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STEPHEN F. HANLON
President

KENT R. SPULLER
Director

October 3, 1996

BY FACSIMILE & U.S. MAIL

Linda G. Dilworth
Assistant Secretary for Economic Services
Florida Department of Health and Rehabilitative Services
1317 Winewood Blvd - Bldg 5 - Rm 416
Tallahassee FL 32399-0700

Re: Transmittal No.: Policy 96-09-010

Dear Ms. Dilworth:

We are writing to call your attention to very serious errors and omissions in the September 16, 1996 policy memorandum regarding food stamp eligibility for aliens, which could result in thousands of legal immigrants being wrongfully denied benefits. (A copy of this memorandum is attached for your information).

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("PRWORA") provides that permanent legal resident aliens who have "worked 40 qualifying quarters of coverage as defined under Title II of the Social Security Act or can be credited with such qualifying quarters as provided under Section 435 [of PRWORA]" remain eligible for food stamps. Pub. L. No. 104-193, § 402(a)(2)(B).

Our concern is that the September 16th memorandum conveys totally erroneous information as to the formula used to determine qualifying quarters and fails to mention at all the special provisions for counting qualifying quarters set forth in Section 435 of PRWORA.

A quarter of coverage is the basic unit of social security coverage used in determining a worker's insured status. The statutory definition of "quarter of coverage" referred to in PRWORA is found at 42 U.S.C. § 413. (Attachment 2). While the method for calculating quarters of coverage has changed through the years, for calendar years after 1977, the Social Security Administration credits the wage earner with a qualifying quarter for each part of the total wages credited in a calendar year that equals the amount required for a calendar quarter in that year. 20 C.F.R. § 404.143(a). (Attachment 3). For example, in 1978 a wage earner was credited with a qualifying quarter for each \$250.00 of wages earned. If the worker earned at least \$1,000.00, the worker would be credited with four (4) qualifying quarters of work. If the worker earned more than \$500.00 in 1979, but less than \$750.00, the worker would be credited with two (2) qualifying quarters. The method for calculating quarters prior to 1978 is set forth in 20 C.F.R. § 404.141. (Attachment 4).

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For each calendar year after 1978, the Social Security Administration has determined the amount to be used in calculating quarters of coverage which are included in an appendix to Subpart B of Part 404 of Title 20. (Attachment 5). An updated amount is published annually in the Federal Register on or before November 1. The following chart shows the amount of wages needed to receive one quarter of coverage after 1977:

CALENDAR YEAR	AMOUNT NEEDED TO RECEIVE ONE QUARTER OF COVERAGE AFTER 1977	AMOUNT NEEDED TO RECEIVE FOUR QUARTERS OF COVERAGE AFTER 1977
1978	\$ 250.00	\$ 1,000.00
1979	\$ 260.00	\$ 1,040.00
1980	\$ 290.00	\$ 1,160.00
1981	\$ 310.00	\$ 1,124.00
1982	\$ 340.00	\$ 1,360.00
1983	\$ 370.00	\$ 1,480.00
1984	\$ 390.00	\$ 1,560.00
1985	\$ 410.00	\$ 1,640.00
1986	\$ 440.00	\$ 1,760.00
1987	\$ 460.00	\$ 1,840.00
1988	\$ 470.00	\$ 1,888.00
1989	\$ 500.00	\$ 2,000.00
1990	\$ 520.00	\$ 2,080.00
1991	\$ 540.00	\$ 2,160.00
1992	\$ 570.00	\$ 2,280.00
1993	\$ 590.00	\$ 2,360.00
1994	\$ 620.00	\$ 2,480.00
1995	\$ 630.00	\$ 2,520.00
1996	\$ 640.00	\$ 2,560.00
1997	--	--

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If you will compare the above chart with the table set out on page three (3) of the September 16 memorandum, you will see that the formula set out there for determining whether an individual has earned a qualifying quarter is totally wrong. It appears that instead of using the amounts required for a quarter of coverage as set forth in 42 U.S.C. § 413(d) and the regulations, the amounts of taxable wages set out on page three (3) have been taken from 42 U.S.C. § 413(a)(2)(B)(ii) and relate only to excluding certain quarters after a person dies or becomes disabled.

The effect of this error is to require the applicant to show far more annual wages, in order to be credited for four (4) quarters, than is actually necessary under the law. While it is far from clear as to how the table set forth on page three (3) of the September 16th memorandum is to be used, it appears to suggest that an individual would have to have total annual wages after 1974 of at least \$13,200.00 to be credited for four (4) quarters. The correct figures range from \$1,000.00 (1978) to \$2,560.00 (1996).

The September 16th memorandum compounds this error by failing to set out PRWORA's special provisions for counting qualifying quarters of work. First, a legal resident immigrant may count all of the qualifying quarters of work of a parent while the immigrant was under age eighteen (18). Pub. L. No. 104-193, § 435. For example, a legal resident immigrant, who is twenty five (25) years of age in 1996, may be credited with his parent's work history prior to 1989 to determine whether the twenty five (25) year old has forty (40) qualifying quarters of work. Second, all of the qualifying quarters of the spouse of the legal resident immigrant during their marriage may be used in determining the legal resident immigrant's qualifying quarters. *Id.* However, the legal resident immigrant must still be married to his/her spouse or the spouse must be deceased in order for the legal resident immigrant to use the spouse's qualifying quarters of work. *Id.* Without the benefit of these special provisions, many legal immigrants will be unable to qualify for food stamps. Yet there is no mention of these crucial provisions in the September 16th memorandum. Moreover, the suggested script for explaining Public Law 104-193 to the recipients also fails to mention that quarters earned by a spouse or parent may be credited toward the forty (40) quarter requirement.

We believe that applicants may have already been told that they are ineligible based on the erroneous information contained in the September 16th memorandum. Unless the September 16th memorandum is corrected immediately, confusion over alien eligibility is

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likely to grow and many potential applicants will be discouraged from even trying to make an application. Please advise us as to what action you are taking to issue a correction.

Sincerely,



Robert A. Williams
Staff Attorney

Cindy Huddleston
Staff Attorney

/RONDILWORTH.LTR

Enclosures

cc: Samuel C. Chavers
Office of the General Counsel

RECEIVED
SEP 18 1996
DISTRICT 8
ECONOMIC SERVICES
STATE OF FLORIDA
DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES
BATAIMOKALEE
ADMINISTRATORS
TO: OFFICE

September 16, 1996 Transmittal No.: Policy 96-09-010

Assistant Economic Services Program Administrators
(1 -10, 12-15)

District 11, Economic Services Program Manager
District Aging and Adult Program Administrators
(1, 4-6, 9-11, 15)

FROM: Linda G. Dilworth, Assistant Secretary for
Economic Services

SUBJECT: Food Stamp Program Policy Change - Alien Status
EFFECTIVE SEPTEMBER 21, 1996

This memorandum provides policy information regarding a Food Stamp program policy change in regard to the eligibility of aliens based on their status with Immigration and Naturalization Services. These changes are effective September 21, 1996.

Background

National welfare reform legislation in Public Law 104-193 has resulted in major changes in the determination of eligibility for food stamps with regard to aliens. The new eligibility criteria may substantially limit the number of aliens who potentially and actually qualify for food stamp benefits. Several states such as Florida are significantly impacted due to their notably large alien population.

The President, recognizing the challenge of implementing this legislation in the time frame required, directed the Food and Consumer Service to allow the states an option to extend food stamp entitlement periods for those aliens currently receiving food stamp benefits. This action was taken to ensure accurate and equitable implementation of the legislation for all aliens affected by changes in the national law. Florida will implement this option in a manner that ensures affected families will have as much time to plan for the changes in the federal law as possible while we also minimize the potential for errors in the calculation of benefits.

The information sheet attached is designed to assist staff in explaining the new federal policy to noncitizenship applicants.

ATTACHMENT 1

ISS _____

DPO _____

DES (7) EA

**Food Stamp Implementation Memo-Aliens
Page 2**

Alien Status Which Qualify For Food Stamps

Under Public Law 104-193, the following categories of aliens may be considered potentially eligible for food stamp benefits:

1. Aliens who have been in this country five years or less and who:
 - (a) were admitted as a refugee under Section 207 of the Immigration and Naturalization Act; or
 - (b) were granted asylum under Section 208; or
 - (c) are having their deportation withheld under Section 243(b).
2. Permanent resident aliens who have worked and earned or can be credited with 40 qualifying quarters under the Social Security Act. Credits earned beginning January 1, 1997, during a period when the individual was receiving federally assisted means tested benefits such as temporary assistance for needy families (TANF), food stamps, Medicaid, and Supplemental Security Income (SSI) are not considered in the calculation.
3. Veterans honorably discharged for reasons other than their alien status, from or on active duty, other than training, in the United States Armed Forces including their spouses and unmarried dependent children.

Individuals in this category should be able to verify this information by providing a copy of their discharge papers, enlistment papers, military ID card, dog tags, other military papers or by contacting the local veterans administration office. In the event such information is not available, the public assistance specialist should accept the individual's statement unless otherwise questioned.

A chart is attached for your convenience, which provides staff an explanation of the current alien status codes on the FLORIDA TCRZ table that remain eligible for food stamps.

Food Stamp Implementation Memo-Aliens Page 3

Determination of Qualifying Quarters:

The term "quarter" and the term "calendar quarter" means a period of three calendar months ending on March 31, June 30, September 30, or December 31. To determine if an individual has earned a qualifying quarter, the following formula is used:

PERIOD	TAXABLE WAGES TOTAL	TAXABLE SELF EMPLOYMENT INCOME TOTALS
BEFORE 1951	TOTAL \$3,000 OR MORE	TOTALS \$3,000 OR MORE
1951 THROUGH 1953	TOTAL \$3,000 OR MORE	TOTALS \$4,200 OR MORE
1954 THROUGH 1958	TOTAL \$4,200 OR MORE	TOTALS \$4,200 OR MORE
1959 THROUGH 1963	TOTAL \$4,800 OR MORE	TOTALS \$4,800 OR MORE
1963 THROUGH 1967	TOTAL \$6,000 OR MORE	TOTALS \$6,000 OR MORE
1968 THROUGH 1971	TOTAL \$7,800 OR MORE	TOTALS \$7,800
1972	TOTAL \$9,000 OR MORE	TOTALS \$9,000 OR MORE
1973	TOTAL \$10,800 OR MORE	TOTALS \$10,800 OR MORE
1974 ONGOING	TOTAL \$12,200 OR MORE	TOTALS \$12,200

NOTE: At no time will more than one qualifying quarter be counted for any calendar quarter; therefore an individual would not earn more than 4 qualifying quarters will be counted for one year.

Individual currently receiving Social Security benefits will be considered to have 40 qualifying quarters.

Periods of employment while residing in the following the countries may be counted toward the computation of the 40 qualifying quarters.

Austria	Germany	Netherlands	Sweden
Belgium	Greece	Norway	Switzerland
Canada	Ireland	Portugal	United Kingdom
Finland	Italy	Espans	
France	Luxembourg		

The individual may obtain verification of the 40 qualifying quarters obtained through the Social Security Administration or

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the Department of Labor, Division of Unemployment Compensation. Should the recipient be unable to procure this verification, the individual's statement may be accepted unless questionable.

Further information regarding the calculation and verification of qualifying quarters is forth coming from Food and Consumer Services and will be sent out upon receipt.

Applications

This policy is effective September 21, 1996 for all request for Assistance (RFA) received on this date or after from noncitizen applicants for food stamp benefits. Applications which were received prior to the implementation date will be processed under the old policy.

Extending Entitlement Periods for Active Food Stamp Cases

Effective upon receipt, food stamp households containing noncitizens whose food stamp entitlement period would expire September 30, 1996 or after, will be extended for a period consistent with the household situation. These households will be scheduled for an interim desk review rather than a recertification prior to the end of their initial food stamp entitlement period. This review may be a face-to-face interview or conducted over the telephone. The public assistance specialist will then take appropriate action to process any reported changes and extend the food stamp entitlement period for the appropriate length of time based on household situation and guidelines which follow. Should these food stamp households also contain Aid to Families with Dependent Children (AFDC) or Medicaid assistance groups, the complete eligibility review will be completed as scheduled and the food stamp entitlement period extended.

Note: If the noncitizen is a sponsored alien refer to the "Changes to the Food Stamp Policy, Effective September 21, 1996," for changes in the policy relating to budgeting procedures for these individuals.

Food stamp entitlement periods may not be extended to exceed a total period of 12 months for regular households or 24 months for elderly or disabled households including the current food stamp entitlement period. A food stamp entitlement period may be extended more than once provided the total entitlement period does not exceed these guidelines. Under no circumstances may a food stamp entitlement period be extended beyond July 31, 1997.

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Example

A food stamp entitlement period is scheduled to end February 1997 and the assistance group contains a noncitizen. The public assistance specialist completes the interim review and determines the household situation is stable. Action is taken to extend the food stamp entitlement period through July 1997 (an additional five months). Normally, the household is entitled to receive a six month food stamp entitlement period as the household situation is stable, however, extension of the food stamp entitlement period may not exceed July 31, 1997.

Applications for redetermination of eligibility will be processed according to the time frame in which the application is received. Refer to the following chart for further clarification.

the application for redetermination is received prior to the implementation date.	takes action to complete the redetermination using the existing food stamp policy prior to September 21, 1996.
the application for redetermination is received timely or untimely, after the implementation date but prior to the end of the food stamp entitlement period.	completes the interim review and extends the food stamp entitlement period based on the household situation. Remember: Do not exceed 12 months, or 24 months if all household members are elderly and disabled, and do not extend the entitlement period beyond July 31, 1997. Appropriate action is taken to process any changes reported. If the household also contains an Aid to Families with Dependent Children (AFDC) or Medicaid assistance group complete the normal complete eligibility review for the cash and medical assistance groups only.
the application for redetermination is received untimely and after the end of the food stamp entitlement period.	processes the request as a new application for benefits applying the new food stamp policy on aliens. Food stamp benefits will be prorated from the date of application.

Households which apply for redetermination prior to the implementation of this policy, and have already been scheduled for an appointment prior to notification of the entitlement

**Food Stamp Implementation Memo-Aliens
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period extension, will have their application treated as a pending application and, therefore, the old food stamp policy prior to implementation applies.

Recipients who have their redetermination of eligibility based on old policy must not have an entitlement period assigned which ends after July 31, 1997. All food stamp households must have the new food stamp policy regarding aliens applied prior to July 31, 1997.

Timeliness of Food Stamp Entitlement Period Extensions

It is possible that the completion of interim desk reviews in conjunction with extending periods of eligibility will make it difficult to complete necessary interviews prior to the end of entitlement periods in some areas. Each district should review the workload associated with scheduled interviews and determine if there are any areas where it will not be possible to complete necessary reviews. We will develop additional measures to help smooth out the workload associated with implementation of this policy on a district-by-district basis.
Effective Date

These policy changes are effective immediately upon receipt for all new applicants without exception. For active food stamp households containing noncitizens, the policy will be phased in at redetermination as indicated in the preceding section regarding the extension of entitlement periods.

FLORIDA Implementation Instructions

The public assistance specialist must document the reason for extending the entitlement period on the FLORIDA running record comment screen (CLAC). In the comments on CLAC, state the food stamp entitlement period has been extended in accordance with Transmittal No. Policy: 96-09-010, dated September 16, 1996 and Food and Consumer Services Policy memo dated August 26, 1996 signed by Yvette Jackson, Deputy Administrator.

Further clarification as it becomes available and FLORIDA instructions regarding implementation of this policy will be distributed as soon as possible.

ATTACHMENT 1

**SUGGESTED SCRIPT FOR EXPLAINING PUBLIC LAW 104-193
TO THE RECIPIENTS**

Recently, a new federal law went into effect which made major changes on who may receive food stamps. As you may have heard on the news, now many noncitizens may no longer be eligible to receive food stamps because of their immigration status.

Today we doing a review of your food stamp case and unless you have any reported changes which make you ineligible, we will be extending your food stamp benefit period for another _____ months.

At your next review, you may no longer be eligible for food stamps unless you have been here less than five years and were

- Admitted as a refugee; or
- Granted asylum; or
- Your deportation is being withheld by immigration.

You may also still be eligible for food stamps regardless of how long you have been in this country if

- you are a lawful permanent resident and have 40 quarters of work (which is about ten years); or
- you are currently serving or have served in the United States Armed Forces and were honorably discharged; or
- your parents, husband or wife is serving or is a veteran of the United States Armed Forces.

If you do not meet one of these criteria or if your immigration documents have expired, you may need to go to your local immigration office and apply for a new alien status. You need to do this before you come into the office for your food stamp eligibility review. We will need to check your alien status with immigration at your next review for food stamps.

If you are interested in information on becoming a naturalized citizen, you may call the Ask Immigration line toll free at 1-(800) 375-8283. This information is in English or Spanish for your convenience.

ATTACHMENT 2

**JOE AID FOR DETERMINING ALIEN STATUS ELIGIBILITY FOR FOOD STAMPS
UNDER PUBLIC LAW 104-193**

This chart only reflects the alien status codes which were eligible to receive food stamps under the old policy prior to the implementation of Public Law 104-193.

01	Permanent Resident Alien with a Refugee Code	Eligible for food stamps if one of these conditions are true: • in this country less than 5 years and admitted under 207; • has earned 40 qualifying quarters; • is active duty United States military or a veteran; • the spouse or the dependant minor child of a veteran or active duty military person.
02	Permanent Resident Alien	See 01 Above
03	IRCA Temporary Resident Alien (I-688 with 210, 210A)	Not Eligible
04	IRCA Temporary Resident Alien (I-688 with 248A)	Not Eligible
05	IRCA Resident Alien (I-881 with 216 and 226)	Eligible See 01 Above
06	IRCA Resident Alien (216)	Eligible See 01 Above
07	IRCA Resident Alien (216 and 226)	Eligible See 01 Above
08	American Indian born in Canada	Eligible
09	Conditional Entrant Refugee	Not Eligible
10	Admitted as a Refugee	Eligible if admitted under Section 207 and in the country less than 5 years.
11	Paroled (not Refugee/Entrant)	Not Eligible
12	Paroled (Refugee)	Eligible if admitted under Section 207 and in the country less than 5 years.

Citation/Title

42 USCA § 413, Quarter and quarter of coverage

*88752

**UNITED STATES CODE ANNOTATED
TITLE 42. THE PUBLIC HEALTH AND WELFARE
CHAPTER 7--SOCIAL SECURITY
SUBCHAPTER II--FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY
INSURANCE BENEFITS**

Current through P.L. 104-133, approved 4-25-96

§ 413. Quarter and quarter of coverage

(a) Definitions

For the purposes of this subchapter--

(1) The term "quarter", and the term "calendar quarter", mean a period of three calendar months ending on March 31, June 30, September 30, or December 31.

(2)(A) The term "quarter of coverage" means--

(i) for calendar years before 1978, and subject to the provisions of subparagraph (B), a quarter in which an individual has been paid \$50 or more in wages (except wages for agricultural labor paid after 1954) or for which he has been credited (as determined under section 412 of this title) with \$100 or more of self-employment income; and

(ii) for calendar years after 1977, and subject to the provisions of subparagraph (B), each portion of the total of the wages paid and the self-employment income credited (pursuant to section 412 of this title) to an individual in a calendar year which equals the amount required for a quarter of coverage in that calendar year (as determined under subsection (d) of this section), with such quarter of coverage being assigned to a specific calendar quarter in such calendar year only if necessary in the case of any individual who has attained age 62 or died or is under a disability and the requirements for insured status in subsection (a) or (b) of section 414 of this title, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 416(l) of this title would not otherwise be met.

(B) Notwithstanding the provisions of subparagraph (A)--

(i) no quarter after the quarter in which an individual dies shall be a quarter of coverage, and no quarter any part of which is included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage;

(ii) if the wages paid to an individual in any calendar year equal \$3,000 in the case of a calendar year before 1951, or \$3,600 in the case of a calendar year after 1950 and before 1955, or \$4,200 in the case of a calendar year after 1954 and before 1959, or \$4,800 in the case of a calendar year after 1958 and before 1966, or \$5,600 in the case of a calendar year after 1965 and before 1968, or \$7,800 in the case of a calendar year after 1967 and before 1972, or \$9,000 in the case of the calendar year 1972, or \$10,800 in the case of the calendar year 1973, or \$13,200 in the case of the calendar year 1974, or an amount equal to the contribution and benefit base (as determined under section 430 of this title) in the case of any calendar year after 1974 and before 1978 with respect to which such contribution and benefit base is effective, each quarter of such year shall (subject to clauses (i) and (v)) be a quarter of coverage;

*88753 (iii) if an individual has self-employment income for a taxable year, and if the sum of such income and the wages paid to him during such year equals \$3,600 in the case of a taxable year beginning after 1950 and ending before 1955, or \$4,200 in the case of a taxable year ending after 1954 and before

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ATTACHMENT 2

42 USCA § 413. Quarter and quarter of coverage

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1959, or \$4,800 in the case of a taxable year ending after 1958 and before 1966, or \$6,600 in the case of a taxable year ending after 1965 and before 1968, or \$7,800 in the case of a taxable year ending after 1967 and before 1972, or \$9,000 in the case of a taxable year beginning after 1971 and before 1973, or \$10,800 in the case of a taxable year beginning after 1972 and before 1974, or \$13,200 in the case of a taxable year beginning after 1973 and before 1975, or an amount equal to the contribution and benefit base (as determined under section 430 of this title) which is effective for the calendar year in the case of any taxable year beginning in any calendar year after 1974 and before 1978, each quarter any part of which falls in such year shall (subject to clauses (i) and (v)) be a quarter of coverage;

(iv) if an individual is paid wages for agricultural labor in a calendar year after 1954 and before 1978, then, subject to clauses (i) and (v), (I) the last quarter of such year which can be but is not otherwise a quarter of coverage shall be a quarter of coverage if such wages equal or exceed \$100 but are less than \$200; (II) the last two quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed \$200 but are less than \$300; (III) the last three quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed \$300 but are less than \$400; and (IV) each quarter of such year which is not otherwise a quarter of coverage shall be a quarter of coverage if such wages are \$400 or more,

(v) no quarter shall be counted as a quarter of coverage prior to the beginning of such quarter;

(vi) not more than one quarter of coverage may be credited to a calendar quarter; and

(vii) no more than four quarters of coverage may be credited to any calendar year after 1977.

If in the case of an individual who has attained age 62 or died or is under a disability and who has been paid wages for agricultural labor in a calendar year after 1954 and before 1978, the requirements for insured status in subsection (a) or (b) of section 414 of this title, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 416(i) of this title are not met after assignment of quarters of coverage to quarters in such year as provided in clause (iv) of the preceding sentence, but would be met if such quarters of coverage were assigned to different quarters in such year, then such quarters of coverage shall instead be assigned, for purposes only of determining compliance with such requirements, to such different quarters. If, in the case of an individual who did not die prior to January 1, 1955, and who attained age 62 (if a woman) or age 65 (if a man) or died before July 1, 1957, the requirements for insured status in section 414(a)(3) of this title are not met because of his having too few quarters of coverage but would be met if his quarters of coverage in the first calendar year in which he had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid (any such wages paid that are reallocated on an earned basis shall not be used in determining quarters of coverage for subsequent calendar years), then upon application filed by the individual or his survivors and satisfactory proof of his record of wages earned being furnished by such individual or his survivors, the quarters of coverage in such calendar year may be determined on the basis of the periods during which wages were earned.

*88754 (b) Crediting of wages paid in 1937

With respect to wages paid to an individual in the six-month periods commencing either January 1, 1937, or July 1, 1937; (A) if wages of not less than \$100 were paid in any such period, one-half of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such period; and (B) if wages of less than \$100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period, the individual attained age sixty-five, all of the wages paid in such period shall be deemed to have been paid before such age was attained.

(c) Alternative method for determining quarters of coverage with respect to wages in period from 1937 to 1950

42 USCA § 413, Quarter and quarter of coverage

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For purposes of sections 414(a) and 415(d) of this title, an individual shall be deemed to have one quarter of coverage for each \$400 of his total wages prior to 1951 (as defined in section 415(d)(1)(C) of this title), except where such individual is not a fully insured individual on the basis of the number of quarters of coverage so derived plus the number of quarters of coverage derived from the wages and self-employment income credited to such individual for periods after 1950.

(d) Amount required for quarter of coverage

(1) The amount of wages and self-employment income which an individual must have in order to be credited with a quarter of coverage in any year under subsection (a)(2)(A)(ii) of this section shall be \$250 in the calendar year 1978 and the amount determined under paragraph (2) of this subsection for years after 1978.

(2) The Commissioner of Social Security shall, on or before November 1 of 1978 and of every year thereafter, determine and publish in the Federal Register the amount of wages and self-employment income which an individual must have in order to be credited with a quarter of coverage in the succeeding calendar year. The amount required for a quarter of coverage shall be the larger of--

(A) the amount in effect in the calendar year in which the determination under this subsection is made, or

(B) the product of the amount prescribed in paragraph (1) which is required for a quarter of coverage in 1978 and the ratio of the national average wage index (as defined in section 409(k)(1) of this title) for the calendar year before the year in which the determination under this paragraph is made to the national average wage index (as so defined) for 1976,

*88755 with such product, if not a multiple of \$10, being rounded to the next higher multiple of \$10 where such amount is a multiple of \$5 but not of \$10 and to the nearest multiple of \$10 in any other case.

CREDIT(B)

1996 Interim Update

(Aug. 14, 1935, c. 331, Title II, § 213, as added Aug. 28, 1950, c. 809, Title I, § 104(a), 64 Stat. 304, and amended July 18, 1952, c. 945, § 3(a), 66 Stat. 770; Sept. 1, 1954, c. 1206, Title I, §§ 104(c), 104(a), 108(b), 68 Stat. 1078, 1084; Aug. 1, 1956, c. 836, Title I, § 103(c), 70 Stat. 628; Aug. 28, 1958, Pub.L. 85-840, Title I, § 102(c), 72 Stat. 1019; Apr. 22, 1960, Pub.L. 86-442, § 3, 74 Stat. 82; Sept. 13, 1960, Pub.L. 86-778, Title II, § 206(a), 74 Stat. 949; June 30, 1961, Pub.L. 87-64, Title I, § 102(c)(2)(A), (3)(B), 75 Stat. 134, 135; July 30, 1963, Pub.L. 89-97, Title III, § 320(a)(3), 79 Stat. 393; Jan. 2, 1968, Pub.L. 90-248, Title I, §§ 108(a)(3), 155(a)(1), 81 Stat. 834, 863; Mar. 17, 1971, Pub.L. 92-5, Title II, § 203(a)(3), 85 Stat. 10; July 1, 1972, Pub.L. 92-336, Title II, § 203(a)(9), 86 Stat. 418; July 9, 1973, Pub.L. 93-86, Title II, § 203(a)(9), 87 Stat. 153; Dec. 31, 1973, Pub.L. 93-233, § 5(a)(3), 87 Stat. 953; Dec. 20, 1977, Pub.L. 95-216, Title III, §§ 331(c), 332(a), (b), 91 Stat. 1350, 1353; Oct. 19, 1980, Pub.L. 96-473, § 6(c), 94 Stat. 2263; July 18, 1984, Pub.L. 98-369, Div. B, Title VI, § 2663(a)(9), 98 Stat. 1164; Dec. 19, 1989, Pub.L. 101-239, Title X, § 10208(b)(2)(A), (B), (4)(2)(A)(i), 103 Stat. 2477, 2478, 2480; Nov. 3, 1990, Pub.L. 101-508, Title V, § 3217(c)(1), 104 Stat. 1388-278; Aug. 15, 1994, Pub.L. 103-296, Title I, § 107(a)(4), Title III, § 371(a)(13), (a)(2)(A), 108 Stat. 1478, 1536, 1539.)

HISTORICAL NOTES

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1950 Act, Senate Report No. 1669 and Conference Report No. 2771, see 1950 U.S. Code Cong. Service, p. 3287.

1952 Act, Senate Report No. 1806 and Conference Report No. 2491, see 1952 U.S. Code Cong. and Adm. News, p. 2363.

1954 Act, Senate Report No. 1987 and Conference Report No. 2679, see 1954 U.S. Code Cong. and Adm. News, p. 3710.

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42 USCA § 413. Quarter and quarter of coverage**Page 4**

1956 Act. Senate Report No. 2193 and Conference Report No. 2936, see 1956 U.S. Code Cong. and Adm. News, p. 3877.

1958 Act. Senate Report No. 2388, see 1958 U.S. Code Cong. and Adm. News, p. 4218.

1960 Act. Senate Report No. 1154, see 1960 U.S. Code Cong. and Adm. News, p. 1915.

Senate Report No. 1856 and Conference Report No. 2165, see 1960 U.S. Code Cong. and Adm. News, p. 3608.

1961 Act. Senate Report No. 425 and Conference Report No. 611, see 1961 U.S. Code Cong. and Adm. News, p. 1855.

20 CFR Sec. 404.143. How we credit quarters of coverage for calendar years after 1977.

Page 1

*105846

**CODE OF FEDERAL REGULATIONS
TITLE 20--EMPLOYEES' BENEFITS
CHAPTER III--SOCIAL SECURITY
ADMINISTRATION
PART 404--FEDERAL OLD-AGE, SURVIVORS
AND DISABILITY
INSURANCE (1950-)
SUBPART B--INSURED STATUS AND
QUARTERS OF COVERAGE
QUARTERS OF COVERAGE**

Current through May 1, 1996; 61 FR 19302

s 404.143 How we credit quarters of coverage for calendar years after 1977.

(a) **Crediting quarters of coverage (QCs).** For calendar years after 1977, we credit you with a QC for each part of the total wages paid and self-employment income credited (under Sec. 404.144) to you in a calendar year that equals the amount required for a QC in that year. For example, if the total of your wages and self-employment income for a calendar year is more than twice, but less than 3 times, the amount required for a QC in that year, we credit you with only 2 QCs for the year. The rules for crediting QCs in this section are subject to the limitations in Sec. 404.146, which tells when a calendar quarter cannot be a QC. In addition, we

cannot credit you with more than four QCs for any calendar year. The amount of wages and self-employment income that you must have for each QC is--

(1) \$250 for calendar year 1978; and
(2) For each calendar year after 1978, an amount determined by the Secretary for that year (on the basis of a formula in section 213(d)(2) of the Act which reflects national increases in average wages). The amount determined by the Secretary is published in the Federal Register on or before November 1 of the preceding year and included in the appendix to this subpart.

(b) **Assigning QCs.** We assign a QC credited under paragraph (a) of this section to a specific calendar quarter in the calendar year only if the assignment is necessary to--

- (1) Give you fully or currently insured status;
- (2) Entitle you to a computation or recomputation of your primary insurance amount; or
- (3) Permit you to establish a period of disability.

**< <SUBPART B--INSURED STATUS AND
QUARTERS OF COVERAGE> >**

Authority: Secs. 205(a), 212, 213, 214, 216, 217, 223, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 412, 413, 414, 416, 417, 423, and 902(a)(5)).

*105847 Source: 45 FR 25384, Apr. 15, 1980; 52 FR 27540, July 22, 1987; 61 FR 5940, Feb. 15, 1996, unless otherwise noted.

ATTACHMENT 3

20 CFR Sec. 404.141. How we credit quarters of coverage for calendar years before 1978.

Page 1

*105843

CODE OF FEDERAL REGULATIONS
TITLE 20—EMPLOYEES' BENEFITS
CHAPTER III—SOCIAL SECURITY ADMINISTRATION
PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY
INSURANCE (1960-)
SUBPART B—INSURED STATUS AND QUARTERS OF COVERAGE
QUARTERS OF COVERAGE

Current through May 1, 1996; 61 FR 19502

§ 404.141 How we credit quarters of coverage for calendar years before 1978.

(a) **General.** The rules in this section tell how we credit calendar quarters as quarters of coverage (QCs) for calendar years before 1978. We credit you with a QC for a calendar quarter based on the amount of wages you were paid and self-employment income you derived during certain periods. The rules in paragraphs (b), (c), and (d) of this section are subject to the limitations in Sec. 404.146, which tells when a calendar quarter cannot be a QC.

(b) **How we credit QCs based on wages paid in, or self-employment income credited to, a calendar quarter.** We credit you with a QC for a calendar quarter in which—

(1) You were paid wages of \$50 or more (see paragraph (c) of this section for an exception relating to wages paid for agricultural labor); or

(2) You were credited (under Sec. 404.142) with self-employment income of \$100 or more.

(c) **How we credit QCs based on wages paid for agricultural labor in a calendar year after 1954.**

(1) We credit QCs based on wages for agricultural labor depending on the amount of wages paid during a calendar year for that work. If you were paid wages for agricultural labor in a calendar year after 1954 and before 1978, we credit you with QCs for calendar quarters in that year which are not otherwise QCs according to the following table.

If the wages paid to you in a calendar year for agricultural labor were	We credit you with	And assign: (FN1)
--	-----------------------	----------------------

\$400 or more	4 QCs	All.
At least \$300 but less than \$400.....	3 QCs	Last 3.
At least \$200 but less than \$300.....	2 QCs	Last 2.
At least \$100 but less than \$200.....	1 QC	Last.
*105844 Less than \$100	No QCs	

FN1 One QC to each of the following calendar quarters in that year.

(2) When we assign QCs to calendar quarters in a year as shown in the table in paragraph (c)(1) of this section, you might not meet (or might not meet as early in the year as otherwise possible) the requirements to be fully or currently insured, to be entitled to a computation or recomputation of your primary insurance amount, or to establish a period of disability. If this happens, we assign the QCs to different quarters in that year than those shown in the table if this assignment permits you to meet these requirements (or meet them earlier in the year). We can only reassign QCs for purposes of meeting these requirements.

(d) **How we credit QCs based on wages paid or self-employment income derived in a year.**

(1) If you were paid wages in a calendar year after 1950 and before 1978 at least equal to the annual wage limitation in effect for that year as described in Sec. 404.1027(a), we credit you with a QC for each quarter in that calendar year. If you were paid at least \$3,000 wages in a calendar year before 1951, we credit you with a QC for each quarter in that calendar year.

(2) If you derived self-employment income (or derived self-employment income and also were paid wages) during a taxable year beginning after 1950 and before 1978 at least equal to the self-employment income and wage limitation in effect for that year as described in Sec. 404.1068(b), we credit you with a QC for each calendar

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ATTACHMENT 4

20 CFR Sec. 404.141, How we credit quarters of coverage for calendar years before 1978.

Page 2

quarter wholly or partly in that taxable year.

[45 FR 25834, Apr. 15, 1980; 45 FR 41931, June 3, 1980]

<<SUBPART B--INSURED STATUS AND QUARTERS OF COVERAGE>>

Authority: Secs. 205(a), 212, 213, 214, 216, 217, 223, and 702(a)(5) of the Social Security Act (42 U.S.C. 405 (a), 412, 413, 414, 416, 417, 423, and 902(a)(5)).

Source: 45 FR 25384, Apr. 15, 1980; 52 FR 27540, July 22, 1987; 61 FR 5940, Feb. 15, 1996, unless otherwise noted.

20 CFR Pt. 404, Subpt. B, App. to SUBPART B OF PART 404--QUARTER OF COVERAGE
AMOUNTS FOR CALENDAR YEARS AFTER 1978

Page 1

*105851

CODE OF FEDERAL REGULATIONS
TITLE 20--EMPLOYERS' BENEFITS
CHAPTER III--SOCIAL SECURITY ADMINISTRATION
PART 404--FEDERAL OLD-AGE, SURVIVORS AND DISABILITY
INSURANCE (1950-)
SUBPART B--INSURED STATUS AND QUARTERS OF COVERAGE

Current through May 1, 1996; 61 FR 19502

APPENDIX to SUBPART B OF PART 404--QUARTER OF COVERAGE AMOUNTS FOR CALENDAR
YEARS AFTER 1978

This appendix shows the amount determined by the Secretary that is needed for a quarter of coverage for each year after 1978 as explained in Sec. 404.143. We publish the amount as a Notice in the Federal Register on or before November 1 of the preceding year. The amounts determined by the Secretary are as follows:

Calendar year	Amount needed
1979	\$260
1980	290
1981	310
1982	340
1983	370
1984	390
1985	410
1986	440
1987	460
1988	470
1989	500
1990	520
1991	540
1992	570

*105853 [52 FR 8247, March 17, 1987; 57 FR 44096, Sept. 24, 1992]

< < SUBPART B--INSURED STATUS AND QUARTERS OF COVERAGE > >

Authority: Secs. 205(a), 212, 213, 214, 216, 217, 223, and 702(a)(5) of the Social Security Act (42 U.S.C. 405 (a), 412, 413, 414, 416, 417, 423, and 902(a)(5)).

Source: 45 FR 25384, Apr. 15, 1980; 52 FR 27540, July 22, 1987; 61 FR 5940, Feb. 15, 1996, unless otherwise noted.

ATTACHMENT 5

NCLR

NATIONAL COUNCIL OF LA RAZA

Raul Yzaguirre, President

National Office

1111 19th Street, N.W., Suite 1000

Washington, DC 20036

Phone: (202) 785-1670

Fax: (202) 776-1792

FAX COVER MEMO

DATE: 9/17/96

TIME: _____

COST CENTER #61 or #____/other

TO

NAME: Jeremy Ben-Ami

COMPANY: Domestic Policy Council

CITY: DC

FAX# 456 / 7023

FROM

NAME: Cecilia Muñoz, Deputy Vice-President

Office of Research, Advocacy & Legislation

DIRECT LINE: 202-776-1791

POLICY'S FAX: 202-776-1794

Naidalid Miller, Administrative Assistant: 776-1782

of pages in transmission, including cover 10

MESSAGE:

NCLR



NATIONAL COUNCIL
OF LA RAZA

Program Offices: Phoenix, Arizona • San Antonio, Texas • Los Angeles, California • Chicago, Illinois

LA RAZA: The Hispanic People of the New World

To: STEVE W
DIANA F
ISSUE for List: how to
proc 40 quarters for these up
good records?
Back to JSA

M E M O R A N D U M

TO: Ken Apfel
Jeremy Ben-Ami
FROM: Cecilia Muñoz
RE: Welfare Reform Implementation
DATE: 9/17/96

I thought you might be interested in the attached memo from my colleague Bruce Goldstein of the Farmworker Justice Fund. It outlines concerns and recommendations for implementing the 40-quarter exemption under welfare reform. The focus of the memo is farmworkers; however, many of the concerns hold equally true for other immigrants whose work histories will be difficult to demonstrate through SSA data.

We're trying not to over burden you with requests for meetings, out of respect for the fact that you have more than enough to do and that you have been very generous with your time. However, of the urgent implementation issues, this is one which we haven't discussed thoroughly. We would appreciate an opportunity to talk these issues through at your earliest possible convenience.

I will contact your offices within the next few days; thanks again for your attention to these issues.

cc: Bruce Goldstein
Steven Warnath
Josh Bernstein
Diana Aviv
Abigail Price
Karen Narasaki



Program Offices: Phoenix, Arizona • San Antonio, Texas • Los Angeles, California • Chicago, Illinois
LA RAZA: The Hispanic People of the New World

FARMWORKERS' SPECIAL NEEDS REQUIRE ADMINISTRATION ATTENTION TO ENSURE THAT ELIGIBLE LEGAL IMMIGRANTS OBTAIN FOOD STAMPS

The new welfare legislation denies public benefits to most legal immigrants but creates eligibility for lawful permanent resident aliens who have 40 quarters of qualifying work as defined by the Social Security Act and the welfare bill itself. Contrary to popular belief, most farmworkers are legal immigrants and have been working legally in the United States for at least the last 10 years (i.e. forty quarters). Farmworkers will face unique difficulties in gathering proof of that employment, however, due to the nature of their work. The Administration must anticipate these difficulties so that eligible farmworkers do not suffer delays and denials when applying for food stamps.

Legal Immigrant Farmworkers Dominate the Agricultural Labor Force

There are about 1.6 million migrant and seasonal farmworkers in the United States. Most (about 70-75%) are lawful resident permanent aliens,¹ partly because about 1.1 million farmworkers were legalized under the 1986 immigration reform. IRCA's "special agricultural worker" or "SAW" program granted temporary and later permanent legal status to persons who showed that they had worked at least 90 days in seasonal agricultural work during the one year ending May 1, 1986. 8 U.S.C. § 1160; 8

¹ The Department of Labor estimates that about 25% of migrant and seasonal farmworkers are unauthorized. Other farmworkers are United States citizens. See written testimony of Deputy Administrator John Fraser, Wage and Hour Division, U.S. Department of Labor, Guest Worker Programs, Hearing before subcommittee on Immigration and Claims of the Committee on the Judiciary, House of Representatives, Dec. 7, 1995 at 12; U.S. Department of Labor, U.S. Farmworkers in the Post-IRCA Period: Based on Data from the National Agricultural Workers Survey (NAWS) (March 1993) ("NAWS").

C.F.R. Part 210. Although the SAWs are now eligible for citizenship, educational and economic barriers depress their naturalization rates.

Most farmworkers have been working in the United States for at least 10 years or the equivalent of forty quarters. A major study, based on data from 1989-91, found that farmworkers had "a median of eight years experience in [seasonal farmwork]." NAWS (1993) at 11. Most farmworkers who legalized as SAWs have remained in agriculture and, consequently, have been working in the United States for at least 10 years. Report of the Commission on Agricultural Workers, pp. 1, xxi. Of course, many farmworkers also worked in undocumented status and deserve credit for such quarters.

Farm Jobs Pay So Poorly That Many Farmworkers Need Public Benefits

Nearly half (46%) of farmworkers live below the poverty line, with average annual earnings of \$6,500. NAWS (1993) at 13; Report of Commission on Agricultural Workers at 100. The majority of farmworkers are males who are accompanied by a spouse and/or child (NAWS at 11). Yet 71% of the farmworker households living in poverty do not use public benefits (food stamps, WIC, AFDC, General Assistance, subsidized housing).

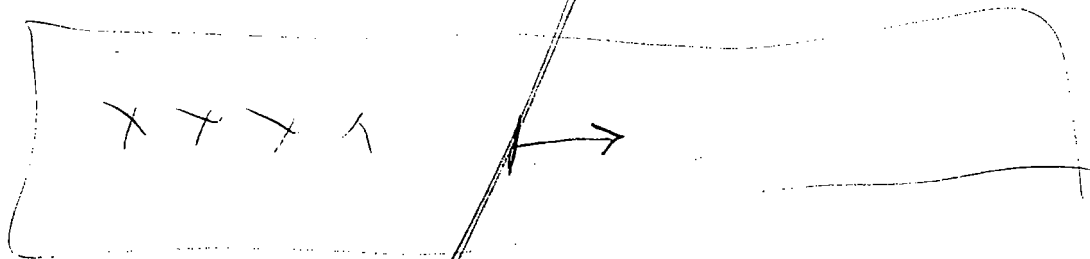
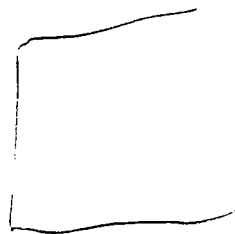
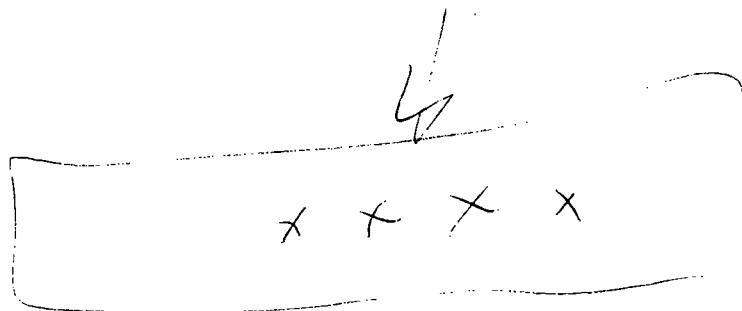
The program most used by farmworkers is food stamps; approximately 17% of farmworker households report receiving food stamps during the past two years. Farmworkers typically only apply for food stamps on a seasonal basis, often in emergencies when expedited agency procedures are critically important.

The Importance of Work Quarters

The welfare bill provides that a permanent resident alien is not barred from

30

120



receiving public benefits if he or she has "worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435 [of this Act]." § 402(a)(2)(B), 402(b)(2)(B). Under section 435 of the welfare bill, applicants may include not only their own quarters of employment, but also those of their spouse and, while they were minors, of their parents.

The Social Security Act's lenient definition of "qualifying quarters" will mean that most farmworkers, despite low wages and frequent periods of unemployment, will satisfy the standard. At the average farmworker's yearly earnings of \$6,500, most farmworkers would be credited with four quarters of coverage each year. Because most farmworkers have been working in the United States since at least 1985-86, they will have worked forty qualifying quarters or the equivalent.

Farmworkers' Obstacles In Proving Their Employment Histories

Many farmworkers, unlike members of other occupational groups, will not be able to prove their forty quarters of employment merely by requesting an earnings report from the Social Security Administration. Records from Social Security, the Internal Revenue Service and Unemployment Insurance are likely to be incomplete.

First, many farmworkers who legalized under the 1986 law lacked a valid Social Security number prior to filing their immigration applications in 1987-88. Thus, quarters worked prior to that time are unlikely to have been reported.

Second, agricultural employers are notorious for failing to provide workers with earnings statements, neglecting to prepare or maintain pay records, and failing to

report workers' income to Social Security and the IRS. Indeed, agricultural employers are at least three times as likely as other employers not to report or to under report their employees' earnings to Social Security. U.S. General Accounting Office, Hired Farmworkers: Health at Risk, p. 5 (1992).²

Women farmworkers who wish to prove their employment record suffer disproportionately because many employers' payrolls only list the pay of an entire family or crew in the name of a single worker, usually a male. See, e.g., Antunez v. G & C Farms, 126 Labor Cases (CCH) ¶ 33,015 (D.N.M. 1993).

These problems are especially true for workers employed through farm labor contractors, or "crewleaders." An increasing portion of the farm labor force, now about 28% of farmworkers nationally, is employed through farm labor contractors. NAWS (1993) at 59; Commission on Agricultural Workers at 120--25. Many crewleaders are financially insolvent and difficult to locate. Crewleaders are known for failing to keep proper records and to pay into funds established for the benefit of workers, such as Social Security and Unemployment. Philip Martin & J. Edward Taylor, "Merchants of Labor: Farm Labor Contractors and Immigration Reform," (Urban Institute, May 1995) at 12, 17 n. 6. In California in 1990, the Employment Development Department logged

² Some of the many lawsuits caused by these problems include, Calderon v. Witvoet, 999 F.2d 1101, 1105 (7th Cir. 1993) (employer failed to deduct or pay Social Security taxes); Beliz v. McCleod, 756 F.2d 1317 (5th Cir. 1985) (employer failed to pay Social Security taxes); Antunez v. G&C Farms, 126 Labor Cases (CCH) ¶ 33,015 (D.N.M. 1993) (same); Sanchez v. Overmyer, 845 F. Supp. 1183, 1188 (N.D. Ohio 1993) (same); Bresgal v. Brock, 637 F. Supp. 271, 277 (D.Ore. 1985), aff'd, 843 F.2d 1163 (9th Cir. 1987) (same); Certilus v. Peebles, 101 Lab. Ca. (CCH) ¶ 34,587 (M.D. Fla. 1984) (same).

nearly 5,000 claims for unemployment benefits linked to unlicensed contractors who failed to pay into the fund. Special Report: Fields of Pain, Part II, Sacramento Bee, Monday Dec. 9, 1991 p. 7; Martin & Taylor at 12. See also, Castillo v. Givens, 704 F.2d 181 (5th Cir. 1983), cert. denied 464 U.S. 850 (1983) (illiterate crewleader assigned task of keeping records failed to do so).

It will be difficult and time-consuming for farmworkers to prove their past employment, just as it was during the SAW application process when they were obligated to prove their work history during the 1985-86 period. Even when farmworkers have been provided with pay records, most lack the space and other resources needed to retain those records during their frequent relocations.

To secure other evidence of their past employment -- records, statements of witnesses, etc. -- farmworkers will be hampered by inadequate education and English language ability, geographic isolation, limited access to telephones, and lack of legal counsel. Moreover, the sheer number of former employers is daunting. Farmworkers usually make their living each year by patching together a series of relatively short-term jobs. NAWS at 27-28. This is particularly true for hundreds of thousands of harvest jobs. About four out of five harvest workers piece together three or more short-term jobs in a year. Id. at 60, 27.

To sum up:

1. These and other obstacles mean that when eligible, legal-immigrant farmworkers apply for food stamps many of them will not possess proof of their forty quarters of employment.

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2. When such farmworkers seek records from the Social Security Administration and other government agencies, those records will often be incomplete.

3. Farmworkers will need the opportunity and the time to supplement government records with other evidence, including statements by the applicants and witnesses regarding their past employment. Reconstruction of farmworkers' employment histories is difficult and time-consuming.

4. Eligible farmworkers with urgent needs for food stamps should not be prevented from promptly obtaining them due to delays associated with securing employment records to corroborate the applicants' claims. Applicants should not be penalized for their employers' unlawful conduct or carelessness.

Solutions to Ensure That Eligible Farmworkers

Receive Food Stamps In a Timely Manner

The Administration has significant flexibility in establishing the procedural and evidentiary rules for workers seeking to prove that they have forty quarters of qualifying employment.³ It must ensure that eligible farmworkers -- many of whom proved their employment ten years ago to secure lawful permanent resident alien status -- secure food stamps. It is especially important, in light of the seasonality and low pay of farmworkers' employment, that food stamps be issued promptly. We offer the following outline of solutions:

³ Fortunately, the welfare bill does not contain the Social Security Act's sometimes-onerous procedural provisions, evidentiary presumptions and statutory limitations for correcting Social Security records. See 42 U.S.C. § 405(c); Breeden v. Weinberger, 493 F.2d 1002 (4th Cir. 1974) (approving farmworkers' claim of qualifying employment despite absence from Social Security records).

1. Food stamp officials should accept Social Security earnings reports as conclusive evidence of employment, but should not reject applications solely because such reports lack evidence of employment. The USDA should stress to officials that government records often do not contain evidence of all farmworkers' employment.

2. USDA should emphasize to food stamp officials that four quarters in a year shall be credited, as required by the Social Security statute and the welfare bill, if a person has earned the minimum amount set by the Social Security Administration for that year (e.g., \$2,560 in 1996), regardless of how many quarters were actually worked in that year.

3. Officials should be informed of the need to credit quarters of work performed by the applicant's spouse, and of the applicant's parents when the applicant was a minor, even if that results in more than four quarters of credit in a single year. Many farmworkers worked as children and should be credited with their own work and their parents' work.

4. Officials should be informed that the Social Security Administration often has a one to two year delay in recording earnings information that it has received. This lag time means that some SSA records may not reveal 4 to 8 quarters of the farmworkers' most recent employment.

5. Farmworkers who lack adequate records should be permitted to submit statements -- of themselves and of other witnesses, including family members, co-workers, crewleaders and growers -- to show that they have worked the requisite amount of quarters.

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5. An applicant's submission of information should be judged based on whether it is "more probable than not" that an applicant earned the required amount of wages over the period in question. The applicant need not show proof "beyond a reasonable doubt" or to "a substantial certainty." There should be no penalty for farmworkers who supply evidence to supplement inadequate government records.

6. Farmworkers who were granted lawful immigrant status under the Special Agricultural Worker ("SAW") program of the Immigration Reform and Control Act of 1986, and who state that they have continued working in the United States since that time, should be presumed to have worked forty quarters.

7. Applicants who have previously provided food stamp officials in one state or area shall not be required to prove repeatedly that they have worked forty quarters when applying in other states or areas. Local officials must seek such records from other offices.

8. Agency officials should be informed that farmworkers often need temporary, emergency food stamps at the beginning of a crop season before work has begun or before the amount of work has become substantial enough to provide enough earnings to purchase food. In such urgent circumstances, food stamp officials should consider that adequate employment has been proved if the applicant provides credible information about past employment and states that he or she will secure additional evidence to show such employment.

Bruce Goldstein, Farmworker Justice Fund, Inc.
1111 19th Street, N.W. Suite 1000
Washington, D.C. 20036 (202) 776-1757

September 16, 1996



Robert W. Wright
Director

Illinois Department of Public Aid

Jesse B. Harris Building
100 South Grand Avenue East
Springfield, Illinois 62762-0001

September 25, 1996

William E. Ludwig, Administrator
Food and Consumer Service
United States Department of Agriculture
3101 Park Center Drive
Alexandria, VA 22302

Dear Mr. Ludwig:

In accordance with statutory requirements defining state implementation of the Food Stamp Program Provisions of Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, I wish to address a specific issue of concern on the effective date of enactment. The problem section is 402, Alien Eligibility, and is related to the President's directive of August 22, 1996 to the Secretary of Agriculture. That directive specifically gave authority to FCS permitting state agencies to extend certification periods of currently participating aliens, to no longer than 12 months, or up to 24 months if all adult household members are elderly or disabled.

Effective immediately the State of Illinois will be determining ineligible, upon application, any noncitizen who is not otherwise eligible, to participate in the food stamp program. However, I am asking for your positive consideration of a delay in our application of the new provisions of this Act to those noncitizens currently participating in the food stamp program. In Illinois, out of approximately 38,600 legal immigrants that could lose their food stamp benefits, an estimated 31,900 will not be able to benefit from the President's order allowing the extension of certification periods, because those households already have a certification period of 12 months or greater. This presents a considerable inequity for states with a significant number of the noncitizen population receiving food stamps having certification periods of 12 months or longer.

CC Elena Kagan
Emily Bronberg
Keith Fontenot
Steve Warrath
Jeremy Ben Ami
Diana
Illinois wants
Calif. deal

We are aware that such a consideration has been requested by California in allowing them to extend all certification periods past 12 months until August 22, 1997. We request a similar consideration, including a hold harmless provision for any currently participating noncitizen households receiving benefits during such a period. We also feel that the normal, mandated 120 day hold harmless period should be extended accordingly.

I will be happy to discuss any questions you might have at your convenience. I can be reached at 217-782-1200.

Sincerely,

Robert W. Wright

Robert W. Wright
Director

really -

Glickman

Q + A's - by states - to RO's
Ellen

Macias - IG

Bill Ludwig
Admin

Dep Admin

other Admin

FS quote

Assoc Dep
Bonnie O'Neil

Art Foley
Progr Dev
(Leg, cert)
Waivers

Abigail Nichols
Progr Activity
audits

Tim Connor
Benefit Ref
- EBT
- reporter

Office of Analysts
Mike Fitchman
Steve Carlson -

(Stacey)

Don't meet strict ~~Q~~ def in law

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Operational