

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



July 10, 1992

ALL COUNTY INFORMATION
NOTICE NO. I-32-92

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order or Settlement Agreement
- Clarification Requested by One or More Counties
- Initiated by SDSS

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: EXPIRATION OF 5-YEAR MORATORIUM ON FEDERALLY FINANCED PUBLIC ASSISTANCE FOR IRCA (AMNESTY) ALIENS - AFDC QUESTIONS AND ANSWERS

REFERENCE: ALL COUNTY INFORMATION NOTICE NO. I-08-92
ALL COUNTY LETTER NO. 91-68

This letter provides answers to questions on implementing the AFDC portion of All County Information Notice (ACIN) No. I-08-92, which was issued February 19, 1992. That letter reminded counties that the 5-year moratorium on federally financed public assistance for IRCA (amnesty) aliens would begin expiring on May 5, 1992. It instructed counties to identify affected aliens who are members of AFDC filing units and to evaluate their eligibility for AFDC just prior to the expiration of their own individual 5-year periods.

IN SOME COUNTIES, IDENTIFYING THESE INDIVIDUALS IMMEDIATELY COULD INVOLVE A COSTLY AND TIME CONSUMING SEARCH OF ALL CASE FILES. IS IT PERMISSIBLE TO IDENTIFY THESE INDIVIDUALS AT SOME TIME NO LATER THAN THE NEXT ANNUAL REDETERMINATION?

Yes. As was stated in ACIN I-08-92, the mandatory inclusion rule (MPP 82-820.3) requires that the eligible family member be aided immediately upon becoming eligible. We recognize that some of these eligible aliens will identify themselves and will request aid.

We are also aware that counties have methods, short of a full case record search, of identifying many of these potentially eligible persons. Among these methods is an

outreach effort to encourage these persons to self-identify. This could include the mailing of a stuffer enclosed with aided families' aid warrants. A stuffer which can be used for this purpose is attached.

It is possible that, given an effective combination of available methods, a full search of all case files would not be an appropriate use of resources. We believe that appropriate methods could meet the need if combined with a review of all cases at the earliest redetermination, so as to assure that all target aliens are identified no later than that time.

IF A TARGETED ALIEN IS IDENTIFIED AT SOME TIME AFTER HIS/HER 5-YEAR PERIOD ENDS, AND HE/SHE IS DETERMINED TO BE ELIGIBLE, WHEN DOES AID BEGIN?

Normal beginning date of aid rules apply. Aid is to begin at the earliest time that the person meets all eligibility conditions. In the situation described, this would likely result in a corrective underpayment.

DOES THE 5-YEAR RULE APPLY TO ANY ALIENS OTHER THAN THE IRCA (AMNESTY) ALIENS?

Yes. Section 301, Family Unity, of the Immigration Act of 1990 provided a means for the eligible (as defined in the law) spouse and minor children of an IRCA alien (who are not IRCA aliens themselves) to remain in the United States legally on a temporary basis. Section 301 states that such persons allowed to remain by virtue of their relation to a legalized alien "shall be ineligible for public welfare assistance in the same manner and for the same period as the legalized alien is ineligible for such assistance under section 245A(h) or 210(f), respectively, of the Immigration and Nationality Act."

HOW ARE THESE FAMILY UNITY PERSONS ELIGIBLE FOR AFDC?

The Immigration Act of 1990 makes it possible to grant a "temporary stay of deportation." When a temporary stay of deportation is granted by the United States Immigration and Naturalization Service (INS), the alien meets the AFDC alien eligibility requirement stated in Manual of Policies and Procedures (MPP) Section 42-431.22, permanently residing under color of law (PRUCOL).

WHAT DOCUMENTATION WILL THESE FAMILY UNITY PERSONS HAVE FOR VERIFYING ELIGIBLE STATUS?

We understand that the primary document used as verification of eligible status is INS Form I-797. This is an INS Notice of Action. The example that we have seen approves "APPLICATION FOR VOLUNTARY DEPARTURE UNDER FAMILY UNITY PROGRAM." The alien is instructed to present the original of this document whenever required to demonstrate immigration status.

"Voluntary Departure" or "Stay of Deportation" when granted for a period of 1 year or more meets the PRUCOL requirement of AFDC alien eligibility regulations (MPP 42-431.223 and .224). We understand that under the Family Unity Program such status is normally granted for a 2 year period.

ARE THESE FAMILY UNITY PERSONS TO BE LOCATED AND EVALUATED FOR AFDC ELIGIBILITY IN THE SAME TIME PERIOD AND IN THE SAME MANNER AS THE IRCA ALIENS MENTIONED ABOVE?

Yes, if they are also living with an aided family and are members of the Filing Unit.

COUNTIES ARE SEEING APPLICANTS WITH INS I-551 PERMANENT RESIDENT CARDS CODED LB1, SPOUSE OF AN IRCA ALIEN, AND LB2, CHILD OF AN IRCA ALIEN. ARE THESE PERSONS SUBJECT TO THE 5-YEAR RULE?

No. INS has informed us that these relatives are NOT subject to the 5-year rule. The I-551 identifies the person as a permanent resident of the United States. This meets the alien eligibility requirement for AFDC (MPP 42-431.21).

Codes LB1 and LB2 are for "new arrivals." You may also see codes LB6 and LB7. Codes LB6 and LB7 indicate that the holder is being "adjusted" to permanent resident status. LB6 is for the spouse of an IRCA alien, and LB7 is for the child of an IRCA alien. Persons with these codes are also not subject to the 5- year rule.

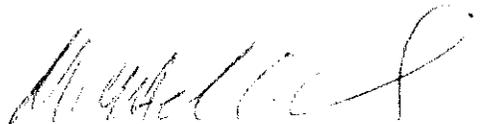
HOW DOES THE SEARCH FOR THE IRCA ALIEN FILING UNIT MEMBERS RELATE TO THE SEARCH REQUIRED IN THE CEJA v. CARLSON COURT CASE?

Some of the aliens targeted for identification in this letter (IRCA alien filing unit members whose 5-year periods of ineligibility are expiring) are the same persons who will have to be identified as a result of the court case. Under the court case settlement agreement, counties must identify IRCA aliens with income who have been excluded from an assistance unit.

To avoid duplication of effort, each county may want to coordinate its efforts at identifying these two similar populations. With regard to timing, efforts to locate aliens targeted in this letter will to some extent precede efforts to locate aliens under the court case. When an IRCA alien with income is first located, it is recommended that the county capture this information in a way that can be used when the county seeks to locate aliens covered by the court case.

For more information on the court case, refer to ACL 91-68 dated July 18, 1991. We will issue a letter within the next 6 months on the implementation of the court case settlement agreement.

If you have further questions relating to the end of the 5-year moratorium, please contact John Honeycutt of the AFDC Policy Implementation Bureau at (916) 654-1077 or CALNET 464-1077. For questions relating to the court case, please contact Vincent Toolan of the same bureau at (916) 654-1808 or CALNET 464-1808.



MICHAEL C. GENEST
Deputy Director
Welfare Program Division

Attachment

ATTACHMENT

IS THERE AN AMNESTY ALIEN
FAMILY MEMBER LIVING IN YOUR HOME?

UNAIDED ALIEN FAMILY MEMBERS LIVING WITH YOU MAY NOW BE ELIGIBLE FOR AFDC AND OTHER AID. The 5-year limit on aid to amnesty aliens has ended for some amnesty aliens and will soon end for others. This change is also for an amnesty alien's spouse and minor children allowed to stay in the United States under the Family Unity Program.

If you believe this may apply to your family, please contact your worker right away.