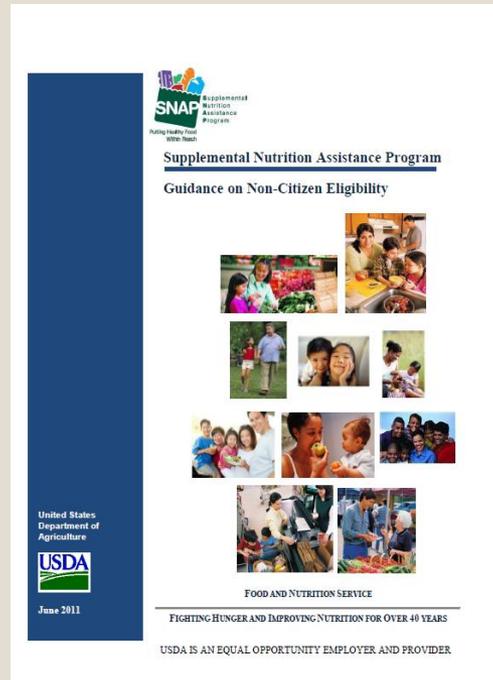




Putting Healthy Food  
Within Reach

# Supplemental Nutrition Assistance Program Guidance on Non-Citizen Eligibility



# Purpose



- Original SNAP Guidance on Non-Citizen Eligibility released in 2003
- Updated Guidance released in June 2011
- Why?
  - Historically low participation by eligible non-citizens, even though the 2002 Farm Bill allowed for many more non-citizens' eligibility
  - Help improve program access, especially for children
  - Update and communicate current SNAP policy
  - Provide a more user-friendly and welcoming guide
- Resource for State agencies, community partners and potential recipients on SNAP eligibility requirements

## Key Terms Defined

### **Public Charge:**

someone likely to become dependent on the government for subsistence, as shown by the receipt of public cash assistance or long-term institutional care

### **Sponsor Deeming:**

when part of the income of a person who sponsors a non-citizen is counted in determining the non-citizen's eligibility for SNAP benefits

Why do some non-citizen households not participate in SNAP even though they may be eligible?

- Public Charge — perception that applying for or receiving SNAP benefits could affect immigration status
- Sponsor Deeming and Liability — whether sponsor deeming applies and what effect it may have on the sponsor
- Language or Literacy Barriers —
  - Inability to read or write in their native language
  - Limited English proficiency
- Program Knowledge — lack of information or misinformation about SNAP availability or rules

## Unlocking Barriers to SNAP



## How?

- Outreach efforts to those not currently participating in SNAP
- Producing a variety of outreach materials
- Conducting national media campaigns on the radio, TV, and through in-store public service announcements
- Working with State and local SNAP agencies and community and faith-based organizations
- Issuing outreach grants

# Terminology



Many terms to describe non-citizens. No one term describes all of those eligible for SNAP. The following terms have particular legal definitions:

- *Lawful permanent resident (LPR)*
  - Under the Immigration and Nationality Act (INA), anyone with a status of being lawfully accorded the privilege of residing permanently in the U.S. as an immigrant
- *Qualified alien*
  - Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, or welfare reform), a collection of immigration statuses including LPRs, parolees, and others
- *Immigrant*
  - Under the INA, every alien except an alien who is within one of the classes of nonimmigrant aliens set forth in the INA, §101(a)(15)

# Terminology



We use the term ***non-citizen*** in the Guidance for:

- ❖ Any individual present in the U.S. who is not a U.S. citizen, including but not limited to qualified aliens, lawful permanent residents, and undocumented immigrants
- ❖ Improve consistency and readability

# Short History



Before PRWORA (1996): Most legal immigrant eligible for SNAP the same as citizens



PRWORA: Most lost eligibility



1998: Congress began to restore SNAP eligibility for legal immigrants in the U.S. before 8-22-96 if they were elderly, children, or disabled



2002 Farm Bill: Restored eligibility to most legal immigrants who:

- ❖ Have lived in the country for 5 years; or
- ❖ Are children, regardless of entry date; or
- ❖ Are receiving disability-related assistance or benefits, regardless of entry date

# Application Process



## Who can apply for SNAP?

- Anyone
- Ineligible non-citizens may apply for other household members
- State agencies may not:
  - Verify the immigration status of those applying on behalf of others; or
  - Deny a household if a non-applicant member does not disclose their immigration status or Social Security number
- Household members that apply for SNAP must provide proof of eligible immigration status

## Why is this important?

Most eligible children rely on the adults in the home to apply on their behalf in order to receive the help they need

## Verification of Immigration Status



- State agencies need only verify the immigration status of those applying for SNAP benefits.
- State agencies must assist household in verifying immigration status if needed.
- Anyone who is unable or unwilling to provide documentation is an ineligible non-citizen and States must cease efforts to obtain documentation for that individual.
- Most non-citizens' immigration status can be verified through the Department of Homeland Security (DHS). States generally use the SAVE (Systematic Alien Verification for Entitlements) system to verify status.
- Other Federal agencies may also verify the status of certain non-citizen categories, including the Office of Refugee and Resettlement (trafficking victims) and the Bureau of Indian Affairs.

# General Eligibility

- Most non-citizens must be in a qualified alien category as defined in PRWORA to be potentially eligible for SNAP.
- Most legal immigrants have a 5-year waiting period before they can get SNAP.
- There is no waiting period for certain qualified aliens, including children under 18, certain elderly or disabled, or for those admitted for humanitarian reasons such as refugees and asylees.
- Eligible non-citizens must also satisfy other SNAP eligibility requirements to be eligible, such as income and resource limits.

# General Eligibility

## Eligible Non-Citizens – No Waiting Period

Refugees

Trafficking victims

Asylees or Deportation Withheld

Amerasians

Cuban and Haitian entrants

Iraqi and Afghan special immigrants

Certain American Indians born abroad

Hmong or Highland Laotian tribal members

Qualified alien children under 18

Individuals receiving benefits or assistance for blindness or disability

Elderly who were lawfully residing in the U.S. and 65 or older on August 22, 1996

Military connection

# General Eligibility

## Eligible Non-Citizens - Waiting Period

Lawful Permanent Residents (LPRS) – Green card holders

Parolees – Paroled into the U.S. for at least 1 year

Conditional entrants – Granted conditional entry

Battered immigrants – Under certain circumstances, a battered non-citizen spouse or child, non-citizen parent of a battered child or an non-citizen child of a battered parent with a petition pending

# General Eligibility

## Ineligible Non-Citizens

Non-citizens who are lawfully present in the U.S. but in non-qualified status, such as students and H-1B Visa workers

Undocumented non-citizens (temporary entrants or those without a visa)

Individuals granted Temporary Protected Status (TPS)

Citizens of nations under Compact of Free Association Agreements (Palau, Micronesia, and the Marshall Islands) who are allowed to reside, work, and study in the U.S.

Most individuals present in the U.S. with a U Visa.

# Sponsor Deeming

Sponsors who bring family-based and certain employment-based non-citizens to the U.S. must demonstrate that they can provide enough financial support to the sponsored non-citizen so that they do not have to rely on public benefits.

- When the State counts a portion of the sponsor's income and resources to the sponsored non-citizen.
- Applies only to certain eligible LPRs whose sponsor has signed a legally binding affidavit of support form.
- The State agency must notify USCIS of each applicant exempted from sponsor deeming due to an indigence determination. An individual is indigent if total household income, including income from sponsor, is less than 130 percent of the poverty level.
- Individuals may opt-out of the indigence determination to avoid this reporting requirement and have the sponsor's income and resources deemed to the non-citizen.
- State agencies should always review if a household meets an exception to sponsor deeming prior to budgeting the sponsor's income.
- ***Children are not subject to sponsor deeming.***



# Treatment of Income



## Pre-PRWORA Ineligibles (e.g. visitors, students, and undocumented)

Count pro-rata share of income and deductible expenses

Apply gross income test first and then count pro-rata share of income and deductible expenses

Count all income and deductible expenses

## PRWORA Ineligibles (e.g. LPRs subject to 5-year bar)

Count pro-rata share of income and deductible expenses

Count none of the income and cap allotment at lower amount.

## Reporting Requirements

### States agencies are required to notify USCIS when:

- A household member is ineligible to receive SNAP and known to be unlawfully present in accordance with SNAP regulations. This should be consistent with applicable civil rights and privacy laws;
- A non-citizen is indigent and exempt from sponsor deeming; or
- The State agency obtains a final civil judgment against the sponsor.

## Public Charge



Applying for or receiving SNAP does NOT make a non-citizen a public charge.

SNAP participation does NOT affect the non-citizen's immigration status or ability to become a U.S. citizen.

FNS issued an All State Commissioners Letter on Public Charge on February 10, 2010 that reiterated the agency's longstanding support of USCIS policy that certain public benefits are not subject to public charge determinations, including SNAP. The memo is on the FNS website at:

<http://www.fns.usda.gov/snap/rules/Memo/2010/020110.pdf>.

# Useful Tools and Guidance Link

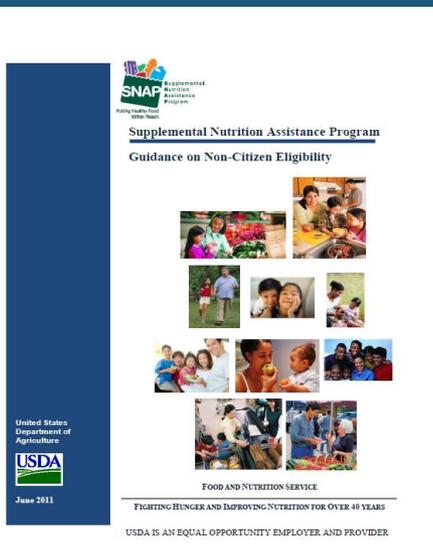
[SNAP 5-Steps \(English\)](#)

[SNAP 5-Steps \(Spanish\)](#)

[SNAP Policy on Immigrants and Access Issues](#)

The Guidance is on the FNS website at:

[http://www.fns.usda.gov/snap/government/non\\_citizen\\_guidance.htm](http://www.fns.usda.gov/snap/government/non_citizen_guidance.htm)



## Special Thanks

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# Questions?



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