

DMA ADMINISTRATIVE LETTER NO: 19-2003

DSS ADMINISTRATIVE LETTER NO. 06-2003 ECONOMIC INDEPENDENCE

DATE: April 1, 2003

SUBJECT: Immigrant Access to Benefits

DISTRIBUTION: **County Director of Social Services**
 Medicaid Eligibility Staff
 Work First Eligibility Staff
 Food Stamp Eligibility Staff

The purpose of this letter is to address and re-emphasize policy regarding immigrant's access to benefits and to require that the attached notice be given to all applicants applying for Medicaid, NC Health Choice for Children, Food Stamp benefits, and Work First.

I. BACKGROUND

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives federal funds or other federal financial assistance. Studies have shown that immigrant households with mixed citizenship status are not applying for benefits because of some of the questions asked during the application process. These questions generally concern the disclosure of immigration status or social security numbers for family members who may or may not be seeking assistance for themselves. In hopes of alleviating these fears and ensuring compliance with all aspects of Title VI, the Divisions are taking steps to make certain that our growing ethnically diverse population is served equitably and that they have meaningful access to all programs. This letter addresses how to resolve immigration issues relating to:

- Social security numbers;
- Citizenship and immigration status;
- Reporting illegal aliens; and
- Public charge determinations.

II. SOCIAL SECURITY NUMBERS

Existing enumeration policies in the Medicaid, Food Stamps and Work First programs require all members of the assistance unit to provide their social security number (SSN) or apply for a SSN to be eligible for assistance. (See MA-3355, *Enumeration Procedures*, in the Family and Children's Medicaid manual,

MA-2450, *Enumeration Procedures*, in the Aged, Blind, and Disabled Medicaid manual, WF-110, *Rule to Apply for a Social Security Number*, in the Work First manual and FS-235, *Social Security Enumeration*, in the Food Stamp manual.) Benefits cannot be provided to a household member who does not provide his/her SSN. Other household members who provide their SSNs receive benefits, if otherwise eligible.

Under Medicaid policy, a household member who is not applying for assistance for him or herself is not considered a “member of the assistance unit” and is not required to provide his or her SSN. For example, a mother who is applying for Medicaid for her children only, cannot be required to provide her SSN.

If an applicant fails to provide a SSN, he cannot be included on the case. However, if he is financially responsible for an assistance unit member his income and resources must be counted when determining eligibility and benefit levels for the case.

A non-assistance unit member who is applying for assistance for another is **not required** to provide his SSN even if he has financial responsibility for an assistance unit member. For example, an ineligible parent who is applying for his/her eligible children only, cannot be required to provide his/her SSN.

You must inform individuals that SSNs will be used to verify employment/income and for other reasons related to the administration of the programs. Be sure to inform individuals that SSNs will not be shared with the Immigration and Naturalization Service (INS).

Applicants for emergency Medicaid do not have to provide their SSN.

III. CITIZENSHIP AND IMMIGRATION STATUS

Anyone who applies for assistance must provide information regarding his or her immigration status and citizenship. To be eligible for Medicaid, NC Health Choice for Children, Food Stamp benefits, and Work First assistance, an applicant must be a U. S. citizen or a qualified alien. (See MA-3330, *Citizen/Alien Requirements*, of the Family and Children’s Medicaid manual, MA-2504, *Citizen/Alien Requirements*, of the Aged, Blind, and Disabled manual, WF-111, *Citizenship/Immigrant Rules*, of the Work First manual and FS-225, *United States Citizenship and Alien Status*, of the Food Stamp manual.)

An alien who does not have verification of his/her citizenship or immigration status may contact INS to obtain the necessary verification. If an alien does not provide proof of citizenship or immigration status, the caseworker has no responsibility to contact INS on the alien’s behalf and should cease any attempts to verify status, unless assistance is requested by the applicant. Treat this individual as an ineligible alien until verification is provided.

An alien who does not meet the specific requirements of a qualified alien is a non-qualified alien and ineligible to receive assistance except for emergency Medicaid. Individuals who choose not to provide information regarding their citizenship will not be included in the case and will not receive benefits, but other household members who do provide proof of their immigration status can still receive benefits, if otherwise eligible.

Applicants for emergency Medicaid are not required to provide information regarding their citizenship or immigration status.

IV. REPORTING ILLEGAL ALIENS

Medicaid does not report illegal aliens to the INS. For Work First and Food Stamps, illegal aliens will not be referred to INS unless the person is applying for benefits for themselves; and specific evidence is provided by INS or Executive Office of Immigration Review (EOIR), such as a Final Order of Deportation. No other criteria or evidence can or will warrant a referral being made to the INS. (See WF-111, *Citizenship/Immigrant Rules*, of the Work First Manual and FS-225, *United States Citizenship and Alien Status*, of the Food Stamp manual.)

Work First, Food Stamp and Medicaid policies direct that refusal or inability to provide verification of alien status render the individual ineligible for program benefits, with the exception of emergency Medicaid. However, that is not proof that an individual is an illegal alien and is not a valid reason for referral to INS as an illegal alien.

V. PUBLIC CHARGE DETERMINATIONS

Immigrants may ask staff about the consequences of becoming a public charge by applying for assistance. This is of concern to immigrants who want to become a Legal Permanent Resident (obtaining a Green Card). A “public charge” is an alien who has become (for deportation purposes) or who is likely to become (for admission/adjustment purposes) **solely** dependent on government assistance as demonstrated by either:

- The receipt of public cash assistance for income maintenance (including Work First or SSI), or
- The institutionalization for long-term care at government expense (institutionalization for short periods of rehabilitation does not constitute primary dependence).

Refugees and persons granted asylum may receive any benefit, including Work First, without affecting their chances of becoming a Legal Permanent Resident or a U.S. citizen.

NOTE: "Income Maintenance" does **not** include one-time cash payments for emergency assistance or Benefit Diversion. An alien will also **not** be considered a "public charge" for using Health Care benefits, including programs such as Medicaid, NC Health Choice for Children , prenatal care or other free or low-cost care at clinics. Use of food programs such as Food Stamps, WIC (the supplemental nutrition program for Women, Infants and Children), school meals or other food assistance does **not** render an individual a "public charge".

The receipt of public cash assistance for income maintenance for a child does **not** create a public charge problem for the parent **unless** that cash assistance is the only source of income for the family.

VI. NOTICE TO ALL APPLICANTS/INQUIRIES FOR BENEFITS

Effective immediately, a copy of the attached Notice in both English and Spanish must be given to all applicants and/or individuals who inquire about the receipt of Medicaid, NC Health Choice for Children, Work First cash assistance, and Food Stamp benefits. Be sure to include the Notice with all mail out applications.

An initial supply of the Notice will be sent to counties. Additional copies may be ordered from the DIRM Printing Facility, 800 Ruggles Drive, Raleigh, NC 27603.

Remember, any locally created materials must comply with applicable manual sections and this Administrative Letter.

If you have any questions, please contact your Program Integrity, Work First, or Medicaid Program representative.

Pheon E. Beal, Director

Division of Social Services

Nina M. Yeager, Director

Division of Medical Assistance

PB/NY/DAK

Attachment

(This material researched and written by Debbie Pittard, Policy Consultant, Medicaid Eligibility Unit, and Denise Ann Knight, Policy Consultant, Economic Independence Section.)

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