

**County of San Diego, Health and Human Services Agency (HHSA)  
CalFresh Program Guide**

**Noncitizen Status and Eligibility for CalFresh**

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**Revision Date**

03/16/2020

**Background:**

Noncitizens must meet specific immigration requirements and conditions of eligibility in order to be eligible for federal CalFresh.

This revision updates the section to the new format. There are no changes due to state legislation.

**Purpose:**

This section describes the CalFresh requirements noncitizens must meet to be eligible to receive Federal CalFresh.

**Policy:**

**63-154.1 Noncitizen Eligibility:**

Most noncitizens must meet two requirements to be eligible for federal CalFresh:

- Be a “qualified noncitizen” (63-154.2) and
- Meet one of the conditions of eligibility (63-154.3) to receive federal CalFresh.

Customers receiving CalFresh are not considered a “public charge” as defined by the United States Citizenship and Immigration Services (USCIS).

**63-154.2 Qualified Noncitizens:**

A “qualified noncitizen” is an individual who has been lawfully admitted into the U.S. for permanent residency under the Immigration and Nationality Act (INA).

The following immigrants are “qualified noncitizens:”

- **Legal Permanent Resident** - An individual who is lawfully admitted to the U.S. for permanent residence
- A **refugee** under Section 207 of the INA
  - An Iraqi or Afghan immigrant with a Special Immigration Visa (SIV), admitted under section 101 (a) (27) of the Immigration and Nationality Act (INA) is eligible to the same extent as refugees. Refer to 63-154.13
- An **asylee** under Section 208 of the INA
- A noncitizen who had **deportation withheld** under Section 243(h) of the INA (before April 1, 1997, or under Section 241(b)(3) of the INA on or after April 1, 1997)
- A **Cuban or Haitian entrant** as defined in 501(e) of the Refugee Education Assistance Act of 1980. Haitian nationals granted Temporary Protected Status (TPS) are not eligible for federal or state CalFresh
  - Haitian orphans permitted to enter the U.S. as humanitarian parolees, meet the definition of a Cuban/Haitian Entrants and are eligible to receive benefits as Cuban/Haitian Entrants. A Haitian orphan will have an I-94 indicating “paroled” into the U.S. on or after January 12, 2010
  - Cuban medical professionals, their Cuban spouses and Cuban children, paroled under INA Section 212(d)(5) as Cuban/Haitian Entrants are immediately eligible for federal CalFresh as qualified Cuban/Haitian Entrants under Section 501(e). The I-94 will have a stamp showing paroled as a “Cuban/Haitian Entrant”
  - Non-Cuban spouse and/or children admitted as a parolee under Section 212(d)(5) must meet one of the Condition for Federal Eligibility to receive federal CalFresh.
- A conditional entrant under Section 203(a)(7) of the INA as in effect prior to April 1, 1980

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- A parolee under Section 212(d)(5) of the INA or CFR 212.5(b) for at least one year. The INS form I-94 must show that the parolee is paroled into the U.S. (parole status is granted) for a period of at least one year (ACIN 1-02-02)
- An abused/battered spouse, battered child, parent of a battered child, a child of a battered parent with a petition pending under 2049(a)(1)(A) or (B) or 244(a)(3) of the INA

**Note:** LPR's, Parolees, Conditional Entrants and Battered/Abused noncitizens are qualified noncitizens and eligible to federal CalFresh **only if** they meet one of the "Conditions of Eligibility for Qualified Noncitizens" listed below in 63-154.3.

**63-154.3 Conditions of Eligibility for Qualified Noncitizens:**

Some "qualified noncitizens" (LPR's, Parolees, Conditional Entrants, and Battered/Abused noncitizens) must also meet **one** of the following conditions listed below to be eligible for federal CalFresh:

- Have been legally residing in the U.S. for five years beginning on the date of entry. The five-year period begins on the date the immigrant obtains status as a qualified noncitizen through the United States Citizenship and Immigration Services (USCIS). If USCIS grants qualified status retroactively, use the date that USCIS grants qualified status
- Elderly Individuals who were lawfully residing in the U.S. on August 22, 1996 and were 65 years or older on August 22, 1996
- Individuals under 18 years of age regardless of the date of entry into the U.S.
- Individuals lawfully admitted to the U.S. for permanent residence that can be credited with 40 qualifying quarters of work under the Social Security system. Refer to 63-154.9  
An active member of the U.S. armed forces or an honorably discharged veteran of the U.S. armed forces. This includes the spouse (or surviving spouse who has not remarried), unmarried dependent children, or un-remarried surviving spouse of a deceased veteran
- Blind or disabled individuals receiving benefits or assistance for their condition regardless of when they entered the U.S. The customer must show verification of disability benefits  
For CalFresh purposes, noncitizens are considered disabled if they are receiving any of the following disability-based income:
  - Supplemental Security Income (SSI/SSP) that is disability based
  - Interim assistance pending SSI/SSP that is disability based
  - Social Security Disability benefits
  - Federal or State disability retirement benefits for a permanent disability
  - Veteran's disability benefits
  - Railroad retirement disability benefits

**Note:** Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Refugees, Asylees, Cuban or Haitians Entrants, noncitizens whose deportation was withheld, and Amerasians immigrants are eligible to receive federal CalFresh during the first seven years of admission or granting status. However, if these individuals meet one of the conditions above, they are eligible indefinitely.

**63-154.4 Exemptions to Noncitizens Qualified Status:**

The following noncitizens are eligible for CalFresh on the same basis as citizens. They do not have to be qualified noncitizens.

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- Individuals lawfully residing in the U.S. and who were members 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 (August 5, 1964 – May 7, 1975).

This category includes the spouse (but not a divorced spouse), unmarried dependent child (under the age of 18, or a full-time student under the age of 22 ) or un-remarried surviving widow or widower of a deceased Hmong or Highland Laotian tribal member that has verified his/her status as a member of the tribal member's family.

Verification of Hmong or Highland Laotian tribe member includes:

- Born in Laos (or another country with Hmong or other Highland Laotian 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
  - 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.)
  - 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)
  - Signs an affidavit swearing under penalty of law that he/she was a member of a Hmong or Highland Laotian tribe between August 5, 1964 and May 7, 1975
  - Presents other information/documentation establishing that the tribal member was part of a Hmong/Highland Laotian Tribe between August 5, 1964 and May 7, 1975
- Member of an Indian tribe (as defined in Section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) who is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians. This includes, but is not limited to, Native Americans who are entitled to cross the border into the U.S. from Canada or Mexico, the St. Regis Band of the Mohawk in New York State, the Micmac in Maine, the Abanaki in Vermont, and the Kickapoo in Texas. Applicants must provide a membership card or other tribal document demonstrating membership in an Indian tribe. If the applicant has no membership documentation, the worker must contact the Indian tribe for verification.
- American Indians born in Canada to whom the provisions of Section 289 of the INA (8 U.S.C. 1359) apply. Verification of Section 289 status includes:
    - An unexpired Alien Registration Receipt Card or Permanent Resident Card with the code S13; or
    - An unexpired temporary I-551 stamp in a Canadian passport or on the Arrival-Departure Record with the code S13; or
    - A letter or tribal document certifying at least 50% Indian blood as required by Section 289 of the Act and a birth certificate or satisfactory evidence of birth in Canada.

**63-154.5 Noncitizens Failing to Qualify for Federal CalFresh:**

Determine if a noncitizen is eligible to federal CalFresh by requiring documentation from the noncitizen and following the regulations described in this section. Refer to Processing Guide 154-01.

Non-citizens that are not eligible for federal CalFresh based solely on their immigration status, may be eligible for the California Food Assistance Program (CFAP) if their legal status can be verified. Refer to 63-156 for CFAP regulations.

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**63-154.6 Verification of Noncitizen Status:**

Determine if household members identified as noncitizens are eligible by requiring noncitizen status verification.

Households are required to submit noncitizen documentation to verify the immigration status of the noncitizen applicants. Verify the validity of the documents through the USCIS Systematic Alien Verification for Entitlement (SAVE) system. The written consent of the noncitizen applicant will not be required as a condition to verify the validity of the document.

Refer to 63-117 for verification requirements of noncitizen status and for SAVE System information.

**63-154.7 Ineligible Noncitizens:**

The following individuals are not eligible to receive CalFresh under any circumstance:

- Lawfully residing in the U. S. in a non-qualified status such as students, visitors, tourists, those admitted under color of law, or immigrants who have applied for qualified status but who have not been approved (except for battered/abused individuals) or
- Undocumented immigrants (such as individuals who entered the county as temporary and overstated their visas or who entered without a visa)

**63-154.8 Eligibility Based on Veteran or Active Duty Status:**

A veteran or a person on active duty in the U.S. armed forces, the spouse or unmarried dependent child, or un-remarried surviving spouse of a deceased veteran or active duty person is eligible to participate in the federal CalFresh Program.

For purposes of this section, “veteran” means:

- An individual who has been honorably discharged for a reason other than on account of alienage as documented by a DD Form 214 or other acceptable verification; and
- Has met the minimum active-duty service requirements (24 months or the period for which the person was called to active duty).
- An individual who served before July 1, 1946, in the organized military forces of the Government of Commonwealth of the Philippines.

For purposes of this section, “surviving spouse of a deceased veteran or individual on active duty” is a spouse that has not remarried and the marriage fulfilled these requirements (married for at least one year, or married before the end of a 15-year time span following the end of the period of military service in which the injury or disease was incurred or aggravated, or married for any period if a child was born of the marriage or was born before the marriage);

For purposes of this section, “Unmarried dependent child” means:

- A legally adopted or biological child;
- Under the age of 18; or
- Under the age of 22 and a student who is otherwise eligible; or
- Age eighteen (18) or older if the child was/is disabled and dependent prior to turning 18.

**63-154.9 Qualifying Quarters:**

A “qualified noncitizen” that can be credited with 40 quarters (10 years) of qualifying employment is eligible to receive federal CalFresh, if otherwise eligible, indefinitely.

The noncitizen can also be credited with such qualifying credits of employment through:

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- Parents (up through the quarter the applicant turned 18, including credits earned before the child was born); and/or
- Spouse (for work performed during their marriage and the noncitizen remains married to the spouse or the spouse is deceased).

One credit equals one calendar quarter of qualifying employment. A “quarter” means a three-calendar month period of January – March, April – June, July – August, and September – December. An “earned quarter” is a Social Security credit earned by working at a job or as a self-employed individual. A maximum of four credits can be earned each year.

**Disallowed Credits**

Beginning with the first quarter of 1997, credits will not be allowed if the individual who earned it received any federal means-tested public benefits. Federal mean-tested benefits include but are not limited to CalWORKs/AFDC, Refugee Cash Assistance, CalFresh, Supplemental Social Security Income (SSI), Medi-Cal, etc.

**Exception:** When a household received state-only cash aid and CFAP only CalFresh, the employment quarters earned during this period will be allowed in the 40-quarter calculation.

**Determination of Qualifying Quarters**

Refer to Processing Guide 154-01 for guidelines on determining qualifying work quarters during the interview process.

**Verification of Qualifying Quarters**

Qualifying credits of employment must be verified. Quarters can be verified in two ways:

- Verify qualifying credits of employment is through the Social Security Administration’s (SSA’s) automated system; or
- Verify qualifying credits of employment through employment records provided by the customer

**SSA Automated System**

The preferred method of verifying qualifying credits of employment is using the SSA automated system. Refer to Processing Guide 154-01.

- Noncitizens who believe that the records provided by the SSA’s automated system are incorrect, may request a review of work history provided by SSA. A document from SSA indicating that a determination of work credits is under review must be provided to the county
- Noncitizen’s disputing SSA’s findings and have requested a review will be allowed to participate in CalFresh until SSA completes its investigation, or for a maximum of six months from the date of the original determination of insufficient quarters
- If upon further review SSA cannot establish additional earnings and the noncitizen does not have at least 40 qualifying credits, an Inadvertent Household Error (IHE) claim will be established for the month’s food stamps were issued in error

**Employment Records**

Qualifying credits of employment may be verified by employment information provided by the household. Accept employer-prepared wage statements, W-2 or W-2c forms, a copy of the federal or state income tax return, etc., as proof of earnings. The normal application processing time frames apply if obtaining verification of work credits from the household.

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After all the earnings are obtained for or on behalf of the noncitizen, use the “Establishing Quarters” chart below to determine if the amount of earnings is enough to establish the required number of credits.

**Establishing Quarters**

For 1978 and later, credits are based solely on the total yearly amount of earnings. All types of earnings follow this rule. The amount of earnings needed to earn a credit increases and is different for each year. Refer to Processing Guide 154-01 for chart used to compute the quarters based on earnings.

**If using quarters before 1978**

- A credit was earned for each calendar quarter in which an individual was paid \$50 or more in wages (including agricultural wages for 1951-1954);
- Four credits were earned for each taxable year in which an individual’s net earnings from self-employment were \$400 or more; and/or
- A credit was earned for each \$100 (limited to a total of 4) of agricultural wages paid during the year for years 1955 through 1977

**63-154.10 Sponsored Noncitizens:**

Customers who are sponsored must be evaluated for CalFresh based on sponsorship and deeming regulations. Refer to 63-157 Sponsored Noncitizens.

**63-154.11 Refusal to Provide Legal Noncitizen Documentation:**

When a household member who has not been determined indigent indicates inability or unwillingness to provide documentation of noncitizen status, the household member will be classified as an ineligible noncitizen. In such cases, do not continue efforts to obtain noncitizen documentation. The ineligible noncitizen will be considered an excluded member of the CalFresh household and his/her income and resources will be available to the household as specified in 63-224 and 63-206.

- The household shall be given the option of withdrawing its application or participating without that member
- Workers should inform the applicants about this option early in the application process

Noncitizen household members who have chosen to be excluded or “opt out,” are not required to provide any information or fill out any forms regarding their immigration status. However, they are still required to provide information that affects the eligibility of the other household members.

**63-154.12 Reporting of Illegal Noncitizens:**

When a worker discovers that a noncitizen household member is under order of deportation, the worker must inform the Corrective Action Liaison (CAL). The CAL will notify CalFresh Program and the Corrective Action Specialist (CAS) at Eligibility Operations to take the appropriate action to report the information to USCIS.

For reporting purposes, reliable sources of information regarding orders of deportation will be limited to:

- The noncitizen’s or other household member’s admission,
- CalFresh documents, as used in the application or reporting process,
- Presentation of USCIS documents showing that the noncitizen is under an order of deportation

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**Note:** Notification to the CAL, Eligibility Operations and CalFresh Program is a County of San Diego policy. Disclosure by CWD to USCIS will be deemed to be within the administration of CalFresh as described in MPP 63-201.3 and MPP 63-405.8.

**63-154.13 Special Immigrant Visa (SIV):**

Iraqi and Afghan individuals who were employed by or assisted the United States (U.S.) Armed Forces with translations and interpreter services are being admitted to the U.S. with Special Immigration Visas (SIVs).

**Date of Entry:** Iraqi and Afghan special immigrants may enter the U.S. as a Legal Permanent Resident with SIVs or may adjust to special immigrant status after entering the U.S. under another status such as asylee or parolee. As a result, the beginning date of eligibility for CalFresh may or may not coincide with the special immigrant's date of entry. Use the information below to determine the beginning date of CalFresh eligibility.

- If an individual Afghan/Iraqi is paroled for one year, the individual is not eligible until they have resided in the U.S. for five years. But, if the individual adjusts to special immigrant status during that time, they become immediately eligible for CalFresh benefits, provided all other eligibility criteria has been met.
- If an individual Afghan/Iraqi entered as an asylee and adjusts to special immigrant status, the individual becomes immediately eligible for CalFresh benefits, provided all other eligibility criteria has been met.
- If the Afghan/Iraqi individual entered the U.S. with a SIV or adjusted to a special immigration status before December 26, 2007, the individual becomes immediately eligible for CalFresh benefits, provided all other eligibility criteria has been met.

**Verification:** Afghan and Iraqi noncitizens who claim special immigrant status must provide verification that they have been admitted under Section 101(a) (27) of the Immigration and Nationality Act (INA) to be determined federally eligible for CalFresh benefits.

There are two types of proper documentation for the principal SIV applicant (Afghan or Iraqi). These types of documentation also apply to the principal SIV applicant's spouse and their unmarried children (under 21 years of age):

- Afghan/Iraqi passport or I-94 with an Immigrant Visa (IV) stamp noting that the individual has been admitted under 101 (a)(27) in any one of the following categories and a Department of Homeland Security (DHS) stamp or notation on passport or I-94 showing date of entry.

IV Categories	Status
SI1 or SQ1	Principal SIV applicant
SI2 or SQ2	Spouse of the principal SIV applicant
SI3 or SQ3	Unmarried child, under the age of 21, of the principal SIV

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SI6 or SQ6	Principal SIV applicant adjusting status in the U.S.
SI7 or SQ7	Spouse of the principal SIV applicant adjusting status in the U.S.
SI9 or SQ9	Unmarried child, under the age of 21, of the principal applicant adjusting status in the U.S.

- Form I-551 (“green card”) with an IV code of SI6 or SQ6, SI7 or SQ7, or SI9 or SQ9 which confirms both the status and the day of entry into the U.S. for the principal SIV.

**Other Program Impacts**

None

**References:**

MPP 63-405

MPP 63-201

Processing Guide 154-01

**Sunset Date:**

This policy will be reviewed for continuance on or by 02/29/2023.

**Approval for Release:**



RICK WANNE, Director  
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