



FAMILY INDEPENDENCE ADMINISTRATION

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POLICY DIRECTIVE #08-30-ELI

AFGHAN AND IRAQI NATIONALS GRANTED SPECIAL IMMIGRANT STATUS BY THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES (USCIS)

Date: August 12, 2008	Subtopic(s): Immigrant Eligibility
AUDIENCE	The instructions in this policy directive are for staff at Job Centers and Non Cash Assistance (NCA) Food Stamp (Food Stamp or FS) Centers who service noncitizens applying for public benefits.
POLICY	As a result of the Consolidated Appropriations Act of 2008, signed into law on December 26, 2007, Afghan and Iraqi noncitizens granted special immigrant status under Section 101(a)(27) of the Immigration and Nationality Act (INA) shall be eligible for the same public benefits available to refugees admitted under Section 207 of the INA if otherwise eligible. These benefits include, but are not limited to, resettlement assistance, Cash Assistance (Cash Assistance or CA), Food Stamps, medical assistance, and other public benefit programs.
BACKGROUND	Afghan and Iraqi nationals granted special immigrant status are generally interpreters and/or translators who performed work for the United States Armed Forces or under the authority of the Chief of Mission. The Special Immigrant Visa (SIV) holder's spouse and unmarried children under the age of 21 may also qualify for this special immigrant status as a spouse/dependent of the primary visa holder.

HAVE QUESTIONS ABOUT THIS PROCEDURE?
Call 718-557-1313 then press 3 at the prompt followed by 1 or
send an e-mail to *FIA Call Center*

As a result of being granted special immigrant status, these individuals may receive benefits under Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), and Medicaid, if otherwise eligible. If they do not qualify for these programs, they may receive Safety Net Assistance (SNA) under the Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA) programs. There is no 45-day wait for SNA that is reimbursed by RCA.

Effective date for eligibility of benefits can not be earlier than December 26, 2007.

On December 26, 2007, Afghan nationals granted special immigrant status became eligible for resettlement assistance and Federal or State public benefit programs. Afghan nationals may receive benefits for a period not to exceed six months from the date he/she entered the U.S. with the special immigration status or the date the status was granted. Therefore, an Afghan national who entered the U.S. on August 5, 2008 would be eligible for benefits as a special immigrant until January 5, 2009.

On January 28, 2008, Iraqi nationals granted special immigrant status became eligible for resettlement assistance and Federal or State public benefit programs. However, the effective date of eligibility was adjusted back to December 26, 2007. Iraqi nationals may receive benefits for a period not to exceed eight months from the date he/she entered the U.S. with the special immigration status or the date the status was granted. Therefore, an Iraqi national who was granted special immigrant status on July 26, 2008 would be eligible for benefits as a special immigrant until February 26, 2009.

FS eligibility period may end prior to the FS certification end date.

The six and eight month period of eligibility for benefits extends to eligibility for FS benefits as well. The spouse or children of the SIV holder may arrive in the U.S. at a later time and therefore would be eligible for public benefits six or eight months from their own date of entry into the U.S. At the end of each individual's six or eight month eligibility period, the Afghan or Iraqi national must be re-evaluated to determine if his/her status has since been adjusted to another immigration status that would be satisfactory for continued eligibility of Cash Assistance and/or Food Stamp Assistance.

If the individual's status has not been adjusted, he/she is no longer eligible for Cash Assistance or Food Stamps even though the FS certification period has not expired in the Welfare Management System (WMS). The individual's minor children would also be ineligible for CA and FS at the end of their six or eight month period.

The Afghan or Iraqi national eligibility period does not replace the Cash Assistance date of eligibility policy. The Afghan or Iraqi national eligibility period is the time period that he/she can receive benefits as if he/she was a refugee. The Afghan or Iraqi national still must apply for CA benefits and must be determined eligible in accordance with policies and procedures applicable to CA.

For example, an Afghan national and his two children entered the U.S. on June 7, 2008. His and his family's eligibility period expires on December 7, 2008. He applied for benefits on August 1, 2008. The applicant provides all required documentation on August 15, 2008, and is eligible for Family Assistance (FA). Because of their special immigrant status, the family can receive FA for the balance of the SIV holder's six-month eligibility period. Therefore, the SIV holder and his family are eligible for CA from August 15, 2008 until December 7, 2008, and eligible for FS from August 15, 2008 through December 31, 2008.

Documentation

Afghan and Iraqi nationals may submit the following documentation as proof of their status:

- **USCIS Form I-94** (Arrival/Departure Record) noting that the individual has been admitted under Section 101(a)(27) of the INA;
- Afghan or Iraqi passport with a stamp noting that the individual has been admitted under Section 101(a)(27) of the INA;
- Afghan or Iraqi passport with an immigrant visa stamp noting that the individual has been admitted under immigrant visa category "SI-1", "SI-2," "SI-3," or "SQ-1," "SQ-2," "SQ-3"; or
- **USCIS Form I-551** ("green card") showing Afghan or Iraqi nationality (or Afghan or Iraqi passport) with an immigrant visa code of "SQ-6," "SQ-7," "SQ-9," or "SI-6," "SI-7," "SI-9".

Engagement Requirements

Afghan and Iraqi nationals found eligible for FA must comply with employment requirements once their case has been accepted and activated, as per current procedure for engaging refugees.

Assigning nonexempt refugees and immigrants who are not authorized to work in the U.S.

Note: Nonexempt refugees and immigrants who do not have a work permit can be referred to Work Experience Program (WEP) activity, but must not be referred to job search. In these instances, the JOS/Worker may choose to refer the nonexempt participant to education/training activities, but on a voluntary basis.

Work activity requirements specific to RCA cases
 For a list of current refugee service agencies and their contact information, see:
<http://www.otda.state.ny.us/main/bria/programs/map-nycmetro.htm>

Afghan and Iraqi nationals found eligible for SNA which is reimbursed through the RCA program are exempt from Family Independence Administration (FIA) work activities, but must comply with employment requirements under the RCA program. In addition, within 20 days of case acceptance, the SNA/RCA participant must:

- register with the refugee service agency and participate in employment services;
- accept an appropriate offer of employment that is determined acceptable by the refugee service agency; and
- carry out appropriate job searches and job interviews scheduled by the refugee service agency.

REQUIRED ACTION

Job Centers

During an interview, if a JOS/Worker learns that a noncitizen is not a Lawful Permanent Resident (LPR) with five or more years in that status, he/she must suspend the interview and alert his/her supervisor. The Supervisor will transfer the case to the Immigrant Liaison Supervisor, who will then assign the case to a Specialized JOS. The Specialized JOS must determine the Afghan or Iraqi national's eligibility for benefits as if he/she were in Refugee Alien status.

Paperless Office System (POS) instructions

The Specialized JOS will:

- open the assigned case from his/her queue
- in the **Alien Checklist window**, start the Alien Type Determination Task
 - Select "Yes" in the Alien Type Determination—**Refugee or Amerasian Immigrant window**
 - In the **Additional Information window**:
 - enter the Alien number in the Alien Number field
 - enter the date the special immigrant status was granted in the Date of Entry field
 - enter the date of entry into the U.S. in the Date the Individual Physically Entered the U.S. field

- Complete the Alien FS Eligibility Determination Task
- Complete the Alien MA Eligibility Determination Task
- Click on the **Documents** button and select alien documents that are ready for scanning or that are being requested
- In **POS TAD Data window**:
 - select code **30** (Federal Charge Asylees, Refugees, Human Trafficking Victims and Certain Amerasian Immigrants) in the State/Federal Code field
 - enter the month and year (MMYY) of the entry date in the State/Federal Date field

Instructions for multi-suffix cases or when POS is not available

For multi-suffix cases, or if POS is not available, if the Afghan and Iraqi national meets all other eligibility requirements, the Specialized JOS must process the case as per current procedure, ensuring:

- Alien Citizenship Indicator (ACI) code “**R**” (Refugee) is entered in Element **382** of the Turnaround Document (TAD).
- the date of status (which in these cases will be the same as the date of entry) is entered in both the Date Entered Country field (Element **347**) and the Date of Status field (Element **389**) of the TAD.
- State/Federal Charge code **30** (Federal Charge Asylees, Refugees, Human Trafficking Victims and Certain Amerasian Immigrants) is entered in the State/Federal Charge Codes field (Element **307**) of the TAD for Afghan and Iraqi special immigrants receiving SNA.
- the date the individual entered the country is entered in the State/Federal Charge Date field (Element **325**) of the TAD.

For all cases, the Specialized JOS/Worker must access NYCWAY and manually enter one of the following codes, along with the appropriate Future Action Date (FAD):

- Action Code **912A** is entered for Afghan nationals. Manually calculate and enter an FAD of 6 months from the date he/she entered the U.S. with the special immigration status or the date the status was granted.
- Action Code **912I** is entered for Iraqi nationals. Manually calculate and enter an FAD date of 8 months from the date he/she entered the U.S. with the special immigration status or the date the status was granted.

Once these cases are accepted, they must be transferred to the Refugee and Immigrant Job Center Annex (Center 49), 98 Flatbush Avenue, 1st Floor, Brooklyn, NY 11217.

Once the FAD date expires for these cases, the cases will appear on a Refugee with Special Visa (**REFSV**) Worklist for Center 49. The Specialized JOS/Worker must call these individuals in to re-evaluate their alien status.

Re-evaluating Alien Status at the End of the Eligibility Period

Staff at the Refugee Center must check to see if the Afghan or Iraqi immigration status has changed to a status that will allow him/her to receive benefits.

If the participant is deemed eligible for continued assistance in the FA or Safety Net Cash Assistance (SNCA) category, change the State/Federal Charge code from **30** to **88** (State Charge/Federal Charge Expired) in element **307** of the TAD (if the State/Federal date has expired and code **30** is not removed, POS will generate an error message on the TAD).

If the participant's status has not been adjusted to a status that would indicate eligibility for continued CA, the individual's status is now undocumented alien and his/her CA and FS eligibility must be discontinued.

For single individual households and households where all members are SIV holders and will all lose eligibility at the same time, the case must be closed using WMS closing code **E92** (Failed to Provide Proof of Citizenship or Eligible Alien Status). For multiperson households that contain an Iraqi/Afghan national with an SIV, the national's line must be closed using code **F92** (Ineligible Alien).

NCA FS Centers

The NCA FS Worker will identify the Iraqi/Afghan SIV holder in POS as follows:

- Open the assigned case from his/her queue
- In the **Alien Checklist window**, start the Alien Type Determination Task
 - Select “Yes” in the Alien Type Determination—**Refugee or Amerasian Immigrant window**
 - In the **Additional Information window**:
 - enter the Alien number in the Alien Number field
 - enter the date the special immigrant status was granted in the Date of Entry field
 - enter the date of entry into the U.S. in the Date the Individual Physically Entered the U.S. field
 - Complete the Alien FS Eligibility Determination Task
 - Complete the Alien MA Eligibility Determination Task
 - Click on the **Documents** button and select alien documents that are ready for scanning or that are being requested
 - In **POS TAD Data window**:
 - select code **30** (Federal Charge Asylees, Refugees, Human Trafficking Victims and Certain Amerasian Immigrants) in the State/Federal Code field
 - enter the month and year (MMYY) of the entry date in the State/Federal Date field

The NCA FS Worker will also:

- Prepare a Request for Contact (Form **LDSS-4753**), informing the SIV holder(s) that his/her eligibility for food stamp benefits will expire on _____ (this date will be the end of the month in which the national’s eligibility for FS benefits expire). Request verification that the SIV holder has adjusted his/her status to one that qualifies him/her for continued FS eligibility. Do not date the form or enter a due date.
- Forward the **LDSS-4753** to the Mail Processing Unit.

The NCA FS Mail Processing Unit (MPU) Worker must:

- Based on the expiration date, place the **LDSS-4753** in a Ticker file for one month before the expiration date.
- The month before the eligibility expiration date, enter the date and due date (10 days) for documentation on Form **LDSS-4753** and send it to the participant with a return envelope for the participant to mail back the required documentation
- Log the case on a **W-706** Control Card and annotate the mailing date and the response due date.
- If the participant does not respond or fails to prove that his/her status has been adjusted to a FS qualifying status by the due date, discontinue FS eligibility for the national(s) whose alien status is now undocumented.
- Issue a timely notice of intent to discontinue FS at least ten days before the eligibility expiration date.

For single individual households and households where all members are SIV holders and will all lose eligibility at the same time, the entire FS case must be closed using WMS closing code **F92** (Ineligible Alien). For multiperson households that contain an Iraqi/Afghan national with an SIV, the national's individual line must be closed using code **F92**.

PROGRAM IMPLICATIONS

Food Stamp Implications

Afghan and Iraqi nationals eligible for Cash Assistance under the guidelines of the federal refugee programs are also entitled to receive Food Stamp Benefits for the same specified period of eligibility.

When an SIV holder loses eligibility for Cash Assistance because their status has not been adjusted to an eligible alien status and he/she is ineligible for FS, no separate FS determination is required.

Medicaid
Implications

Individuals eligible for Cash Assistance under RCA are entitled to receive medical benefits under federal refugee programs. Medical Assistance (MA) is available for the specified period of eligibility depending on the immigrant’s status. After the six- or eight-month eligibility period expires, the case is re-evaluated and, if eligible, will continue to receive medical assistance under the regular MA program.

If the case becomes ineligible for Cash Assistance, a separate MA determination is required.

**LIMITED ENGLISH-
SPEAKING
ABILITY (LESA)
IMPLICATIONS**

For Limited English-Speaking Ability (LESA) and hearing-impaired applicants/participants, make sure to obtain appropriate interpreter services in accordance with PD #08-18-OPE and PD #08-20-OPE.

**FAIR HEARING
IMPLICATIONS**

Avoidance/
Resolution

Ensure that all case actions are processed in accordance with current procedures and that electronic case files are kept up to date. Remember that applicants/participants must receive either adequate or timely and adequate notification of all actions taken on their case.

Conferences

An applicant/participant can request and receive a conference, with a Fair Hearing and Conference (FH&C) AJOS/Supervisor I at any time. If an applicant/participant comes to the Job Center requesting a conference, the Receptionist must alert the FH&C Unit that the individual is waiting to be seen.

If the determination is that the applicant/participant has presented good cause for the infraction or that the outstanding Notice of Intent needs to be withdrawn for other reasons, the FH&C AJOS/Supervisor I will Settle In Conference (SIC), enter detailed case notes in NYCWAY, and forward all verifying documentation, submitted by the applicant/participant, to the appropriate JOS/Worker for corrective action to be taken.

In addition, if the adverse case action still shows on the “Pending” (08) screen in WMS, the AJOS/Supervisor I must prepare and submit a Fair Hearing/Case Update Data Entry Form (LDSS- 3722), change the 02 to a 01 if the case has been granted Aid Continuing (ATC) or prepare and submit a PA Recoupment Data Entry Form (LDSS-3573) to delete a recoupment. The AJOS/Supervisor I must complete a Conference Report (M-186a).

If the determination is that the applicant/participant has not shown good cause for the infraction or that the Agency’s action(s) should stand, then the AJOS/Supervisor I will explain to the applicant/participant why he/she cannot SIC. The AJOSI/Supervisor I must complete a Conference Report.

Evidence Packets Should the applicant/participant elect to continue his/her appeal by requesting or proceeding to a Fair Hearing already requested, the FH&C AJOS/Supervisor I is responsible for ensuring that further appeal is properly controlled and that appropriate follow-up action is taken in all phases of the Fair Hearing process.

All Evidence Packets must contain a detailed history, copies of relevant WMS screen printouts, other documentation relevant to the action taken and copies of NYCWAY “Case Notes” screens.

REFERENCES GIS 08 TA/DC008

RELATED ITEMS PD #05-15-ELI