



Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Transitional Assistance
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Field Operations Memo 2003-7A
March 26, 2003

To: Transitional Assistance Office Staff
From: Cescia Derderian, Assistant Commissioner for Field Operations
Re:  **Farm Bill 2002: 4/1/2003 Food Stamp Noncitizen Restoration and Sponsor Deeming Rules**

Background

The former State Supplemental Food Stamp Program (SSFSP) provided food stamp benefits to noncitizens made ineligible for federal food stamp benefits under the 1996 federal welfare reform law. The Department chose to exempt these noncitizens (former SSFSP recipients) from federal noncitizen sponsor deeming rules. Since the SSFSP ended, certain noncitizens who appear eligible under the Farm Bill of 2002 Noncitizen Restoration may now be subject to noncitizen sponsor deeming rules.

State Letter 1254 will transmit revised food stamp noncitizen sponsor deeming rules effective April 1, 2003.

Overview

This Field Operations memo:

- Identifies the noncitizens subject to sponsor deeming;
- Lists the noncitizens exempt from sponsor deeming;
- Defines the duration of sponsor deeming;
- Provides instructions for determining the income to be deemed from the sponsor; and
- Provides instructions for determining the asset to be deemed from the sponsor.

Noncitizens Subject to Sponsor Deeming

The noncitizen sponsor deeming rules apply to noncitizens with an INS designation of Legal Permanent Resident and whose sponsor has signed a legally binding Form I-864 or I-864A Affidavit of Support on or after December 19, 1997.

The sponsor in this situation is usually a family member, a family business or another individual. Before December 19, 1997, the Form I-864 and I-864A did not exist and sponsor agreements were not legally binding.

**Noncitizens
Subject to
Sponsor
Deeming
(Continued)**

Note: Some noncitizens who became LPRs on or after December 19, 1997 do not have a legally binding Form I-864 or I864A Affidavit of Support since their application for LPR status was in process before this date.

**Noncitizens
Exempt from
Sponsor
Deeming**

- The following groups are not subject to deeming rules:
- **Noncitizens Not Required to Have Legally Binding Form I-864 or I-864A Sponsor Agreements:** Included in this group are refugees, asylees, persons granted withholding of deportation, Amerasians and Cuban/Haitian entrants, as well as noncitizens whose application for LPR status was in process before December 19, 1997.

Note: It is possible that some of these noncitizens were sponsored by an organization, such as a church. Since the organization did not sign a legally binding Form I-864 or I-864A Affidavit of Support, the noncitizen is not subject to deeming requirements.

- **Indigent Exception:** This exception applies to sponsored noncitizens who would be unable to obtain food and shelter after taking into account the income of the noncitizen's AU, and assistance from the sponsor or other individual, even though the sponsor signed a legally binding Form I-864 or I-864A Affidavit of Support. The sum total of this income must not exceed the Maximum Gross Monthly Income Standard at 106 CMR 364.950 for the sponsored noncitizen's AU size.

The AU Manager must inform the sponsored noncitizen that the Department is required to send a written notice to the U.S. Attorney General when an Indigent Exception is determined. The Attorney General has the ability to pursue the sponsor for repayment of food stamp benefits. This notification will identify the names of the sponsor and the sponsored noncitizen.

- **Sponsor in Same Food Stamp AU:** A noncitizen participating in the Food Stamp Program as part of the sponsor's AU.
 - **Ineligible Member:** If the sponsored noncitizen is ineligible for federal food stamp benefits due to noncitizen status (i.e., a legal permanent resident who has lived in the U.S. less than five years), the sponsor's income is not deemed to the remaining AU members.
 - **Battered Noncitizen Exception:** Deeming does not apply during any 12-month period from the application date if the noncitizen verifies a battered noncitizen status in accordance with 106 CMR 362.220.
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Verifications of Sponsorship

If the noncitizen applying for federal food stamp benefits is subject to sponsor deeming rules, the AU Manager must request the following documents to determine FS eligibility:

- Proof of a legally binding sponsorship agreement including:
 - A copy of Form I-864 or Form I-864A; or
 - Any other INS document that establishes a legally binding sponsorship agreement; or
 - A self-declaration made in writing by the sponsor, verifying the legally binding sponsorship of the noncitizen; **and**
- Verification of income and assets of the sponsor and the sponsor's spouse (if the spouse is living with the sponsor).

Awaiting Verification

Until the noncitizen provides verification necessary to determine the legally binding sponsorship agreement as well as income and/or asset information, the noncitizen will be ineligible for federal food stamp benefits. The Department must determine the eligibility of any remaining AU members. The income and assets of the sponsored noncitizen (excluding sponsor income and assets) will be counted in accordance with 106 CMR 365.520(A) in determining the food stamp benefits of the remaining AU members.

How Long Does Sponsor Deeming Last?

Deeming the income and assets of the sponsor and the sponsor's spouse (if the spouse is living with the sponsor) to the noncitizen lasts until:

- The sponsored noncitizen becomes a naturalized citizen;
- The sponsored noncitizen can be credited with 40 qualifying quarters of work;
- The sponsored noncitizen is no longer an LPR and leaves the U.S.;
- The sponsored noncitizen becomes exempt from deeming rules (*see* Noncitizens Exempt From Sponsor Deeming on Page 2 of this memo); or
- The sponsor or the sponsored noncitizen dies.

Determining the Income Deemed to the Noncitizen

AU Managers must follow these procedures when calculating the amount of income deemed to the sponsored noncitizen.

Step 1: Identify the total monthly countable income of the sponsor and the sponsor's spouse (if the spouse is living with the sponsor) in accordance with 106 CMR 363.220. Exclude income listed in 106 CMR 363.230.

Step 2: Subtract 20 percent from the monthly gross earned income and add this result to the monthly gross unearned income.

Determining the Income Deemed to the Noncitizen (Continued)

Step 3: Subtract from the result of Step 2 the Maximum Gross Monthly Income Standard at 106 CMR 364.950 for the AU equal in size to the sponsor, the sponsor's spouse and any other person who is claimed or could be claimed by the sponsor or the sponsor's spouse for federal income tax purposes.

Step 4: Divide the result of Step 3 by the total number of sponsored noncitizens for whom the *applying* noncitizen has reasonably established his or her sponsor has a legally binding agreement to support.

Step 5: Add to the result of Step 4 any additional money paid by the sponsor to the noncitizen.

Step 6: Enter deemed income on BEACON using the instructions in a *User's Guide: Transitional Assistance Programs and BEACON*, Chapter XIII, Section E. **EXCEPTIONS:**

- On the Household window, indicate the sponsor is *present* as opposed to *not present*;
- On the Deemor window, enter **1** as the number of FS sponsored noncitizens regardless of the actual number of sponsored noncitizens.

The deeming rules in BEACON are being revised and will be changed in the near future.

Determining the Asset Deemed to the Noncitizen

AU Managers must follow these procedures when calculating the amount of assets deemed to the noncitizen.

Step 1: Identify countable assets of the sponsor and the sponsor's spouse (if the spouse is living with the sponsor) in accordance with 106 CMR 363.130. Exclude assets listed in 106 CMR 363.140.

Step 2: Subtract \$1,500 from the result of Step 1.

Step 3: Divide the result of Step 2 by the number of sponsored noncitizens for whom the *applying* noncitizen has reasonably established his or her sponsor has a legally binding agreement to support.

Step 4: Enter deemed assets on BEACON using the instructions in a *User's Guide: Transitional Assistance Programs and BEACON*, Chapter XIII, Section E. **EXCEPTIONS:**

- On the Household window, indicate the sponsor is *present* as opposed to *not present*;
- On the Deemor window, enter **1** as the number of FS sponsored noncitizens regardless of the actual number of sponsored noncitizens.

The deeming rules in BEACON are being revised and will be changed in the near future.

Questions

If you have any questions, please have your Hotline Designee call the Policy Hotline at 617-348-8478.