GENERAL LETTER NO. 7-I-38

ISSUED BY: Bureau of Financial, Health and Work Supports Division of Adult, Children and Family Services

SUBJECT: Employees’ Manual, Title 7, Chapter I, Specific Households and Participants, Contents (pages 1, 2, and 3), revised; pages 7, 18 through 25, 29, 30, 35, 43, 47, 72, and 73, revised; and pages 42a and 74, new.

Summary

Chapter 7-I is revised to:

♦ Update the chart “Amount Needed to Earn a Qualifying Quarter” to include information for 2016, 2017, and 2018.

♦ Clarify policies regarding aliens sponsored under I-864 and that sponsor deeming does not apply to children.

♦ Clarify the mentally or physically unfit exemption from ABAWD policy includes chronically homeless individuals and update examples.

♦ Update the three-year ABAWD periods.

♦ Add information regarding S corporations and LLCs.

♦ Add a step to the process for determining countable income for certain ineligible members.

♦ Update FSET references to reflect the current name of Food Assistance Employment & Training (FA E&T).

♦ Update WIA references to reflect the current name of Workforce Innovation and Opportunity Act (WIOA).

♦ Identify GAP and some Pathways for Academic Career and Employment (PACE) as state or local government employment and training programs for the purpose of meeting student eligibility criteria.

♦ Add and relocate information within the chapter regarding existing student policies.

♦ Replace references to FMAP with MAGI.

♦ Clarify the treatment of work study income.
Effective Date

Upon receipt.

Material Superseded

This material replaces the following pages from Employees’ Manual, Title 7, Chapter I:

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Additional Information

Refer questions about this general letter to your area income maintenance administrator.
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♦ Iraqi and Afghan special immigrants. NOTE: Before December 19, 2009, eligibility for these special immigrants was time-limited. Contact SPIRS Help Desk if you need assistance determining eligibility for earlier months.

### Establishing Qualifying Quarters

**Legal Reference:** 42 United States Code, Chapter 7, Subchapter II, § 413

When an alien’s eligibility depends on meeting the 40-quarter requirement, you must determine the number of quarters the person can be credited with. Each person can get up to four qualifying quarters of credit each calendar year based on the person’s earnings.

The following chart gives the amount a person had to earn to get one credit for the years 1978 and later. (Contact SPIRS help desk for assistance in calculating qualifying quarters for years before 1978.)

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Page 18 is reserved for future use.
**Documentation of United States Citizenship by Birth**

**Legal reference:** 7 CFR 273.2(f)(2)(ii)

Proof of U.S. citizenship should be required **only** when a household member’s citizenship is questionable. If it is necessary to require proof, the following documents, when combined with proof of identity, are acceptable proof of U.S. citizenship:

- A U.S. birth certificate.
- Adoption finalization papers. If the adoption is not yet finalized, the child’s original birth certificate or statement from a state-approved adoption agency showing the child’s name and that the birth was in the U.S.
- A hospital record made at the time of the child’s birth in the U.S. in that hospital.
- A religious record made within three months of birth, which shows the person’s date of birth in the U.S. or age at the time the record was made.
- A U.S. passport (with the exception of limited passports that are issued for periods of less than five years).
- A Certificate of Birth (form FS-545).
- Proof of civil service employment by the U.S. government before June 1, 1976.
- Early U.S. school records that show date of admission to the school, the person’s date and U.S. place of birth, and the parent’s names and places of birth.
- Census record showing name, U.S. citizenship or a U.S. place of birth, and the person’s age or birth date.
- A statement signed by a third party that a person is a U.S. citizen. The statement must contain penalties for helping a person to commit fraud and must be signed by the third party under penalty of perjury.
Documentation not listed above may be presented as proof of citizenship. In this instance, the document may be submitted to the Department of Human Services central office to verify its acceptability as proof, if necessary.

**Documentation of Acquired Citizenship**

**Legal reference:** Public Law 106-395, 7 CFR 273.2(f)(2)(ii)

A child born outside of the United States automatically becomes a citizen of the United States when:

♦ At least one parent is a U.S. citizen whether by birth or naturalization, and
♦ The child is under 18 years of age, and
♦ The child is lawfully admitted for permanent residence and is residing in the U.S. in the legal and physical custody of the citizen parent.

Foreign-born children do not automatically acquire citizenship when adopted by a U.S. citizen. Under the Child Citizenship Act, a child acquires U.S. citizenship on the date that all of the following requirements are satisfied:

♦ At least one adoptive parent is a U.S. citizen,
♦ The child is under 18 years of age,
♦ There is a full and final adoption of the child, and
♦ The child is admitted to the United States as an immigrant.

If a child’s citizenship is questionable, the following listing of documents can be used if needed to verify that the child has acquired U.S. citizenship:

♦ *Certificate of Citizenship* (N-560 or N-561)
♦ *Certificate of Naturalization* (N-550 or N-570)

If proof of citizenship is needed, but documentation is not available, refer the person to USCIS for a determination of U.S. citizenship.
Verification for Ineligible Aliens


When a Food Assistance household contains a member who claims to have an immigration status other than that of an “eligible alien,” or is unwilling to provide documentation, do not ask for verification of that person’s status. Do not attempt to get verification of the person’s immigration status from the USCIS. This is true whether the person claims to be legally or illegally present in the U.S.

Reporting Illegal Aliens

Legal reference: 7 CFR 273.4(b)

It is not permissible to report aliens who cannot or will not provide immigration documentation, even if they state that they are not legally present in the U.S.

Report an illegal alien to the USCIS only when a response to a query through the Secondary Documentation of Alien Status procedure tells you an alien is illegally present in the U.S. If the USCIS determines through a query for secondary documentation that a person is an illegal alien, the person must be reported to the USCIS.

Do not report an alien to the USCIS for any reason except when a response to a query for secondary documentation tells you that the person is in the U.S. illegally. If you believe it is appropriate to report a person to the USCIS, contact the SPIRS help desk for assistance.

Sponsored Aliens

Legal reference: Public Law 104-193, 7 CFR 273.4(c)

A “sponsor” is a person who signed an agreement as a condition of the alien’s entry or admission into the United States as a permanent resident to guarantee financial support of the alien. Counting the sponsor’s income and resources towards the sponsored alien is called “deeming.”
There are two types of sponsored aliens, each with a specific policy for deeming of the sponsor’s income and resources. These types are identified by their documentation:

♦ Aliens whose sponsor signed the Affidavit of Support, form I-134 (used before December 19, 1997). This form is not an enforceable contract and a court cannot force the sponsor to continue to support the non-citizen. Deeming does not apply to aliens sponsored under this form.

♦ Aliens whose sponsor signed the Affidavit of Support, form I-864 (used December 19, 1997 and later).

Refugees, deportees, and asylees do not have sponsors. Organizations and groups are not considered sponsors under Food Assistance policy.

The following sections explain:

♦ Verifying the sponsor’s information
♦ Deeming when the sponsor signed affidavit I-864

**Verifying Sponsor’s Information**

**Legal reference:** 7 CFR 273.4(c)

A sponsored alien and the alien’s spouse are responsible for providing information or documentation about the alien’s sponsor. USCIS will provide information that sponsors provided on the original Affidavit of Support.

Verify the following at the time of both initial application and recertification:

♦ The income and resources of the alien’s sponsor.

♦ The provision of the Immigration and Nationality Act under which the alien was admitted.

♦ The date of the alien’s entry or admission as a lawful permanent resident as established by USCIS.

♦ The alien’s date of birth, place of birth, and alien registration number.

♦ The name, address, and phone number of the alien’s sponsor.

♦ Any other information determined to be questionable that affects a household’s eligibility and benefit level, according to procedures established for verification.
The Bureau of Consular Affairs of the State Department and local USCIS offices have agreed to provide information to our Department’s local offices that is needed to verify information supplied by the alien.

If you do not receive the needed information on a timely basis, the sponsored alien and spouse are ineligible until all necessary facts are obtained. Determine the eligibility of any remaining household members.

Treat the income and resources of the ineligible alien and spouse (excluding the deemed income and resources of the alien’s sponsor) in the same way as those of a disqualified member. They are considered available to determine both the eligibility and benefit level of the remaining household members.

If you receive the verification after determining the eligibility of the rest of the household, act on the information as a reported change in household membership according to the timeliness standards in 7-G.

**Aliens Sponsored Under Affidavit I-864**

**Legal reference:** 7 CFR 273.4(c)

In order to get Food Assistance benefits, aliens who have a sponsor must also be eligible aliens as defined in *Who Is an Eligible Alien*.

The only qualified aliens with legally enforceable affidavits are family-sponsored LPRs, including immediate relatives, and a few employment-based LPRs who came to the United States to work for relatives AND who have filed for a visa application or applied for an adjustment to LPR status on or after December 19, 1997.

More than one person may sign an *Affidavit of Support*, form I-864. If an alien has more than one sponsor, count the deemed income and resources of all sponsors towards the sponsored alien. For the purposes of deeming a sponsor’s income and resources, count the income and resources of the sponsor’s spouse only if the spouse has also executed *Affidavit of Support*, form I-864.
Determine the amount of sponsor’s income to be deemed as follows:
Step 1: Add the earned income of the sponsors.
Step 2: Subtract 20% of the earned income.
Step 3: Add the unearned income of the sponsors.
Step 4: Subtract the gross monthly income limit for the household size of the sponsor, the sponsor’s spouse, and any other person who is claimed or could be claimed by the sponsor or the sponsor’s spouse as a dependent for federal income tax purposes.
Step 5: Divide by the number of aliens sponsored by this sponsor, if known. If not known, the entire amount counts.
Step 6: The result is the amount of income deemed per sponsored member (entered as unearned income on BCW2).

Money actually paid to the alien by a sponsor is not considered income to the alien, unless the amount paid exceeds the amount deemed, as determined above. Consider the excess as unearned income to the sponsored alien in addition to the amount deemed.

Determine the amount of sponsor’s resources to be deemed as follows:
Step 1: Add allowable resources.
Step 2: Subtract $1,500.
Step 3: Divide by the number of aliens sponsored by this sponsor, if known. If not known, the entire amount counts.
Step 4: The result is the amount of resources deemed per sponsored member.

Do not deem any income or resources to an eligible child who is under 18 years of age. This is true for both eligible alien and citizen children.
Since children are not subject to deeming, only a portion of a sponsor’s income is counted for any adult household members subject to sponsor deeming.

The household consists of a sponsored mom and dad and two eligible children under age 18. It does not matter if the children are citizens or non-citizens. The total countable income deemed to the household from the sponsor is $1,000.

Since sponsor income cannot be deemed to the children, half ($500) of the income is counted as deemed income to this household ($1,000 / 4 X 2 sponsored adults).

Deeming of income and resources ends when
- The alien meets the requirement for 40 quarters of work,
- The alien gains U.S. citizenship, or
- The sponsor dies.

The following sections explain exceptions to these policies for:
- Battered aliens
- Destitute aliens

**Battered Aliens**

A “battered alien” is an alien who:
- Is a battered spouse, battered child, or parent or child of a battered person, and
- Has a petition for residency pending under section 204(a)(A) or (B) or section 244(a)(3) of the INA.

Battered aliens are not automatically eligible for Food Assistance. A battered alien must meet one of the criteria listed under Eligible Aliens.

A battered alien whose sponsor signed an Affidavit of Support, form I-864 may be eligible for Food Assistance benefits. Do not deem a sponsor’s income and resources to a sponsored alien or the alien’s children if either the alien or the children have been battered by a family member who was living in the same house as the battered person.
To get Food Assistance benefits, an ABAWD must meet one of the requirements under **ABAWD Work Requirement**. The ABAWD work requirements are in addition to the regular requirements set under **7-C, Work Requirements for MWRs**.

An ABAWD can get only three months of Food Assistance benefits while not meeting the ABAWD work requirement. (See **Time Limit for ABAWDs**.) After using the three months, some ABAWDs can get an additional three months if they meet the conditions under **Additional Three-Months’ Eligibility**.

### ABAWD Exemptions

A person is exempt from the ABAWD work requirements if the person is:

- Exempt from mandatory work registration (MWR) for any reason. See **7-C, Exemptions From Work Registration**, for a list of exemptions.
- Under age 18. This includes the month in which a person turns 18.
- Aged 50 or over. This includes the month in which a person turns 50.
- Pregnant. This applies to any trimester.
- Unfit either mentally or physically for employment (has a condition that makes the person unemployable or that prevents the person from keeping a job).
- A member of a Food Assistance household that includes a child under the age of 18.

*NOTE:* The child does not have to be eligible for Food Assistance for this exemption to apply. This can happen in situations like joint custody arrangements, a child in foster care returning home for visits, a child attending school away from home returns during the month, or a child is hospitalized.

If an exemption applies for at least one day in a month, the ABAWD is exempt for the entire month.

Determine a person’s “fitness” for employment using the prudent-person principle or any reasonable evidence that supports your decision. The person’s condition does not need to be permanent for a determination of “unfitness” to be made. Households that are chronically homeless, as defined by the worker, are considered unfit for employment.
Your own observation of the person or information obtained in conversation with the person is a sufficient basis to make a determination as to a person’s fitness for employment. If it is not evident to you that a person has a mental or physical limitation that would make the person unfit for employment, you may ask for verification.

Because people who have no source of income or insurance are often not able to receive medical care or substance abuse or mental health treatment, you may need to identify these conditions. If a person is in treatment, you can get a statement from the person’s health-care professional or a social worker.

If the person does not have the means to pay for or obtain a professional diagnosis, other evidence may be used. A prudent person can often identify these types of issues without the need for verification. For example, statements from former employers or other persons who know the person’s situation can be sufficient evidence of the person’s mental or physical limitations.

When your judgment is the only basis for determining that a person is not “fit” for employment, you must document it as such in the person’s case record.

**GUIDANCE:** The following scenarios illustrate circumstances that would lead to the determination that a person is unfit for employment.

1. During the application interview, you discover that the person has had many jobs but repeatedly lost them. Through your conversation, you discover the person has a history of getting fired quickly or quitting due to uncontrollable outbursts of anger with the employer or coworkers. This may be an untreated mental health issue that currently makes the person mentally unfit for employment. Document worker determination that the person is physically or mentally unfit due to anger issues explained by the client.

2. While interviewing a person, you discover he has been in and out of various substance abuse treatment programs for several months. Even if he is not currently in a program, these circumstances and issues make him physically or mentally unfit for employment and must be documented in the case file.

3. At application, the client states he is homeless. He explains he has no fixed and regular nighttime residence and stays wherever he is able, including various friends, relatives, and shelters. Based on your conversation, you determine he is chronically homeless. This determination makes him physically or mentally unfit for employment. Document chronically homeless as the reason for exempting him.
Use any reasonable means to determine and verify the actual number of hours worked in a calendar month. Use caution if using pay stubs to verify hours of work, because pay periods often overlap calendar months and do not reflect the number of hours actually worked in the month in which the person received the pay.

Accept the word of a self-employed person as verification of how many hours are worked per month. Document the client’s statement as to how many hours are worked per month in the case record.

Accept the statement of a person who provides an in-kind benefit in exchange for an ABAWD’s services as verification.

Once you have verified the hours of work, it is not necessary to do so each month. Assume that an ABAWD is continuing to work 80 or more hours monthly unless the ABAWD reports that the hours of work have dropped below 80 or you have other information indicating the hours are less than 80.

**Time Limit for ABAWDs**

**Legal reference:** 441 IAC 65.28(18)

ABAWDs can get only three months of Food Assistance benefits while they are not meeting the work requirement. EXCEPTION: Some ABAWDs can receive an additional three months of eligibility while not fulfilling the work requirement. See [Additional Three-Months’ Eligibility](#) for information.

All ABAWDs are eligible for the three-month limit during each three-year period, even if they used benefits under a previous period. This period is the same for all ABAWDs in Iowa. The periods are:

- December 1, 2017, through November 30, 2020
- December 1, 2020, through November 30, 2023

The three-month limit can be used either consecutively or nonconsecutively. A prorated month does not count towards an ABAWD’s three-month limit, even when the Food Assistance benefits are prorated from the first day of the month.
Corporations

Legal reference: 7 CFR 273.11(a)

All corporations are separate legal entities. A closely held corporation is one that has only a few shareholders. An owner or employee of a corporation is not a self-employed person. A person who receives a salary from a corporation is an employee of the corporation. The corporation is responsible for its debts and obligations. The income and resources of a corporation belongs to the corporation.

Income

Legal reference: 7 CFR 273.9(b)

Count stock dividends as unearned income to the person who owns the stock.

Resources

Legal reference: 7 CFR 273.8(c)

Exclude the value of stock in a corporation when the stock is essential to employment. This means that the employee must hold the stock in order to keep the job.
Stock that is not essential to employment is counted as a resource. To determine the value of corporate stock, subtract the corporate liabilities from assets and prorate the difference among the shareholders based on the percentage of shares held.

A household owns 40% of the stock in a corporation. This stock is not essential to employment. To calculate how much to count towards the household’s resource limit, use the following calculation for the value of stock.

\[
\begin{align*}
\text{Value of corporation} &= \text{Corporate assets} - \text{Corporate liabilities} \\
&= 22,000 - 10,000 \\
&= 12,000 \\
\end{align*}
\]

\[
\begin{align*}
\text{Value of the household’s share of stock} &= \text{Value of corporation} \times \text{Percentage of shares held} \\
&= 12,000 \times 0.40 \\
&= 4,800 \\
\end{align*}
\]

**S Corporations and Limited Liability Corporations (LLCs)**

**Legal reference:** 7 CFR 273.11(a)

S corporations and LLCs are “pass-through” entities for tax purposes. The income of the business is passed through to the owners and reported on the owner’s personal income tax return. This income is countable regardless of whether it is being distributed to the household.

Any wages paid to the officers would be treated the same as wages to an employee of any company, and would be countable in the month received. Additionally, annualize other income of the S corporation or LLC, such as royalties, and count that as earned income to the household.

The income from these types of corporations should be treated as regular earned income, not self-employment income. They are entities to the earned income 20% deduction, but not to additional deductions and expenses that would be allowable for self-employment. Furthermore, since these are not self-employment:

♦ There are not “losses” from these enterprises and
♦ Losses from a true self-employment enterprise cannot be used to offset the profits of the S corporation or LLC.

**NOTE:** If a single-member LLC does not elect to be treated as a corporation, the LLC is a “disregarded entity” and eligibility would be determined in the same manner as a self-employed individual.
Deductions that are allowable for eligible members may be allowed for ineligible members. The reason a person is ineligible determines what and how much is allowed as a deduction for the eligible household.

See 7-E, **INCOME**, for policies on specific types of income and details on handling deductions.

**Income**

The reason a person is ineligible determines how much of the person’s income you count as income to the eligible household members.

Do **not** count the income of ineligible students towards the eligible household. If ineligible students give money to the eligible household, count it as unearned income.

Count all of the income of the following ineligible members towards the eligible household:

- People disqualified for intentional program violation
- Fleeing felons and parole and probation violators
- People disqualified for failing to comply with a mandatory work registrant requirement

Count a prorated share of the following ineligible members’ income towards the eligible household:

- Ineligible aliens
- People who fail to provide a social security number
- Ineligible ABAWDs

To determine the amount of prorated income to count towards the eligible members of the household:

1. Subtract the earned income deduction from the ineligible member’s earned income.
2. Divide the ineligible member’s income evenly among the household members, including the ineligible members.
3. Count the income attributed to the eligible members as unearned income.
Eligible Students

Legal reference: 7 CFR 273.5(a), (b)(1), 441 IAC 65.26(234)

Students do not need to meet student eligibility criteria when they are:

♦ Under age 18.
♦ Aged 50 or over.
♦ Physically or mentally unfit for employment.
♦ Attending high school or a high school equivalency program.
♦ In an on-the-job-training program.
♦ Attending school less than half time.
♦ In a school or training program that is not an institution of higher education.
♦ Single parents responsible for a household member under 12. “Single parent” means a parent living with a child and not living with that child’s other legal or natural parent, or not living with a spouse.

All other students must meet at least one of these student eligibility criteria:

♦ Work at least 20 hours a week and be paid wages. When hours of work fluctuate, average the hours for a period of time that allows a reasonable estimate of the hours expected to be worked per week. Exceptions to working 20 hours a week may be made, such as when a student becomes ill or is excused from work because of final exams.

♦ Self-employed, working at least 20 hours a week and receiving gross weekly earnings at least equal to the federal minimum wage multiplied by 20 hours. When hours of work fluctuate, average the hours for a period of time that allows a reasonable estimate of the hours expected to be worked per week.

♦ Work, or anticipate work, in a state or federally financed work-study program during the regular school term.

♦ Responsible for the physical care of a dependent household member under the age of six.

♦ Responsible for the physical care of a household member under age 12 when circumstances indicate adequate child care is not available to allow the student to attend school and work at least 20 hours a week.
♦ Receiving a FIP grant, approved for FIP but not yet receiving it, or approved but not receiving a cash grant because the grant is under $10.

♦ Placed in an institution of higher education through:
  - Food Assistance Employment & Training (FA E&t), or
  - Section 236 of the Trade Act of 1974, or
  - The Workforce Innovation and Opportunity Act (WIOA), formerly known as Workforce Investment Act (WIA), or
  - A state or local government employment and training program. Central Office has identified the following two programs, which are offered through all Iowa community colleges:
    - GAP
    - PACE (Pathways for Academic Career & Employment). Students must be eligible for PACE based on income, not the other PACE eligibility criteria.

There may be other programs that meet this criteria. If you become aware of a potential program, send it through SPIRS for a determination.

**Student Status**

**Legal reference:** 7 CFR 273.5(b)(1) and (2), 273.7(b), 441 IAC 65.28(2)(h)

Consider a newly enrolled college student to be enrolled starting on the first day of the school term, no matter when the student registered for classes or paid to enroll.

Students retain their eligible or ineligible status during school vacations and breaks, including summer break, if they intend to register for the next normal school term. Summer school is not considered a normal school term.

Student eligibility status no longer applies when the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal term.
Resources

Legal reference: 441 IAC 65.31(13)

Exclude from resources all financial assistance received for education or training that is excluded for Modified Adjusted Gross Income (MAGI)-related Medicaid.

Income

Legal reference: 441 IAC 65.29(6)

Treat educational assistance the same whether a student is attending an institution of higher education or a school or program that is not an institution of higher education. Do not count as income any financial assistance received for education or training that is exempt for MAGI-related Medicaid.

In addition, regardless of how MAGI treats work study, treat it as follows for Food Assistance:

♦ Federally-funded work study is excluded.
♦ State-funded work study is excluded up to the amount earmarked for educational expenses.