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Executive Office of Health and Human Services
Department of Transitional Assistance
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Field Operations Memo 2007-52
September 28, 2007

To: Transitional Assistance Office Staff
From:  John Augeri, Assistant Commissioner for Field Operations
Re: Eligibility of Cuban/Haitian Entrants for TAFDC and Food Stamps

Background

“Cuban/Haitian entrants” is a category of noncitizens with special rights under federal law. Noncitizens who qualify as Cuban/Haitian entrants are exempt from the five-year waiting period for TAFDC and Food Stamps.
Note: Cuban/Haitian entrants are also eligible for EAEDC.

Purpose

The purpose of this memo is to clarify the process for determining if a noncitizen is eligible for public assistance as a Cuban/Haitian entrant.

**Qualifications
for
Cuban/Haitian
Entrant Status**

To qualify as a Cuban/Haitian entrant, an individual must:

- (1) be a national (born in or a citizen) of Cuba or Haiti; and (2) fall into at least one of the following categories:
- granted status as a “Cuban/Haitian Entrant (Status Pending).” (This individual’s status should be coded as “active” in the BEACON noncitizen window in spite of the “status pending” annotation);
 - paroled into the U.S. on or after October 10, 1980, regardless of any later changes in immigration status. However, an individual paroled into the custody of law enforcement or prosecutorial authorities for criminal prosecution, or to testify as a witness, does not qualify. (An individual paroled before this date may still qualify. Please contact the Policy Hotline if such a case arises.);
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Qualifications for Cuban/Haitian Entrant Status (continued)

- has an asylum application pending before the Department of Homeland Security (DHS) or the Executive Office for Immigration Review and there is no indication that the noncitizen is subject to a final, non-appealable and enforceable removal, deportation or exclusion order;
- currently undergoing removal, deportation, or exclusion proceedings and there is no indication that the noncitizen is subject to a final, non-appealable and enforceable order (an individual under an order of supervision is NOT subject to a final and enforceable order of removal);
- residing in the U.S. under an order of supervision;
- adjusted to legal permanent resident (LPR) status under the Cuban Adjustment Act (CAA)*;
- adjusted to LPR status under the Nicaragua Adjustment and Central American Relief Act (NACARA)*; or
- adjusted to LPR status under the Haitian Refugee Immigration Fairness Act (HRIFA)*.

***Note:** An individual who has applied for adjustment of status under CAA, NACARA or HRIFA may also qualify as a Cuban/Haitian entrant. Most Cuban and Haitian citizens who apply for immigration relief under these provisions are also applicants for asylum or were granted status previously as parolees, etc. Please contact the Policy Hotline to determine if an applicant for adjustment of status qualifies as a Cuban/Haitian entrant under any other category.

Please see page 3 of this memo for the documentation which will verify the statuses described above.

Disqualifying Circumstances

Cuban and Haitian nationals without any valid documentation of status do not qualify as Cuban/Haitian entrants.

An individual who filed for LPR status through a family-based or employment-based petition, and who does not otherwise qualify under any of the categories described above, does not qualify as a Cuban/Haitian entrant. However, that individual may be eligible for TAFDC and FS based on other noncitizen criteria.

**Examples of
Documentation**

The following are some examples of documents that verify Cuban/Haitian entrant status, when combined with verification of Cuban or Haitian nationality.

- 1) Form I-94 (arrival/departure record) with a stamp indicating parole into the U.S. on or after October 10, 1980. Annotations indicating parole include, but are not limited to, paroled pursuant to:
 - 212(d)(5),
 - 8 C.F.R. 212.12(b),
 - 8 C.F.R. 241.13, and
 - 8 C.F.R. 241.14;
 - 2) Form I-94 with a stamp indicating Cuban/Haitian entrant;
 - 3) DHS Employment Authorization Document:
 - Form I-688B with code 274A.12(a)(4) or 274a.12(c)(11), or
 - Form I-766 with code A4 or C11;
 - 4) Any documents indicating a pending asylum application, including:
 - a DHS receipt for filing Form I-589 (Application for Asylum and Withholding of Removal), or
 - a DHS Employment Authorization Document (Form I-688B or I-766) with code 274a.12(c)(8) or C8;
 - 5) Form I-220B Order of Supervision or I-94 annotated Order of Supervision;
 - 6) Any documents indicating a pending removal, deportation, or exclusion proceeding, including:
 - DHS Form I-122 (Notice to Applicant Detained for a Hearing Before an Immigration Judge),
 - DHS Form I-221 (Order to Show Cause and Notice of Hearing), or
 - DHS Form I-862 (Notice to Appear);
 - 7) An I-551 card (Permanent Resident Card) coded CH-6;
 - 8) An I-551 card coded: CU-0, CU-6, CU-7, CU-8, CU-9, CU-P, or CN-P (indicating adjustment to LPR status under CAA);
 - 9) An I-551 card coded: NC-6, NC-7, NC-8, or NC-9 (indicating adjustment to LPR status under NACARA), or
 - 10) An I-551 card coded: HA-6, HB-6, HC-6, HD-6, HE-6, HA-7, HB-7, HC-7, HD-7, HE-7, HA-8, HB-8, HC-8, HD-8, HE-8, HA-9, HB-9, HC-9, HD-9, HE-9 (indicating adjustment to LPR status under HRIFA).
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Questions

Please have your Hotline designee contact the Policy Hotline:

- before you deny any applicant who presents himself or herself as a Cuban/Haitian entrant; or
- if a Cuban/Haitian national presents any documents other than those listed on the previous page.

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