

NLWJC - Kagan

Counsel - Box 036 - Folder 019

Verification Systems [1]

**IMMIGRATION STATUS ELIGIBILITY VERIFICATION PROCEDURES
USED IN HUD'S SECTION 214 PROGRAMS**

Section 214 of the Housing and Community Development Act of 1980, as amended prohibits the Secretary of HUD from making financial assistance available to persons other than United States citizens, Nationals, or certain categories of eligible noncitizens in HUD programs covered by Section 214. HUD's rule implementing Section 214 was published on March 20, 1995, and took effect on June 19, 1995.

Section 214 was recently amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and by the Illegal Immigration Reform and Responsibility Act of 1996. HUD's interim rule, statutorily required by the Immigration Reform Act, implementing the Immigration Reform Act amendments was issued on November 29, 1996.

VERIFICATION PROCEDURES: Each housing authority adopts and implements policies and procedures relevant to acceptance or rejection of an applicant, including documentation and verification of citizenship and eligible immigration status.

For applicants, this is done at the time other eligibility criteria are verified. For tenants, this is done at the first regular reexamination after June 19, 1995. Thereafter, for new family members this is done at each regular or interim reexamination. (The regular reexamination is the annual confirmation of income eligibility and family composition.)

SUBMISSION OF EVIDENCE OF CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS: Each family member, regardless of age, must submit the following evidence:

- (1) For citizens: a signed declaration of U.S. citizenship;
- (2) For noncitizens who are or will be 62 years of age or older on June 19, 1995:
 - (a) a signed declaration of eligible immigration status, and
 - (b) proof of age document; and
- (3) For all other noncitizens:
 - (a) a signed declaration of eligible immigration status,
 - (b) specified Immigration and Naturalization Service (INS) documents of eligible immigration status, and
 - (c) a signed verification consent form.

Note: A family member may elect not to declare, which means the family member acknowledges that he or she will not be considered eligible for assistance.

Also Note: Also note that Section 214 provides for proration of assistance.

VERIFICATION OF ELIGIBLE IMMIGRATION STATUS: Primary verification. Primary verification is conducted by the housing authority through the INS automated Systematic Alien Verification for Entitlements (SAVE) system. If the INS SAVE system fails to verify eligible immigration status, secondary verification is performed through a manual search by INS of its records.

Secondary verification. If the secondary verification fails to confirm eligible immigration status, the family is notified of the right of appeal to INS. The INS will issue a decision within 30 days of its receipt of documentation concerning the appeal. If unable to issue a decision within 30 days, the INS will inform the family and the PHA of the reasons for the delay. When the PHA receives a copy of the INS decision, it notifies the family of its right to request an informal hearing with the PHA.

DELAY, DENIAL, OR TERMINATION OF ASSISTANCE: Assistance to an applicant may not be delayed, denied, or terminated on the basis of the immigration status if the verification process is not complete, but the family has timely submitted the applicable immigration documents required under HUD's regulations

APPEAL RIGHTS IF IMMIGRATION STATUS NOT CONFIRMED. If INS is unable to confirm immigration status, Section 214 and HUD's regulations provide for appeal to INS, and also an informal hearing before the housing provider.



BENAMI_J @ A1
12/13/96 12:19:00 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: WARNATH_S @ A1@CD@LNGTWY
Subject: verification/means tested

Steve held a productive meeting today on the interim verification of citizenship status guidance that DOJ will be issuing - hopefully by the end of the year.

There will be follow-up meetings on Tuesday on a couple of key questions and Steve will really need the input of some of you at that time -- particularly around the charitable organization exemption and the definition of "federal public benefit."

He will get back to you about exact meeting times.

On Means Tested Benefits -- it appears DOL has signed off on the HHS letter, but we were now told that apparently SSA has yet to sign off. They said they could do that by Monday or Tuesday. (UNBELIEVABLE that up to now we were told everyone but DOL had signed off -- truly liking nailing jello to the wall, this process).

Next steps: SSA signs off; Letter goes to DOJ; DOJ approves. THEN -- DOJ is drafting language that will be available Tuesday to go in this document. We need all of you to look at that language closely.

AND OMB has committed to compiling the list of programs that would count as means tested benefits to bring on Tuesday as well. KEN: We have to have a discussion over whether that list should go in the document or not.

I hope this is all clear. Please call me or Steve if not. Please try to come to the Tuesday meetings so we can get this all finalized by the end of the year.

Thanks.

Message Sent To: _____

**INTERIM GUIDANCE -- DOCUMENTARY EVIDENCE FOR "QUALIFIED ALIENS"
AND CERTAIN EXCEPTED CATEGORIES**

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("PRA") provides that, with certain exceptions, only "qualified aliens" (and sometimes only particular categories of qualified aliens) are eligible for certain federal, state, and local public benefits. Accordingly, before providing a person with benefits for which he or she is otherwise eligible, federal, state and local providers of public benefits must determine whether the applicant is a "qualified alien" who is eligible for such benefits under the PRA.

This memorandum provides initial guidance on how benefit-granting entities should determine the immigration status of applicants for public benefits during the interim period before regulations are promulgated.

The PRA requires the Attorney General, within 18 months of enactment, to promulgate regulations requiring verification that an applicant is a qualified alien eligible to receive federal public benefits under the PRA, and States have an additional 24 months to implement a verification system that complies with the new regulations. The PRA, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, also requires the Attorney General, within the same 18-month time period, to establish procedures for an applicant to provide proof of citizenship in a fair and nondiscriminatory manner. States, however, are required to implement the PRA, and hence to make determinations regarding citizenship, qualified alien status, and eligibility under the PRA before the Attorney General's development of new regulations and their own development of conforming verification systems.

[OPTION FOR BENEFIT-GRANTING AGENCIES: An applicant who presents the documents identified in this guidance should be allowed to receive any benefits for which he or she is otherwise qualified pending confirmation of status from INS. Satisfying the evidentiary requirements in this guidance establishes a presumption that the applicant is a "qualified alien."]

If you are administering a federal program that already requires you to verify the immigration status of aliens applying for benefits through the Systematic Alien Verification for Entitlements (SAVE) system, you should continue to comply with such requirements. Nothing in the PRA changes these pre-existing legal requirements or relieves the statutorily-mandated programs of their obligations to use the SAVE program. You should note, however, that SAVE does not provide all of the immigration status information that is now relevant under the PRA, and you should use this guidance to verify that new information.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 amended the definition of "qualified alien" to include certain aliens who have been battered or subjected to extreme cruelty in the United States. Future guidance will address how benefit-granting entities may implement this provision.

Parsons Hand
514-32-12
205-0134 (law)

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PRESERVATION

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. ("Title VI"), among other federal civil rights laws, governs all federal, state, local, and private entities providing public benefits. Title VI prohibits discrimination on the basis of race, color, and national origin in any program or activity, whether operated by a public or private entity, that receives federal funds or other federal financial assistance under the PRA. Thus, in operating a federally assisted program and implementing the requirements of the PRA, including those set forth in this guidance, a provider cannot, on the basis of race, color, or national origin, directly or indirectly, deny program services, aids, or benefits; provide a different service, aid, or benefit, or provide them in a manner different than they are provided to others; or segregate or separately treat individuals in any matter related to the receipt of any service, aid, or benefit.

The following categories of aliens are "qualified aliens" for purposes of federal, state, and local public benefits. Additional guidance is provided for identifying qualified aliens who are subject to certain exceptions for receipt of certain federal benefits. Section numbers refer to the Immigration and Nationality Act ("INA"), 8 U.S.C. 1101 et seq.

1. Aliens Lawfully Admitted for Permanent Residence (LPRs)

An LPR may present the following documents as evidence of status: INS Form I-551, Alien Registration Receipt Card (commonly known as a "green card"), or (for recent arrivals) temporary I-551 stamp in foreign passport or on Form I-94.

NOTE: INS has replaced Forms AR-3 and I-151 with Form I-551. If a permanent resident presents an old INS Form AR-3 or Form I-151 Alien Registration Receipt Card in support of lawful permanent resident status, contact INS to verify the alien's immigration status by filing a Form G-845 with the local INS district office, attaching a copy of the document, and refer the person to INS to apply for a replacement card. (See 8 CFR 264.1.)

Determining Exceptions (for programs that bar some noncitizens):

- o If an LPR claims to have worked in this country for 40 quarters, refer to guidance from the Social Security Administration on how to verify.
- o If an LPR claims to be a veteran or on active duty in the United States Armed Forces, or a spouse or unmarried dependent child of such a person, refer to guidance from the Department of Defense and the Veterans Administration on how to verify.
- o If an LPR does not claim to have worked 40 quarters or to have veteran or active duty status (or to be the spouse or dependent child of such a person), he or she may still be eligible to receive certain federal benefits based upon one of the following exceptions: entering the United States as a refugee within the last 5 years, being granted asylum within the last 5 years, or having deportation withheld during the last 5 years. If the applicant attests to having been admitted as a refugee within the last 5 years, review the I-

551 for one of the following codes [insert codes] and derive the date of admission from the date on the card. If the applicant attests to having been granted asylum or having had deportation withheld within the last 5 years, contact INS to verify the alien's former immigration status and relevant date by filing a Form G-845 with the local INS district office, attaching a copy of the I-551.

2. Refugee Under Section 207 of the INA

A refugee may present the following documents as evidence of status: INS Form I-94 annotated with stamp showing admission under section 207 of the INA; INS Form I-688B or I-766 (Employment Authorization Documents) annotated "274a.12(a)(3)"; or INS Form I-571 (refugee travel document).

5-Year Limitation:

- o **Form I-94:** Derive the date of admission from the date of inspection on the refugee stamp. If the date is missing, contact INS to verify the date of admission by filing a Form G-845 with the local INS district office, attaching a copy of the document.
- o **Form I-688B or I-766:** These forms, properly annotated, indicate status as a refugee, but they do not reflect the date of admission. Ask the alien to present Form I-94. If not available, contact INS to verify the date of admission by filing a Form G-845 with the local INS district office, attaching a copy of the document.
- o **Form I-571:** This form indicates status as a refugee, but does not reflect the date of admission. Ask the alien to present Form I-94. If not available, contact INS to verify the date of admission by filing a Form G-845 with the local INS district office, attaching a copy of the document.

3. Asylee Under Section 208 of the INA

An asylee may present the following documents as evidence of status: INS Form I-94 annotated with stamp showing grant of asylum under section 208 of the INA; a grant letter from the Asylum Office of INS; INS Form I-688B or I-766 (Employment Authorization Documents) annotated "274a.12(a)(5)"; or an order of an immigration judge granting asylum. If an applicant presents a court order, contact INS to verify that the order was not overturned on appeal by filing a Form G-845 with the local INS district office, attaching a copy of the document.

5-Year Limitation:

- o **Form I-94 and grant letter:** Derive the date the status was granted from the date on the Form I-94 or the grant letter. If the date is missing from the Form I-94, request the grant letter from the alien. If it is not available, contact INS to verify when the status was

granted by filing a Form G-845 with the local INS district office, attaching a copy of the document.

- o Court order: Derive the date the status was granted from the date of the court order.
- o Forms I-688B and I-766: These forms, properly annotated, indicate status as an asylee, but do not reflect when the status was granted. Request Form I-94, the grant letter, or the alien's copy of a court order. If these are not available, contact INS to verify when the status was granted by filing a Form G-845 with the local INS district office, attaching a copy of the document.

4. Deportation Withheld Under Section 243(h) of the INA

An alien whose deportation has been withheld may present the following documents as evidence of status: an order of an immigration judge showing deportation withheld under section 243(h); or INS Forms I-688B and I-766 annotated "274a.12(a)(10)." If an applicant presents a court order, contact INS to verify that the order was not overturned on appeal by filing a Form G-845 with the local INS district office, attaching a copy of the document.

5-Year Limitation:

- o Court order: Derive date deportation was withheld from the date of the court order.
- o Forms I-688B and I-766: These forms, properly annotated, indicate deportation withheld under section 243(h), but normally do not reflect the date of withholding. Request a copy of the immigration judge's order. If this is not available, contact INS to verify when deportation was withheld by filing a Form G-845 with the local INS district office, attaching a copy of the document.

NOTE: Effective April 1, 1997, section 243(h) of the INA will be replaced by section 241(b)(3).

5. Aliens Paroled into the United States Under Section 212(d)(5) of the INA for at Least 1 Year

An alien who has been paroled into the United States for at least one year may present the following document as evidence of status: INS Form I-94 with stamp showing admission for at least 1 year under section 212(d)(5).

6. Aliens Granted Conditional Entry Pursuant to Section 203(a)(7) of the INA as in effect prior to April 1, 1980

An alien who has been granted conditional entry may present the following documents as evidence of status: INS Form I-94 with stamp showing admission under section 203(a)(7); or

INS Form I-688B or I-766 (Employment Authorization Documents) annotated "274a.12(a)(3)."

NOTE: The Form I-94 was revised in 198_. If an alien presents the old version, contact INS to verify status by filing a Form G-845 with the local INS district office, attaching a copy of the document.

IN GENERAL: If an applicant presents a receipt indicating that he or she has applied to INS for a replacement document for one of the documents identified above, contact INS to verify his or her status by filing a Form G-845 with the local INS district office, attaching a copy of the receipt.

Contact INS at any time if there is any reason to question the authenticity of the document(s) presented or information on the document(s) is insufficient to determine whether the alien status requirements are met.

DRAFT

Jeremy Diana - I would like to send this clarification to our Regional offices but wanted to run it past you first. Yvette

SUBJECT: FSP - Status of Noncitizen Applicants Prior to April 1, 1997

TO: All Regional Administrators
Food and Consumer Service

Please transmit the policy in this memorandum to State Commissioners immediately.

State agencies have asked if the provisions of section 402 of the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA) should be applied to noncitizen applicants in the following situations:

1. A noncitizen who was receiving food stamps on August 22, 1997, the date of enactment of the PRWORA, moves to another State and applies for benefits.
2. A noncitizen who was receiving food stamps on August 22, 1997 becomes ineligible for a reason unrelated to alien status, such as increased income. The individual subsequently reapplies for benefits prior to April 1, 1997.

In these situations, the State agency should determine the individual's eligibility under the provisions of section 6(f) of the Food Stamp Act and should not apply the PRWORA provisions. Section 510 of the Omnibus Consolidated Appropriations Act, Pub. L. 104-208, provides that ineligibility under paragraph (1) of section 402(a) shall not apply until April 1, 1997, to an alien who received food stamps on the date of enactment of the PRWORA, unless the alien is determined to be ineligible to receive benefits under the Food Stamp Act of 1977. Therefore, a noncitizen who was participating on August 22, 1997 shall not be determined ineligible solely on the basis of the PRWORA noncitizen provisions.

Please let us know if you have any questions.

Yvette S. Jackson
Deputy Administrator
Food Stamp Program

cc: Program Directors
Food Stamp Program

Randy -
Is this what you were
shaking your ~~the~~ head about?
Have you checked it out?
Elena

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)

Enclosures

cc: Food Stamp Program Director

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:

- 1. 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.)

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	1988.....	\$470
1979.....	\$260	1989.....	\$500
1980.....	\$290	1990.....	\$520
1981.....	\$310	1991.....	\$540
1982.....	\$340	1992.....	\$570
1983.....	\$370	1993.....	\$590
1984.....	\$390	1994.....	\$620
1985.....	\$410	1995.....	\$630
1986.....	\$440	1996.....	\$640
1987.....	\$460		

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:

- o 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);
- o Four credits were earned for each taxable year in which an individual's net earnings from self-employment were \$400 or more; and/or
- o 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.

To Elena
Date 8/26 Time 8:30

WHILE YOU WERE OUT

M Arthur Fried
of SSA - GC
Phone 410-965-0600

Area Code	Number	Extension
TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL <input checked="" type="checkbox"/>
CALLED TO SEE YOU		WILL CALL AGAIN
WANTS TO SEE YOU		URGENT

RETURNED YOUR CALL

Message 670-6318

Anna D...

1 - paper on

670-2998

Operator



AMPAD
EFFICIENCY

23-021 - 200 SETS
23-421 - 400 SETS

CARBONLESS

*only reason to do any thing else -
if Pres. decided to slow down.*

Fontenot - telecon
Kids under T. 16 program
Will not elig
bec of tightening of def.
of disability.

Initial claim -
stay a KWI
S. H.
Redeem by stay
Appeal to ALJ
system
Appeals Council
CA

Drug addicts/alcoholics recently came
off roles -

Some at state level
return.

Not ALJs

For kids - ALJ? 1/80 -
1999 Lehne imp.

SSA wants to go at st. level. →

Randy

CALL

1. HHS - no letter guiding policy - critical wanted?

2. Fried - 40 samples
coverage issue
DOT process?

joint letter -
make sense /
on interp
w/ enhanced w/
other agencies

FRIED

They agree

3. Requests from HHS / DOT

Take out of
include per se in denon

Feel free to give

Good cause excep-
tions

~~call Anna
Medicaid state options
for legal immigrants
bring SSI~~

III

~~Georgia
certification
divanve~~
for internet

SUBJECT: FSP-Verification of Noncitizen Eligibility

TO: Regional Administrators
All Regions

This memorandum provides guidance to State agencies in implementing section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. Please transmit this information to your State agencies immediately.

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. The law provides that quarters worked by a parent or a spouse can be credited to the individual in determining the number of qualifying quarters.

Implementing this requirement will be challenging for the Social Security Administration (SSA) which is the primary source of verification of quarters worked, eligibility workers, and the individual immigrants. While some immigrants may 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. Finally, the definition of a "quarter" of work may cause some confusion as "quarters" are credited on the basis of annual earnings rather than on months worked.

This memorandum and the attached procedures provide guidance to State agencies in administering the 40 quarters determination. This procedure has been developed in cooperation with SSA, and we are drafting regulations to address 40 quarter verification be based on the procedures outlined in this memorandum. Until regulations are published, FCS and SSA strongly encourage State agencies to follow these procedures. Quality control review will be based on these certification procedures as well.

Verification of 40 quarters information for most applicants and current recipients will primarily be accomplished by an automated system SSA is developing to provide State agencies with individual quarters of coverage information overnight through batch processing. SSA expects that system to be operational in January. Pending the implementation of the automated system, FCS and SSA have developed an interim procedure for processing households with immigrant members.

This procedure (attached) authorizes certification pending verification (CPV) for immigrants who have been in the country long enough to acquire 40 quarters of coverage and who state that they have met the work requirement. For individuals who meet this requirement, the individual's attestation to 40 quarters is sufficient. No further documentation of earnings is required at application pending SSA verification. Those individuals who do not have enough quarters of their own may also attest at application to quarters earned through the work of a parent or spouse.

Within 3 months after the month in which the SSA verification system is operational, the State agency shall submit the required information for each CPV individual to SSA. SSA will report back the number of quarters that can be credited to the individual and applicable family members.

If SSA's existing records cannot verify that an individual has 40 quarters, SSA will work with the individual to determine whether 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 they are 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 verification finally indicates that an individual does not have 40 qualifying quarters, the State agency shall establish an inadvertent household error claim for the overissuance.

We hope that these procedures will go a long way toward easing these difficulties and ensuring that the law is implemented in a fair and effective manner. Please let us know if you have any questions.

Yvette S. Jackson
Deputy Administrator
Food Stamp Program

Attachments

cc: Food Stamp Program Director
All Regions

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 forty 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.)

Second para -- In order to determine eligibility based on social security coverage, the state should ascertain the applicant's understanding as to the following:

1. How many years has the applicant, the applicant's spouse, or the applicant's parents (before the applicant turned 18) lived in this county.

(If the answer to question 1 is less than 10 years, the State agency does not need to ask question 2).

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 the 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 recipients 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 applicant 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 three 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 six months from the date of SSA's initial response or until SSA has completed its review, whichever is earlier.

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

18-Oct-1996 02:29pm

TO: Elena Kagan
TO: Diana M. Fortuna
TO: Stephen C. Warnath
TO: Emily Bromberg

FROM: Jeremy D. Benami
 Domestic Policy Council

SUBJECT: final forty quarters

FYI attached is the final version of forty quarters material that USDA received last night.

This is the version they are sending out! Without question marks, we hope!

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 covered by Social Security. Each worker can earn a maximum of 4 credits 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	1988.....\$470
1979.....\$260	1989.....\$500
1980.....\$290	1990.....\$520
1981.....\$310	1991.....\$540
1982.....\$340	1992.....\$570
1983.....\$370	1993.....\$590
1984.....\$390	1994.....\$620
1985.....\$410	1995.....\$630
1986.....\$440	1996.....\$640
1987.....\$460	

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 1978, ^{18 years ago} a credit was earned:

- o For each calendar quarter in which an individual earned \$50 or more in wages (including agricultural wages for years before 1955);
- o For each calendar quarter in which an individual earned \$100 or more in self-employment income (Net earnings for the year must be at least \$400 before any quarters were credited); and/or
- o For each \$100 (limited to a total of 4) of agricultural wages earned during the year, regardless of the quarter they were earned, for years 1955 through 1977.

NOTE: Determinations made using this information are not binding on the Social Security Administration for programs administered by that Agency.

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

17-Oct-1996 10:19am

TO: Jeremy D. Benami

FROM: Diana M. Fortuna
 Domestic Policy Council

CC: Emily Bromberg
CC: Elena Kagan
CC: Wendy A. Taylor
CC: Stephen C. Warnath

SUBJECT: RE: 40 Qs letter

Major issue has arisen: Yvette disagrees strongly with OIRA's conclusion that this falls under Paperwork Reduction, and says that this requirement will add days or weeks to the process, not one day as OIRA asserts. While OMB is agreeing to a 24 hour emergency turnaround once she gets it, she says it will take USDA a long time to get their part of this done. And that there are tremendous implications of this interpretation for all kinds of other parts of the law that we have already acted on or will act on.

Should Elena look at the legal merits of this issue?

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

17-Oct-1996 12:50pm

TO: Jeremy D. Benami
TO: Diana M. Fortuna
TO: Elena Kagan

FROM: Stephen C. Warnath
 Domestic Policy Council

SUBJECT: 40 quarters and 10-year income estimates

I believe that it is a mistake to require in our interim procedure the type of year-by-year sliding scale income estimates that we have in the draft letter now. It is simply too complex. This level of complexity conflicts with the reason for the interim procedure, which is to establish a reasonable approach to protect eligible individuals who may have moved around alot, had numerous employers and have very incomplete records. This also means that estimates of income year-by-year over a ten year period would be extremely difficult (and would be exacerbated if the individual needed to rely upon spouse or parent records).

On the State end of this, I think this would be extraordinarily complex for State workers to implement. If States howl about the interim procedure, we have not gained anything.

I certainly recognize the argument that we don't want this to be viewed as lax by some members of Congress or the public, but 1) we will be able to point to procedures for claims for overpayments and 2) this is an interim measure. Also, perhaps we can set something up so that will less formally work to help individuals accurately judge whether they are likely to meet earning requirements -- perhaps working with groups to help people understand that there are escalating minimum earning levels and they should take care before making their attestations.

thanks

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 forty 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.)

Second para -- In order to determine eligibility based on social security coverage, the state should ascertain the applicant's understanding as to the following:

1. How many years has the applicant, the applicant's spouse, or the applicant's parents (before the applicant turned 18) lived in this county.

(If the answer to question 1 is less than 10 years, the State agency does not need to ask question 2).

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 the 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 recipients 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 applicant 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 three 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 six months from the date of SSA's initial response or until SSA has completed its review, whichever is earlier.



United States
Department of
Agriculture

Food and
Consumer
Service

3101 Park Center Drive
Alexandria, VA
22302-1500

FOOD STAMP PROGRAM

DATAFAX COVER SHEET

DATE: _____

TO: Jeremy Ben-Ami

OFFICE: _____

PHONE: _____

FROM: Yvette

OFFICE: _____

PHONE: _____

SUBJECT: _____

REMARKS: Revised

NO. OF PAGES INCLUDING COVER SHEET: _____

FINAL VERSION!!

To: ELENA KAGAN EMILY ~~WAGNER~~
DIANA FORTUNA BROMBERG
STEVE WERNATH



United States
Department of
Agriculture

Food and
Consumer
Service

3101 Park Center Drive
Alexandria, VA
22302-1500

OCT 18 1996

SUBJECT: FSP - Verification of Immigrant Eligibility

**TO: All Regional Administrator
Food and Consumer Service**

The attached letter provides guidance to State agencies in implementing section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. Please send this letter to State Commissioners immediately.

Yvette S. Jackson
Yvette S. Jackson
Deputy Administrator
Food Stamp Program

Attachments

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)

Enclosures

cc: Food Stamp Program Director

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:

1. 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.)

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.

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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.

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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 covered by Social Security. Each worker can earn a maximum of 4 credits 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	1988.....	\$470
1979.....	\$260	1989.....	\$500
1980.....	\$290	1990.....	\$520
1981.....	\$310	1991.....	\$540
1982.....	\$340	1992.....	\$570
1983.....	\$370	1993.....	\$590
1984.....	\$390	1994.....	\$620
1985.....	\$410	1995.....	\$630
1986.....	\$440	1996.....	\$640
1987.....	\$460		

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:

- o 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);
- o Four credits were earned for each taxable year in which an individual's net earnings from self-employment were \$400 or more; and/or
- o 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.

Social Security Administration
Consent for Release of Information

TO: Social Security Administration

Name Date of Birth Social Security Number

I authorize the Social Security Administration to release information or records about me to:

NAME ADDRESS

I want this information released because:

(There may be a charge for releasing information.)

Please release the following information:

- ____ Social Security Number
- ____ Identifying information (includes date and place of birth, parents' names)
- ____ Monthly Social Security benefit amount
- ____ Monthly Supplemental Security Income payment amount
- ____ Information about benefits/payments I received from _____ to _____
- ____ Information about my Medicare claim/coverage from _____ to _____
(specify) _____
- ____ Medical records
- ____ Record(s) from my file (specify) _____
- ____ Other (specify) _____

I am the individual to whom the information/record applies or that person's parent (if a minor) or legal guardian. I know that if I make any representation which I know is false to obtain information from Social Security records, I could be punished by a fine or imprisonment or both.

Signature: _____

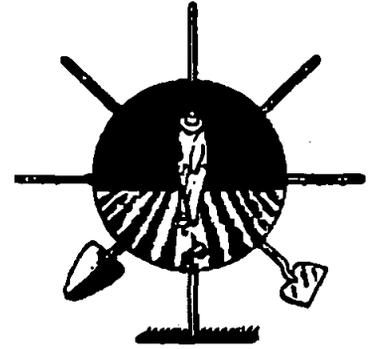
(Show signatures, names, and addresses of two people if signed by mark.)

Date: _____ Relationship: _____

SSA-3228

FARMWORKER JUSTICE FUND, INC.

1111 19th Street, N.W., Suite 1000
Washington, D.C. 20036
Phone (202) 776-1757



cc Jeremy
Stewart

Elena Kagan, Rm 125

MEMO

TO: ART FOLEY, FOOD AND CONSUMER SERVICE, USDA
 DIANA FORTUNA, WHITE HOUSE DOMESTIC POLICY COUNCIL
 JUDY CHESSE, DEPUTY COMMISSIONER, SOCIAL SECURITY ADM.

FROM: BRUCE GOLDSTEIN

DATE: October 3, 1996

RE: STATE FOOD STAMP AGENCIES ARE ISSUING
 BLATANTLY ILLEGAL INSTRUCTIONS REGARDING
 THE ELIGIBILITY OF LEGAL IMMIGRANTS FOR FOOD
 STAMPS UNDER THE WELFARE BILL'S GENEROUS
 FORTY QUARTERS PROVISION

The attached instructions by the Florida State Government on the Food Stamp program will have an immediately devastating and illegal impact on farmworkers and other legal immigrants who apply for food stamps. A Florida public interest lawyer's response is also attached.

We have received a state government memo -- issued on September 16, 1996, by Linda Dilworth, Assistant Secretary for Economic Services, of the State of Florida Department of Health and Rehabilitative Services -- that is wildly inaccurate in what it says and utterly misleading in what it omits.

- o For example, it says that to be credited with a qualifying quarter, a food stamp applicant must have earned at least \$13,200 per year (since 1974). This overstates the correct amount, which varies yearly, by about a multiple of five. The agency does not understand the quarters concept.

- o The Florida memo also fails to point out that the spouse's and parents' quarters may be considered. Indeed, the memo suggests that this is not the law by contending that the agency may not credit someone with more than one quarter of credit in a quarter. That is wrong.

- o It also says that temporary resident aliens under the Special Agricultural Worker (SAW) program of the 1986 immigration law are ineligible. But that law provides that such temporary resident aliens (there are only a few left) are to be treated as permanent resident aliens for every purpose (other than the immigration laws). INA section 210(a)(5), 8 U.S.C. 1160(a)(5).

Turning to another state, the Illinois Department of Public Aid has issued an utterly inaccurate memo which provides that food stamp applicants may only prove that they worked forty quarters (by using their Social Security records.) Obviously, this not only hurts farmworkers whose employers failed to report their earnings to the government, but the many state government employees who do not participate in Social Security.

We are witnessing the beginning of an onslaught of incorrect information that will deny farmworker families food improperly. I know of these two instances because there are active, knowledgeable advocates in those states who are watching the state agencies. I do not know what is happening in most state capitals or at the local level.

It does not matter that some or maybe all of these errors arise from confusion or incompetence, rather than bad faith; the terrible consequences are what matters.

Thanks for your attention.

(Fax version without attachments)

INTERIM PROCESS FOR ESTABLISHING 40 QCs

o Declarative/Self-Attestation

- Based on the client's allegation of work and using the quarter of coverage fact sheet provided by SSA, the Agency worker makes a determination of whether the client meets this exception.
- A quarter of coverage history can later be obtained through SSA's automated QC history response system (beginning 1/97) to verify the work history determination.

"DRAFT"

"DRAFT"

QUARTERS OF COVERAGE

Fact Sheet

THIS INFORMATION IS PROVIDED TO ASSIST YOU IN DETERMINING WHETHER YOUR CLIENT MEETS THE 40 QUARTER EXCEPTION AS DEFINED IN P.L. 104-193. WE RECOMMEND THAT ALL FINDINGS BASED ON THIS INFORMATION BE CONFIRMED WITH THE SOCIAL SECURITY ADMINISTRATION AFTER ITS AUTOMATED QC HISTORY RESPONSE SYSTEM IS OPERATIONAL.

ESTABLISHING EARNINGS

To establish wages, self employment income and/or tips for quarters of coverage purposes, you should be convinced that the earnings actually exist and that the evidence submitted to prove those earnings does, in fact, verify their existence. You should also be convinced that the amounts shown on the evidence is bonafide and belongs to the individual.

In addition to an individual's personal statements and records, the following documents may help you determine earnings exist:

- o Employer Statements/Records
 - Forms W-2 and/or W-2C
 - Employer prepared wage statements
 - Signed statement by custodian of the employer's records
- o Tax and Other Official Records
 - IRS Copy of the employee's tax return
 - Union records
 - Records of State unemployment insurance agencies
- o Other Records
 - Pay vouchers, envelopes and similar unsigned employer wage statements to the individual, a State agency or a Federal agency
 - Individual's copy of Federal, State or local income tax returns
 - Statements of persons having knowledge of the individual's employment and/or wages
- o Personal Earnings and Benefit Estimate Statement (PEBES) issued by the Social Security Administration (A PEBES can be obtained by calling 1-800-772-1213).
- o Self-Employment Income Records
 - Form 1040 (Income Tax Return) filed with IRS; or
 - Schedule SE or other written statement which includes enough information to determine the amount of self-employment income; and
 - Proof of payment that taxes were paid.

"DRAFT"

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 covered by Social Security. Each worker can earn a maximum of 4 credits 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:

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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 1978, a credit was earned:

- o For each calendar quarter in which an individual earned \$50 or more in wages (including agricultural wages for years before 1955);
- o For each calendar quarter in which an individual earned \$100 or more in self-employment income (Net earnings for the year must be at least \$400 before any quarters were credited); and/or
- o For each \$100 (limited to a total of 4) of agricultural wages earned during the year, regardless of the quarter they were earned, for years 1955 through 1977.

NOTE: Determinations made using this information are not binding on the Social Security Administration for programs administered by that Agency.

Welton Subgroup 10-2-96

40 subs up to Jan 1 - self attestation - (Food Stamp: rules)
After Jan 1

- covered - SS syst - overnight camp.
- non-covered (kill letter) - SS won't have info - need an system. We can provide guidance
- veterans (med info from VA)

some will be non-credited
how to deal? by SSA.

Re Food Stamp -

Need to do guidance to states
on interim/transitional (kill Jan 1)

(True?) → don't require.

(Prob don't want) Make clear: you can

PS/~~USA~~^{SSA} - to put together proposal re interim guidance
Council/DPC/OMD to review next week.

Elena - This is Steve Warnath's interim verification

DRAFT SEPT 23, 1996 WORK IN PROGRESS VERY ROUGH DRAFT, ETC.

PURPOSE OF MEMO

draft memo

- Diana

The welfare reform bill calls for redetermination of eligibility and denial of benefits based upon citizenship or immigration status for a wide range of programs.¹ The bill envisions a long-term process by the Administration to design a verification system and issue regulations. In the meantime, however, states and other providers are authorized to deny benefits to many who previously been eligible.

This memo sets out issues for the federal government that are raised immediately to aid the development of a short-term approach while the legislatively-mandated 18 month verification design period proceeds.

The goal of any short-term verification strategy is to maximize the likelihood that verification is conducted in a reliable, cost-effective, fair and nondiscriminatory manner.

BACKGROUND

A. There is no completely reliable nondiscriminatory verification system to verify citizenship

While the welfare reform bill requires a citizenship status check of recipients and applicants to obtain benefits, the United States does not possess a system of records of citizenship status -- by birth and naturalization -- that can be relied upon for determining or verifying this. For a variety of reasons, including civil liberties and national identification concerns, the Federal government has not collected and kept such files or created a database on all of its citizens.²

¹ This requires development of a mechanism for determining or verifying such status for each individual receiving these benefits or services. The status check is to be imposed not only by state and county agencies, but also by any recipients of federal funds, which could include community clinics, meal programs, etc.

² The bill may incorrectly presume that INS or SSA has adequate records on citizens and naturalized citizens. For example, although INS has recently computerized nearly 5 million naturalization records into its central database, coverage is not complete and would create uneven burdens on some localities to verify a naturalization certificate. Moreover, there is a lag between the act of naturalization and INS' updating of an

B. Timeline for longterm development of verification system

The Attorney General and Secretary of Health and Human Services are provided 18 months to design a verification system and issue regulations implementing them. The states are then given an additional 2 years to comply with those regulations. The bill authorizes providers to redetermine and deny benefits before those regulations are issued.

C. The legislation is silent on verification standards or safeguards

The bill does not set any standards or protections, establish any constraints or provide any guidance for the verification of an applicant's or recipient's citizenship or immigration status as implementation commences. During the 18 month period that the Federal government is developing regulations, States appear free to devise their own schemes, especially in the absence of federal guidance.

This contrasts with Congress' legislation introducing status verification in 1986. The Immigration Reform and Control Act of 1986 (IRCA) provided safeguards against misuse of information and procedures, protections against discrimination, and a transitional educational period.

D. The Danger of Discrimination

Verification raises issues of potential discrimination and violations of Title VI of the Civil Rights Act and other program-specific antidiscrimination laws such as Section 11(c) of the Food Stamp Act of 1977. One manifestation of discrimination occurs if the provider checks the status of those who "look or sound foreign." Or a provider may demand "foreign-looking or sounding" applicants to produce both more or "better" documents than others to provide that they are legal workers.

This is not a hypothetical concern. The Inspector General of HHS found inappropriate conduct relating to some states' use of the SAVE system. The I.G.'s report states:

States are unnecessarily querying SAVE for aliens who have become naturalized U.S. citizens or for aliens who were not applying for aid.

individuals record, when that occurs. Obviously INS does not have records for citizens who were born in the U.S. and there is a genuine issue of whether the INS is the appropriate repository for such information.

In the short-term, recertification could lead to more than 50 verification practices with different effects and procedures. Training, if it occurs at all, will be uneven. Without systematic training and careful monitoring, these disparate practices could have discriminatory applications.

E. The Danger of Document Fraud

The legislation creates a climate that will encourage the manufacture and use of false documents. Generally, any confirmation system must rely on identification or status documents. Some previously eligible individuals, in order to continue lifesustaining benefits or services may be tempted purchase cheap false documents that they know many service providers are not trained to detect. Ironically, birth certificates -- the primary document relied upon to show citizenship -- is one of the documents most susceptible to fraud because it is a local nonstandardized document.

RECOMMENDED STEPS

The following assumes that there is no legislative or legal "fix" and legal immigrants face benefits cut-offs during the 18 months that the Administration develops a coordinated verification approach. This memorandum presents a proposed strategy does not prevent legal immigrants from being cut off from benefits but should help to maximize protections during interim verification.

A. LIMIT SCOPE OF PROGRAMS REQUIRING VERIFICATION IMMEDIATELY

There is an important connection between the federal government's determination of the scope of programs subject to the provisions of the welfare reform bill and the requirement to verify recipients and applicants. The first step is to limit within the authority of the law the programs that would require verification. This can be done in two ways by : 1) supplementing the programs the Attorney General has identified broadly pursuant to Section 402 (a)(1)(D);³ and 2) define "means-

³This provision states:

- (D) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided or the cost of assistance provided on the individual recipient's income or resources; and (iii)

tested" programs to the narrowest extent possible permitted by the law. Federal, State and local officials will need to take care when first determining whether immigration status is a requirement of a particular program.

B. SHORT-TERM VERIFICATION

OPTION ONE: ISSUE AN EXECUTIVE ORDER OR ATTORNEY GENERAL DIRECTIVE ESTABLISHING A SHORT-TERM SELF-CERTIFICATION APPROACH

There is a colorable basis to exert a claim of federal authority over a number of programs that would need to implement interim verification.⁴ Therefore, the Administration can help decrease uncertainty, reduce inconsistent application of the law and establish protections for recipients and applicants by issuing a directive by the President or the Attorney General.

The proposed directive would assert for the broadest range of programs over which we can assert a colorable federal preemption argument that a program's verification are to be based upon a combination of either self-attestation of citizenship (or falls within an exempted category of legal immigrant) or the INS' Systematic Alien Verification System (SAVE), documents or a combination, as appropriate. We would require programs over which we can exert jurisdiction to implement this approach until a state issues its regulations complying with the Federal verification regulations.

The directive would establish a framework along the following lines:

a. Identifying Illegal (Nonqualifying) Aliens

Under the Welfare Reform Act, nonqualifying aliens -- mostly those illegally in the country -- are ineligible for an extremely broad range of programs. The INS already runs a benefits

are necessary for the prediction of life or safety.

⁴The enforcement of immigration laws and the determination of immigration status is a federal responsibility. Arguably this specific welfare bill recognizes the federal government's preeminent role in this area by requiring states to comply with federally-established regulations on verification. The failure of Congress to account for appropriate verification for the first 18 months after enactment of the legislation prior to the issuance of regulations does not lead to any contrary conclusion of where responsibility is held.

vs Y09?

verification system to establish whether a noncitizen is legally in the country called the The Systematic Alien Verification For Entitlements (SAVE) Program. The directive would establish the SAVE system as the primary interim verification system for identifying the legal status of noncitizens to the maximum extent possible during the interim period. Before proceeding with verification that involves immigration status, the agency should contact INS to clarify procedures and responsibilities under SAVE.

self-decl & now

Under this system, individuals first self-declare whether they are a citizen or noncitizen. If the applicant self-certifies as a noncitizen, the provider then ask to see documentary evidence of that immigraiton status. With proper training and technincal assistance form the INS, the provider will be able to make an affirmative decision of benefit eligiblty based upon a review of a document.

If the provider considers denying eligibility because of an applicant's immigration status, it checks with the INS to verify the information presented before it denies the benefit. That INS check cocurs in two ways. For public programs connected to the INS SAVE syystem the provider checks electronically using the standard Those identifying themselves as noncitizens then are confirmed for having been lawfully admitted through an inquiry to an INS computer database. If the individual indicates that he or she is a citizen, then the inquiry would proceed as described below in the next subsection.

Under past law, an individual who is a legal immigrant generally would be eligible for the benefit. Now, if the inquiry demonstrates that the individual has legal status, the individual would may need to demonstrate that he or she falls within an exemption category to be eligible for benefits.

This system is not perfect, but it has the advantage that it is currently in use so the INS and a number of benefit programs are familiar with this system, their workers are trained to use it and expansion appears possible. It has the further advantage of having the imprimatur of being a Congressionally-recognized method of verifying status.⁵

⁵ BACKGROUND ON SAVE: Congress mandated in 1986 that certain benefits programs verify a noncitizens status to ensure that only eligible noncitizens received specific federally funded entitlements. The programs include Food stamps; AFDC; Educational Assistance; and Housing Assistance. Other non-mandated agencies which use the current system include Social Security, GSA, and NASA.

Other programs, where it is not cost-effective to link up with SAVE could rely upon self-attestation and documents. Individuals showing

b. Identifying Citizens and Immigrants in Exempted Categories

An individual who indicates that he or she is a citizen then would be asked to support that claim. This is probably a birth certificate for a native born citizen. Naturalized citizens should have a certificate of naturalization. Other documents, such as a passport, should be acceptable and during the interim period, at least some less conclusive evidence such as family records may be accepted.

The Social Security Administration does a visual inspection of the relevant INS document for compliance with guidelines developed by INS. If the document submitted is questionable, the SSA office uses SAVE or, in non-SAVE-equipped offices, SSA will send a written request to INS to verify the immigrant's status.

The Order would have several components:

1) It would indicate that a State complies with the law if it permits an individual presently receiving benefits to retain current eligibility by signing a certification of citizenship or immigration status under penalty of law for knowingly making a false statement.

Similarly, an individual applying for benefits would sign a certification of eligibility by exemption (i.e., refugee within 5 years, worked 40 quarters, etc.), again under penalty of law.

This is a sensible interim verification approach due to the difficulties for many States and other providers of establishing

In response, the Federal government created the SAVE system. SAVE is based upon a computer database of selected immigration information of over 50 million records. The database is stored and maintained by Lockheed Martin Information System. The SAVE system does not contain comprehensive information and so sometimes inquiries must be resolved by locating and reviewing an individual's paper file. This is called "secondary verification." ~~SAVE is not able to determine citizenship status.~~ States presently are able to apply for a waiver from the SAVE system by demonstrating that it is not cost-effective and that they have implemented a system that is at least as effective. States that have been granted waivers include: Hawaii, Michigan, Minnesota and Washington. New York, Maine and Vermont are waived for food stamps.

S047 use 7 for fs?

free nuclear

workable and reasonable plans during the interim period and the costs involved, when especially since the approach is likely to be different when the Administration releases its regulations after 18 months. This interim solution is further appropriate to help avoid the potentially dire hardship for erroneous determinations, especially considering re-determinations will be implemented mostly by officials without adequate training in verification and antidiscrimination safeguards.

2) It should also require that any actions, processes and procedures taken to implement the bill also implement processes and procedures protecting against discrimination.

3) It also could establish an interagency group to provide/coordinate technical assistance, with states and localities etc.

OPTION TWO: ESTABLISHING A PRESUMPTION TO ALLOW TIME TO ACQUIRE AND PRESENT DOCUMENTS

Alternatively, the directive could allow for an applicant or recipient to self-certify that he or she believes that he qualifies for citizenship or exemption status. By signing the certification, the individual would be permitted additional time, perhaps several months, to obtain and present supporting documentation. Although this extends the time an individual has to comply, this approach demands a greater burden by the recipient or applicant because it requires affirmative proof of status. The extra time is justified because some will find it very difficult to prove their status for eligibility purposes. A refugee, for example, will need to show not only that he or she is a refugee, but also when they were granted that status (because eligibility is available only for 5 years). There may be particularly complex issues for some who must show that they have worked 40 qualifying quarters. Farmworkers and domestic workers, for example, will require particular attention. The time is further justified from the provider perspective to allow training of workers who will be dealing with documents they have never dealt with before. [See the section on Accuracy below]

how diff?

C. ISSUE FEDERAL INTERIM GUIDANCE OF STANDARDS

Federal preemption does not appear to reach all programs under the new legislation. State and local programs that do not rely upon federal funds, such as state licenses and contracts, may examples. States and other providers then have wide latitude to implement their own verification schemes.

NOT ALL

For programs that do not fall under the authority of the federal government, we should take a carrot and stick approach to encourage compliance with the approach outlined in the directive

and/or to maximum observance of protections for applicants and recipients. The Executive Order/Attorney General directive could: 1) present States and providers with the carrot of requesting them to comply with the framework outlined in the directive and providing technical assistance, educational and other support; and 2) show the stick by directing the Attorney General (if it is an Executive Order) to monitor and prosecute States which create a different verification scheme if it implements it in a discriminatory manner or violates other federal laws.

a. Cooperative Effort With States

It is clear that many states want federal help in implementing verification. A helpful contribution, then, would be federal guidance to states and other relevant parties addressing the need for accuracy of status determination, fairness, and nondiscrimination in their implementation of verification mechanism. Thus, concurrent with the Executive Order/Attorney General directive would be federal guidance.

States and local governments may very well want to have federal assistance to protect themselves from the potential consequences of mistakes. Perhaps an additional incentive could be provided by some type of "hold-harmless" offer to States who follow the Federal government's approach. *From?*

1) Educational and Technical Assistance. The guidelines could set out a program of education for current recipients and for government employees to learn the details of the new welfare procedures, their proper implementation, and alternative sources of help for needy individuals who are no longer eligible.

An educational and technical assistance program should be offered to Federal, State and local providers. These sessions would discuss and provide federal technical assistance on a series of issues involving noncitizens, including verification. The process of asking questions about immigration status, examining documents, and using information from the INS about a person's status raises significant issues involving privacy and anti-discrimination protections. This is justified by the many concerns of state and local governments -- many of which are only now becoming clear on the impacts of this legislation on them.

These sessions could also be used to assist states and local governments that refused to follow the federal government's lead in constructing verification procedures that would be efficient, fair, reliable, cost-effective, and non-discriminatory.

2) Naturalization Information

The Federal guidance would ~~require~~ that, as part of any notice or communication regarding new eligibility requirements or determinations, all federal agencies and state agencies

~~administering federal programs~~ include naturalization information that encourages them to pursue naturalization if they are eligible.

Compelling States To Take Steps To Institute Safeguards

While emphasizing the positive attributes of partnership with States and other providers as we go forward with welfare reform, there could also be a clear cautionary note -- perhaps through a directive to the Attorney General in the Executive Order to vigorously investigate and enforce violations -- about the consequences of creating verification procedures at local levels that contribute to discrimination.

Discrimination

The guidelines would set out the implementing agencies' responsibilities not to discriminate in implementing the new law and specifically the verification procedure. It would provide guidance on how to avoid discriminatory application. And it could indicate that the federal government would audit its programs to protect against discriminatory application.

Accuracy

Any verification system must be accurate to have integrity. Many assume, mistakenly, that a document-based system is straightforward and reliable. It is not. This legislation will increase document fraud. Although a birth certificate is the principle document that native-born citizens might show to demonstrate their citizenship, birth certificates are a locally issued document and there is no standardized form. Consequently, there is almost no way for an untrained service to provider to determine its accuracy by looking at it.

Fairness

The objective of accuracy must be balanced by fairness. Accuracy is a goal for the interim period as well, but weDuring the interim period, the Guidelines would require federal agencies and states implementing federal programs to provide a fair opportunity to establish eligibility. This may require that while we set out acceptable documents to establish status (an accuracy consideration) that discretion be exercised during the interim period in favor of the current recipient to resolve a question of doubt. =, even if this Put more formally, we must make sure that people are provided with full opportunity for due process before they are denied benefits or cut off benefits.

With such a dire consequence, providers should be requested to exercise their discretion in a manner that provides a full and fair opportunity to establish eligibility.

Erroneous Claim of Citizenship

We should explore whether there is a way to limit the penalty of mistakenly representing one's status. The self-certification of U.S. citizenship could place a legal permanent resident at a new and serious risk without adequate notice. Under the proposed procedures, a legal permanent resident could mistakenly sign a certificate attesting to U.S. citizenship. If they are subsequently determined to have falsely claimed to be a citizen, they are guilty of a Federal crime and are subject to deportation. Our short-term strategy should make sure that the individual is fully aware of the consequences of self-certification, especially because of the difficult context that an individual may face in certifying they are ineligible to receive family-sustaining benefits.

On the other hand, outright fraud should be subject to the penalty of law.

Penalties for Erroneous Claims to U.S. Citizenship

Since a false claim to U.S. citizenship during this phase-in period could subject current recipients to deportation, we should ensure that appropriate appeal procedures are available for legal immigrants or citizens who are allegedly improperly denied benefits. A process should be established. There should be some recognition given to mistakes that arise from misinformation or lack of knowledge of brand new rules.

URGENT

September 30, 1996

TO: Elena Kagan

FR: Judy Chesser

RE: 40 Quarters - Congressional Letter

The original Ways and Means draft was sent to you Friday but since I have not heard, I am now sending you our comments which have been sent to the Hill.

Attached are two versions of comments on a draft letter from Chairman Clay Shaw stating that the 40 qualifying quarters exemption for federal benefits need not be Social Security covered work. The monetary requirements attaching to Social Security covered work would apply, ie. \$640 for a quarter this year, less in years past.

attachment: 4 pages

September 27, 1996

TO: Matt Weidinger

FR: Judy Chesser

Phone: 202-482-7148 or home 362-8827

RE: Draft Letter on 40 Quarters

I do not know if you need these comments tonight so here are preliminary comments. I think this is all-but some people are unavailable until Monday morning.

Please delete the words "during that quarter" from 4th line of second paragraph. This is because SSA keeps records annually and then applies the quarterly monetary amounts to the annual figures to determine how many quarters were earned in a year.

Thanks.

Note: The Social Security Administration has asked for guidance about the meaning of "qualifying quarter" in the noncitizens title of the welfare reform law. The welfare reform law exempts from changes noncitizens who have worked for at least 40 quarters (10 years), or who can be credited with a spouse's or a parent's work history. The Social Security Administration wants to clarify that individuals who worked in jobs not covered by Social Security may be credited with work, so long as the amount of work rises to the income level otherwise needed for the crediting of a quarter in covered employment during the year.

Draft letter from Archer and Shaw to Chater

This letter is to give you guidance on the intent of Congress on the definition of "qualifying quarters" for purposes of exemptions from eligibility changes affecting noncitizens in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

The definition of a "qualifying quarter" hinges on the amount of work performed, not whether the individual worked or is working in a job actually covered by Social Security. For example, individuals in non-covered work can be credited with a quarter of work so long as their salary ~~during that quarter~~ rises to the level of what normally is considered a qualifying quarter's worth of work. Again, the focus should be on whether the individual has worked and earned a certain level of earnings, not on whether the individual worked in Social Security covered employment.



mllaw/quarter

Suggestions?
Mark

September 30, 1996

TO: Matt Weidinger

FR: Judy Chesser

RE: Final Comments on Draft 40 Quarters Letter

The attached one page constitutes a redraft by our General Counsel. He prefers his redraft because he thinks it makes it clearer but thinks your version (with the one change I sent Friday) is acceptable.

I thank you for all your assistance on this matter.

SSA Gen. Counsel version

Draft Letter From Archer and Shaw to Chater

This letter is to give you guidance on the intent of Congress regarding the "40 qualifying quarters of coverage" exception to certain restrictions on noncitizen eligibility for benefits under title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193).

One of the overriding premises of the Congress in crafting Pub. L. 104-193, and one stated in the legislation itself (sec. 400), is that self-sufficiency has been a basic principle of United States immigration law since the country's earliest immigration statutes and it is a compelling government interest to assure that aliens be self-reliant. The "40 qualifying quarters of coverage" exception to certain restrictions in the new law gives recognition to this overriding premise by encouraging and rewarding the self-sufficiency of noncitizens. In crafting the exception, it was the intent of the drafters to incorporate the quarters of coverage calculation methodology of section 213 of the Social Security Act whereby a certain amount of earnings during a specified time period would equate to a specified number of quarters of coverage. It was not the intent of the drafters to also incorporate the restrictive definitions set out in other sections of the Social Security Act as to what earnings are to be used in the section 213 calculation methodology. The many exclusions in these definitions from what constitutes covered earnings under the Social Security Act bear no relationship to the self-sufficiency of a noncitizen. Accordingly, any earnings of a noncitizen for work performed in the United States should be used in the quarters of coverage calculation for purposes of the exception to the restrictions in title IV of Pub. L. 104-193, not just covered earnings. Simply stated, the focus should be on whether the individual has worked and earned a certain level of earnings, not on whether the individual worked in Social Security covered employment.

10-7-96

Verification - qualifying quarters

SSA / FS -

Interim proposal: Beg in Jan - states can do electronically
then SS #s - SSA then will produce history. -
2.c. (quarter of coverage)
SSA proposes

Post Jan 1: Self-declarative process - series of q's -
outfit w/ history? Board on s-d, when syst
comes up, st would get approp amt of time
to reprocess those requests.

FS - 2 probs

1. Inv + immigs now on proj who may want to
estab

2. 60,000 new every mo.

Proposal - cert pending verif (until Jan 1)

documentary verify emp time (40 hrs) in country.

then - just say 40 hrs of SS coverage

Attested to "to the best of their knowledge"
(with it knowingly gave false info -
then a problem)

Pre-Jan 1

sharply encourage states

Note that you'll be

facing litigation

Assure - acceptable for quality

control purposes.

Hard to imagine a state

"not taking advantage of this."

Policy memo

After Jan 1 -

If a gap - issues start.

Get better meanwhile.

If not entitled, there's a claim later.

Post Jan 1 -

How do you deal w/

gaps -

work history missing
(or part of it)

Hands-on / contact
employers.

If SSA is working -

For near period of
time.

40 str - not 10 course ys.

Have to ask g in way that doesn't suggest
a person needs 10 ~~yr~~ course ys.

Telecom Rule Hill 10-F-74

Issue a reg w/out prior public comment.
If impracticable to regulate.

As practical mtr - takes as long to approve
as ~~for~~ a proposed rule -
months

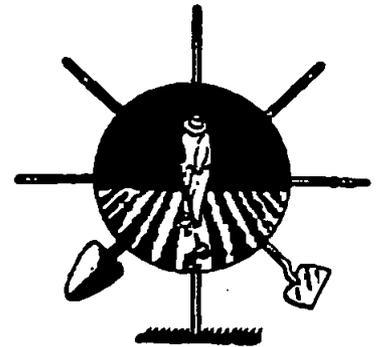
Departmental clearance } EOs
OAR " "

Reg: all rules must be eff || Congress - 60 days.
Exceptions for that?

Implementing memo -
you're compelled to implement
here's our advice as to how to
do so...

FARMWORKER JUSTICE FUND, INC.

1111 19th Street, N.W., Suite 1000
Washington, D.C. 20036
Phone (202) 776-1757



To: Stephen Warnath, White House Domestic Policy Council
From: Bruce Goldstein, Co-Director, Farmworker Justice Fund, Inc. *BG*
Date: October 7, 1996
Re: Welfare law's forty quarters provision: Social Security guidelines

Cecilia Munoz forwarded to me for comment the Social Security guidelines for correcting Social Security earnings reports. We appreciate the opportunity.

1. Focusing on the SSA guidelines as a model is misplaced. These guidelines result from the stringent standards in the Social Security Act, 42 U.S.C. § 405(c), for proving correction of Social Security records. The welfare bill does not contain those standards. Congress has recognized the special situation that farmworkers face in proving their past employment, which should be considered a much closer analogy. 8 U.S.C. § 1160; 8 C.F.R. § 210.

The welfare bill does not require a noncitizen applicant to correct his or her Social Security records. The welfare bill, as you know, merely requires someone to have worked forty quarters as defined by the income-levels under the Social Security Act and regulations. The special statutory problems regarding the correction of Social Security records will be insuperable for many Farmworkers. In addition, the SSA framework has a different purpose. The SSA is in large part concerned with the exact amount of someone's past earnings because it helps determine benefit levels. Here, by contrast, the amount of past earnings is not critical. Most applicants who actually worked during a year will have earned the minimal amounts needed to be credited with four quarters of employment. Thus, the SSA's stringent guidelines should not be the model or the starting point.

2. Welfare officials should be instructed to expect that farmworkers will need to use alternative methods of proving past employment earnings and that farmworkers' need to use such alternative methods should not cause their claim of forty quarters of employment to be treated with skepticism.

The SSA guidelines offer several alternative ways of proving earnings, but they also imply that the methods are part of a hierarchical list, with the later ones to be treated with skepticism. Such skepticism might make sense for many occupations because most employers in other fields report earnings or at least provide pay stubs. The nation's 1.6 million migrant and seasonal farmworkers, however, have experienced widespread failure of employers to report earnings, provide pay stubs or send W-2 forms. Moreover, it will be difficult for farmworkers to get such employers, even if they can be reached, to now admit that the employment occurred. Agency officials should be told to expect that farmworkers will need to rely on alternative methods of proof, including statements of the applicants and their friends and family.

3. Section 1734 would probably doom the applications of many farmworkers who actually worked forty quarters or more. That section provides that when evidence of wages cannot be obtained, "an individual's allegation as to the amount of wages may be accepted" but only if the allegation pertains to one year, the employer has posted information with SSA in the adjacent year, the earnings are "consistent with the earnings" in the adjacent year, and other requirements are met. Many farmworkers will lack records for numerous years because it is so common for agricultural employers not to supply earnings information. Farmworkers need to be able to attest to their employment, especially for their early years (for many, the mid to late 1980's) when most were transitioning from the underground labor force to documented employment.

4. Section 1727, if adopted as part of the welfare guidelines, would also make it difficult for many farmworkers to "prove" that they did in fact work even though it allows evidence that is not based directly on employer records. Because farmworkers frequently will not have employer records, any guidance must state clearly that corroboration can be in the form of a witness statement, and that witness statements can contain reasonable estimates of employment periods and earnings.

Farmworkers frequently lack documents about their earnings. For some quarters, there will be no corroborating documents available because the farmworkers never got any, the employers cannot be reached, or the migrant worker lacked the storage space to keep the records. They must be permitted to provide their own statement and statements of other persons to prove their employment. Moreover, neither the farmworkers nor another witness will always be able to "show clearly the amount of wages paid and when they were paid." For some quarters, farmworkers will be able to say generally that they worked a crop season of a certain length and earned roughly a certain sum of money. Very often they will have been paid in cash by a farm labor contractor and there will not have been much "clear" about the wage payments. Witness statements will often be similar. This is the reality. Such evidence should suffice.

5. Section 1728, which imposes specific authentication requirements for unsigned employer wage statements, would render meaningless many of the wage documents that some farmworkers managed to get and maintain. Many wage documents are quite informal. Again, it is just unrealistic to expect farmworkers who really worked in a quarter and kept an employer's record to always have a document that meets the specific standards of that section.

6. Sections 1730 and 1735 refer to income tax records. Many farmworkers do not have adequate IRS records but should not be penalized for that.

Especially during their first few years working in agriculture, many farmworkers' employers did not provide them with earnings information, did not report earnings to the IRS, and the farmworkers were often told that they earned so little that they did not have to file income tax forms. In addition, some employers falsely characterized farmworkers as "self-employed" and claimed that the farmworkers should have filed their own tax information as self-employed individuals. See, e.g., *Secretary of Labor v. Lauritzen*, 835 F.2d 1529 (7th Cir. 1988) (rejecting claim by business that cucumber pickers were self-employed sharecroppers, rather than employees).

7. Section 1731 refers to unemployment compensation records. Farmworkers "often do not apply for UI benefits when out of work" and "many workers are still excluded from UI benefits" by state law. Dept. Of Labor, U.S. Farmworkers in the Post-IRCA Period (March 1993) at 31. Agricultural employers, especially farm labor contractors, are also notorious for failing to report earnings or pay in to unemployment funds.

8. Section 1733 dismisses the importance of the personal records kept by workers. Because farmworkers are frequently illiterate, this will not be much of an issue. However, farmworkers who kept their own diaries or wage records and state in writing that such records were kept accurately should be applauded for trying to gain control over an undisciplined labor relations system and should be credited with such work.

9. Clarification is needed. Unlike the Social Security program, the welfare law allows crediting of more than one quarter of work per quarter if an applicant's spouse worked or if the applicant was a minor and had one or more parents work. This needs to be stated very clearly in any guidelines.

10. Persons legalized under the SAW program should be presumed eligible as long as they state that they have been working during the last ten years in the United States. Most SAW applicants were in "Group II" and had to prove that they worked at least 90 days in seasonal agricultural during the one year ending May 1, 1986. A small percentage proved that they met the "Group I" standard of 90 days of seasonal agricultural employment during the 3 years ending May 1, 1986. Unfortunately, this does not mean that all their employment (i.e., non-seasonal agricultural employment or employment beyond 90 days) appears in the INS records for those years. Thus, the INS records, which are confidential and should be kept so, should not be used to determine all the employment that occurred. Nonetheless, they are indicative of a ten-year relationship to the U.S. labor force.

11. Finally, the SSA instructions do not contain any indication of the kind of patience and understanding that is needed in dealing with farmworkers and their records. Agribusiness has consistently sought new waves of foreign workers from third world countries. Consequently, many farmworkers do not speak English, do not read English, are illiterate in Spanish or their other first language, and have only a sixth-grade education or less. Migrating workers usually lack telephones, filing cabinets and other resources needed to get records and keep them. For migrant workers, the effort to secure statements from other witnesses to their employment from 8 years ago will be a difficult, time consuming task. They should not starve in the process.

FARMWORKERS' SPECIAL NEEDS REQUIRE ADMINISTRATION ATTENTION TO ENSURE THAT ELIGIBLE LEGAL IMMIGRANTS OBTAIN FOOD STAMPS

The new welfare legislation denies public benefits to most legal immigrants but creates eligibility for lawful permanent resident aliens who have 40 quarters of qualifying work as defined by the Social Security Act and the welfare bill itself. Contrary to popular belief, most farmworkers are legal immigrants and have been working legally in the United States for at least the last 10 years (i.e. forty quarters). Farmworkers will face unique difficulties in gathering proof of that employment, however, due to the nature of their work. The Administration must anticipate these difficulties so that eligible farmworkers do not suffer delays and denials when applying for food stamps.

Legal Immigrant Farmworkers Dominate the Agricultural Labor Force

There are about 1.6 million migrant and seasonal farmworkers in the United States. Most (about 70-75%) are lawful resident permanent aliens,¹ partly because about 1.1 million farmworkers were legalized under the 1986 immigration reform. IRCA's "special agricultural worker" or "SAW" program granted temporary and later permanent legal status to persons who showed that they had worked at least 90 days in seasonal agricultural work during the one year ending May 1, 1986. 8 U.S.C. § 1160; 8

¹ The Department of Labor estimates that about 25% of migrant and seasonal farmworkers are unauthorized. Other farmworkers are United States citizens. See written testimony of Deputy Administrator John Fraser, Wage and Hour Division, U.S. Department of Labor, Guest Worker Programs, Hearing before subcommittee on Immigration and Claims of the Committee on the Judiciary, House of Representatives, Dec. 7, 1995 at 12; U.S. Department of Labor, U.S. Farmworkers in the Post-IRCA Period: Based on Data from the National Agricultural Workers Survey (NAWS) (March 1993) ("NAWS").

C.F.R. Part 210. Although the SAWs are now eligible for citizenship, educational and economic barriers depress their naturalization rates.

Most farmworkers have been working in the United States for at least 10 years or the equivalent of forty quarters. A major study, based on data from 1989-91, found that farmworkers had "a median of eight years experience in [seasonal farmwork]." NAWS (1993) at 11. Most farmworkers who legalized as SAWs have remained in agriculture and, consequently, have been working in the United States for at least 10 years. Report of the Commission on Agricultural Workers, pp. 1, xxi. Of course, many farmworkers also worked in undocumented status and deserve credit for such quarters.

Farm Jobs Pay So Poorly That Many Farmworkers Need Public Benefits

Nearly half (46%) of farmworkers live below the poverty line, with average annual earnings of \$6,500. NAWS (1993) at 13; Report of Commission on Agricultural Workers at 100. The majority of farmworkers are males who are accompanied by a spouse and/or child (NAWS at 11). Yet 71% of the farmworker households living in poverty do not use public benefits (food stamps, WIC, AFDC, General Assistance, subsidized housing).

The program most used by farmworkers is food stamps approximately 17% of farmworker households report receiving food stamps during the past two years. Farmworkers typically only apply for food stamps on a seasonal basis, often in emergencies when expedited agency procedures are critically important.

The Importance of Work Quarters

The welfare bill provides that a permanent resident alien is not barred from

receiving public benefits if he or she has "worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435 [of this Act]." § 402(a)(2)(B), 402(b)(2)(B). Under section 435 of the welfare bill, applicants may include not only their own quarters of employment, but also those of their spouse and, while they were minors, of their parents.

The Social Security Act's lenient definition of "qualifying quarters" will mean that most farmworkers, despite low wages and frequent periods of unemployment, will satisfy the standard. At the average farmworker's yearly earnings of \$6,500, most farmworkers would be credited with four quarters of coverage each year. Because most farmworkers have been working in the United States since at least 1985-86, they will have worked forty qualifying quarters or the equivalent.

Farmworkers' Obstacles In Proving Their Employment Histories

Many farmworkers, unlike members of other occupational groups, will not be able to prove their forty quarters of employment merely by requesting an earnings report from the Social Security Administration. Records from Social Security, the Internal Revenue Service and Unemployment Insurance are likely to be incomplete.

First, many farmworkers who legalized under the 1986 law lacked a valid Social Security number prior to filing their immigration applications in 1987-88. Thus, quarters worked prior to that time are unlikely to have been reported.

Second, agricultural employers are notorious for failing to provide workers with earnings statements, neglecting to prepare or maintain pay records, and failing to

report workers' income to Social Security and the IRS. Indeed, agricultural employers are at least three times as likely as other employers not to report or to under report their employees' earnings to Social Security. U.S. General Accounting Office, Hired Farmworkers: Health at Risk, p. 5 (1992).²

Women farmworkers who wish to prove their employment record suffer disproportionately because many employers' payrolls only list the pay of an entire family or crew in the name of a single worker, usually a male. See, e.g., Antunez v. G & C Farms, 126 Labor Cases (CCH) ¶ 33,015 (D.N.M. 1993).

These problems are especially true for workers employed through farm labor contractors, or "crewleaders." An increasing portion of the farm labor force, now about 28% of farmworkers nationally, is employed through farm labor contractors. NAWS (1993) at 59; Commission on Agricultural Workers at 120--25. Many crewleaders are financially insolvent and difficult to locate. Crewleaders are known for failing to keep proper records and to pay into funds established for the benefit of workers, such as Social Security and Unemployment. Philip Martin & J. Edward Taylor, "Merchants of Labor: Farm Labor Contractors and Immigration Reform," (Urban Institute, May 1995) at 12, 17 n. 6. In California in 1990, the Employment Development Department logged

² Some of the many lawsuits caused by these problems include, Calderon v. Witvoet, 999 F.2d 1101, 1105 (7th Cir. 1993) (employer failed to deduct or pay Social Security taxes); Beliz v. McCleod, 756 F.2d 1317 (5th Cir. 1985) (employer failed to pay Social Security taxes); Antunez v. G&C Farms, 126 Labor Cases (CCH) ¶ 33,015 (D.N.M. 1993) (same); Sanchez v. Overmyer, 845 F. Supp. 1183, 1188 (N.D. Ohio 1993) (same); Bresgal v. Brock, 637 F. Supp. 271, 277 (D.Ore. 1985), aff'd, 843 F.2d 1163 (9th Cir. 1987) (same); Certilus v. Peeples, 101 Lab. Ca. (CCH) ¶ 34,587 (M.D. Fla. 1984) (same).

nearly 5,000 claims for unemployment benefits linked to unlicensed contractors who failed to pay into the fund. Special Report: Fields of Pain, Part II, Sacramento Bee, Monday Dec. 9, 1991 p. 7; Martin & Taylor at 12. See also, Castillo v. Givens, 704 F.2d 181 (5th Cir. 1983), cert. denied 464 U.S. 850 (1983) (illiterate crewleader assigned task of keeping records failed to do so).

It will be difficult and time-consuming for farmworkers to prove their past employment, just as it was during the SAW application process when they were obligated to prove their work history during the 1985-86 period. Even when farmworkers have been provided with pay records, most lack the space and other resources needed to retain those records during their frequent relocations.

To secure other evidence of their past employment -- records, statements of witnesses, etc. -- farmworkers will be hampered by inadequate education and English language ability, geographic isolation, limited access to telephones, and lack of legal counsel. Moreover, the sheer number of former employers is daunting. Farmworkers usually make their living each year by patching together a series of relatively short-term jobs. NAWS at 27-28. This is particularly true for hundreds of thousands of harvest jobs. About four out of five harvest workers piece together three or more short-term jobs in a year. Id. at 60, 27.

To sum up:

1. These and other obstacles mean that when eligible, legal-immigrant farmworkers apply for food stamps many of them will not possess proof of their forty quarters of employment.

2. When such farmworkers seek records from the Social Security Administration and other government agencies, those records will often be incomplete.

3. Farmworkers will need the opportunity and the time to supplement government records with other evidence, including statements by the applicants and witnesses regarding their past employment. Reconstruction of farmworkers' employment histories is difficult and time-consuming.

4. Eligible farmworkers with urgent needs for food stamps should not be prevented from promptly obtaining them due to delays associated with securing employment records to corroborate the applicants' claims. Applicants should not be penalized for their employers' unlawful conduct or carelessness.

Solutions to Ensure That Eligible Farmworkers

Receive Food Stamps In a Timely Manner

The Administration has significant flexibility in establishing the procedural and evidentiary rules for workers seeking to prove that they have forty quarters of qualifying employment.³ It must ensure that eligible farmworkers -- many of whom proved their employment ten years ago to secure lawful permanent resident alien status -- secure food stamps. It is especially important, in light of the seasonality and low pay of farmworkers' employment, that food stamps be issued promptly. We offer the following outline of solutions:

³ Fortunately, the welfare bill does not contain the Social Security Act's sometimes-onerous procedural provisions, evidentiary presumptions and statutory limitations for correcting Social Security records. See 42 U.S.C. § 405(c); Breeden v. Weinberger, 493 F.2d 1002 (4th Cir. 1974) (approving farmworkers' claim of qualifying employment despite absence from Social Security records).

1. Food stamp officials should accept Social Security earnings reports as conclusive evidence of employment, but should not reject applications solely because such reports lack evidence of employment. The USDA should stress to officials that government records often do not contain evidence of all farmworkers' employment.

2. USDA should emphasize to food stamp officials that four quarters in a year shall be credited, as required by the Social Security statute and the welfare bill, if a person has earned the minimum amount set by the Social Security Administration for that year (e.g., \$2,560 in 1996), regardless of how many quarters were actually worked in that year.

3. Officials should be informed of the need to credit quarters of work performed by the applicant's spouse, and of the applicant's parents when the applicant was a minor, even if that results in more than four quarters of credit in a single year. Many farmworkers worked as children and should be credited with their own work and their parents' work.

4. Officials should be informed that the Social Security Administration often has a one to two year delay in recording earnings information that it has received. This lag time means that some SSA records may not reveal 4 to 8 quarters of the farmworkers' most recent employment.

5. Farmworkers who lack adequate records should be permitted to submit statements -- of themselves and of other witnesses, including family members, co-workers, crewleaders and growers -- to show that they have worked the requisite amount of quarters.

5. An applicant's submission of information should be judged based on whether it is "more probable than not" that an applicant earned the required amount of wages over the period in question. The applicant need not show proof "beyond a reasonable doubt" or to "a substantial certainty." There should be no penalty for farmworkers who supply evidence to supplement inadequate government records.

6. Farmworkers who were granted lawful immigrant status under the Special Agricultural Worker ("SAW") program of the Immigration Reform and Control Act of 1986, and who state that they have continued working in the United States since that time, should be presumed to have worked forty quarters.

7. Applicants who have previously provided food stamp officials in one state or area shall not be required to prove repeatedly that they have worked forty quarters when applying in other states or areas. Local officials must seek such records from other offices.

8. Agency officials should be informed that farmworkers often need temporary, emergency food stamps at the beginning of a crop season before work has begun or before the amount of work has become substantial enough to provide enough earnings to purchase food. In such urgent circumstances, food stamp officials should consider that adequate employment has been proved if the applicant provides credible information about past employment and states that he or she will secure additional evidence to show such employment.

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Washington, D.C. 20036 (202) 776-1757

September 16, 1996

9/27/96

TO : Diana Fortuna

Per your request, here is information on the evidence required to establish earnings that are not already posted to a person's Social Security earnings record.

Tim Kelley
Tim Kelley
SSA/OLCA
410-965-3293

cc: Judy Chesser
Diane Garro
Tom Miller

Soc Sec 40 Q rules

*cc Elena Kagan - Rm 125 R
Jeremy
Richard Green
Steve W*

fax 5-0851

office, which is designed to bring out all the information about the claimant's total income from all sources during the appropriate period, the cost of the claimant's support during the same period, and the amount and frequency of the worker's contributions.

1725. EVIDENCE OF U.S. CITIZENSHIP may be required in certain cases, for instance, to determine coverage status of people working in foreign countries (see §962), the applicability of the alien nonpayment provision (see §1843), the eligibility to hospital or medical insurance protection of a person who is not entitled to cash benefits (see §2402), or the eligibility to special age 72 payments (see §§346-348).

A person may be a citizen of the U.S. by birth or by naturalization. The most acceptable evidence is a birth certificate showing birth within the U.S. Other acceptable evidence of U.S. citizenship includes:

- A. Form N-550 and N-570 (Certificate of Naturalization issued by the Immigration and Naturalization Service (INS)); or
- B. A U.S. passport issued by the U.S. Department of State (DOS); or
- C. Form I-197 (U.S. Citizen Identification Card issued by INS); or
- D. Form FS-240 (Report of Birth Abroad of a Citizen of the U.S. issued by DOS); or
- E. Form FS-545 (Certification of Birth issued by a foreign service post); or
- F. Form N-560 and N-561 (Certificate of Citizenship issued by INS); or
- G. Form DS-1350 (Certification of Report of Birth issued by DOS).

* **1726. EVIDENCE OF THE AMOUNT OF WAGES PAID** to a worker and the period in which paid must be submitted if the wages are not recorded in the earnings record maintained by SSA or the Railroad Retirement Board or if there is reason to believe that the amounts recorded are

not correct. This evidence must be based directly on the employer's records, if available, and may consist of:

- A. Form W-2 (Wage and Tax Statement); or
- B. Notice from SSA to a worker showing wages credited to the worker's earnings record, e.g., Form SSA-L987 (Social Security Earnings Information); or
- C. SSA-7011 (Statement of Employer) used in claims and earnings discrepancy cases as evidence of nonagricultural wages, if signed by employer or custodian of employer's records; or
- D. SSA-1002 (Statement of Agricultural Employer) used in claims and earnings discrepancy cases as evidence of agricultural wages, if signed by employer or custodian of employer's records; or
- E. Any other statement signed by an employer; or
- F. Statement signed by custodian of employer's records; or
- G. Certification by SSA of contents of employer's records; or
- H. Certification by SSA of contents of employer tax returns in possession of IRS; or
- I. Certification by SSA of report of IRS audit of employer's records; or
- J. SSA-4500-U6 (Federal Determination of Error in State's Wage Reports) when signed by an authorized State or local official.

1727. WHEN EVIDENCE BASED DIRECTLY ON EMPLOYER RECORDS IS NOT AVAILABLE, two or more of the following may be submitted:

- A. Pay envelopes, vouchers, and similar unsigned employer wage statements given to the employee, a State agency, or another Federal agency (see §1728).
- B. Union records (see §1729).
- C. The worker's income tax returns (see §1730).
- D. Records of State unemployment compensation agencies based on evidence other than the employer's records (see §1731).
- E. Statements of persons having knowledge of the facts (see §1732).

- F. The worker's personal records (see §1733).
- G. Other acceptable evidence.

The types of evidence listed in this section must show clearly the amount of wages paid and when they were paid, and must be supported by at least one other piece of evidence of the kinds listed.

1728. PAY ENVELOPES, VOUCHERS, AND SIMILAR UNSIGNED EMPLOYER WAGE STATEMENTS MUST:

- A. Show the worker's and the employer's names; and
- B. Show the amount of wages paid and dates of payment or employment; and
- C. Be accompanied by the claimant's signed statement showing:
 1. When the employer furnished the voucher or wage statements; and
 2. Whether the employer made all the entries; and
 3. Whether this information correctly shows the wages paid and dates of employment.

1729. WHEN UNION RECORDS ARE USED AS EVIDENCE OF WAGES, the information submitted must include:

- A. The worker's and employer's names;
- B. The beginning and ending dates of employment;
- C. The amount of wages paid;
- D. Breakdown by calendar quarters of amounts shown on union records;
- E. The name and title of the union official giving the information and the name and local number of the union;
- F. Whether the amounts shown in the records were reported by the employer, shop steward, or employee, etc.; and
- G. Intervals at which the reports are made.

If the amounts shown on the union records are dues rather than wages paid, the information should show whether the dues are fixed or based on wages actually paid to the

worker and whether any charges not related to wages are also included in the dues figure. When the recorded amounts are total wages, the evidence should also show whether they are the actual wages paid or whether they were figured by using the prevailing union rate of pay.

1730. CERTIFIED COPIES OF THE WORKER'S STATE OR FEDERAL INCOME TAX RETURNS may be used as evidence of wages if they show the actual wages paid to the worker. Certified copies of Federal income tax returns may be obtained from IRS for a small fee.

Uncertified copies of State or Federal income tax returns may be used as supporting evidence only if a certified copy is not obtainable.

1731. FINDINGS BY STATE UNEMPLOYMENT COMPENSATION AGENCIES based on evidence other than the employer's records may be used as evidence if they are based on evidence which is acceptable to SSA. A copy or certification of the State agency's findings showing the employer's name, wages paid to the worker, and a description of the evidence on which the finding was based must be submitted.

1732. STATEMENTS OF PERSONS WHO KNOW ABOUT THE EMPLOYMENT AND WAGES should be made on a Form SSA-795 (Statement of Claimant or Other Person), available at all Social Security offices. Sources for these statements include the worker's:

- A. Supervisors;
- B. Fellow employees;
- C. Banks, or others who regularly cashed the worker's pay checks;
- D. Employment agencies;
- E. Union officials, etc.

The statements must set out the facts on which the person bases his or her conclusions about the wages paid to the worker and the periods for which the wages were paid. Statements by persons who have personal knowledge of the amount of the wages paid to the worker or of the periods when payment was made may be supported by other evidence which establishes the additional facts.

1733. PERSONAL RECORDS OF THE WORKER of wages paid to him or her are not of high probative value. However, regular, complete, and genuine records may be used to support other types of evidence. A statement must be furnished showing:

- A. Who made the entries;
- B. When they were made;
- C. The basis for the entries;
- D. What happened to any wage statements which were given to the worker by the employer; and
- E. An explanation of all discrepancies and inaccuracies in the records.

1734. WHEN EVIDENCE OF WAGES CANNOT BE OBTAINED an individual's allegation as to the amount of wages may be accepted and the earnings credited to the earnings record if all of the following conditions are met:

- A. The year in question is 1978 or later.
- B. Only one year is involved in the allegation.
- C. The year in question is not the current year or the year immediately preceding the current year, i.e., the "lag" year.
- D. There are postings from the same employer in the year immediately before and/or after the year in question.
- E. The amount of earnings alleged is consistent with the earnings posted both prior to and after the year in question.
- F. All attempts to obtain any other evidence have been exhausted.
- G. No contradictory evidence exists.

H. In claims cases, the missing wage amount affects insured status or the benefit amount.

1735. IF A COPY OF THE FORM 1040, SCHEDULE SE AND SCHEDULE C OR SCHEDULE F IS NOT AVAILABLE, but is needed to establish the amount of self-employment income, IRS may be asked to furnish the information in its files. Normally, the Social Security office will request the information from IRS. If the return cannot be located but the claimant knows one was filed, he or she may complete and sign a written request asking IRS to furnish a statement of the amount of self-employment income for the year in question. Complete identifying information, place of filing, etc. must be furnished so that the tax return can be located.

1736. IF THE SELF-EMPLOYED PERSON IS A PARTNER, Form 1065 (Partnership Return) may need to be submitted to show, for example, whether the partner's distributive share of the partnership income contains any income not includable in earnings from self-employment (such as capital gains, rent, etc.).

DRAFT**DRAFT****ISSUE:** Verification of Noncitizen Eligibility

BACKGROUND: A permanent resident alien credited with 40 quarters of social security coverage may be certified for food stamps. The credits earned by the noncitizen's parent or spouse count toward the 40-quarter requirement. The Social Security Administration (SSA) is the primary source of verification, and the planned automated system for exchanging this information with social service agencies will not be available until January 1997. Until a system is developed, local agencies must try to determine the eligibility of resident alien applicants based on verification provided by applicants. Some noncitizens may have worked but they or their employers did not pay the social security tax. Others may have been employed in work that is not covered by social security.

OPTIONS:

1. Self-declaration. Noncitizens signing a statement attesting to 40 quarters of covered work would be certified pending receipt of verification from SSA.
2. Certification Pending Verification (CPV).

State agencies would be required to implement the following procedure for certifying immigrant applicants who claim eligibility based on 40 quarters of social security coverage. The procedure would not be used for refugees, asylees, deportees or applicants with a claim to eligibility based on military service.

Applicants would complete and sign a form with the following questions:

- a. Do you claim to have 40 quarters of work covered by social security?
- b. When did you first enter this country?
- c. Did your spouse work in this country?
- d. Did your parents work in this country when you were under age 18?

The State agency would verify the date of entry.

If the applicant's responses indicate the possibility that 40 quarters of coverage exist, the State agency would include the individual in the household. If the applicant's circumstances are clearly inconsistent with having 40 creditable quarters, the State agency would determine the individual ineligible. In January, SSA will begin to process verification requests received from State agencies. State agencies would verify the CPVs by March. If verification from SSA shows that the applicant is not eligible, a claim for the overissuance would be established.

3. SSA verification. The applicant would be required to provide verification from SSA. No other verification would be acceptable and there would be no presumptive eligibility. Applicants would be required to submit requests to SSA for verification of

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quarters credited to the noncitizen (and spouse or parents, if appropriate). If SSA verifies 40 quarters, benefits would be provided from the date of application. If verification is not received within 30 days, the State agency could deny or pend the application. However, if the application is denied and verification of 40 quarters is subsequently provided, benefits would be issued from the date of application.

RECOMMENDATION:

We recommend option 2. This option recognizes that SSA is not prepared at this time to process quickly the requests for 40-quarter verification from the approximately 60,000 immigrant applications expected to be received monthly in addition to requests from current recipients. The process also recognizes that many applicants may have worked in this country in jobs covered by social security, but the work was not reported to SSA. The procedure is analogous to the process for requesting and verifying social security numbers. Applicants are allowed to participate pending receipt of a number from SSA.

Option 1 would allow participation pending SSA verification. However, it could open the program to abuse by allowing newly arrived immigrants to claim 40 quarters of coverage.

Option 3 strictly meets the requirement of the law and avoids the possibility of incorrect determinations of eligibility by the food stamp worker, but it would delay issuance of benefits to some eligible households. Moreover, an influx of verification requests could adversely affect SSA's ability to handle the normal workload in addition to implementing welfare reform changes.

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