



Guidance to State Welfare Commissioners for Implementing Noncitizen Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996

The following letter was sent the week of October 18, 1996, to State Commissioners responsible for administering the Food Stamp Program. It provides procedures for determining the eligibility of applicants for food stamps who believe they are eligible because they can be credited with 40 quarters of work covered by Social Security. Having 40 quarters of work covered by Social Security is one way a noncitizen may be eligible to receive food stamps under the provisions of the new welfare reform legislation.

All State Commissioners

This letter provides guidance for implementing section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. Section 402 generally limits the eligibility of legal immigrants for the Food Stamp Program, but section 402(a)(2)(B) provides an exception for legal immigrants who have worked or can be credited with 40 quarters of qualified work in a job covered by Social Security. The law provides that quarters worked by a parent or a spouse may also be credited to the individual in determining the number of qualifying quarters.

Implementing this requirement will be challenging for the individual immigrants, eligibility workers, and the Social Security Administration (SSA) which is the primary source of quarters of coverage information. While some immigrants will already have 40 quarters clearly established in their Social Security records, others may have been employed in jobs covered by Social Security, but earnings may not have been appropriately reported. Many immigrants, particularly migrant workers, may have difficulty obtaining verification of employment, and SSA will have to work with them to establish quarters.

This letter and the enclosed procedures provide guidance to State agencies in administering the 40 quarters determination. These procedures have been developed in cooperation with SSA, and we are drafting regulations on 40 quarter verification that will be based on the guidance outlined in this letter. Until regulations are published, FCS and SSA expect State agencies to follow these procedures. Quality control reviews will be based on these certification procedures as well.

At this time, SSA is developing an automated system to provide State agencies, on an overnight basis, with information on quarters of coverage. Verification of quarters of coverage for most applicants and current recipients will be accomplished primarily by means of this automated system which SSA expects to be operational in January. Pending the implementation of the automated system, FCS and SSA have developed interim procedures for processing households with immigrant members.

The enclosed procedures authorize certification pending verification (CPV) for certain immigrants. Provided an immigrant, alone or in combination with his parents and/or spouse, has spent sufficient time in this country to have acquired 40 quarters of coverage, the individual's attestation to 40 quarters is sufficient. The individual need only state that he or she, alone or in combination with his or her parents and/or spouse, has met the work requirement. No further documentation of earnings is required at application.

Within 3 months after the month in which the SSA system is operational, the State agency shall submit the required information for each CPV individual to SSA. SSA will report back a quarters of coverage history for each individual and applicable family member requested.

If SSA's existing records do not verify that an individual claiming 40 quarters in fact has them and the individual believes SSA's records are not correct, SSA will work with the individual to determine whether additional quarters can be established. Individuals in this situation should be advised of this option and that they will be allowed to participate for 6 more months provided SSA certifies that it is working to clarify their records. The individual will be required to provide a document from SSA indicating that the number of quarters is under review. SSA is developing a document to meet this requirement.

If SSA cannot establish additional earnings and the individual does not have 40 qualifying quarters, the State agency shall establish an inadvertent household error claim for the overissuance, unless the individual knowingly provides false information.

We hope that these procedures will go a long way toward easing implementation difficulties and ensuring that the law is implemented in a fair and effective manner. Please contact your FCS regional office if you have any questions.

Sincerely,

(Regional Administrator)

Note: The procedures referred to in the letter are attached, as well as guidance from SSA for establishing quarters. SSA Form 3288 is not attached.

Certification Pending Verification Procedures for Legal Immigrants

The following procedures are for legal immigrants who believe that they have a work history that meets the 40 quarters exemption in the law. These procedures need not be followed for those legal immigrants who qualify for other exemptions in the law (refugees, asylees, deportees, or applicants with a claim to eligibility based on military service).

To determine eligibility based on social security coverage, the State agency should ascertain the applicant's understanding as to the following:

- How many years has the applicant, the applicant's spouse, or the applicant's parents (before the applicant turned 18) lived in this country.
- (If the answer to question 1 is less than 10 years, the State agency does not need to ask question 2.)
- In how many of the years reported in answer to question 1, did the applicant, the applicant's spouse, or the applicant's parent earn money through work.
- (To determine whether the applicant's earnings were sufficient to establish "quarters of coverage" in those years, the State agency may wish to refer to the attached chart.)

If the answer to question 2 is 10 years or more, the State agency shall verify, from INS documents, the date of entry into the country of the applicant, spouse and/or parent. If the dates are consistent with having 10 or more years of work, no further documentation is required at this time; the State agency shall include the immigrant in the household pending verification from SSA. The State agency shall inform these immigrants that a claim will be established for any benefits to which they were not entitled. The State agency shall keep a record of each individual certified pending verification from SSA.

If the dates of entry are inconsistent with having 10 or more years of work, the State agency shall determine the individual ineligible. The State agency shall then inform the applicant of his or her fair hearing rights.

The applicant shall also provide, for purposes of future verification, the full name, social security number, date of birth, and sex of each individual (self, parent or spouse) whose work history is relevant to the determination of eligibility. In addition, the applicant shall provide a release form signed by each such individual (copy attached) giving SSA permission to release information on that individual to the State agency and/or the applicant. This form shall be retained in the case file to document the individual's consent.

SSA is drafting an addendum to the current Computer Matching and Privacy Protection Act agreement between SSA and each State agency. In accordance with that revised agreement, and within 3 months after the month in which the SSA verification system becomes operational, the State agency will send the identifying information provided by the applicant to SSA for overnight processing. In its response, SSA will provide information about qualifying quarters of work. If the immigrant believes the information from SSA is inaccurate or incomplete, the State agency shall refer the applicant to SSA for review. SSA will give the individual a document indicating that the number of quarters is under review. An immigrant who provides the State agency with this document can continue to receive benefits for 6 months from the date of SSA's initial response or until SSA has completed its review, whichever is earlier.

Establishing Quarters

The term "quarter" means the 3 calendar month periods ending with March 31, June 30, September 30 and December 31 of any year.

Social Security credits (formerly called "quarters of coverage") are earned by working at a job or as a self employed individual. A maximum of 4 credits can be earned each year.

For 1978 and later, credits are based solely on the total yearly amount of earnings. All types of earnings follow this rule. The amount of earnings needed to earn a credit increases and is different for each year. For 1978 through 1996, the amount of earnings needed for each credit is:

- 1978.....\$250
- 1979.....\$260

- 1980.....\$290
- 1981.....\$310
- 1982.....\$340
- 1983.....\$370
- 1984.....\$390
- 1985.....\$410
- 1986.....\$440
- 1987.....\$460
- 1988.....\$470
- 1989.....\$500
- 1990.....\$520
- 1991.....\$540
- 1992.....\$570
- 1993.....\$590
- 1994.....\$620
- 1995.....\$630
- 1996.....\$640

A current year quarter may be included in the 40 quarter computation. Use the current year amount as the divisor to determine the number of quarters available. DO NOT CREDIT CALENDAR QUARTERS THAT HAVE NOT ENDED.

If you need to use quarters before 18 years ago:

- A credit was earned for each calendar quarter in which an individual was paid \$50 or more in wages (including agricultural wages for 1951-1955);
- Four credits were earned for each taxable year in which an individual's net earnings from self-employment were \$400 or more; and/or
- A credit was earned for each \$100 (limited to a total of 4) of agricultural wages paid during the year for years 1955 through 1977.