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**FOOD AND NUTRITION SERVICES CERTIFICATION**  
**ELIGIBILITY REQUIREMENTS**  
**FNS 227 NON-CITIZEN REQUIREMENTS**

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**FNS 227 NON-CITIZEN REQUIREMENTS**  
**Change #6-2021**  
**July 12, 2021**

**227.01 NON-CITIZEN REQUIREMENT**

Each applicant/recipient of Food and Nutrition Services (FNS) must be a U.S. citizen or a non-citizen lawfully admitted into the U.S. under specific immigration status to participate in the FNS program.

A. United States Citizenship Requirement:

See manual section FNS 225 Citizenship.

B. Non-citizen Requirement:

To participate in the FNS program non-citizens must be:

1. A non-citizen who is admitted lawfully into the U.S.; **and**
2. Qualified to receive FNS benefits; **and**
3. Exempt from waiting period, met the waiting period, and/or earned 40 qualifying quarters.

**227.02 CERTIFICATION OF NON-CITIZEN STATUS**

A. The applicant or (FNS) Unit member must certify, under penalty of perjury, the non-citizen status of themselves and all individuals included in the (FNS) Unit.

B. The head of household or (FNS) Unit member meets this requirement by:

1. Signing the application; and
2. Stating the non-citizen status of all new unit members when a change in household composition is reported.

**227.03 DETERMINING NON-CITIZEN STATUS**

Determining non-citizen status is a multi-step process. Follow the steps outlined in this policy section to determine non-citizen status and eligibility to participate in the FNS program.

Terms used throughout the section:

- Alien & Non-citizen: The terms alien and non-citizen are used interchangeably due to U.S. immigration department references. Both terms refer to individuals that are not citizens of the United States.

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- **Qualified:** The term used to refer to individuals that are “qualified” to participate in the FNS program as long as all other conditions of eligibility are met.
- **Ineligible non-citizen:** Individuals that are unlawfully residing in the United States.
- **Eligible non-citizen:** Individuals that are lawfully residing in the United States and are exempt from the qualification process. (227.05)
- **Qualified non-citizen:** Individuals that are lawfully residing in the United States and meet the requirements to be “qualified” to participate in the FNS program. (227.06)
- **Not qualified non-citizen:** Individuals that are lawfully residing in the United States and are “not qualified” to participate in the FNS program. (227.06)
- **Qualified eligible non-citizen:** Individuals that are lawfully residing in the United States and meet the requirements to be “qualified” to participate and meet the waiting period or 40 quarter requirements. (227.07)
- **Qualified ineligible non-citizen:** Individuals that are lawfully residing in the United States and meet the requirements to be “qualified” to participate in the FNS program but do not meet the waiting period or 40 quarter requirements. (227.07)

#### **227.04 STEP 1: LAWFULLY ADMITTED TO U.S.**

Individuals that are not lawfully residing in the U.S. are considered Ineligible non-citizens and cannot participate in the FNS program. No further verification or evaluation of the individual’s status is required unless the statement conflicts with previously reported information. Do not proceed to Step 2.

If the individual is lawfully residing in the United States proceed to step 2 (FNS 227.05).

#### **227.05 STEP 2: INDIVIDUALS EXEMPT FROM QUALIFIED STATUS PROCESS**

The following non-citizens may be eligible for an indefinite period of time, even if they are not “qualified” non-citizens.

If the individual meets one of the requirements below, they are considered an Eligible non-citizen. Do not proceed to step 3.

If the individual does not meet any of the criteria in this section proceed to Step 3 (FNS 227.06).

- A. Hmong or Highland Laotians (Many admitted as refugees and appear on the Refugee Data Center List)

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1. The Hmong or Highland Laotian individual who is lawfully residing in the United States and was a member of a Hmong or Highland Laotian tribe at the time the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era (August 5, 1964 - May 7, 1975).
  2. The spouse or unremarried surviving spouse and unmarried dependent children of such Hmong or Highland Laotian.
  3. An unmarried dependent child is:
    - a. A legally adopted or biological dependent child who is under age 18;
    - b. A legally adopted or biological dependent child who is a full-time student under the age of 22;
    - c. The child of a deceased member of the Hmong or Highland Laotian tribe; or
    - d. A disabled child age 18 or older if the child was disabled and dependent on the Hmong or Highland Laotian prior to the child's 18th birthday.
  4. The Economic and Family Services Section has obtained a listing of members of Hmong and Highland Laotian Tribes who arrived in the U.S. between January 1, 1979, and September 1, 1998.
    - a. Contact the Economic and Family Services Section at 919-334-1100 with the tribal member's name, date of birth, and alien registration number for information regarding these non-citizens.
    - b. Information available includes the social security number (if assigned one), place of birth, and arrival date.
    - c. If the individual is on the listing, he is lawfully present in the U.S. and further verification is not needed.
    - d. A tribal member whose name or alien number is not on the list may self-declare that he/she was a member of a Hmong or Highland Laotian Tribe between August 5, 1964, and May 7, 1975.
    - e. A tribal member may have been born in another country besides Laos including, but not limited to, Thailand, Cambodia, China, Vietnam, Philippines, Indonesia, Hong Kong, Malaysia, or Singapore.
- B. Recognized Foreign Born American Indian
1. Recognized American Indians born in Canada to whom Section 289 of INA applies, members of Indian tribes as defined in Section 4(e) of the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450(e), and foreign born recognized American Indians. This provision was intended to

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cover Native Americans who are entitled to cross the U.S. border into Canada or Mexico. It includes, among others, the St. Regis Band of the Mohawk in New York, the Micmac in Maine, the Abenaki in Vermont, and the Kickapoo in Texas. Not all Indian tribes are recognized.

2. Documentation of status will be through a membership card or other tribal document demonstrating membership in a federally recognized Indian tribe under Section 4(e) of the Indian Self-Determination and Education Assistance Act.
3. If the individual has no document evidencing tribal membership, contact the tribal government for confirmation of the individual's membership. Tribal government contact lists are available from the Deputy Director, Office of Tribal Justice, Department of Justice, (202) 514-8812.

#### C. Battered Non-citizens

Establish if the battered individual is qualified by determining if the following requirements are met:

1. Verify and document the Non-citizen's legal status.
  - a. United States Citizenship and Immigration Services (USCIS) documentation consists of a bona fide copy of an order or notice by USCIS or the Executive Office of Immigration Review (EOIR). These documents confirm that:
    - i. USCIS or EOIR has granted a petition of the applicant filed under the Violence Against Women Act (VAWA), a petition as a widow(er) of a United States citizen, or a family-based petition for immediate relative status (INS Form I-130) of a battered non-citizen, or an application for cancellation of removal under VAWA (EOIR Form 42B).
    - ii. There is a pending petition filed under the VAWA, petition as a widow(er) of a United States citizen, or a family-based petition for immediate relative status USCIS Form I-130), or an application for cancellation of removal under VAWA (EOIR Form 42B), and the USCIS or EOIR has found that the applicant has a prima facie (obvious) case for relief (Form I-797).
  - b. If you cannot verify the family member's status because he/she does not have his/her USCIS documents or the documents are incomplete, expired, or questionable, refer him/her to USCIS. Until he/she provides original, current USCIS documentation, treat as a non-citizen that is ineligible for FNS.
  - c. Document the client's current immigration status in the case file.

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2. Verify that the non-citizen or non-citizen's child has been battered or subject to extreme cruelty in the United States by a spouse, parent, or member of the spouse's or parent's family residing in the same household.
  - a. If the immigrant has a pending or approved petition filed under VAWA, the USCIS or EOIR has already made a determination that the non-citizen or the non-citizen's child has been battered and/or is subject to extreme cruelty and there is no need to request additional proof to corroborate the claim of abuse.
  - b. If the non-citizen has a pending or approved petition as a widow(er) of a United States citizen or petition for immediate relative status, attempt to corroborate the claim of abuse through one of the following:
    - i. Verification by the individual/agency conducting an assessment;
    - ii. Corroboration by Child Support;
    - iii. Any legal documents which document the abuse (protection orders, police reports, etc.);
    - iv. Statements by other people knowledgeable of the applicant's circumstances; or
    - v. Signed statement by the applicant.
  - c. Determine if there is a substantial connection between the battery (or extreme cruelty) and the need for food assistance.

For instance, the need for benefits might arise simply from the applicant's loss of financial support resulting from his/her separation from the abuser, or the applicant might have had to leave her job for safety reasons following acts of abuse. If the family receives benefits while residing with the abuser, the need for food requirement following separation would already be established.

- d. Establish that the battered non-citizen or child no longer resides in the same household as the abuser.

NOTE: Although benefits cannot be received while the applicant is living in the home with the batterer, an applicant may need some assurance of availability of benefits in order to leave. If the applicant is still residing with the batterer, take the application. Discuss eligibility requirements, making certain the applicant is aware of what verifications are needed to receive benefits. Verification of residence outside of the batterer's home must be provided prior to receipt of benefits. Once this verification is received, process the application addressing the change in situation.

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If a battered child is qualified under these provisions, the custodial parent is also qualified. In addition, if the applicant is a parent of a battered US citizen child, the parent is also qualified under these provisions. Once qualified, both child and parent can get FNS if he/she is otherwise eligible and has earned, or can be credited with 40 qualifying quarters of work or has lived in the U.S. as a battered non-citizen for a period of 5 years from when the prima facie determination is issued or when the battered non-citizen's I-130 visa is approved, whichever is earlier.

#### D. Trafficking Victims

1. Victims of severe forms of trafficking are eligible for benefits to the same extent as refugees. At this time, the USCIS SAVE System does not contain information about victims of severe trafficking. Trafficking is defined as:
  - a. Involvement in activity in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act is under 18 years of age; **or**
  - b. The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage (bound in servitude to a creditor until his or her debt is paid), debt, bondage, or slavery.
2. The Office of Refugee Resettlement (ORR) makes the determination and certifies whether an individual has been subjected to a severe form of trafficking.
3. The minor children, spouses, and in some cases the parents and siblings of victims of severe trafficking are also considered victims due to their relationship to the trafficking victim. These eligible victims are issued Visas designated as T-2, T-3, T-4, or T-5 (collectively referred to as "Derivative T Visas") and after the issuance of the Visas, are eligible to participate in the Food and Nutrition Services Program provided they meet all other eligibility requirements for the Program.
4. Verify the status of trafficking victims by:
  - a. Viewing the Certification Letter from ORR for adults
  - b. Viewing the Eligibility Letter (not certified) from ORR for children;
  - c. Viewing the Derivative T Visa Holders T-2, T-3, T-4, or T-5 Visa.

**NOTE:** Other agencies, such as the USCIS, may issue letters or other documents to victims of severe forms of trafficking; however, only the ORR letter may be accepted as proof of certification.

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5. Contact the Trafficking Victims Verification Line at 1-866-401-5510. Use this number to verify the validity of the Certification Letter. You must call this number prior to providing benefits.

**NOTE:** Inform ORR of the type of benefits for which the victim has applied. Place a copy of the letter or Derivative T Visa in the file.

6. Contact the North Carolina State Refugee Section at (919) 733-3810 if an adult or a child has been subjected to a severe form of trafficking and they have not applied for certification under the Trafficking Victims Protection Act.

**227.06 STEP 3: DETERMINING NON-CITIZEN QUALIFIED STATUS**

Individuals that are listed as “qualified” in the chart or through SAVE are considered **Qualified eligible non-citizens and may participate in the FNS program if they meet the waiting period or 40 quarter requirements. Proceed to step 4 (227.07).**

Individuals that are listed as “Not qualified” are considered **Not qualified non-citizens and are not eligible to participate in the FNS program. Do not proceed to step 4.**

- A. Use the USCIS document provided by the non-citizen to determine if he/she is ‘qualified’ to participate in the FNS program.
- B. The following chart lists some USCIS documents and the non-citizen status. Documents are listed in “A Guide to Selected U. S. Travel/Identity Brochure” and codes are included in the Classes of Admission Under the Immigration Laws, Codes document. Victims of trafficking do not receive refugee status from USCIS. Their status is verified via a Trafficking Victim Certified Letter for adults, a Trafficking Victim Eligibility Letter for children, or a Derivative T Visa from the Office of Refugee Resettlement.

**This list is not all-inclusive. Non-citizens may be living in the U.S. with the knowledge and permission of USCIS and may have in their possession other USCIS forms or letters that indicate status. Also, not all coding or wording that may appear on the forms listed are included.**

<b>If a FNS Unit member has a document which is a(n):</b>	<b>Then the Non-citizen Status is:</b>
U. S. Passport or USCIS document bearing the endorsement “Processed for I-551,	Permanent Resident, Lawfully Admitted for Permanent Residence (LPR); <b>Qualified</b>
Temporary Evidence of Lawful Permanent Residence”	Possibly a Sponsored Non-citizen following issuance of card.

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<p>I-551 (Resident Alien Card): Coded CH-6, CU6, and CU7 Coded AM-1, AM-2, AM-3,</p>	<p>Cuban/Haitian Immigrant; <b>Qualified</b> Amerasian, LPR; <b>Qualified</b></p>
<p>I-551 (Permanent Resident Card): Coded CH-6, CU6, and CU7 Coded AM-6, AM-7, or AM-8</p>	<p>Cuban/Haitian Immigrant; <b>Qualified</b> Amerasian, LPR; <b>Qualified</b></p>
<p>Passport stamped "adjustment application" or "employment authorized during status as adjustment applicant."</p>	<p>Permanently Residing in the U.S. Under the Color of Law (PRUCOL), LPR; <b>Qualified</b></p>
<p>I-151 (Alien Registration Receipt Card): These cards are no longer issued.</p>	<p>Permanent Resident, LPR; <b>Qualified</b></p>
<p>I-94 (Arrival/Departure Record): Coded with one of the following: A to M NATO 1 to 7 or TWOV</p>	<p>Non-immigrant alien; <b>Not Qualified</b> Non-immigrants are admitted for a temporary period of time.</p>
<p>I-94 (Arrival/Departure Record): Coded with a reference to one of the following sections:  Section 207 Section 208 Section 209 Section 243(h), Section 241(b) (3)</p>	<p>Refugee; <b>Qualified</b> Granted Asylum; <b>Qualified</b> Deportation Withheld; <b>Qualified</b></p>
<p>I-94 (Arrival/Departure Record): Coded with Section 203(a)(7) and in effect prior to 4/1/80</p>	<p>Conditional Entrant; <b>Qualified</b></p>
<p>I-94 (Arrival/Departure Record): Coded AM-1, AM-2, or AM-3</p>	<p>Amerasian, LPR; <b>Qualified</b></p>

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<p>I-94 (Arrival/Departure Record): Coded with Section 212 (d)(5) and dates showing parole status has been granted for a period of at least one year.</p> <p><b>NOTE:</b> This does not mean one year from the parole date. The parole period must be for at least one year.</p>	<p>Parolee; <b>Qualified</b></p> <p><b>NOTE:</b> Cuban/Haitian parolee documents may be coded with Cuban Parolee (CP), Public Interest Parolee (PIP), or Parole with Cuba as the country of origin. The Cuban/Haitian entrant remains qualified even when the one year parole period expires.</p>
<p>I-94 (Arrival/Departure Record) and/or a letter or order showing that deportation or departure has been delayed or will not be enforced</p>	<p>PRUCOL, LPR; <b>Qualified</b></p>
<p>Unexpired Temporary I-551 stamp in foreign passport or on INS Form I-94 (Arrival/Departure)</p>	<p>Permanent Resident, LPR; <b>Qualified</b></p>
<p>I-210</p>	<p>PRUCOL, LPR; <b>Qualified</b></p>
<p>I-220B</p>	<p>PRUCOL, LPR; <b>Qualified</b></p>
<p>I-551 (Resident Alien Card) (no form number):</p> <p>Coded with one of the following:</p> <p>CR-1-CR-2</p> <p>F42-F43</p> <p>IR1-IR9</p> <p>P1-P6</p>	<p>Permanent Resident, LPR; <b>Qualified</b></p> <p>Possibly a Sponsored Non-citizen following issuance of card</p>
<p>I-551 (Resident Alien Card) (no form number): Coded with one of the following: S-16, S-26</p>	<p>Permanent Resident – Special Agricultural Worker (SAW), LPR; <b>Qualified</b></p>
<p>I-551 (Resident Alien Card) (no form number):</p> <p>Coded with one of the following:</p> <p>W-16, W-26, W-36</p>	<p>Permanent Resident – Amnesty Alien, LPR; <b>Qualified</b></p>

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I-551 (Permanent Resident Card): Coded with any other code	Permanent Resident , LPR; <b>Qualified</b> Possibly a Sponsored Alien following issuance of card
I-551 (Resident Alien Card): Coded with one of the following: SI6, SI7, SI9	Permanent Residents, LPR; <b>Qualified</b> Iraqi or Afghan Special Immigrant (SIV)
I-688 (Temporary Resident Card): Coded with: 210 or 245A	Permanent Resident – SAW or Amnesty Alien, LPR; <b>Qualified</b>
I-688A (Employment Authorization Card)	Applicant status for SAW or Amnesty Alien; <b>Not Qualified</b>
I-766 (Employment Authorization Document)	Not Permanent Residents; <b>Not Qualified</b>
I-688B (Employment Authorization Document): Coded with:  274a.12(a)(3) 274a.12(a)(4) 274a.12(a)(5) 274a.12(a)(10)	Not Permanent Residents  Refugee, or Conditional entrant; <b>Qualified</b>  Refugee; <b>Qualified</b>  Granted Asylum; <b>Qualified</b>  Granted Withholding of Deportation; <b>Qualified</b>
I-688B (Employment Authorization Document): Coded with: 274a.12(c)(9)	Applicant for permanent resident status; <b>Not qualified until status granted as LPR except qualified battered immigrants under section 227.05(B)(1)</b>
I-688B (Employment Authorization Document): Coded with: 274a.12(c)(11)	Parolee; <b>Qualified</b>
I-688B (Employment Authorization Document): Coded with:  274a.12(c)(8) 274a.12(c)(16)	Applicant for asylum registry (resided in the U.S. since before 01/01/72); <b>Not qualified unless granted asylum or status changed to LPR.</b>

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I-327 (Reentry Permit)	Permanent Resident Alien; <b>Qualified</b>
I-586 (Border Crosser Card): Coded with: B-1, B-2	Visitor; <b>Not Qualified</b>
I-485 I-130 I-360 I-797 EOIR Form 42B  A bona fide copy of a USCIS order or notice confirming that a petition filed by the applicant under the Violence Against Women Act (VAWA) (Form I-360), petition as a widow(er) of a United States citizen (Form I-360), or a family-based petition for immediate relative status (Form I-130) of a battered alien or an application for cancellation of removal under VAWA (EOIR Form 42B) has been approved or is pending, and the USCIS or Executive Office of Immigration Review (EOIR) has found that the applicant has a prima facie(obvious) case for relief (Form I-797) or Form I-485. Any of the documents listed above verify the battered alien’s qualified status.	Battered Alien; <b>Qualified</b>
Office of Refugee Resettlement Certification Letter for Trafficking Victims, Eligibility Letter for Trafficking Victims  Derivative T Visa (T-2, T-3, T-4, or T-5)	Trafficking Victim; <b>Qualified</b>
Iraqi or Afghan passport with an immigrant visa stamp noting that the individual has been admitted under IV (Immigrant Visa) Category SI1 and stamp or notation on passport or I-94 showing date of entry	Principal Applicant Iraqi or Afghan Special Immigrant (SIV); <b>Qualified</b>

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Iraqi or Afghan passport with an immigrant visa stamp noting that the individual has been admitted under IV (Immigrant Visa) Category SI2 and stamp or notation on passport or I-94 showing date of entry	Spouse of Principal Applicant Iraqi or Afghan Special Immigrant (SIV); <b>Qualified</b>
Iraqi or Afghan passport with an immigrant visa stamp noting that the individual has been admitted under IV (Immigrant Visa) Category SI3 and stamp or notation on passport or I-94 showing date of entry	Unmarried Child Under 21 Years of Age of Iraqi or Afghan Special Immigrant (SIV); <b>Qualified</b>

**227.07      STEP 4: DETERMINING IF NON-CITIZEN IS SUBJECT TO WAITING PERIOD OR 40 QUARTERS**

If the individuals meet one of the conditions below, they are considered a Qualified eligible non-citizen and are eligible to participate in the FNS program as long as all other conditions of eligibility are met.

If the individuals do not meet one of the conditions below they are considered a Qualified ineligible non-citizen and are not eligible to participate in the FNS program.

- A. The following Qualified non-citizens are exempt from the 5 year waiting period and 40 qualifying quarters for FNS eligibility:
1. Granted asylum under Section 208 or 209 of the Immigration and Naturalization Act (INA)
  2. Refugees admitted under Section 207 or 209 of INA.
  3. Deportation withheld under 243(h) or 241 (b) (3) of INA
  4. Cuban or Haitian entrants. Their status may be varied, including but not limited to, Public Interest Parolee, pending a 240 Hearing, Asylee or Pending Asylee, Refugee, Lottery Winners.
  5. Trafficking victims See section 227.05 B, 2
  6. Amerasian Immigrant under 584 of the Foreign Operation, Export Financing and Related Program Appropriations Act
  7. Lawful Permanent Resident (LPR) with a military connection (veteran, on active duty, or spouse or child of a veteran or active duty service member)
  8. Children under the age of 18 regardless of the date of entry.
  9. Disabled or blind (as defined in section 210.05).

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#### 10. Iraqi or Afghan Special Immigrants (SIVs)

**NOTE:** The seven-year cap no longer applies to immigrants listed in a. through e. above. These immigrants are now eligible indefinitely.

11. Active duty as a member of the Armed Forces means the individual is on full-time duty. It does not include full-time National Guard duty. Determine active-duty status based on the individual's service identity card. Look at the expiration date on the Military Identification Card (DD Form 2 or green card). If more than one year from the date of the review, assume the individual is on active duty other than for training. If the date is one year or less from the date of the review, obtain a copy of the current military orders to verify active duty other than for training. After September 7, 1980, the minimum active-duty service requirement was two years or more of continuous active duty in the Army, Navy, Air Force, Coast Guard, or Marine Corps.

a. Spouse of a veteran is eligible if he/she is the unremarried surviving spouse of a deceased veteran, provided:

- i. The couple was married for at least one year; or
- ii. The couple was married for any period if a child was born of the marriage; or
- iii. The couple was married for any period if a child was born to the veteran and the spouse before the marriage and the spouse has not remarried.

b. An unmarried dependent child of a veteran, provided the child is:

- i. A legally adopted or biological dependent child of an honorably discharged veteran or active duty member of the Armed Forces if the child is under 18;
- ii. A legally adopted or biological dependent child of an honorably discharged veteran or active duty member of the Armed Forces if the child is a full-time student under the age of 22;
- iii. A child of a deceased veteran provided the child was dependent upon the veteran at the time of the veteran's death; or
- iv. A disabled child age 18 or older if the child was disabled and dependent on the active duty member or veteran prior to the child's 18th birthday.

B. The following Qualified Non-citizens can get FNS if he/she is otherwise eligible and has been in qualified status in the United States for five years beginning

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on the date the immigrant obtains status as a qualified alien from USCIS. They are:

1. An LPR who has earned, or can be credited with, less than 40 qualifying quarters of work.
2. Paroled for at least one year under section 212(d)(5) of INA (refer to A.1.d. for Cuban or Haitian entrants).
3. Granted conditional entry under 203(a)(7) of INA in effect prior to 4/1/1980.
4. Battered spouse battered child or parent or child of a battered person with a petition pending under 204(a)(1)(A) or (b) or 244 (a)(3) of INA. See section 255.05B, 1

**NOTE:** The seven-year cap no longer applies to immigrants listed in b above. These immigrants are now eligible indefinitely.

- C. Qualified Non-citizens who do not belong to one of the groups listed in A.1 & 2. above, can get FNS if he/she is otherwise eligible and has earned, or can be credited with 40 qualifying quarters of work.

#### 227.08

#### VERIFICATION OF NON-CITIZEN STATUS

Each unit member who is an non-citizen must provide original documentation of his non-citizen status. Request verification using the DSS-8560 Notice of Information Needed to Complete your Food and Nutrition Services (FNS) and allow the FNS Unit ten calendar days to provide the documentation.

- A. When the applicant provides insufficient documentation to verify his non-citizen status, further verification is required.
  1. You must offer to contact USCIS when you are presented with an USCIS document which:
    - a. Is not listed in policy; or
    - b. Is not considered sufficient proof of non-citizen status; or
    - c. Is illegible or incomplete.
  2. If the applicant consents, contact the Charlotte USCIS Office at (800) 375-5283 to verify his non-citizen status. USCIS will need:
    - a. The applicant's full name and date of birth;
    - b. Alien registration number, if you have it; and
    - c. A description of the USCIS document.

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- B. When the applicant provides the documentation, verify the non-citizen member's status using the SAVE Program. Do not delay, deny, reduce, or terminate benefits pending SAVE verification. An expired alien registration card does not indicate that the applicant does not have a valid immigration status. The Alien Status Verification System (ASVS) will reflect the non-citizen's current status.

Most non-citizens present documents which contain an Alien Registration Number or A-Number. This number references the individual's alien file at USCIS. Use this number to verify the alien's status using the SAVE Program. All alien documents must be verified through SAVE. There are two methods of verifying alien status through SAVE.

#### 1. Primary Verification

- a. Use the Alien Status Verification System (ASVS) for verification when an immigration document contains an A-Number. Refer to EIS Manual, Volume I (<http://info.dhhs.state.nc.us/olm/manuals/dma/eis/man/EIS1108.htm>) for instructions on how to access the SAVE system. In some instances, however, immediate additional verification is required. See B. below for additional verification procedures.
- b. Initiate immediate additional verification when any of the following documents are presented:
  - i. Any unfamiliar USCIS document or item that indicates immigration status but does not contain an A-Number.
  - ii. Any I-181 or I-94 in a foreign passport that bears the endorsement "Process for I-551, Temporary Evidence of Lawful Permanent Resident," and is over one year old.
  - iii. Any document that contains an A-Number in the A80 000 000 series. This range is used for illegal border crossings.
  - iv. Any document which appears to be counterfeit or altered. Characteristics of suspect documentation include photo substitution and ink discoloration.
  - v. Any other USCIS receipt submitted as an immigration document.
  - vi. Any document that contains an A-Number in the A60 000 000 series. This range has not yet been issued.

#### 2. Additional Verification

- a. Initiate additional verification when:
  - i. ASVS returns the response "Institute Additional Verification;" or

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- ii. Discrepancies are found between an non-citizen's documents and information received from ASVS; or
- iii. Immediate additional verification is required. See A., 2. above.
- b. To initiate additional verification, refer to EIS Manual, Volume I for instructions.
- c. When prompted to “resubmit with Docs” click the “Resubmit Verification” button, this will launch a new window with the G-845 pre-populated. Print this version and mail to:

U.S. Citizenship and Immigration Services

Federal Plaza, 5th Floor, Room 5-100A

New York, NY 10278

Attn: Immigration Status Verification Unit

Find the case results in the Case Administration area by using the Verification Number or sorting by cases with the “Third Step Responses”. To ensure receipt of the electronic response, DO NOT CLOSE the case until the verification results have been received.

NOTE: Effective October 2008, cases initiated electronically and requiring G-845 submission must include the Case Verification Number in order to minimize cost. Any G-845 submitted without the Case Verification Number will be processed as a manual request resulting in an additional charge of \$2.00. If the G-845 is not automatically populated with the Case Verification Number, write the number in.

- d. Do not delay, deny, reduce, or terminate benefits due to immigration status pending the receipt of additional verification.
- C. If the applicant fails to provide documentation of non-citizen status, consider the non-citizen member an ineligible non-citizen.
- 1. Refer to FNS 250 Resources and FNS 260 Income for treatment of resources and income for an ineligible non-citizen.
  - 2. Ineligible non-citizens are not necessarily illegal non-citizens.
  - 3. Refer non-citizens without documentation to USCIS for assistance at:  
  
www.uscis.gov by going to the “Services and Benefits” section to find the appropriate field office; or by calling USCIS customer service at 1-800-375-5283.

D. Documentation:

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1. Document the source of verification used for each non-citizen member included in the unit and the date provided in NC FAST using the appropriate evidences.
2. Make a copy, if possible, of the document presented as verification of alien status and enter into NC FAST using the appropriate taxonomy.  
If verification with USCIS is pending, document the date of the request.

#### **227.09 SPONSORED NON-CITIZENS**

To determine eligibility and benefit level of a household that contains an eligible sponsored non-citizen, the income and resources of the sponsor and the sponsor's spouse must be deemed. Refer to B. below for exemptions to deeming.

##### A. Definitions

1. **Sponsored Non-citizen:** A non-citizen admitted lawfully for permanent residence that is **sponsored by an individual** who has signed an affidavit of support. If a church or institution sponsors the non-citizen, special provisions described below **do not** apply.
2. **Sponsor:** A person who executed an affidavit of support on or after December 19, 1997 on behalf of an non-citizen as a condition of the non-citizen's entry or admission to the U.S. Only individuals are considered sponsors. Organizations and institutions, such as churches, are not considered sponsors.
3. **Deemed Income/Resources:** The process of considering a sponsor's income and resources for the non-citizen.

##### B. Exemptions from Sponsored Non-citizen Requirements

The following non-citizens will not be subject to the sponsored non-citizen requirements in **FNS 227.09 C.**

1. A non-citizen who is participating in the Food and Nutrition Services Program as a member of his sponsor's unit.
2. An non-citizen who is not required to have a sponsor under the Immigration and Nationality Act such as, but not limited to, a refugee admitted after March 31, 1980; a parolee admitted under Section 212(d)(5); one granted political asylum; a Cuban or Haitian entrant; or granted status as a conditional entrant before April 1, 1980.
3. An non-citizen from Vietnam who enters the U.S. under the Foreign Operations Act. These non-citizens should be considered as though they are refugees under Section 207 of the Immigration and Nationality Act.

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4. An indigent non-citizen that the county agency has determined is unable to obtain food and shelter, taking into account the non-citizen's own income, plus any cash, food, housing and other assistance provided by other individuals, including the sponsor(s). "Unable to obtain food and shelter" means that the sum of the eligible sponsored non-citizen'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% of the poverty income guideline for the non-citizen's household size.

A sponsored non-citizen may self-declare that he or she is not being supported by the sponsor. If the sponsored non-citizen self-declares non-support from the sponsor, all that can be estimated when determining indigence is the sponsored non-citizen household's income, the value of in-kind assistance and any other income received from others. Verification from the sponsor of non-support is not needed.

Once a determination of indigence is made, the non-citizen remains indigent for 12 months from the date of eligibility, regardless of any secondary information that may be obtained from SAVE on the sponsor within the household's certification period.

Prior to conducting an indigence determination, explain the purpose of the determination and provide the sponsored non-citizen or their representative the opportunity to refuse the indigence determination. Explain that if a sponsored non-citizen is exempt from sponsoring based on indigence, the names of the sponsors and the sponsored non-citizen must be reported to USCIS. Inform the sponsored non-citizen that if the sponsored non-citizen refuses the indigence determination that the sponsor's income and resources will be deemed.

- a. Determine the amount of income (Include both countable and non-countable income as it pertains to the Food and Nutrition Services Program.), cash contributions, and the value of in-kind assistance provide in the month of application.

**NOTE:** Determine the amount of in-kind assistance by estimating a value for it. For example, if the non-citizen does work around the house for room and board, ask the sponsor how much he normally charges for room and board. Whatever amount the sponsor gives as the room and board value is counted as in-kind assistance. In-kind assistance is generally defined as performing some work or service in lieu of paying for a product or service.

- b. Compare the total income, contribution and value of in-kind assistance to the gross income limit for the non-citizen's household size. If the total is greater than the gross income limit, the non-citizen is not indigent. If the total is less than the gross income limit, the non-citizen is indigent.

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- c. If the non-citizen is indigent process the case, counting only the actual amount of cash support from the sponsor provided over a 12-month period beginning with the month of determination. Non-countable income is used in the indigent test only, not in the actual budget.
- d. Each indigence determination is renewable for additional 12-month periods.
- e. When an indigent determination is made, report to the USCIS in writing at the address below. Include the name of the indigent non-citizen(s), and the name(s) of the sponsor. The written notice should include the reference "Determinations under 421(e) of the Personal Responsibility and Work Opportunity Act of 1996".

Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
20 Massachusetts Avenue, NW  
Washington DC, 20529

5. Battered immigrants who meet the qualified non-citizen requirements in 227.05.
6. Children under age 18.
7. Non-citizens whose sponsors signed affidavits of support before December 19, 1997.

#### C. Requirement

1. If the Affidavit of Support was signed on or after December 19, 1997, the total income and resources of a non-citizen sponsor and the sponsor's spouse (if living with the sponsor) is counted as unearned income and resources to the non-citizen.
2. The sponsored non-citizen must provide verification of the sponsor's income and resources to calculate the income.
3. If the Affidavit of Support was signed on or after December 19, 1997, the total income of the sponsor and his spouse is credited to the non-citizen until the non-citizen becomes a citizen or can be credited with 40 qualifying quarters.
4. If a non-citizen loses his sponsor (The sponsor discontinues financial support.) and fails to obtain another sponsor, continue to count the income and resources of the lost sponsor for the remainder of the applicable period.
5. If the non-citizen switches sponsors during the certification period, recalculate income/ resources from the new sponsor.

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6. If the sponsor dies, do not continue to count the sponsor's income and resources to the sponsored non-citizen.

**D. Verification and Documentation**

If the sponsored non-citizen is **not indigent**, sponsor deeming rules apply and the sponsor's total income and resources must be verified. The sponsored non-citizen unit is responsible for providing the verification or documentation of the sponsor's income and resources.

An non-citizen who is **indigent** is exempt from sponsor deeming and does not need to provide verification of the sponsor's income and resources. However, if the non-citizen receives cash contributions from the sponsor, then the amount of cash given must be verified. Count the actual amount of cash support provided from the sponsor for a period beginning on the date of eligibility determination and ending 12 months after such date.

The sponsored non-citizen is ineligible to participate until verification is provided. However, determine the eligibility of any remaining unit members. Count the income and resources of the ineligible non-citizen using instructions in Section 250, Resources, and 260, Whose Income is Counted.

Verify the following items for sponsored non-citizens. This is in addition to the normal verification requirements.

1. The income and resources of the sponsor and the sponsor's spouse (if living with the sponsor);
2. The provision of the Immigration and Nationality Act under which the non-citizen was admitted;
3. The date of the non-citizen's entry or admission as a lawful permanent resident as established by USCIS;
4. The non-citizen's date of birth, place of birth, and alien registration number.

**227.10**

**INSTRUCTIONS FOR CALCULATING 40 QUALIFYING  
QUARTERS**

The following material provides guidelines that can be used to determine whether an individual meets the requirements for the 40 qualifying quarters of coverage (QC's) exception. The guidelines are divided into four sections: the interview process, accessing the system, interpreting the output data, and discrepancy reconciliation. The 40 quarters must be verified prior to participation.

**A. Definitions:**

**Quarter** -- A period of three calendar months ending March 31, June 30, September 30, and December 31.

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**Covered Earnings** -- Wages or self-employment income which requires payment of FICA (social security) taxes.

**Non-covered Earnings** -- Wages or self-employment income which do not require payment of FICA (social security) taxes.

**Quarter of Coverage (QC)** -- Credit for a requisite amount of covered earnings assigned to a calendar quarter.

**Number Holder** -- An individual who has a social security number assigned to him/her.

**QC History (QCH)** -- A display of Quarters of Coverage (QC's) by quarter and year.

**TPQY** -- Third Party Query, the system which will be used to request QC Histories.

**Lag Quarters** -- Current year quarters and proceeding year quarters which may not appear in the QC history because the employer report has not been processed by SSA. This could be up to seven quarters depending on when a request for QC history is processed.

#### **B. Interviewing the FNS Household:**

The non-citizen lawfully admitted for permanent residence (LPR) who can be credited with 40 qualifying quarters is eligible for Food and Nutrition Services. Determine the potential effect of applying the 40 QCs provision to a LPR non-citizen. As explained below, the non-citizen's work and work by his/her parents and/or spouse (with certain exceptions) can be combined to attain the 40 qualifying quarters to meet this exception, and these quarters may be used by more than one individual in determining eligibility. For example, two children can use a parent's quarters to meet this requirement. If a parent has the 40 quarters, both children could use the full 40 quarters to qualify.

Question the non-citizen member to obtain sufficient information to determine that the family relationships exist, the date of birth of the non-citizen individual, and the identifying information that will allow you to access the SSA QC History (QCH) System.

1. Determine which number holders can be included in the QC count credited to the LPR non-citizen.
  - a. The non-citizen individual, always
  - b. The non-citizen individual's biological parents but only quarters worked prior to the non-citizen individual's 18th birthday
  - c. The non-citizen individual's adoptive parents but only quarters worked prior to the non-citizen individual's 18th birthday.

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**NOTE:** In a.- c. above, quarters earned by parents prior to the child's birth or adoption are also counted.

- d. The non-citizen individual's stepparent, provided the step relationship still exists but only for quarters worked while the relationship was in existence and the non-citizen individual was under age 18.
- e. The non-citizen individual's current spouse but only for the quarters worked during the spousal relationship. If a couple divorces, stop counting their quarters toward each other at next recertification, application, or reapplication. If they divorce prior to processing the application (determining eligibility), do not count the quarters.
- f. The non-citizen individual's former spouse, only if the marriage ended by death, **and only for quarters worked during the marriage.**

**NOTE:** None of the qualifying quarters earned after December 31, 1996, are counted if the wage earner received any federal means-tested public assistance benefit during the period for which the qualifying quarter is credited. Federal means-tested public benefit for this provision is defined as Work First assistance, Food and Nutrition Services, Medicaid, North Carolina Health Choice, or SSI.

- 2. Determine whether it is possible for the non-citizen individual to meet the requirement.
  - a. Ask how many years the non-citizen individual and each of the relevant persons above have lived in this country. **Add** the number of years for each together. If the total equals at least ten years, proceed to 3.
  - b. If the total is less than ten years, ask whether the non-citizen individual, his/her parents, or spouse ever commuted to work in the U.S. from another country before coming here to live or worked for a U.S. company overseas and paid U.S. income taxes or FICA taxes.
    - i. If **yes**, determine the number of years and add them to the total.
    - ii. If the total is at least ten years, proceed to 3.
    - iii. If the total is less than ten years, **stop**. The applicant cannot meet the 40 QC requirement.
- 3. Determine how many years in the total from 2. above included earnings.
  - a. Four quarters in each year can be credited to the non-citizen individual from each relevant individual.
  - b. Always credit the non-citizen individual's own quarters first. This will simplify verification because many non-citizen individuals will have

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sufficient quarters on their own record and a QC History for the parent(s)/spouse number holder(s) will not be needed.

- c. Request verification using the 40 QC History query if the interview process shows:
  - i. The non-citizen individual may meet the 40 QC exception with lag quarters.
  - ii. The non-citizen individual will **not** meet the 40 QC exception, but the non-citizen individual still believes he/she meets this requirement.
  - iii. To verify when quarters were earned by a qualifying parent, stepparent, current or former spouse.
4. Considerations for evaluating the QC History
  - a. **Establish** the necessary relationships to the non-citizen individual before requesting a QC History.
  - b. **Request** a QC History unless it is clear from the interview that the non-citizen individual or non-citizen individual, in combination with others, cannot meet the 40 QC exception.
  - c. **Determine** if any of the wage earners whose quarters will be used in the determination have received a federal means-tested public benefit (Work First assistance, Food and Nutrition Services, Medicaid, North Carolina Health Choice, or SSI) after December 31, 1996. The Social Security Administration will provide information about SSI as part of this query. This information will be needed when reviewing the output to determine whether quarters in years after 1996 can be included.

#### C. Accessing the TPQY Information:

40 quarters data can be accessed in NC FAST Online Verification System (OVS). Refer to the NC FAST help for job aids and assistance in accessing the information.

#### D. Making the Determination:

1. Review the non-citizen individual's TPQY response record. Does the Non-citizen QC field equal 40?
  - a. If **yes**, the applicant meets the exception requirement.
  - b. If **no**, are there other records from which the non-citizen individual can gain credit (i.e., biological, adoptive or stepparents, current or former spouse)?
  - c. If **yes**, access QC History for parent/spouse and go to 2.

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- d. If **no**, go to 3.
- 2. Review the TPQY response records which can be used (a spouse or a parent). When adding the QC's on these records to the non-citizen individual's record, do they equal 40?
  - a. If yes, check the QC History to determine if the quarters were earned for the correct time period. If so, the individual is eligible.
  - b. If **no**, go to 3.
- 3. Review the total number of QC's with the non-citizen individual.
  - a. If the TPQY response shows 34 QC's or more and the non-citizen individual believes that QC's are missing, check the QC History.
  - b. If the non-citizen individual believes the records are correct, he/she cannot meet the exception requirements.

If a QC History is used or if wage records are provided from another source, the following chart will assist in determining whether the individuals have the level of earnings to count as a Qualifying Quarter.

1978.....\$250	1988.....\$470	1998.....\$700	2008.....\$1050
1979.....\$260	1989.....\$500	1999.....\$740	2009.....\$1090
1980.....\$290	1990.....\$520	2000.....\$780	2010.....\$1120
1981.....\$310	1991.....\$540	2001.....\$830	2011.....\$1120
1982.....\$340	1992.....\$570	2002.....\$870	
1983.....\$370	1993.....\$590	2003.....\$890	
1984.....\$390	1994.....\$620	2004.....\$900	
1985.....\$410	1995.....\$630	2005.....\$920	
1986.....\$440	1996.....\$640	2006.....\$970	
1987.....\$460	1997.....\$670	2007.....\$1000	

**For 1978 and later**, credits are based solely on the total yearly amount of earnings. The number of creditable QC's are obtained by dividing the individual's total earned income by the increment amount for the year. All types of earnings follow this rule. The amount of earnings needed to earn a credit increases and is different for each year. For 1978 through 2009, the amount of earnings needed for each credit is:

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A current year quarter (must be a full quarter) may be included in the 40 quarter computation. Use the current year amount as the divisor to determine the number of quarters available. There is a limit of four quarters per year.

#### E. Reconciliation:

##### 1. Lag Quarters

When the non-citizen individual or other FNS Unit member does not agree with the response provided by the TPQY and the problem is missing quarters in the current year, accept a current **employer** prepared wage statement as proof of earnings, and credit a quarter for each increment. Assume the earnings are covered employment if the wage statement shows FICA withholding.

- a. If the problem is quarters in the last taxable year and the query was requested prior to August 31st, check the QC History to determine if quarters are recorded. If quarters are missing, accept forms such as W-2 and/or W-2c, **employer** prepared wage statements, or an IRS copy of the individual's tax return and credit Qualified Quarters to the applicant. Assume the earnings are covered if the proof submitted indicates FICA taxes were withheld.
- b. If the query was requested after August 31st, the earnings are not lag and should be determined following the instructions in 2. below.

##### 2. Covered Employment

Whenever the non-citizen individual or any other FSU member does not agree with the response provided by the TPQY, reconcile the discrepancy. When the individual believes that the work, he/she performed was in Covered Employment and the earnings do not fall within the lag period, SSA is responsible for investigating the discrepancy and correcting the record.

- a. Refer all covered employment cases to SSA as follows.
  - i. If the individual indicates that he/she used more than one SSN or allowed others to use his/her SSN, the individual must contact the local Social Security Office. He must take a copy of the QC History and identifying information to the office with him.
  - ii. If the individual indicates there are missing quarters, have the non-citizen individual, if he/she is the number holder of the SSN, complete the SSA-7008. Proof of earnings such as W-2's, pay slip/stub, tax return, or statement from the employer should be provided. On top of the SSA-7008, write "Welfare Reform." If the non-citizen individual is not the number holder, advise the non-citizen individual that the

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number holder must complete the SSA-7008 and provide proof of earnings as shown above.

- iii. All SSA-7008's, along with the documentation, should be mailed to:

SSA, OCRO

Post Office Box 17752

Baltimore, MD. 21235-0001

- b. If the non-citizen individual has no documentation, he/she should contact their local Social Security Office to arrange an appointment. If the non-citizen states that the wages were earned but not reported, refer him/her to the Social Security Office for an investigation and attempt to credit these earnings. If Social Security must research files for determination of quarters, and the non-citizen individual provides a document from SSA indicating that the case is under review, the non-citizen may participate up to six months based on their statement of earnings for 40 quarters.

**227.11**

**REQUIREMENT TO REPORT ILLEGAL NON-CITIZENS IN THE UNITED STATES**

A. What Evidence Warrants Reporting

Certain specific evidence of illegal presence in the United States must exist before an **applicant/recipient** can be reported to the USCIS. The only specific evidence that can be considered is evidence provided by the USCIS or the Executive Office of Immigration Review (EOIR), such as a Final Order of Deportation. No other criteria or evidence can or will warrant a referral being made to the USCIS.

Declining to provide documentation of immigration status is not a valid reason for referral. The **applicant/recipient** who declines to present documentation of immigration status will not receive benefits and therefore there is no reason to seek further verification of their non-citizen status.

B. Reporting Procedures

Local Department of Social Services (DSS) offices must make a report to the Economic and Family Services Section if it determines that there are non-citizens who are illegally present in the United States, as described above. It is only necessary to send a report to the office when non-citizens who are not legally present in the United States are identified.

Such reports can only be made by the director or designee of the county DSS. Economic Services Section staff will forward the relevant reports to the USCIS. If a report is necessary, it must include the person's name,

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address, the reason for the referral and any other identifying information, and be sent to:

NC Department of Health and Human Services

Division of Social Services

Economic and Family Services Section

MSC 2420

Raleigh, NC 27699-2420

**C. Confidentiality of Citizenship/Non-citizen Status**

All rules of confidentiality must be applied in regard to citizenship/non-citizen status. It is a breach of confidentiality to discuss the citizenship/non-citizen status of an individual with employers, landlords, etc.

**227.12**

**SPECIAL PROVISIONS FOR SOVIET JEWISH REFUGEES**

If the local Jewish organization contacts you regarding repayment of FNS benefits received by the refugee, take the following actions.

- A. Inform the organization that you must obtain the recipient's written consent before you can release any information.
- B. Contact the recipient to explain the request and ask for his written consent.
- C. If the recipient gives written consent, provide the organization with the total amount of FNS benefits received by the refugee.
- D. Upon receipt of the reimbursement, take the following actions.
  1. Provide a cash receipt to the organization.
  2. Write a check for the amount of the reimbursement made payable to the Division of Social Services. Forward the check along with a cover letter explaining the purpose of the check to:

DHHS Controller's Office  
Program/Benefit Payments Section  
Food and Nutrition Services Accounting Unit  
2019 Mail Service Center  
Raleigh, N.C. 27699-2019