

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



June 15, 1999

ALL COUNTY LETTER NO. 99-43

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: FUNDING FOR ALIEN FOSTER CHILDREN

REFERENCE: ALL COUNTY LETTER (ACL) 98-34

REASON FOR THIS TRANSMITTAL

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|-------------------------------------|---|
| <input type="checkbox"/> | State Law Changes |
| <input checked="" type="checkbox"/> | Federal Law or Regulations Change |
| <input type="checkbox"/> | Court Order or Settlement Agreement |
| <input type="checkbox"/> | Clarification Requested by One or More Counties |
| <input type="checkbox"/> | Initiated by CDSS |

The purpose of this All County Letter (ACL) is to inform counties that the U.S. Department of Health and Human Services (DHHS) has released further information related to the eligibility of alien children for federal foster care funding. This ACL will supplement ACL 98-34.

The DHHS recently released Policy Interpretation Question (PIQ) 99-01 which provides further guidance on the effect of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) on Foster Care Program requirements as they relate to alien children.

ELIGIBLE POPULATION

ACL 98-34 identified the following populations as being “qualified” to receive federal foster care benefits:

- Aliens lawfully admitted for permanent residence;
- Aliens granted asylum (asylees);
- Aliens admitted as refugees;
- Aliens paroled into the United States for at least one year;
- Aliens whose deportation is being withheld;
- Aliens granted conditional entry; and
- Certain aliens who have been subjected to battery or extreme cruelty.

In addition to this list, PIQ 99-01 identifies “an alien who is a Cuban or Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980)” as an alien who is qualified to receive federal foster care benefits.

EXEMPTIONS FROM FIVE-YEAR LIMIT

Page two of ACL 98-34, discusses new cases of qualified alien children who reside with non-qualified alien providers. This section correctly stated that a qualified alien child who applies for foster care benefits and is placed with a non-qualified alien provider, is ineligible for federal foster care benefits until the child has resided in the United States for five years. Subsequently, PIQ 99-01 identifies certain populations which may be exempt from the five year waiting period under these same circumstances.

Those groups are:

- Refugees;
- Aliens granted asylum (asylees);
- Aliens whose deportation is being withheld;
- Cuban/Haitian entrants; and
- Amerasians from Vietnam.

Thus any qualified alien child who has been in the United States less than five years, and is placed with a non-qualified alien provider, may be exempted from the five year period if the child belongs to one of the above populations.

MODIFIED VERIFICATION PROCESS

Federal PIQ 99-01 refers to the U.S. Department of Justice's "Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility under Title IV of the [PRWORA]" which provides interim instructions on how to verify citizenship/alienage status. These procedures allow for verification in accordance with ACL 98-01 and California Department of Social Services' Regulations as set forth under the AFDC regulations at 42-430 through 42-433 (in effect on July 16, 1996). The instructions do provide for some additional documentation which may be accepted for each class of alien. All types of documentation contained in interim instructions are listed below:

- Alien Lawfully Admitted for Permanent Residence
 - * Immigration and Naturalization Services (INS) Form I-551 (commonly known as a "green card"); or
 - * Unexpired Temporary I-551 stamp in foreign passport or on INS Form I-94.
- Aliens Granted Asylum (Asylee)
 - * INS Form I-94 annotated with stamp showing grant of asylum under section 208 of the Immigration and Nationality Act (INA);
 - * INS Form I-688B (Employment Authorization Card) annotated "274a.12(a)(5)";
 - * INS Form I-766 (Employment Authorization Document) annotated "A5";
 - * Grant letter from the Asylum Office of INS; or
 - * Order of an immigration judge granting asylum.
- Refugee
 - * INS Form I-94 annotated with stamp showing admission under section 207 of the INA;
 - * INS Form I-688B (Employment Authorization Card) annotated "274a.12(a)(3)";
 - * INS Form I-766 (Employment Authorization Document) annotated "A3"; or
 - * INS Form I-571 (Refugee Travel Document).

- Alien Paroled Into the U.S. for at Least One Year
 - * INS Form I-94 with stamp showing admission for at least one year under section 212(d)(5) of the INA.
- Alien Whose Deportation or Removal Was Withheld
 - * INS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(10)”;
 - * INS Form I-766 (Employment Authorization Document) annotated “A10”; or
 - * Order from an immigration judge showing deportation withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under section 241(b)(3) of the INA.
- Alien Granted Conditional Entry
 - * INS Form I-94 with stamp showing admission under section 203(a)(7) of the INA;
 - * INS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(3)”;
 - or
 - * INS Form I-766 (Employment Authorization Document) annotated “A3.”
- Cuban/Haitian Entrant
 - * INS Form I-551 (“green card”) with the code CU6, CU7, or CH6;
 - * Unexpired temporary I-551 stamp in foreign passport or on INS Form I-94 with the code CU6 or CU7; or
 - * INS Form I-94 with stamp showing parole as “Cuban/Haitian Entrant” under section 212(d)(5) of the INA.

NEW REQUIREMENTS FOR PROVIDER VERIFICATION FOR FEDERAL AFDC-FC

As ACL 98-34 states, “qualified alien foster children who reside with non-qualified alien providers are ineligible for federal foster care benefits for a period of five years from the date of [the child’s] entry into the United States.” Qualified alien foster children who are placed with qualified providers, are not subject to the five year period of ineligibility. Effective January 14, 1999, counties must verify the citizenship or qualified alien status of foster parents when placing a qualified alien child who entered the U.S. on or after August 22, 1996, and has been in the U.S. as a qualified alien for less than five years. Thus counties must verify the citizenship/qualified alien status of providers who may care for a qualified alien child who has been in the U.S. less than 5 years. Please note, there is no durational residency requirement for the qualified alien provider; the provider does not have to have lived in the U.S. for five years.

However, the U.S. Department of Justice has set limits on when counties may verify the status of individuals. U.S. Department of Justice’s, Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the [PRWORA] states, “[b]ecause the process of verifying an individual’s status as a U.S. citizen, U.S. non-citizen national or qualified alien raises significant issues involving privacy and anti-discrimination protections, no verification of and applicant’s status as a U.S. citizen, U.S. non citizen national or qualified alien should be undertaken where benefits are not contingent on such status.” Accordingly, counties should only verify the provider’s status where the county is considering

placing a qualified alien child who would be subject to the five year period of ineligibility if placed with a non-qualified alien provider.

Counties do not need to verify the status of the foster care provider for children receiving State AFDC-FC benefits.

If you have any questions regarding this ACL, please contact your county's foster care funding consultant at (916) 324-5809.

Sincerely,

***Original Document Signed by Wesley A. Beers
On June 15, 1999***

WESLEY A. BEERS

Acting Deputy Director

Children and Family Services Division

c: CWDA