



301-2 Alien Status

Supersedes:	TANF 301-2 (07/01/09); TB-59 (05/06/10)
References:	ARM 37.78.102 and .220; 65 FR 58301-58303; PL 104-193; PL 105-306; 45 CFR 400; 45 CFR 233.50
Overview:	<p>GENERAL RULE – TANF cash assistance eligibility for aliens is based on whether the alien is a qualified alien and if all other program requirements are met. A qualified alien is an alien who is lawfully admitted for permanent residence under various sections of the Immigration and Nationality Act (INA).</p> <p>Alien status is normally indicated by the United States Citizenship and Immigration Services (USCIS) or the written decision of an immigration judge.</p> <p>If an individual does not meet citizenship requirements (TANF 301-1) he/she must:</p> <ol style="list-style-type: none">1. Provide documentation of his/her alien status; and2. Sign a declaration under penalty of perjury that he/she meets the alien qualifications to receive benefits. <p>The minor child’s caretaker relative is required to sign a statement for all minor children for whom application is made. This statement is included in the HCS-250 “Application for Assistance.” The caretaker relative is signing for all household members.</p> <p>If the individual is not a U.S. citizen or U.S. National, his/her alien status must be evaluated.</p>
ALIEN STATUS VERIFICATION (S.A.V.E.)	<p><u>Immigration status of all alien applicants must be verified with USCIS.</u></p> <p>The eligibility determination process is not to be delayed pending (S.A.V.E.) USCIS verification of the documents provided all other eligibility criteria have been met. All requests are required to 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 county to central office and from there to DHS.</p>
DUAL ELIGIBILITY	<p>The following always qualify as a refugee:</p> <ol style="list-style-type: none">1. Asylee’s;2. Victims of Trafficking;3. Special Immigrant VISA (SIV) holders; and4. Cuban Haitians <p>The following may likely be an Eligible Alien unless they also qualify for another category of refugee:</p> <ol style="list-style-type: none">1. Battered Spouse or child (unless they also qualify as a victim of trafficking);2. American Indians/Enrolled member of an Indian Tribe; and

	<p>3. Veteran or active duty military personnel.</p> <p>The following could qualify for refugee status if they meet the status of refugee by providing refugee documents listed on page 7 of this manual section:</p> <ol style="list-style-type: none"> 1. Amerasians; 2. Parolees; 3. LAPR"S; and 4. Aliens with conditional entry. <p>All refugees in the US less than 60 months and aliens granted asylum by the United States in the last 60 months must be reviewed for refugee services. See TANF 1000-1005</p>
<p>QUALIFIED ALIENS</p>	<p>Qualified aliens include the following:</p> <ol style="list-style-type: none"> 1. Amerasian Immigrant – an alien who is admitted to the U.S. pursuant to section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988. <ol style="list-style-type: none"> a. Apply the "Seven-year Limited Eligibility" policy. b. Document Amerasian immigrant status with: <ol style="list-style-type: none"> 1. INS form 1-94 2. INS form I-94 annotated with code AM1, AM2, or AM3; or 3. Unexpired temporary I-551 stamp in foreign passport. 2. American Indians - An American Indian born in Canada who is at least 50% American Indian is considered to be Lawfully Admitted for Permanent Residence (LAPR). <ol style="list-style-type: none"> a. Apply the "Five-year Ban" policy. b. Have to meet the 40 qualifying work quarters requirement. c. This policy does not include a child of such an American Indian nor a non-citizen whose membership in an Indian tribe or family is created by adoption, unless such person is at least 50% American Indian blood. d. Document American Indian born in Canada status with: <ol style="list-style-type: none"> 1. A birth or baptismal certificate issued on a reservation; or Tribal records; or 2. A statement from the Tribe; or 3. A letter from the Canadian Department of Indian Affairs; or Form IA- 236 - Canadian Certificate of Indian Status; or 4. Form I-181; or 5. Form I-551 annotated with KIC, KIP, or S13.

3. **Asylee** - An alien who was granted asylum under section 208 of the Immigration and Nationality Act (INA).

- a. Apply the "Seven-year Limited Eligibility" policy.
- b. Document asylee status with:
 - 1. Form I-94 annotated with stamp showing asylum granted under Section 208 of the INA; or
 - 2. Grant letter from Asylum Office of the USCIS; or
 - 3. Order from immigration judge granting asylum; or
 - 4. Form I-688B annotated 274.a12(a)(5); or
 - 5. Form I-766 annotated A5.

4. **Battered Spouse or Child** - An alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the United States under the requirements of 8 USC 1641(c).

- a. Apply the "Five-year Ban" policy.
- b. Have to meet the 40 qualifying work quarters requirement.
- c. Must no longer be residing with the abuser.
- d. Document battered spouse or child status with:
 - 1. I-94 alien registration; and
 - 2. Evidence relating to the petition, application or established case by INS (if this evidence is not produced, the I-94 does not need to be verified through SAVE); or
 - 3. Form I-551 annotated with IB5, IB7, or IB8; or
 - 4. Form I-797 if it is a Notice of Approval or Notice of Prima Facie Determination; or
 - 5. Other USCIS documentation of battered status (like an approved self-petition or cancellation of removal or suspension of deportation filed as a victim of domestic violence).

5. **Conditional Entry** - An alien granted conditional entry under Section 203(a)(7) of the immigration law in effect before April 1, 1980.

- a. Apply the "Five-year Ban" policy.
- b. Have to meet the 40 qualifying work quarters requirement.
- c. Document conditional entry status with:
 - 1. INA Form I-94 endorsed Refugee Conditional Entry.

2. Form I-668B annotated 274a.12(a)(3); or
3. Form I-766 annotated A3.

6. **Cuban/Haitian Entrant** – an alien who is granted status of Cuban and Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.

1. Apply the “Seven-year Limited Eligibility” policy.
2. Document Cuban/Haitian entrant status with:
 - a. I-94 alien registration form; or
 - b. Form I-94 annotated with code CU6 or CU7, or stamped Cuban/Haitian Entrant under Section 212(d)(5) of the INA; or
 - c. Unexpired temporary I-551 stamp in foreign passport.

7. **Deportation Withheld** - An alien whose deportation is being withheld under Section 243(h) of the INA status granted prior to 09/30/1996, or under section 241(b)(3) after 09/30/1996.

- a. Apply the “Seven-year Limited Eligibility” policy.
- b. Document deportation withheld status with:
 1. I-94 alien registration form; or
 2. An order from an immigration judge showing deportation has been withheld; or
 3. Form I-688B annotated 274a.12(a)(10); or
 4. Form I-766 annotated A-10.

8. **Enrolled Member of an Indian Tribe** - Any member of a federally-recognized Indian tribe under Section 4(e) of the Indian Self Determination and Education Assistance Act is considered to be a LAPR.

- a. The “Five-year Ban” and the “Seven-year Limited Eligibility” policies do not apply to an enrolled member of an Indian tribe.
- b. Enrolled members of an Indian tribe do not have to meet the 40 qualifying work quarters requirement.
- c. Document enrolled member of an Indian tribe status with:
 1. Tribal membership document, or
 2. Collateral contact with the tribal government for confirmation of the membership;
 3. Form I-181, or
 4. Form I-551 annotated with KIC, KIP, or S13.

9. **Lawfully Admitted** to the United States for Permanent Residence (LAPR) - An

alien who is lawfully admitted for permanent residence under the INA may be eligible if he or she:

- a. Entered the U.S. before 8/22/96;
- b. Entered the U.S. on or after 8/22/96; and
 - 1. Apply the "Five-year Ban" policy.
 - 2. Have met the 40 qualifying work quarters requirement.
- c. Document LAPR status with:
 - 1. I-94 alien registration form; or
 - 2. A temporary unexpired I-551 stamp on a Canadian passport; or
 - 3. Form I-151; or
 - 4. Form I-551; or
 - 5. Form I-94 with class codes AM1, AM2, or AM3.

10. **Parolee** - An alien who is paroled into the US under Section 212(d)(5) of the INA for at least one year.

- a. Apply the "Five-year Ban" policy.
- b. Have met the 40 qualifying work quarters requirement.
- c. Document parolee status with:
 - 1. Form I-94 stating the alien has been paroled under Section 212(d)(5) of the INA and a date showing granting of parole for at least one year -or- stamped "Cuban/Haitian Entrant (Status Pending) Reviewable January 15, 1981."

11. **Refugee** - An alien who is admitted as a refugee under section 207 of the Immigration and Nationality Act (INA).

- a. Apply the "Seven-year Limited Eligibility" policy.
- b. Document refugee status with:
 - 1. Form I-94 showing entry as refugee under Section 207 of the INA and date of entry to the U.S.; or
 - 2. Form I-688B annotated 274a.12(a)(3); or
 - 3. Form I-766 annotated A3; or
 - 4. Form I-571.

NOTE: Refugees must be coded on TEAMS as RF not EA. (Refer to TANF 1000)

12. **Special Immigrant Visa (SIV)** –Iraq or Afghan aliens granted special immigrant status under either the Cardin Amendment (included in the Consolidated

Appropriations Act, 2008 (PL 110-181), enacted December 26, 2007,) or Kennedy 5000 amendment PL 119-36 enacted in June 2007; January 28, 2008 (PL 110-181) are eligible for TANF assistance for the same period of time as a refugee. Provided that other eligibility requirements are met, "SIV"s are eligible for TANF for seven years beginning on their date of entry to the U.S. or date of adjustment of status if applying from within the U.S. for Special Immigrant Status.

NOTE: "SIV"s generally enter the country with LAPR status. Since they also have refugee status, they do not need to meet 40 quarters of work until their seven year time limit has expired.

Document **Iraqi** Special Immigrant status with:

1. Iraqi passport with an immigrant visa stamp noting that the individual has been admitted under IV (Immigrant Visa) Category SI1-SI3 or SQ1-SQ3; and
2. DHS stamp or notation on passport or I-94 showing date of entry; or
3. DHS Form I-551 ("green card") showing Iraqi nationality (or Iraqi passport), with an IV code for this category SI6, SI7, SI9, SQ6, SQ7 or SQ9.

Document **Afghan** Special Immigrant status with:

1. Afghan passport with an immigrant visa stamp noting that the individual has been admitted under IV (Immigrant Visa) Category SI1, SI2 or SI3; and
2. DHS stamp or notation on passport or I-94 showing date of entry; or
3. DHS Form I-551 ("green card") showing Afghan nationality (or Afghan passport), with an IV code for this category SI6, SI7 or SI9.

13. Veteran or Active Duty Military Personnel - A qualified alien who is:

- a. A veteran of the U.S. Armed Forces and received a discharge characterized as honorable and not because of alienage;
- b. An active duty member in the U.S. Armed Forces who is not on active duty for training purposes only (i.e., Reserves, National Guard);
- c. A Hmong and other Highland Laotian veterans who fought on behalf of the U.S. Armed Forces during the Vietnam conflict (considered veterans for purposes of determining qualified alien status);
- d. The spouse, unmarried child or un-remarried widow of a Veteran or Active Duty Military Personnel as described in a., b. and c. above.
- e. Document veteran status and/or active duty with:

	<ul style="list-style-type: none"> a. Original copy of the veteran’s most recent discharge papers issued by the branch of service in which the applicant was a member. NOTE: If the individual has been discharged more than once (i.e. enlisted in different branches of the service) only the most recent discharge will be considered. b. Original copy of the applicant’s current orders posting the applicant to a military, air or naval base. <p>14. Victim of a Severe Form of Trafficking - An alien who has been a victim of a severe form of trafficking as determined by the U.S. Department of Health and Human Services (HHS).</p> <ul style="list-style-type: none"> a. Apply the “Seven-year Limited Eligibility” policy. b. Document victim of severe form of trafficking status with: <ul style="list-style-type: none"> 1. A certification form from HHS for adult victims of trafficking. 2. A letter from HHS for children who are victims of trafficking.
FIVE-YEAR BAN	<p>The following qualified aliens entering the U.S. on or after August 22, 1996 are NOT eligible for TANF for five (5) years after their date of entry into the United States unless they also qualify as a refugee:</p> <ul style="list-style-type: none"> 1. American Indians 2. Battered Spouse/Child 3. Conditional Entry Alien 4. Lawfully Admitted to the United States for Permanent Residence (LAPR) 5. Parolee <p>Use the actual date of entry only to determine whether or not the five-year ban applies. This may or may not be the date on the person’s USCIS alien registration card.</p> <p>Once you have determined that the five-year ban applies, the alien is not eligible for TANF services for five years from the date that he or she obtained qualified alien status. This will be the date on the immigrant’s USCIS alien registration card, which may be different from the actual date of entry.</p> <p>Although policy references a "5-year ban", the ban actually runs for an exact 1825 days (365 days/year x 5 years) from the date the individual obtains qualified alien status. Therefore, the "5-year ban" may end in the middle of a month. The date the ban ends should be determined to the exact day by determining the date qualified alien status was granted, and then moving forward 5 years.</p>
QUARTERS OF WORK	<p>Once an applicant serves the 5-year ban, the 40-quarters of work requirement must be met. The qualifying quarters of work requirement can be met if earned by:</p> <ul style="list-style-type: none"> 1. the qualified alien; 2. the qualified alien’s living and/or deceased parents (natural, adoptive or

	<p>stepparents) while the alien was under age 18 (including quarters earned before his/her birth) regardless of his/her current age; and/or</p> <ol style="list-style-type: none"> 3. the qualified alien’s spouse during their marriage, if the marriage continues or if the spouse is deceased. <p>The individual must provide the verification 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 SSA office. Montana’s SVES (State Verification and Exchange System) is operational, so the Social Service Specialist can request the data via the SVES interface with SSA.</p> <p>No work quarters are creditable for any period beginning after December 31, 1996, if either the alien or the worker (the parent or spouse) received any Federal means-tested benefits during the period in which the work quarters were earned.</p> <p>NOTE: Federal means-tested benefits include Medicaid, TANF (Temporary Assistance to Needy Families) Cash Assistance and SSI (Supplemental Security Income) cash benefits. It does not include LIEAP (Low Income Energy Assistance Program), any other food assistance, child care or housing assistance.</p>
<p>SEVEN-YEAR LIMITED ELIGIBILITY</p>	<p>The following qualified aliens who meet all financial and non-financial eligibility criteria may receive TANF cash assistance benefits for only seven years after date of entry/designation by the USCIS:</p> <ol style="list-style-type: none"> 1. Refugees 2. Asylee 3. Deportation withheld under section 243(h) of the INA 4. Cuban/Haitian Entrants 5. Amerasian Immigrants 6. Victim of a severe form of trafficking <p>NOTE: If an alien eligible in one of these six categories adjusts to another status (e.g., LAPR) during the seven-year period, eligibility may continue during the entire seven years after the date of entry. After the seven years have expired, the individual must qualify under another eligible category to continue receiving assistance.</p> <p>An alien in one of the above six categories who does not otherwise meet the citizenship/alien status requirements (based on adjustment to LAPR status with 40 qualifying quarters, naturalization, being the child of an active duty member of the military or veteran or meet other criteria for qualified aliens) loses eligibility under this provision effective with the first month beginning seven years after their date of entry/date of designation.</p> <p>Timely notice of adverse action to discontinue benefits must be sent.</p>
<p>LOSS OF ELIGIBILITY DUE TO STATUS</p>	<p>The USCIS can rescind an alien’s status, not renew a time-limited status, or adjust the alien’s status to a different status. An individual who ceases to meet eligibility requirements because of a change in alien status will lose benefits effective the</p>

<p>CHANGE</p>	<p>month following the status change.</p> <p>The USCIS will make changes in the following situations:</p> <ol style="list-style-type: none"> 1. Status Change of an Unmarried Dependent Child of a Veteran or Active Duty Member of the Armed Forces - Status as an unmarried dependent child ends the month following these events: <ol style="list-style-type: none"> a. Marriage of the child; b. Loss of dependent status; c. Legal adoption by someone other than the veteran or active duty member of the Armed Forces or his/her spouse; or d. Separation of the alien active duty member from the military if the discharge is not characterized as honorable or is based on alienage. 2. The parent or stepparent’s status as a spouse of a veteran or active duty member of the Armed Forces ends with the month following the month of: <ol style="list-style-type: none"> a. Divorce or annulment of the marriage; or b. A determination that a marital relationship does not exist. 3. Battered Alien and Batterer Resume Living in the Same Household - The status of an alien who is a qualified alien based on battery ends the month after the month the person responsible for the battery or extreme cruelty and the alien resume living in the same household. 4. Date of Entry status is changed or the alien becomes a U.S. Citizen through naturalization.
<p>ASSIGNING NON-WORK SSN’S</p>	<p>The Social Security Administration (SSA) has changed its policy on assigning non-work Social Security Numbers (SSNs). An SSN will not be assigned or a replacement card issued to an alien who does not have USCIS authorization to work in the U.S. unless the alien has a valid non-work reason for needing an SSN. (Reference: SSA POMS RM 00203.510)</p> <p>Meeting the eligibility requirements for TANF Cash, SNAP and Medicaid (i.e., that the individual provide his or her SSN to receive benefits) is a valid reason for needing a non-work SSN. The alien will need agency documentation to establish that the individual meets all other requirements to receive benefits except for an SSN.</p> <p>Acceptable agency documentation is a statement on letterhead in which the Social Service Specialist:</p> <ol style="list-style-type: none"> 1. Specifically identifies the alien, 2. Identifies that the eligibility requirement for TANF Cash, SNAP and Medicaid

	<p>require a SSN before an individual can receive benefits is the non-work reason for which an SSN is required, and</p> <p>3. States that the alien meets all other eligibility requirements to receive benefits except for an SSN.</p> <p>NOTE: The documentation must be on original letterhead, not a photocopy, and cannot be a “form” letter.</p>
<p>SPONSOR’S INCOME AND RESOURCES</p>	<p>In determining a qualified alien’s eligibility, the income and resources of the alien’s sponsor must be considered (RESOURCES manual section 604-1). An investigation of the sponsor’s status and circumstances is required.</p> <p>A sponsor is an individual who is:</p> <ol style="list-style-type: none"> 1. A U.S. citizen, U.S. National or an alien who is lawfully admitted to the U.S. for permanent residence; 2. 18 years of age or older; 3. Residing in any of the 50 states or the District of Columbia; and 4. Petitioning for the admission of the alien under section 213 of the Immigration and Nationality Act (INA) (Affidavit of Support, Form I-134). <p>The income and resources of the alien’s sponsor and sponsor’s spouse are deemed to be available to the alien until such time as the alien:</p> <ol style="list-style-type: none"> 1. Achieves U.S. citizenship through naturalization, or 2. Has worked 40 qualifying quarters. <p>NOTE: Refugees do not have sponsors.</p>
<p>MANDTORY REPORTING</p>	<p>In the administration of the TANF block grant, states are mandated to report all aliens known to be unlawfully residing in the United States. The definition of “known” in this circumstance is “when the unlawful presence is a finding of fact or conclusion of law that is made by the entity as part of a formal determination.”</p> <p>The guidance clarifies that only individuals who are actually seeking benefits (not relatives or household members applying on their behalf) are subject to the reporting requirement. Agencies are not required to report such applicants unless there has been a formal determination, subject to administrative review, on a claim for SSI, public housing, or TANF. The conclusion that the person is unlawfully present also must be supported by a determination by the immigration authorities, “such as a Final Order of Deportation.” Findings that do not meet these criteria (e.g., a DHS response to a SAVE computer inquiry indicating an immigrant’s status, an oral or written admission by applicant’s, or suspicions of agency workers) are insufficient to trigger the reporting requirement.</p> <p>When a determination by the immigration authorities “such as a Final Order of Deportation” is received, the OPA case manager will email the following information to the Central Office TANF Policy Specialist:</p>

	<ol style="list-style-type: none">1. Individual's name2. Residential address3. Phone number4. Social Security Number (if one is available)5. County Number and;6. The basis for this determination. <p>The information will be compiled for a report that must be sent to USCIS on a quarterly basis. Once the information is received by USCIS, a staff person from that agency will contact the individual for an in-person or a phone interview. The interview will be conducted by a home visit, at the USCIC office for the local OPA office.</p>
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