

**SHD Paraphrased Regulations - CalFresh**  
**230 Citizenship-Aliens-Residency**

230-1

A noncitizen is ineligible for CalFresh until acceptable documentation is provided unless:

- (A) The county welfare department (CWD) has submitted a copy of a document provided by the household to INS for verification. Pending such verification, the CWD cannot delay, deny, reduce or terminate the individual's benefits on the basis of the individual's immigration status; or
- (B) The applicant or CWD has submitted a request to a federal agency for verification of information that bears on the individual's eligible noncitizen's status. The CWD shall certify the individual pending the results of the investigation for up to six months from the date of the original request for verification.

(§63-300.5(e)(2)(D) effective February 21, 2002)

230-2

The county welfare department (CWD) shall provide noncitizen applicants with a reasonable opportunity to submit acceptable documentation of their noncitizen status by the 30th day following the date of application. A reasonable opportunity must be at least 10 days from the date of the CWD's request for an acceptable document. When the noncitizen applicant is not provided with a reasonable opportunity by the 30th day following the date of application, the CWD must provide the household with benefits no later than 30 days following the date of application, provided the household is otherwise eligible. (§63-300.5(e)(2)(E) effective February 21, 2002)

231-1

When a household's statement is questionable that one or more of its members are United States citizens, the household shall be asked to provide acceptable verification. Acceptable forms of verification include birth certificates, religious records, certificates of citizenship or naturalization provided by the Immigration and Naturalization Service or United States passports. (§63-300.5(g) effective February 21, 2002)

231-2

Participation in the CalFresh Program is limited to individuals who are either United States (U.S.) citizens or eligible noncitizens.

For the purpose of qualifying as a U.S. citizen, the U.S. is defined as the 50 states and the District of Columbia, Puerto Rico, Guam, and the Virgin Islands. Additionally, citizens of American Samoa, Swain's Island and the Northern Mariana Islands who reside in the U.S. shall be considered to have met the citizenship eligibility requirements.

(§63-405, effective November 1, 1998)

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232-1 REVISED 12/04

A noncitizen who is a lawful resident of the U.S. and meets any of the following requirements is eligible for participation in the federal CalFresh program:

Section 63-405.11 qualified noncitizen and §63-405.12 Indefinite Eligibility OR

Section 63-405.2 Indefinite Eligibility

A "qualified noncitizen" is a person who is:

- .111 Lawfully admitted to the U.S. for permanent residence under the Immigration and Nationality Act (INA),
- .112 A refugee under §207 of the INA,
- .113 An asylee under §208 of the INA,
- .114 A noncitizen who had deportation withheld under §243(h) of the INA (before April 1, 1997) or under §241(b)(3) of the INA on or after April 1, 1997,
- .115 A Cuban or Haitian entrant as defined in §501(e) of the Refugee Education Assistance Act of 1980.
- .116 A conditional entrant under §203(a)(7) of the INA as in effect prior to April 1, 1980.
- .117 A parolee under §212(d)(5) of the INA for at least one year.
- .118 A battered spouse and/or unmarried dependent child and/or child of a battered parent, per Handbook §63-405.5.

Indefinite CalFresh Eligibility Criteria:

- .121 A person who can be credited with 40 qualifying quarters of coverage, per §63-405.4.
- .122 A veteran, his/her spouse, the unmarried dependent child of the veteran, or the unmarried surviving spouse of a veteran, per §63-405.3.
- .123 A person under 18 years of age regardless of the date of entry into the U.S.
- .124 A person who was lawfully residing in the U.S. on August 22, 1996 and who is disabled or blind but not receiving SSI.
- .125 A person who was lawfully in the U.S. on August 22, 1996 and was 65 years or older at that time.
- .126 A person who lawfully resided in the U.S. for five years beginning on the date of entry.

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- .2 The following noncitizens are eligible for CalFresh benefits for an indefinite period even if they are not qualified noncitizens specified in §63-405.11

Any individual who is lawfully residing in the United States, who was a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to United States personnel [emphasis added] by taking part in a military or rescue operation during the Vietnam era (as defined in Title 38, United States Code (USC) §101); as well as the spouse or unmarried dependent children of such person, or the unremarried surviving spouse of such deceased person; or

Any member of an Indian tribe (as defined in §4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) who is recognized as eligible for special programs and services provided to U.S. to Indians because of their status as Indians; or

An American Indian born in Canada to whom the provisions of §289 of the INA (8. U.S.C. 1359) apply.

(§63-405.1, .11, .12 and .2 effective October 1, 2003)

232-2A

Federal law (the Agricultural Research, Extension and Education and Reform Act of 1998, or AREERA) was signed into law on June 23, 1998. It restored federal CalFresh eligibility for certain noncitizens who were no longer CalFresh eligible under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, or PRWORA. PRWORA was modified by the Food Stamp Reauthorization Act of 2002.

Qualified citizens (as defined in §431 of PRWORA) who meet one of the following criteria may be eligible for the federal CalFresh program effective November 1, 1998.

- o Blind or disabled noncitizens who were legally residing in the U.S. on August 22, 1996. Effective October 1, 2002, the date of legal residence for these noncitizens is irrelevant.
- o Elderly (i.e., at least 65 years of age by August 22, 1996) noncitizens who were legally residing in the U.S. on August 22, 1996.
- o Children under 18 years of age who were legally residing in the U.S. on August 22, 1996. Effective October 1, 2003, the date of legal residence is irrelevant.
- o Refugees, asylees, Cuban/Haitian entrants, persons whose deportation is withheld, and Amerasians, for seven years after entry into the U.S.

In addition, the following noncitizens are potentially eligible for federal CalFresh benefits for an indefinite period of time, even if they are not qualified noncitizens.

- o Hmong or Highland Laotian tribal members who aided U.S. personnel during the Vietnam War if they are lawfully residing in the U.S., and their spouses, widows and unmarried dependent children.

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- o Cross-border Native Americans.

Effective April 1, 2003, legal noncitizens who have been in the U.S. For five or more years are potentially eligible for federal CalFresh. (All-County Letter (ACL) No. 98-76, September 25, 1998, implementing Public Law (PL) 105-185, June 23, 1998; All-County Information Notice I-56-02, July 25, 2002, implementing the Food Stamp Reauthorization Act of 2002)

232-2B

Federal CalFresh benefits are restored to three categories of legal non-citizens over a three-step phase-in process.

On October 1, 2002, Public Law (P.L.) 107-171 §4401 (a)(i) restores legal noncitizens who are disabled to federal benefits regardless of date of entry into the United States.

The definition of “disability” under The Food Stamp Reauthorization Act of 2002 is blind or disabled (as defined in paragraph (2) or (3) of §1614(a) of the Social Security Act (42 United States Code (USC) §1382c(a)). The Food and Nutrition Service (FNS) issued Administrative Notice 02-39 stating that this means “receives blind or disability benefits”. The FNS further states that the benefit program must use the same disability criteria as the Supplemental Security Income (SSI) program (See §§63-102e(1)(B) through (K). Note that CAPI meets this criteria.

The definition of disability for Legal non-citizens is more stringent than disability requirements for resource limits or exemptions from work registration requirements. §63-405.134 previously required a physician’s statement as verification of disability for qualified noncitizens. Although the regulations regarding noncitizens residing in the U.S. prior to August 22, 1996 have not changed, federal guidance regarding the restoration of noncitizens who arrived in the country on or after August 22, 1996 makes it clear that receipt of benefits is required rather than a physician’s statement.

The resource limit for households with a disabled member is raised from \$2,000 to \$3,000 to match that of households with an elderly member. The definition of disabled is different from that discussed in partial restoration of noncitizens. (See §§63-102(e)(1)(B) through (K)).

(All-County Letter No. 02-67, September 3, 2002, implementing PL 107-171, §§4401(a)(i) and 4107)

232-2C

Federal law provides that:

Any individual who is lawfully residing in the United States, who was a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to United States personnel [emphasis added] by taking part in a military or rescue operation during the Vietnam era (as defined in Title 38, United States Code (USC) §101); as well as the spouse or unmarried dependent children of such person, or the unmarried surviving spouse of such deceased person; meets alien residency requirements for participation in the CalFresh

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Program. (8 USC §1602(a)(2)(K), §402(a)(2) of the PRWORA of 1996; §63-405.211, February 1, 1999, to be effective November 1, 1998, per §63-031.2)

232-4

The legal resident alien can meet the 40 calendar quarters of qualifying employment by using his/her own quarters. The alien may also combine his/her own quarters with the quarters of a spouse (for work performed during their marriage, as long as the spouses remain married to each other, or one spouse is deceased), or by combining the quarters from his/her own employment, the spouse's employment and the employment of a parent (for work performed while the alien was under the age of 18, including when the alien was unborn). After January 1, 1997, quarters are not counted if the individual received any federal [emphasis added] means-tested public benefits. (§63-405.112(e), changed to §63-405.4, March 2, 2000)

The CDSS has issued detailed regulations describing how the rule, paraphrased above, should be implemented by the counties. The counties are instructed to ask the following:

- "411 How long has the applicant noncitizen, and if necessary, the applicant noncitizen's parents (up through the quarter the applicant turned 18, including credits earned before the child was born) and/or spouse (for work performed during their marriage and the noncitizen remains married to such spouse or such spouse is deceased) lived in the United States? If the period of time is more than 10 years, it is not necessary to ask question B (Section 63-405.412). Skip to question C (Section 63-405.413). However, if the period of time is less than 10 years, question B (Section 63-405.412) shall be asked.
- "412 Did the applicant noncitizen, the applicant noncitizen's parents (up through the quarter the applicant turned 18, including credits earned before the child was born) and/or spouse (for work performed during their marriage and the noncitizen remains married to such spouse or such spouse is deceased) ever perform work for a United States business or the U.S. government, while not residing in the United States? If so, for how many calendar quarters or years? If an applicant noncitizen neither lived in the U.S. at least 10 years, or worked for a United States business or the U.S. government while living in another country; or if the combination of years lived in the United States and worked for a United States business or the U.S. government while living in another country totals less than 10 years, then the applicant noncitizen shall be denied CalFresh benefits. If the total is at least 10 years, then question C (Section 63-405.413) shall be asked.
- "413 In how many of the years reported in answer to question A (Section 63-405.411) did the applicant noncitizen, the applicant noncitizen's parents (up through the quarter the applicant turned 18, including credits earned before the child was born) and/or spouse (for work performed during their marriage and the noncitizen remains married to such spouse or such spouse is deceased) earn money through work? If the answer is at least 10 years, or if the answer combined with the answer to question B (Section 63-405.412) is at least 10 years, then the earnings of the noncitizen whose eligibility is in question shall be verified before eligibility is established, except as specified in Section 63-405.112(g)(2). If the total is less than 10 years, then the applicant noncitizen shall be denied CalFresh benefits."

(§63-405.4, effective March 2, 2000)

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232-4A REVISED 10/04

In determining whether legal immigrants who are not U.S. citizens have met the 40-qualifying quarter work history exception, the following policies apply:

1. The term "quarter" means three calendar months ending with March 31, June 30, September 30, and December 31 of any year.
2. For 1978 and later, "credits" are based solely on the total yearly amount of earnings. "Credits" were formerly called "quarters of coverage".

A current year quarter may be used. Use the current year amount to determine the number of quarters, but do not credit calendar quarters that have not ended.

3. Prior to 1978, one credit was earned for each quarter in which an individual was paid \$50 or more; four credits were earned for each year net earnings from self-employment were \$400; one credit was earned for each \$100 in agricultural wages paid in each year from 1955 through 1977, limited to four credits in any year.

(All-County Letter (ACL) No. 96-68, December 11, 1996, Attachment 1; ACL No. 97-78, December 15, 1997; ACL No. 98-91, December 3, 1998; Handbook §63-405.112(e)(2)(A), revised to Handbook §63-405.43)

232-4B

A legal noncitizen may be credited with a quarter of coverage, in order to meet the 40 credit requirement, even if Social Security taxes were not withheld from the individual's wages. However, satisfactory evidence of such earnings must be presented. Acceptable documentation includes the taxpayer's copy of the W-2 or W-2c forms, or a copy of the individual's federal or state income tax return (with attached W-2 or W-2c), or employer-prepared wage statements. (All-County Information Notice No. I-07-98, February 3, 1998)

232-4C

Legal resident, noncitizen applicants who are spouses can meet the 40 work quarter requirement by combining qualifying quarters. (All-County Information Notice No. I-62-96, December 9, 1996; §63-405.4 as revised February 1, 1999)

232-4D

For purposes of meeting the 40-credit requirement for legal aliens eligibility, a child (of any age) can use the quarters which are attributable to the child's parent prior to the time the child turned 18, including those earned prior to the child's birth. (All-County Information Notice No. I-57-97, September 10, 1997, §63-405.4, as revised February 1, 1999)

232-5

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Cuban/Haitian entrants (as defined in §501(e) of the Refugee Education Assistance Act of 1980) and Amerasian immigrants (admitted pursuant to §584 of Public Law 202, as amended by Public Law 100-461), are eligible aliens for purposes of the CalFresh program for seven (formerly five) years from the date of receiving such status. After the seven-year period has expired, these individuals must possess 40 credits of Social Security benefits, or veteran status, to be eligible for CalFresh benefits. (Public Law (PL) 105-33, §§5302 and 5306; All-County Information Notice No. I-07-98, February 3, 1998, as amended by PL 105-185, June 23, 1998 and All-County Letter (ACL) No. 98-76, September 25, 1998; §63-405.124, .125, effective November 1, 1998, per §63-031.2, revised effective June 1, 2001)

232-6

Individuals who served in the Philippine Commonwealth Army during World War II, or as Philippine Scouts following that war, are considered "veterans" for purposes of §63-405.112(d) now §63-405.3. They are, therefore, potentially eligible for CalFresh benefits as legal aliens who meet alien eligibility requirements. (Public Law 105-33; All-County Information Notice No. I-07-98, February 3, 1998; §63-405.3, effective November 1, 1998)

232-7A

The following noncitizens whether "qualified" or not, are potentially eligible for CalFresh:

- .21 A member of a Hmong or Highland Laotian tribe at the time the tribe rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era, and the spouse or unmarried dependent child or the unmarried surviving spouse of such deceased tribal member, as long as lawfully residing in the U.S. Under Subsection .212(a), a child means the legally adopted or biological child of the above described Hmong or Highland Laotian. An unmarried dependent "child" is under the age of 18, or a full-time student under the age of 22, or certain other children of deceased tribe members, or certain disabled children over age 18. (Subsection .212(d))
- .22 A member of an Indian tribe (under §4(e) of the Indian Self-Determination and Education Assistance Act), including Native Americans who are entitled to cross the border into Mexico or Canada; and an American Indian born in Canada to whom the provisions of §289 of the Immigration and Naturalization Act (8 United States Code §1359) apply.

(§63-405.2, issued February 1, 1999 to be effective November 1, 1998 per §63-031.2, and revised March 2, 2000, retroactive to November 1, 1998 per §63-032.3; definition of child and unmarried dependent child added effective June 1, 2001)

232-8

It is the CDSS position, based on federal instruction, that noncitizen children of naturalized citizens are ineligible for federal CalFresh benefits until a certificate of naturalization is issued. It is also the CDSS position that such children, when under 18 or over 65 years of age, should be

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provided with CalFresh benefits under the California Food Assistance Program. (All-County Information Notice No. I-07-98, February 3, 1998)

232-8A

Federal law provides that a child born outside of the United States of alien parents becomes a citizen of the United States upon the naturalization of both parents. (8 United States Code (USC) §1432(a)(1))

232-9

In determining the number of Social Security credits earned in a year (beginning in 1997) when the individual earning those credits also received federally [emphasis added] means-tested benefits, add all the earned credits and then subtract credits during those quarters in which the means-tested benefits were received. Thus, as of calendar year 1998, if the individual earned \$5000 in July 1997 (which equals four credits) and also received means-tested benefits in September 1997, the individual would be entitled to three (four minus one) credits. (All-County Information Notice No. I-07-98, February 3, 1998)

232-10

The Two Parent Family CalWORKs program and CFAP are state programs, are not considered "federally means tested", and thus any Social Security credits earned while in receipt of those benefits are counted in determining federal CalFresh eligibility for purposes of meeting the 40-quarter qualifying employment standard for certain legal nonresidents. (§63-405.4; All-County Information Notice No. I-13-01, February 15, 2001)

232-11

It is not necessary, in all instances, to obtain a Consent for Release of Information form in order to access Quarters of Coverage Information from the Social Security Administration (SSA). The Balanced Budget Act, Public Law No. 105-33, provided authority for the SSA to release work information to another public agency without a signed consent form. (All-County Information Notice No. I-07-98, February 3, 1998)

233-1

The CDSS issued emergency CalFresh regulations which provided as follows:

"A portion of the income and the resources of a sponsor and the sponsor's spouse if he or she has executed INS form I-864 or I-864A, shall be deemed to be the unearned income and resources of a sponsored noncitizen and shall be considered in determining the eligibility and/or benefit level of the household of which the sponsored noncitizen is a member.

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".491 The sponsored noncitizen is subject to the sponsorship provisions until the sponsored noncitizen:

- "(a) achieves United States citizenship through naturalization; or
- "(b) has 40 qualifying quarters as specified in Section 63-405.4; or
- "(c) is no longer a noncitizen lawfully admitted for permanent residence and leaves the United States; or
- "(d) dies.

"(1) The sponsor's support obligation also terminates when the sponsor dies."

(§63-503.49, effective June 1, 2001)

233-2

Some sponsored noncitizens (as defined in §63-102(s)(8)) are exempt from CalFresh sponsorship provisions. These are:

- (a) A noncitizen who is participating in the CalFresh Program as a member of his/her sponsor's household or a noncitizen whose sponsor is participating separate and apart from the noncitizen.
- (b) A noncitizen who is sponsored by an organization or group.
- (c) A noncitizen who is not required to have a sponsor under the Immigration and Nationality Act.
- (d) An indigent noncitizen as determined to have income (as set forth in §§63-102(l)(11) and 63-503.492(d)) that does not exceed 130% of the poverty guideline for the household size.
  - (1) For a 12-month period beginning on the date a noncitizen is determined to be indigent, only the actual amount of income or resources provided to the noncitizen by the sponsor shall be treated as income to the noncitizen. This 12-month period is renewable.
- (e) Certain battered noncitizens, as specified in §63-405.5.

(§63-503.492, effective June 1, 2001, and revised effective March 1, 2002)

233-2A REVISED 10/04

While the County Welfare Department (CWD) is awaiting receipt or verification from the alien of the information necessary to carry out the provisions of §63-503.49, the sponsored alien shall be

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ineligible to participate until all necessary facts are obtained. (§63-503.494(a), revised and renumbered effective February 21, 2002)

233-2B

Federal regulations exclude indigent aliens (called noncitizens in State regulations) from sponsored alien provisions in the CalFresh program using the following criteria:

"An indigent alien that the State agency has determined is unable to obtain food and shelter taking into account the alien's own income plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor(s). For purposes of this paragraph (c)(3)(iv), the phrase 'is unable to obtain food and shelter' means that the sum of the eligible sponsored alien's household's own income, the cash contributions of the sponsor and others, and the value of any in-kind assistance the sponsor and others provide, does not exceed 130 percent of the poverty income guideline for the household's size. The State agency must determine the amount of income and other assistance provided in the month of application. If the alien is indigent, the only amount that the State agency must deem to such an alien will be the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date. Each indigence determination is renewable for additional 12-month periods."

(7 Code of Federal Regulations §273.4(c)(3)(iv), effective January 20, 2001, to be implemented by June 1, 2001)

233-2C ADDED

4/11

Effective January 2011, an adult sponsored noncitizen is entitled to self-declare that he or she is indigent, in which case a determination of deemed income from the sponsor and verification of the sponsor's income cannot be required by the county. After the indigence determination is made, the normal CalFresh Program budgeting process can begin where CWDs verify and count actual income received by the sponsored noncitizen. If the indigent adult sponsored noncitizen declares receipt of income from a sponsor or any other source, only the amount of income actually received is considered to be the income of the sponsored noncitizen. If the sponsored noncitizen is unable to obtain verification from the sponsor, the CWD must accept other verification, including a written statement from the sponsored noncitizen. Indigent households with noncitizen adults are not denied or terminated if the sponsor does not provide income verification if the noncitizen otherwise verifies receipt of the income. Once a determination of indigence has been made, the noncitizen must be considered indigent for 12 months from the date of eligibility, regardless of any secondary information that may be obtained from the Systematic Alien Verification for Entitlements (SAVE) system on the sponsor during this time. Indigence is an exception to sponsor deeming and is renewable for additional 12-month periods.

All County Letter 11-06 January 12, 2011

233-3

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A "sponsor" is a person who executed an affidavit of support or similar agreement with INS, on behalf of a noncitizen as a condition of the noncitizen's entry or admission into the United States. (§63-102(s)(7), as amended effective June 1, 2001)

233-4

A "sponsored noncitizen" is a noncitizen "for whom a sponsor has executed an Affidavit of Support (INS Form I-864 or I-864-A) on behalf of the noncitizen, pursuant to Section 213A of the Immigration and Nationality Act." (§63-102(s)(8), as amended effective June 1, 2001)

233-4A

Prior to June 1, 2001, the county was required to obtain information from the sponsored noncitizen as to the income and resources of the sponsor and the sponsor's spouse in order to determine the deemed income and resources of the noncitizen's sponsor. Effective June 1, 2001 the regulations were revised to delete the requirement to obtain information as to the income and resources of the sponsor's spouse. (§§63-300.5(e)(8), renumbered to §63-300.5(e)(8) effective February 21, 2002, and 63-405.72)

233-5

While the county is awaiting receipt and/or verification of information from the sponsored noncitizen, and this information is necessary to carry out the provisions of §63-503.49, the sponsored noncitizen shall be ineligible for CalFresh benefits. (§63-503.494(a), effective June 1, 2001)

233-6

The unearned income deemed available to the sponsored noncitizen is determined by adding the total earned income (less as 20% deduction) and unearned income of the sponsor and the sponsor's spouse (if the spouse has also executed an I-864 or I-864A) at the time the sponsor noncitizen's household applies or is recertified. There is also a deduction equal to the gross CalFresh monthly income eligibility limit for a household equal in size to that of the sponsor, the sponsor's spouse, and any person who could be claimed as a dependent by either spouse. (§63-503.493(a)(1)(A), as revised and renumbered effective June 1, 2001)

233-7

"Resources of the sponsor and sponsor's spouse as determined by Section 63-501 deemed to be that of the noncitizen shall be the total amount of their resources reduced by \$1500." (§63-503.493(b)(1), as revised effective June 1, 2001)

233-8

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When an CalFresh household contains a member(s) who is excluded because of ineligible noncitizen status, the eligibility and benefit level of any included household member(s) shall include consideration of: "...a pro rata share of the ineligible noncitizen's income and deductible expenses and all of the ineligible noncitizens' resources." (§63-503.443, as added effective June 1, 2001)

233-9

In the "Verification" regulations, the sponsored noncitizen is required to provide information in accord with §63-405.7 except as specified in §§63-301.71 and .822.

The state regulation goes on to say: "The deeming rules apply only to sponsored noncitizens whose sponsors have signed an Affidavit of Support INS Form I-864 and I-864A."

(§63-300.55(h), effective June 1, 2001, revised and renumbered to §63-300.5(e)(8), effective February 21, 2002)

233-10

Federal regulations provide that in terms of deeming a sponsor's income and resources, "only in the event a sponsored alien is an eligible alien in accordance with paragraph (a) of this section will the State agency consider available to the household the income and resources of the sponsor and spouse." This means that if the sponsored alien is ineligible for CalFresh benefits, one can count only the alien's (not the sponsor's) income and resources when deeming to the alien's CalFresh eligible family members. (7 Code of Federal Regulations §273.4(c)(2))

233-11 ADDED

4/11

Effective January 2011, an adult sponsored noncitizen is entitled to self-declare that he or she is indigent, in which case a determination of deemed income from the sponsor and verification of the sponsor's income cannot be required by the county. After the indigence determination is made, the normal CalFresh Program budgeting process can begin where CWDs verify and count actual income received by the sponsored noncitizen. If the indigent adult sponsored noncitizen declares receipt of income from a sponsor or any other source, only the amount of income actually received is considered to be the income of the sponsored noncitizen. If the sponsored noncitizen is unable to obtain verification from the sponsor, the CWD must accept other verification, including a written statement from the sponsored noncitizen. Indigent households with noncitizen adults are not denied or terminated if the sponsor does not provide income verification if the noncitizen otherwise verifies receipt of the income. Once a determination of indigence has been made, the noncitizen must be considered indigent for 12 months from the date of eligibility, regardless of any secondary information that may be obtained from the Systematic Alien Verification for Entitlements (SAVE) system on the sponsor during this time. Indigence is an exception to sponsor deeming and is renewable for additional 12-month periods.

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All County Letter 11-06 January 12, 2011

233-11A ADDED 9/08

A Legal Permanent Resident-sponsored noncitizen who does not provide information regarding their sponsor's income or resources cannot be determined an indigent noncitizen even if the household's income does not exceed 130% of the Federal Poverty Level (FPL) (All County Information Notice I-58-08, August 13, 2008)

234-1

A household must be living in the county in which it files an application. The county shall not interpret residency to mean domicile which is sometimes defined as a legal place of residence or principal home. The county shall not impose any durational residency requirements nor shall residency require an intent to remain permanently in the county. The county shall not require an otherwise eligible household to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility. (§63-401)

234-1A ADDED  
12/15

A household shall live in the State in which it files an application for participation. The State agency may also require a household to file an application for participation in a specified project area within the State. The State agency shall not impose any durational residency requirements. The State agency shall not require an otherwise eligible household to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility. Nor shall residency require an intent to reside permanently in the State or in the State or project area. Persons in a project area solely for vacation purposes shall not be considered residents. (7 CFR §273.3)

234-1B ADDED  
12/15

A person who is applying for CalFresh benefits in California because they are visiting and will be staying for an extended amount of time, but states that they reside in a different state, shall not receive benefits in California due to their stated residency in the other state. They may apply in their state of residence.  
(All County Letter 15-94, November 3, 2015 )

234-1C ADDED  
12/15

Temporary absences refer to clients who are temporarily residing in another county for various reasons but intend to return to their initial county of residence. Such persons remain eligible.  
(All County Letter 15-94, November 3, 2015 )

234-2 ADDED  
12/11

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If it is discovered that a CalFresh household is purchasing food, other than in the county of residence and benefit issuance, or purchasing food out of state, the CWD cannot assume a loss of residence and immediately terminate the household or refer the household to the SIU.

The CWD must first determine if there is reliable information, such as a pattern of returned mail, attempts by the CWD to reach the household which have failed, appointments for recertification which are sent and returned, a call from another county indicating an application has been made in the other county, etc. [MPP Sections 63-401 and 63-504.266(b)], which indicates a loss of residency in the county of benefit issuance. According to MPP Section 63-401.1, a household must be living in the county in which it files an application for participation. If it is determined the household has lost residency in the county in which they last resided, the household must be discontinued for loss of residency.

Per MPP Section 63-504.266, for change reporting households, no notice is required to be sent for termination due to loss of residence when the CWD determines, based on reliable information that the household will not be residing in the county of benefit issuance. For QR households, the discontinuance, based on reliable information obtained to indicate loss of residency, can take place at the end of an issuance month as soon as adequate notice is provided to the household in accordance with MPP Section 63-509 (c).

All County Letter No. 10-01, January 29, 2010

234-2A ADDED

12/15

A discontinuance based on "whereabouts unknown" is not permitted in the CalFresh Program. Discontinuance must be based on an established loss of residency gained from reliable information which indicates a move out of the county or state. Therefore, if mail is sent to the household's address of record and is returned as "undeliverable" or "addressee unknown," the CWD cannot assume a loss of residence in the county of benefit issuance. There must be sufficient information to make a determination of eligibility. The county must attempt to contact the client by sending an RFI to the last known address. If the client does not respond to the RFI, the county must take appropriate action as described in MPP 63-300.5(a)(2).

(All County Letter 15-94, November 3, 2015 )

234-3 ADDED

7/15

County residence is not a qualification for aid under any public assistance program. (W&IC §11102)

235-1 ADDED

7/15

The Work Incentive Nutritional Supplement (WINS) program provides an additional \$10 benefit to qualifying CalFresh households. To be a WINS program eligible CalFresh household, a family must meet the following criteria:

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- Must be a household receiving CalFresh, but not receiving CalWORKs;
- Must have a child under age 18 in the home, unless there is a child under 21 meeting certain educational criteria;
- Must have at least one parent or caretaker relative that meets the Temporary Assistance for Needy Families (TANF) definition of a “work-eligible individual” (WEI) under federal regulations;
- The WEIs must be participating for a sufficient number of hours in work activities that meet federal TANF work participation hours requirements
- Provides acceptable documentation that the household met the federal work requirements for subsidized or unsubsidized employment.

All County Letter No. 13-71, September 10, 2013

**235-1A ADDED**

7/15

CalFresh households who are also receiving RCA, Kin-Gap, and/or Foster Care can be eligible to the WINS program if they meet all other WINS eligibility criteria.  
(ACIN I-27-15, p. 6.)

**235-1B ADDED**

7/15

Applicants/recipients are entitled to a state hearing on WINS eligibility. MPP 22-003.1 and MPP 22-107.1 allow claimants to request a state hearing on any CWD action they are dissatisfied with, with exceptions. WINS benefits do not meet the named exceptions.  
(ACIN I-27-15, p. 16, question 3.)

**235-2 ADDED**

7/15

All CalFresh NA approved cases should be evaluated for the Work Incentive Nutritional Supplement (WINS) program at intake, when a household reports changes, at SAR 7, and at recertification. Individuals do not have to request evaluation. (ACIN I-27-15)

**235-3 ADDED**

7/15

If actual hours of employment are not available at the time of eligibility determination for the WINS program, the CWD may use the proxy calculation of state minimum wage plus fifty cents to determine eligibility. However, if the client cannot later provide the required verification, then they would be discontinued from the WINS program.  
(ACIN I-27-15.)

**235-4 ADDED**

7/15

Even though CFAP families are not included in the TANF work participation rate, they are eligible for a WINS payment. According to federal and state laws and regulations governing the CalFresh

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Program, state-funded CFAP recipients shall be treated the same as federal CalFresh recipients; therefore, CFAP recipients have been included in the WINS program in order to mirror CalFresh participation.

(ACIN I-27-15.)

235-5 ADDED

7/15

WINS benefits must be issued to two-parent families that meet either the all-families or two-parent WPR requirements. The guidance in this Q&A supersedes the language in ACL 13-71, which refers to the all-families requirement as the “non-two parent” requirement. In order for a two-parent family to meet the “all families” requirement, one parent must individually have at least 30 hours per week with at least 20 of the 30 hours in core activities. For the “all-families” requirement, the hours of both parents cannot be combined.

(ACIN I-27-15, p. 5.)

235-6 ADDED

7/15

When new hours are updated in the Statewide Automated Welfare System (SAWS) but verification is not received yet, the CWD begins using the new hours once they are entered into the system, and then continue to review for continued eligibility. If the client cannot later provide the required verification they would be discontinued from the WINS program.

(ACIN I-27-15, p. 6.)

235-7 ADDED

7/15

If a change is made on the case after cutoff, and the WINS-eligible household now becomes ineligible for WINS but is still eligible for regular CalFresh benefits, a ten-day timely NOA is not required; only adequate notice (adequate notice does not refer to a timeline, but to the information required to be in the notice). The WINS eligibility should be discontinued and a termination notice sent. The change would become effective the month of discovery (10/2014 in this example). Even though the benefit would change after the cutoff, the removal of the WINS benefit would take effect the same month. The WINS benefit is not issued the same day as the CalFresh benefit; it is issued between the 20th and the 24th of the month. However, if the benefit was already issued (as in this example), it would not be treated as an overissuance (OI) as WINS is prospective only, and the additional payment would be forgiven.

(ACIN I-27-15, p. 7-8.)

235-8 ADDED

7/15

When there is a change in a CalFresh case making a client eligible for the WINS program, the WINS benefit should be issued in the month of discovery.

(ACIN I-27-15, p. 8, question 13.)

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235-9 ADDED

7/15

CalFresh households who receive “immediate need” or “homeless assistance” (temporary or permanent) are not eligible for the WINS program, as these payments are elements of the CalWORKs program funded by TANF.

(ACIN I-27-15, p. 8, question 15.)

235-10 ADDED

7/15

Once the family started receiving CalWORKs, their WINS benefits would be discontinued. Any WINS payment issued at the same time the household starts CalWORKs would not be considered an OI, even though the first CalWORKs payment would be issued retroactively

(ACIN I-27-15, p. 11, ACIN I-14-14)

235-10A ADDED

7/15

WINS benefits should be issued when CalWORKs is still pending, and CalFresh is approved for Expedited Service (ES) or regular benefits. As long as the household has not been approved for CalWORKs, it is still eligible for WINS. Once approved for CalWORKs the code would be changed from a WINS code to a CalWORKs code, which would cancel WINS effective that same month.

(ACIN I-27-15, p. 14.)

235-11 ADDED

7/15

To be eligible for WINS, a WEI in the household must be receiving CalFresh. An ineligible/excluded parent would not be receiving CalFresh, and therefore cannot be counted towards meeting the hours necessary to be eligible for the WINS program. If the ineligible/excluded household member is not the only WEI in the household, and all WINS criteria were met by the remaining household members, the household would still be eligible for WINS benefits (See ACL 13-71, Page Two for WINS eligibility, and MPP 63-402.22 for more information on “Excluded Household Members”. Also see ACIN I-14-14 – Page Eight, “Other Scenarios”).

(ACIN I-27-15, p. 11.)

235-12 ADDED

7/15

WINS is prospective. Due to the WINS benefit issuance date being set between the 20th and the 24th of the month, however, the payment may issue in a subsequent month. As an example, if the application was submitted on August 28, but was approved on September 5, the CalFresh benefit would be approved for both months. Because the CalFresh was approved, the WINS would also be approved. The amount of CalFresh paid would be a prorated amount for the remaining days of August and the full amount for September. However, since the WINS benefit is never prorated, the

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full ten dollars would be paid for August as well as the ten dollars for September. This is the only scenario where WINS would be paid for the prior month. In any other instance WINS would not be paid retroactively.

(ACIN I-27-15, p. 14.)

235-13 ADDED

7/15

With the exception of an Intentional Program Violation (IPV), there is no instance where a WINS benefit may be used as part of an OI recoupment.

(ACIN I-27-15, p. 16.)

235-14 ADDED

7/15

When a CalWORKs case is closed and moved to Transitional CalFresh, the most recent earnings and work hours should be used to determine WINS program eligibility.

(ACIN I-27-15, p. 18, question 1.)

The CWDs can verify work hours for Transitional CalFresh cases at any time prior to approving the household for WINS benefits. If the household cannot be contacted, the CWD may use the most recent information prior to transition to Transitional CalFresh to make the determination. However, eligibility for the WINS program must be determined to ensure that the family is in fact working and not over the 200 percent FPL. Determining income for WINS eligibility must not affect Transitional CalFresh; however, households above the 200 percent FPL do not meet the TANF definition of “needy family” and are not eligible for WINS benefits. When contacting the household to verify WINS eligibility, CWDs should ask for hours only, not income information per ACWDs released on December 5, 2014, and February 2, 2015. The CWD is not to contact the employer for verification of work hours.

(ACIN I-27-15, p. 18, question 3 and 4.)

235-15 ADDED

7/15

If a semi-annual reporting client reports, “I just had my work hours increased and I want to see if I am eligible for WINS” without providing the documentation, the report is not Verified Upon Receipt because the CWD would need to ask a second question to verify the information, in this case documentation of hours. The CWD would explain that the report could adversely affect their CalFresh benefits and suggest to them that it might be to the household’s advantage to wait until their next required report. However, if a client comes in with a paycheck and says, “I am making this amount now and I expect to be earning the same amount from now on, so I want the WINS benefit,” then it would be considered Verified Upon Receipt and the CWD must act on it (ACIN I-14-14 - See Page 8 “Mid-Period Reporting”).

(ACIN I-27-15, p. 20.)

235-16 ADDED

7/15

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For the WINS program, CWDs may project hours of employment for up to six months based on information from a single pay cycle (weekly, biweekly, semimonthly, or monthly).  
(ACIN I-27-15, p. 23.)

235-17 ADDED  
10/15

Diversion payments are not a CalWORKs/TANF aid payment; therefore, clients who receive diversion payments from the CalWORKs program are eligible for WINS for so long as they are receiving CalFresh benefits. (See Manual of Policies and Procedures (MPP) 81-215).  
(All County Information Letter (ACIN) I-27-15, April 14, 2015, p. 5.)

236-1 REVISED 9/08

Certain legal noncitizens of the United States are eligible for CFAP if they are not eligible for federal CalFresh benefits based solely on their immigration status under the Personal Responsibilities and Work Opportunity Reconciliation Act of 1996 as amended by the Food Stamp Authorization Act of 2002. Legal presence can be verified through USCIS at application, i.e., the SAVE system. Legal noncitizens whose time limit for federal CalFresh has expired but who would otherwise be eligible for federal CalFresh benefits are eligible for CFAP.

(§63-403.1 and .11 as revised effective July 1, 2008)

236-1B ADDED  
4/12

Individuals who are victims of trafficking, domestic violence, and other serious crimes who have not yet received federal certification are entitled to receive CalFresh benefits under the California Food Assistance Program (CFAP). These services shall continue until there is a final administrative denial of a visa application (Welfare and Institutions Code (W&I) 18945 and All County Letter 06-60)

236-6

A CFAP recipient who is also a CalWORKs recipient must be exempt from Welfare-to-Work (WtW) requirements (under §42-712) or comply with those requirements. (§§63-411.11, .21)

CFAP recipients who do not receive CalWORKs (including those under WTW sanction) must either be exempt from work requirements (i.e., disabled which means that the disability is expected to last at least 30 calendar days and significantly impairs the individual's ability to be regularly employed or participate in WTW activities; 60 years of age or older; under 16 years old; 16 to 18 years old attending full time a school in grade twelve or below, a vocational school, or technical school; or a migrant or seasonal farmworker receiving unemployment benefits or the county has determined that sufficient farm work is not available) or work the minimum number of hours established for

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WTW participants at §42-711.4. The work must be compensated at the lesser of the applicable state or federal minimum wage. (§§63-411.1, as revised effective March 2, 2000; All-County Information Notice No. I-01-00, January 4, 2000)

236-7

The CFAP applicant is ineligible unless exempt from, or meeting CFAP work requirements. The CFAP recipient shall lose eligibility unless exempt, or meeting CFAP work requirements. (§63-411.31)

Prior to November 1, 1999, the provisions of the FSET Program (§63-407), the ABAWD work requirement, and the Voluntary Quit regulations (§63-408) did not apply to CFAP recipients. (§63-411.33, as modified by All-County Letter No. 99-78, October 1, 1999 with October 25, 1999 errata, implementing W&IC §18930.5)

236-8

Non-CalWORKs CFAP recipients must meet the federal CalFresh requirements established for Able Bodied Adults Without Dependents (in §63-410) effective November 1, 1999. (All-County Letter No. 99-78, October 1, 1999 with October 25, 1999 errata, implementing W&IC §18930.5) Nonassistance CFAP must also meet the general CalFresh work requirements of §63-407.42-.44 (All-County Information Notice No. I-76-00, July 26, 2000)