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| LOCAL COMMISSIONERS MEMORANDUM |
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DSS-4037EL (Rev. 9/89)

Transmittal No: 96 LCM-86

Date: September 17, 1996

Division: Temporary Assistance

TO: Local District Commissioners

SUBJECT: Federal Welfare Reform: Food Stamp Eligibility of Aliens

ATTACHMENTS: Establishing Qualifying Work Quarters - available on-line

CONTACTS: Region I (518) 473-0332; Region II (518) 474-9344;
Region III (518) 474-9307; Region IV (518) 474-9300;
Region V (518) 473-1469; Region VI (212) 383-1658

I. BACKGROUND

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Public Law 104-193, was signed into law by the President on August 22, 1996. Among its many provisions, this law makes many non-citizens ineligible for food stamps even though they are currently in the United States legally.

The provisions of the law affecting the eligibility of aliens for food stamps were effective upon enactment. This means that these provisions must be implemented by September 21, 1996.

This LCM provides information and implementation instructions on these new policies that apply to the food stamp eligibility of aliens.

II. REQUIRED IMPLEMENTATION DATES

PL 104-193 does not contain any special provisions that extend the time frames for these new policies beyond the normal time frame specified in the Food Stamp Act for making changes. Therefore, the provisions of the new Law which were effective upon enactment must be implemented September 21, 1996.

This applies to:

- a) all new food stamp applicants;
- b) all recipient households at earliest recertification for food stamps on or after September 21, 1996 but no later than August 22, 1997; and
- c) all changes to recipient cases during a certification period that require a new budget.

These provisions must be implemented by September 21, 1996, in order for the Department and local districts to avoid potential federal fiscal penalties for running a program that is not in compliance with federal law. By implementing these provisions by September 21, the Department and local districts will not be subject to federal quality control sanctions caused by misapplication of the new policies for 120 days.

It is recognized that local districts have a very short time-frame to inform workers about these changes. However, it is necessary to complete implementation at the local level in order to take advantage of the entire 120-day variance exclusion period. If a district fails to implement, errors must be cited during any part of the 120-day period in which the policy has not been implemented.

III. ALIEN PROVISIONS OF PUBLIC LAW 104-193 (Sec. 401, 402, 404)

Policy Change:

In addition to meeting all other food stamp eligibility requirements, an alien must fall into one of the following five categories in order to receive food stamps.

1. An alien admitted to the U.S. as a refugee under Section 207 of the Immigration and Nationality Act (INA) may receive food stamps for 5 years after attaining refugee status.

2. An alien admitted as an asylee under Section 208 of the INA may receive food stamps for 5 years after attaining asylee status.
3. An alien whose deportation is withheld under Section 243(h) of the INA may receive food stamps for 5 years after deportation is withheld.
4. An alien who has been lawfully admitted for permanent residence may receive food stamp benefits with no time limit if that alien is:
 - a) a veteran with an honorable discharge not related to his/her alien status,
 - b) currently on active military duty, or
 - c) the spouse or unmarried dependent child of a honorably discharged veteran or alien on active duty.
5. An alien who has been lawfully admitted for permanent residence and has worked 40 qualifying quarters of coverage under Title II of the Social Security Act (or can be credited with such quarters) may receive food stamp benefits with no time limit.

A qualifying quarter includes any quarter worked by a parent of an alien while the alien was under 18 and a quarter worked by a spouse during a marriage, if the alien remains married to the spouse or the spouse is deceased. A quarter may count for both the person who earned it and the person it is deemed to at the same time. For example, if both husband and wife each have 20 quarters they meet the requirement because between them they have worked 40 quarters. Their children under age 18 would also meet the requirement.

Quarters earned after December 31, 1996, do not count if the alien receives any Federal means-tested public benefits during the quarter. Federal means-tested public benefits are:

- a) any grant, contract, loan, professional or commercial license provided by or funded by the United States; and
- b) any retirement, welfare, health, disability, public or assisted housing, post-secondary education, food assistance (including the food stamp program), UIB benefit, or any other similar benefit for which payments or assistance are provided by a U.S. agency or paid by U.S. funds.

Required Action:

Documentation

Local districts must obtain appropriate documentation of alien status at application or recertification.

1. Documentation of refugee and asylee status, including the date the status started, is found on INS forms I-94 or I-688B. Documentation of asylee status may also be found on an INS or U.S. Justice Department letter granting such status. Deportation withheld can be documented by a judge's order showing that deportation was withheld pursuant to section 243(h) of the Immigration and Nationality Act (INA). The date withheld is the date of the judge's order.
2. Documentation of working quarters can be obtained by the individual from the Social Security Administration (SSA) by filing an SSA-7004, the Benefit Estimate form. At this time, there is no process in place permitting SSA to share information about a person's work history directly with the social services district. Further, the time it will take an individual to receive a response after filing an SSA-7004 form with SSA may be longer than the time frame allowed to process a food stamp application or recertification request.

The United States Department of Agriculture has verbally advised the Department that workers should make reasonable attempts to use alternative means of documentation if an SSA-7004 form is not available. These can include statements of work history from individuals in the community such as current or former employers or business partners, client records of pay or income tax, and even statements of the client or the client's friends or family, if the statements appear creditable to the worker.

Attached to this LCM is an explanation of how the Social Security Administration determines work quarters. This information can be used to help to determine if an alien has worked the required number of quarters.

Local districts must establish procedures for documenting alien status that work best for their own district. The implementation time frame for these requirements is very short and some of the supports needed to obtain information are not in place at the federal level. Therefore, it is very important that workers carefully explain in the case record the reason for the eligibility decision that is made (eligible or ineligible). In some situations, the worker's process in making the decision could become the sole basis for deciding if the case decision is correct during a quality control review.

Federal Recertification Waiver

USDA has granted all states a waiver related to recertifying the cases of non-citizens to provide more time for obtaining documentation of alien status. Under this waiver, the certification period of a non-elderly/disabled household with a current period of less than 12 months may be extended up to a total of 12-months, without an interview. For example:

a household with a six month certification period ending September 30, 1996 may have the end date extended to no later than March 31, 1997.

These extended certification periods may never go beyond August 22, 1997.

The certification periods of elderly/disabled household may be extended up to a total of 24 months. These extensions also may never go beyond August 22, 1997.

If the certification period of a household is extended, the household must receive a notice in lieu of the regular notice scheduling recertification. This notice must explain why the period is being extended and inform the household about the documentation that will be required when the recertification interview is held. The extension of the certification period must be documented in the case record.

There are no special quality control procedures for cases that are extended under this waiver. If there is a mistake in the case (other than the failure to have alien status documented), the error must be cited.

There is great diversity in numbers of aliens within local districts and local district case processing procedures. Therefore, each district must establish their own local procedures regarding how this waiver authority will be used.

Districts can choose to extend all cases with an alien in the household, not to extend any cases or extend certification periods on a case by case basis. Districts should consider the possible effects on error rates and future recertification scheduling when determining how to proceed. Whatever procedure is established must be applied consistently for all cases within the local district.

Regardless of what decision is made regarding use of the waiver authority, local districts must be careful to follow normal food stamp requirements about timeframes for providing documentation, particularly those associated with late documentation.

Systems Impact

CNS language will be modified as of September 23 to reflect the new eligibility criteria.

Upstate local districts can extend certification periods in WMS by using Transaction Type "06-Recertification" and entering new Authorization Dates.

IV. ADDITIONAL INFORMATION

Information about the other food stamp provisions which must be implemented by September 21, 1996 have been provided to local districts in 96 LCM-83 on September 13.

Patricia A. Stevens
Deputy Commissioner
Division of Temporary Assistance

Establishing Qualifying Work Quarters

The Social Security Administration (SSA) determines that a person has worked a qualifying quarter when that person earns a specified amount of money and pays into the Social Security system (FICA taxes). A person does not have to actually earn the specified amount in each calendar quarter of the year to earn qualifying quarters. Rather, whenever a person earns the qualifying amount, that person is credited with one quarter, up to a total of four qualifying quarters in each calendar year. However, credit for a qualifying quarter is given no earlier than the first day of the calendar quarter even when the income has been earned months earlier. This means that a person could earn the total qualifying amount for the entire year in January and would be credited with qualifying quarters at the beginning of each calendar quarter.

For example:

In 1995, a person earned \$2520 in the month of January. Because the qualifying amount for a quarter in 1995 was \$630, this amount is sufficient to qualify this person for four quarters ($4 \times 630 = 2520$). This person will be credited for one qualifying quarter on January 1, one quarter on April 1, one quarter on July 1, and the fourth quarter on October 1.

The following are the qualifying amounts for 1984 - 1996.

| <u>Year</u> | <u>Quarter Amount</u> | <u>Annual Amount</u> |
|-------------|-----------------------|----------------------|
| 1984 | \$390 | \$1560 |
| 1985 | 410 | 1640 |
| 1986 | 440 | 1760 |
| 1987 | 460 | 1840 |
| 1988 | 470 | 1880 |
| 1989 | 500 | 2000 |
| 1990 | 520 | 2080 |
| 1991 | 540 | 2160 |
| 1992 | 570 | 2280 |
| 1993 | 590 | 2360 |
| 1994 | 620 | 2480 |
| 1995 | 630 | 2520 |
| 1996 | 640 | 2560 |