



Immigrant Eligibility - Implementation of Interpretation of the Qualifying Quarters of Work Provision of Pub. Law 104-193

To: All Regional Directors Food Stamp Program

May 12, 1997

The Office of Legal Counsel of the Department of Justice (DOJ) has issued an interpretation of the phrase "has worked 40 qualifying quarters of coverage as defined under Title II of the Social Security Act" as used in section 402, 412 and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act (Pub. L. 104-193). DOJ has determined that qualifying quarters of work not covered by Title II of the Social Security Act may be credited in determining the eligibility of an immigrant. According to DOJ's interpretation, Congress intended to adopt the mechanism used by the Social Security Administration (SSA) for calculating the amount of wages necessary to obtain a quarter of coverage, but not the limitations on the types of employment in which the wages may be earned.

State agencies that access SSA's Quarters of Coverage History System (QCHS) will be able to request information from SSA about the work history of applicants with noncovered employment. SSA recently transmitted draft guidelines for implementation of this interpretation to its regional offices with a request for comments by May 19, 1997. SSA plans to release the final guidance on May 29, 1997. We will forward the SSA guidance as soon as it is available for distribution. State agencies that cannot access QCHS will have to obtain verification of employment from applicants.

State agencies are required to implement the provision allowing quarters of noncovered work to be counted in determining immigrant eligibility as soon as possible but no later than 60 days after the SSA guidance is issued. The provision is effective August 22, 1996. State agencies are not required to conduct case file reviews to determine if any individuals previously denied would be eligible if noncovered quarters were counted. However, the State agency shall restore benefits to any previously denied applicant who comes to the attention of the State agency and is eligible based on use of noncovered quarters.

Variances resulting from implementation of this provision will be excluded from error analysis for 120 days from the required implementation date. Quality control review procedures will be forwarded separately.

/S/

Arthur T. Foley
Director
Program Development Division