



Ohio Administrative Code

Rule 5101:4-3-07 Food assistance: citizenship, alien status, and reporting illegal aliens.

Effective: February 1, 2021

This rule describes the nonfinancial eligibility standards used to determine citizenship and alien status of individuals applying for or receiving supplemental nutrition assistance program (SNAP) benefits. Unless an individual meets the criteria described in rule 5101:4-3-06 of the Administrative Code for victims of severe forms of trafficking, the individual must meet the requirements of this rule to receive SNAP.

(A) Who is eligible for SNAP?

(1) A United States (U.S.) citizen or non-citizen national,

The "United States" is defined as the fifty states, the District of Columbia, Puerto Rico, Guam, Northern Mariana islands, and the Virgin islands. In addition, non-citizen nationals from American Samoa or Swain's island are considered U.S. citizens for the purposes of the SNAP program.

(2) An individual who is:

(a) An American Indian who:

(i) Was born in Canada and possesses at least fifty per cent of blood of the American Indian race to whom the provisions of section 289 of the Immigration and Nationality Act of 1952 (INA), 8 U.S.C. 1359 (06/1952), apply; or

(ii) Is a member of an Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act of 1951, 25 U.S.C. 450b(e) (12/2000), that is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians.

(b) A member of the Hmong or Highland Laotian tribe who is:



- (i) An individual lawfully residing in the U.S. and who was a member of the Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era beginning August 5, 1964 and ending May 7, 1975;
 - (ii) The spouse, or surviving spouse of such Hmong or Highland Laotian described in paragraph (A)(2)(b)(i) of this rule; or
 - (iii) An unmarried dependent child, or surviving dependent child of such Hmong or Highland Laotian described in paragraph (A)(2)(b)(i) of this rule who is under the age of eighteen or a full-time student under the age of twenty-two provided the child was dependent upon him or her at the time of his or her death; or an unmarried disabled child age eighteen or older if the child was disabled and dependent on the person prior to the child's eighteenth birthday. Child means the legally adopted or biological child of the person described in paragraph (A)(2)(b)(i) of this rule.
- (3) An alien determined to be a qualified alien as described in paragraph (B) of this rule. A qualified alien is a federal term referring to a pool of non-U.S. citizens eligible to receive SNAP, provided all other eligibility requirements are met.

(B) Who is considered a qualified alien?

An alien that meets the criteria described in paragraph (B)(1) of this rule is considered to be a qualified alien for the SNAP program. An alien that meets the criteria described in paragraph (B)(2) of this rule must also meet at least one of the additional criteria listed in paragraph (B)(3) of this rule to be considered a qualified alien for the SNAP program.

(1) An alien with an alien status listed below is a qualified alien for the purposes of the SNAP program:

(a) An alien who is granted asylum under section 208 of the INA, 8 U.S.C 1158 (12/2008);

(b) A refugee who is admitted to the U.S. under section 207 of the INA, 8 U.S.C. 1157 (5/2005);



- (c) An Afghan or Iraqi alien admitted to the U.S. who was granted a special immigrant visa (SIV) under section 101(a)(27) of the INA, 8 U.S.C. 1101 (1/2014);
- (d) An alien whose deportation or removal is being withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or whose removal is withheld under section 241(b)(3) of the INA, 8 U.S.C. 1231 (1/2006);
- (e) An alien who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980, 8 U.S.C. 1522 note (9/1996);
- (f) An Amerasian admitted pursuant to section 584 of Public Law (Pub. L. No.) 100-202 (12/1987), as amended by Pub. L. No. 100-461 (10/1988); or
- (g) A lawful alien with one of the following military connections:
- (i) A veteran honorably discharged for reasons other than alien status, who fulfills the minimum active-duty service requirements of 38 U.S.C. 5303A(d), (12/2016) including an individual who died in active military, naval or air service duty. The definition of veteran includes an individual who served before July 1, 1946, in the organized military forces of the government of the commonwealth of the Philippines while such forces were in the service of the armed forces of the U.S. or in the Philippine scouts, as described in 38 U.S.C. 107 (10/2010).
- (ii) An individual on active duty (other than training) in the armed forces of the U.S.
- (iii) The spouse and unmarried dependent children of a person described in paragraph (B)(1)(g)(i) or (B)(1)(g)(ii) of this rule, including the spouse of a deceased veteran, provided the marriage fulfilled the requirements of 38 U.S.C. 1304 (8/1991) and the spouse has not remarried. An unmarried dependent child is: a child who is under the age of eighteen or, a full-time student, under the age of twenty-two; an unmarried dependent child of a deceased veteran provided the child was dependent upon the veteran at the time of the veteran's death, or an unmarried disabled child age eighteen or older if the child was disabled and dependent on the veteran prior to the child's eighteenth birthday. Child means the legally adopted or biological child of the person described in paragraph (B)(1)(g)(i) or (B)(1)(g)(ii) of this rule.



(2) The following aliens must also meet at least one of the additional criteria listed in paragraph (B)(3) of this rule in order to be considered a qualified alien for the SNAP program:

(a) An alien lawfully admitted for permanent residence under the INA;

(b) An alien paroled into the U.S. under section 212(d)(5) of the INA, 8 U.S.C 1182 (3/2013) for a period of at least one year;

(c) An alien granted conditional entry pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980;

(d) An alien battered or subjected to extreme cruelty in the U.S by a spouse or a parent or by a member of the spouse's or parent's family residing in the same residence as the alien at the time of the abuse, an alien whose child has been battered or subjected to battery or cruelty, or an alien child whose parent has been battered. Verification and documentation procedures for this status are defined in exhibit B of attachment 5 of the department of justice (DOJ) interim guidance dated November 17, 1997 (62 FR 61344).

(3) The additional criteria for aliens listed in paragraph (B)(2) of this rule are:

(a) Has resided in the U.S. for a period of five years or more beginning on the date of the alien's entry into the U.S. The status as a qualified alien, as defined in paragraph (B)(2) of this rule, must be maintained during the five year period;

(b) Is under eighteen years of age, regardless of the date of entry;

(c) Is in receipt of federal government benefits or assistance for disability or blindness regardless of the date of entry, or;

(d) Is an alien lawfully admitted for permanent residence under the INA who has forty qualifying quarters as determined under Title II of the Social Security Act (8/1996).



(C) How does a county agency determine when a qualified alien has forty qualifying quarters?

The county agency shall:

- (1) Include qualifying quarters from the work of a parent (natural, adoptive and step) of the alien before the alien became eighteen years of age (including quarters worked before the alien was born or adopted);
- (2) Include qualifying quarters credited from the work of a spouse of the alien during their marriage when they are still married or the spouse is deceased;
- (3) Exclude quarters of a spouse when the couple divorces prior to a determination of SNAP eligibility. However, when the county agency determines eligibility of an alien based on the quarters of coverage of the spouse, and then the couple divorces, the alien's eligibility continues until the next recertification. At that time, the county agency must determine the alien's eligibility without crediting the alien with the former spouse's quarters of coverage;
- (4) Exclude quarters that the alien actually received any federal means-tested public benefit, such as Ohio works first, supplemental security income or medicaid, or actually received SNAP benefits. Likewise, a parent's or spouse's quarter is not creditable when the parent or spouse actually received any federal means-tested public benefit or actually received SNAP benefits in that quarter;

The county agency must evaluate quarters of coverage and receipt of federal means-tested public benefits on a calendar year basis. The county agency must first determine the number of quarters creditable in a calendar year, then identify those quarters that the alien (or parent or spouse of the alien) received federal means-tested public benefits and then remove those quarters from the number of quarters of coverage earned or credited to the alien in that calendar year. However, when the alien earns the fortieth quarter of coverage prior to applying for SNAP benefits or any other federal means-tested public benefit in that same quarter, the county agency must allow that quarter toward the forty qualifying quarters total.

- (5) Verify whether a lawful permanent resident has earned or can receive credit for a total of forty qualifying quarters. However, the quarters of coverage history system (QCHS) of the social security



administration (SSA) may not show all qualifying quarters. For instance, SSA records do not show current year earnings and in some cases, the last year's earnings, depending on the time of the request. Also, in some cases, an applicant may have work from uncovered employment that is not documented by SSA, but is countable toward the forty quarters test. In both these cases, the individual, rather than SSA, would need to verify the quarters

(D) What are the citizenship and alien status verification requirements?

(1) When an assistance group indicates that one or more of its members are U.S. citizens, but the county agency questions this declaration, the county agency must verify the member's citizenship in accordance with "attachment 4" of the U.S. DOJ interim guidance dated November 17, 1997 (62 Fed. Reg. 61344) that outlines documents that verify an individual's status as a U.S. citizen or non-citizen national:

(a) When the forms of verification suggested in "attachment 4" of the U.S. DOJ interim guidance cannot be obtained and the assistance group can provide a reasonable explanation as to why verification is not available, the county agency shall accept a signed statement from a third party indicating a reasonable basis for personal knowledge that declares under penalty of perjury that the member in question is a U.S. citizen. The signed statement shall contain a warning of the penalties for helping someone commit fraud.

(b) Absent verification or third party attestation of U.S. citizenship, the member whose citizenship is in question is ineligible to participate until the issue is resolved. The member whose citizenship is in question will have his or her income and resources considered available to any remaining assistance group members as described in rule 5101:4-6-13 of the Administrative Code.

(c) The county agency shall accept participation in another program as acceptable when verification of citizenship was obtained for that program.

(2) An alien is ineligible for SNAP until acceptable documentation is provided unless:

(a) The county agency has submitted a copy of a document provided by the assistance group to the U.S. citizenship and immigration service (USCIS) under the U.S. department of homeland security



(DHS) for verification. Pending such verification, the county agency shall not delay, deny, reduce or terminate the individual's eligibility for benefits on the basis of the individual's immigration status.

(b) The applicant or county agency has submitted a request to SSA for information regarding the number of quarters of work that can be credited to the individual. SSA has responded that the individual has fewer than forty quarters, and the individual provides documentation from SSA that SSA is conducting an investigation to determine if more quarters can be credited. When SSA indicates that the number of qualifying quarters that can be credited is under investigation, the county agency must certify the individual for up to six months from the date of the original determination of insufficient quarters pending the results of the investigation.

(c) The applicant or the county agency has submitted a request to a federal agency for verification of information affecting the individual's eligible alien status. The county agency must certify the individual for up to six months from the date of the original request for verification pending the results of the investigation.

(E) Is there a timeframe for verifying citizenship?

(1) The county agency must provide alien applicants with a reasonable opportunity to submit acceptable documentation of their eligible alien status. A reasonable opportunity must be at least ten days from the date of the county agency's request for an acceptable document.

(2) When the county agency fails to provide an alien applicant with a reasonable opportunity to submit documentation, the county agency must provide the assistance group with benefits no later than thirty days following the date of application, provided the assistance group is otherwise eligible.

(F) How does the county agency determine the validity of documents?

(1) The county agency shall verify the authenticity of the documentation of eligible alien status of applicant aliens. When an alien does not wish for the county agency to contact the USCIS to verify his or her immigration status, the county agency must give the assistance group the option of withdrawing its application or participating without that assistance group member in accordance with paragraph (H) of this rule. The U.S. DOJ interim guidance dated November 17, 1997 (62 FR 61344)



contains information on acceptable documents and USCIS codes.

(2) The county agency shall verify the validity of the documents presented by applicant aliens through the systematic alien verification for entitlements (SAVE) program. In some instances validity of documents shall be verified by submitting the USCIS, "Document Verification Request" form G-845 (5/29/2018) to the appropriate office, along with the proper documentation. SAVE procedures are described in rule 5101:4-7-14 of the Administrative Code.

(G) What happens when an individual's status as an alien changes?

(1) Each category of eligible alien status stands alone for purposes of determining eligibility.

(2) Subsequent adjustment to a more limited status does not override eligibility based on an earlier less rigorous status. Likewise, when eligibility expires under one eligibility status, the county agency must determine if eligibility exists under another status.

(H) What happens when an assistance group indicates an inability or unwillingness to provide documentation of alien status?

When an assistance group indicates inability or unwillingness to provide documentation of alien status for any assistance group member, that member shall be classified as an ineligible alien. In such cases, the county agency must not continue efforts to obtain that documentation, unless the individual requests assistance from the county agency.

(I) Should the county agency report illegal aliens?

County agencies shall report to the Ohio department of job and family services when an applicant or recipient is known to be an illegal alien. To be a known illegal alien, there must be a finding of fact or a conclusion of law made as part of a formal determination that is conducted by the USCIS. Only documentation provided by the USCIS or the executive office of administrative review (e.g. a final order of deportation) shall be considered evidence.