

## 18.6 SPONSORED ALIENS

### A. INTRODUCTION

The requirements for deeming income and assets do not apply to sponsors of immigrants who entered the United States before December 19, 1997.

Deeming of income and assets applies to immigrants with equally enforceable Affidavit of Support for sponsorship affidavits filed on or after December 19, 1997. All federal means-tested programs must count the income and resources of an alien's sponsor and that of the sponsor's spouse in determining the alien's eligibility for WV WORKS, SNAP benefits, and Medicaid. The sponsor's/sponsor spouses income and resources are considered to be available to the sponsored alien in determining the sponsored alien's eligibility for these benefits.

**NOTE:** The sponsor is an individual, not an organization, institution, or group.

### B. DEEMING SPONSORS' INCOME AND ASSETS

The sponsor and the sponsor's spouse's income and assets are counted in their entirety and are considered available to the sponsored alien in determining the sponsored alien's eligibility for benefits. See item C,3 for countable assets and income requirements of an ineligible sponsored alien. No allowances are made for the needs of the sponsor, his spouse, or the sponsor's family, or other sponsored alien families. The sponsor's income and assets are counted in their entirety for all aliens sponsored by the specific sponsor. Deeming applies to all non citizens sponsored by individuals.

Most aliens who are sponsored by an Affidavit of Support are not eligible for SNAP benefits, Medicaid, and WV WORKS. Deeming ends when an alien has 40 quarters of work. See Section 18.5.

- Deeming will apply for SNAP benefits purposes only to those who qualify under the military service provision.
- Medicaid and WV WORKS have no 40 Qualifying Quarters requirement and deeming applies for WV WORKS. Deeming applies for Medicaid except for MAGI groups.

**NOTE:** In Medicaid cases where the alien is eligible by the MAGI methodology, no asset tests of any individual may be used.

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After the 5 years, the income and assets of the sponsor, as well as the income and assets of the current spouse, who is living with the sponsor, are deemed to the alien to determine the alien's eligibility for benefits.

- Deeming the sponsor's income usually make the sponsored alien ineligible for means-tested public benefits. The alien is ineligible until all information needed to determine the income and assets of the sponsor and the sponsor's spouse is provided.
- All other program eligibility requirements must be met.

**C. EXCEPTIONS TO DEEMING****1. Battered Aliens/Aliens Subjected To Extreme Cruelty.**

The phrase "battered or subjected to extreme cruelty" includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution are considered acts of violence.

- If the battered alien lives in the same household as the batterer there is no exemption.
- If the battered alien is not living in the same household there could be an exemption. Battered aliens and aliens whose child or parent has been battered may be exempt from the deeming provision. The exemption is for a 12 month period provided that there is a substantial connection between the need for benefits and the battery.
- The sponsored alien must provide documented proof that battery or extreme cruelty in the United States exists. Documented proof can include the following:
  - An applicant may submit his own affidavit, under penalty of perjury, which describes the circumstances of the abuse. The statement does not require notarization.
  - A petition filed with INS on behalf of the battered alien

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- A protection order issued against the abuser
  - A record of criminal conviction of the abuser, with whom the applicant was living for committing an act of violence against the applicant, or his child or family member with whom they were living.
  - Reports or affidavits from police, judges, and other court officials, medical personnel, school officials, clergy, social workers, counselling, or mental health personnel, and other social service personnel.
  - Sworn affidavits from third parties who have personal knowledge of the battery or cruelty.
- The sponsored alien must provide documented proof of non-residency with the batterer. Relevant credible evidence supporting the claim of non-residency can include, but is not limited to, the following:
- A civil protection order requiring the batterer to stay away from the applicant or the applicant's children or parent, or evicting the batterer from the applicant's residence;
  - Employment records, utility receipts school records, hospital or medical records, rental records or records from a building or property manager;
  - An affidavit from a staff member at a shelter for battered women or homeless persons, family members, friends or other third parties with personal knowledge, or from the battered applicant or herself;
  - Any other records establishing that the applicant or her child or parent no longer resides with the abusive spouse, parent, or family member.
- The applicant must meet the requirements for qualified alien status by appropriate immigration documentation for which they are applying and all other eligibility requirements for the specific benefits should be determined.

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- The Worker must provide the SAVE Coordinator with the documented proof from the alien that battery or extreme cruelty exists regarding the abuse of the alien, the alien's child, or the alien child's parent. If further action is needed, the SAVE Coordinator will notify the Worker.

## 2. Indigent Aliens

After taking into account the alien's own income plus any cash, food, housing, or other assistance provided by other individuals (including the sponsor), if the Worker determines that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter the amount of income and resources of the sponsor or the sponsor's spouse that shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period of one year after the date such determination is made.

**NOTE:** The Indigent Alien must meet all other eligibility program requirements for the specific benefits, Medicaid and/or WV WORKS, do not have 40 Qualifying Quarters of work, and meet the requirement for qualified alien status.

In this instance, the Worker must provide the SAVE Coordinator with the name of the sponsor and sponsored alien(s) receiving benefits and the type of benefits received. If further action is needed, the SAVE Coordinator will notify the Worker.

## 3. Ineligible Sponsored Alien

The assets and income of the sponsor and the sponsor's spouse must not be included in determining the assets and income of an ineligible sponsored alien.