



## SNAP 301-2 NON-FINANCIAL REQUIREMENT Eligible Alien Status

**Supersedes:** SNAP 301-2 (10/1/11)

**Reference:** 7 CFR 273.1(b)(7)(i); 7 CFR 273.2(b)(1)(iii); 7 CFR 273.2(f)(1)(ii); 7 CFR 273.4; 7 CFR 273.11(c)(3)

**Overview:** An individual who is not a U.S. citizen or a U.S. National must have their alien status verified to be included in the assistance unit. The State agency must give the household the option of withdrawing its application or participating without a household member if that individual does not wish the State agency to verify his/her immigration status. State agencies cannot deny benefits to otherwise eligible household members because other members have chosen not to disclose their citizenship, immigration status, or Social Security number. Household members that “opt out” are considered non-applicants” and are ineligible for SNAP. Alien visitors, tourists, diplomats and students, who enter the U.S. temporarily with no intention of abandoning their residence in a foreign country, are not eligible for SNAP benefits under any circumstances.

### **ALIEN STATUS VERIFICATION (S.A.V.E.):**

Immigration status of all alien applicants must be verified with USCIS by applying item 1. The eligibility determination process is not to be delayed (S.A.V.E.) pending USCIS verification of the documents provided all other eligibility criteria have been met. If an individual’s citizenship or status as a non-citizen national is questionable, the eligibility staff member must verify the member’s citizenship or non-citizenship national status by applying either item 2 or 3.

1. All requests must be made electronically through the Department of Homeland Security (DHS) using the Verification Information System. To accommodate this process, all SAVE requests will be submitted from the Office of Public Assistance staff to PAB Central Office and from there to DHS. The eligibility staff member will:
  - a. Obtain and scan all available immigration documentation for each applicant and save as “permanent documents”;
  - b. Complete the electronic SAVE Request Data Form with all available data including Alien Registration number, I-94 number, and/or I-551 number. If none of these identification numbers are available, enter an explanation in the “Comments and Other Information” field on the SAVE form;

- c. E-mail the SAVE form and scanned documents as an attachment to PAB Central Office at [hhssystem@mt.gov](mailto:hhssystem@mt.gov);
  - d. Document in case notes the result of USCIS verification when returned from PAB Central Office and retain appropriate documentation in the case file
2. Participation in another program if verification of citizenship or non-citizen national status was obtained for that program; OR,
3. If the household cannot obtain the forms of verification listed in #1 or #2, and the household can provide a reasonable explanation as to why verification is not available, the eligibility staff member must accept a signed statement, under penalty of perjury, from a third party indicating a reasonable basis for knowledge the individual in question is a U.S. citizen or non-citizen national. The signed statement must contain a warning of the penalties for helping someone commit fraud.

#### **ELIGIBLE ALIEN:**

To be determined an 'eligible alien' for SNAP, individuals must meet one of the SNAP '**Qualified Alien Categories**' and one of the '**Special SNAP Criteria**'.

#### **ADDITIONAL ALIEN STATUS NOT REQUIRED:**

Individuals meeting one of the following criteria are **NOT** required to meet any additional alien status criteria. They do have to meet all other SNAP non-financial and financial eligibility requirements to be included in the assistance unit.

1. An individual lawfully residing in the U.S. and was a member of a **Hmong or Highland Laotian tribe** at the time the tribe rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era beginning August 5, 1964 and ending May 7, 1975. Also, the following family members:
  - a. the spouse, or unmarried surviving spouse of the Hmong or Highland Laotian who is deceased; or,
  - b. an unmarried dependent child (including legally adopted children) of the Hmong or Highland Laotian under the age of 18, or if a full-time student under the age of 22; or,
  - c. an unmarried child (including legally adopted children) under the age of 18 or, if a full-time student under the age of 22 of the deceased Hmong or Highland Laotian provided the child was dependent upon them at the time their death; or,
  - d. an unmarried disabled child (including legally adopted children) age 18 or older if the child was disabled and dependent on the Hmong or Highland Laotian person prior to the child's 18th birthday.
2. **A North American Indian** (at least 50% Indian blood) born in Canada to whom the provisions of Section 289 of the Immigration and Nationality Act (INA) (8 U.S.C. 1359) apply. This does not include a spouse or child of the Indian, nor a non-citizen whose membership in an Indian tribe or family is created by adoption unless the persons are also of at least 50% Indian blood. This

provision was intended to address Canadian born North American Indians entitled to cross the U.S. border into Canada or Mexico.

**NOTE:** Acceptable types of documentation include birth or baptismal certificates issued on a reservation, tribal records, a letter from the Canadian Department of Indian Affairs, a Canadian Certificate of Indian Status (Form IA-2360), or school records.

3. **A member of a federally acknowledged Indian Tribe** in the contiguous 48 states and Alaska. These tribes are listed in Section 4 (e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 (e)).

### **QUALIFIED ALIEN CATEGORIES:**

A 'qualified alien' is an alien, who at the time he/she applies for or receives SNAP benefits, meets one of the 'qualified categories' listed below and one of the 'Special SNAP Criteria' to be considered an eligible alien.

**EXCEPTION:** A 'qualified alien' who meets a 'qualifying category' of a refugee, a victim of human trafficking, a deportee, an alien granted asylum, or an alien having a Cuban or Haitian entrant status, OR meets any of the three categories for exception, does not have to meet one of the 'Special SNAP Criteria' to be determined an 'eligible alien'.

1. **Lawfully Admitted to the United States for Permanent Residence (LAPR)** - an alien granted status as a LAPR by the Immigration and Nationality Act (INA);
2. **Refugee** - an alien admitted to the U.S. under Section 207 of (INA);
3. **Victims of human trafficking** - an alien in the U.S. because they are victims of human trafficking or minor children, spouses and in some cases the parents and siblings of victims of severe trafficking are considered refugees by the Office of Refugee Resettlement (ORR); **NOTE:** ORR issues a certification document identifying the individual as a victim of human trafficking or eligible relatives of trafficking victims. **Trafficking victim's verification toll free number is 1-866-401-5510.**
4. **Granted asylum** - an alien granted asylum under Section 208 of the INA;
5. **Deportation withheld** - an alien who had deportation withheld under Section 243 (h) of the INA;
6. **Cuban and Haitian entrant status** - an alien granted status as a Cuban or Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;
7. **Parolee** - an alien who has been paroled under Section 212 (d) (5) of the INA for at least one year;
8. **Conditional entry** - an alien granted conditional entry under Section 203 (a) (7) of the INA in effect prior to 04/01/80; and
9. **Battered** - an alien who is a battered spouse, battered child (age 18 or younger), or parent or child of a battered individual with a petition pending under Section 204 (a)(1)(A) or (B) or 244 (a)(3) of the INA.

## **SPECIAL SNAP CRITERIA:**

A 'qualified alien' who is not a refugee, a victim of human trafficking, a deportee, an alien granted asylum, or an alien having Cuban or Haitian entrant status OR does not meet any of the three categories for exception (pages 1-3), must meet one of the following 'Special SNAP Criteria' to be determined an 'eligible alien'.

1. **'Qualified Alien'** - effective April 1, 2003 an alien who has lived in the U.S. as a 'qualified alien' for a period of five years or longer from the date of entry such as a LAPR, parolee, conditional entry, or battered;
2. **Amerasian Immigrant** - an alien admitted to the U.S. as an Amerasian immigrant pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988;
3. **Military connection** - an alien who meets one of the following:
  - a. A veteran (Title 38, Section 101, U.S.C.) with an honorable discharge and not on account of alienage;  
**NOTE:** Acceptable documentation of veteran status is the original copy of the veteran's discharge papers issued by the branch of service the alien was a member. If there has been more than one discharge, the most recent one will be the only one used to determine if this requirement has been met.
  - b. On active duty other than active duty for training, in the U.S. Armed Forces; or,  
**NOTE:** Acceptable documentation of active military status is the original copy of the alien's current orders posting the alien to a military base.
  - c. The spouse or unmarried dependent child (age 18 or younger) of the alien veteran in (a) or (b) above, or the unmarried surviving spouse of a deceased alien veteran.
4. **Child** - effective October 1, 2003 a child currently under 18 years of age who is lawfully residing in the U.S.;
5. **Disabled** - effective October 1, 2002 an alien receiving benefits or assistance for blindness or disability and lawfully is residing in the U.S.;
6. **Aged** - an alien lawfully residing in the U.S. on August 22, 1996 who was born on or before August 22, 1931; or,
7. **Lawfully Admitted to the United States for Permanent Residence (LAPR)** - a LAPR who also meets 40 quarters of work criteria. This requirement is for those individuals who have not resided in the US as a LAPR, parolee, conditional entry, or battered for 5 years or more prior to submitting a SNAP application-see # 1.
  - a. The individual must provide proof of earnings of 10 years or more with employer statements, income tax forms, wage stubs, etc., or obtain verification by requesting the information from the regional Social Security Administration (SSA) office. The eligibility staff member can access Montana's State Verification and Exchange System (SVES) interface with SSA to establish the 40 quarters of work for the LAPR 'qualified alien'.
  - b. A maximum of four credits may be earned in a year by each individual. Credits will be credited only after the calendar quarter has ended. Calendar quarters mean the four

calendar months ending March 31st, June 30th, September 30th, and December 31st of any year.

No work quarters are creditable for any period beginning after December 31, 1996, if the alien (or the parent or spouse) received any federal means-tested benefits or received SNAP benefits during the period the work quarters were earned. Federal means-tested benefits are TANF Cash, and Tribal TANF, or BIA Tribal Assistance.

**NOTE:** Any earnings of a non-citizen for work legally performed in the U.S. are used when calculating quarters of work. This includes earnings not creditable for Social Security benefits. The eligibility staff member determines if the non-citizen has earned a quarter of work using the 'National Average Wage Index Needed to Earn One Quarter of Coverage' at the end of this section.

Any earnings of a non-citizen for work performed in another country as long as the work is creditable for Social Security benefits are included.

One quarter of work can be counted for more than one person (e.g., Mom, dad and child apply for assistance. Mom and dad worked the third quarter of 2000. Since both spouses worked the quarter, all three individuals can count two quarters for 03/00 - one from mom and one from dad). Technically, it is possible to earn 40 quarters in only 20 quarters if both spouses worked the same 20 quarters. A qualifying quarter of work is credited if earned by:

1. The alien;
2. The alien's living or deceased parents (natural, adopted or stepparents) while the alien was under age 18 (including quarters earned before his birth regardless of his current age); and/or,
3. The alien's spouse during their marriage if the marriage continues or if the spouse is deceased.

Information on the alien's quarters of work may be obtained by accessing the SSA interface. If the alien does not have the required 40 quarters of their own, the eligibility staff member needs to access another family member's information to make up the difference or verify earnings by another method such as wage stubs. **NOTE:** Only the alien's parents or spouse's information may be accessed because a child's quarters or a sibling's quarters cannot be attributed to a parent or a sibling.

#### **IRAQI AND AFGHANI SPECIAL IMMIGRANTS:**

The Department of Defense Appropriations Act of 2010 (Section 8120, P. 111-118) enacted on December 19, 2009, provides that Iraqi and Afghan Special Immigrants (SIVs) are eligible for federal public benefits to the same extent and for the same time period as refugees. The new legislation supersedes prior legislative authority that limited SIVs to refugee status for an 8 month time period. Specifically, the legislation amends prior authority under the National Defense Authorization Act of 2008 (P.L. 110-181) and the Afghan Allies Protection Act of 2009 (P.L. 111-8) that provided SIV eligibility of benefits for a period not to exceed 8 months from the date the immigrant was granted SIV status. The new legislation provides that SIVs are eligible for all benefits available to the same extent and for the

same period of time as refugees pursuant to Section 207 of the Immigrations and Nationality Act. Provided that other eligibility requirements are met, refugees are eligible for SNAP indefinitely.

**Verification of Special Immigrant Status:** Iraqi and Afghani aliens and family members who claim special immigrant status must provide verification that they have been admitted under section 101(a)(27) of the INA. States may access Office of Refugee Resettlement (ORR) policy for examples of acceptable documentation of immigrant status, through ORR's State Letters #08-04 and #08-06 at: [US Department of Health and Human Services](#)

#### **INELIGIBLE ALIEN RESOURCES, INCOME AND EXPENSES:**

The resources of an ineligible alien are excluded, because the individual is expanded categorically eligible. Income and expenses of the ineligible alien are prorated among the remaining household members. Income and expenses must be coded against the ineligible alien or income and expenses will not be prorated.

**EXCEPTION:** A household is allowed **the full appropriate mandatory utility allowance** if the individuals who share the utility expense(s) are not in the SNAP assistance unit because they are an ineligible alien, Able Bodied Adults Without Dependents (ABAWD) disqualified, or SSN disqualified, but are otherwise required household members. This also applies to households with an ineligible student.

#### **REPORTING ILLEGAL ALIENS:**

The Office of General Counsel (OGC) provides two criteria to be used in determining when to report illegal aliens to USCIS:

1. There is an admission by the applicant, another household member, or the household's authorized representative that illegal alien(s) are present in the household.
2. USCIS documents presented by the household during the application process are determined to be forged.

During the certification or recertification process, the eligibility staff member may discover other information which indicates someone in the household is an illegal alien. In order to determine that a member or members of that household are in fact illegal aliens based on this other information; it must be reported to USCIS.

## NON-CITIZEN QUARTERS OF WORK CALCULATION

### National Average Wage Index Needed to Earn One Quarter of Coverage

YEAR	AMOUNT OF EARNINGS	YEAR	AMOUNT OF EARNINGS
1975	\$50	1995	630
1976	50	1996	640
1977	50	1997	670
1978	250	1998	700
1979	260	1999	740
1980	290	2000	780
1981	310	2001	830
1982	340	2002	870
1983	370	2003	890
1984	390	2004	900
1985	410	2005	920
1986	440	2006	970
1987	460	2007	1000
1988	470	2008	1050
1989	500	2009	1090
1990	520	2010	1220
1991	540	2011	1220
1992	570	2012	1130
1993	590	2013	1160
1994	620	2014	1200
1995	630	2015	1220
1991	540	2016	1260
1992	570		
1993	590		
1994	620		

**Effective Date:** October 01, 2016