

**A Closer Look**  
**At Immigrant-Access Barriers**  
**In the Massachusetts**  
**Food Stamp Program**

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to the Massachusetts Law Reform Institute  
the Mass Immigrant and Refugee Advocacy Coalition  
and the Food Stamp Improvement Coalition**

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# Massachusetts's Food Stamp Participation and the Food Stamp Immigrant Access Project

In 2001, Massachusetts's food stamp participation rate plummeted to the worst in the country.<sup>1</sup> Though the state is working to address many of the barriers to participation in the Food Stamp Program, it still lags behind national averages. Improvements seemed promising in 2002, when the state's ranking improved by two places, but it has since plateaued and remains at third from the bottom. In 2003, the average national participation rate was 61.5%, but Massachusetts's was only 47.2%.<sup>2</sup> Participation rates across the country are on the rise, and Massachusetts needs to work to keep pace with these improvements and to catch up to the rest of the country.

The immigrant population deserves special attention in the discussion of food stamp utilization and need for such assistance. The *Children's Sentinel Nutrition Assessment Program*, a Boston-based medical research program, reported that in 2003 immigrant-headed families were more than twice as prone to household food insecurity as US citizen-headed families, with rates of 16% and 39% food insecure respectively.<sup>3</sup> Similarly, in 1999 the *Urban Institute* reported that immigrant children were more likely to suffer from hunger and lack of health care than US citizen children.<sup>4</sup> Though this shows that immigrants are more likely to need food assistance, this population is one of the least likely to take advantage of the Food Stamp Program, with national participation rates of immigrant-headed households averaging only 39%. Additionally, citizen children living in immigrant-headed households are suffering as a result of the access barriers faced by their parents. These children participate nationally at the depressed rate of only 43.72%.<sup>5</sup> These low participation rates take on heightened importance in Massachusetts because of the size of the non-citizen population. According to the *US Census Bureau*, 13.7 percent of Massachusetts's population is foreign born; and the state ranks among the top ten states with largest percentages of foreign born residents.<sup>6</sup>

The size and vulnerability of the population, combined with the minimal participation rate, make the immigrant community a critical factor in Massachusetts's food stamp participation level. As a result, the Massachusetts Law Reform Institute engaged an Emerson National Hunger Fellow to create the Food Stamp Immigrant Access Project to research why immigrant participation rates are so low across the state. The Project collected information on immigrant access barriers through:

- 24 callers who contacted MLRI for advice or application assistance, after hearing about the Project through radio shows, MLRI email broadcasts, printed information on the Project's outreach materials, or articles in "Spare Change" or "Survival News."
- 10 group outreach sessions conducted in English, Spanish and Haitian-Creole (where appropriate) at ESL classes at community-based organizations in Cambridge and Boston. These sessions generated 8 individual cases that were tracked and assisted by the Project.
- Community trainings for human services providers in Dorchester, Lowell, New Bedford and Cambridge.
- Observations and discussions with food stamp applicants during visits to the Dorchester and New Market welfare offices in Boston.
- Observations from food stamp outreach at the East Boston Health Center.
- Interviews with 16 advocates and social workers from community-based organizations and legal services offices.
- Observations and conversations at the MLRI-run Immigrants' Rights Coalition and the Food Stamp Improvement Coalition meetings.

The information gathered and the specific cases reported to the Project provide the basis for this assessment of the access barriers that limit participation of otherwise eligible immigrants and citizen children in immigrant-headed households. The Project and paper were completed with the technical support and supervision of Patricia Baker, Senior Policy Analyst for MLRI. This report makes specific recommendations for increased outreach efforts and identifies ongoing systemic barriers for MLRI, the MIRA Coalition, and the Food Stamp Improvement Coalition to address.

## Policy Changes

### Affecting Immigrants in the Food Stamp Program

A federal nutrition program was first created in 1939, in just half of the United States; however, it was terminated after five years. The program lapsed for 18 years, before being piloted as a national project in 1961. It was not until 1964, when Congress passed the Food Stamp Act as a part of the “war on poverty,” that the federal Food Stamp Program was established as a national entitlement program; most legally present immigrants were eligible.<sup>7</sup> Since then, the program has seen many changes in eligibility rules and implementation. The four most significant acts of Congress to affect legal immigrants’ food stamp eligibility in the past 10 years are:

- The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, known as the “welfare reform act” or “PRWORA,” which barred most legal immigrants from food stamps and other means- tested benefits, required 40 quarters of work history for legal permanent residents (LPRs) to qualify, and capped the eligibility of refugees and asylees to five years from their date of entry. (Public Law 104-193, August 22,1996)
- The Illegal Immigration Reform and Immigrant Responsibility Act of 1996, or IIRIRA, which made substantial changes to the Immigration and Nationality Act regarding deportation and removal proceedings, also amended the requirements for affidavits of support, established “qualified” status for certain battered immigrants, and authorized certain exceptions to sponsor deeming of income. (Public Law 104-208, September 30, 1996)
- The Agricultural Research, Extension and Education Reform Act of 1998, known as the “Ag Research Act,” which partially restored food stamps to certain children, and elder or disabled immigrants lawfully present in the US as of 8/22/96,

and extended the time limit for the refugee group to receive benefits from five to seven years. (Public Law 105-33, June 23, 1998)

- The Farm Security and Rural Investment Act of 2002, also known as simply the “2002 Farm Bill,” which provided the most significant restoration to legal immigrants. It restored eligibility to LPR children and immigrants receiving disability-based benefits without having to be present as of 8/22/96, provided indefinite eligibility to refugees and asylees, allowed other qualified immigrants eligibility after five years in that status, and lifted the sponsor deeming requirement on children. (Public Law 107-171, May 13, 2002)

In 1997, through the bi-partisan efforts of then Republican Governor William Weld and the Democratic-lead State Legislature, Massachusetts rebuffed Congress’s decision to cut non-citizens from the food stamp program by funding state-replacement benefits for legal immigrants who lost eligibility due to PRWORA.<sup>8</sup> Fifteen other states implemented state-funded programs as well.<sup>9</sup> According to Massachusetts’s program, which allowed a broad category of eligibility when compared to other states’ programs, all legal immigrants became eligible for state-funded food stamps. Though these state replacement benefits formed an important safety net for Massachusetts’s growing immigrant population, and served 7,491 clients in June 2002 alone,<sup>10</sup> the program shifted a large financial burden to the state—a burden that it could not shoulder indefinitely. Facing growing unemployment and shrinking state revenues, the Massachusetts State Legislature sunset the state-funded program in August 2002, and its mandate expired in January of 2003.<sup>11</sup>

Just after the state-funded program tapered off, section 4401 of the 2002 Farm Bill restored federal food stamp coverage to selected groups of “qualified” immigrants over the course of a year. Eligibility was restored for blind and disabled immigrants in October, 2002, for adult LPRs with five years of “qualified” status in April, 2003 and for all “qualified” immigrant children without five years in October, 2003. As a result, benefits were reinstated for over 4,000 immigrants in Massachusetts.<sup>12</sup> Because of the 2002 end of the state-funded program and the long transition period of selective restorations in the federal program, many immigrants faced a

gap in their eligibility, which both removed them from the food stamp rolls and fed confusion about non-citizen eligibility rules.<sup>13</sup> While the 2002 Farm Bill increased the number of immigrants now eligible, the growing maze of eligibility rules and exemptions added to the complicated food stamp policies and confused many state food stamp workers, non-profits with food stamp outreach staff, and potential applicants. The increasing complexity of the policy has lead well-intentioned state workers to improperly process and incorrectly deny applications and terminate benefits. Though the most recent eligibility changes were made over two years ago, Massachusetts continues to struggle with the implementation of the food stamp eligibility regulations for immigrants.

## Immigrant Participation: A Priority for Massachusetts

Due to low immigrant participation rates and increasing immigrant populations, Massachusetts state agency officials have paid extra attention to this vulnerable population, attempting to improve their access to food stamps. At the termination of the state-funded food stamp program, the Department of Transitional Assistance (DTA) maintained active computerized records on nearly 8,000 immigrant cases, in order to automatically restore federal benefits, where clients met Farm Bill provisions.<sup>14</sup> In 2004, with the assistance of the Department of Health and Human Services (DHHS) Office of Civil Rights and the USDA-FNS Regional Office, DTA responded affirmatively to pressure from legal services advocates and immigrant rights groups to address discriminatory application and interview practices that discouraged immigrant-headed households from seeking benefits.<sup>15</sup> As a result, participation rates among immigrant-headed households are improving. On January 10, 2005, DTA reported substantial increases in food stamp applications and recertifications of immigrant-headed households. (See Attachment A) DTA has further agreed to address access barriers faced by battered immigrants and to finalize guidance to field workers on policies for serving clients with limited English proficiency (LEP).

While it is important to celebrate these gains, they are not enough. One dedicated outreach organization reports that almost all of their immigrant cases still need advocacy or follow-up. Further, they estimate that only 50% of these eligible immigrants' food stamp applications are successfully approved for benefits, even with the help of advocates. Many clients do not have the time, economic stability, knowledge of regulations, or English proficiency to follow-up on inappropriate denials. Often they abandon their denied applications, even though an advocate could help them resolve their cases and be approved for benefits. This low approval rate of eligible applicants reveals the severity of chronic, systemic access barriers to immigrant participation in Massachusetts's Food Stamp Program. Regardless of recent gains, Massachusetts's participation rates are still embarrassingly low, and the state is still struggling to enroll eligible immigrants and citizens in immigrant-headed households.

## Summary of Findings

Why are participation rates so low here in Massachusetts? What is it like for individual immigrant clients who are trying to navigate the application process? This report examines the impact of restrictive federal policies in Massachusetts, the success of recent restorations, the challenges faced by state food stamp workers attempting to implement complex eligibility regulations, and the pervasive fears which create access barriers that keep immigrant participation rates so low. From September 2004 through January 2005, Massachusetts Law Reform Institute's *Immigrant Food Stamp Access Project* has found the following systemic barriers to immigrant participation in the Food Stamp Program. The issues are broken into two sections: Outreach and Awareness-Based Barriers and Barriers to Policy Implementation. The first section pairs issues of client and community awareness with detailed recommendations for their improvement; the second highlights specific policies and practices that need further scrutiny. Individuals' stories are used to offer a "closer look" at the systemic barriers that presented repeatedly in interviews and meetings.



## Section I: Outreach and Awareness-Based Barriers

- A – Many immigrants are *simply unaware* of the food stamp program or believe they and their children are ineligible for benefits if one member of the household does not have “qualified” status.
- B – Many immigrants are *afraid that receiving benefits will interfere with their immigration status*. Often non-citizens think that receiving food stamps will classify them as a “public charge;” will lead to an inability to adjust their immigration status; or will cause their deportation.
- C – All immigrant access barriers are exacerbated by inadequate translation services and incomplete materials for clients with *limited English proficiency*.
- D – Immigrants are discouraged from applying for eligible children where application forms and agency practices require them to divulge sensitive *information on immigration status or lack of an SSN*.

## Section II: Barriers to Policy Implementation

- A – The *battered immigrant*, “qualified non-citizen,” eligibility provisions are extremely narrow, complicated to administer, and inconsistently implemented.
- B – *Sponsor deeming* procedures keep many needy families—including those with US citizen or LPR children living with sponsored immigrants and those with severely destitute individuals—from accessing food stamps.
- C – *Disabled immigrants* are unable to access disability-based benefits in order to qualify for food stamps during the five year waiting period.
- D – *Cuban/Haitian entrants* are often incorrectly denied due to lack of information and verification of their initial immigrant status.

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## *Section I:*

### *Outreach and Awareness-Based Barriers*

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*A. Many immigrants are simply unaware of the food stamp program or believe they and their children are ineligible for benefits if one member of the household does not have “qualified” status.*

Community based organizations and legal services programs report that, since the PRWORA eligibility restrictions of 1996, immigrant-headed households are increasingly unaware of the Food Stamp Program or their eligibility for it. Changing regulations, which have led to inconsistent eligibility, have confused both workers and immigrants and lead many non-citizens to assume that they are ineligible. Additionally, immigrants often face language or cultural barriers, which prevent them from seeking government assistance and make available information on this assistance more difficult to understand.

Federal, state, and private funds are invested in outreach efforts to combat this aversion, ignorance, and confusion. These efforts range from public service announcements (PSAs), to advocate trainings at community organizations, to information tables in health centers, to application assistance and information sessions with potential clients. While these activities are extremely important and helpful, they often fail to address immigrant-specific issues. Often outreach workers do not completely understand the complexities of immigrant eligibility, and thus, generate confusion as they attempt to conduct outreach. Additionally, these workers are rarely supplied with sufficient outreach materials that speak directly to immigrant eligibility issues or related fears in a clear and intelligible manner. Similarly overlooking the immigrant population, in August 2004, USDA-FNS released a new set of PSAs intended to raise awareness

of and reduce stigma associated with the Food Stamp Program. Though the PSAs were distributed nationally, and are an efficient method of alerting people about the program, they are very general and fail to address immigrant related concerns.<sup>16</sup> They are all in English and none of them makes reference to the immigrant community's deep-seated fears or concerns about receiving public benefits. Unfortunately, many outreach efforts are rife with similar pitfalls, and the immigrant population is left underserved.

## The Massachusetts Experience

**1—Many immigrants assume or are told that food stamps are only for citizen-headed families.** Compounding this problem, many service providers and even DTA workers are unclear about non-citizen eligibility rules, so potentially eligible immigrants are given inconsistent information or are wrongfully denied benefits. When this happens, they share their stories with other, potentially eligible immigrants, thereby spreading the incorrect information and decreasing awareness about possible eligibility.

*A Dominican LPR with a 12 year old US citizen son worked nights cleaning hotel rooms, barely able to make ends meet. She had heard about public benefits in the past, but also heard that they were only for US citizens. She assumed that her family was ineligible, because she was not a citizen. When she lost her job, and had to move onto her friends couch, she decided to stop at an outreach table in a health center to find out if they knew of any way she could get help. Her son was eligible for \$149 in food stamps. (case 1)*

*A community group that received a food stamp outreach grant in 2004, revealed to the Project that they were under the impression that only US citizens were eligible for food stamps. Throughout their work, they turned away all immigrants that approached them about benefits, telling these potentially eligible people that the food stamp program is only for US citizens. (example 2)*

**2—Many immigrants face cultural barriers to seeking government help and subsequently don't know about food stamps.** Some are fleeing oppressive regimes or conflicts with their native governments. As a result, they shy away from government assistance of any kind and are often skeptical or unaware of public benefits.

*A number of social workers and advocates from community-based organizations reported that some non-citizen clients are resistant to receiving government assistance. These clients resist any interaction with the government and are hesitant to go to DTA or become involved with a government benefit program. Especially vulnerable are refugees and others who have fled persecution. Although immediately eligible for food stamps, their experiences with government in their home countries make them weary of seeking government help. (example 3)*

***B. Many immigrants are afraid that receiving benefits will interfere with their immigration status. Often non-citizens think that receiving food stamps will classify them as a “public charge,” will lead to an inability to adjust their immigration status; or will cause their deportation.***

In December 2004, *USDA* reported that 49% of non-participating, eligible candidates knew about their eligibility for the Food Stamp Program, but had other concerns that kept them from applying.<sup>17</sup> Based on our research and corroborating findings by national groups like the *National Immigration Law Center* and the *Urban Institute*, the most common reason immigrant-headed households do not apply for food stamps is fear. Many immigrants believe that receiving food stamps will cause complications with their immigration status. Though state agencies, the Department Of Justice (DOJ), and the *USDA* have all made statements negating this misconception,<sup>18</sup> providers and immigration attorneys continue to reinforce these myths.

## The Massachusetts Experience

**1—Many immigrants are afraid that they will not be able to adjust their status after receiving food stamps.** Immigrants of all statuses are concerned that their immigration files will be tainted by any member of their family receiving food stamps. Undocumented immigrants fear that they will never be able to achieve legal status, people with Temporary Protected Status fear that they will not be able adjust to LPR status, and LPRs fear that they will never be able to naturalize or sponsor other immigrants.

*An immigrant in Lawrence, with a conditional green card, was afraid to leave her abusive husband because she didn't think she could support herself. When her advocate told her to go to DTA to apply for benefits, she quickly refused. According to her advocate, her immigration attorney told her NOT to get ANY benefits because they would prevent her from adjusting her status in the future. The lawyer reportedly told her that even though workers at DTA claim it is safe to get benefits, this is not true. According to her advocate, this attorney advises his clients that the Department of Homeland Security (DHS) doesn't care*

*about what kind, why, or when benefits were received; if they were for the client or her dependent children; and that they do count them against applications for adjustment. The woman was not willing to risk her future immigration status, even though her family was desperate. She chose not to apply. (case 4)*

**2—Many immigrants are afraid that receiving food stamps will cause them to be reported to DHS and deported.** Many immigrants, be they documented or undocumented, do not understand the separation between DTA and other government agencies that deal with immigration. As a result, they are afraid to give any information to DTA because they worry that it may lead to their deportation—even if they are legally present. Section 404 of PWRORA requires state agencies to report to Immigration Authorities immigrants who are “known to be unlawfully present”. Interagency guidance issued in September, 2000 by USDA, DHHS, and other federal agencies confirmed that states need only report immigrants who have been found to be unlawfully present through a formal determination (such as final order of deportation made as part of a formal determination of INS (USCIS) or the Executive Office of Immigration Review) and who present verification of such finding to the state agency.<sup>19</sup> There is no requirement that state agencies report individuals in the absence of a formal determination. DTA regulations and procedures echo this guidance. However, the mere reference to this reporting policy, which affects only a subset of the immigrant population, greatly complicates outreach efforts. Currently, outreach workers and human services providers must qualify the crucial message that DTA will not report immigrants to DHS. This often leaves immigrants with the wrong take-away message that they could be reported by DTA.

*A family of four—two legally present parents with TPS and two small US citizen kids, four and eight years old—are afraid to apply for food stamps because their neighbor and other family members warned them that they would be deported if they get anything from the government. Advocates have told them that food stamp workers won’t report them to immigration officials, but they don’t want to risk it, so they are holding out, hoping for better jobs or more work hours. (case 5)*

*Nearly every client the Project assisted asked if DTA would report them to DHS or if receiving benefits could be the grounds for their deportation. These questions came from LPRs, undocumented parents of citizen children, and refugees alike. (example 6)*

## Outreach Recommendations to State Agencies

- *Develop and distribute materials that help dispel immigrants' fears and address common eligibility questions.* These materials should be readily available on state agencies' websites and in paper form in community organizations and at local offices. They should be easily understood, tailored to the concerns of specific immigrant groups (for example LPRs, undocumented immigrants, battered immigrants, etc.), and translated into the dominant languages spoken by the state's immigrant populations. Included in this report are sample fliers for Massachusetts, developed by the Project. (Attachments C and D)
  
- *Increase food stamp outreach efforts through community-based organizations that serve immigrant populations.* These organizations have built relationships and credibility with their clients. This legitimacy is necessary for convincing them to overcome their fears and receive benefits. Trainings and outreach efforts for and through these organizations are three-fold:
  - State agencies should train community-based organizations' staffs and advocates on food stamp eligibility and application procedures. State agencies should provide them with immigrant-focused outreach materials that will enable them to connect with and enroll clients that they come in contact with on a regular basis.
  
  - State agencies should create templates for outreach presentations to potentially food stamp eligible immigrants. These presentations should include a brief introduction to the Food Stamp Program, should address immigrant-specific fears, and should be combined with individual application assistance. This will allow potential clients to understand their rights and eligibility and to start their enrollment on the spot. English as a Second Language classes are a great site for such presentations, as their participants are usually motivated to put down roots in the community and are often at elevated risk of not knowing about food stamps

because of their limited English proficiency. State agencies should provide these templates to community organizations, along with the aforementioned training, and encourage them to make presentations to participants in their usual functions, meetings and classes.

- State agencies should work with community organizations to apply for federal food stamp outreach funds, to allow these organizations to conduct outreach beyond their previously established activities. The application process for such funds can be very complicated, and outside the capacity of many community groups. USDA recently announced five million dollars in outreach grants to promote this collaboration between state agencies and community groups.<sup>20</sup> Outreach activities supported in this manner should take place at scattered sites throughout the community. State agencies should further support such efforts by sharing best practices. Medical centers and clinics provide one convenient location for such outreach. Patients tend to be waiting for appointments and have often heard about benefits from their doctors. Partnering with medical providers to recommend the Food Stamp Program and distribute fliers is a great way to reduce stigma and encourage eligible participants to stop at outreach tables. The Family Advocacy Program uses an ideal model for this work.<sup>21</sup>
- *Provide immigrant-specific information and PSAs to local ethnic newspapers and radio stations.* Often, these media outlets are excited to give airtime or printable space for outreach materials that would benefit their communities
- *Commit to cultural sensitivity trainings of food stamp workers.* Local community-based groups should be invited to meet with regional and local state agency staff to teach workers about immigrant experiences, fears, and relationships to government entities.



## Outreach Recommendations to USDA-FNS

- *Prioritize states with high immigrant populations when allotting federal outreach monies and include performance standards designed to improve participation of households with US citizen and legally present children.* In communities with large immigrant populations, cultural sensitivity trainings or conferences with local community-based groups should be seen as program costs; as a result, they should be fully federally funded.
- *Develop and translate outreach materials that specifically debunk myths about food stamp eligibility for immigrant-headed households, appease public charge concerns, and clarify the DHS reporting requirements.* The currently available USDA materials are very useful, but they miss the needs of their target audience by discussing specific policy issues, and neglecting details on the concerns and eligibility of specific populations. Fliers are either focused on a single issue, like public charge, and do not address the array concerns a client may have, or they are too general and include a little bit of information on too many issues, including technical policy changes. The generalities of the latter group of fliers may be due, in part, to state-level eligibility differences. As a result, USDA should create and distribute templates, available in an electronic editable format. These fliers should be broken up by specific target audience and should discuss eligibility issues, common myths, and important information relevant to the specific immigrant group to which the flier is geared. These groups include battered immigrants, LPRs, and mixed households. The fliers should be at an appropriate reading level and should be in the navigable format of Questions and Answers, Myths and Facts, or similar bulleted topics. State agencies could then modify these fliers according to their own regulations and distribute them to community groups around the state. Additionally, these materials should be added to the USDA website, to complement the generic materials already available. Model brochures and outreach materials are being used in Massachusetts (Appendix C).

- *Collaborate with the DHS and USCIS to produce materials, which ensure that their staffs understand public charge and food stamp eligibility issues. Similar guidance was already issued by the DOJ and DHS in 1999, but reissuing it and refreshing memories would be very helpful.<sup>22</sup> USDA has issued its own materials on public charge that can be used in this effort.*
- *Request that attorneys' associations (such as the Bar Association or the American Immigration Lawyers Association) issue memos to their members, discussing public charge issues and the DOJ and DHS guidance. A sample letter that was used in Massachusetts is included with this report. (Attachment B)*

*C. All immigrant access barriers are exacerbated by inadequate translation services and incomplete materials for clients with limited English proficiency.*

According to Title VI of the 1964 Civil Rights Act, most federally-funded activities and programs are required to ensure that they do not discriminate against clients by denying service or offering a different type or quality of service, because of a person's national origin.<sup>23</sup> Executive Order 13166 issued in August of 2002 furthered the intent of Title VI by requiring recipients of certain federal monies to ensure meaningful access to programs and activities for clients with LEP. The Department of Justice issued initial guidance to federal agencies on these requirements in January of 2001.<sup>24</sup> As a result of these federal policies, all applicants and recipients must be able to apply for benefits in the language of their choice. This includes having translators present for appointments and receiving notices in clients' languages of choice.

Though these rights are federally protected, implementing measures to safeguard them at the local level have become a challenge. The uneven distributions of LEP clients across the country, in combination with state agencies' already limited resources, make for an unequal burden on states with large LEP populations, like Massachusetts. Often, this burden is too great for states to shoulder; as a result, many clients face English only service. In the early 1990's Massachusetts advocates filed complaints with the Office of Civil Rights of the Department of Health and Human Services based on chronic failure of DTA to enforce the requirements of Title VI and provide LEP services.<sup>25</sup> In subsequent years, Massachusetts has issued field guidance requiring workers to provide interpreters to LEP clients. Most recently, guidance issued in September of 2002 reminded workers of the availability of tele-language lines.<sup>26</sup> However, problems with the implementation of these rules persist around the country.<sup>27</sup> According to many Boston community organizations' and legal services offices' advocates, these language barriers are the most stifling systemic barrier to immigrant participation in the Food Stamp Program.

## The Massachusetts Experience

### **1—LEP clients are not receiving interpreters and are frequently served in English.**

Although DTA now has access to tele-language line for immediate interpretation, it is expensive and severely underutilized by field staff. Advocates from GBLS and community groups report that clients are told to bring their own interpreters or asked to rely on their minor children or other clients present at DTA. Even with these make-shift options, many clients are still subjected to English-only service and do not understand the application process. Advocates report that local DTA workers often refuse to get translators or claim that a client can “understand enough to get by.” Workers may fail to recognize that a basic understanding of English is not sufficient for responding to the nuances required in the application process and that clients have the right to decide if they want a translator. As a result, many eligible people are denied or receive lower benefit amounts, because they cannot understand what is being asked of them.

*In Quincy, a Vietnamese speaking, Amerasian mother and her two small children, one of whom was disabled and on SSI, lost their food stamp benefits because they did not complete their recertification. When she went to the Quincy DTA office, to recertify for TAFDC and food stamps, she did not understand the worker’s instructions and wrongly assumed she had completed the application process. Her benefits were terminated for failure to complete the recertification process, and she received an English notification of termination. The woman did not understand the letter, but knew something was wrong when her EBT card didn’t work. Later, she consulted an advocate who was able to help her recover 12 months of retroactive benefits. (case 7)*

*An 82 year old LPR from China, who speaks very little English, has not been getting her food stamps for six months, and she doesn’t know why. She was not offered a translator at DTA, and when a social worker at a local community organization called DTA to ask for information, she was told to come directly to the office with the client. Because the organization does not have the staff to accompany clients to DTA, this senior remains without benefits. (case 8)*

*Many of the LEP clients that the Project met at local DTA offices were accompanied by their own translators. Most claimed they had previously been denied translators by DTA. Some spoke enough English to make appointments, so workers may have assumed they did not need translators; however, the Project found that many of these clients' English was not strong enough to navigate the food stamp application. As a result, many had received denial or termination notices, but did not know why. They brought their own translators, who included social workers, friends, and relatives, to help them figure out why they were having problems with their food stamps. (example 9)*

**2—Phone systems are primarily English-based, so LEP clients have difficulty contacting workers, leaving messages, and receiving information.** Many offices throughout the state, including the Davis Square, Fall River and Pittsfield offices, are answered by an English-only recording. A few have bi-lingual messages, with Spanish, which help the 18,751 Spanish-speaking households, however, they do not assist the over 8,500 households who speak languages other than English or Spanish.<sup>28</sup> As a result, many clients are incapable of navigating the computerized phone systems' instructions to reach their workers' extensions, or cannot communicate with their English speaking workers if they are connected. Consequently, the only way for them to communicate with DTA is to physically go to the office. For many clients, especially those who are working or disabled, this is not an option.

*A Somali refugee had her food stamps terminated for failing to verify her son's income. Each conversation with her English-speaking worker left her more confused. She tried calling to clarify what was needed, but could not navigate the phone system or communicate with her worker without a translator. Consequently, she had to go to the office every time she needed to talk to her worker; however, because she could not use the phone, she could not make appointments or be sure that the worker would be there when she arrived at DTA. She was working, so continually taking time off work to go to DTA became impossible. Her account lapsed for four months, until a legal services advocate helped her get retroactive benefits by explaining that the son's income was not countable since he was a student. (case 10)*

*Advocates from GBLS report this lack of LEP services to be so chronic that dealing with it has become routine. Clients are consistently denied benefits as a result of their inability to navigate the phone system. Many of GBLS's clients are fulfilling TAFDC or food stamp work requirements and would be fired if they missed work to go to DTA every time there was a complication with their food stamp cases. (example 11)*

**3—Notices, applications, and written materials are in English or Spanish only.** The Massachusetts application and notices of eligibility, denial, or termination are only available in English and Spanish. Many DTA notices and forms are sent to clients with a slip of paper, or “babble sheet,” that says “This is an important document. Have it translated,” in many languages. Many people have problems finding a translator who is both literate and understands DTA’s jargon and thus, are left unclear about the contents of the notices. This too often results in unnecessary denials or misunderstandings.

*Advocates at the Greater Boston Chinese Golden Age Center report translating letters for their elderly clients. These seniors have to bring the letters to the attention of the agency, or they will go unnoticed and untranslated. Advocates worry that some of their clients are not getting all of their letters translated and are missing important information. (example 12)*

**4—Outreach efforts fail to reach LEP clients.** Community-based outreach efforts, sponsored by non-profit organizations, are conducted primarily by English speaking staff members with English outreach materials. At best, the worker and materials will be bi-lingual with Spanish, but speakers of any of the multitude of other languages present in the state cannot access these outreach efforts.

*Limited outreach monies in Massachusetts have caused non-profits to limit the scope of outreach services they can provide. Though some large organizations have employed tele-language lines and have multi-lingual materials, most outreach services in the state tend to be limited to English and Spanish. (example 13)*

## LEP Recommendations to State Agencies

- *Develop practices that require workers to use tele-language lines or interpretation services whenever bilingual staff is not available.* Massachusetts offices have contracted with an outside translation service to provide instant phone translations. Funding for such services should be prioritized and workers should be made to feel comfortable using them.
- *Meaningfully give notice of clients' rights to language services, including displaying large, multilingual signs in every food stamp office to alert clients of these rights.* Maine was recently commended by USDA's list of best practices for such signs.
- *Establish a multilingual phone system.* State agencies' phones should be answered by a multilingual recording, that gives clients options for service or further recordings in that language. Additionally, state agencies should require workers to use the tele-language line for incoming calls from clients with LEP, so that they can receive the same phone services provided to English speakers.
- *Provide simple outreach materials about immigrants' rights and eligibility in food stamp offices, so that clients can peruse them while waiting for their appointments.* Becoming familiar with relevant terminology and rules, as well as their rights to translators, will help them successfully complete the application process. See the materials in Attachment C.
- *Translate a simplified food stamp application into the predominant languages presented in each region of the state.* Massachusetts currently offers applications in English and Spanish. Washington state has translated the application into 15 languages, which are readily available online.<sup>29</sup>

- *Send clients notices that are at an appropriate reading level and in their primary language.* Current notices are incredibly difficult to understand, even for native speakers. Giving more information in simple terms, would minimize misunderstandings and help immigrants better understand their own cases and advocate for their benefits.

## **LEP Recommendations to USDA-FNS**

- *Assist local offices that handle high volumes of LEP cases, by granting additional funding for interpreters, tele-language lines, and translations.* Such resources do not help LEP clients if state offices do not have the funds to fully utilize them. If possible, support these services as program costs, fully covered by federal funds.
- *Draft sample templates for LEP materials for use in local offices, including translated applications, outreach materials and brochures that list immigrants' eligibility and rights.* Though the materials on USDA's website are translated into a multitude of languages, the materials themselves need to be reworked. See the comments in the Outreach Recommendations section and Attachment C.



**D. Immigrants are discouraged from applying for eligible children where application forms and agency practices require them to *divulge sensitive information on immigration status* or lack of an SSN.**

Federal food stamp household composition rules operate on the premise that all persons who purchase and prepare food together are in the same household, with mandatory inclusion of children, parents, and spouses.<sup>30</sup> This rule has generally driven state agencies to require households to list all members and provide detailed information on individuals to determine if they are food stamp eligible, including information on their immigration status and social security number (SSN). This has presented challenges for immigrants wishing to apply for their eligible children but not themselves.

In response to concerns of possible violations of Title VI of the Civil Rights Act with regard to discrimination on the basis of national origin, USDA and DHHS issued guidance to states in September of 2000 authorizing them to modify applications and verification requests of households that contained immigrant members.<sup>31</sup> Specifically, states were authorized to let immigrant household members designate themselves as non-applicants and not provide sensitive information on their immigration status or SSN. As DHHS stated in its press release of September 21, 2000, *“Many states have developed joint applications for a number of programs, such as Medicaid, TANF and food stamps, to make it easier for individuals to receive the services they need. In many situations, this has resulted in the inclusion of questions regarding the citizenship, immigration status and Social Security number of persons who are living in an applicant’s household, but who are not applying for benefits or who are not eligible for benefits. These inquiries may have the unintended effect of discouraging some families from applying for and receiving benefits to which they or their children are entitled. The guidance recommends that states review their application forms and eligibility determination processes and make changes, if necessary.”*

During 2003 and 2004, Massachusetts legal services and immigrant rights advocates launched a campaign to track the experiences of immigrant-headed households seeking benefits

for eligible family members. Based on the scope and severity of problems experienced by immigrant-headed households, and following complaints filed with the Regional HHS Office of Civil Rights, advocates succeeded in convincing the Department to adopt a systemic change consistent with the September 2002 Guidance. Statewide instructions to workers were issued along with the development of a client brochure, “What a Non-Citizen Needs to Know” and a screening tool that allows an immigrant to self-declare as a non-applicant for cash assistance and food stamps.<sup>32</sup> This screening tool and brochure were adopted effective October 1<sup>st</sup>, coupled with a statewide training of 800 food stamps workers the last week of September of 2004 and a reprogramming of the state’s computerized application and eligibility system.

## The Massachusetts Experience

**1— Food stamp and TAFDC application and verification procedures may intimidate immigrant headed households by requiring immigration information and SSNs from individuals who do not wish to apply for benefits for themselves.** Clients have a range of reasons for not wanting to divulge their immigration information. Though they are legally protected from having to do so, the application procedure often leads workers to require such information. The following case examples reported to the Project involve incidents prior to October of 2004.

*An unemployed, undocumented 35 year old mother caring for her one and a half year old US citizen son was urged to apply for food stamps by her son’s pediatrician. When she got to DTA, her worker demanded her immigration information. She was too scared to tell them that she was undocumented and left the office. Later, she sought the help of an advocate who has contacted DTA to straighten out the case. (case 14)*

*A family of four Haitian immigrants with mixed statuses and one US citizen baby, wanted to apply for benefits. After discussing their situation with an advocate, they understood that only the US citizen baby and her LPR grandfather were eligible for food stamps, so they tried to apply for a household of two. However, their DTA worker demanded the SSNs of everyone living in the house, even if they were not*

*applying for themselves. When they did not provide SSNs for the non-applicant members, the family was denied for lack of verifications. Advocates called on their behalf and benefits were later allotted. (case 15)*

*A 28 year old mother who lives in Waltham, earning \$250 per week as a home health aid, tried to apply for benefits for her one year old US citizen son. She reported her earnings to DTA, but was denied by her worker who told her that she was a part of her son's household, and thus had to include herself in the application. The woman did not have proof of legal status and was concerned about DTA contacting her employer, so she left DTA without completing the application. Shortly thereafter the woman lost her job, and sought an advocate who helped her get \$149 per month for her son. (case 16)*

*A Salvadoran mother with TPS recently lost her job and now stays home to take care of her two US citizen children. She was fearful of giving any information on her status because of her experiences with her native government, and because she believed she would be deported if she sought benefits. She finally agreed to apply for benefits for her kids because an advocate told her she wouldn't have to give any information about her own immigration status. When she went to DTA, her worker demanded her, SSN even though she was only applying for her children. Her advocate finally convinced her to provide the requested information, telling her that she could get more benefits if she gave her immigration status. Though she provided the information, she was very uncomfortable doing so, and is still uneasy about receiving benefits. (case 17)*

## **Recommendations to State Agencies about Immigration Information**

- *Ensure that application systems are in place to protect clients from being asked for sensitive immigration status or SSNs. Massachusetts has implemented an initial screening process so that non-citizens can decide not to apply for food stamps for themselves.<sup>33</sup> Massachusetts engaged workers in a statewide training on the procedures for allowing immigrants to self-designate as non-applicants and is working towards including this screening process in its computerized eligibility system. As new state workers are hired, it is critical that the screening procedures are fully institutionalized. States are encouraged to create application procedures consistent with the USDA/DHHS guidance and to conduct regular trainings to familiarize workers with these procedures.*

Client materials should advise immigrant applicants of their right to withhold information about their immigration status, while explaining their obligation to provide information on income and other elements that affect the household. Conversely, immigrants who wish to voluntarily provide information on their immigration status should be afforded the opportunity to do so in a non-intimidating manner.

- *Ensure that food stamp applications clearly advise clients of their rights to withhold information about their immigration status if they are not seeking benefits for themselves.* Although DTA has developed other materials that allow an immigrant to self-designate as a non-applicant, the current Massachusetts application form still requires the SSN of the head of household on the front page. This information should be removed or qualified so that immigrant clients understand that it is optional. States are encouraged to review their application materials for similar questions that may chill an individual's willingness to pursue benefits for eligible family members.
- *Commit to cultural sensitivity trainings of food stamp workers.* These trainings should explain why non-citizen clients may be reluctant to disclose information about their immigration status and should promote sensitive ways of dealing with immigrant-specific concerns. Such trainings are also discussed in the Outreach Recommendations section.

## **Recommendations to USDA-FNS about Immigration Information**

- *Encourage cultural competence trainings for all food stamp workers.* Providing templates and best practices would encourage states to conduct such trainings and would facilitate more productive and focused efforts.
- *Promote sample pre-screening tools that can be used by states.* A number of states have developed revised applications and screening tools consistent with the DHHS/USDA Guidance which may be useful to other states.



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## *Section II:*

# *Barriers to Policy Implementation*

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The following section identifies specific policy implementation issues affecting four populations of otherwise eligible immigrants: battered immigrants, sponsored LPRs, disabled immigrants, and Cuban/Haitian entrants. These cases surfaced in the outreach and case-tracking work of the Project. The Report summarizes the relevant federal eligibility provisions and identifies some of the specific policy or procedural barriers faced by the immigrant households seeking food stamps and other benefits. MLRI staff members have been involved in ongoing negotiations with DTA, SSA and USDA over a number of these policy issues. This section was written jointly with Patricia Baker, Senior Policy Analyst at MLRI.

Section II does not address specific recommendations but presents issues for further scrutiny and recommendations by MLRI, the MIRA Coalition, and the Food Stamp Improvement Coalition.

***A. The battered immigrant, “qualified non-citizen,” eligibility provisions are extremely narrow, complicated to administer, and inconsistently implemented.***

Battered immigrants are one of the most vulnerable populations in our society. Section 501 of IIRIRA expanded the scope of “qualified non-citizen” under PRWORA to include as “qualified,” battered immigrants who enter with pending family visa petitions filed by US citizen or LPR spouses or parents, or who self-petitioned under VAWA. Section 5571 of the Balanced

Budget Act of 1997 (Public Law 105-33) added children of battered parents as “qualified.” The Project has tracked a number of Massachusetts cases where otherwise eligible battered immigrants and their children who meet the “qualified non-citizen” provisions were nonetheless denied food stamp benefits due to misapplication or misunderstanding of the eligibility rules. The Project has also talked with many human services providers who noted that many of their battered immigrant clients do not fall within the official definition of “qualified” even though legally present, because they were battered by boyfriends, battered by spouses who were not U.S. citizens or LPRs, or were petitioned for by family members who were not spouses or parents. This section tracks only those battered immigrants who meet the definition of “qualified non-citizen” but were nonetheless denied.

**1—DTA workers frequently do not understand that battered immigrants in pending status may be “qualified non-citizens,” and failure to recognize that the minor children of battered immigrants are not subject to the five year wait.** The eligibility rules affecting battered immigrants are incredibly complicated and chronically misinterpreted. Many well-intentioned state agency workers wrongly deny eligible clients because they do not understand which battered immigrants fulfill the criteria as “qualified,” or because they cannot easily confirm their clients’ pending statuses through SAVE, or they mistakenly believe that SAVE will confirm the date a VAWA petition was approved or a relative petition filed for purposes of the five year wait. There is insufficient guidance on how to identify immigrants who were petitioned for by U.S. citizen or LPR spouses or parents, on the derivative status of children, and little if any federal or state guidance on how to determine the onset of the five year food stamp waiting period for battered adults, whose time in pending status should count toward their five years.

*A legally present Columbian immigrant and her minor child became victims of domestic violence within one year of their arrival to the United States. Although her US citizen husband had filed a relative petition (I-130) for both the mother and her child, they fled to a domestic violence shelter after months of escalating violence at home. When she applied for food stamps and cash assistance, the mother produced her employment authorization document (Form I-688) and letters from the shelter confirming the domestic violence and her urgent need for help. Although she explained she had fled her abusive husband and had no other documentation of status, she was*

*nonetheless denied benefits for herself and her children. The welfare worker wanted proof that the mother had filed a VAWA self-petition (I-360), and did not understand that immigrants with pending I-130 petitions are “qualified” as battered immigrants. The worker also did not understand that her child was food stamp eligible without the five year wait. With intervention by MLRI and an expert affidavit from an immigration attorney, the food stamps were approved in November of 2004 - but only for the immigrant child, as the mother must wait a full five years in “qualified” status. (case 18)*

*A battered mother from New Bedford left her husband in an attempt to protect their four children from harm. Two of the children are US citizens and the other two and mother received legal status through I-360 VAWA self-petitions. According to a Legal Services advocate the mother was initially denied food stamps when the state worker reportedly did not know what a VAWA petition was and claimed that all “qualified” immigrants, including children, must wait five years before getting benefits. The mother returned to apply a second time armed with legal advice, but was again denied on the basis that her earnings made the children financially ineligible. The food stamp worker had calculated all of the mother’s earnings against a two person grant for the citizen children only, failing to include the “qualified” children not subject to the five year wait and failing to give the mother a favorable income calculation as a legally present but ineligible parent. The case was eventually resolved through Legal Services intervention. (case 19)*

**2—There is a lack of screening for the battering exception to sponsor deeming and a loss of spousal work history for immigrants who divorce their spouses.** Section 552 of IIRIRA also amended the sponsor deeming provision of PRWORA by providing a waiver from sponsor deeming for battered immigrants who meet the criteria for “qualified” status as battered. Nonetheless, some battered immigrants are still inappropriately denied due to sponsor deeming. In addition, for LPRs who do not otherwise qualify as battered under the “qualified non-citizen” definition, or who are subject to the five year bar, spousal work history may be critical in achieving the requisite 40 quarters of work history to jump the five year bar or be exempted from deeming. That history becomes inaccessible to these clients upon their divorces.

*A victim of domestic abuse from the Dominican Republic was forced to leave her abusive US citizen husband to escape the violence. When she sought food stamps in the Merrimack Valley, she was denied for lack of sponsor information. The local office made no exploration of her eligibility as a battered immigrant, nor did they confirm the possibility that her sponsor had likely*



*signed the old affidavit of support (I-134), since her date of entry was within a few months of December 1997, when INS still accepted the I-134 affidavits. According to the fair hearing decision, the mother tried to get the information from the INS, but was denied access. Her legal representative stated that her abusive husband had a copy, but in order to get it, she would have had to contact him and put her family back at risk. Even if her husband had signed a legally enforceable affidavit of support, she should have been offered a battered immigrant waiver from sponsor deeming. The hearings officer failed to explore both issues and upheld her denial in a decision on April 2004. Legal Services was able to reverse this denied appeal decision. (case 20)*

*Greater Boston Legal Services reported of battered immigrants with LPR status who find themselves subject to the five year bar and/or sponsor deeming of income. Though they may currently be eligible through their work history—which is deemed from their spouses—if they divorce their batterers, these LPRs will lose their spouses’ work history, which makes them eligible, by allowing them to avoid the five year bar and claim and exemption from sponsor deeming. The potential ineligibility that would result from their divorces encourages them to stay in abusive relationships. (example 21)*

**3—SSA District Offices fail to follow procedures for processing applications for SSNs for battered immigrants in pending status.** Massachusetts advocates report that SSA District Offices often refuse to issue non-work SSNs to battered immigrants who lack work authorization, even though these immigrants are otherwise eligible for a federal benefit such as food stamps. A number of states have found that SSA district offices fail to follow the SSA policy authorizing issuance of non-work SSNs to immigrants seeking federal needs-based benefits.<sup>34</sup> Without proof that she is applying for an SSN, a battered immigrant can be denied food stamps.

*US citizen petitioned for his wife and children. After the marriage turned abusive, the mother and kids fled the home, and the husband abandoned the I-130 family petition. The mother subsequently filed a self-petition under VAWA and was determined prima facie eligible, although she was not immediately granted work authorization. At the advice of legal services, she applied for TAFDC and food stamps for her family, as battered immigrants. A few months later, DTA terminated her assistance for lack of an SSN. Despite documentation of her family’s eligibility for TAFDC and food stamps as battered immigrants, the SSA refused to issue a non-work SSNs,*

*ignoring federal procedures that authorize SSNs for individuals who are applying for and eligible for federal needs-based benefits. The case is still under negotiation. (case 22)*

***B. Sponsor deeming procedures keep many needy families—including those with US citizen or LPR children living with sponsored immigrants and those with severely destitute individuals—from accessing food stamps.***

Sponsor deeming is one of the most difficult and potentially harmful eligibility rules that affects both LPRs and non-sponsored family members. Under Sections 421 through 423 of PRWORA, the income and assets of individuals who sign legally enforceable affidavits of support are counted toward the immigrant and other household members as if they were available. The sponsor deeming requirements were amended by Section 501 of IIRIRA to allow for a waiver for battered immigrants and an “indigence exception” for individuals who do not receive sufficient support from their sponsor, qualify as indigent, and agree to have their names and their sponsor’s names reported to the Attorney General. Massachusetts immigrant rights advocates and human services providers report that many state food stamp workers implement the deeming rules in conflicting ways; that immigrants find the sponsor deeming process confusing and intimidating; and that clients often forgo benefits for otherwise eligible family members if they fear their sponsor will be dragged into the application process.

**1—Many LPRs who are not subject to sponsor deeming are wrongly denied due to confusion over the type of affidavit and inability of SAVE to confirm the affidavit.** Only immigrants with legally enforceable affidavits of support, Form I-864, are subject to sponsor deeming under PRWORA and IIRIRA. LPRs who received their status through the Diversity Lottery are periodically required to secure affidavits of support, but DHS generally requires their sponsors sign I-134 non-enforceable affidavits. Additionally, most immigrants who entered before December 19, 1997, or within six months of this date, tend to have the I-134 affidavits of support. Nonetheless, DTA workers often assume that any LPR who entered on or after

12/19/1997 entered with the legally enforceable I-864 affidavit of support, and oblige these clients to produce their sponsors' information. This often leads to inappropriate denials for immigrants who cannot access these documents from their sponsors. Notwithstanding USDA guidance to the contrary, SAVE is not able to produce a copy of the affidavits. Though most immigration documents can be accessed by filing a Freedom of Information Act request (FOIA), legal services advocates report that a FOIA response from DHS can take up to six months, and their clients are denied benefits well before the documentation arrives. LPRs are routinely denied food stamps for lack of sponsor information—whether or not that information would make them ineligible.

*A family of five Ethiopian LPRs arrived in Massachusetts in 2003, after being granted green cards through the diversity lottery. Like many immigrants who got their status through the diversity lottery, they have unenforceable I-134 affidavits. The father works nights at a parking garage to make \$370 per week, but this does not fully support his one and a half, five, and six year old children whose mother stays home to care for them. Out of desperation, the family moved in with the mother's brother; they tried to maintain their autonomy and hoped to move out again as soon as possible. When they applied for food stamps, they were denied, because they failed to provide sponsor information, even though none of them are subject to sponsor deeming. The case was subsequently reported to legal services for representation and is pending. (case 23)*

*As noted in case 20 above (in the battered immigrant section), a victim of domestic violence from the Dominican Republic was forced to leave her abusive US citizen husband to escape the violence. When she sought food stamps in the Merrimack Valley for her family, she was denied by the local welfare office for lack of sponsor information. The local office made no exploration of her eligibility as battered immigrant, nor did they confirm the possibility that her sponsor had likely signed the old affidavit of support (I-134), since her date of entry was within a few months of December 1997 when INS still accepted the I-134 affidavits. The case was subsequently resolved through Legal Services intervention. (case 24)*

**2—Families with US citizen or LPR children are frequently denied food stamps due to sponsor deeming, even though these children are exempt.** The 2002 Farm Bill expressly exempts LPR children from deeming of sponsor income. However, many of these children live with their LPR parents, as do many US citizen children. In a bizarre turn of events, if the parent

is sponsored, the children are often denied food stamps through the residual or “pass through” deeming from the LPR to the rest of the food stamp household, or because the sponsored parent or other sponsored household member fails to produce the affidavit of support. The whole family is denied even though the LPR and U.S. citizen children are not subject to deeming and otherwise eligible. Although Massachusetts issued field guidance instructing workers not to impose deeming in food stamp households with minor children pending resolution of systems changes to address sponsor deeming,<sup>35</sup> local DTA offices frequently demand this information. LPR headed households, unable to produce the affidavits of support in a timely manner, lose benefits for their entire households.

*In an October 2004 fair hearing, an unrepresented LPR mother and her minor child were denied food stamps, because the mother failed to provide verification of the her sponsor’s income. The sponsor is not helping the family in any way, but the income deemed from him would put the family over the limit for benefits. The case worker claimed that his income had to be deemed. The hearings officer upheld this denial, failing to note that the child was not subject to sponsor deeming and further that under DTA procedures, the mother could request to be a non-applicant so that her child could get benefits on his own. (case 25)*

*In a November 2004 DTA training of legal services advocates on non-citizen screening procedures, the DTA Central Office staff noted that the Lawrence DTA office chronically denied or terminated food stamps where a household member was sponsored, even when the household contained US or LPR minor children. DTA has since instructed this office to discontinue this policy, but advocates report ongoing confusion around the state. (example 26)*

**3—Due to the lack of information and fear regarding personal information going to the federal office of the Attorney General, the “indigence exception” under sponsor deeming is not a realistic option and is thus rarely invoked.** As noted above, guidance exists to clarify what happens to clients’ information after it is sent to the office of the Attorney General. Clients, most of whom are concerned about protecting their sponsors and are nervous about harming their own immigration status, will not consider the indigence exception without knowing the ramifications.

*Advocates from Greater Boston Legal Services and the MIRA Coalition report that the indigence exception is almost never used. One advocate in GBLS's benefits unit, who handles many food stamp cases, reports only having one client over the past 3 years use the indigence exception. (example 27)*

*An 83 year old LPR from Haiti became reliant on food stamps when she had to begin a new, more expensive diet upon being diagnosed with diabetes. When she tried to recertify her benefits, she was denied for failure to provide sponsor information. She had no idea what this meant or why her benefits were cancelled. When the Project explained sponsor deeming and the indigence exemption, she immediately shied away. She did not want to harm her daughter, who had sponsored her, and was scared to send any information to the Attorney General, since she was hoping to naturalize. She called her immigration attorney, who advised her not to get benefits and to focus on her naturalization application. She remains without food stamps. (case 28)*

*C. Disabled immigrants are unable to access disability-based benefits in order to qualify for food stamps during the five year waiting period.*

The 2002 Farm Bill authorized food stamps for “qualified” immigrant adults, without having them wait five years in status, provided they are receiving a disability-based benefit. The federal food stamp program does not provide an independent mechanism for verification of disability for food stamp eligibility purposes, nor does it reimburse states for the costs of disability evaluations. Given the five-year bar on TANF and Medicaid eligibility under Section 403 of PWRORA, the only option for most disabled immigrants to get federal food stamps is accessing state-funded disability benefits. In Massachusetts, disabled individuals without children, including legally present immigrants, may qualify for disability-based benefits through the state’s general assistance program, known as EAEDC (Emergency Aid to Elders, Disabled and Children), if the individual meets the program’s stringent disability criteria and very low income and asset thresholds (less than \$303/month countable income and less than \$250 assets/individual).<sup>36</sup> Under Massachusetts state rules, parents or related caretakers of minor children are not eligible for EAEDC as individuals, even if they are severely disabled.<sup>37</sup> The TANF funded program is generally not an option, given the five year bar and the difficulty within that program of securing a disability determination if the family is otherwise exempt from the two year time limit for other reasons, such as having a child under age two or a disabled child needing care. The difficulty of getting a state-funded disability benefit makes it impossible for many qualified immigrants to meet this Farm Bill provision.

*A South African LPR mother and her two US citizen children were initially denied food stamps in 2004. The mother is severely disabled by breast cancer and daily radiation treatments. She spends a portion of every week in bed, sick from her chemotherapy treatments. In addition to her debilitating fight with cancer, she was abused by her husband and left him in an effort to spare her children. When she went to the local welfare office for help, she was told she was ineligible for benefits because she had only been an LPR for 3 years. She was erroneously told she could not get*

*any benefits for her US citizen children either. Though doctors agree that she was disabled, the woman could not verify her disability because she does not fit the state requirements for disability-based benefits. She was not given a disability evaluation for TAFDC cash assistance or MassHealth because she qualified as a battered immigrant, and she couldn't get EAEDC cash assistance because this program is for disabled adults without children. Later, with the intervention of Legal Services, she was able to get food stamps for the children and cash assistance for the whole family. (case 29)*

*A Moroccan family of two parents and 3 children—a 9, 13 and 15 year old—won their green cards through the diversity lottery in 2004. Shortly after their arrival, the mother was diagnosed with breast cancer and had to quit her job due to the intense, disabling treatments that accompany the disease. The children were immediately eligible for benefits, but the parents were subject to the five year bar. The mother's disability should have made her immediately eligible, but she had no way to prove her condition. She was not eligible for SSI because of her immigration status, TAFDC because of the five year bar, EAEDC because she had children. Though doctors were willing to certify her disability, she could not prove it for benefits' purposes and remained without food stamps. (case 30)*

*D. Cuban/Haitian entrants are often incorrectly denied due to lack of information and verification of their initial status.*

Section 5302 of the Balanced Budget Act of 1997 amended PRWORA to include, among other select groups, “qualified” non-citizen status for Cuban and Haitian nationals whose status was granted pursuant to Section 501(e) of the Refugee Education Assistance Act of 1980, or REAA (Public Law 96-442, October 10, 1980). Workers are unclear about what verifications or status constitutes Cuban or Haitian entrant status or what eligibility rules apply to them. Further, many Cuban and Haitian entrants subsequently adjust to LPR status.

As with other immigrant eligibility rules, Massachusetts’s food stamp workers rely on the SAVE verification system to confirm immigration status necessary for a benefits determination, and often do not use the “secondary verification” – the Form G-845 process under SAVE - to get additional information for Cuban or Haitian nationals, such as the original basis for entry if the individual is within the five year bar or has an expired parole document. In many cases, SAVE may simply indicate that the Cuban or Haitian national has work authorization or LPR status, without enough information for state food stamp workers to determine if the individual nonetheless meets the provisions of Section 501(e) of REAA. Because of the complex rules and lack of familiarity with REAA, DTA workers tend to assume that a Cuban/Haitian with LPR status is simply ineligible for five years of entry into that status, without checking the original basis for entry. For many Cuban and Haitian entrants, a FOIA request may be the only route to verify information that would qualify them under the REAA provisions, but this can take months, and is rarely, if ever, done by state workers. Unrepresented clients may never get benefits in a timely manner.



*In a fair hearing decision dated June 2004, an 18 year old Cuban/Haitian entrant's benefits were cancelled when he turned 18. DTA's representative testified that he had been eligible as a minor but upon turning 18 was subject to the five year bar. The worker failed to recognize that his Cuban/Haitian status made him immediately eligible, at any age. Thanks to the sharp eye of an advocate, and a positive fair hearing decision, his benefits were reinstated. (case 31)*

*In Worcester, a 40 year old Cuban national, his wife and their seven children receive food stamps to make ends meet. The father was a Cuban/Haitian entrant and had provided his I-94, stamped with this status, when they applied. After getting benefits for a few months, they received a notice from DTA terminating the family's benefits and requesting repayment of an overpayment. The termination notice cited the father's immigration status as the cause of their ineligibility. As it turns out, SAVE had only showed him to be an LPR, and since he had not had that status for five years, the worker assumed he was ineligible. The family's food stamps were terminated and only reinstated after a hearing officer reversed the actions of the local office. (case 32)*

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<sup>1</sup> Castner, Laura A. and Allen L. Schirm. "Reaching Those in Need: State Food Stamp Participation Rates in 2001." *Mathmatica Policy Research Inc.* February 2004.

<sup>2</sup> "Food Stamp Participation Access Rates: State By State." *Food Research and Action Center.* December 2004. Available at [http://frac.org/html/federal\\_food\\_programs/FSP/Participation\\_Rates\\_03.html](http://frac.org/html/federal_food_programs/FSP/Participation_Rates_03.html).

<sup>3</sup> "Summary of C-SNAP Findings on Immigrant Families." *C-SNAP.* October 4, 2004. Available at <http://dcc2.bumc.bu.edu/csnappublic/Immigrant%20Data%20Summary%209-04.pdf>.

<sup>4</sup> Capps, Randolph. "Hardships Among Immigrant Children." *The Urban Institute.* February 1, 1999. Available at <http://www.urban.org/url.cfm?ID=310096>.

<sup>5</sup> Cunnyngham, Karen. "Trends in Food Stamp Program Participation Rates: 1999 to 2002." *Mathmatica Policy Research Inc.* September 2004.

<sup>6</sup> "Percentage of the Population that is Foreign Born: By State." *US Census Bureau, 2002 American Community Survey.* August 25, 2004. Available at <http://www.census.gov/acs/www/Products/Ranking/2003/R15T040.htm>.

<sup>7</sup> "A Short History of the Food Stamp Program." *US Department of Agriculture.* Available at <http://www.fns.usda.gov/fsp/rules/Legislation/history.htm>.

<sup>8</sup> FY 1998 State Budget, Chapter 43 of the Acts of 1997. Section 2 line items: 4000-0175.

<sup>9</sup> "Food Stamp Restorations For Legal Immigrants." *Food Research and Action Center.* May 6, 2002. Available at <http://www.frac.org/html/news/immtalkingpoints050602.htm>. Also, see Gigliotti, Katherine. "Food Stamp Access for Immigrants: How States Have Implemented the 2002 Farm Bill Restorations." *National Conference of State Legislatures.* August 2004, for information about those programs and the implementation of the federal restorations.

<sup>10</sup> "Facts and Figures Report: June 2002." *Department of Transitional Assistance.* June 2002. Available at [http://www.masslegalservices.org/docs/DTA\\_FFR\\_20020601.pdf](http://www.masslegalservices.org/docs/DTA_FFR_20020601.pdf).

<sup>11</sup> FY 2003 State Budget, Chapter 184 of the Acts of 2002, section 2 line item 4404-1000.

<sup>12</sup> Capps, Randy, Robin Koralek, Katherine Lotspeich, Michael Fix, Pamela Holocomb, and Jane Reardon Anderson. "Assessing Implementation of the 2002 Farm Bill's Legal Immigrant Food Stamp Restorations: The Final Report to the United State Department of Agriculture Food and Nutrition Service." *The Urban Institute.* November 2004.

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- <sup>13</sup> Gigliotti, Katherine. "Food Stamp Access for Immigrants: How States Have Implemented the 2002 Farm Bill Restorations." *National Conference of State Legislatures*. August 2004.
- <sup>14</sup> Capps, Randy, Robin Koralek, Katherine Lotspeich, Michael Fix, Pamela Holocomb, and Jane Reardon Anderson. "Assessing Implementation of the 2002 Farm Bill's Legal Immigrant Food Stamp Restorations: The Final Report to the United State Department of Agriculture Food and Nutrition Service." *The Urban Institute*. November 2004.
- <sup>15</sup> "Field Operations Memo 2004-34: TAFDC and Food Stamp Processing Guidelines for Non-Citizen Applications." *Department of Transitional Assistance*. September 20, 2004. Available at <http://www.masslegalservices.org/cat/1152>.
- <sup>16</sup> These public service announcements are available at <http://www.fns.usda.gov/cga/radio.htm>.
- <sup>17</sup> Bartlett, Susan, Nancy Burstein, and William Hamilton. "Food Stamp Program Access Study: Final Report." *US Department of Agriculture*. November 2004. Available at <http://www.ers.usda.gov/publications/efan03013/efan03013-3/>.
- <sup>18</sup> The USDA guidance is available at [http://www.fns.usda.gov/fsp/rules/Memo/PRWORA/99/FSP\\_letter.htm](http://www.fns.usda.gov/fsp/rules/Memo/PRWORA/99/FSP_letter.htm), the INS guidance at <http://www.fns.usda.gov/fsp/rules/Memo/PRWORA/pdfs/fieldguidance.pdf>, and a White House press release on the subject at [http://www.fns.usda.gov/fsp/rules/Memo/PRWORA/99/VP\\_PR.htm](http://www.fns.usda.gov/fsp/rules/Memo/PRWORA/99/VP_PR.htm).
- <sup>19</sup> 65 Fed. Reg. 58,301, September 28, 2000.
- <sup>20</sup> Information about these grants is available at <http://www.fns.usda.gov/cga/PressReleases/2005/FNS-0001.htm>.
- <sup>21</sup> The Family Advocacy Project's website, with all relevant information, is <http://www.familyadvocacyprogram.org/>.
- <sup>22</sup> The guidance is available at <http://www.uscis.gov/graphics/publicaffairs/summaries/Public.pdf>.
- <sup>23</sup> "National Origin Discrimination Against Persons with Limited English Proficiency." *US Department of Justice*. Policy Guidance, Enforcement of Title VI of the Civil Rights Act of 1964. 56 Fed. Reg. 50123 (August 16, 2000).
- <sup>24</sup> Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," reprinted at 65 Fed. Reg. 50121 (August 16, 2000); *U.S. Department of Justice*. Policy Guidance, "National Origin Discrimination Against Persons with Limited English Proficiency." 56 Fed. Reg. 51023 (August 16, 2000)
- <sup>25</sup> *Haitian Multi-Service Center v. Commissioner of Public Welfare*, Resolution Agreement between the U.S. Department of Health and Human Services Office for Civil Rights and the Department of Public Welfare, (Admin. Complaint 01-91-3034) (Office for Civil Rights, DHHS). Agreement signed September 13, 1994.
- <sup>26</sup> "Field Operations Memo 2002-22: Right to an Interpreter." *Department of Transitional Assistance*. September 27, 2002. Available at <http://www.masslegalservices.org/cat/1152>.
- <sup>27</sup> See: Hanrhan, Patricia. "Serving Clients with Limited English Proficiency: Resources and Responses." *Clearinghouse Review, Journal of Poverty Law and Policy*, Vol. 38, No. 5-6. September-October 2004.
- <sup>28</sup> "Languages Spoken at Home." *Department of Transitional Assistance*. Queried by Phuoc Cao. November 1, 2004.
- <sup>29</sup> The Washington applications are available at [https://wws2.wa.gov/dshs/onlinecso/Food\\_Assistance\\_Program.asp](https://wws2.wa.gov/dshs/onlinecso/Food_Assistance_Program.asp).
- <sup>30</sup> 7 C.F.R. § 273.1
- <sup>31</sup> "Policy Guidance Regarding Inquiries into Citizenship, Immigration Status and Social Security Numbers in State Applications for Medicaid, SCHIP, TANF and Food Stamp Benefits." *USDA Office of Civil Rights*. September 21, 2000. Available at <http://www.hhs.gov/OCR/immigration>.
- <sup>32</sup> "TAFDC and Food Stamp Processing Guidelines for Non-Citizen Applications." DTA Field Operations Memo 2004-34. *Department of Transitional Assistance*. September 20, 2004.
- <sup>33</sup> Massachusetts immigrant pre-screening tool, "Supplement A: Questions Regarding Citizenship Status" is Attachment C of "Field Operations Memo 2004-34: TAFDC and Food Stamp Processing Guidelines for Non-Citizen Applications." *Department of Transitional Assistance*. September 20, 2004. Available at <http://www.masslegalservices.org/cat/1152>.
- <sup>34</sup> Social Security Policy Operations System (POMS) instructing SSA District Offices on the handling of non-work SSNs for individuals eligible for federal needs-based benefits is found at POMS RM 00203.510.
- <sup>35</sup> "Field Operations Memo 2003-27: Farm Bill of 2002 - Restoration of Food Stamp Benefits to Qualified Non-citizen Children Under 18 Years Old." *Department of Transitional Assistance*. September 25, 2003. Available at <http://www.masslegalservices.org/cat/1152>.
- <sup>36</sup> M.G.L. Chapter 117A, Section 1; 106 CMR 320.100 - 700.
- <sup>37</sup> 106 CMR 320.400(A)(6)