

County of San Diego, Health and Human Services Agency (HHS)
CalWORKs Program Guide

Sponsored Noncitizens

Number

42-400.F

Page

1 of 3

Revision Date:

March 1, 2021

Background:

A sponsored noncitizen is a noncitizen whose entry into the United States (U.S.) was sponsored by a person, private organization, or public agency. Sponsored noncitizens who apply for and receive public benefits are required to provide their sponsor's information and may have their sponsor's income and resources deemed to be part of the sponsored noncitizen's income and resources for the purpose of determining eligibility.

Purpose:

The purpose of this revision is to complete the sunset review and to update to the new format.

Policy:

Definition

For purposes of determining eligibility, the term, sponsored noncitizen, applies to noncitizens who are sponsored by individuals. The sponsor must have executed a United States Citizenship and Immigration Services (USCIS) Affidavit of Support on behalf of the noncitizen as a condition of the noncitizen's entry into the U.S. The Affidavit of Support attests that the sponsor has sufficient income and resources to meet the noncitizen's needs. The provisions of the deeming rules apply only to noncitizens who were sponsored after December 1997 by an individual who signed an I-864 Affidavit of Support. The deeming rules apply until the sponsored noncitizen:

- Achieves citizenship
- Has worked 40 qualifying quarters of employment
- Leaves the country permanently
- Dies or their sponsor dies
 - Verification of death is only required if the information reported is questionable

Conditions of Eligibility

As a condition of eligibility, the sponsored noncitizen has the responsibility to provide information and documentation concerning their sponsor which may be necessary to make the eligibility determination and to obtain cooperation from their sponsor. When the customer is unwilling to provide this information or the documentation is not acceptable, the sponsored noncitizen is ineligible.

Deeming Provisions

All the income and resources of the sponsor and the sponsor's spouse (if living with the sponsor) shall be deemed available to the sponsored noncitizen in determining program eligibility if the sponsor is not receiving CalWORKs, Social Security Income (SSI), or other public cash assistance. Income of the sponsor is treated as follows:

- When the sponsored noncitizen is a member of the Assistance Unit (AU), the deemed income is treated as unearned income.
- In situations where ineligibility results from excess income, the sponsored noncitizen with their deemed income amount shall be excluded from the AU in recomputing eligibility for the remainder of the family.

**County of San Diego, Health and Human Services Agency (HHS) (HSA)
CalWORKs Program Guide**

Sponsored Noncitizens

Number

Page

42-400.F

2 of 3

- If the sponsor is an excluded household member their income will be treated as an excluded parent (refer to CPG 44-100.M).

For resource deeming refer to CPG 42-200.D.

Exemptions

The deeming provisions do not apply if the noncitizen is a/an:

- Refugee – Section 207(c) of the Immigration and Naturalization Act (INA) in effect after March 31, 1980
- Conditional Entrant – Section 203 (a) (7) of the INA in effect prior to April 1, 1980
- Parolee – Section 212 (d) (5) of the INA
- Asylee – Section 208 of the INA
- Cuban/Haitian Entrant – Section 501 (e) of the Refugee Educational Assistance Act of 1980
- Sponsored noncitizen who entered the country with an I-134 Affidavit of Support
- Sponsored by a public organization or private agency

Deeming Exceptions

The provision of the deeming rules provides certain exceptions to the sponsored noncitizen if the noncitizen is determined by the county to be indigent, a battered noncitizen, or the parent of a battered noncitizen child.

Indigent Noncitizens

The sponsored noncitizen is to be determined indigent if **all** the following apply:

- The noncitizen would go hungry or homeless without aid
- The noncitizen is unable to provide the necessary information regarding their sponsor including the I-864 Affidavit of Support or other documentation that would provide contact with the sponsor to verify status of support
- The county cannot establish contact with the sponsor

When the customer is determined to be indigent, the amount of income and resources of the sponsor (and sponsor's spouse if applicable) that is attributed to the sponsored noncitizen shall not exceed the amount actually provided. In this event, only the actual amount of the income given to the noncitizen is counted.

This exception applies for a period beginning on the date of determination of indigence and ends 12 months from that date. This exception is not renewable or transferable and is granted once in a lifetime.

Battered Noncitizens

The definition of a battered noncitizen for this section differs from the definition in CalWORKs Program Guide 42-400.E. For purposes of determining this exception, the definition of a battered noncitizen entails that the customer must be able to demonstrate that they or their child have been battered or subjected to extreme cruelty in the U.S. by:

- A spouse or parent
- A member of the spouse or parent's family who are residing in the same home as the noncitizen and the spouse or parent consented to such battery or cruelty

**County of San Diego, Health and Human Services Agency (HSA)
CalWORKs Program Guide**

Sponsored Noncitizens

Number

42-400.F

Page

3 of 3

- An example of consent by the spouse or parent would be knowledge of the battery without taking steps to resolve it. Verification of the battery could be obtained via a sworn statement or other documentation

The Human Services Specialist (HSS) must also determine a substantial connection between the battery or extreme cruelty and the need for aid. For example, when aid is needed to enable the customer to escape the abuser.

The battered noncitizen is exempt from the deeming process for a 12-month period. After a 12-month period, the exemption continues only if the noncitizen demonstrates that such battery and cruelty has been recognized in an order by a judge or administrative law judge or a prior determination of the USCIS.

Note: The 12-month exemption does not apply to a noncitizen during any period in which the individual responsible for such battery or cruelty resides in the same household or assistance unit as the individual who was subjected to such battery or cruelty.

Sponsor of Multiple Noncitizens

The noncitizen's sponsor may prove that they have sponsored other noncitizens by providing to the HSS a copy of the Affidavits of Support (1-864) signed and filed by USCIS. After the HSS receives the Affidavit(s) for the sponsored noncitizen(s), the HSS must clear the name(s) on the Affidavit(s) to determine whether they are applying or receiving CalWORKs or Food Stamp benefits.

If the noncitizens are applying for or receiving benefits, the income and resources of the sponsor must be divided amongst all of the noncitizens sponsored by that particular sponsor and their spouse.

Procedure:

N/A

Program Impacts:

N/A

References:

EAS 42-205, 42-430, 42-431, 43-119, 44-133.7
ACIN No. I-03-01
ACL No. 01-24
WIC 11008.13, 11008.135

Sunset Date:

This policy will be reviewed for continuance by February 29, 2024.

Approval for Release:



Rick Wanne, Director
Self-Sufficiency Services