

STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES
NASHVILLE, TENNESSEE

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BULLETIN NO. 17
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TO: ALL DISTRICT, COUNTY AND AREA OFFICES

FROM: NATASHA K. METCALF, COMMISSIONER

SUBJECT: Guidance for Family Assistance Staff: Citizenship, Immigration Status,
and Social Security Numbers

Department of Human Services employees receive statewide training on Title VI compliance each year. As a result of this training, everyone has been made aware that Title VI 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.

In order to ensure compliance with all aspects of Title VI, the Department must take steps to make certain that our growing ethnically diverse population is served equitably and that they have meaningful access to all programs.

Recent studies indicate that U.S. citizen children and other eligible persons who live in immigrant families may be deterred from applying for benefits due to limited English proficiency and because they are concerned about responding to certain questions on application forms. These questions generally concern the disclosure of immigration status and social security numbers for family members who may or may not be seeking assistance for themselves. Often household or family members who are not applying for themselves are unaware that they are **not** required to provide information about their immigration status, and are **not** required to provide a social security number in order for others in their family or household to be determined eligible.

To improve access to benefit programs, this bulletin will address issues concerning:

- social security numbers;
- citizenship or immigration status;
- reporting of illegal aliens;
- limited English proficiency;
- public charge determination; and

how these issues, which often become barriers, may be most equitably resolved.

Social Security Numbers

Families First, Food Stamp and Medicaid policies require that:

- each applicant/recipient must furnish or apply for a social security account number;
- if a member of a household applying for Families First, Food Stamps or Medicaid fails or refuses to comply with the enumeration requirement, then that individual is ineligible and his/her needs are left out of the assistance group and no further efforts should be made to obtain the individual's enumeration;
- there are no exceptions to enumeration of individuals requesting Families First, Food Stamps, or Medicaid (*except for Emergency Medicaid, see section below).

The Department, in order to comply with Title VI requirements and adhere to policy, must ensure that applicants be informed that:

- they are required to furnish the social security number of every household member who wants to receive Families First, Food Stamps and/or Medicaid ; they are not required to furnish a social security number for **a household member who is not applying for benefits**. Benefits cannot be provided to that household member who does not furnish his/her social security number, but other household members who do provide their social security numbers are still eligible to receive benefits, if otherwise eligible.
- the social security number for both applicants and non-applicants is used to verify employment/income and for other reasons related to administration of these programs.
- the social security number will not be used to report information to the Immigration and Naturalization Service (INS) when citizenship is an issue.

Note: While every person living in the home is to be listed on the Application for Assistance (HS-0169), it should be remembered that not every person listed is an applicant. Persons who wish to apply for themselves and other individuals, such as children in their care, are considered applicants. Persons who are applying on behalf of other individuals, but not for themselves, are not required to be listed as applicants. Non-applicants may voluntarily furnish Social Security numbers to us, but are not required to do so. A revised application is being prepared to delineate between applicants and non-applicants.

The above paragraphs are not a change in Families First, Food Stamp and Medicaid policies. Normal household concept policies as outlined in the chapter of the same name of the Family Assistance Manual continue to apply for Food Stamps and Medicaid.

Families First policy requires that certain household members **who are eligible** be mandatory assistance group members. For example: **eligible** siblings and parents who live in the same household must be included in the same assistance group. A parent or a sibling who is otherwise eligible cannot “opt out” of a Families First assistance group.

However, mandatory assistance group members must also understand if they refuse to provide a social security number, this will not affect eligibility of other household members who wish to have their eligibility determined. It will only affect the amount of the benefits. These technically ineligible members may still be asked to provide verification of their income and resources, depending upon their relationship to other household members. They may voluntarily provide their social security number so that eligibility can be determined for the applicant members. They must be informed that if they do provide their social security number, or if we learn of it later, or if it is already contained in our records, they are not technically ineligible and we are required to determine their eligibility for assistance. However, they must be assured that if provided, the social security number will only be used for the stated purpose(s) and **will not** be furnished to the INS.

Citizenship and Immigration Status

Families First, Food Stamp and Medicaid policies require and applicants should be informed that:

- an individual must be a citizen, or an alien lawfully admitted to the United States, or a battered alien;
- if an alien does not have verification of his/her citizenship or immigration status, the alien may contact the INS to obtain the necessary verification. If an alien is unable to provide an INS form, citizenship or immigration status, the caseworker has no responsibility to contact the INS on the alien’s behalf and should cease any attempts to verify such status.
- If a member of a household fails or refuses to produce verification of his or her citizenship or immigration status, that person should be classified as an ineligible non-applicant;
- an ineligible non-applicant will be excluded from the Families First, Food Stamp and/or Medicaid assistance group, but may receive benefits for children in his/her care, or other household members, if they are eligible;
Note: If an ineligible alien is a parent, the parent’s income and resources must be counted in determining eligibility for the parent’s children. **These are not considered Families First child only cases.**
- For Families First, if an adult relative, whether an applicant or a non-applicant, refuses or fails to sign the application in behalf of a minor in the AG, the entire AG is

ineligible. Signing the HS-0169 indicates that all applicants are citizens or lawfully admitted aliens in satisfactory immigration status.

Citizenship Verification:

- Longstanding instructions in the Family Assistance Manual direct staff to accept the statement of an applicant when he declares himself and members of his household to be citizens. No further verification has been required unless we had reason to question that statement. Requiring individuals to provide proof of citizenship or immigration status because of appearance or limited English speaking proficiency may be in violation of Title VI of the Civil Rights Act. **The only reasons to question an applicant's statement and require further verification are: 1) when there are inconsistencies with statements made by the applicant; 2) inconsistencies with other information on the application or previous applications; and/or 3) inconsistencies with information received by the counselor.**

Emergency Medicaid

As has previously been the case, applicants for emergency Medicaid are not required to provide information regarding their social security numbers, citizenship or immigration status.

Reporting of Illegal aliens

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

Medicaid is not required to report aliens to the INS. For Families First and Food Stamps, aliens will not be referred to INS unless:

- the alien specifically states that he/she is in the U.S. illegally; **and/or**
- the alien presents documentation that he/she is an illegal alien (such as a formal order of deportation); and
- **the alien has applied for benefits and been denied because we have made a determination that he/she is an illegal alien;** and
- **a review process has been completed as described below.**

A SAVE (Systematic Alien Verification for Entitlements) verification is initiated when an alien presents an INS document that does not clearly indicate the alien's eligible or ineligible status. A SAVE response showing no record on an individual or an immigration status making the individual ineligible for Families First, Food Stamps and/or Medicaid is not alone considered a reason to refer that individual to the INS.

Furthermore, expired documents alone are also not sufficient cause to refer an individual to the INS.

REVIEW PROCESS

If an alien is determined to be in the country illegally, the worker must ensure the correct reason code, is used to deny benefits to the individual so that the person's right to due process is secured. Reason code **655** is a new code specific to illegal aliens and reads **“You applied for someone who is in the U.S. illegally. We must tell the INS about him/her. He/she cannot get aid”**. In addition, the “Worker Comments” should include the name of the individual who is being denied because we have determined that he or she is an illegal alien. If the individual wishes to file an Appeal for Fair Hearing, handle it just as you would any other Appeal. In addition, contact Bonnie Davis (DE93CAM) in the Food Stamp Policy Section and notify her that the person has filed an appeal, and forward a copy of the Appeal for Fair Hearing Form to her.

At the point the illegal alien is denied, prepare a letter referring the individual to the INS by:

- completing a written referral;
- documenting the reason for the referral, to include a copy of the application for benefits and documentation that the individual is illegal;
- including the alien's name and address; and
- sending the referral to Bonnie Davis, Food Stamp Policy Section, in the State Office. She will review the referral and will forward it to the Immigration and Naturalization Service at the appropriate time.

Limited English Proficiency (LEP)

In order to ensure compliance with Title VI, we must take steps to ensure that persons with limited English proficiency who apply for and/or inquire about our assistance programs have meaningful access to those programs. The most important step in meeting this obligation is to provide the language assistance necessary to ensure such prompt access, at no cost to the person.

The key to providing access for persons with limited English proficiency is to ensure that the Department and the person can communicate effectively. The steps taken must ensure that the person with limited English proficiency:

- is given adequate information;
- is able to understand the services and benefits available;
- is able to receive those benefits and services for which he/she is eligible; and
- is able to effectively communicate the relevant circumstances of his/her situation to the Department.

In order to ensure that persons are not excluded from equal program participation due to limited English proficiency, the Department must provide trained and competent interpreters and other oral language assistance services. Ways we may provide this kind of assistance at this time are to include the use of:

- volunteer staff interpreters, where available;
- interpreters in the community, **both volunteer and paid**;
- the AT&T Language Line for interpreter services when a local interpreter is not available at the time and place needed.

Friends and family members may be used as interpreters at the request of the applicant/recipient, provided the use of such a person would not compromise the effectiveness of the services, violate confidentiality, and the customer is **first** advised that a free interpreter is available. The customer's declination of the offer of free interpreter services must be documented within his or her file, and you should at that time suggest a trained interpreter also sit in during the interview.

Do not hesitate to authorize payment for any of these interpreter services as needed. Do not rely on the applicant or recipient to provide interpreter service. It is our job to accommodate the need, and the Department will pay for these services.

We are in the process of reviewing and determining what written materials that are routinely provided in English to applicants, recipients, and the public should be made available in regularly encountered languages other than English. As these translated materials are completed, they will be made available to you.

Public Charge

Department staff may be asked by someone applying for benefits if receiving benefits will make them a public charge. A public charge is only applicable to immigrants who want to get a green card. INS defines "public charge" as 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:

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

An alien will not be considered a "public charge" for using Health Care benefits, including programs such as Medicaid, the Children's Health Insurance Program (CHIP), 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 do not render an individual a "public charge".

Effective July 1, 2001, a notice explaining the Social Security Number policy for those not applying for assistance, the ability to access an interpreter, and information about Families First and Child Support must be affixed to all Applications for Family Assistance. We will be sending a copy of this notice in both English and Spanish in time for the July 1, 2001 start date. When the notice is received in your county, please make sure that all applications that will be supplied to applicants after July 1 have this notice, both in English and Spanish stapled to it.

We are working to revise the application to reflect the language that is included in this Notice and the above topics in this Bulletin. We will have the new application distributed to field offices as soon as possible. It will also be translated into Spanish and distributed as soon as it is available.

Any questions should be forwarded to the appropriate program policy section through your District Family Assistance office.

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