

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



August 14, 1998

ALL COUNTY LETTER NO. 98-65

TO: ALL COUNTY WELFARE DIRECTORS  
ALL CalWORKs PROGRAM SPECIALISTS

**REASON FOR THIS TRANSMITTAL**

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

SUBJECT: ALIEN ELIGIBILITY FOR CalWORKs

REFERENCE: ALL COUNTY LETTER 98-34

The purpose of this All County Letter (ACL) is to provide clarifying instruction to counties on determining state-only versus federally-funded CalWORKs cases involving aliens and to provide definitions of "qualified aliens" according to Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, P.L. 104-193, and subsequent amendments.

**ELIGIBILITY FOR CalWORKs**

PRWORA prohibits "qualified aliens" who enter the United States (U.S.) on or after August 22, 1996 and do not meet exception criteria from receiving any Federal means-tested public benefits for a period of five years beginning from the date they acquired status as a "qualified alien."

CalWORKs will continue to allow all immigrants meeting the eligibility criteria of EAS 42-431 to receive benefits. This necessitates a state-only funded program for those aliens not eligible for federal funding. In order for counties to distinguish federal versus state-funded individuals for fiscal claiming and other purposes, County Fiscal Letter (CFL) 97/98-41 established a series of new aid codes. Exempt and non-exempt MAP levels will still apply, however, there are not separate aid codes to distinguish this. The aid codes are:

- **3L** - CalWORKs Legal Immigrant - FG (state only).
- **3M** - CalWORKs Legal Immigrant - U (state only).

*These codes are used when all individuals who are aided are not federally eligible.*

- **3E** - CalWORKs Legal Immigrant - FG (mixed cases)
- **3U** - CalWORKs Legal Immigrant - U (mixed cases)

*These codes are used when the aided individuals are in a household that has at least one federally eligible individual and at least one non-federally eligible individual.*

Cases involving aliens who entered the U.S. on or after August 22, 1996, with a status as a “qualified alien” and who do not meet exception criteria will be coded 3L/3M and will be funded with state funds for the first five years after the alien’s date of entry. At the time the aided individual has been in the country for five years, or acquired citizenship, whichever comes first, the case will need to be reassessed for federal eligibility.

## **ELIGIBILITY FOR FEDERAL MEANS-TESTED BENEFITS**

Aliens entering the U.S. on or after August 22, 1996, are not eligible for federally-funded public benefits for five years from the date of qualified alien status (8 U.S.C. Section 1613), unless they (a) obtain citizenship or (b) meet exception criteria. Persons who meet exception criteria for CalWORKs are (8 U.S.C. Section 1612(b)):

**refugees** - *an alien admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.*

**asylees** - *an alien granted asylum under section 208 of such Act.*

**aliens granted a withholding of deportation** - *under section 243(h) of such Act (as in effect immediately before the effective date of section 307 of div.C of P.L. 104-208) or section 241(b)(3) of such Act (as amended by section 305(a) of div.C of P.L. 104-208).*

**veteran status** - *(i) a veteran (as defined in section 101 of title 38, U.S.C.) with a discharge characterized as an honorable discharge and not on account of alienage, and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38 U.S.C., (ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or (iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii), or the unremarried surviving spouse of an individual described in clause (i) or (ii) who is deceased if the marriage fulfills the requirements of 38 U.S.C., section 1304.*

**lawfully admitted permanent residents with 40 qualifying quarters of work** - *admitted to the United States under the Immigration and Nationality Act and having 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, and (ii) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefits (as provided under PRWORA section 403) during any such period.*

**Cuban/Haitian entrants** - *an alien who is a Cuban and Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.*

**Amerasian immigrants** - *an alien admitted to the United States as an Amerasian immigrant as described in PRWORA , Section 402(a)(2)(A)(i)(V).*

Immigrants meeting the above exception criteria are eligible for federally-funded CalWORKs benefits beginning from the date of their entry into the U.S. with a status as a “qualified alien.” Those immigrants who enter the U.S. on or after August 22, 1996, but do not meet exception criteria will be eligible for federally-funded CalWORKs benefits five years after they acquired status as a “qualified alien” provided they meet other eligibility requirements.

### **Immigrants Entering Prior to August 22, 1996**

Immigrants who entered the U.S. prior to August 22, 1996, and acquired status as a “qualified alien” are eligible for federally-funded public benefits.

### **DEFINITIONS**

Title IV of PRWORA defines “qualified aliens” for purposes of determining eligibility for receipt of federally-funded benefits. Any alien not identified in the following definitions is not eligible for any federally-funded benefits. Non-immigrant aliens lawfully admitted for a temporary purpose or temporary residence and undocumented aliens are not eligible for state or federally-funded benefits.

#### **Qualified Aliens are those:**

**lawfully admitted for permanent residence** - *an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act.*

**granted asylum** - *under section 208 of the Act.*

**admitted as a refugee** - *under section 207 of the Act.*

**paroled into the United States for at least one year-** *under section 212(d)(5) of the Act.*

**whose deportation is being withheld** - *under section 243(h) of the Act (as in effect immediately before the effective date of section 307 of division C of P.L. 104-208) or section 241(b)(3) of the Act (as amended by section 305(a) of division C of P.L. 104-208).*

**granted conditional entry** - *pursuant to section 203(a)(7) of the Act as in effect prior to April 1, 1980.*

**Cuban/Haitian entrants** - *an alien who is a Cuban and Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.*

**certain battered aliens** - *defined as (PRWORA, title IV, Section 431):*

*(1) an alien who -*

*(A) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent or by a member of the spouse or parent’s family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the agency providing such benefits)*

*there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and*

*(B) has been approved or has a petition pending which sets forth a prima facie case for -*

*(i) status as a spouse or child of a United States citizen pursuant to clause (ii) (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act [8 U.S.C.A. 1154(a)(1)(A)(ii), (iii) or (iv)]; or*

*(ii) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act; or*

*(iii) cancellation of removal under section 1229b of this title (as in effect prior to April 1, 1997), or*

*(iv) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act [8 U.S.C.A. section 1154(a)(1)(A)(i)], or classification pursuant to clause (i) of section 204(a)(1)(B) of such act [8 U.S.C.A. section 1154(a)(1)(B)(i)], or*

*(v) cancellation of removal pursuant to section 1229b(b)(2) of this title, or*

*(2) an alien -*

*(A) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to actively participate in such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and*

*(B) who meets the requirement of subparagraph (B) of paragraph (1); or*

*(3) an alien child who -*

*(A) resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse*

*consented or acquiesced to such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and*

*(B) meets the requirement of subparagraph (B) of paragraph (1).*

*This subsection shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.*

### **Eligibility of Certain Battered Aliens, Cuban/Haitian Entrants and Amerasian Immigrants**

The categories of certain battered aliens, Cuban/Haitian entrants and Amerasian immigrants are eligible under Eligibility and Assistance Standards Section 42-431.22 because they meet the definition of aliens permanently residing in the U.S. under color of law (PRUCOL).

### **CONTACTS**

The attached chart is intended as a reference for the definitions and eligibility for federal or state funded benefits outlined in this letter. Any questions regarding this letter and chart may be directed to Eugene Essex at (916) 654-3062 or CALNET at 454-3062.

Sincerely,

***Original document signed by  
JARVIO A. GREVIOUS for BW on 8/13/98***

BRUCE WAGSTAFF  
Deputy Director  
Welfare to Work Division

Attachment

c: CWDA  
CSAC