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**Verification Systems [2]**

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Audience:  
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FR, OA, OS, RR, SR, TSC-SR;  
PSC--CA, CRTA, DS, ICDS,  
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ODIO/OIO--CATA, FCR, FDE,  
RECONR

Originating Office: OPBP, DPRP

PROGRAM OPERATIONS MANUAL SYSTEM  
Part 05 - Supplemental Security Income  
Chapter 005 - Eligibility  
Subchapter 02 - August 1996 SSI Alien Changes

New Material	No. of Pages	Discard	No. of Pages
Table of Contents (SI 00501.000- SI 00520.000).....1		Table of Contents (SI 00501.000- SI 00520.000).....1	
Table of Contents (SI 00502.001- SI 00502.600).....1		-----	

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ACTION NOTES

SI 00501.001 - Cross-refer to SI 00502.100-  
SI 00502.150.  
SI 00501.420, SI 00502.425, and SI 00502.430 - Cross-  
refer to SI 00502.100-SI 00502.150.  
SI 01320.900 - Cross-refer to SI 00502.200.  
SI 01330.500 - Cross-refer to SI 00502.200.

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Background

On August 22, 1996, Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("Reconciliation Act of 1996") was enacted. The Reconciliation Act of 1996 changed policy with respect to the types of aliens who may receive SSI. The legislation also changed sponsor-to-alien deeming policy for aliens whose sponsors sign new, legally enforceable affidavits of support. This new Program Operations Manual System subchapter provides instructions regarding these changes.

This transmittal obsoletes the prior instructions provided in emergency message EM-96-136, issued 9/9/96. Portions of this transmittal sheet may be appropriate as a desk aid for POMS users.

Effective Date: Upon Receipt

Until further notice, teleservice representatives (TSRs) should not process abbreviated SSI applications (ABAPs) from aliens when the reason for denial is alien status, because of the manual notice requirements described in this transmittal. TSRs should, however, answer general questions about SSI eligibility of aliens under the Reconciliation Act of 1996.

#### Explanation of Manual Changes

##### SI 00502.001 AUGUST 1996 SSI ALIEN CHANGES--GENERAL

This section provides general background information on the alien changes contained in the Reconciliation Act of 1996.

Under the new law, fewer aliens can be eligible for SSI than could be eligible under prior law. To be eligible for SSI under the Reconciliation Act of 1996, an alien must (1) be a "qualified alien," as defined in SI 00502.100C., and (2) meet one of the alien eligibility categories listed in SI 00502.100 D. (in addition to meeting all other relevant factors of eligibility). The former eligibility category of "permanently residing in the U.S. under color of law" (PRUCOL) was, in effect, eliminated.

The Reconciliation Act of 1996 also changed sponsor-to-alien deeming law and requires the Attorney General to formulate a new, legally enforceable affidavit of support. Under the new law, the period for which sponsor-to-alien deeming applies and the amount of income and resources deemed from the sponsor and his/her spouse to the alien are governed by the type of affidavit of support signed by the sponsor.

##### SI 00502.100 BASIC SSI ALIEN ELIGIBILITY REQUIREMENTS (AUGUST 1996 LEGISLATION)

This section provides policy regarding the categories of aliens who can receive SSI under the Reconciliation Act of 1996. It states the policy that the new rules apply immediately to claimants who were not SSI recipients on 8/22/96. It defines who is considered an SSI recipient as of 8/22/96, and states the policy that these individuals will become subject to the new rules under a process described in SI 00502.150.

Under the new rules, to be eligible for SSI an alien must be both a "qualified alien" (as described below) and one of the following types of aliens:

- o An alien who was admitted to the U.S. as a refugee under section 207 of the Immigration and Nationality Act (INA). Such an alien may be SSI-eligible for 5 years after the date of admission, even if he/she adjusts to lawfully admitted for permanent residence (LAPR) status; or
- o An alien who was granted asylum under section 208 of the INA. Such an alien may be SSI-eligible for 5 years after

the date asylum is granted, even if he/she adjusts to LAPR status; or

- o An alien whose deportation has been withheld under section 243(h) of the INA. Such an alien may be SSI-eligible for 5 years after the date deportation is withheld even if he/she adjusts to LAPR status; or
- o An alien who is lawfully admitted for permanent residence (LAPR) in the U.S. under the INA (but only under certain circumstances, as described in SI 00502.100); or
- o A veteran of the Armed Forces of the U.S., if he/she received a discharge characterized as honorable and not on account of alienage; or
- o An active duty member of the Armed Forces of the U.S. (who is not on active duty for training purposes only); or
- o The spouse or unmarried dependent child of a living veteran or living active duty member (as described above).

A "qualified alien" is an alien who is:

- o lawfully admitted for permanent residence in the U.S. under the INA; or
- o a refugee admitted to the U.S. under section 207 of the INA; or
- o granted asylum under section 208 of the INA; or
- o paroled into the U.S. under section 212(d)(5) of the INA for a period of at least one year; or
- o an alien whose deportation is being withheld under section 243(h) of the INA; or
- o granted conditional entry pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980.

SI 00502.110 GENERAL ALIEN DEVELOPMENT (AUGUST 1996 LEGISLATION)

This section provides policy and procedures for developing alien status under the Reconciliation Act of 1996.

SI 00502.115 VERIFICATION OF ALIEN ELIGIBILITY WITH INS (AUGUST 1996 LEGISLATION)

This section provides instructions for verifying alien status with INS in order to determine an alien's SSI eligibility under the Reconciliation Act of 1996.

SI 00502.130 TIME-LIMITED ELIGIBILITY FOR REFUGEES, ASYLEES,

AND ALIENS WITH DEPORTATION WITHHELD UNDER SECTION  
243(h) (AUGUST 1996 LEGISLATION)

This section provides instructions for verifying the immigration status of aliens whose SSI eligibility is limited to five years under the Reconciliation Act of 1996.

There are three categories of aliens who fall into this time-limited eligibility category: refugees under section 207 of the INA, asylees under section 208 of the INA, and aliens whose deportation has been withheld under section 243(h) of the INA.

SI 00502.135 LAPR ALIEN WITH 40 QUALIFYING QUARTERS OF COVERAGE  
(AUGUST 1996 LEGISLATION)

This section provides instructions pertaining to LAPR aliens who are SSI-eligible under the Reconciliation Act of 1996 because they have 40 qualifying quarters of coverage (QCs).

A qualifying QC is a title II QC earned by the alien, the alien's parent (while the alien was under age 18), or the alien's spouse (during their marriage, if the marriage continues or the spouse is deceased). For purposes of this provision, more than 4 QCs may be credited to an alien for a calendar year because QCs may also be credited from a spouse or parent(s). QCs credited from a parent or spouse do not count for title II eligibility purposes and will not be posted to the alien's earnings record.

Beginning in 1997, QCs are not creditable for SSI eligibility purposes (for work performed by the alien or the alien's parent or spouse) if either the alien or the parent/spouse received any Federal means-tested benefits in the period in which the work was done.

SI 00502.140 VETERAN OR ACTIVE DUTY MEMBER OF THE ARMED FORCES,  
A SPOUSE, OR A DEPENDENT CHILD (AUGUST 1996  
LEGISLATION)

This section provides instructions for determining whether an alien is SSI-eligible based on his/her own military service or a spouse's or parent's military service.

SI 00502.150 SSI ELIGIBILITY FOR ALIENS RECEIVING BENEFITS ON  
8/22/96 (AUGUST 1996 LEGISLATION)

This section provides instructions pertaining to aliens who were receiving SSI on 8/22/96 (the effective date of the Reconciliation Act of 1996), including policy on who is considered to have been receiving SSI on that date.

No later than 8/22/97, SSA must "redetermine" the eligibility of any individual who was receiving SSI benefits as of the date of enactment of the new law and whose eligibility for such benefits may end as a result of the new law.

Central office (CO) will identify individuals on the SSI rolls whose alien status codes (AR field codes) indicate a likelihood of ineligibility under the new law. These individuals will be sent an automated informational notice in February or March 1997, informing them of the new eligibility requirements and requesting the submission of evidence of citizenship or eligible alien status. Subsequent processing will depend on whether the alien submits such evidence.

CO will also identify individuals who are likely to remain eligible under the new law, but whose eligibility status cannot be determined based solely on the AR code on the record. These individuals will also be sent automated informational notices in February or March 1997, informing them of the new eligibility requirements. A5 diaries will be set for these cases and controlled on the central office redetermination control (CORC) system. Those cases with A5 diaries that are not selected for redeterminations will be selected for limited issues.

Beginning immediately, FOs should develop alien statuses of these recipients as they encounter them for other reasons, such as redeterminations, questions about the legislation, or change-of-address reports. Otherwise, FOs should not initiate development of alien statuses on these cases until February 1997, when the notices are first released. By law, however, SSA must complete development of these limited issues and issue a determination notice no later than 8/22/97.

Until further notice, no determination of ineligibility based on alien status should be made under the new requirements, and no action to suspend benefits should be taken. Documentation of a recipient's eligible alien status should be transmitted to the Modernized Development Worksheet (MDW) for later use when the system is reprogrammed to accept new alien eligibility codes.

CO will also identify recipients who are refugees or asylees and who will have been in those statuses for five years or less as of August 1997. These individuals will also be sent automated informational notices in February or March 1997, informing them of the new eligibility requirements of the Reconciliation Act of 1996 and when their 5-year period will end. Additional POMS instructions on these cases will be issued at a later date.

SI 00502.200 SPONSOR-TO-ALIEN DEEMING (AUGUST 1996 LEGISLATION)

This section provides instructions on sponsor-to-alien deeming under the Reconciliation Act of 1996.

The Reconciliation Act of 1996 changed sponsor-to-alien deeming policy only for aliens whose sponsors signed a new, legally enforceable version of the affidavit of support. Until INS formulates and begins using the new affidavit for purposes of admitting aliens into the U.S., there are no changes in pre-8/22/96 deeming policies and procedures. This is the case for sponsored aliens already on the SSI rolls as of 8/22/96 and for

aliens who file for SSI on or after 8/22/96 and whose sponsors signed the current (legally unenforceable) version of the affidavit of support. You will be advised when INS begins using the new version of the affidavit of support. Additional POMS instructions will be issued at that time.

Through 9/30/96, the sponsor-to-alien deeming period is 5 years (60 months) following an alien's date of lawful admission to the U.S. A previous law (Public Law 103-152) provided that, effective 10/1/96, the deeming period would be 3 years (36 months) following the alien's date of lawful admission to the U.S. Included in this section are instructions pertaining to the 10/1/96 change in the sponsor deeming period.

SI 00502.300 SYSTEMS INSTRUCTIONS (AUGUST 1996 LEGISLATION)

This section provides Modernized Supplemental Security Income claims system (MSSICS) and other systems input instructions pertaining to alien claims and posteligibility actions. Until the system is reprogrammed to accept new alien eligibility codes, FOs must use the MDW to document eligible alien statuses.

SI 00502.400 GENERAL NOTICE PROCEDURE (AUGUST 1996 LEGISLATION)

This section contains general information regarding notices to individuals who are potentially affected by the provisions of the Reconciliation Act of 1996.

SI 00502.410 SPECIFIC NOTICE PROCEDURE (AUGUST 1996 LEGISLATION)

This section contains procedures for issuing manual notices to individuals who are potentially affected by the provisions of the Reconciliation Act of 1996.

SI 00502.450 FORM LETTER FOR ELIGIBLE INDIVIDUALS (AUGUST 1996 LEGISLATION)

This section includes an exhibit of the form letter that will be given to certain claimants and recipients when we determine that they are eligible for SSI under the provisions of the Reconciliation Act of 1996.

SI 00502.452 SPANISH VERSION OF FORM LETTER FOR ELIGIBLE INDIVIDUALS (AUGUST 1996 LEGISLATION)

This section includes an exhibit of the Spanish version of the form letter in SI 00502.450.

SI 00502.460 MANUAL AWARD NOTICE LANGUAGE (AUGUST 1996 LEGISLATION)

This section contains language for manual award notices for individuals who establish that they are SSI-eligible under the provisions of the Reconciliation Act of 1996.



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00502.000 AUGUST 1996 SSI ALIEN CHANGES

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**00502.001 AUGUST 1996 SSI ALIEN CHANGES--GENERAL****A. BACKGROUND****1. Eligibility for SSI**

On August 22, 1996, Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("Reconciliation Act of 1996") was enacted. The Reconciliation Act of 1996 changed policy with respect to the types of aliens who may receive SSI. Under the legislation, fewer aliens can be eligible for SSI than could be eligible under prior law. To be eligible for SSI under the legislation, an alien must meet the definition of "qualified alien" in SI 00502.100C. and be in one of the alien categories listed in SI 00502.100D. (in addition to meeting all other relevant factors of eligibility).

The former eligibility category of "permanent resident under color of law" (PRUCOL) was eliminated, except for a limited time with respect to current SSI recipients.

**2. Sponsor-to-Alien Deeming**

Aliens who seek admission to the United States (U.S.) must establish that they will not become "public charges." Many aliens establish that they will not become public charges by having sponsors pledge to support them by signing affidavits of support. Over the years, courts have ruled that the affidavit of support is not a legally enforceable contract.

The Reconciliation Act of 1996 requires the Attorney General to formulate a new, legally enforceable affidavit of support. Under this legislation, the period for which sponsor-to-alien deeming applies and the amount of income and resources deemed from the sponsor and his/her spouse to the alien are governed by the type of affidavit of support signed by the sponsor.

**3. Sponsor Responsibilities**

For aliens whose sponsors sign new, legally enforceable affidavits of support, the Reconciliation Act of 1996 requires that if those aliens receive SSI benefits, their sponsors must reimburse the Federal Government in the amount of those benefits. Sponsors must also advise the Federal Government of any changes in their addresses. Regulations are being developed to implement these provisions of the law. POMS instructions on these provisions will be issued at a future date.

**B. REFERENCES**

- o Basic Alien Eligibility Requirements, SI 00502.100
- o General Alien Development, SI 00502.110
- o Verification of Alien Eligibility with INS, SI 00502.115

- o Time-Limited Eligibility for Refugees, Asylees, and Aliens With Deportation Withheld Under Section 243(h), SI 00502.130
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## **BASIC SSI ALIEN ELIGIBILITY AND DEVELOPMENT REQUIREMENTS**

### **00502.100 BASIC ALIEN ELIGIBILITY REQUIREMENTS (AUGUST 1996 LEGISLATION)**

CITATIONS Public Law 104-193, Sections 402, 403, 431, and 435

#### **A. INTRODUCTION**

Aliens who were not receiving SSI benefits on 8/22/96 must meet the alien eligibility rules in this section to be found eligible for the entire period in the life of the application (SI 00601.010C.).

Those aliens who were receiving SSI benefits on 8/22/96 remain subject to the rules in GN 00303.440 and SI 00501.420 - SI 00501.430 until their alien eligibility is redetermined (SI 00502.150), after which they also must meet the alien eligibility requirements in this section. All aliens who receive SSI benefits on 8/22/96 must have their alien eligibility "redetermined" no later than 8/22/97.

#### **B. POLICY--ELIGIBLE ALIENS**

##### **1. Aliens Considered to Be "Receiving SSI Benefits on 8/22/96"**

Aliens receiving SSI benefits on 8/22/96 remain subject only to prior law rules on alien eligibility until their eligibility under the new law is determined as explained in SI 00502.150.

The following individuals are considered to have been receiving SSI benefits on 8/22/96:

- o recipients in current pay on 8/22/96, including payment status N01 recipients in section 1619(b) status, and
- o individuals in nonpay, suspense, and payment status E01 on 8/22/96, and
- o claimants for whom a field office (FO) input had been made on or before 8/22/96 to allow an initial claim or reconsideration of a denied claim, even if the input rejected, and
- o claimants for whom a Disability Determination Section (DDS) had issued a favorable initial claim or reconsideration disability determination on or before 8/22/96, whether or not the FO had completed nondisability development or effectuated payment, and
- o claimants for whom an administrative law judge (ALJ) or the Appeals Council (AC) had issued a favorable decision on or before 8/22/96, whether or not the FO had completed nondisability development or effectuated payment, and

o [presumptive disability to be determined]

**NOTE:** For favorable DDS determinations, look to the later of any dates shown in blocks 31, 33, or 38 of the SSA-831. If the SSA-831 is unavailable, use the SCD (State Clearance Date) on the DDSQ. If the FS (Federal Sample) field does not show an N, however, do not use the SCD date, as the date may have been changed. For favorable ALJ or AC decisions, look to the date of the notice issued to the claimant.

**NOTE:** See SI 00502.150B. for procedure to complete adjudication of pending claims and appeals of denied claims that are included in the list above as "receiving SSI benefits on 8/22/96."

**2. Aliens Not Considered to Be "Receiving SSI Benefits on 8/22/96"**

An alien who does not meet one of the conditions in 1. above must be **BOTH**:

- a qualified alien (as defined in C. below), **AND**
- in one of the categories in D. below.

**C. POLICY--QUALIFIED ALIENS**

A **qualified alien** is an alien who, at the time he/she applies for, receives, or attempts to receive a Federal public benefit, is:

- lawfully admitted for permanent residence in the U.S. under the INA; or
- a refugee admitted to the U.S. under section 207 of the INA; or
- granted asylum under section 208 of the INA; or
- paroled into the U.S. under section 212(d) (5) of the INA for a period of at least 1 year; or
- an alien whose deportation is being withheld under section 243(h) of the INA; or
- granted conditional entry pursuant to section 203(a) (7) of the INA as in effect prior to April 1, 1980.

**EVIDENCE OF QUALIFIED ALIEN STATUS:** See SI 00502.140B.

**IMPORTANT:** Qualified aliens are not eligible if they do not also meet one or more of the additional requirements in D. below.

**D. POLICY--ELIGIBLE CATEGORIES OF QUALIFIED ALIENS**

**1. Refugee**

A qualified alien who was admitted to the U.S. as a refugee under section 207 of the Immigration and Nationality Act (INA) may be eligible for 5 years after the date of admission, even if his/her immigration status has changed.

**EVIDENCE:** See SI 00502.130.1.

## **2. Asylee**

A qualified alien who was granted asylum under section 208 of the INA may be eligible for 5 years after the date asylum is granted, even if his/her immigration status has changed.

**EVIDENCE:** See SI 00502.130.2.

## **3. Deportation Withheld**

A qualified alien whose deportation has been withheld under section 243(h) of the INA may be eligible for 5 years after the date deportation is withheld, even if his/her immigration status has changed.

**EVIDENCE:** See SI 00502.130.3.

## **4. Lawfully Admitted to the United States for Permanent Residence (LAPR)**

### **a. Basic Requirement for LAPRs**

A qualified alien who is LAPR under the INA may be eligible if he/she:

- entered the U.S. within the last 5 years as a refugee (eligibility is limited to the 5-year period), OR
- o was granted asylee status within the last 5 years (eligibility is limited to the 5-year period), OR
- o had deportation withheld under section 243(h) of the INA within the last 5 years (eligibility is limited to the 5-year period), OR
- entered the U.S. before 8/22/96 or (if entry was on or after that date) has lived in the U.S. at least 5 years since the date of entry with LAPR status, **AND** has, or can be credited with, 40 qualifying quarters of coverage (QCs) as defined under title II.

**EVIDENCE OF LAPR STATUS:** See GN 00303.440.

### **b. Crediting QCs to an Alien**

For SSI eligibility purposes (but not for title II purposes), an alien described in a. above can be credited with QCs earned by:

- the alien himself/herself, and/or
- the alien's living and/or deceased parents (as defined in SI 00501.010A.2., but without the requirement of living in the same household) while the alien was under age 18, and/or
- the alien's spouse (as defined in SI 00501.150B.1.) during their marriage if the marriage continues or if the spouse is deceased.

**EVIDENCE:** See SI 00502.135.

**c. Impact of Receipt of Federal Means-Tested Benefits**

No QCs are creditable for any period beginning **after December 31, 1996**, if either the alien or the worker (the parent or the spouse) received any Federal means-tested benefits during the period in which the QCs were earned.

**EVIDENCE:** See SI 00502.135D.

**5. Veteran**

A qualified alien who is a veteran of the Armed Forces of the U.S. may be eligible if he/she received a discharge characterized as honorable and not on account of alienage.

**EVIDENCE:** See SI 00502.140C.

**6. Active Duty Military**

A qualified alien who is an active duty member of the Armed Forces of the U.S. who is not on active duty for training purposes only may be eligible.

**EVIDENCE:** See SI 00502.140D.

**7. Spouse of a Veteran or Active Duty Military Personnel**

A qualified alien who is the spouse of a living individual described in 5. or 6. above may be eligible.

**EVIDENCE:** See SI 00502.140E.1.

**8. Child of a Veteran or Active Duty Military Personnel**

A qualified alien who is the unmarried dependent child of a living individual described in 5. or 6. above may be eligible.

**EVIDENCE:** See SI 00502.140E.2.

**E. POLICY--LOSS OF ELIGIBILITY DUE TO STATUS CHANGES**

**1. Change in Alien Status**

INS can rescind an alien's status, not renew a time-limited status, or adjust the alien's status to a different status. An individual whose eligibility has been determined under the eligibility requirements in SI 00502.100C.-D. and who ceases to meet those requirements because of a change in alien status will lose SSI eligibility effective with the month after the month the change occurs.

**NOTE:** A refugee, asylee, or alien whose deportation is withheld who adjusts his/her status to LAPR does not lose SSI eligibility before the 5-year period in F. below has ended.

## **2. Separation From the Armed Forces**

A qualified alien who is eligible based on active duty in the Armed Forces of the U.S. by the alien, the alien's spouse, or the alien's parent will lose that eligibility the month after the month the active duty member separates from the Armed Forces with a discharge that is not characterized as honorable or that is based on alienage.

## **3. Change in Status of a Spouse of a Veteran or Active Duty Member of the Armed Forces**

Eligibility as a spouse of a veteran or active duty member of the Armed Forces ends with the month after the month any of the following occur:

- death of the active duty member of the Armed Forces or veteran;
- divorce or annulment of the marriage;
- a determination that a marital relationship does not exist for title II eligibility purposes and no "holding-out" relationship exists for SSI purposes; or
- separation of the individual and the "holding-out" spouse, which results in the individual not being considered a member of a couple for SSI purposes.

## **4. Change in Status of an Unmarried Dependent Child of a Veteran or Active Duty Member of the Armed Forces**

Eligibility as an unmarried dependent child ends with the month after the month any of the following occur:

- death of the active duty member of the Armed Forces or veteran;
- attainment of age 18 (age 22 if the alien is a student and regularly attending school);
- marriage of the child;

- loss of dependent (SI 00502.140E.2.c.) status; or
- legal adoption by someone other than the veteran or active duty member of the Armed Forces or his/her spouse.

**F. POLICY--TIME-LIMITED ELIGIBILITY OF CERTAIN ALIENS**

**1. Time-Limited Eligibility**

Aliens who were admitted as refugees under section 207 of the INA, aliens who were granted asylum under section 208 of the INA, and aliens whose deportation was withheld under section 243(h) of the INA are eligible for SSI for only 5 years after admission as a refugee or being granted asylum or withholding of deportation.

**NOTE:** If an alien eligible in one of these 3 categories adjusts to another "qualified alien" status (i.e., LAPR) during the 5-year period, his/her eligibility can continue during the entire 5 years after the date of admission as a refugee or being granted asylum or withholding of deportation. Also, a refugee, asylee, and alien whose deportation has been withheld may remain eligible indefinitely if he/she meets the veteran, active duty, or 40 QCs category in D.4.-8. above.

**2. Ineligibility After 5 Years in Time-Limited Status**

An alien in one of these 3 categories who does not otherwise meet the citizenship/alien status requirements (based on adjustment to LAPR status with 40 qualifying quarters, naturalization, active duty military or veteran status, or being the spouse or child of an active duty member or veteran) loses eligibility under this provision effective with the first month beginning 5 years after the date of admission as a refugee or being granted asylum or withholding of deportation.

**G. PROCEDURE**

Use the chart below as a **simplified** guide to determining who is potentially eligible for SSI based on citizenship or alien status under the Reconciliation Act of 1996. Use the chart only in conjunction with the eligibility policy in B.-F. above and the policy and procedure in SI 00502.130-SI 00502.140.

First, determine the citizenship or alien status of the individual. Next, find the individual's citizenship or alien status in the left column, which lists the statuses of U.S. citizen or national, qualified alien (as defined in C. above), and other alien statuses. Then, look to the right column for the eligibility categories possible based on that status.

<u>If the individual is:</u>	<u>Then he/she is:</u>
U.S. citizen or national	always potentially eligible
LAPR	potentially eligible only if:

- o meets 40 QCs requirement, or
  - o entered U.S. as refugee within last 5 years, or
  - o granted status as asylee or deportation withheld within last 5 years, or
  - o veteran/active duty military or spouse/dependent child
- refugee (sec. 207) potentially eligible only if:
- o entered U.S. within last 5 years, or
  - o veteran/active duty military or spouse/dependent child
- asylee (sec. 208) potentially eligible only if:
- o granted asylum within last 5 years, or
  - o veteran/active duty military or spouse/dependent child
- deportation withheld (sec. 243(h)) potentially eligible only if:
- o granted status within last 5 years, or
  - o veteran/active duty military or spouse/dependent child
- conditional refugee (sec. 203(a)(7)) potentially eligible only if:
- o veteran/active duty military or spouse/dependent child
- parolee (sec. 212(d)(5)) (status granted for one year minimum) potentially eligible only if:
- o veteran/active duty military or spouse/dependent child
- other status ineligible

00502.110 GENERAL ALIEN DEVELOPMENT (AUGUST 1996 LEGISLATION)

A. POLICY

The determination that an individual is an eligible alien, as described in SI 00502.100B., and the date of entry into the U.S. or attainment of status for SSI eligibility purposes will be based on documents issued by the INS or an immigration court, and/or information provided by INS.

The authenticity of documents used to establish alien status must be verified with INS (with the exception of some LAPR documents). Verify documents with INS using Form G-845 or, if possible, SAVE. Verification of LAPR status will be done under the procedures in GN 00303.440 as modified by SI 00502.115A.1.a.

Do not verify alien status if the individual is clearly not eligible based on his/her alleged immigration status or INS documents. Posteligibility reverification is conducted if the alien's status changes, is questionable, or is a status subject to regular INS renewal. See SI 00502.115 for verification of status with INS.

B. PROCEDURE

- Ask the alien claimant/recipient for his/her current immigration status with INS (in conjunction with questions 6 through 10 of Form SSA-8000-BK, question 13 of SSA-8001-F5, or ALIEN STATUS CODE field on the AALN screen for MSSICS claims). (If an LAPR alien has been in status for less than 5 years and might be eligible based on prior status as a refugee, asylee, or alien whose deportation has been withheld per SI 00502.100B.1.-3., also ask about the prior status.)
- Request and copy the front and back of any INS documentary evidence in the claimant's possession, and document the alleged alien status over the claimant's signature. **Retain a copy of the evidence used to establish alien status or citizenship in the file in all cases (including MSSICS).**

**NOTE:** This procedure for retaining a paper copy in the file supersedes the procedure given in SI 00601.200, to the extent they conflict.

- Explain that only "qualified aliens" (SI 00502.100C.) who are in one of the categories listed in SI 00502.100D. can receive SSI benefits.
- Based on the information provided, proceed as follows:
  1. **INS Documents Current**
    - a. **Document(s) Meets Qualified Alien Evidence Requirements**
- If the document(s) meet the evidence requirements for a

qualified alien, then develop other eligibility factors in SI 00502.100D. (e.g., 40 qualifying quarters, veteran or military status, or spouse or child relationship to a veteran or military service member). Document eligibility information over the individual's signature.

- If a qualified alien **does not meet** one of the other eligibility factors in SI 00502.100D., deny the claim (N13) or leave the case for suspension, as in c. below.
- If a qualified alien **meets** one of the other eligibility factors in SI 00502.100D., process as follows:

**INITIAL CLAIM (IC):** Control the case to input additional AR field data when revised codes are available (see SI 00502.300C.), and issue a manual notice per SI 00502.410B. to supplement the automated notice. Establish an AT diary, as necessary, to reverify parolee (SI 00502.115A.2.a.) or conditional LAPR (SI 00502.115A.1.) status.

**POSTELIGIBILITY (PE):** Issue a manual notice per SI 00502.410A. Control the case to input additional AR field data when revised codes are usable, per SI 00502.300C. Establish a new AT diary date if reverification of parolee status per SI 00502.115A.2.a. and SI 00502.140B.4. establish that parole status continues.

- If the qualified alien is eligible, verify alien status with INS postadjudicatively (see SI 00502.115).

**b. Documentary Evidence of Eligibility Not Conclusive**

If the current documents available do not provide sufficient information about immigration status to establish eligibility or are of questionable validity, verify alien status with INS per SI 00502.115 before adjudication of the claim. (Verify prior status as a refugee, asylee, or alien whose deportation was withheld, if applicable, before adjudication if documents are not sufficient to establish eligibility on that basis.)

**EXAMPLE:** The individual alleges asylum status for less than 5 years and presents Form I-688B with appropriate asylum annotation as evidence, but cannot furnish required evidence described in SI 00502.130.2.

**c. Documents Establish Ineligibility**

If the individual's INS document(s) show he/she is not eligible, proceed as follows:

- **IC:** Deny the claim (N13), suppress the systems-generated notice, and issue a manual notice per SI 00502.410C.
- **PE:** Take no action to suspend. In xx/97, CO will suspend eligibility (N13) and issue a notice of planned action (NPA)

with *Goldberg v. Kelly* due process rights (see SI 00502.150).

## 2. No Current INS Document

Follow a. or b. below if the individual is unable to furnish any current INS documentation of immigration status (i.e., documents expired or not available).

### a. Alleges Eligible Alien Status or Does Not Know Status

- Refer the individual to INS for evidence of current alien status.

**EXCEPTION:** If the individual alleges LAPR status and can provide an "A" number, and if the FO has access to SAVE verification, see SI 00502.115A.

- Follow usual closeout procedures.

**IC:** See SI 00601.110.

**PE:** See SI 02301.235. However, do not suspend if the recipient fails to furnish the requested evidence. In xx/97, CO will suspend eligibility (N13) and issue a notice of planned action (NPA) with *Goldberg v. Kelly* due process rights.

### b. Alleges Ineligible Status

- **IC:** Deny the claim (N13), suppress the systems-generated notice, and issue a manual notice per SI 00502.410C.
- **PE:** Take no action to suspend. In xx/97, CO will suspend eligibility (N13) and issue a notice of planned action (NPA) with *Goldberg v. Kelly* due process rights.

## 3. Development of Alien Issues in Hearing Cases

Develop and document alien eligibility based on the requirements in SI 00502.100 when a reconsideration, hearing, or Appeals Council review request is received, per SI 00603.015, whether or not the appeal is disability-related.

Hearing offices may request assistance from field offices in developing alien status. (See SI 04030.040B.5.-7.)

## 4. Attains Eligible Status While Claim Pending

Find SSI eligibility as of the first day in which all factors of eligibility (including citizenship/eligible alien status) are met. Apply the application effective date rules in SI 00601.009 to initial claims filed 8/22/96 or later where the individual attains eligible alien status or naturalizes while the application is pending.

**C. REFERENCES**

- Application Effective Date, SI 00601.009
- Evidence of LAPR Status, GN 00303.440
- Notices, SI 00502.400 - SI 00502.600
- Sponsor-to-Alien Deeming, SI 00502.200
- Systems Instructions, SI 00502.300
- Closeout Procedure--Initial Claims, SI 00601.110
- Documentation, GN 00301.300
- Overpayments, SI 02220.001
- AT Diary Code Input, SM 01301.200 and SM 01005.230
- AR Codes, SI 00502.300B. and SM 01005.630

00502.115 VERIFICATION OF ALIEN ELIGIBILITY WITH INS (AUGUST 1996 LEGISLATION)

A. PROCEDURE--WHEN TO CONTACT INS

Verify the alien's immigration status with INS as follows:

1. Initial Claims, and Posteligibility Determinations  
(SI 00502.150) Required by Reconciliation Act of 1996

a. LAPR Verification

Follow the rules in GN 00303.440 for verification of LAPR status. However, SAVE FOs can also query the INS ASVI data base to verify status in some cases (see B.1. below).

**NOTE:** Some LAPR aliens have conditional 2 year I-551s (Alien Registration Receipt Card), subject to the limitation that they must apply for removal of the conditional basis 90 days before the second anniversary of the admittance date to the U.S. Failure to do so results in termination of the alien's lawful status. A conditional I-551 is identified by an expiration date 2 years later than the admittance/ adjudication date and status must be reverified upon expiration. (See RM 00203.400F.1. and .2 and the Administrative Confidential Memo for description of I-551 cards.

b. Documents Meet Evidence Requirements for Alien Eligibility

Verify status after adjudication to authenticate document(s) for all aliens, except LAPRs, who are determined to be eligible.

c. Documents That Do Not Establish Eligibility and Questionable Documents

Verify status before adjudication if an alien presents a current INS document(s) which shows a potentially eligible status, but:

- does not contain all data necessary to make a determination, or
- is of questionable authenticity.

**NOTE:** If the alien presents a current INS Form I-688B with the correct annotation as evidence of refugee status, but does not have an I-94 showing when he/she entered the U.S., SAVE FOs can query the ASVI data base using the alien's "A" number. The output entry in the "Date of Entry" field is the date the alien entered the U.S. If SAVE output results in a determination of ineligibility, verify alien status using non-SAVE procedures prior to adjudication. If SAVE output shows a date of entry less than 5 years before the first month of potential eligibility, and the conditions in B.1. below are met, alien status is established based on the SAVE verification.

## **2. Other Posteligibility Verification**

### **a. Parolees for 1 year or More**

Verify status annually. (See SI 00502.140B.4.)

### **b. All Aliens**

Verify at any time if there is reason to believe alien status has changed.

## **B. PROCEDURE--HOW TO CONTACT INS**

### **1. SAVE**

In FOs with access to the INS SAVE system, query the ASVI data base to verify alien status for SSI eligibility purposes only in cases where the alien's "A" number is available and the original INS document is lost, expired, or questionable.

**NOTE:** At this time, the only qualified alien category that can be verified using SAVE is LAPR. SAVE output of "Lawful Permanent Resident - Employment Authorized" confirms LAPR status. In addition, since the ASVI query output shows the date of entry to the U.S., that date can also be verified. Do not use ASVI output to determine eligibility, if any of the following conditions exist:

- The biographical data on the ASVI output, and the alien's document or the SSA record do not identify the same person.
- The output data would cause the denial or termination of benefits.

Instead, verify using Form G-845 (per 2. below).

### **2. Form G-845**

Use Form G-845 to request verification of alien status from INS, whether done preadjudicatively or postadjudicatively.

**NOTE:** Until Form G-845 is updated by INS to reflect the qualified alien information, check block 7 and enter "SSI claim, see attached", and attach a copy of the exhibit at 4. below. Complete the top section, and check the appropriate items to identify the information required. The exhibit should be reproduced locally.

Attach a copy of both sides of all INS documents to Form G-845. Mail requests directly to INS or through the parallel FO, in accordance with established procedure. For further information on contacting INS by G-845, see RM 00203.720A.4. ff.

Request INS verification of status, and any other specific information material to the determination, by checking the items

indicated below:

**a. Immigration Status (#1)**

Request verification of alien status for all eligible and potentially eligible aliens, except those LAPR aliens whose status is verified in accordance with GN 00303.440, to authenticate the current INS document presented by the alien.

**b. Date Alien Entered the U.S. (#2)**

Request this date if the alien is in **refugee or LAPR** status and alleges entry into the U.S. as a refugee in the past 5 years, or is needed to code the SSR, but the date of entry is not shown on his/her INS document and is not accessible using SAVE.

**c. Date Status Was Granted (#3)**

Request this date if the alien:

- o alleges asylee status was granted within the past 5 years and presents current INS documentary evidence of **asylee or LAPR** status that does not indicate the date status was granted, or
- o was paroled into the U.S., the parole period cannot be determined, and the parolee appears to meet the military service or veteran eligibility category, or
- o presents current INS documentary evidence showing that **deportation was withheld under section 243(h) of the INA or LAPR** status and alleges deportation was withheld within the past 5 years. Do not request if the alien is LAPR and qualifies based on military service or veterans status.

**d. Date Status Expires (#4)**

Request this date if the alien presents current INS documentary evidence of parole status that **does not show the period for which it is granted**, and he/she appears to meet the military service or veterans provision.

**3. Follow-Up**

Absent other arrangements with INS, allow 30 calendar days, plus 5 days for mail delivery, for INS to process the request before making a follow-up request.

**NOTE:** INS has agreed to respond to verification requests within 20 business days of receipt of the G-845.

**4. Exhibit--G-845 Attachment**

SSA REQUEST FOR ALIEN STATUS INFORMATION FROM INS

CLAIMANT'S NAME \_\_\_\_\_ DATE \_\_\_\_\_  
SOCIAL SECURITY NUMBER \_\_\_\_\_  
ALIEN REGISTRATION NUMBER \_\_\_\_\_

SSA FO ADDRESS \_\_\_\_\_ TELEPHONE \_\_\_\_\_

Complete the following items: [ ]#1., [ ]#2., [ ]#3., [ ]#4.

TO BE COMPLETED BY INS

INS RESPONSE: We find that the alien identified on this document is:

1. IMMIGRATION STATUS:

- [ ] a. Lawfully Admitted for Permanent Residence in the U.S. (Also complete b, c, or d if alien adjusted to LAPR status from one of those statuses in the past 5 years)
- [ ] b. a Refugee admitted to the U.S. under section 207 of the INA (Complete item 2. below)
- [ ] c. an Asylee under section 208 of the INA (Complete item 3. below)
- [ ] d. an alien whose Deportation was Withheld under section 243(h) of the INA.  
Date deportation ordered withheld: \_\_\_\_\_
- [ ] e. Paroled into the U.S. under section 212(d)(5) of the INA for a period of at least 1 year. (Complete items 3. & 4. below)
- [ ] f. a Conditional Entrant pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980
- [ ] g. other (show immigration status): \_\_\_\_\_

2. Date alien entered the U.S.: \_\_\_\_\_

3. Date status was granted: \_\_\_\_\_

4. Date status expires: \_\_\_\_\_

INS STAMP

00502.130 TIME LIMITED ELIGIBILITY FOR REFUGEES, ASYLEES, AND ALIENS WITH DEPORTATION WITHHELD UNDER SECTION 243(h) (AUGUST 1996 LEGISLATION)

PROCEDURE--EVIDENCE OF ALIEN STATUS

1. Refugee Under Section 207 of the INA

Obtain Form I-94 annotated "ADMITTED AS A REFUGEE PURSUANT TO SECTION 207 OF THE I&N ACT. IF YOU DEPART THE U.S. YOU WILL NEED PRIOR PERMISSION FROM THE INS TO RETURN." Derive the date of admission from the date of inspection on the Form I-94 refugee stamp.

NOTE: INS Form I-688B annotated "274a.12(a)(3)" indicates status as a refugee, but does not reflect the date of admission and does not establish eligibility until that date is established. Request Form I-94 from the alien. If not available, verify with INS. (See SI 00502.115A.1.c. for verification of date through SAVE.)

2. Asylee Under Section 208 of the INA

Obtain Form I-94 annotated "ASYLUM STATUS GRANTED PURSUANT TO SECTION 208 OF THE I.N.A. VALID TO (date)," or an order of an immigration judge. Derive the date status granted from the date of inspection on the Form I-94 asylum stamp or the date of the court order.

NOTE: INS Form I-688B annotated "274a.12(a)(5)" indicates status as an asylee, but does not establish eligibility. The date of the form does not reflect when the status was granted. Request Form I-94 or the alien's copy of a court order. If not available, verify with INS.

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

Obtain the alien's copy of the order from the immigration judge showing deportation withheld under section 243(h). Derive date deportation withheld from the date of the court order.

NOTE: INS Form I-688B annotated "274a.12(a)(10)" indicates deportation withheld under section 243(h), but may not reflect the date of the action and does not establish eligibility. Request the alien's copy of the order from the immigration judge. If not available, verify with INS.

NOTE: If a refugee or asylee presents Form I-94 stamped "REENTRY" at the top, do not use it to establish the date of entry in status or the date status was granted. Verify status with INS preadjudicatively.

00502.135      **LAPR ALIEN WITH 40 QUALIFYING QUARTERS OF COVERAGE  
(AUGUST 1996 LEGISLATION)**

**A. DEFINITION**

A qualifying QC is a title II QC earned by:

- the alien himself/herself, and/or
- a parent(s) (as defined in SI 00501.010A.2 and developed under SI 00501.010D.3., but with no requirement of living in the same household) in periods in which the alien was under age 18, and/or
- a spouse (as defined in SI 00501.150B.1. and developed under SI 00501.150C.3.) during their marriage if the marriage continues or the spouse is deceased.

**NOTE:** Only title II QCs can be qualifying QCs. See B.2.g. below.

**B. POLICY**

**1. Limited Eligibility During First 5 Years in U.S.**

A LAPR alien who enters the U.S. on 8/22/96 or later cannot be eligible based on having 40 qualifying QCs for a 5 year period beginning on the alien's date of entry into the U.S. as a qualified alien.

**2. Qualifying QCs**

**a. Number Required**

An LAPR alien must have or be credited with 40 qualifying QCs to be eligible under this eligibility category.

**REMINDER:** A LAPR alien may be eligible on a time-limited basis without having 40 qualifying QCs if he/she was admitted as a refugee, granted asylum, or had deportation withheld less than 5 years ago. See SI 00502.100D.

**b. Number Creditable**

More than 4 QCs may be credited to the individual, under this provision, for a calendar year because up to 4 QCs may also be credited from each parent and/or a spouse. QCs credited from parents and/or a spouse do not count for title II eligibility purposes and will not be posted to the alien's earnings record.

**c. QCs From a Parent**

An alien of any age can be credited with QCs earned by a parent before the alien attained age 18, regardless of whether the parent is currently living.

QCs belonging to an SSI-eligible parent may be credited to both the parent and to one or more SSI-eligible children.

**EXAMPLE:** A LAPR alien couple and their two LAPR alien children (one age 12 and the other age 23) all apply for SSI. Each member of the couple has earned 20 QCs for work done more than 5 years earlier, before the older child had turned age 18. All four LAPR aliens meet the 40 QC eligibility category based on the couple's combined 40 QCs.

QCs earned by a parent in the period before the parental relationship was established by birth or adoption are not creditable. QCs earned by a biological parent whose parental rights are lost as a result of the adoption of the child by another person are not creditable.

#### **d. QCs From a Spouse**

QCs earned by a current spouse and/or one or more deceased spouses during their marriage to the individual can be credited.

QCs belonging to members of an eligible couple may be credited to both spouses.

A former spouse's QCs cannot be credited if the marriage ended (i.e., divorce or annulment, or separation of a holding-out couple), unless by death, before eligibility is determined. But QCs credited from a spouse are not lost if the marriage (including a holding-out relationship) ends for any reason after the date on which eligibility is first established.

**EXAMPLE:** A LAPR alien was married to a U.S. citizen for 12 years. The alien never worked in the U.S. The former spouse earned over 40 QCs during their marriage. The marriage terminated by divorce 4 months before the alien filed for SSI benefits. No QCs can be credited from the former spouse in determining SSI eligibility.

#### **e. When Creditable**

QCs are acquired when covered earnings, wages, and self-employment income (SEI) for the calendar year exceed one or more quarterly QC increments for the year.

QCs are creditable for a quarter if they would have been creditable for any part of the quarter. (That is, QCs are creditable from a parent for the quarter in which an alien attains age 18 or is married, or from a spouse for the quarter of marriage.)

QCs are assigned to calendar quarters in the calendar year in the manner most advantageous to the individual, per RS 00301.230 - RS 00301.240. For example, if all of a worker's earnings were in December, the QC(s) could be assigned to the first calendar

quarter(s) of the year. A QC is acquired on the first day of the calendar quarter to which it is assigned.

**EXAMPLE:** A LAPR alien married in August 1984. The spouse earned 2 QCs in 1984. Since QCs in 1984 were credited by SSA on an annual basis and not assigned to specific calendar quarters, the 2 QCs earned may now be assigned to quarters in the manner most advantageous to the alien SSI claimant/recipient. In this case, since the marriage spanned part or all of 2 calendar quarters, the 2 QCs earned by the spouse for the year may be assigned to those 2 quarters (July and October). The time of the year when the spouse worked is irrelevant.

**f. Current-Year QCs**

Current year earnings can be used to help establish 40 QCs to determine eligibility under this provision. However, current-year QCs can be assigned only to past and current calendar quarters, one per calendar quarter per worker.

If an otherwise-eligible individual's earnings permit the 40th QC to be credited during the life of the SSI application (see SI 00601.010), eligibility can be found based on current year earnings no earlier than the first month of the calendar quarter to which the 40th QC is assigned. For claims filed 8/22/96 or later, benefits are payable beginning the first day of the month following the date the individual becomes eligible (SI 00601.009).

**g. Noncovered Earnings**

Earnings from the performance of services not covered as employment under title II of the Social Security Act, including Medicare qualified government employment, do not establish QCs or eligibility under this provision.

**3. Receipt of Federal Means-Tested Benefits After 1996**

No QCs are creditable for any period beginning after December 31, 1996, if either the alien or the worker (the parent or the spouse) received any Federal means-tested benefits during the period in which the QCs were earned.

Federal means-tested public benefits are public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both, are determined on the basis of income, resources, or financial need of the individual, household, or unit. (See E.2. and 3. below for examples.)

**C. PROCEDURE--LAPR STATUS**

Develop and verify LAPR status in accordance with GN 00303.440

and SI 00502.115A.

**NOTE:** A LAPR alien who does not have the 40 QCs needed for eligibility under this category may be eligible based on having been a refugee, asylee or having deportation withheld in the past 5 years. Active duty military service or veteran status of the individual or the individual's spouse or parent (see SI 00502.130 and SI 00502.140) may also make an LAPR alien eligible.

#### **D. PROCEDURE--QUARTERS OF COVERAGE**

##### **1. Verification of QCs**

If the individual's allegations indicate that he/she could have a total of 40 qualifying QCs, secure a certified earnings record (see GN 01010.009) to determine QCs for the claimant.

**EXCEPTION:** If the individual is receiving title II benefits, query the MCS Earnings Data screen. If the individual is not receiving title II benefits but is on the SSI rolls in any nonterminated payment status, secure an ICF Online Computational Earnings (OCE) query. Obtain a certified earnings record only if the 40 QC requirement (including any QCs creditable from parents or spouses) is not met.

If the earnings record does not have enough QCs and the individual does not allege the possibility of QCs earned by a spouse and/or parent(s), find that the 40 QCs requirement is not met.

If the individual alleges the possibility of QCs earned by a parent or spouse, secure an ICF OCE query for the spouse and/or parent(s) to determine the number of their QCs for the relevant periods. (See MSOM 246-24-IC94.) If the total number of creditable QCs is still less than 40, secure a certified earnings record for the spouse and/or parent(s) before making a determination that the 40 QCs requirement is or is not met.

**IMPORTANT:** Regardless of whether an OCE query or a certified earnings record is used to verify the number of creditable QCs for the parents and spouses, do not put the document in the file if the parent or spouse is alive. Instead, record the number of QCs and the relevant period when they were earned on a Report of Contact or a MSSICS screen. This will prevent the possibility of disclosure of earnings information for the parent or spouse to the claimant/recipient.

Develop earnings record discrepancies in accordance with RM 03870.000ff.

For verification of covered earnings too recent to have been posted to the earnings record, see RS 01404.018. Divide covered earnings by the dollar amount needed to earn a QC (RS 00301.250) to determine the number of QCs earned for the year, up to a

maximum of 4 QCs per year per worker. See 3. below.

## **2. Verification Not Required**

If the individual's allegations indicate that eligibility is not possible (e.g., alleges no covered work, or work for only a few years, by any person whose QCs would be creditable), find that the 40 QCs requirement is not met.

## **3. Eligibility Dependent on Lag Earnings**

If an otherwise eligible alien could be credited with 40 QCs in the current or a prior calendar quarter using current or prior year lag earnings, develop QCs as follows:

- Lag wages: RS 01404.018
- Lag SEI: RS 01804.100 - RS 01804.110
- Quarterly increment amounts: RS 00301.250

## **4. QCs From a Deceased Holding Out Spouse**

If the spouse is deceased and the alien alleges that he/she and the deceased "spouse" were holding out as husband and wife, secure a signed statement from the alien and follow the development rules in SI 00501.152B.3.-4.

## **E. PROCEDURE--RECEIPT OF FEDERAL MEANS-TESTED BENEFITS AFTER 1996**

### **1. Development**

If the individual appears to have 40 qualifying QCs, request information about any Federal means-tested benefits received by the alien or by any person whose QCs may be credited to the alien. Request the information for each period beginning January 1, 1997 or later that has QCs posted if necessary to satisfy the 40 qualifying QC requirement. Secure a signed statement from each living person with creditable QCs, recording their allegation as to whether they received Federal means tested benefits during any period after 1996 for which QCs are posted. Verify receipt of benefits with the providing agency if receipt or nonreceipt is questionable.

Do not credit QCs for any period in which the worker or the alien received Federal means tested benefits.

### **2. Examples of Federal Means-Tested Benefits**

Examples of Federal means-tested benefits include, but are not limited to:

- Aid to Families With Dependent Children  
(AFDC)

SI 00830.400

- BIA Adult Custodial Care (ACC) and Child Welfare Assistance (CWA) Payments (Other Than Foster Care Assistance) Made to Noninstitutionalized Individuals SI 00830.810
- Bureau of Indian Affairs General Assistance (BIA GA) SI 00830.800
- Federal Housing Assistance SI 00830.630
- Federally Reimbursed General Assistance Payments to Refugees SI 00830.645
- Food Stamps SI 00830.635
- Foster Care Under Title IV-E (unless it meets the category of foster care listed in 3. below) SI 00830.410
- Low Income Home Energy Assistance Program (LIHEAP) SI 00830.600
- Refugee Cash Assistance SI 00830.645
- Supplemental Security Income Payments
- Temporary Assistance for Needy Families
- VA Compensation Payments Based on Need SI 00830.304
- VA Pension Payments Based on Need SI 00830.302
- Work Relief Programs (e.g., Workfare, Community Work Experience Program (CWEP), and Work Incentive Program (WIN)) SI 00830.185

**3. Federal Benefits That Are Not Considered Federal Means-Tested Benefits**

The following benefits are not considered Federal means-tested public benefits for purposes of this section:

- Assistance for Cuban and Haitian Entrants under title IV of the INA and section 501 of the Refugee Education Assistance Act of 1980
- Assistance or benefits under the Child Nutrition Act of 1966
- Assistance or benefits under the National School Lunch Act
- Benefits under the Head Start Act
- Benefits under the Job Training Partnership Act
- Emergency medical services under title XIX of the SSACT
- Means-tested programs under the Elementary and Secondary Education Act of 1965
- Payment for foster care and adoption assistance under part B and E of title IV of the SSACT for a parent or a child, but only if the foster or adoptive parent or parents of such child are qualified aliens
- Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965
- Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) to be specified by the Attorney General
- Public health assistance for immunizations, or for testing and treatment of serious communicable disease
- Short-term non-cash in-kind emergency disaster relief

00502.140 VETERAN OR ACTIVE DUTY MEMBER OF THE ARMED FORCES, A SPOUSE, OR A DEPENDENT CHILD (AUGUST 1996 LEGISLATION)

A. DEFINITIONS

1. Veteran of the Armed Forces of the U.S.

A veteran, for purposes of this provision, means a person who served in the active U.S. military, naval, or air service, and was released with a discharge characterized as honorable and not on account of alienage (e.g., the individual was not discharged because he/she was an alien).

2. Active Duty in the Armed Forces of the U.S.

Active duty as a member of the Armed Forces of the U.S. means the individual is on full-time duty in the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard.

3. Active Duty for Training

Active duty for training is temporary full-time duty in the Armed Forces performed by members of the Reserves, Army National Guard, or Air National Guard for training purposes. Active duty for training does not establish eligible alien status.

4. Spouse of a Veteran or Active Duty Member of the Armed Forces

A spouse may be a husband or wife. A husband and wife are two living persons who:

- have been determined husband and wife under State law,
- have been determined husband and wife under section 216(h)(1) of the SSAct for purposes of title II, or
- are holding themselves out to the community as husband and wife.

5. Unmarried Dependent Child of a Veteran or Active Duty Member of the Armed Forces

An unmarried dependent child of a veteran or active duty member of the Armed Forces is a child who is:

- the biological or legally adopted child of a living active duty member of the Armed Forces or an honorably discharged (not based on alienage) living veteran of the Armed Forces of the U.S., or the biological or legally adopted child of his/her spouse, and
- not married, and

- dependent on the veteran/active duty member of the Armed Forces (i.e., can be claimed as a deduction on his/her tax return), and
- under the age of 18 (or under age 22 and a student regularly attending school).

**NOTE:** There is no requirement that the child be living with the veteran or service member.

#### **B. PROCEDURE--EVIDENCE OF QUALIFIED ALIEN STATUS**

Verify qualified alien (SI 00502.100C.) status as indicated below. See SI 00502.115 for verification of alien status with INS.

##### **1. LAPR**

See GN 00303.440 and SI 00502.115A. for evidence of LAPR status.

**NOTE:** Consider sponsor deeming if the individual is eligible (see SI 00502.200).

##### **2. Refugee**

Obtain:

- Form I-94 annotated "ADMITTED AS A REFUGEE PURSUANT TO SECTION 207 OF THE I&N ACT. IF YOU DEPART THE U.S. YOU WILL NEED PRIOR PERMISSION FROM THE INS TO RETURN.", or
- Form I-688B annotated "274a.12(a)(3)."

##### **3. Asylee**

Obtain:

- Form I-94 annotated "ASYLUM STATUS GRANTED PURSUANT TO SECTION 208 OF THE I.N.A. VALID TO (date)", or
- Form I-688B annotated 274a.12(a)(5), or
- the alien's copy of the order from an immigration judge granting asylum.

##### **4. Parolee**

Obtain a currently valid Form I-94 that indicates the bearer has been paroled pursuant to section 212(d)(5) of the INA, with an expiration date of at least 1 year from the date issued or indefinite.

**NOTE:** INS Form I-688B annotated "274a.12(a)(4)" or "274a.12(c)(11)" indicates status as a parolee but does not reflect the length of the parole period. If the individual

cannot provide Form I-94, contact INS in accordance with SI 00502.115 to verify status and length of the parole period before adjudication.

**Establish an AT diary** (see SM 01005.230) for the month the alien's status expires or, if earlier, for 1 year, to reverify alien status.

**5. Deportation Withheld Pursuant to Section 243(h)**

Obtain:

- the alien's copy of the order from an immigration judge showing deportation has been withheld, or
  - Form I-688B annotated "274a.12(a)(10)."
- 6. Conditional Entry Pursuant to Section 203(a)(7) as in Effect Prior to April 1, 1980**

Obtain Form I-94 identifying the bearer as "REFUGEE-CONDITIONAL ENTRY" and a citation of section 203(a)(7) of the INA.

**NOTE:** The alien may also have a refugee employment authorization document, Form I-688B, annotated "274a.12(a)(3)."

**C. PROCEDURE--DEVELOPMENT OF VETERAN STATUS**

Request that the individual provide all evidence of military service available.

**REMINDER:** A qualified alien may be eligible on a time-limited basis without having veteran status or a relationship to a person with veteran status if he/she was admitted as a refugee, granted asylum, or had deportation withheld less than 5 years ago. See SI 00502.100D.

**NOTE:** Veterans should have received a full copy of DD Form 214 (CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY), that contains the necessary information. Always secure evidence from the individual before contacting other sources.

**1. Evidence of Veteran Status Required for Eligible Alien Status**

**a. Honorable Discharge**

To determine honorable discharge, look for an entry of "Honorable" as the character of service (block 24 of DD Form 214). If the evidence characterizes the discharge as anything other than "Honorable", such as "Under Honorable Conditions", do not determine eligibility as a veteran or as a spouse or child of a veteran.

**b. Discharge Not Based on Alienage**

To determine that a discharge was not based on alienage, look in the narrative reason for separation (block 28 of DD Form 214). Do not determine eligibility based on veteran status if the reason for separation shows the discharge was based on alien status, lack of U.S. citizenship, or other "alienage" reason.

**NOTE:** On DD Form 214, Blocks 24 and 28 are contained in a Special Additional Information section in the complete form of the document that is furnished to the veteran.

## **2. Alternative Sources of Evidence**

If the individual is unable to present evidence of military service, or the evidence presented is questionable, see RS 01702.001 ff. for development of evidence of military service from other sources. Be aware of limitations in various sources. (For example, the DD-1300 applies to death cases only and is not usable).

### **D. PROCEDURE--DEVELOPMENT OF ACTIVE DUTY IN THE ARMED FORCES OF THE U.S.**

#### **1. Development of Active Duty Status**

Request the individual's service identity card (U.S. Form DD-2), which should be a green service identity card marked "(ACTIVE)" after the form number.

**NOTE:** A red service identity card marked "(RESERVE)" is not evidence of active duty unless supported by a copy of the individual's current orders showing he/she is on active duty, and not active duty for training. A blue (retiree) or beige (dependent) card is not evidence of active duty.

**REMINDER:** A qualified alien may be eligible on a time-limited basis without having active duty status or a relationship to a person with active duty status if he/she was admitted as a refugee, granted asylum, or had deportation withheld less than 5 years ago. See SI 00502.100D.

#### **2. Verification of Active Duty Status**

Determine active duty status based on the individual's service identity card. Contact the personnel office at the military installation to which the individual is assigned to verify status if the authenticity of the card is questionable, or the service member refuses to provide evidence to establish eligibility for a spouse or child.

### **E. PROCEDURE--DEVELOPMENT OF ELIGIBILITY AS A SPOUSE OR UNMARRIED DEPENDENT CHILD**

#### **1. Spousal Relationship to the Veteran or Active Duty Member**

Verify the spousal relationship under the rules in

SI 00501.150C.3.

**2. Unmarried Dependent Child Status**

**a. Relationship to the Veteran or Active Duty Member of the Armed Forces**

See SI 00501.010D.3.

**b. Marital Status of the Child**

Accept the child's (or payee's) signed marital status allegation, absent evidence to the contrary. See SI 00501.010D.2. for development in questionable situations.

**c. Dependency on the Veteran or Active Duty Member**

Consider the dependency test to be met if the child is listed as a dependent on the veteran's or active duty member's most recent Federal income tax return. Document the file with a copy of tax return, or enter in REMARKS of the AALN screen on MSSICS that the child is listed as a dependent on the tax return for the most recent year. If no return was filed, accept the parent's signed allegation that the child is his/her dependent, absent evidence to the contrary. If dependency is questionable, develop in accordance with SI 01320.922.

**d. Student Status**

See SI 00501.020.

**F. REFERENCES**

- Evidence of LAPR Status, GN 00303.440
- August 1996 SSI Alien Changes--Sponsor Deeming, SI 00502.200
- August 1996 SSI Alien Changes--Systems Instructions, SI 00502.300

**SPECIAL PROCESSING REQUIREMENTS THAT APPLY TO CURRENT RECIPIENTS**

**00502.150 SSI ELIGIBILITY FOR ALIENS RECEIVING BENEFITS ON  
8/22/96 (AUGUST 1996 LEGISLATION)**

**A. POLICY--EFFECTIVE DATE**

**1. Aliens Considered to Be "Receiving SSI Benefits on 8/22/96"**

An alien "receiving SSI benefits on 8/22/96" is subject to the alien eligibility rules in SI 00502.100 for months beginning on or after the first determination of alien eligibility made after that date. Eligibility under the prior LAPR or PRUCOL eligibility rules in GN 00303.440 and SI 00501.420, as appropriate, continue to apply until eligibility is determined under the new rules per D. below.

A notice of planned action (NPA) or other due process notice constitutes the determination. Under the Reconciliation Act of 1996, determinations of alien eligibility made on the first day of a month are effective the current month; determinations made on all other days of a month are effective the following month.

The following individuals are considered to have been "receiving SSI benefits on 8/22/96":

- o recipients in current pay on 8/22/96, including payment status N01 recipients in section 1619(b) status, and
- o individuals in nonpay, suspense, and payment status E01 on 8/22/96, and
- o claimants for whom a field office (FO) input had been made on or before 8/22/96 to allow an initial claim or reconsideration of a denied claim, even if the input rejected, and
- o claimants for whom a Disability Determination Section (DDS) had issued a favorable initial claim or reconsideration disability determination on or before 8/22/96, whether or not the FO had completed nondisability development or effectuated payment, and
- o claimants for whom an administrative law judge (ALJ) or the Appeals Council (AC) had issued a favorable decision on or before 8/22/96, whether or not the FO had completed nondisability development or effectuated payment, and
- o [presumptive disability to be determined]

**NOTE:** For favorable DDS determinations, look to the later of any dates shown in blocks 31, 33, or 38 of the SSA-831. If the SSA-831 is unavailable, use the SCD (State Clearance Date) on the DDSQ. If the FS (Federal Sample) field does not show an N, however, do not use the SCD date, as the date may have been

changed. For favorable ALJ or AC decisions, look to the date of the notice issued to the claimant.

**NOTE:** For any pending claims or appeals of denied claims that fit one of the bullets above, see B. below for procedure.

**2. Aliens With Appeals Pending After 8/22/96 on Previous Fully or Partially Favorable Allowances**

Aliens with appeals pending after 8/22/97 on claims on which a fully or partially favorable allowance was issued on or before 8/22/96 are considered to be "receiving SSI benefits on 8/22/96" and are adjudicated under the old law for the entire period in the life of the application (SI 00601.010C.). (For ALJ and Appeals Council decisions, look to the date of the notice issued by the ALJ or AC as the allowance date.) The new law, however, must be applied to these cases later as described in C.-D. below.

**3. Aliens With Claims Adjudicated After 8/22/96**

Aliens with claims and appeals of denied claims (other than those included in 1. and 2. above) with an adjudication date after 8/22/96 will be subject to the eligibility rules in SI 00502.100 for the entire period in the life of the application (SI 00601.010C.), including months before August 1996. The instructions in this section do not apply to such cases.

**B. PROCEDURE--INITIAL ALIEN CLAIMS PROCESSED UNDER OLD ALIEN ELIGIBILITY RULES**

Process an initial alien claim or appeal of a denied claim to which the pre-8/22/96 rules apply as follows:

- Determine eligibility under the applicable rules in GN 00303.440 and SI 00501.420 - SI 00502.430.
- Ignore systems and notice procedures in this subchapter, and adjudicate the claim under prior procedures.
- Allow the system to release an automated notice, unless there is a manual notice is otherwise required. If so, use "old law" award notice language.

Make a new determination of eligibility under SI 00502.100 at a later time, per D. below.

**C. PE PROCESS**

The codes in the AR field of the SSR that show immigration status do not reflect sufficient information to determine eligibility under the new law for most recipients, do not necessarily reflect current status, and were not in use in the early years of the SSI program. As a result, it is necessary to determine the current status of almost all recipients whose records show an alien code or an undetermined status code in the AR field.

These records are divided into 3 types, based on the likelihood of eligibility continuing under the new requirements. New determinations of eligibility must be made on these cases no later than 8/22/97, using the eligibility rules in SI 00502.100, as indicated in this section.

#### 1. Type 1 Cases

Type 1 cases are likely to be ineligible under the new eligibility requirements.

This group consists of all cases described in A.1. above with AR codes of F - L, P, R - T, and W - Z, except for refugees and asylees who will have been in status for less than 5 years in August 1997, LAPR aliens who have received title II benefits, and aliens who have received veterans benefits.

In February and March, 1997, central office (CO) will send these recipients an automated informational notice to inform them of the new eligibility requirements and to request the submission of any evidence of citizenship or eligible alien status within 90 days.

If the record is not updated to show eligibility under the new law, CO will place the record into payment status N13 and release an NPA. Recipients will have 10 days to request benefit continuation if they disagree with the suspension action.

#### 2. Type 2 Cases

Type 2 cases are likely to be eligible under the new eligibility requirements.

This group consists of all cases described in A.1. above with AR codes that reflect either unknown citizenship/alien status, or alien status plus an indicator of likely eligibility. This group includes:

- unknown-status recipients with AR codes of B, D (with date of eligibility (DOE) of 1/74 - 12/81), E, U, V, and records with no code present;
- LAPRs (codes K, S, and Y) who have received title II benefits; and
- alien recipients in any AR code who have received veterans benefits or Department of Defense annuities.

In February and March, 1997, CO will send these recipients an automated informational notice to inform them of the new eligibility requirements and to advise them that we will be contacting them for evidence of citizenship or eligible alien status.

An A5 diary will be set on each of these cases (SI 02305.013).

The diary will be associated with Type 2 cases that are selected for a redetermination in the December 1996 selection process. If a case is not eligible for redetermination selection in December 1996, it will be selected as a profile H limited issue for development of alien status. The diary also will be set on pending redeterminations, and pending limited issues that meet the criteria for an A5 diary will be selected as profile H limited issues. The A5 diary will be controlled on the CO redetermination control (CORC) system.

As FOs encounter Type 2 recipients for redeterminations, recipient reports, or other inquiries or contacts, they should initiate development of alien status under the requirements of SI 00502.100. If no such contact otherwise occurs with a recipient, FOs should initiate limited issue development no earlier than February 1997, when the notices are first mailed. Regardless of the outcome of the development, no formal determination of ineligibility or action to suspend eligibility based on the new alien eligibility requirements may be taken until further notice.

By law, SSA must complete a new determination of alien eligibility for all potentially affected cases no later than 8/22/97.

### 3. Type 3 Cases

Type 3 cases will remain eligible until at least August 1997.

This group consists of refugees and asylees who will have been in status for 5 years or less as of August 1997. In February and March, 1997, CO will send these recipients an automated informational notice to inform them of the new eligibility requirements and to advise them that their eligibility may end at the end of their 5-year eligibility period. (Recipients in refugee or asylee status whose first 5 years in the U.S. will end before August 1997 will be selected for inclusion with Type 2 cases described in 2. above.)

Further POMS instructions will be issued later on processing of Type 3 cases.

### D. PE PROCEDURE--GENERAL

Use the citizenship development procedures in GN 00303.300 and in E. below, and the alien development procedures in SI 00502.110 and this section to determine the continuing eligibility under the Reconciliation Act of 1996 of SSI recipients receiving benefits on 8/22/96 if their SSR records do not establish citizenship.

#### 1. Type 1 Cases

If a recipient responds to the informational notice or otherwise is in contact with the FO, process the response as follows:

a. **Evidence Establishes Eligibility**

- Issue a manual initial determination notice with appeal rights (see SI 00502.410A.). Keep a copy for the file.
- Update the AR field to reflect the current citizenship/alien status, if necessary.
- Control the case to input additional AR field data when revised codes are available, if required per SI 00502.300C.
- Input an AT diary if required by SI 00502.110B.1.

b. **Evidence Does Not Establish Eligibility**

- Update the AR field to reflect the current alien status, if appropriate.

**NOTE:** In xx/97, CO will suspend eligibility (N13) and issue a notice of planned action (NPA) with *Goldberg v. Kelly* due process rights.

c. **Recipient Responds to Notice But Evidence Is Outstanding**

- If evidence is eventually received, continue per a. or b. above, as appropriate.
- If evidence is not received, do not follow up. CO will suspend eligibility (N13) and issue an NPA with *Goldberg v. Kelly* rights in xx/97.

d. **No Response to Notice**

- In xx/97, CO will suspend eligibility (N13) and issue an automated NPA with *Goldberg v. Kelly* rights.

2. **Type 2 Cases**

a. **Develop Eligibility Under New Requirements**

Effective immediately, develop the eligibility under SI 00502.100 of all recipients described in C.2. above as you encounter them for redeterminations, development of other issues, change of address reports, inquiries about the legislation, and other contacts.

If you do not otherwise encounter the individual earlier, initiate development of eligibility under SI 00502.100 as a limited issue no earlier than February 1997, when the first notices are mailed. If desired, use the notice paragraph in SI 00502.410D. for a come in/call in letter. Enclose the multiple language flyer in SI 00502.500 if you feel it would be helpful to the recipient.

**IMPORTANT:** For this limited issue, nonterminated cases that are

in nonpay, suspense, or payment status E01 must be processed, as well as cases in current pay. Follow usual closeout procedures for these cases (SI 02301.235E.-J.), but alter notices used to request information, or use alternative request forms, to eliminate the threat that benefits may be suspended. Do not input payment status N20 if the recipient fails to furnish the requested evidence. If the individual is unable to establish eligibility, CO will apply a payment status of N13 and issue an NPA in xx/97.

**b. Evidence Establishes Eligibility**

- Issue a manual initial determination notice with appeal rights (see SI 00502.410A.). Keep a copy for the file.
- Update the AR field to reflect the current citizenship/alien status, if necessary.
- Control **alien** cases (not citizens or nationals) if required per SI 00502.300C. to input additional AR field data when revised codes are usable.
- Control **citizen** cases for which an AR code of D has been used per SI 00502.300C. to input additional AR field data if the date of eligibility (DOE) field on the SSR is prior to 1/82.
- Input an AT diary if required by SI 00502.110B.1.
- Clear the limited issue diary per SI 02305.013.

**c. Evidence Establishes Eligibility Under 5-Year Rule But Ending Before 8/97**

- Update the AR field to reflect current alien status as needed (see SI 00502.300).
- Control the case if required per SI 00502.300C. to input additional AR field data when revised codes are published.
- Clear the limited issue diary per SI 02305.013.

**NOTE:** In xx/97, CO will suspend eligibility (N13) and issue a notice of planned action (NPA) with *Goldberg v. Kelly* due process rights.

**d. Evidence Does Not Establish Eligibility**

- Update the AR code to reflect the current status, if appropriate.
- Clear the limited issue diary per SI 02305.013.

**NOTE:** In xx/97, CO will suspend eligibility (N13) and issue a notice of planned action (NPA) with *Goldberg v. Kelly* due process rights.

e. **No Response to Efforts to Conduct Limited Issue or Refusal to Cooperate**

Follow usual posteligibility closeout procedures (SI 02301.235). However, do not suspend if the recipient fails to furnish the requested evidence.

**NOTE:** In xx/97, CO will suspend eligibility (N13) and issue a notice of planned action (NPA) with *Goldberg v. Kelly* due process rights.

3. **Type 3 Cases**

If a Type 3 recipient responds to the informational notice or otherwise contacts the FO, ask the recipient if there has been any change in his/her immigration status.

- o If not, ask whether the recipient meets the eligibility requirement as an active duty member or veteran of the U.S. armed forces or as the spouse or dependent child of such a member or veteran (SI 00502.100B.5. - 8.). If so, issue a manual notice per SI 00502.410A. Control the case to input additional AR field data when revised codes are published (see SI 00502.300C.).
- o If so, and the recipient has become LAPR, develop LAPR status per SI 00502.110 -.115. Ask whether the LAPR recipient meets the 40 QCs eligibility category (SI 00502.100B.4.), and develop eligibility under that requirement per SI 00502.135. If eligibility is determined under the 40 QCs requirement, issue a manual notice per SI 00502.410A. Control the case to input additional AR field data when revised codes are published (see SI 00502.300C.).

E. **PE PROCEDURE--CITIZENSHIP**

Develop citizenship under the rules in GN 00303.300, as modified below. In all cases, retain in the file a copy of the evidence used to determine citizenship.

**NOTE:** This procedure for retaining a paper copy in the file supersedes the procedure given in SI 00601.200 to the extent they conflict.

1. **Evidence or Prior Claim**

If the individual submits evidence of U.S. citizenship per GN 00303.300, or proved his/her U.S. citizenship status in a prior claim per GN 00303.350, post via PR9 input an AR code of "A", "C" or "Q" as appropriate, with the following modifications. Post an AR code of "Q" if:

- a U.S. POB is shown on the Numident that agrees with the claimant's allegation; and either the evidence (IDN) code is "P"; or the IDN code is "C", blank or "D", and the Numident

is at least 5 years old; or

- the individual's Numident shows a foreign POB and a CSP code of "A".

## 2. AR Codes of B, E, U, V, and Blank

For purposes of establishing citizenship on code "B," "E," "U," "V" and no AR code cases only, consider an individual a U.S. citizen and change the AR code to "D" via PR9 input if:

- the individual alleges U.S. citizenship, and
- the evidence listed in GN 00303.300 is not readily available, and
- the POB on the Numident is "Unknown", and
- he/she has been a continuous resident of the U.S. since 1/1/72.

**IMPORTANT:** If the date of eligibility (DOE) field on the SSR is earlier than 1/82, control the case for subsequent input of an eligibility code per SI 00502.300C.

## F. REFERENCES

- Evidence of LAPR Status, GN 00303.440
- Sponsor-to-Alien Deeming, SI 00502.200
- Notices, SI 00502.400 - SI 00502.600
- Systems Instructions, SI 00502.300
- Overpayments, SI 02220.001
- A5 Diary, SI 02305.013
- AT Diary Code Input, SM 01301.200 and SM 01005.230
- AR Codes, SM 01005.630
- Numident Codes, RM 00208.010 ff.

## **SPONSOR-TO-ALIEN DEEMING**

### **00502.200 SPONSOR-TO-ALIEN DEEMING (AUGUST 1996 LEGISLATION)**

**NOTE:** References throughout these instructions to "sponsor" also include the sponsor's spouse who lives in the same household as the sponsor.

#### **A. DEFINITIONS**

##### **1. "Old Version Affidavit of Support"**

For purposes of these instructions, an "old version affidavit of support" is an affidavit (Form I-134 or similar form) that was signed prior to the formulation and implementation of the "new version affidavit of support" (see 2. below).

##### **2. "New Version Affidavit of Support"**

For purposes of these instructions, a "new version affidavit of support" is an affidavit that complies with the legal requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("Reconciliation Act of 1996").

#### **B. BACKGROUND**

Under the Reconciliation Act of 1996, the Immigration and Naturalization Service (INS) has until 11/20/96 to formulate a new version affidavit of support that meets these requirements:

- o The affidavit must be executed as a contract that is legally enforceable against a sponsor by the sponsored alien, the Federal Government, or by any State or political subdivision of a State that provides means-tested public benefits (including SSI).
- o The sponsor must agree to financially support the alien so that the alien does not become a public charge. The sponsor must also agree to submit to the jurisdiction of any Federal or State court with respect to actions brought by a Federal, State, or local agency seeking reimbursement of means-tested benefits paid to the alien.
- o The affidavit must be enforceable with respect to benefits provided to the alien until such time as the alien becomes a naturalized citizen of the U.S.

No earlier than 60 days (and no later than 90 days) after the new version of the affidavit is formulated, INS must begin using the new affidavit for purposes of admitting aliens into the U.S.

#### **C. POLICY--SPONSOR SIGNED OLD VERSION AFFIDAVIT OF SUPPORT**

**IMPORTANT:** Until further notice, all affidavits of support will be assumed to be old version affidavits. Accordingly, the

following policies apply to all sponsored aliens who are on the SSI rolls as of 8/22/96 or who file for SSI before or after 8/22/96.

### 1. Sponsor Deeming Period

The policy in SI 01320.900C. regarding the sponsor deeming period continues to apply. (The Reconciliation Act of 1996 did not change the deeming period for aliens whose sponsors signed old version affidavits of support, provided the sponsors have not subsequently signed new version affidavits of support.)

Through September 30, 1996, the deeming period is 5 years (60 months) following an alien's date of lawful admission to the U.S. Effective October 1, 1996, the deeming period is 3 years (36 months) following the date of lawful admission to the U.S.

Instructions pertaining to the 3-year deeming period are in F. below.

### 2. Aliens Subject to Sponsor Deeming

The policy in SI 01320.900B. continues to apply. A sponsored alien lawfully admitted to the U.S. for permanent residence (LAPR) is subject to sponsor-to-alien deeming unless an exclusion in SI 01320.910 applies.

**NOTE:** Only LAPR aliens are subject to sponsor deeming at this time. Also, all LAPR aliens--including those for whom sponsor deeming is an issue--are subject to the basic alien eligibility requirements in SI 00502.100 and the related procedures in SI 00502.150.

### 3. Amount of Income and Resources Deemed to an Alien

The policies in SI 01320.922 and SI 01320.940 ff. continue to apply. (The Reconciliation Act of 1996 did not change the deeming methodology used for aliens whose sponsors signed old version affidavits of support.)

**NOTE:** Regular retrospective monthly accounting rules apply in the last month for which sponsor deeming applies and in subsequent months. The deemed income from the normal budget month is used for purposes of determining the alien's benefit amount.

### D. POLICY--SPONSOR SIGNS NEW VERSION AFFIDAVIT OF SUPPORT

Under the Reconciliation Act of 1996, an alien whose sponsor signs the new version affidavit of support (B. above) will be subject to new deeming rules.

Deeming will apply until the alien becomes a naturalized citizen of the U.S. or can be credited with 40 qualifying quarters of coverage (QCs), whichever comes first. (See SI 00502.135A. for

the meaning of "qualifying quarters." See SI 00502.135B.3. for the policy that bars a QC from being credited if the alien or the worker received any Federal means-tested benefits during the period in which the QC was earned.) If neither event occurs, deeming will continue indefinitely. Also, more of a sponsor's income and resources will be deemed when a sponsor signs the new version affidavit of support than is deemed when a sponsor signs the old version affidavit of support.

When INS begins using the new version affidavit of support, additional POMS instructions will be issued at that time.

#### **E. PROCEDURE--INITIAL CLAIMS AND POSTELIGIBILITY**

For an alien whose sponsor signed only the old version affidavit of support, apply the policies in C. above for any month in which:

- o a sponsored LAPR alien filing for SSI meets the "eligible alien" criteria in SI 00502.100B. and is still within his/her deeming period; or
- a sponsored LAPR alien is receiving SSI and is still within his/her deeming period.

**AND**

- o deemed income and resources from the sponsor are material to the SSI eligibility and payment determination. (That is, the alien is not ineligible for some other reason--for example, because of the alien's own income or resources.)

**NOTE:** Keep in mind that sponsor-to-alien deeming need not be developed for any month in which an alien is ineligible for SSI for a reason other than deeming. Also keep in mind that most new alien claimants who have sponsors will not be "eligible aliens" for SSI purposes (SI 00502.100 B.). An example of a sponsored alien who could be SSI-eligible (and subject to deeming) is a sponsored LAPR alien who is still within his or her deeming period and who is a veteran of the Armed Forces of the U.S.

Refer to SI 01320.915 ff. for procedures for verifying sponsorship and sponsor's income and resources.

See F. below for sponsor deeming effective October 1, 1996.

#### **F. PROCEDURE--CHANGE IN SPONSOR DEEMING PERIOD EFFECTIVE OCTOBER 1, 1996**

##### **1. Initial Claims and Posteligibility**

For an alien whose sponsor signed only the old version affidavit of support, apply the policy in SI 01320.900C.1.c. to determine whether (and for which months) the alien is subject to sponsor deeming.

**EXAMPLE 1:**

A sponsored alien becomes eligible for SSI on 8/1/96. The alien's date of lawful admission is 9/29/93.

Until 10/1/96, the deeming period is 5 years (SI 01320.900 C.1.b.). Therefore, in this example, deeming applies in 8/96 and 9/96.

Effective 10/1/96 the deeming period for all sponsored aliens is 3 years (SI 01320.900 C.1.c.). Since the alien in this example is not within the 3-year period on 10/1/96 (the alien's 3-year period ends 8/31/96), deeming applies only in 8/96 and 9/96.

**EXAMPLE 2:**

A sponsored alien files for SSI on 9/5/96 and has an application effective date of 10/1/96. The alien's date of lawful admission is 9/29/93.

Sponsor deeming does not apply in this case because effective 10/1/96, the deeming period is 3 years (and the alien's 3-year period ends on 8/31/96).

**EXAMPLE 3:**

A sponsored alien becomes eligible for SSI on 2/3/94. The alien's date of lawful admission is 12/29/93.

Through 9/30/96, the deeming period is 5 years. Effective 10/1/96, the deeming period becomes 3 years. The alien's 3-year period ends on 11/30/96. Therefore, deeming in this case applies for the period 2/94 through 11/96.

**EXAMPLE 4:**

A sponsored alien has an application effective date of 11/1/96. The alien's date of lawful admission is 8/6/94.

The deeming period for this alien is 3 years. The alien's 3-year period ends on 7/31/97. Deeming applies through July 1997.

**2. Terminating Deeming for Certain Aliens on the Rolls as of October 1, 1996**

Terminate deeming per SI 01320.900C.1.c., effective 10/1/96, to affected sponsored aliens in current pay or suspense status as those individuals come to your attention.

For example, apply the policy (and terminate sponsor deeming, if appropriate) to an alien who:

- o self-reports that he/she is affected by the reversion to a 3-year deeming period effective 10/1/96; or

- o contacts the field office in conjunction with a scheduled or unscheduled redetermination or a limited issue review; or
- o reports having received a letter requesting proof of citizenship or "eligible alien" status (see SI 00502.150 for related information).

**NOTE:** If appropriate, terminate sponsor-to-alien deeming even if the alien is expected to be suspended from SSI eligibility as a result of the developmental process described in SI 00502.150B.

If sponsor deeming is being terminated and the result is that the alien will receive a higher SSI benefit or a benefit where none was possible before, prepare an informational notice using the language in SI 00502.600. Give the informational notice to the alien (if the alien is in the FO) or mail it to the alien. Make the appropriate systems input to reflect the termination of sponsor deeming: terminate any manually deemed (type "V") unearned income on the record or remove payment status N04 (ineligibility due to excess resources), as applicable, effective October 1, 1996.

**G. REFERENCES**

- o Basic Alien Eligibility Requirements, SI 00502.100
- o General Alien Development, SI 00502.110
- o Verification of Alien Eligibility with INS, SI 00502.115
- o Time-Limited Eligibility for Refugees, Asylees, and Aliens With Deportation Withheld Under Section 243(h), SI 00502.130
- o LAPR Alien with 40 Qualifying Quarters of Coverage, SI 00502.135
- o Veteran or Active Duty Member of the Armed Forces, a Spouse, or a Dependent Child, SI 00502.140
- o SSI Eligibility for Aliens Receiving Benefits on 8/22/96, SI 00502.150
- o Systems Instructions, SI 00502.300
- o Notice for Change to 3-Year Deeming, SI 00502.600

## SYSTEMS INSTRUCTIONS

SI 00502.300      SYSTEMS INSTRUCTIONS (AUGUST 1996 LEGISLATION)

### A. BACKGROUND

Systems changes are planned to revise coding of the AR field to reflect the correct eligibility category of alien claimants/recipients who are or will remain eligible under the new criteria. Until such changes are made, we will process initial claims and posteligibility actions using existing codes. The AR field on the SSR will have to be updated once the systems enhancements are ready. For initial claims allowances and some posteligibility determinations, manual controls will need to be established by the field office.

Specific interim procedures for processing cases are explained in B. below.

### B. PROCEDURE--INPUT INSTRUCTIONS

#### 1. Initial Claims

##### a. Applications Involving Alien Claimants

Take applications from alien claimants on MSSICS as usual. Allow MSSICS to establish the SSR, and follow instructions below to process allowances and denials for both MSSICS and non-MSSICS claims.

**NOTE:** For pending MSSICS claims that have been annotated as MSSICS limitations ("Y" entered in the MANUAL PROCESSING REQUIRED field of DADJ), process the claim via direct input PR or manually clear/reestablish the MSSICS claim, whichever is easier.

##### b. Awards Involving Alien Claimants

- o Use existing AR codes; eligible aliens fall into one of the following codes:

- Refugees - F
- Asylees - L
- Deportation Withheld - J
- Parolee - G
- Conditional Entry - F
- LAPRs - K, S, or Y

- o Complete the MSSICS Alien Data (AALN) screen or 450SI AR field according to existing instructions.

- o For parolees, post an AT diary (DA field on 450SI or MSSICS CMSC screen). For the date, enter the month the alien's status expires or 12 months, whichever is earlier.

**NOTE:** Alien status will be verified again when the AT diary matures.

- o Allow the system to issue the award notice, but also issue the manual alien eligibility form letter in SI 00502.450 per SI 00502.410.B. If a manual award notice is required for another reason, use the alien eligibility paragraph in SI 00502.460.
- o Control all alien initial claims allowances for future input of new eligible alien coding, per C. below.

[NEED PROCEDURE FOR CLAIMS IN WHICH THE CLAIMANT FIRST MEETS THE CITIZENSHIP/ALIEN ELIGIBILITY REQUIREMENT SOMETIME BETWEEN THE FILING DATE AND THE ADJUDICATION DATE.]

[ALSO NEED PROCEDURE FOR ALLOWING HELD CLAIMS THAT ARE BEING ADJUDICATED UNDER OLD ALIEN ELIGIBILITY RULES.]

#### c. Denials Based on Alien Status

- o Deny benefits using denial code N13; process denials according to regular systems procedures (MSSICS DADJ screen or 450SI DS field).
- o Suppress the systems-generated denial notice (MSSICS CMSC screen or 450SI NP field); issue a manual notice (SI 00502.410.C.).

## 2. Posteligibility Cases

### a. Evidence Establishes Eligibility Under the New Rules

- o Update the AR code, if appropriate per SI 00502.150C., via PR9 input. Use the AR codes shown in B.1.b. above for eligible aliens. Use the correct citizenship code from SM 01005.632 for recipients determined to be citizens.
- o Clear the A5 limited issue diary per SI 02305.013.
- o Control per C. below all PE cases involving aliens who will remain eligible based on the new requirements.
- o Control per C. below all cases in which an AR code of D is used to establish citizenship if the date of eligibility (DOE) on the SSR is prior to 1/82.

**NOTE:** AR:D cases with a DOE of 1/82 or later do not need to be controlled.

- o Control per C. below cases in which eligibility is based on asylee or deportation withheld status, as the date the

particular status was granted must be input to later.

o For parolees, post an AT diary per [NEED POMS REFERENCE].

**b. Evidence Does Not Establish Eligibility Under the New Rules**

o Update the AR field, if appropriate, via PR9 input to correct the AR code. (See SM 01005.632 for applicable AR codes.)

o Clear the A5 limited issue diary per SI 02305.013.

o Take no action and make no input to suspend eligibility based on alien status at this time. In XX97, CO will suspend eligibility (N13) and issue an automated notice of planned action with Goldberg v. Kelly rights.

**c. Recipients Ineligible Under N13--Not a U.S. Resident**

o Transmit an SSA-1719B with payment status (PS) N13 and related address data (SM 01301.390.E.)

o Follow instructions in SI 00502.410.C. to input notice suppression and send a manual notice.

**C. PROCEDURE--CONTROLS FOR FUTURE AR FIELD INPUT**

To control eligible alien (and certain AR:D citizen) cases that require updated coding once the system can accommodate the new eligibility category and status date codes, use the Modernized Development Worksheet (MDW). On the Worksheet (MMDW - MSOM 228), make entries in the following fields:

UNIT:

FO:

CLAIMANT NAME:

ISSUE: Suggest using something simple such as "PR9"

[It won't be a PR9--it will be an input to the new database. Also, let's be more definitive if we can and create standared entries that we want them to use.]

CATEGORY: Enter "Alien," whether it is an alien or an AR:D case.

REQUEST: Enter the date the issue is established. [Is this the current date? If so, let's just say that.]

TICKLE: (XX/XX/97) - date the systems change is expected

[WE NEED TO STATE THIS DATE.]

REMARKS: Enter one or more of the following codes that must be input once the system can accept them:

[Will the new data base, and the eventual enhanced AR field accept multiple codes if more than one applies?]

section 207 refugee - REF207  
asylee status date - ASY(MMY)  
section 243(h) deportation withheld - DEP243  
40 work credits - 40QC  
active military/veteran - MILVET  
spouse of active military/vet - SPMILVET  
child of active military/vet - CHDMILVET  
AR code D (U.S. citizen) - ALLEGCIT

[WHY AREN'T WE GIVING THEM THE NEW ELIGIBLE CATEGORY CODES?  
WHERE DOES THE DEPORTATION WITHHELD STATUS ATTAINMENT DATE GO?]

Example:

ISSUE	CATEGORY	REQUEST	TICKLE	RECEIVED	REMARKS
PR9	ALIEN	093096	mmdd97		REF207

Ensure the CATEGORY field is completed correctly because it is not edited for misspelling, etc.

NOTE: A pending list may be requested based on CATEGORY at any time. Cases will appear on the MDW tickle list when the tickle date is reached. Using standard formats will make retrieval, and eventual systems input, a much more efficient operation.

## NOTICES

### 00502.400 GENERAL NOTICE PROCEDURE (AUGUST 1996 LEGISLATION)

#### PROCEDURE

After August 22, 1996, use new notice language which redefines eligibility for aliens and also redefines the denial/suspension code N13 (used when the claimant is either not a U.S. resident or not a citizen, national or eligible alien.) See policy on the new basic alien eligibility requirements in SI 00502.100.

When using new alien paragraphs in an initial claim (IC) or posteligibility (PE) notice, follow the IC and PE notice formats from the tables in NL 00802.000 and NL 00803.000. Include new language under the appropriate caption, along with all the captions and paragraphs needed for a particular case as outlined in these NL sections.

For reconsideration notices, use Form SSA-L8455-U2 for reversals to an allowance, and SSA-L8456 for adverse reconsideration decisions. (See NL 00802.050.) In PE reconsiderations, use Form SSA-L8457-U2 (NL 00803.095). In explaining the reason for the reconsideration decision, adapt the notice language for awards or denials as appropriate.

### 00502.410 SPECIFIC NOTICE PROCEDURE (AUGUST 1996 LEGISLATION)

#### A. PROCEDURE--FAVORABLE PE DETERMINATION OF STATUS

Issue the eligibility letter in SI 00502.450 to an SSI recipient when you:

- o first determine that a recipient is a U.S. citizen or national, or an eligible alien per SI 00502.150, or
- o determine that an alien previously determined eligible under SI 00502.100 and SI 00502.150 has changed his/her status to U.S. citizen or to another eligible alien category or status.

**NOTE:** Use the Spanish language version of the eligibility letter in SI 00502.452 if there is a Spanish language indicator on the record.

#### B. PROCEDURE--FAVORABLE IC DETERMINATION OF STATUS

Issue the eligibility letter in SI 00502.450 to an SSI claimant who is an alien when:

- o you determine that a claimant is eligible for SSI and is an eligible alien per SI 00502.100, or
- o you are effectuating a favorable decision on an appeal of a previous denial and the claimant is an eligible alien per SI 00502.100.

Issue the letter on alien eligibility the same day the case is awarded, and allow the system to issue the usual automated award notice.

In order to do this, keep all disability claims involving aliens in H80 while pending at DDS, whether or not development is actually deferred.

**NOTE:** You will be notified when new alien award language is automated, and this instruction will be rescinded at that time.

**RATIONALE:** This procedure ensures that the claimant who is an alien is aware of the basis of his/her eligibility. It also provides special alien reporting responsibilities.

If you must suppress the award notice to an alien for some other reason, then use the alien eligibility paragraph in SI 00502.460 in the award notice, instead of issuing the separate form letter.

#### **C. PROCEDURE--N13 DENIAL AND SUSPENSION NOTICES**

##### **1. Input Notice Suppression in All N13 Denial and Suspension Cases**

Until notified that new N13 denial and suspension notice language has been automated, input notice suppression (NP000) in the following situations:

- o all IC denials for N13 for either reason: lack of U.S. residency, or lack of citizenship or eligible alien status;
- o all PE suspensions (N13) for lack of U.S. residency; and
- o all overpayment determinations based on payment status N13 for either lack of U.S. residency or not being a U.S. citizen, national, or eligible alien.

**RATIONALE:** The current N13 denial and suspension notices and the N13 overpayment language use the old definition of an eligible alien and are inaccurate after August 22, 1996. It is misleading to send this language, even when the reason for denial/suspension or overpayment is lack of U.S. residency.

**NOTE:** Until instructed, do not make PE payment status N13 suspension input for failure to meet the new eligibility requirements in SI 00502.100.

##### **2. N13 IC Denials--Not a Citizen or Eligible Alien**

Use the notice language from SI 00502.470 in the manual notice if denial is due to lack of citizenship or eligible alien status.

##### **3. N13 Denials/Suspensions--Not a U.S. Resident**

Use the notice language in SI 00502.480 for manual notices due to

lack of U.S. residency.

#### 4. N13 Suspensions--Not a Citizen or Eligible Alien

Do not issue a notice.

**NOTE:** In xx/97, CO will suspend eligibility (N13) and issue a notice of planned action (NPA) with *Goldberg v. Kelly* due process rights.

#### D. PROCEDURE--TYPE 2 LIMITED ISSUE NOTICE

If desired, use an SSA-L8003-U2 or SSA-L8004 come-in letter to initiate the development of the citizenship or alien status of Type 2 limited issue cases (SI 00502.150B.-D.).

Adapt the following draft text as the text fill on the form to request proofs:

"Please bring with you proof of your U.S. citizenship such as a U.S. birth certificate or naturalization papers. If you are not a citizen or national, bring your alien status card. Also, if you are not a citizen, and you (or your spouse or parent) serves or ever served in the U.S. military, bring proof of military service (Form DD-2 or DOD Form 214)."

Also enclose in the envelope a public information Fact Sheet on the alien provision. Use your judgment as to whether to enclose the multiple language sheet described in E. below.

If you later determine that the SSI recipient is a U.S. citizen or national or is eligible as an alien per SI 00502.100, give or send the recipient the form letter in SI 00502.450.

If the SSI recipient is not able to establish eligibility, see SI 00502.150D.2. for procedure.

#### E. PROCEDURE--OPTIONAL MULTIPLE LANGUAGE ENCLOSURE

Enclose a photocopy of the multiple language enclosure in SI 00502.500 whenever you believe it would better enable an alien claimant or recipient to respond to a request or understand a notice.

#### F. PROCEDURE--SPANISH LANGUAGE INDICATOR ON RECORD

Use appropriate Spanish cover letters per NL 00801.025 for all cases in which a Spanish language indicator is on the record.

See SI 00502.452 for a Spanish language version of the form letter for eligible individuals.

00502.450 FORM LETTER FOR ELIGIBLE INDIVIDUALS (AUGUST 1996 LEGISLATION)

Social Security Administration  
Supplemental Security Income  
Important Information

FO ADDRESS

Date:  
Claim Number:

CLAIMANT'S NAME or Payee for Name of Claimant  
STREET ADDRESS  
CITY/STATE ZIP CODE

Because of a new law, only U.S. citizens, nationals, or individuals in the alien categories listed below can qualify for Supplemental Security Income (SSI). Therefore, we looked at the following proof of your citizenship or status as an alien (or the proof for the SSI claimant you represent):

- U.S. birth certificate
- U.S. naturalization papers
- An order from an immigration judge withholding deportation or granting asylum
- Alien status card
- U.S. military service identity card (U.S. Form DD-2)
- Discharge Certificate from U.S. Military (Form DD-214)
- Other \_\_\_\_\_

We find that you are (or the individual you represent is) in one of the following categories of people who may qualify for SSI as a citizen or alien:

- A citizen or national of the U.S.
- An alien who is a refugee admitted under section 207 of the Immigration and Nationality Act (INA) on \_\_\_\_\_ (date admitted) \_\_\_\_\_. You may get SSI only for 5 years from this date. (The 5 years apply even if your status changes to lawfully admitted for permanent residence.) We will send you another letter before \_\_\_\_ MM/YY giving you our decision about this limit on your eligibility. You will have the right to appeal that decision.
- An alien granted asylum under section 208 of the Immigration

and Nationality Act (INA) on \_\_\_\_\_ (date asylum granted) \_\_\_\_\_. You may get SSI only for 5 years from this date. (The 5 years apply even if your status changes to lawfully admitted for permanent residence.) We will send you another letter before \_\_\_\_ MM/YY \_\_\_\_ giving you our decision about this limit on your eligibility. You will have the right to appeal that decision.

— An alien whose deportation was been withheld under section 243(h) of the Immigration and Nationality Act (INA) on \_\_\_\_ (date deportation withheld) \_\_\_\_\_. You may get SSI only for 5 years from that date. (The 5 years apply even if your status changes to lawfully admitted for permanent residence.) We will send you another letter before \_\_\_\_ MM/YY \_\_\_\_ giving you our decision about this limit on your eligibility. You will have the right to appeal that decision.

— An alien lawfully admitted for permanent residence who has a total of 40 Social Security quarters of coverage. An alien may acquire the 40 quarters of coverage himself or herself. In addition, work done by a spouse or parent may count toward the 40 quarters of coverage needed to permit the alien to get SSI, but does not help qualify the alien for Social Security benefits.

We cannot count any quarter of coverage acquired after December 31, 1996 if the alien or the worker received certain types of federally funded assistance during the period in which the quarter of coverage was earned.

— One of certain aliens who are:

- active duty members of the U.S. armed forces (but not on active duty for training purposes only), or
- honorably discharged veterans of the U.S. armed forces (but not discharged because of alien status), or
- spouses or unmarried dependent children of such a member of the armed forces or such veteran.

#### Report Any Changes in Your Alien Categories

If you are not a citizen now, let us know right away if you become a citizen, or if any facts that affect your eligibility as an alien change. This will help us to pay you correctly.

#### Do You Disagree With The Decision?

If you disagree with the decision, you have the right to appeal. We will review your case and consider any new facts you have.

• You have 60 days to ask for an appeal.

- The 60 days start the day after you get this letter. We assume you got this letter 5 days after the date on it unless you show us you did not get it within the 5-day period.
- You must have a good reason for waiting more than 60 days to ask for an appeal.
- To appeal, you must fill out a form called "Request for Reconsideration." The form number is SSA-561. To get this form, contact one of our offices. We can help you fill out the form.

### How To Appeal

There are two ways to appeal. You can pick the one you want. If you meet with us in person, it may help us decide your case.

- Case Review. You have a right to review the facts in your file. You can give us more facts to add to your file. Then we'll decide your case again. You won't meet with the person who decides your case. This is the only kind of appeal you can have to appeal a medical decision.
- Informal Conference. You'll meet with the person who decides your case. You can tell that person why you think you're right. You can give us more facts to help prove you're right. You can bring other people to help explain your case.

### If You Want Help With Your Appeal

You can have a friend, lawyer or someone else help you. There are groups that can help you find a lawyer or give you free legal services if you qualify. There are also lawyers who do not charge unless you win your appeal. Your local Social Security office has a list of groups that can help you with your appeal.

If you get someone to help you, you should let us know. If you hire someone, we must approve the fee before he or she can collect it.

### If You Have Any Questions

If you have any questions, you may call, write or visit any Social Security office. If you call or visit our office, please have this letter with you and ask for CLAIMS REPRESENTATIVE'S NAME. The telephone number is (XXX) XXX-XXXX.

Also, if you plan to visit an office you may call ahead to make an appointment. This will help us serve you more quickly when you arrive at the office.

Field Office Manager

00502.452

SPANISH VERSION OF FORM LETTER TO ELIGIBLE  
INDIVIDUALS (AUGUST 1996 LEGISLATION)

00502.460      **MANUAL AWARD NOTICE LANGUAGE (AUGUST 1996  
LEGISLATION)**

**SITUATION WHERE USED:** Manual alien award notice

**NOTE:** Under most circumstances, you may allow the system to send an automated award notice, and send manually only the alien eligibility letter in SI 00502.450.

**CAPTION:** YOUR SSI ELIGIBILITY AS AN ALIEN

This is a list of the only people who can get SSI:

- o            Citizens or nationals of the U.S.
- o            Aliens admitted as refugees (under section 207 of the Immigration and Nationality Act) for 5 years after the date of admission as a refugee. (The 5 years apply even if status changes to lawfully admitted for permanent residence).
- o            Aliens granted asylum (under section 208 of the Immigration and Nationality Act) for 5 years after the date asylum is granted. (The 5 years apply even if status changes to lawfully admitted for permanent residence.)
- o            Aliens whose deportation has been withheld (under section 243(h) of the Immigration and Nationality Act) for 5 years after the date the deportation is withheld. (The 5 years apply even if status changes to lawfully admitted for permanent residence.)
- o            Aliens lawfully admitted for permanent residence under the Immigration and Nationality Act who have a total of 40 Social Security quarters of coverage. An alien may acquire the 40 quarters of coverage himself or herself. In addition quarters of coverage acquired by a spouse or parent may count toward 40 quarters for getting SSI only, but does not help qualify the alien for Social Security benefits.

We cannot count any quarter of coverage acquired after December 31, 1996 if the alien or the worker received certain types of federally funded assistance during the period in which the quarter of coverage was earned.

- o            One of certain aliens who:
  - are active duty members of the U.S. armed forces (but not in active duty for training purposes only),

or

- are honorably discharged veterans of the U.S. armed forces but not discharged because of alien status, or
- are spouses or unmarried dependent children of such members of the armed forces or such veterans.

You are eligible for SSI as [fill-in 1] [fill-in 2].

Choices for Fillin (1):

- Choice 1 - an alien who was granted asylum under section 208 of the Immigration and Nationality Act on MM/DD/YY.
- Choice 2 - an alien who was admitted to the U.S. as a refugee under section 207 of the Immigration and Nationality Act on MM/DD/YY.
- Choice 3 - an alien whose deportation was withheld under section 243(h) of the Immigration and Nationality Act on MM/DD/YY.
- Choice 4 - one of certain aliens who have a total of 40 Social Security quarters of coverage. In addition, you have been lawfully admitted to the U.S. for permanent residence.
- Choice 5 - one of certain aliens who is an active duty member of the U.S. armed forces (but not on active duty for training purposes only).
- Choice 6 - one of certain aliens who is an honorably discharged veteran of the U.S. armed forces, (but not discharged because of alien status).
- Choice 7 - one of certain aliens who is the spouse of an active duty member of the U.S. armed forces (but who are not on active duty for training purposes only).
- Choice 8 - one of certain aliens who is the unmarried dependent child of an active duty member of the U.S. armed forces (but not on active duty for training purposes only).
- Choice 9 - one of certain aliens who is the spouse of an honorably discharged veteran of the U.S. armed forces (but not discharged because of alien status).

Choice 10- one of certain aliens who is the unmarried dependent child of an honorably discharged veteran of the U.S. armed forces (but not discharged because of alien status).

Choices for Fill-in 2:

Choice 1 - You may get SSI as an alien only until MM/DD/YY, which is 5 years from the date of your alien status. We will send you another letter before MM/YY explaining our decision about this limit on your eligibility. You will have the right to appeal that decision.

Choice 2 - When choices 4 through 10 are used for fill-in 1, this fill-in is blank.

THINGS TO REMEMBER

Your SSI payments/eligibility may change if your circumstances change. Therefore, you are required to report any change in your situation that may affect your SSI. For example, you should tell us if:

- o you move
- o anyone else moves from or into your household
- o your marital status changes
- o income or resources for you or members of your household change
- o you stop or start attending school regularly
- o your medical condition improves
- o you go to work
- o you become a U.S. citizen or if any facts that affect your eligibility as an alien change

This will help us pay you correctly/provide benefits correctly.

Please read the booklet "When You Get SSI--What You Need to Know" carefully for additional information about this requirement.

00502.470      MANUAL DENIAL NOTICE LANGUAGE--NOT ELIGIBLE ALIEN  
(AUGUST 1996 LEGISLATION)

CAPTION: Why We Can't Pay You

To qualify for Supplemental Security Income (SSI), [1] must be a United States citizen or national, or be in one of the following 5 alien categories. These categories cite sections of the Immigration and Nationality Act (INA):

1. An alien who has been admitted as a refugee (under section 207) and who has been in the U.S. for 5 years or less (even if status changes to lawfully admitted for permanent residence during the 5 years).
2. An alien granted asylum (under section 208) and it has been 5 years or less since the date asylum in the U.S. was granted (even if status changes to lawfully admitted for permanent residence during the 5 years).
3. An alien whose deportation has been withheld (under section 243(h)) and it has been 5 years or less since the date deportation was withheld (even if status changes to lawfully admitted for permanent residence during the 5 years).
4. An alien who has or can be credited with having 40 Social Security quarters of coverage.

For getting SSI, the alien may be credited with quarters of coverage acquired by:

- a parent while the alien was under 18, or
- the current or deceased spouse if the quarters of coverage were acquired during the marriage.

Also, for getting SSI, we cannot count any quarter of coverage acquired after December 31, 1996 if the alien or worker received certain types of federally funded assistance during the period in which the quarter of coverage was earned.

Although quarters of coverage acquired by a parent or spouse may permit an alien to get SSI, these quarters of coverage do not help qualify the alien for Social Security benefits.

For each alien credited with 40 quarters of coverage, each of the following must be true:

- the alien is lawfully admitted for permanent residence under the INA; and,
- the alien entered the U.S. before

August 22, 1996; or

if the alien entered on or after  
August 22, 1996, he or she has been in the  
U.S. for 5 years or more.

5. an alien who:

- is an active duty member of the U.S. armed forces (but not on active duty for training purposes only), or
- is an honorably discharged veteran of the U.S. armed forces, (but not discharged because of alien status), or
- is the current spouse of such a living member of the armed forces or such a veteran, or
- is the unmarried dependent child of a such a member of the armed forces or such a veteran, and is either under age 18 or a student under age 22.

The alien must also be one of the following:

- lawfully admitted for permanent residence;
- asylee under section 208;
- refugee under section 207;
- a person whose deportation is withheld under section 243(h);
- a parolee under section 212(d)(5) for at least one year; or,
- a person granted conditional entry under section 203(a)(7) as in effect prior to April 1, 1980.

Our records show that [1] [2] not a U.S. citizen or national or in any of the previous 5 numbered alien categories for [3]. [4].

Fill-ins:

[1] you/she/he

[2] are/is/were

[3] Choice 1 - month/year  
Choice 2 - month/year through month/year  
Choice 3 - month/year on

[4] Choice 1 is used in IC and Choice 2 in PE.

Choice 1 - Let us know if this changes, and you think you/she/he can get SSI under one of the eligibility categories listed above.

Choice 2 - Let us know if this changes, and you think you/she/he can get SSI again because you become/she becomes/he becomes eligible under one of the categories listed above.

Choice 3 - Null (If N13 denial/suspension is for closed period and person became eligible for ongoing benefits)

00502.480      MANUAL DENIAL/SUSPENSION NOTICE LANGUAGE--NOT U.S.  
RESIDENT (AUGUST 1996 LEGISLATION)

IC CAPTION:    Why We Can't Pay You

PE CAPTION:    Why Your Payment Changed

To qualify for Supplemental Security Income, [1] must reside in one of the 50 states of the U.S., the District of Columbia or the Northern Marianas Islands. Our records show that [1] [2] not a U.S. resident for [3].

Fill-ins:

[1]    you/she/he

[2]    are/is/were

[3]    Choice 1 - month/year  
Choice 2 - month/year through month/year  
Choice 3 - month/year on

00502.490      MANUAL OVERPAYMENT NOTICE LANGUAGE FOR PAYMENT  
STATUS N13 (AUGUST 1996 LEGISLATION)

CAPTION: Why You Were Overpaid

To qualify for SSI you must meet both of these requirements:

- o you must reside in one of the 50 States of the U.S., the District of Columbia or the Northern Marianas Islands,

AND

- o you must be a U.S. citizen or national or be an alien in one of certain alien eligibility categories.

Our records show you did not meet both of these requirements for [MM/YY;MM/YY through MM/YY;MM/YY on]. As a result, you were overpaid for [MM/YY;MM/YY through MM/YY]. \_\_\_\_\_ Fill-in \_\_\_\_\_.

Fill-in:

- Choice 1 - You/she/he qualified for SSI again on MM/YY, because as of that month you were both a U.S. resident and a U.S. citizen or national or an alien in one of certain alien eligibility categories.
- Choice 2 - Null - fill-in not used because ineligibility is on-going

00502.500

OPTIONAL MULTIPLE LANGUAGE ENCLOSURE (AUGUST 1996  
LEGISLATION)

00502.600 NOTICE FOR CHANGE TO 3-YEAR DEEMING (AUGUST 1996  
LEGISLATION)

Social Security Administration  
Supplemental Security Income  
Important Information

FO Street Address  
City, State, Zip code

Date: Month/Day/Year  
Claim Number: XXX-XX-XXXX DI  
Office Phone Number:

CLAIMANT'S NAME  
STREET ADDRESS  
CITY/STATE ZIP CODE

Type of Payment  
Individual--Disabled

We are writing to tell you about a change that affects your Supplemental Security Income (SSI). Beginning October 1, 1996, your SSI payment will increase.

Why Your Payment Will Increase

In deciding how much SSI we can pay you, we consider the income and resources of your sponsor and his or her spouse. Resources are things such as cash, stocks, bank accounts, certain types of life insurance, buildings, and land. In the past we had to consider these things for 5 years. The 5 years began with the date you were legally admitted for permanent residence in the United States.

Beginning October 1, 1996, the law requires us to consider the income and resources of your sponsor and his or her spouse for only 3 years. Since it has been 3 years or more since you were admitted for permanent residence, we will stop considering your sponsor's income and resources beginning with your October 1, 1996 payment.

You will get another letter giving you the amount of your SSI payment effective October 1996. That letter will also tell you what you can do if you disagree with our decision about your payment amount.

SSA-L8165

XXX-XX-XXXX  
MM/DD/YY

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If You Have Any Questions

If you have any questions, you may call, write or visit any Social Security office. If you call or visit our office, please have this letter with you and ask for CLAIMS REPRESENTATIVE'S NAME. The telephone number is shown above.

Also, if you plan to visit an office you may call ahead to make an appointment. This will help us serve you more quickly when you arrive at the office.

Field Office Manager

SSA-L8165