

ACF

Administration
for Children
and Families

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration for Children, Youth and Families**

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INFORMATION MEMORANDUM

TO: State and Territorial Agencies Administering or Supervising the Administration of Titles IV-B and IV-E of the Social Security Act and Public or Private Entities Funded Through Grants or Cooperative Agreements Under the Following Programs: Adoption Opportunities; Community Based Family Resource and Support; Abandoned Infants Assistance; Child Abuse Prevention and Treatment Act State Grant and Discretionary Activities; and Child Welfare Training.

SUBJECT: Guidance on the Interpretation of "Federal Public Benefit"

BACKGROUND: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-193, restricts access to Federal public benefits to qualified aliens. Under PRWORA a qualified alien is (1) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act (the "Act"); (2) an alien granted asylum under section 208 of the Act; (3) a refugee admitted to the United States under section 207 of the Act; (4) an alien paroled into the United States under section 212(d)(5) of the Act for a period of at least one year; (5) an alien whose deportation is being withheld under section 243(h) of the Act as in effect prior to April 1, 1997, or whose removal is being withheld under Section 241(b)(3) of the Act; (6) an alien granted conditional entry under section 203(a)(7) of the Act as in effect prior to April 1, 1980; (7) an alien who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980; or (8) an alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the United States and otherwise satisfies the requirements of 8 U.S.C. 1641(c).

INFORMATION: In an August 4, 1998, Federal Register notice, HHS identified 31 programs that provide Federal public benefits. With a number of important exceptions which are discussed below, these programs are required to verify immigration and citizenship status of applicants in order to ensure that only qualified aliens receive the programs' benefits and services. The Department of Justice (DOJ) has released a Proposed Rule on Verification of Eligibility for Public Benefits.

Federally funded foster care maintenance, adoption assistance, and Independent Living programs have been determined to be Federal public benefits as defined in title IV of PRWORA (see Attachment 1). The State child welfare agency will, therefore, be required to implement the new verification requirements promulgated by the Department of Justice.

Agencies providing Federal public benefits must be in full compliance with the verification requirements within 2 years of publication of the DOJ final rule. Until a final rule is published, verification of alien status may be carried out using the DOJ Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which was published earlier in the *Federal Register* at 62 FR 61344 on November 17, 1997. A copy of the DOJ proposed rule and the Interim Guidance may be obtained from the Register online at "www.access.gpo.gov/nara".

Under section 432(d) of PRWORA (as amended by section 508 of the Illegal Immigration and Immigrant Responsibility Act of 1996), providers who are nonprofit charitable organizations are not required to determine, verify, or otherwise require proof of eligibility of any applicant for benefits even if they are providers of Federal public benefits as identified in the **Federal Register** notice.

State agencies and grantees should also be aware of important exemptions to the verification requirements established by PRWORA and clarified by the Department of Justice (**Federal Register**, November 17, 1997, and **Federal Register**, August 4, 1998). These exemptions include those for: the provision of in-kind, community based services which are necessary for the protection of life and safety; the provision of emergency medical care and certain other immunizations and treatments; and the protection of battered alien spouses, battered alien children, the alien parents of battered children, and alien children of battered parents who fit certain criteria. We encourage the State child welfare agencies and grantees to review this guidance in order to understand these important exemptions.

Child welfare services funded under title IV-B, subparts 1 and 2, and services funded through the following programs have been determined not to be Federal public benefits as defined in title IV of PRWORA: Adoption Opportunities; Community Based Family Resource and Support; Abandoned Infants Assistance; Child Abuse Prevention and Treatment Act State Grant and Discretionary Activities; and Child Welfare Training (see Attachment 2). The State agency or grantee is not required to implement new verification requirements for these programs. Noncitizens, regardless of their alien status, should not be banned from receiving services funded through these programs based solely on their alien status.

INQUIRIES:

State Agencies: ACF Regional Offices

Grantees: Federal Project Officer

/s/

James A. Harrell

Deputy Commissioner
Administration on Children, Youth and Families

Attachments

Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) - [HTML version](#) or [PDF version](#) (167 KB)

Verification of Eligibility for Public Benefits - [HTML version](#) or [PDF Version](#) (33 KB)

[Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996](#)

[HHS Program that provide "Federal Public Benefits"](#)

[ACF Programs not defined as Federal public benefits and therefore not required to verify.](#)

HHS PROGRAMS THAT PROVIDE "FEDERAL PUBLIC BENEFITS"

Adoption Assistance
Administration Developmental Disabilities (ADD) -- State Developmental Disabilities Councils
(direct services only)
ADD--Special Projects (direct services only)
ADD--University Affiliated Programs (clinical disability assessment services only)
Adult Programs/Payments to Territories
Agency for Health Care Policy and Research Dissertation Grants
Child Care and Development Fund
Clinical Training Grant for Faculty Development in Alcohol & Drug Abuse
Foster Care
Health Profession Education and Training Assistance
Independent Living Program
Job Opportunities for Low Income Individuals (JOLI)
Low Income Home Energy Assistance Program (LIHEAP)
Medicare
Medicaid (except assistance for an emergency medical condition)
Mental Health Clinical Training Grants
Native Hawaiian Loan Program
Refugee Cash Assistance
Refugee Medical Assistance
Refugee Preventive Health Services Program
Refugee Social Services Formula Program
Refugee Social Services Discretionary Program
Refugee Targeted Assistance Formula Program
Refugee Unaccompanied Minors Program
Refugee Voluntary Agency Matching Grant Program
Repatriation Program
Residential Energy Assistance Challenge Option (REACH)
Social Services Block Grant (SSBG)
State Child Health Insurance Program (CHIP)
Temporary Assistance for Needy Families (TANF)

ACF Programs not defined as Federal public benefits and therefore not required to verify.

Abandoned Infants Assistance Program
ADD--University Affiliated Programs (non-clinical disability assessment services)
ADD--Protection and Advocacy
ADD--State Developmental Disabilities Councils (non-direct service components)
ADD--Special Projects (non-direct service components)
Administration for Native American Programs
Adoption Opportunities
Child Welfare Training
Child Support Enforcement Program
Child Welfare Services State Grants
Child Abuse and Neglect State Grants
Child Abuse Discretionary Activities
Community-Based Family Resource Program
Community Economic Development Grants
Community Food and Nutrition
Community Schools Youth Services and Supervision
Community Services Block Grant
Domestic Violence Hotline
Education and Prevention Grants to Reduce Sexual Abuse
Family Preservation and Support
Family Violence Prevention and Services Program
Head Start and Early Head Start
National Youth Sports Program
Runaway and Homeless Youth
Rural Community Facilities
Transitional Living for Homeless Youth