
SPONSOR DEEMING

MA-3313 SPONSOR DEEMING

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I. INTRODUCTION

The Personal Responsibility Work Opportunity and Reconciliation Act of 1996 (PRWORA), as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L. 104-208, and the Balanced Budget Act of 1997, P.L. 105-33, created new rules for deeming income and resources from an alien sponsor to certain sponsored aliens.

Section 413 of PRWORA, as amended by 213A of the Immigration and Nationality Act required development of an [Affidavit of Support I-864](#) under which the sponsor must agree to:

- A. Provide financial support to the sponsored alien to prevent the sponsored alien from becoming a public charge.** (See [MA-3330](#), **Alien Requirements**, for information on public charges.), and
- B. Accept liability for the cost of any means-tested public benefit, including Medicaid, provided to the alien.**

II. DEFINITIONS

- A. Sponsored Alien:** An alien admitted lawfully for permanent residence sponsored by an individual who has signed an [Affidavit of Support, Form I-864](#).
- B. Sponsor:** A person who signed an Affidavit of Support on behalf of an alien as a condition of the alien's entry or admission to the U.S. Only individuals are considered sponsors. Organizations and institutions, such as churches or service clubs, are not considered sponsors. An alien may have more than one sponsor.
- C. Deemed Income/Resources:** The process of considering a sponsor's income and resources for the alien.
- D. Sponsor Deeming:** For aliens admitted due to a sponsor, the sponsor and/or the sponsor's spouse are financially responsible for the alien by deeming their income to the alien a/r following rules in this section. They are not considered part of the budget unit and do not need to live with the alien.

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(II.)

- E. Affidavit of Support:** This is a statement of a sponsor's income, resources, and willingness to support an alien. It is filed with the BCIS by a U.S. citizen or LPR who sponsors an alien seeking admission to the U.S. as a permanent resident.

III. POLICY PRINCIPLES

- A. Legal Permanent Residents (LPR's) whose sponsor signs the [I-864 Affidavit](#) are subject to alien sponsor deeming rules. (See V., Immigrants Affected by Alien Sponsor Deeming.)**
- B. Count the income and resources of sponsors who sign the I-864 Affidavit in determining the sponsored alien's eligibility for Medicaid and NCHC.**
- C. Count the income and resources of the sponsor's spouse. This is limited to situations in which the sponsor's spouse is living with the sponsor.**
- D. Sponsor deeming begins with the month in which an alien is lawfully admitted into the U.S. for permanent residence or an alien's status is adjusted to legal permanent resident status.**
- E. There is no absolute time limit on the application of the deeming rules to affected aliens. (See XI., Time Limit for Sponsor Deeming.)**
- F. Sponsor deeming ends once an alien accrues 40 qualifying quarters of work credit (See [MA-3330](#), **Alien Requirements**, for procedures on verifying 40 qualifying quarters.) or becomes a U.S. citizen.**
- G. Always verify the sponsor's income and resources when determining eligibility for a sponsored alien. (Aliens exempt from deeming do not need to provide information about their sponsor's income or resources.)**
- H. Do not consider the sponsor or his spouse as part of the alien a/r's budget unit. The alien a/r is not required to live with the sponsor.**
- I. Do not accept the alien a/r's statement as verification of whether he has a sponsor. You must verify sponsorship. See IV. and VIII. below.**
- J. Apply the regular Medicaid budgeting rules for:**
1. An alien whose sponsor is the alien's spouse provided that the LPR is living with the spouse, and
 2. Aliens who are sponsored by a parent and who either are under age 21 for Family and Children's or under age 18 for Aged, Blind and Disabled.

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(III.)

- K. If the child is under age 21 for Family and Children's or under age 18 for Aged, Blind and Disabled, count income as a parent rather than a sponsor. If the child is over these ages, count the parent or spouse's income as a sponsor.**

IV. ALIENS EXEMPT FROM SPONSOR DEEMING

The following aliens are not subject to the alien sponsor deeming rules:

- A. LPRs who entered the country before December 19, 1997;**
- B. LPR's who applied for a visa or adjusted their status before December 19, 1997;**
- C. Any alien eligible only for emergency coverage;**
- D. Aliens who are victims of domestic violence or extreme cruelty (battered aliens). See VI. Battered Alien Exemption below;**
- E. Indigent aliens (See VII. Indigent Alien Exemption below.);**
- F. LPRs who adjusted from refugee or asylee status;**
- G. Qualified aliens who are sponsored by an organization or who are not required to have a sponsor (i.e. refugees, asylees, parolees, and Cuban and Haitian entrants, victims of a severe form of trafficking and aliens whose deportation is being withheld).**
- H. Aliens who have become a U.S. citizen or accrue 40 qualifying quarters of work credit. (See [MA-3330](#), **Alien Requirements**, for procedures on verifying 40 qualifying quarters.)**
- I. Aliens whose sponsor did not sign the [I-864 Affidavit](#); and**
- J. Aliens whose sponsor signed one of the following forms.**
 - 1. INS Form I-134 – Affidavit of Support
 - 2. INS Form I-361 – Affidavit of Financial Support and Intent to Petition for Legal Custody for P.L. 97-459 Amerasian

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V. IMMIGRANTS AFFECTED BY ALIEN SPONSOR DEEMING

Legal Permanent Residents (LPR's) who applied for LPR status on or after December 19, 1997, and whose sponsor signed the I-864 Affidavit are subject to alien sponsor deeming rules. Not all sponsors of aliens who entered the country or applied for LPR status on or after December 19, 1997, are required to sign the I-864 Affidavit.

LPRs who are ineligible for full Medicaid because of sponsor deeming may still be evaluated for emergency Medicaid.

VI. BATTERED ALIEN EXEMPTION

A. Suspend sponsor deeming if the alien meets the following requirements.

1. A qualified alien, a qualified alien's child, or a qualified alien child's parent has been battered or subjected to extreme cruelty in the United States. The alien must provide evidence of abuse which includes but is not limited to:
 - Reports or affidavits from police, judges or other court officials, medical personnel, school officials, clergy, Child Protective Services' staff, or counselling or mental health personnel,
 - Signed statement from a staff member at a shelter for battered individuals or homeless persons,
 - Rental records or utility receipts in the battered alien's name,
 - School records,
 - Statement by family member, friend, or other person knowledgeable of the battered alien's circumstances; or
 - Signed statement by the battered alien.

NOTE: The alien does not have to have an approved Violence Against Women Act (VAWA) petition, a prima facie approval of a VAWA petition, a VAWA cancellation of removal, or a prima facie approval of a VAWA cancellation in order to be exempt from sponsor deeming. However, if he does have one of these documents, it is verification that he has been subjected to extreme cruelty and no further verification is needed.

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(VI.A.)

2. There is a substantial connection between the battery and the need for benefits. See [MA-3330](#), **Alien Requirements**, for verification procedures.
3. The individual subject to such battery or cruelty does not live in the same household with the individual responsible for the cruelty or batterer. There is an exception made if the alien needs the assurance of the availability of benefits in order to leave the batterer and survive independently. See [MA-3330](#), **Alien Requirements**, for verification procedures.

B. When the battery exemption is allowed, deeming shall be suspended for 12 months.

C. After 12 months, the alien shall continue to be exempt from sponsor deeming only if:

1. The alien demonstrates that the battery or cruelty has been recognized in an order of a judge or administrative law judge or a prior determination of the BCIS, and
2. There is a substantial connection between the abuse or battery suffered by the alien applicant, the alien applicant's child, or in the case of an alien child, the alien applicant's parent and the need for the benefit sought. (See [MA-3330](#), **Alien Requirements**, for information on determining a substantial connection.)

NOTE: Battered aliens are subject to the 5-year disqualification period. Also, please note that the requirements to be eligible for the battered alien sponsor deeming exemption are **NOT** the same as the requirements to be a battered alien for purposes of being a qualified alien. They are separate decisions that must be made. See [MA-3330](#), **Alien Requirements**.

VII. INDIGENT ALIEN EXEMPTION

An indigent alien is someone that the county agency has determined is unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, and other assistance provided by other individuals, including the sponsor(s).

A. Contact the Food Stamp (FS) caseworker to determine if they have determined the a/r is indigent. Use the FS decision as verification of indigence and document the record.

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(VII.)

B. If Food Stamps has determined the a/r is indigent, you:

1. Do not count the sponsor's income or resources in determining the a/r's eligibility for Medicaid.
2. Count only the actual amount of cash support from the sponsor provided over a 12-month period beginning with the month of determination.
3. At the next redetermination, re-verify with FS whether the recipient continues to meet the indigence requirements. Each indigent determination is renewable for additional 12-month periods.

C. If the alien a/r has not applied for Food Stamps, advise the a/r to apply so a determination regarding indigence can be made. If the a/r refuses to apply for food stamps, contact the Medicaid Eligibility Unit for assistance in determining indigence.

D. If the alien a/r is found ineligible for Food Stamps, do not consider him indigent and deem the sponsor's income to the alien.

VIII. SPONSORSHIP VERIFICATION AND DOCUMENTATION

A. Do not verify alien sponsorship in the following circumstances:

1. The county determines that the alien is not an LPR or that the alien became an LPR prior to December 19, 1997; or
2. The county determines that the alien has, or can be credited with, 40 qualifying quarters. (See [MA-3330](#), **Alien Requirements**, for information on 40 qualifying quarters.),
3. The alien is ineligible for Medicaid based on his or her own income and resources, or is ineligible for some reason unrelated to income and resources, or
4. The alien is exempt from alien sponsor deeming as noted in Section IV. above.

B. To verify alien sponsorship, you must:

1. Complete form G-845S and G-845 Supplement. See [MA-3330](#), **Alien Requirements**, for a copy of these forms and instructions for completing them.

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2. Submit the G-845S to the Bureau of Citizen and Immigration Services at the address below.

Bureau of Citizenship and Immigration Services
Charlotte Sub Office
6130 Tyvola Centre Dr.
Charlotte, NC 28217

3. Following receipt of the form, BCIS notifies the county if the alien was sponsored under the [I-864 Affidavit](#) and, if so, the name and social security number of the sponsor.

C. Documentation

1. Make a copy of the verification document(s) and attach them to the a/r's permanent record.
2. Once sponsorship has been verified, you do not have to re-verify unless you learn the previous verification is questionable.

IX. INCOME POLICY

A. Available Income

1. The sponsor's income can be deemed only to the alien he sponsors. The sponsor's income cannot be deemed to anyone who is not named on the I-864 Affidavit.

Example: Tom, an immigrant, and his son, John, age 8, came to the U.S. as lawful permanent residents in December 1995. Tom's wife, Brenda, is not able to come to the U.S. until January 1998. She is sponsored by her brother, a naturalized U.S. citizen, who signs the I-864 Affidavit. Brenda, Tom, and John all live together.

If Brenda applies for Medicaid for herself, the income and resources of her brother count in determining her eligibility because he signed the I-864 sponsoring her. If son John had come to the country with Brenda, and been named on the Affidavit signed by Brenda's brother, then Brenda's brother's income and resources would be counted in determining the eligibility of both Brenda and John for either Medicaid or NCHC. Tom's income also would count as spouse/parent to Brenda and John.

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(IX.A.1.)

If Brenda applies for Medicaid for John only, Brenda's brother's income and resources would not be considered in determining John's eligibility for Medicaid or NCHC. You would count Brenda's and Tom's income and Resources, if appropriate, excluding any income/resource deemed to her by her sponsor for John.

2. Deem the income of both the alien sponsor and the sponsor's spouse to the sponsored alien. Deem the sponsor's spouse's income to the alien as long as the spouse lives with the sponsor.
3. The income of other members of a sponsor's household should never be deemed to the sponsored alien.
4. A sponsor without adequate resources and/or income may rely upon a 'joint sponsor' who may or may not be a member of the sponsor's household and may or may not be related to the sponsored alien. However, the joint sponsor must sign an [I-864 Affidavit of Support](#). In such cases, the income of both the primary sponsor and the joint sponsor(s), as well as their respective spouses, must be deemed to the sponsored alien.

B. Countable Income for the Sponsor

1. Apply the current Medicaid policy for determining what is countable income for the sponsor and/or spouse. Apply the same definitions, base periods, exclusions, and disregards to the sponsor's income that are applied to a/r's. See [MA-3300](#), Income. Do not budget for ineligible spouse – just determine the net countable income of the sponsor and his spouse.
2. Count the deemed amount as unearned income to the a/r.

X. RESOURCES

A. Available Resources

1. The sponsor's resources can be deemed only to the alien he sponsors. The sponsor's resources cannot be deemed to anyone who is not named on the I-864 Affidavit.

Example: Tom, an immigrant, and his son, John, age 8, came to the U.S. as lawful permanent residents in December 1995. Tom's wife, Brenda, is not able to come to the U.S. until January 1998. She is sponsored by her brother, a naturalized U.S. citizen, who signs the I-864 Affidavit. Brenda, Tom, and John all live together.

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(X.A.1.)

If Brenda applies for Medicaid for herself, the income and resources of her brother count in determining her eligibility because he signed the I-864 sponsoring her. If son John had come to the country with Brenda, and been named on the Affidavit signed by Brenda's brother, then Brenda's brother's income and resources would be counted in determining the eligibility of both Brenda and John for either Medicaid or NCHC. Tom's income also would count as spouse/parent to Brenda and John.

If Brenda applies for Medicaid for John only, Brenda's brother's income and resources would not be considered in determining John's eligibility for Medicaid or NCHC. You would count Brenda's and Tom's income and resources, if appropriate, excluding any income/resource deemed to her by her sponsor for John.

2. Deem the resources of both the alien sponsor and the sponsor's spouse to the sponsored alien. Deem the sponsor's spouse's income to the alien as long as the spouse lives with the sponsor.
3. The resources of other members of a sponsor's household should never be deemed to the sponsored alien.
4. A sponsor without adequate resources and/or income may rely upon a 'joint sponsor' who may or may not be a member of the sponsor's household and may or may not be related to the sponsored alien. However, the joint sponsor must sign an [I-864 Affidavit of Support](#). In such cases, the resources of both the primary sponsor and the joint sponsor(s), as well as their respective spouses, must be deemed to the sponsored alien.

B. Countable Resources

Apply the current Medicaid policy for determining what is countable resources for the sponsor. Apply the same definitions and exclusions for the sponsor's resources that are applied to a/r's. See [MA-3320](#), Resources.

Compare the amount of countable resources of the sponsor and the a/r to the resource limit to determine if the a/r is eligible for Medicaid.

XI. TIME LIMIT FOR SPONSOR DEEMING

There is no absolute time limit on the application of the deeming rules to affected aliens. However, discontinue deeming a sponsor's income in the following situations:

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(XI.)

- A. The alien's sponsor dies,
- B. The sponsored alien becomes a naturalized citizen,
- C. The sponsored alien has worked, or can be credited with, 40 qualifying quarters.
(See [MA-3330](#), **Alien Requirements**)
- D. The sponsored alien leaves the U.S. permanently.