry) and ends December 31, 2004. This means that beginning January 1, 2005, the seven year limitation will no longer apply and the alien may participate in the Food Stamp Program indefinitely if he is otherwise eligible.

A legal permanent resident may have been admitted to the United States under another status that confers qualified alien status. In that case, the five-year waiting period began on the date the alien became a qualified alien.

**Example** An alien was admitted as refugee on January 1, 1998. On January 1, 2002, his status was changed to legal permanent resident. His five-year waiting period began on January 1, 1998 (the date of his admission to the U.S.A. as a refugee) and ended five years later - December 31, 2002. This means that effective January 2, 2003, the seven-year limitation for refugees will no longer apply since his five-year waiting period has ended.

When qualified alien status is granted retroactively, the retroactive time will count towards the five-year requirement.

**Example** An alien entered the country on January 1, 1998, but the INS did not complete its paperwork until January 1, 1999. At that time the INS granted the alien status as an asylee beginning on the date of entry - January 1, 1998. Qualified alien status began on January 1, 1998, so effective January 2, 2003, the seven limitation will no longer apply since his five-year waiting period has ended.

If the documentation presented by the alien provides the date on which the alien was granted qualified alien status, this documentation may be used to verify that the alien has met the five year waiting period. (See FSC 1621.5 for instructions on using the SAVE system to authenticate the documentation.) If not, the worker must send a G-845S, Verification Request to FNS.

**NOTE:** See FSC 1621.5.3 for full instructions on completing and mailing this form. This form may be down-loaded and printed at the following web site:  
<http://www.usvisa.com/insforms.htm>.

For battered aliens, the five-year waiting period begins when the prima facie case determination is issued or when the abused immigrant's INS I-30 visa petition is approved. The relevant date for eligibility is the date the immigrant obtained qualified alien status as an abused immigrant rather than the date of that individual's immigration status, such as that of a an alien legally admitted for permanent residence (LPR).

**1621.3.2 Aliens Who Have 40 Qualifying Quarters**

**01-01-02**

NOTE: Any alien legally admitted for permanent residence who has resided in the United States as a qualified alien for at least five years may participate in the Food Stamp Program without establishing that he or she has 40 qualifying quarters of work. See FSC 1621.3.1.

Aliens legally admitted for permanent residence who can be credited with at least 40 qualifying quarters of work under Title II of the Social Security Act are not prohibited from receiving food stamp benefits if the household is otherwise eligible.

A qualifying quarter of work includes quarters worked by the alien, by a parent (natural, adoptive, or step) of an alien while the alien was under age 18, or by a spouse during a marriage if the alien remains married to the spouse or the spouse is deceased. (This does not include common-law marriages since such marriages are not recognized in Arkansas.) Quarters earned by a current spouse and one or more deceased spouses can be added together and credited. In the case of a divorce, the former spouse's quarters can no longer be credited. At the next household's next recertification the alien's eligibility will be determined without crediting the alien with the former spouse's quarters of coverage.

If the alien lived with both parents, each parent's quarters will be counted individually. This means if both parents worked in the same quarter, this will count as two qualifying quarters of work. This also includes any quarters worked by a parent before a child was born or before the child entered the U.S. In the case of a natural or adoptive child, the child may be credited with the quarters even if the child is not living with the parent due to death, separation or divorce.

The stepparent/stepchild relationship will be severed by divorce but not by death. Therefore, at the first recertification following the divorce, the quarters credited to a stepchild by a stepparent will no longer be credited to the child.

Quarters of coverage earned by minor children cannot be credited to a parent. All quarters earned by a stepparent can be credited beginning with the quarter in which the marriage occurred if the marriage occurred before the alien turned 18 and did not end by divorce or annulment before the 40 quarters were credited. All quarters earned by an adoptive parent can be credited through the quarter the alien turns 18 if the adoption occurred before the alien turned 18. Quarters earned by a biological parent whose parental rights are lost as the result of an adoption of the child by another person are not creditable.

The Social Security Administration is the primary source of verification of qualifying quarters of work. An automated system has been developed to provide an array, by year beginning with 1937, of all qualifying quarters of work. The SSA automated system may be accessed via the SSA Query Screen (WQRY). The *SSA Quarters Of Coverage History System Appendix* provides complete information about verifying qualifying quarters of work via the SSA automated system.

In some instances, there will be discrepancies between the information provided by SSA and the information provided by the alien. In other instances, the automated system will not provide verification of qualifying quarters of work. The *SSA Quarters Of Coverage History System Appendix* also provides instructions for resolving discrepancies and for manual verification of qualifying quarters of work.

An alien may participate in the Food Stamp Program as an eligible household member for up to six months while SSA works to resolve a discrepancy between the information on their system and the information provided by the alien. However, when the county office is working with the alien to obtain verification of quarters of work not appearing on the system, the normal processing standards will apply. If the household does not provide the requested information by the specified deadline, the alien will be treated as an ineligible alien as per the policy in FSC 1621.6.

Any quarter during which the alien actually received Federal means-tested public benefits is not a qualifying quarter. Quarters worked by a parent or spouse are not qualifying quarters if the parent or spouse actually received Federal means-tested public benefits in that quarter. Food stamp benefits are classified as Federal means-tested public benefits. The following benefits have also been officially determined to be Federal means - tested public benefits for the purposes of this provision: Supplemental Security Income (SSI), Medicaid and Temporary Assistance for Needy Families (TANF). In Arkansas, the TANF Program is the Transitional Employment Assistance (TEA) Program.

The county office worker must evaluate quarters of coverage and receipt of Federal means-tested benefits on a calendar year basis using the following steps:

- Step 1: Determine the number of quarters creditable in a calendar year.
- Step 2: Identify those quarters in which the alien (or parent or spouse) received any Federal means-tested public benefits.
- Step 3: Determine if the alien earned enough for the quarter of coverage to be creditable before he or she applied for benefits in that quarter. If yes, the quarter will be counted as a qualifying quarter. If no, the quarter will not be counted as a qualifying quarter..

An alien with a military connection is one of the following:

- 1) Any alien on active duty in any branch of the U.S. armed forces.
- 2) Honorably discharged veterans of the U.S. armed forces who were discharged for reasons other than alienage and who have met the minimum active-duty service requirements of Section 5303(d) of Title 38, U.S.C. (These requirements are 24 months of service or service during the period for which the alien was called to duty.)
- 3) Military personnel who died in active military, naval or air service.

- 4) Individuals who served before July 1, 1946, in the organized military forces of the Government of Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the U.S. or in the Philippine Scouts as described in 38 U.S.C. 107.
- 5) The spouse or unmarried dependent child of a member of the armed forces or an honorably discharged veteran of the armed forces. This includes the surviving spouse of a deceased, honorably discharged veteran or an individual who died while on active duty if the spouse has not remarried and the marriage meets the requirements of Section 1304 of Title 38 U.S.C.

The requirements of Section 1304 of Title 38 U.S.C. are:

- Married for at least one year;
- Married before the end of a 15 year span following the end of the period of military service in which the fatal injury was incurred or aggravated; or
- Married for any period if a child was born of the marriage or was born before the marriage.

A dependent child must be the legally adopted or biological child of individual with military connection and must meet at least one of the following criteria:

- Under the age of 18
- Under the age of 22 and a full-time student
- An unmarried, disabled adult child \*  
*\*The child must have been dependent prior to his or her 18<sup>th</sup> birthday. Or, if the individual with the military connection is deceased, the child must have been dependent at the time of the individual's death.*

Aliens with a military connection that meet one of the citizenship requirements in FSC 1621.1 may participate in the Food Stamp Program for an unlimited period if otherwise eligible.

Aliens who are applying to participate in the Food Stamp Program based on military service must first provide documentation that he or she meets the citizenship requirements of FSC 1621.1. Any qualified alien who is currently serving in a branch of the U.S. armed forces must provide verification that he or she meets minimum active duty service requirements. Veterans must provide documentation (e.g., DD Form 214) showing the discharge was classified as an honorable discharge. A surviving spouse of a deceased veteran or an individual who died while on active duty must provide verification that the marriage lasted at least one year.

All non-citizens must provide documentation of alien status. Normally, one of the following forms may be presented to establish that an alien is lawfully present in the United States.

**ALIEN LAWFULLY ADMITTED FOR PERMANENT STATUS**

- Foreign passport stamped as LAPR
- Form I-551, *Alien Registration Receipt* (green card) indicating status as LAPR
- INS Form I-94, Arrival/Departure Record
- Other INS documentation that indicates status as LAPR

ASYLEE

- INS Form I-94, *Arrival/Departure Record*, annotated with stamp showing grant of asylum under Section 208 of the Immigration and Nationality Act (INA)
- INS Form I-688B, *Employment Authorization Card*, annotated with stamp showing admission under Section 207 of the INA

REFUGEE

- INS Form I-94, *Arrival/Departure Record*, annotated with stamp showing admission under Section 207 of the INA

TRAFFICKING VICTIM

- Certification letter issued by the Office of Refugee Resettlement (*Certification letters contain expiration dates which are 8 months from the initial certification date. Follow-up certification letters will be issued to individuals who continue to meet this requirement. Alien status must be re-evaluated if the certification letter has expired.*)

ALIEN PAROLED INTO THE U.S. FOR AT LEAST ONE YEAR

- INS Form I-94, *Arrival/Departure Record*, with stamp showing admission for at least one year under Section 212(d)(5) of the INA

ALIEN WHOSE DEPORTATION OR REMOVAL WAS WITHHELD

- Order from an immigration judge showing deportation withheld under Section 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under Section 241(b)(3) of the INA after April 1, 1997

ALIEN GRANTED CONDITIONAL ENTRY

- INS Form I-94, *Arrival/Departure Record*, with stamp showing admission under Section 203(a)(7) of the INA

CUBAN/HAITIAN ENTRANT

- INS Form I-551, *Alien Registration Receipt Card* (green card) with the code CU6, CU7 or CH6
- Unexpired temporary I-551 stamp in foreign passport or on INS Form I-94, *Arrival/Departure Record*, with stamp showing code CU6 or CU7
- INS Form I-94, *Arrival/Departure Record*, with stamp showing parole as Cuban/Haitian Entrant under Section 212(d)(5) of the INA

AMERASIAN IMMIGRANT

- INS Form I-551, *Alien Registration Receipt Card* (green card), with the code AM6, AM7, or AM8
- Unexpired temporary I-551 stamp in foreign passport or on INS Form I-94, *Arrival/Departure Record*, with the code AM1, AM7, or AM3

**BATTERED ALIEN**

- Evidence of having petitioned INS for permanent resident status and reasonable proof of battery. Reasonable proof of battery includes, but is not limited to, police reports, information from medical or school personnel, and/or photographs. A collateral statement may be accepted to verify that battered individual no longer lives with the batterer.

**ALIEN LAWFULLY PRESENT ON AUGUST 22, 1996**

- Proof of lawful presence on August 22, 1996, and proof of that child is under the age of 18.

**AMERICAN INDIANS**

- Proof of membership in an Indian tribe covered under the provisions of section 289 of the INA or as defined under section 4(e) of the Indian Self-determination and Education Assistance Act. Some American Indians born in Canada may have INS documentation establishing LPR status which can be confirmed through SAVE. Other applicants may present a letter or other tribal documents certifying at least 50% Indian blood as required under section 289. This may be combined with a birth certificate or other proof of birth in Canada. Membership in a Federally-recognized tribe allowed to cross the Canadian or Mexican border can be established by a membership card or other tribal documentation or by contacting the applicable tribe.

**HMONG OR HIGHLAND TRIBE MEMBER**

- Proof of lawful presence and proof of membership (for self, spouse, or parent) in a tribe that rendered assistance to U.S. personnel in a military or rescue operation on or after August 5, 1964, but no later than May 7, 1975.

Documentation presented by the alien must be authenticated through the SAVE system. Also, the SAVE system may be used if the documentation presented by the alien is not listed above. See FSC 1621.5 for additional information.

The worker must allow alien applicants a reasonable opportunity to provide acceptable documentation of their qualified alien status prior to the 30th day following the date of application. A reasonable opportunity means the household has at least 10 days from the date of request to provide an acceptable document.

The INS Office in Memphis, Tennessee serves the following counties:

Arkansas	Drew	Lee	Pulaski
Chicot	Faulkner	Lincoln	Randolph
Clay	Fulton	Lonoke	Saline
Cleburne	Grant	Mississippi	Sharp
Cleveland	Greene	Monroe	St. Francis
Conway	Independence	Perry	Stone
Craighead	Izard	Phillips	Van Buren
Crittenden	Jackson	Poinsett	White
Cross	Jefferson	Pope	Woodruff
Dallas	Lawrence	Prairie	Yell
Desha			

The address and phone number for the INS Office in Memphis is:

Immigration & Naturalization Service  
1341 Sycamore View Road, Suite 100  
Memphis, TN 38134  
Telephone: (901) 544-0264  
FAX: (901) 544-0572

The INS Office in Fort Smith, Arkansas serves the following counties:

Ashley	Clark	Howard	Miller	Scott
Baxter	Columbia	Johnson	Montgomery	Searcy
Benton	Crawford	Lafayette	Nevada	Sebastian
Boone	Franklin	Little River	Newton	Sevier
Bradley	Garland	Logan	Ouachita	Union
Calhoun	Hempstead	Madison	Pike	Washington
Carroll	Hot Spring	Marion	Polk	

The address and phone number for the INS Office in Fort Smith Office is:

4991 Old Greenwood Road  
Fort Smith, AR 72903  
Telephone: (501) 646-4701  
FAX: (501) 646-4727

An alien who has been given a reasonable opportunity to submit acceptable documentation and has not done so by the 30th day following the date of application will not be certified for benefits until acceptable documentation has been submitted unless:

1. The DHS county office worker has submitted a copy of the document provided by the household to INS for verification. *(This includes the secondary verification procedures instituted through the SAVE system as explained in FSC 1621.5.3.)* Until INS responds to the request for verification, an eligible household's food stamp benefits cannot be delayed, reduced or terminated on the basis of a household member's immigration status.
2. Either the applicant or the worker has submitted a request to SSA for information about the number of quarters of work that can be credited to an alien. SSA has responded that the alien has less than 40 quarters of work and the individual provides documentation from SSA that SSA is conducting an investigation to determine if more quarters can be credited. *(The household can be certified for up to six months awaiting the results of such an investigation.)*
3. Either the applicant or the worker has submitted a request to a Federal agency for verification of information that pertains to an individual's eligible alien status. *(The household can be certified for up to six months awaiting the results of such a request.)*

See FSC 9444 for instructions if an alien submits an expedited application.

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If documentation of alien status is received after certification, the alien will be added to the household within ten days of the date documentation is received. If all household members are awaiting documentation of qualified alien status, the application will be denied at the end of the normal processing period as specified in FSC 8500. The application may be reinstated if the conditions in FSC 8506 are met.

When a household indicates inability or unwillingness to provide documentation of alien status for any household member, that member will be classified as an ineligible alien, and the worker will not continue efforts to obtain documentation of alien status. The alien will be classified as an ineligible household member. If the alien does not wish for the county office worker to contact Immigration and Naturalization Services (INS) to verify his or her immigration status, the worker must give the household the option of withdrawing its food stamp application **or** classifying the alien as an ineligible alien.

Ineligible aliens are not reported to the (INS); however, illegal aliens will be reported. An illegal alien is present in the United States in violation of the Immigration and Nationality Act (INA). The DHS County Office will only report illegal aliens whenever the county office worker **verifies** the presence of an illegal alien in the household. Verification is documentation such as, but not limited to, a *Final Order of Deportation*, that establishes illegal alien status. When the household has withdrawn its application, chosen to classify an alien household member as an **ineligible** member or failed or refused to verify the alien status of any household member, the alien will not be reported.

The Food and Nutrition Service (FNS) reports illegal aliens discovered through the Food Stamp Program application process to INS by on a quarterly basis. DHS county offices will report illegal aliens by memorandum to the Manager, Food Stamp Program, Slot S335. The memorandum must contain the name, address, social security number and telephone number of the illegal alien. A copy of the documentation of illegal alien status must accompany the memorandum.

**1621.5     SAVE**

**6-15-98**

Under the Systematic Alien Verification for Entitlements (SAVE) Program, the INS examines documentation provided by non-citizens to insure the documentation is authentic and accurate.

**1621.5.1     Accessing the SAVE System**

**06-15-98**

The Alien Status Verification Index (ASVI) may be accessed by completing the following steps:

1. Dial the toll-free access number 1-800-365-7620 on a touch-tone telephone or (in counties where there is no touch-tone service) a pocket touch-tone dialer.
2. When prompted, enter the county's unique authorization code followed by the # sign. (A master list of authorization codes is maintained in the Office of Program Planning and Development.)

3. INS assigns each U.S. immigrant an alien registration number. The number should appear on the documentation of alien status presented by the household. When prompted, enter the alien registration number which is a unique seven, eight or nine digit number preceded by the letter A. The letter A is not keyed to ASVI but since nine digits are allotted on the ASVI for the alien registration number, either one or two zeroes must be added to the beginning of the number when a seven or eight digit alien registration number is keyed.

Additional alien registration numbers may be input to the ASVI by pressing the number 2 on the telephone keypad and then entering the alien registration number as instructed above. The telephone connection may be disconnected by pressing the number 3 on the telephone keypad.

**NOTE:** It is important to enter the ASVI authorization code and alien registration number immediately after connection occurs. ASVI will automatically disconnect if there is a long period of inactivity; then the authorization code will not be accepted for several minutes.

**1621.5.2 Information Provided by the ASVI**

**6-15-98**

If the alien registration number is found on SAVE, the ASVI will provide the following information:

- The verification number which has been assigned by INS to track the call. **THE VERIFICATION NUMBER MUST BE RECORDED IN THE CASE RECORD.**
- The alien's first name and last name spelled out.
- The alien's birth date.
- The alien's status code.
- The employment eligibility message.
- The alien's country of birth.
- The alien's SSN, if known, or the alternate ID number.
- The alien's date of entry into the U.S.

The data provided by the ASVI must be compared to the documentation provided by the alien. If the data provided by ASVI is consistent with the documentation provided by the alien, this fact will be documented in the case record. The member will then be designated as an eligible or ineligible alien according to the procedures in FSC 1621.1.

If the alien registration number is not found on SAVE, the ASVI will provide the verification number and the message "Institute Secondary Verification."

**1621.5.3 Secondary Verification Procedures**

**04-01-03**

Secondary verification procedures will be used when the alien registration number is not found on SAVE. Secondary verification procedures will also be used in any of the following situations:

- Any of the items presented as documentation appear to be counterfeit or altered.
- An alien presents unfamiliar INS documentation or a document that indicates immigration status but does not contain an alien registration number.

- The document contains an alien registration number in the A80 000 000 series, a range of numbers normally used for illegal border crossings.
- The document presented is a *Fee Receipt (I-689)* or *Employment Authorization Card (I-688A)* or any other form of INS receipt.
- The document presented is a *Memorandum of Creation of Record for Lawful Permanent Residence (I-181)* or an *Arrival-Departure Record Form (I-94)* in a foreign passport that bears the endorsement "Processed for I-55a, Temporary Evidence of Lawful Permanent Residence" and the I-818 or I-94 is over one year old.

To institute secondary verification, the county office worker must complete INS form G-845S. To download a Form G-845S:

- Enter [www.ins.usdoj.gov](http://www.ins.usdoj.gov)
- Select INS Forms, Fees and Fingerprints
- Select INS Forms and Fees
- Scroll down to form G-845S
- Download and print the form

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The Form G-845S will be submitted along with an *DHS Consent for Release of Information (DHS-081)* (signed by the alien, or for minors, the alien's parent) and copies of the documentation of INS status provided by the alien to:

Immigration & Naturalization Service  
Attn: Status Verifier  
701 Loyola Avenue, Room T-8011  
New Orleans, LA 70113

INS will generally respond to the request for secondary verification within 10 days.

#### **1621.5.4 Action on Responses from SAVE**

**10-01-97**

If the response from ASVI or INS form G-845 indicates the individual is eligible, the DCO county worker will document this information in the case record. No additional information is required.

If the response from ASVI or INS form G-845 indicates the individual is ineligible, the worker will take the appropriate action to remove the individual from the case unless all household members are ineligible aliens. If all household members are ineligible aliens, the case will be closed. FSC 1621.6 contains instructions for handling the income and resources of ineligible aliens.

An advance notice of adverse action will be provided before the required action is taken. The notice will advise the household of the action to be taken and why this action is being taken.

#### **1621.6 Handling the Resources and Income of Ineligible Aliens**

**12-01-00**

The resources of ineligible aliens will be counted in their entirety when the household's eligibility is determined. All but a pro rata share of the alien's income will be counted in the food stamp budget. The following actions will be taken to calculate the pro rata share of income:

1. Determine the alien's gross countable income as instructed in FSC 7500.

2. Enter the full gross income amount to the automated system.
3. Divide the gross income evenly among all household members including the ineligible alien. (For example, assuming the gross income amount is \$500 and there are five members including the ineligible alien, the calculation would be  $\$500 \div 5 = \$100$  prorated amount.)
4. Multiply the number of eligible members by the prorated amount to determine the amount to be counted in the budget. (For example, if there are four eligible members and the prorated amount is \$100, the calculation would be  $\$100 \times 4 = \$400$  to be counted in the budget.)
5. Enter the amount to be counted in the budget. Enter earned income in the earned income fields and allow the 20% earned income deduction. Enter other income in the appropriate unearned income field.

Medical expenses incurred by an ineligible alien who is aged/disabled are not allowable. Expenses such as shelter costs, dependent care costs and child support payments will be allowed in their entirety unless the ineligible alien incurs part or all of the expense. If the ineligible alien incurs part or all of any expense, the expense will be prorated or divided evenly among all household members including the ineligible alien. Then, the number of eligible household members will be multiplied by the amount of the pro rata share. Each expense will be prorated individually.

If the household has elected to use the utility standard and the ineligible alien incurs part or all of the expense entitling the household to the standard, the standard will be prorated in the same manner as the other allowable expenses. Uncapped shelter costs will not be allowed if the disqualified member is the only aged/disabled household member. Even if the household does remain entitled to uncapped shelter costs, prorated shelter costs must be used to determine the full shelter deduction.

Ineligible aliens are not included when eligibility or food stamp benefit amount is determined.

**1621.7**     **Sponsored Aliens**

**04-01-03**

Most immigrants who enter the U.S. must have a sponsor - 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. (This will be 100 percent for active duty military.) Legal immigrants who enter the country under the provisions of immigration law other than the family-sponsored categories do not have sponsors whose income must be deemed into the food stamp budget. These categories include refugees and asylees.

There are special procedures for some sponsored aliens under which a portion of the sponsor's income and resources are considered available to the alien. These are called deeming procedures. **The deeming requirements apply only to immigrants whose sponsor has signed a legally binding affidavit of support (Form I-864 or Form I-864A) on or after December 19, 1997.** Before December 19, 1997, affidavits of support were not legally binding meaning the sponsor could not be legally compelled to support the immigrant.

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Even some of those aliens whose sponsor has signed a legally binding affidavit of support are exempt from the deeming procedures. These sponsored aliens are listed below:

- Ineligible aliens.
- Aliens participating in the Food Stamp Program as a member of the sponsor's household.
- Aliens sponsored by an organization or group rather than an individual.
- Sponsored aliens who have 40 qualified quarters of work as per FSC 1621.3.1.
- Indigent aliens. (See FSC 1621.7.2 for additional information.)
- Battered aliens. See FSC 1621.7.1 for additional information.

At each initial application and at each application for recertification afterward, the sponsored alien must provide information about his/her sponsor.

Deeming, which is the attribution of the sponsor's income and resources to the alien, lasts until the alien becomes a naturalized citizen, can be credited with 40 qualifying quarters of work (FSC 1621.3.1), meets one of the exceptions listed above in items 1-6, or the sponsor dies.

The county office worker may verify whether an immigrant has a sponsor who has signed a binding affidavit of support by submitting to INS the *Document Verification Request and Supplement* (INS Form G-845 and G-845 Supplement) and requesting completion of block #7 - *Affidavit of Support*. (See FSC 162.5.3 for the web-site where this form may be down-loaded and the mailing address for INS.)

Pending receipt of this form from INS, the worker will not delay, deny, reduce, or terminate the individual's food stamp benefits if he or she is otherwise eligible.

### **1621.7.1 Citizenship Requirements for Sponsored Aliens**

**06-01-01**

Sponsored aliens must meet the citizenship requirements in FSC 1621.1. If not, the sponsored alien is ineligible to participate in the Food Stamp Program and the deeming procedures will not apply. For sponsored aliens who meet the requirements in FSC 1621.1 because they can be credited with 40 quarters of work, no deeming will apply. Sponsored aliens who meet the requirements in FSC 1621.1 for other reasons, must meet the deeming procedures.

Deeming will be delayed for 12 calendar months for aliens who have been battered by a spouse, a parent, or another member of the household, if the battering is substantially connected to the need for benefits. This also applies to the alien child of a battered parent. (In other words, the alien had to leave the household where the battering occurred and, as a result, is in need of food stamp benefits.) After 12 calendar months, deeming of the sponsor's income and resources is permanently eliminated if the battery has been substantiated in a court or by the Immigration and Naturalization Agency (INA) and the battery has substantial connection to the need for benefits.

These provisions do not apply if the battered alien lives with the batterer. If the battered alien does live with the batterer and is a sponsored alien, the sponsor's income and resources will be deemed.

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**1621.7.2 Indigent Aliens**

**06-01-01**

A sponsored alien is classified as an indigent alien if the sum of the sponsored alien's own income, the cash contributions of the sponsor and others, and the value of any in-kind assistance from the sponsor and others does not exceed the gross income limit for the alien's household size. See the current the *Food Stamp Basis of Issuance Tables* for the gross income limit for the appropriate household size.

The county office worker must determine the amount of income and other assistance provided in the month of application. If the alien is indigent, the only amount that is to be deemed to the alien will be the amount actually provided by the sponsor to the alien. This limited deeming procedure will begin on the date of this determination and will end 12 months after the date of determination. Each indigence determination will be renewable for additional 12-month periods.

The county office must notify by memorandum the Office of Program Planning and Development, Food Stamp Section, Slot S335, of each such determination, including the names of the sponsor and the sponsored non-citizen involved.

**1621.7.3 Battered Aliens**

**06-01-01**

A battered alien is:

*An alien who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent or a member of the spouse's or parent's family residing in the same household as the alien at the time of the abuse, an alien whose child has been battered or subjected to battery or cruelty, or an alien child whose parent has been battered.*

The sponsor's income and resources will not be deemed to battered aliens for 12 months after the county office worker determines that the battering is substantially connected to the household's need for food stamp benefits and that the alien does not live with the batterer. After 12 months, the sponsor's income and resources will not be deemed to the battered alien if:

- The battery is recognized by a court or the INS;
- The battery has a substantial connection to the need for benefits; and
- The alien does not live with the batterer.

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**1621.7.4 Deeming the Sponsor's Income**

**04-01-03**

Deeming procedures are used to determine the amount of the sponsor's resources and income to be used in the food stamp budget of the sponsored alien's household.

Deemed resources will be determined through the following actions:

1. Determine the sponsor's total countable resources using FSC 7400 as a guideline. Include the resources of the sponsor's spouse if the sponsor and his or her spouse are living together.

2. Reduce the sponsor's total countable resources by \$1,500.

Example: A sponsor reports the following resources-\$500 checking account and \$2,000 savings account. Total resources are \$2,500 - \$1,500 = \$1,000.

3. Add the sponsor's deemed resources to any resources declared by the alien's household.
4. Compare the total resources (the deemed portion of the sponsor's resources and the resources declared by the alien's household) to the maximum resource limits, which are \$2,000 for households without a member age 60 or older and \$3,000 for all households with at least one member age 60 or older.
5. Deny the application if the household's total resources exceed the appropriate maximum resource limit.

NOTE: For individuals who sponsor more than one alien, the deemed resources will be prorated among the aliens who have applied to participate or who are actually participating in the Food Stamp Program.

If the sponsored alien's household is eligible based upon resources, determine the amount of the sponsor's income by completing the following actions:

1. Determine the sponsor's total gross monthly-earned income. Include net self-employment income. Include SSI and other public assistance payments. Include the earned income of the sponsor's spouse if the sponsor and his/her spouse are living together. (This income must be included even if the sponsor and spouse were not married at the time the agreement to sponsor was signed.) To determine gross monthly income, follow the instructions in FSC 7500.
2. Calculate the earned income deduction and subtract it from the sponsor's gross earned income. (See the *Current Standards Appendix* for the current percentage used to calculate the earned income deduction.) The result is the sponsor's net earned income.
3. Add together all the unearned income of the sponsor and his or her spouse. Do not include income excluded under FSC 5400. The result is the sponsor's total unearned income.
4. Add together the sponsor's net earned income and total unearned income. The result is the sponsor's net income.
5. Subtract from the sponsor's net income the maximum gross food stamp income allowable for the sponsor's correct household size. To determine the sponsor's correct household size, include all individuals who could be or who are claimed as tax dependents even those not actually living with the sponsor.
6. Use the resulting amount as unearned income in the sponsored alien's food stamp budget. (If the sponsor actually provides money to the sponsored alien, any money in excess of the deemed income amount will be shown in the alien's food stamp budget in addition to the deemed income.)

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NOTE: For individuals who sponsor more than one alien, the deemed income will be prorated among the aliens who have applied to participate or who are actually participating in the Food Stamp Program.

Any money paid by the sponsor or the sponsor's spouse to an eligible sponsored alien will be counted as income in the household food stamp budget only to the extent this money exceeds the amount deemed to the sponsored alien.

**1621.7.5 Changes in Sponsors**

**6-15-98**

If the alien changes sponsors during the certification period, he or she must report the change to the county office within ten days and verify the following information regarding the new sponsor:

- Name, address and telephone number
- Resources and income

Within ten days of the report, the alien's eligibility will be re-determined based upon the new sponsor's income and resources. If the action adversely affects the alien, a notice of adverse action must be issued at least ten days before the effective date of action.

**1621.7.6 Reporting Changes in Sponsor's Income**

**6-15-98**

The sponsored alien must report to the county office the following changes in the sponsor's income within ten days of the day the change becomes known:

- Change in employment
- Loss of employment
- Acceptance of new employment.

*(Exception - quarterly reporting households may report these changes on the first quarterly report submitted after the change.)*

The deemed income must be recalculated to reflect these changes.

If the reported change results in a decrease in benefits or case closure, a notice of adverse action must be issued.

Verification of reported changes in the sponsor's income or spouse's income is required.

**1621.7.7 Verification From the Sponsor**

**6-15-98**

During the period that the alien is subject to deeming, the eligible sponsored alien is responsible for:

- Insuring the cooperation of the sponsor.
- Providing to the DHS county office at the time of application and at the time of recertification with the information necessary to deem the sponsor's income and resources.

- Providing the names of the other aliens sponsored by the alien's sponsor. (*Other identifying information may also be requested if needed. If the information needed to identify other sponsored alien is not provided, all of the sponsor's income and resources will be deemed to the alien as instructed in FSC 1621.7.4.*)

If the sponsored alien refuses to cooperate in providing information or verification, other adult members of the alien's household are responsible for providing such information or verification. If the other adult members of the household also refuse to cooperate, the application will be denied.

When the sponsored alien is cooperating but cannot obtain the needed information from the sponsor, the county office worker must assist by attempting to obtain the needed verification from the sponsor. This may include contacting the sponsor directly to request such information.

If the worker cannot determine the sponsor's income or resources due to lack of information or verification, the sponsored alien is ineligible and the deemed income and resources of the sponsor will not be counted in the budget. However, a prorata share of the alien's income and resources will be counted in the household's food stamp budget. See FSC 1621.6.

If later in the certification period the household presents the necessary verification, the household's food stamp budget will be recalculated adding the sponsor's deemed income and substituting the full amount of the alien's income for the prorated amount. A notice of action (DCO-1) will be issued if the case will be closed or the food stamp benefits will be reduced. These actions will be taken within ten days of the day the required verification was provided by the alien.

If the ineligible alien is the only household member, the application will be denied. If the same sponsor is responsible for all the household members, the application will be denied.

**1621.7.8 Notices**

**6-15-98**

Approval and denial notices to households containing sponsored aliens must be issued manually. Such notices will contain, in addition to all mandatory information, the amount of the sponsor's income and resources that has been deemed to the alien.

When an application for a household containing a sponsored alien is approved, a letter will be sent to the sponsor. Any letter drafted by the county must contain all information contained in this sample:

<u>Sample</u>
The household of _____ has been certified for participation in the Food Stamp Program. Eligibility in the program is based upon financial information provided by you and/or your spouse.
Please be advised that you and/or your spouse may be held liable for repayment of any overpayment of benefits resulting from incorrect information that you furnished.

**1621.7.9 Incorrect Sponsor Information**

**6-15-98**

DCO will hold both the sponsor and the alien liable for incorrect information resulting in an overpayment claim, unless the sponsor can prove to be without fault or the sponsor had good cause. If the sponsor can show good cause for the incorrect information, the claim will be filed against the alien or the alien's household. If the sponsor is found to be at fault, the claim will be filed against the party most likely to repay. If that cannot be determined, the worker will file a claim against both the sponsor and the alien. If fraud is suspected, the case will be referred to the Fraud Unit for investigation.

Sponsors against whom a claim has been filed are entitled to an administrative hearing. See FSC 16310 for instructions on requesting a hearing.

**1621.7.10 Sponsored Alien Reports/Reimbursement**

**6-15-98**

Upon notification that a sponsored alien has received any benefit under any means-tested public benefit program, the appropriate agency shall request reimbursement by the sponsor in the amount of such assistance. For the purpose of this provision, the Food Stamp Program is considered to be a means-tested public benefit program. In order to comply with this requirement, the county office must report, by memorandum, the name of any participating sponsored alien and the name of the alien's sponsor to the Office of Program Planning and Development, Food Stamp Section, Slot S335.

Additionally, the State must report to the Attorney General any sponsored non-citizen that is found to be indigent under the provisions in FSC 1621.7. Therefore, if the alien has been found indigent, this information should be included on the memorandum to the Food Stamp Section.

Status	Eligible or Ineligible Alien Status	Documentation
Admitted under color of law	Ineligible	
American Indian born in Canada	<p>Eligible indefinitely if:</p> <ul style="list-style-type: none"> <li>• Possesses at least 50% of blood of the American Indian race to whom the provisions of section 289 of INA apply.</li> <li>• Member of an Indian tribe eligible for special programs and services under section 4(e) of the Indian Self-Determination and Education Assistance Act. (Includes Native Americans who are entitled to cross the U.S. border into Canada or Mexico.)</li> </ul>	<p>Some American Indians born in Canada may have INS documentation establishing LPR status which can be confirmed through SAVE. Other applicants may present a letter or other tribal documents certifying at least 50% Indian blood as required under section 289. This may be combined with a birth certificate or other proof of birth in Canada.</p> <p>Membership in Federally-recognized tribe can be established by a membership card or other tribal documentation or by contacting the applicable tribe.</p>
Amerasian Resident - Admitted pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988.	<ul style="list-style-type: none"> <li>• Eligible for up to seven years from date of admission.</li> <li>• Eligible indefinitely if the alien meets one of the following criteria: <ul style="list-style-type: none"> <li>- has been in the U.S.A. with qualified alien status for five years or longer.</li> <li>- has a military connection.</li> <li>- is currently receiving disability benefits.</li> <li>- was present in the United States on August 22, 1996, and is currently under 18 years of age or was age 65 or older or August 22, 1996</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ INS Form I-551, Alien Registration Receipt Card (green card), with the code AM6, AM7, or AM8</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>▪ Unexpired temporary I-551 stamp in foreign passport or on INS Form I-94, Arrival/Departure Record, with the code AM1, AM7, or AM3</li> </ul> <p>To establish eligible alien status for an indefinite period, the alien must also present proof of status as a qualified alien for five years, or proof of a military connection, of proof of age and presence in U.S on August 22, 1996 or proof of receipt of disability payments.</p>

Status	Eligible or Ineligible Alien Status	Documentation
Asylee under section 208 of the Immigration and Naturalization Act	<ul style="list-style-type: none"> <li>• Eligible for up to seven years from date of admission.</li> <li>• Eligible indefinitely if has been in the U.S.A. with qualified alien status for five years or longer.</li> <li>• Eligible indefinitely if there is a military connection.</li> </ul>	<ul style="list-style-type: none"> <li>▪ INS Form I-94, <i>Arrival/Departure Record</i>, annotated with stamp showing grant of asylum under Section 208 of the Immigration and Nationality Act (INA)</li> </ul> <p><b>OR</b></p> <ul style="list-style-type: none"> <li>▪ INS Form I-688B, <i>Employment Authorization Card</i>, annotated with stamp showing admission under Section 207 of the INA</li> </ul> <p>To establish eligible alien status for an indefinite period, the alien must also present proof of status as a qualified alien for five years, or proof of a military connection, of proof of age and presence in U.S on August 22, 1996 or proof of receipt of disability payments.</p>
Battered alien	<p>Being granted status as a battered alien by INS results in qualified alien status in the Food Stamp Program. In order to receive food stamp benefits, a battered alien must also meet one of the following criteria:</p> <ul style="list-style-type: none"> <li>• Can be credited with 40 quarters of work</li> <li>• Has a military connection</li> <li>• Has lived in the United States as qualified alien for five years or longer</li> <li>• Was lawfully present in United States on August 22, 1996 and is currently under 18 years of age or was age 65 or older on August 22, 1996</li> <li>• Is receiving disability payments</li> </ul>	<p>Evidence of having petitioned INS for permanent resident status and reasonable proof of battery. Reasonable proof of battery includes, but is not limited to, police reports, information from medical or school personnel, and/or photographs. A collateral statement may be accepted to verify that battered individual no longer lives with the batterer.</p> <p><b><u>AND</u></b></p> <p>Proof of 40 quarters of work, status as qualified alien for five years or longer, proof of age or disability, or proof of military connection.</p>

Status	Eligible or Ineligible Alien Status	Documentation
Conditional entry under section 203(a)(7) of the INA	<ul style="list-style-type: none"> <li>• Eligible for up to seven years from date of admission.</li> <li>• Eligible indefinitely if the alien:                             <ul style="list-style-type: none"> <li>- has been in the U.S.A. with qualified alien status for five years or longer.</li> <li>- has a military connection.</li> <li>- is receiving disability benefits.</li> <li>- was present in the United States on August 22, 1996, and is currently under 18 years of age or was age 65 or older or August 22, 1996</li> </ul> </li> </ul>	<p>INS Form I-94, <i>Arrival/Departure Record</i>, with stamp showing admission under Section 203(a)(7) of the INA</p> <p>To establish eligible alien status for an indefinite period, the alien must also present proof of status as a qualified alien for five years, or proof of a military connection, of proof of age and presence in U.S on August 22, 1996 or proof of receipt of disability payments.</p>
Cuban or Haitian entrant per section 501(e) of the Refugee Education Assistance Act of 1980	<ul style="list-style-type: none"> <li>• Eligible for up to seven years from date of admission.</li> <li>• Eligible indefinitely if the alien meets one of the following criteria:                             <ul style="list-style-type: none"> <li>- has been in the U.S.A. with qualified alien status for five years or longer.</li> <li>- has a military connection.</li> <li>- is currently receiving disability benefits.</li> <li>- was present in the United States on August 22, 1996, and is currently under 18 years of age or was age 65 or older or August 22, 1996</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ INS Form I-551, <i>Alien Registration Receipt Card</i> (green card) with the code CU6, CU7 or CH6</li> </ul> <p><b>OR</b></p> <ul style="list-style-type: none"> <li>▪ Unexpired temporary I-551 stamp in foreign passport or on INS Form I-94, <i>Arrival/Departure Record</i>, with stamp showing code CU6 or CU7</li> </ul> <p><b>OR</b></p> <ul style="list-style-type: none"> <li>▪ INS Form I-94, <i>Arrival/Departure Record</i>, with stamp showing parole as Cuban/Haitian Entrant under Section 212(d)(5) of the INA</li> </ul> <p>To establish eligible alien status for an indefinite period, the alien must also present proof of status as a qualified alien for five years, or proof of a military connection, of proof of age and presence in U.S on August 22, 1996 or proof of receipt of disability payments.</p>

Status	Eligible or Ineligible Alien Status	Documentation
Deportation withheld under section 243(h) of the INA	<ul style="list-style-type: none"> <li>• Eligible for up to seven years from date of admission.</li> <li>• Eligible indefinitely if the alien meets one of the following criteria:                             <ul style="list-style-type: none"> <li>- has been in the U.S.A. with qualified alien status for five years or longer.</li> <li>- has a military connection.</li> <li>- is currently receiving disability benefits.</li> <li>- was present in the United States on August 22, 1996, and is currently under 18 years of age or was age 65 or older or August 22, 1996</li> </ul> </li> </ul>	<p>Order from an immigration judge showing deportation withheld under Section 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under Section 241(b)(3) of the INA after April 1, 1997</p> <p>To establish eligible alien status for an indefinite period, the alien must also present proof of status as a qualified alien for five years, or proof of a military connection, of proof of age and presence in U.S on August 22, 1996 or proof of receipt of disability payments..</p>
Diplomats	Ineligible	
Hmong or Highland Laotian Tribal Members	<p>Eligible indefinitely if:</p> <ul style="list-style-type: none"> <li>• Lawfully residing in U.S. AND</li> <li>• Was a member of a Hmong or Highland Loatian tribe at the time the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era beginning August 5, 1964, and ending May 7, 1975.*</li> </ul> <p>* Alien eligibility extends to spouse or surviving spouse (if not remarried) and unmarried, dependent children (natural or legally adopted)</p>	<p>Proof of lawful presence and proof of membership (for self, spouse, or parent) in a tribe that rendered assistance to U.S. personnel in a military or rescue operation on or after August 5, 1964, but no later than May 7, 1975.</p>

Status	Eligible or Ineligible Alien Status	Documentation
<p>Legally admitted for permanent residence in the United States. (LAPR)</p>	<p>Eligible indefinitely if one of the following conditions is met:</p> <ul style="list-style-type: none"> <li>• Has been in U.S.A with qualified alien status for five years or longer.</li> <li>• Has forty qualifying quarters of work.</li> <li>• Has a military connection.</li> <li>• Is receiving disability benefits.</li> <li>• Was present in the United States on August 22, 1996, and is currently under 18 years of age.</li> <li>• Was age 65 or older or August 22, 1996</li> </ul> <p>Ineligible if one of the conditions listed above is not met.</p>	<ul style="list-style-type: none"> <li>• Foreign passport stamped as LAPR</li> </ul> <p><b>OR</b></p> <ul style="list-style-type: none"> <li>• Form I-551, <i>Alien Registration Receipt</i> (green card) indicating status as LAPR</li> </ul> <p><b>OR</b></p> <ul style="list-style-type: none"> <li>• INS Form I-94, Arrival/Departure Record</li> </ul> <p><b>OR</b></p> <ul style="list-style-type: none"> <li>• Other INS documentation that indicates status as LAPR</li> </ul> <p>Must also present prove 40 quarters of SSA coverage, or proof of status as qualified alien for five years, or proof of a military connection, proof of age and date of entry into U.S. or proof of disability.</p>
<p>Paroled into United States under section 212(d)(5) of the INA or removal withheld under section 241(b)(3) of the INA</p>	<ul style="list-style-type: none"> <li>• Eligible for up to seven years from date of admission.</li> <li>• Eligible indefinitely if the alien meets one of the following criteria:                             <ul style="list-style-type: none"> <li>- has been in the U.S.A. with qualified alien status for five years or longer.</li> <li>- has a military connection.</li> <li>- is currently receiving disability benefits.</li> <li>- was present in the United States on August 22, 1996, and is currently under 18 years of age or was age 65 or older or August 22, 1996</li> </ul> </li> </ul>	<p>INS Form I-94, <i>Arrival/Departure Record</i>, with stamp showing admission for at least one year under Section 212(d)(5) of the INA.</p> <p>To establish eligible alien status for an indefinite period, the alien must also present proof of status as a qualified alien for five years, or proof of a military connection, of proof of age and presence in U.S on August 22, 1996 or proof of receipt of disability payments.</p>

Status	Eligible or Ineligible Alien Status	Documentation
Refugee admitted under section 207 of the INA.	<ul style="list-style-type: none"> <li>• Eligible for up to seven years from date of admission.</li> <li>• Eligible indefinitely if the alien meets one of the following criteria:                             <ul style="list-style-type: none"> <li>- has been in the U.S.A. with qualified alien status for five years or longer.</li> <li>- has a military connection.</li> <li>- is currently receiving disability benefits.</li> <li>- was present in the United States on August 22, 1996, and is currently under 18 years of age or was age 65 or older or August 22, 1996</li> </ul> </li> </ul>	<p>INS Form I-94, <i>Arrival/Departure Record</i>, annotated with stamp showing admission under Section 207 of the INA</p> <p>To establish eligible alien status for an indefinite period, the alien must also present proof of status as a qualified alien for five years, or proof of a military connection, of proof of age and presence in U.S on August 22, 1996 or proof of receipt of disability payments.</p>
Students	Ineligible	
Victim of severe form of trafficking (Treated as a refugee for food stamp purposes)	<ul style="list-style-type: none"> <li>• Eligible for up to seven years from date of admission.</li> <li>• Eligible indefinitely if the alien meets one of the following criteria:                             <ul style="list-style-type: none"> <li>- has been in the U.S.A. with qualified alien status for five years or longer.</li> <li>- has a military connection.</li> <li>- is currently receiving disability benefits.</li> <li>- was present in the United States on August 22, 1996, and is currently under 18 years of age or was age 65 or older or August 22, 1996</li> </ul> </li> </ul>	<p>Certification letter issued by the Office of Refugee Resettlement (<i>Certification letters contain expiration dates which are 8 months from the initial certification date. Follow-up certification letters will be issued to individuals who continue to meet this requirement. Alien status must be re-evaluated if the certification letter has expired.</i>)</p> <p>To establish eligible alien status for an indefinite period, the alien must also present proof of status as a qualified alien for five years, or proof of a military connection, of proof of age and presence in U.S on August 22, 1996 or proof of receipt of disability payments.</p>
Visitors and tourists	Ineligible	

