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Field Operations Memo 96-42
November 27, 1996

To: Local Office Staff
From: Joyce Sampson, Assistant Commissioner for Field Operations
Re: Federal Welfare Reform Noncitizen (Alien) Provisions

Background

State Letter 1103 effective December 1, 1996 changes the TAFDC and Food Stamp Program eligibility for noncitizens in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996.

This memo provides information and procedures for implementing State Letter 1103.

Attachment A provides procedures for NPA-FS and TAFDC and PA-FS **applicants**.

Attachment B provides procedures for NPA-FS **recipients** who are being recertified or reviewed.

Attachment C provides instructions for determining qualifying quarters for FS legal permanent residents.

Attachment D provides a copy of the revised *Case Log: Federal Welfare Reform Noncitizen Provisions*.

Attachment E provides a copy of the *Noncitizen Status Desk Guide for TAFDC and Food Stamp Programs*.

The noncitizen rules for FS and TAFDC are not the same. When the two sets of rules are applied, a family could end up having some members eligible for one program but ineligible for the other. Also within the same program some members may be eligible while other members are ineligible.

**Background
(cont.)**

Noncitizen rules for the EAEDC and AFDC programs remain unchanged. All TAFDC applicants and recipients found to be ineligible under the new TAFDC noncitizen rules must be reviewed for EAEDC eligibility. This may result in some family members receiving TAFDC and other members receiving EAEDC.

Questions

Applying the new noncitizen rules may be complicated. If you have any questions about the new rules, please have your Hotline designee call the Policy Hotline at (617) 348-8478. *If you have any questions about a specific case, do not take any action on that case until your Hotline designee calls the Policy Hotline.*

Sign Off

All denials, reductions or closings that result from applying the new noncitizen rules require **three** authorized signatures: those of the worker, the supervisor and the director or assistant director for program.

**Obsolete
Material**

Field Operations Memo 96-33A is obsolete.

**Implementation
of New Rules**

Noncitizen status must be reviewed for food stamp and TAFDC applicants and food stamp recipients. Reviewing noncitizen status as a special project for ongoing food stamp and TAFDC cases is not required at this time. The new noncitizen rules must be applied according to the following dates. Refer to Attachments A and B for procedures.

Food Stamps

Noncitizens who *were receiving food stamps* on August 22, 1996 are not subject to the new food stamp noncitizen eligibility rules until April 1, 1997, or their next recertification date prior to August 22, 1997, whichever is later. The new noncitizen rules must be applied to all noncitizen cases by August 22, 1997.

Implementation of New Rules (cont.) Food Stamps (cont.)

NOTE: Field Operations Memo 96-33A stated that "all food stamp cases containing noncitizens which were receiving food stamps on August 22, 1996 and subsequently close, then reapply for food stamps must be treated as new applicant cases." A recent instruction from USDA has changed this interpretation. **A food stamp case that received food stamps on August 22, 1996 is not subject to the new food stamp noncitizen rules until April 1, 1997 even if the case subsequently closed and reopened.**

Noncitizens who *were not receiving food stamps* on August 22, 1996 are subject to the new food stamp noncitizen eligibility rules on December 1, 1996. See TAFDC instructions below for an exception for TAFDC PA-FS cases.

During December, 1996 NPA-FS cases containing noncitizens who applied after September 23, 1996 that were manually tracked and appear on the *Case Log: Federal Welfare Reform Noncitizen Provisions* as instructed in Field Operations Memo 96-33A must be reviewed. These cases have certification periods ending with the December 1996 ATP cycle. They must be recertified and their noncitizen status must be reviewed and appropriate action taken as part of the recertification. Refer to Attachment B.

TAFDC

TAFDC noncitizen applicants who *were receiving TAFDC* on August 22, 1996 are not subject to the new TAFDC noncitizen eligibility rules until January 1, 1997.

TAFDC noncitizen applicants who *were not receiving TAFDC* on August 22, 1996 are subject to the new TAFDC noncitizen eligibility rules on December 1, 1996.

TAFDC noncitizen recipients with or without PA-FS will be reviewed beginning in January, 1997. This includes those TAFDC cases appearing on the *Case Log: Federal Welfare*

Implementation of New Rules (cont.) TAFDC (cont.)

Welfare Reform Noncitizens Provisions. During December local offices will receive instructions for reviewing these TAFDC cases.

Special Procedure

The new food stamp noncitizen rules require that in certain circumstances a legal permanent resident who applies for PA-FS or NPA-FS must have a 40-quarter work history to be eligible for FS. Instructions for determining qualifying quarters for legal permanent residents are contained in Attachment C.

Noncitizen Status Desk Guide

A Noncitizen Status Desk Guide for TAFDC and Food Stamp Programs is available to help workers determine eligible noncitizen status. See Attachment E. The current Alien Status Desk Guide remains in effect for AFDC and EAEDC.

Referral To INS

Local offices are reminded that the Commissioner or designee is required to report to INS information about noncitizens known to be in the US unlawfully as stated in 106 CMR 203.675 and 362.220. **Local office staff must not refer a noncitizen to INS. Referral to INS will be done by Central Office.**

Tracking Non-citizen Cases

The tracking of all noncitizen cases that are approved or are reviewed after December 1, 1996 must be continued until further notice using the revised *Case Log: Federal Welfare Reform Noncitizen Provisions* (Refer to Attachment D). When the PRISM system is expanded this information will need to be entered on to PRISM.

Additional FS Procedures

Local offices will receive additional procedures at a later date for handling food stamp cases that are subject to the new noncitizen rules on April 1, 1997.

**Special
Reminder
About the
Attachments**

Attachments A and B provide procedures for NPA-FS and TAFDC workers.

- ◆ An NPA-FS worker should be familiar with Attachment A-1 and Attachment B.
- ◆ A TAFDC worker should be familiar with Attachment A-2 through A-5.

All workers should be familiar with Attachments C, D and E.

APPLICANT

When an **NPA-FS application is made after December 1, 1996 AND a noncitizen household member(s) was not receiving FS on August 22, 1996**, do the following:

Determine FS eligibility applying the new FS noncitizen rules for the noncitizen member(s). Refer to 106 CMR 362.200 - 362.220.

- ◆ *All household members are FS eligible.*

Approve NPA-FS, if otherwise eligible. Regular certification rules apply.

- ◆ *Some members are ineligible for FS.*

Approve FS for eligible members only. Regular certification rules apply.
Deny FS for ineligible members.

NOTE: See 106 CMR 365.520(B) regarding the treatment of assets, income, expenses etc. if a nonhousehold member is disqualified for ineligible noncitizen (alien) status.

- ◆ *All members are ineligible for FS.*

Deny FS for the household.

When an **NPA-FS application is made after December 1, 1996 AND a noncitizen household member(s) was receiving FS on August 22, 1996**, do the following:

- ◆ Assume FS noncitizen rules are met and approve FS for the noncitizen member(s), if otherwise eligible.

The certification period must be extended through the August 1997 ATP cycle. **Workers must enter the last date of the August 1997 ATP period in the End date (PACES TD Block 58).** See the *Systems User's Guide*, Volume 1: PACES, Appendix E. At the end of the August 1997 certification period the new noncitizen rules must be applied.

When a TAFDC application without PA-FS is made between December 1 and December 31, 1996 AND a noncitizen assistance unit member(s) was not receiving TAFDC on August 22, 1996, do the following:

Determine TAFDC eligibility applying the new TAFDC noncitizen rules for the noncitizen member(s). Refer to 106 CMR 203.665 - 203.775.

- ◆ *All assistance unit members are TAFDC eligible.*

Approve TAFDC, if otherwise eligible.

- ◆ *Some members are ineligible for TAFDC.*

Approve TAFDC for eligible members only.

Deny TAFDC for ineligible members.

Determine EAEDC eligibility for ineligible TAFDC members.

Approve EAEDC (Living Arrangement B) for EAEDC eligible members and deny EAEDC ineligible members.

- ◆ *All members are ineligible for TAFDC.*

Deny TAFDC for entire assistance unit.

Determine EAEDC eligibility for each TAFDC ineligible member.

Approve EAEDC eligible members and deny EAEDC ineligible members.

Refer to Attachment A-5 for additional TAFDC application instructions.

TAFDC and PA-FS

- (A) **When a TAFDC application is made between December 1 and December 31, 1996 AND a noncitizen assistance unit member(s) was not receiving TAFDC on August 22, 1996**, do the following:

Determine TAFDC eligibility applying the new TAFDC noncitizen rules for the noncitizen member(s). Refer to 106 CMR 203.665 - 203.775.

- ◆ *All assistance unit members are TAFDC eligible.*

Approve TAFDC, if otherwise eligible. Go to (B) below.

- ◆ *Some members are ineligible for TAFDC.*

Approve TAFDC for eligible members only.

Deny TAFDC for ineligible members.

Determine EAEDC eligibility for ineligible TAFDC members.

Approve EAEDC (Living Arrangement B) for EAEDC eligible members and deny EAEDC ineligible members. Go to (B) below.

- ◆ *All members are ineligible for TAFDC.*

Deny TAFDC for entire assistance unit.

Determine EAEDC eligibility for each TAFDC ineligible member.

Approve EAEDC eligible members and deny EAEDC ineligible members. Go to (B) below.

- (B) **When a PA-FS application is made after December 1, 1996 AND a noncitizen household member(s) was not receiving FS on August 22, 1996**, do the following:

Determine FS eligibility applying the new FS noncitizen rules for the noncitizen member(s). Refer to 106 CMR 362.200 - 362.220.

- ◆ *All household members are FS eligible.*

Approve PA-FS, if otherwise eligible. Regular certification rules apply.

- ◆ *Some members are ineligible for FS.*

Approve PA-FS for eligible members only. Regular certification rules apply.

Deny FS for ineligible members.

NOTE: See 106 CMR 365.520(B) regarding the treatment of assets, income, expenses etc. if a nonhousehold member is disqualified for ineligible noncitizen (alien) status.

- ◆ *All members are ineligible for FS.*

Deny FS for the household.

When a PA-FS application is made after December 1, 1996 AND a noncitizen household member(s) was receiving FS on August 22, 1996, do the following:

- ◆ Assume FS noncitizen rules are met and approve FS for the noncitizen member(s), if otherwise eligible.

The certification period must be extended through the August 1997 ATP cycle. **Workers must enter the last date of the August 1997 ATP period in the End date (PACES TD Block 58).** See the *Systems User's Guide*, Volume 1: PACES, Appendix E. At the end of the August 1997 certification period the new noncitizen rules must be applied.

Additional TAFDC Application Information

For TAFDC applications made:

- ◆ between December 1 and December 31, 1996; or
- ◆ prior to December 1, 1996 that are still pending, and

a noncitizen assistance unit member(s) *was receiving TAFDC on August 22, 1996*, determine eligibility for that member(s) prior to January 1, 1997 assuming the old TAFDC noncitizen rules have been met, and eligibility after January 1, 1997 based on the new noncitizen rules.

If a noncitizen assistance unit member(s) is ineligible using the new noncitizen rules, close that member(s) in January and determine EAEDC eligibility.

For TAFDC applications made prior to December 1, 1996 that are still pending, and a noncitizen assistance unit member(s) *was not receiving TAFDC on August 22, 1996*, determine eligibility for that member(s) prior to December 1, 1996 using the old noncitizen rules and eligibility after December 1, 1996 based on the new noncitizen rules.

If a noncitizen assistance unit member(s) is ineligible using the new noncitizen rules, close that member(s) in December and determine EAEDC eligibility.

NPA-FS RECIPIENT

When an NPA-FS case is being recertified or reviewed after December 1, 1996 AND a noncitizen household member(s) was not receiving FS on August 22, 1996, do the following:

Review FS eligibility applying the new FS noncitizen rules for the noncitizen member(s). Refer to 106 CMR 362.200 - 362.220.

- ◆ *All household members are FS eligible.*

Continue NPA-FS, if otherwise eligible. Regular certification rules apply.

- ◆ *Some members are ineligible for FS.*

Continue FS for eligible members only. Regular certification rules apply. Close FS for ineligible members using AR 44.

NOTE: See 106 CMR 365.520(B) regarding the treatment of assets, income, expenses etc. if a nonhousehold member is disqualified for ineligible noncitizen (alien) status.

- ◆ *All members are ineligible for FS.*

Close FS for the household.

When an NPA-FS case is being recertified or reviewed after December 1, 1996 AND a noncitizen household member(s) was receiving FS on August 22, 1996, do the following:

- ◆ Assume FS noncitizen rules are met and continue FS for the noncitizen member(s), if otherwise eligible.

The certification period must be extended through the August 1997 ATP cycle. ***Workers must enter the last date of the August 1997 ATP period in the End date (PACES TD Block 58).*** See the *Systems User's Guide*, Volume 1: PACES, Appendix E. At the end of the August 1997 certification period the new noncitizen rules must be applied.

**DETERMINING QUALIFYING QUARTERS FOR
FOOD STAMP LEGAL PERMANENT RESIDENTS**

The following procedures are for Food Stamp Legal Permanent Residents who believe that they have a work history that meets the 40 qualifying quarters required by the PRWORA. These procedures need not be followed for those legal immigrants who are otherwise eligible (refugees, asylees, deportees, or applicants with a claim to eligibility based on military service). They also do not need to be followed for legal permanent residents who prior to becoming a legal permanent resident were a refugee, asylee or a deportee.

To determine eligibility based on qualifying quarters, workers must determine:

1. How many years in total has the individual, the individual's spouse, or the individual's parents (before the individual turned 18) collectively lived in this country?

$$\text{A) Individual } \frac{\quad}{\# \text{ YRS}} + \text{B) Spouse } \frac{\quad}{\# \text{ YRS}} + \text{C) Parents } \frac{\quad}{\# \text{ YRS}} = \frac{\quad}{\text{Total } \#}$$

(If the answer to Question 1 is a total of less than ten years, do not ask Question 2.)

2. In how many of the total years reported in answer to Question 1, did the individual, the individual's spouse, or the individual's parents collectively earn money through work?

$$\text{A) Individual } \frac{\quad}{\# \text{ YRS}} + \text{B) Spouse } \frac{\quad}{\# \text{ YRS}} + \text{C) Parents } \frac{\quad}{\# \text{ YRS}} = \frac{\quad}{\text{Total } \#}$$

If the answer to Question 2 is ten years or more, the worker must verify, from INS documents, the date of entry into the country of the individual, spouse and/or parents. If the dates are consistent with having ten or more years of work, no further documentation is required at this time. Include the legal permanent resident(s) in the household, if otherwise eligible. ***The worker shall inform the legal permanent resident(s) that a claim will be established for any benefits to which he or she was not entitled.***

If the dates of entry are inconsistent with having ten or more years of work, the worker must determine the individual ineligible and take appropriate action.

Noncitizen Status Desk Guide for TAFDC and Food Stamp Programs

To be eligible for TAFDC or Food Stamps, each person must be a citizen of the United States, an American Indian born in Canada, or an eligible noncitizen as described below.

An eligible noncitizen must produce a card, form, letter or other documentation from INS, the courts, or the Board of Immigration Appeals that proves program-acceptable noncitizen status and the date the status was granted, when applicable.

For the specific program eligibility, each noncitizen must produce one of the following forms of INS documentation, sometimes including the date the status was granted. Acceptable characteristics of noncitizen statuses differ between TAFDC and Food Stamps. Carefully review the acceptable characteristics. Reference: 106 CMR 203.675 and 106 CMR 362.220.

INS Document	Noncitizen Status	Acceptable Characteristics	Program
Official Document from INS, Courts, or Board of Immigration Appeals Verifying Lawful Residence	Noncitizen Veteran or Active Duty Personnel	<ul style="list-style-type: none"> • lawfully residing in U.S., and • a veteran of the U.S Armed Forces with an honorable discharge or on active duty (not training) in the U.S. Armed Forces, or • a spouse or unmarried child of the veteran described above. "Unmarried child": child is or could be claimed as a dependent on veteran's tax return and meets TAFDC age requirements for a dependent child. 	TAFDC
		<ul style="list-style-type: none"> • lawfully residing in U.S., and • a veteran of the U.S Armed Forces with an honorable discharge or on active duty (not training) in the U.S. Armed Forces, or • a spouse or unmarried child of the veteran described above. "Unmarried child": child is or could be claimed as a dependent on veteran's tax return, must be under 18 years old or under 22 years old and regularly attending school. 	Food Stamps

INS-I-151 INS-I-551 INS-I-94 or Official Written Documen- tation	Legal Permanent Resident	<ul style="list-style-type: none"> • legal permanent resident status granted before 8/22/96; or • legal permanent resident status granted on or after 8/22/96; eligible after 5 years have elapsed from the date the status was granted. Example: The earliest a noncitizen granted LPR status on 8/23/96 could possibly be eligible for TAFDC would be 8/23/2001; or • prior to adjustment to legal permanent resident status, regardless of the LPR status-granted date, the noncitizen's status was refugee under section 207, asylee under section 208 or deportee under section 243(h). This noncitizen is eligible as refugee, asylee or deportee. 	TAFDC
		<ul style="list-style-type: none"> • prior to adjustment to legal permanent resident status, the noncitizen's status was refugee under section 207, asylee under section 208 or deportee under section 243(h). This noncitizen is eligible as refugee, asylee or deportee for up to 5 years from the date that status was granted (ineligible after 5 years) unless the noncitizen has 40 qualifying quarters as listed below; • has worked or can be credited with 40 qualifying quarters of work; • combine qualifying work quarters to add up to the 40 quarters from: <ul style="list-style-type: none"> - the noncitizen, - the noncitizen's parents while the noncitizen was under age 18, and - the noncitizen's spouse during the marriage if the noncitizen is still married to that spouse or is widowed. <p>The same quarters can be counted for different individuals.</p>	Food Stamps

INS-I-151 INS-I-551 INS-I-94 or Official Written Documen- tation	Refugee	<ul style="list-style-type: none"> refugee status granted under section 207 of the INA 	TAFDC
		<ul style="list-style-type: none"> refugee status granted under section 207 of the INA it is within the first 5 years since the refugee status was granted. Ineligible after the 5-year period. Example: Refugee status granted 4/1/94 + 5 years = 4/1/99 so it is within the first 5 years and individual is eligible as a refugee until 4/1/99. Example: Refugee status granted 11/1/91 + 5 years = 11/1/96, beyond the 5-year period so individual is ineligible as a refugee. 	Food Stamps
INS-I-151 INS-I-551 INS-I-94 or Official Written Documen- tation	Asylee	<ul style="list-style-type: none"> asylee status granted under section 208 of the INA 	TAFDC
		<ul style="list-style-type: none"> asylee status granted under section 208 of the INA it is within first 5 years since the deportee status was granted. Ineligible after the 5-year period. Example: Asylee status granted on 4/1/94 + 5 years = 4/1/99 so it is within the first 5 years and individual is eligible as an asylee until 4/1/99. Example: Asylee status granted on 11/1/91 + 5 years = 11/1/96, beyond the 5-year period so individual is ineligible as an asylee. 	Food Stamps
INS-I-151 INS-I-551 INS-I-94 or Official Written Documen- tation	Deporta- tion Withheld	<ul style="list-style-type: none"> deportee status granted under section 243(h) of the INA 	TAFDC
		<ul style="list-style-type: none"> deportee status granted under section 243(h) of the INA it is within first 5 years since the deportee status was granted. Ineligible after the 5-year period. Example: Deportee status granted on 4/1/94 + 5 years = 4/1/99 so it is within the first 5 years and individual is eligible as a deportee until 4/1/99. Example: Deportee status granted on 11/1 91 + 5 years = 11/1/96, beyond the 5-year period so individual is ineligible as a deportee. 	Food Stamps

INS-I-151 INS-I-551 INS-I-94 or Official Written Documen- tation	Parolee	<ul style="list-style-type: none"> • parolee status granted under section 212(d)(5) of the INA and • parolee status granted before 8/22/96 and paroled for at least 1 year; or • parolee status granted on or after 8/22/96; eligible after 5 years have elapsed from the date the parolee status was granted <p>Example: The earliest a noncitizen granted parolee status on 8/23/96 could possibly be eligible for TAFDC would be 8/23/2001.</p>	TAFDC Note: Parolees are not eligible for food stamps.
INS-I-151 INS-I-551 INS-I-94 or Official Written Documen- tation	Condition- al Entrant	<ul style="list-style-type: none"> • conditional entrant status granted under section 203(a)(7) of the INA and • conditional entrant status granted before 8/22/96; or • conditional entrant status granted on or after 8/22/96; eligible after 5 years have elapsed from the date the entrant status was granted. <p>Example: The earliest a noncitizen granted conditional entrant status on 8/23/96 could possibly be eligible for TAFDC would be 8/23/2001.</p>	TAFDC Note: Condition- al Entrants are not eligible for food stamps
INS-I-151 INS-I-551 INS-I-94 or Official Written Documen- tation	Battered Noncitizen or Nonciti- zen's Minor Child	<ul style="list-style-type: none"> • while lawfully residing in the U.S. the noncitizen or the minor child was battered or subjected to extreme cruelty by a spouse, a parent, or a member of the spouse's or parent's family residing in the same household as the noncitizen • batterer no longer lives in same household • approved or pending petition for status as spouse or child under clause (i), (ii), (iii) or (iv) of section 204(a)(1)(A) or classification per clause (i), (ii) or (iii) of section 204(a)(1)(B) of the INA or suspension of deportation and adjustment of status per section 244(a)(3), 244(a)(1)(A) or 244(a)(1)(B) of the INA 	TAFDC Note: Battered non- citizens are not eligible for food stamps

An individual present in the United States under conditions or sections of the INA not described above is ineligible for TAFDC and/or Food Stamps.