CALFRESH (CF) PROGRAM
REQUEST FOR POLICY/REGULATION INTERPRETATION

INSTRUCTIONS: Complete items 1 - 10 on the form. Use a separate form for each policy interpretation request. If additional space is needed, please use the second page. Be sure to identify the additional discussion with the appropriate number and heading. Retain a copy of the CF 24 for your records.

- Questions from counties, including county Quality Control, must be submitted by the county CalFresh Coordinator and may be submitted directly to the CalFresh Policy analyst assigned responsibility for the county, with a copy directed to the appropriate CalFresh Policy unit manager.
- Questions from Administrative Law Judges may be submitted directly to the CalFresh Policy analyst assigned responsibility to the county where the hearing took place, with a copy of the form directed to the appropriate CalFresh Bureau unit manager.

1. RESPONSE NEEDED DUE TO:
   - [x] Policy/Regulation Interpretation
   - [ ] QC
   - [ ] Fair Hearing
   - [ ] Other:

5. DATE OF REQUEST: 10/15/15
   NEED RESPONSE BY: 10/31/15

6. COUNTY/ORGANIZATION: County of San Bernardino

7. SUBJECT: Sponsored Noncitizen Opting-Out

2. REQUESTOR NAME:

3. PHONE NO.:

4. REGULATION CITE(S): 63-300.5 (e) (2), 63-402.14, 63-405, 63-503.442

8. REFERENCES: *(Include ACL/ACIN, court cases, etc. in references)*
   NOTE: All requests must have a regulation cite(s) and/or a reference(s).
   CFRs: 273.2(f)(1(ii), 273.1, 273.4, 273.11(c)
   ACL 11-06, 11-06E, ACINs: I-41-11, I-41-11E, I-97-01, I-97-01E, I-79-03, I-09-04

9. QUESTION: (INCLUDE SCENARIO IF NEEDED FOR CLARITY):

Situation: Sponsored noncitizen applies for CalFresh for herself and children and she wishes to be included in the household. the noncitizen has 40 qualifying work quarters and is approved for CalFresh. One year later, at the recertification, the Eligibility Worker (EW) asks the noncitizen if she wishes to opt-out of the application process or continue to be included in the household. The customer decides to opt-out of the application process.

Questions: 1. Should the noncitizen have been given the opportunity to opt-out of the application process at the recertification? 2. Is there any difference in opting out when the noncitizen is exempt from sponsorship rules due to indigency? Or the customer has obtained 40 qualifying work quarters and is no longer subject to deeming rules?

10. REQUESTOR'S PROPOSED ANSWER:

1. Per ACL 11-06, "Opting out must be done before an eligibility determination has been made on the application." Since the recertification is considered an application for assistance, than yes, the noncitizen should be allowed the opportunity to opt-out of the application process at recertification.
2. Per ACIN I-102-10, page 18, Deeming - Deeming continues until the sponsored noncitizen can be credited with 40 qualifying quarters of work. Since the noncitizen in this household has already be credited with the 40 quarters, she is no longer subject to deeming. Since she is no longer subject to deeming why would she opt out? If she has income, opting out would make her a undocumented individual and her income would be prorated to the household. If she does not opt, her income is not prorated. The noncitizen who is no longer subjected to deeming should not be given the option to opt-out of the application process.

11. STATE POLICY RESPONSE *(CFPB USE ONLY)*:

• In the above situation, no the noncitizen should have not been given the opportunity to opt-out of the application process at the recertification because only individuals eligible to opt out of the application process are non-citizens per 7 CFR 273.2 (f)(1)(ii) , "a non-citizen who does not have a verified immigration status is not eligible for SNAP. However, counties must give a household the option to either withdraw its application or to apply only for those persons who choose to verify their immigration or citizenship status. Counties cannot deny benefits to otherwise eligible household members because other members have chosen not to disclose their SSN or citizenship/immigration status. Household members that opt-out are considered non-applicants and are ineligible for SNAP benefits. However, the individual's income and resources are still counted to determine eligibility for the remaining household members as set forth in 7 CFR 273.11(c). In the situation described above, the non-citizen should not have been given the option to opt out at recertification or at certification

--The response continues on page two.--

FOR CDSS USE

DATE RECEIVED:	DATE RESPONDED TO COUNTY/ALJ:
October 15, 2015	November 04.2015 sc

CALFRESH (CF) PROGRAM
REQUEST FOR POLICY/REGULATION INTERPRETATION (Continued)

1. RESPONSE NEEDED DUE TO: ☐ Policy/Regulation Interpretation ☐ QC ☐ Fair Hearing ☐ Other:	5. DATE OF REQUEST:	NEED RESPONSE BY:
	6. COUNTY/ORGANIZATION:	
	7. SUBJECT:	
2. REQUESTOR NAME:	8. REFERENCES: *(Include ACL/ACIN, court cases, etc. in references)* **NOTE: All requests must have a regulation cite(s) and/or a reference(s).**	
3. PHONE NO.:	FNS Administrative Notice 00-66, 2002 Farm Bill Final Rule	
4. REGULATION CITE(S): Refer to side one.		

because the client is a qualified, eligible non-citizen. Therefore, the household is subject to the household composition rules of 7 CFR 273.1(b)(ii) (MPP 63-402.14) where the parent and children must be in the same household.

• Is there any difference in opting out when the noncitizen is exempt from sponsorship rules due to indigency or the customer has obtained 40 qualifying work quarters and is no longer subject to deeming rules? Yes, a qualified, eligible non-citizen should not be able to opt-out.

• Does the statement on page 24 of the SNAP Non-citizen guide which states, in part, "the September 21, 2000 Joint Guidance provides that a noncitizen may be treated as a non-applicant early in the application process" apply to a recertification application where the parent has attained 40 quarters (qualified and eligible) and wishes to opt out thereby causing only a prorated portion of the income to count?

Response, no, the statement applies only to ineligible non-citizens. Qualified non-citizens with 40 quarters of coverage are eligible for SNAP. Also, the statement from the Non-Citizen guide is meant to provide program access to citizen children and other household members if there was concern of the immigration status of some members of the household. If the entire household has already gone through the application process with no concern about the SSN or immigration status, why would it be an issue at recertification?

Note: the Federal Regulations are the most up to date. The MPPs require updating.