

## From the Hotline

- Q. What is noncitizen deeming?
- A. Noncitizen deeming is the attribution of a sponsor's income and assets to a noncitizen in determining the noncitizen's eligibility for federal benefits such as TAFDC and food stamps. Noncitizen deeming does not apply to state-funded benefits. Most noncitizens who apply for a green card (I-151/I-551) must sign a legal document called an Affidavit of Support.
- Most noncitizens sponsored on or after 12/19/97 were sponsored using the Affidavit of Support I-864.
  - Noncitizens sponsored before 12/19/97 were sponsored using the Affidavit of Support I-134.
- Q. Does noncitizen deeming apply to any state-funded benefit programs?
- A. No, noncitizen deeming does NOT apply to any state-funded benefit programs, including SSFSP, STAFDC or EAEDC.
- Q. Are there noncitizens currently eligible for TAFDC or federal food stamp benefits who are sponsored using an I-864?
- A. Most noncitizens sponsored using the Affidavit of Support I-864, are barred from TAFDC for five years and are ineligible for federal food stamp benefits. Because of this, until 2002, most noncitizens sponsored using an I-864 will only be eligible for STAFDC or SSFSP. There is no noncitizen deeming in either STAFDC or SSFSP.
- Q. How do I know which noncitizen deeming rules apply?
- A. You apply the noncitizen deeming rules based on which Affidavit of Support was signed.
- If the I-134 was used, the sponsor's income and assets must be deemed for three years.
- See 106 CMR 362.260 for food stamp purposes. See 106 CMR 203.680 for TAFDC purposes.
- If the I-864 was used, the sponsor's income and assets must be deemed until the noncitizens become citizens or earn 40 work quarters.

See 106 CMR 362.270 for food stamp purposes and 106 CMR 203.681 for TAFDC purposes.

- Q. Are there exceptions to noncitizen deeming rules?
- A. Noncitizen deeming never applies to noncitizens without a sponsor. For example, noncitizen deeming does not apply to asylees, refugees, Cuban/Haitian entrants or noncitizens granted withholding of deportation. See 106 CMR 362.260 (C) and 106 CMR 362.270 (D)(1) for food stamp purposes. See 106 CMR 203.680 (C) and 106 CMR 203.681 (D)(1) for TAFDC purposes.

There are also certain exceptions for indigent noncitizens and battered noncitizens. See 106 CMR 362.270 (D)(2) for food stamp purposes. See 106 CMR 203.681 (D)(2) for TAFDC purposes.

### ***Smith v. McIntire*** **Lawsuit**

#### TAFDC Field Operations Memo 99-10 M

This Field Operations Memo gave Transitional Assistance Office Staff instructions for processing duplicate requests impacted by the *Smith v. McIntire* lawsuit received by the Legal Division.