

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



April 24, 2003

Regulation Package #1202-26

CDSS MANUAL LETTER NO. FS-03-01

TO: HOLDERS OF THE FOOD STAMP MANUAL, DIVISION 63

Regulation Package #1202-26**Effective 4/1/03****Section 63-405**

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/FoodStamps_618.htm.

On May 13, 2002, Public Law (P.L.) 107-171, also known as the Farm Security and Rural Investment Act of 2002, was signed into law. This Act contains the Food Stamp Reauthorization Act of 2002 which legislates mandatory changes to the Food Stamp Program. Most of these provisions were implemented on October 1, 2002.

Upon implementation of these regulations, federal eligibility for the Food Stamp Program will be restored for legal non-citizens that have been in the country for five years [P.L. 107-771, Title IV, Section 4401].

These regulations were adopted on an emergency basis effective April 1, 2003 and were considered at the Department's public hearing held on May 21, 2003.

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Food Stamp Manual changes was FS-02-04.

Page(s)174
174.1 and 174.1a
174.7Replace(s)Page 174
Pages 174.1 and 174.1a
Page 174.7

Attachments

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| 63-405 | CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS (Continued) | 63-405 |
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- .132 An active member of the U.S. armed forces or an honorably discharged veteran of the U.S. armed forces, including their spouse or unmarried dependent child, or unremarried surviving spouse of a deceased veteran, as specified in Section 63-405.3.
- .133 Was lawfully residing in the U.S. on August 22, 1996 and is under 18 years of age at application and remains eligible until 18 years of age.
- .134 Who is disabled or blind as specified in Section 63-102(e)(1)(B) through (K), regardless of date of entry. Must show verification of disability benefits.
- .135 Was lawfully in the U.S. and 65 years or older on August 22, 1996.
- .136 He lawfully resided in the U.S. for five years beginning on the date of entry.

HANDBOOK BEGINS HERE

- (a) The five-year period begins on the date the immigrant obtains status as a qualified non-citizen through the INS. In cases where the INS grants qualified status retroactively, the CWD shall use the date that INS grants qualified status. For example, a non-citizen enters the country on January 1, 1996, but INS does not complete paperwork until January 1, 1997, and subsequently grants qualified status effective January 1, 1996. The CWD shall begin counting the five-year qualifying period on January 1, 1996.

HANDBOOK ENDS HERE

- .2 The following noncitizens are eligible for food stamp benefits for an indefinite period of time, even if they are not qualified noncitizens as specified in Section 63-405.11.
 - .21 An individual who:
 - .211 Was a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era (as defined in 38 U.S.C. 101) and is lawfully residing in the U.S..

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HANDBOOK BEGINS HERE

Documentary evidence of Hmong or Highland Loatian tribe member includes:

- (a) Was born in Laos [or another country with Hmong or other Highland Loatian populations and can give a reasonable explanation as to why he/she was not born in Laos (the countries include Thailand, Cambodia, China, Vietnam, Philippines, Indonesia, Hong Kong, Malaysia, and Singapore)];
- (b) Has a refugee code RE1, RE2, RE3, RE6, RE7, R86, IC6, or IC7, or can give a reasonable explanation of his/her immigration to the U.S. (for example, sought asylum in another country and later immigrated to the U.S.);
- (c) Entered the U.S. in April 1975 or later (or can give a reasonable explanation for having entered before that, such as came here as a student, for military training, to escape the war, and so on);
- (d) Signs an affidavit swearing under penalty of law that he/she was a member of a Hmong or Highland Loatian tribe between August 5, 1964 and May 7, 1975. [If a food stamp worker has access to the Refugee Data Center (RDC) list of eligible Hmong and Highland Loatian refugees who entered the U.S. after 1979, and the name or alien number of the person claiming membership in a tribal group appears on the list, there is no need for the affidavit. However, the worker must not deny eligibility for food stamps simply because the RDC list is unavailable or the applicant's name or alien number does not appear on it.]; and
- (e) Presents other information/documentation establishing that the tribal member was part of a Hmong/Highland Loatian Tribe between August 5, 1964 and May 7, 1975.

HANDBOOK ENDS HERE

63-405 CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS (Continued)**63-405**

- .212 Is the spouse, unmarried dependent child or unremarried surviving widow or widower of a deceased Hmong or Highland Laotian tribal member and verifies his/her status as a member of the tribal member's family.

HANDBOOK BEGINS HERE

- (a) Divorced spouses do not qualify as family members.
- (b) A member of the family of a deceased tribal member need not show that the deceased tribal member legally resided in the U.S..
- (c) A child means the legally adopted or biological child of the Hmong or Highland Laotian described in Section 64-405.211.
- (d) An unmarried dependent child of a Hmong or Highland Laotian described in Section 63-405.21, is under the age of 18, or a full-time student under the age of 22, an unmarried child under the age of 18 or if a full-time student under the age of 22 of a deceased Hmong or Highland Laotian provided the child was dependent upon him or her at the time of his/her death, or an unmarried disabled child age 18 or older if the child was disabled and dependent on the person prior to the child's 18th birthday.

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| 63-405 | CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS | 63-405 |
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(Continued)

.8 Reporting of Illegal Noncitizens

The CWD shall immediately inform the local INS office whenever personnel responsible for the certification or recertification of households discovers that an applicant or a household member is under an order of deportation. For purposes of this section, the term household member shall mean a person whose name appears on the application or other documents and who would have been a food stamp household member except for his/her noncitizen status. When any household member indicates inability or unwillingness to provide documentation of noncitizen status for any household member, that member shall be classified as an ineligible noncitizen. In such cases the CWD shall not continue efforts to obtain such documentation. The ineligible noncitizen's income and resources shall be available to the household as specified in Section 63-503.44. CWD disclosure to INS shall be deemed to be within the administration of the FSP as described in Section 63-201.3.

.81 For reporting purposes, reliable sources of information regarding orders of deportation shall be limited to:

.811 The noncitizen's or other household member's admission.

.812 Food stamp documents, as used in the application or reporting process; or,

.813 Presentation of INS documents showing that the noncitizen is under an order of deportation.

NOTE: Authority cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code. Reference: Sections 10554 and 18904, Welfare and Institutions Code; 7 Code of Federal Regulations (CFR) 273.2(f)(1)(ii)(B)(2), (j)(3) and (4); 7 CFR 273.4(a)(2), (a)(4)(ii) and (iii), (a)(5)(ii)(2)(B) and (2)(G)(1), (C), (E), (F) and (G)(1), (a)(8), and (c)(2)(i); 7 CFR 273.10(b); 7 CFR 273.6; 7 CFR 273.11; U.S.D.A. Food and Nutrition Service Administrative Notice (AN) 92-30; Federal Register, Vol. 56, No. 233, page 63594; Federal Register, Vol. 62, No. 202, dated October 20, 1997; Public Law (P.L.) 100-202 and 100-461, P.L. 104-193, Section 402 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); P.L. 105-185, Title V, Sections 503 through 510; P.L. 107-171, Title IV, Section 4401; AN 96-47; AN 96-48 (Part A, page 6); AN 96-55; AN 97-02; AN 97-13; AN 97-44; AN 97-82; AN 97-103; AN 97-107; AN 98-13; AN 98-21; AN 98-28; AN 98-30; AN 98-79; AN 98-93; AN 99-01; AN 99-24, and AN 03-04; and Section 4401, Food Stamp Reauthorization Act of 2002, P.L. 170-171 [8USC 1612(a) and 8USC 1613(c)].

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