

24. Sponsored Noncitizen



24.1 General Information [EAS 43-119]

A sponsored noncitizen is a noncitizen whose entry into the United States was sponsored by a person, or a public or private agency or organization, which executed an affidavit of support or similar agreement on behalf of the noncitizen as a condition of the noncitizen's entry into the United States.

Sponsored noncitizen may have a portion of the sponsor's income and resources considered available to them. This is known as "Deeming" of the sponsor's income and resources. Deeming rules do not apply to individuals sponsored by public or private agencies or organizations.

The sponsored noncitizen rules do not apply to a CalWORKs dependent child who is the child of the sponsor or the sponsor's spouse. For example, an absent father has sponsored his wife and his two children, ages five and seven. The mother is a sponsored noncitizen and all required sponsored noncitizen forms must be completed and on file for her. If the father refuses to cooperate, only the mother is ineligible. The children's eligibility is determined based upon absent parent deprivation and the father is referred to Family Support for child support.

24.1.1 Policy

A noncitizen entering this country may or may not have a sponsor; therefore, sponsorship must be explored in the same way that we explore all other aspects of eligibility, such as income and property (you must ask). If the noncitizen has entered the U.S. after 12/1/97, carefully explore the circumstances under which they entered the U.S. and whether the client may or may not be sponsored. When all reported information is consistent, the client's statement regarding sponsorship on the statement of facts form is sufficient. No cash aid can be granted for the sponsored noncitizen until sponsorship is determined.

When the applicant is sponsored, and arrived after 12/1/97, the noncitizen must provide the "Affidavit of Support" before aid can be paid unless they meet one of the two deeming exceptions [\[see section 24.2.3\]](#).

Sponsored Noncitizen**24.1.2 Affidavit of Support**

Noncitizens may be sponsored when they apply for an immigration visa. Sponsors submit an Affidavit of Support promising to financially assist the noncitizen as a condition of the noncitizen's entry into the United States, should it be needed. When a noncitizen is sponsored they will have an Affidavit of Support I-864.

The previous Affidavit of Support I-134 was issued prior to 12/97. The sponsorship deeming rules regarding the I-134 have now expired.

Obtaining the I-864

When the client does not have their copy of the I-864, the following process must be used to obtain the I-864:

Who	Action
EW	Request a copy of the I-864 from Secondary "Systematic Alien Verification for Entitlements" (SAVE), by specifically requesting a copy of the I-864 on the "Document Verification Request" (G845).
Client	Go to the United States Citizenship and Immigration Services (USCIS) to obtain a copy of their I-864.
Determinations	
Intake	The sponsored noncitizen is not eligible for payment until SAVE or USCIS provides the I-864.
Continuing	<ul style="list-style-type: none"> • Create a case alert in CalWIN every six months to see if the client has received a copy of the I-864 from USCIS • Do not discontinue the case if the client fails or refused to provide the I-864. The sponsored noncitizen remains excluded. • Repeat the process annually at RD until the I-864 is provided.

[Refer to the procedures in the CPHB Chapter 17.10 for Secondary SAVE procedures]

24.1.3 Sponsorship Exceptions [EAS 43-119.12]

The sponsored noncitizen rules are NOT to be applied if the noncitizen is:

- A sponsored noncitizen who entered the U.S. with an I-134 Affidavit of Support. The time limits that applied to the I-134 deeming procedures have expired.

- Admitted to the U.S. using the provisions of Section 203(a)(7) (in effect prior to April 1, 1980) of the Immigration and Naturalization Act.
- Admitted to the U.S. using the provisions of Section 207(c) (in effect after March 31, 1980) of the Immigration and Naturalization Act.
- Granted political asylum by the Attorney General under Section 208 of the Immigration and Naturalization Act.
- Paroled into the United States as a refugee under Section 212(d)(5) of the Immigration and Naturalization Act.
- A Cuban or Haitian Entrant as defined by Section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).

24.1.4 Application of Sponsorship Regulations

If an applicant/recipient identifies him/her-self as a “lawful noncitizen”, the following guidelines will help to determine if the sponsored noncitizen regulations apply:

If the noncitizen...	Then the EW ...
Gives inconsistent or unclear information,	Must clarify the situation. The noncitizen must provide evidence they are not sponsored or provide the Affidavit of Support.
Continues to give conflicting information,	Sends the client to USCIS for documentation and requests Secondary SAVE to obtain information regarding sponsorship if unable to clarify the situation with the client.
States they are not sponsored,	Assumes that there is no sponsor unless there is conflicting information.
Does not know if they have been sponsored,	Assumes that there is a sponsor and sends the client to USCIS for documentation and initiates Secondary SAVE to request the Affidavit of Support.
States they are sponsored and the sponsor is cooperating,	Applies the income and resource deeming regulations. Approve or deny as appropriate.

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If the noncitizen...	Then the EW ...
States they are sponsored and the sponsor refuses to cooperate,	<p>Makes the determination of whether the noncitizen meets the definition of indigent and has the need for assistance; if not, deny the application for the sponsored noncitizen(s). [Refer to 24.2.3 for determination of "Indigent"]</p> <p>If there is a need for aid and the noncitizen is found to be indigent, process the application as appropriate.</p> <p>Remember that citizen children of sponsored noncitizens remain eligible; only the sponsored noncitizen(s) is ineligible.</p>



24.2 Individual is Sponsored [EAS 43-119.22]

24.2.1 Deeming

The income and property of the sponsor and the sponsor's spouse (who lives with the sponsor), are deemed to the income and property of the sponsored noncitizen, unless either the sponsor or sponsor's spouse receives public cash assistance such as CalWORKs, SSI or GA.

Note:

The deeming requirements apply to a sponsored noncitizen whose sponsor had submitted an I-864 as a condition for noncitizen's admission in the United States.

24.2.2 Period of Deeming

Deeming occurs indefinitely until the:

- Sponsored noncitizen achieves U.S. citizenship through the naturalization process
- Sponsored noncitizen has worked 40 qualifying work quarters of coverage under Title II of the Social Security Act or can be credited with such qualifying quarters. [Refer to CPHB 14.11, p. 29 for more information on 40 Work Quarters.]
- Sponsored noncitizen leaves the country permanently

- The sponsor or noncitizen dies
- The sponsor or the sponsor's spouse starts receiving public assistance benefits.

24.2.3 Deeming Exceptions

Deeming will not apply when one of the following exceptions occur.

Noncitizen is Indigent

The noncitizen is considered indigent if the EW determines that the sponsored noncitizen would go hungry or be homeless without CalWORKs assistance.

- In these cases, only the amount of income and resources actually made available to the sponsored noncitizen will be deemed to their property and resources.
- When a sponsored noncitizen is unable to provide the necessary information regarding their sponsor and the EW cannot establish contact with the sponsor and the EW determines the sponsored noncitizen would go hungry and homeless without CalWORKs, the noncitizen is ruled "indigent".
- The "indigent" exception applies to a one-time only 12-month exemption period beginning on the date of determination. The 12-month period is a consecutive period whether or not the client uses all twelve months. The 12-month deeming exemption based on indigence is only given once in a lifetime. Once the 12-month period expires, the sponsored noncitizen will NEVER be eligible as indigent again.

Example:

Mr. X and family are sponsored noncitizens (Date of Entry is 2/17/08) and are determined to be indigent. They apply for CalWORKs on 8/1/08 and are eligible. The first payment for CalWORKs is issued effective 8/1/08. Mr. X and family receive CalWORKs for 8/08 through 5/09 when he finds a job. Aid is discontinued 5/31/09. In 9/09 Mr. X is back and applying for CalWORKs because he lost his job. He is no longer eligible. His "indigent" exemption period was from 8/08 through 7/09 (12 months). Even though he did not receive CalWORKs for two of the months in his exemption period; after the exemption period expires he is no longer eligible.

Sponsored Noncitizen**Noncitizen is Abused**

The 12-month exemption period exists if the sponsored noncitizen is abused or is the abused parent of a noncitizen child.

- The noncitizen or parent demonstrates that he/she has been battered or subjected to extreme cruelty in the U.S. by:
 - A spouse
 - A parent
 - A member of the spouse's family who is residing in the same home as the noncitizen and the spouse or parent consented to or acquiesced to such battery or cruelty.
- In the case of the noncitizen whose child has been battered or subjected to extreme cruelty in the U.S. by the spouse or parent or family member.

The 12-month exception to applying deeming rules for noncitizens income and resources can continue past that time period if the sponsored noncitizen can provide documentation from USCIS, an administrative law judge or a court regarding the abuse status.

Connection Between Battery/Cruelty and Need for Benefits

To be exempt as either indigent or abused there must exist, in the EW's opinion, a substantial connection between the battery or extreme cruelty and the need for aid. The exemptions will not apply during any period the individual responsible for such battery or cruelty resides in the same household as the individual who was subjected to such battery or cruelty.

24.2.4 Conditions of Eligibility [EAS 43-119.23]

As a condition of eligibility for CalWORKs, a sponsored noncitizen who is sponsored by an individual must complete all of the following steps.

Step	Action
1.	Obtain the necessary cooperation from the sponsor to make the eligibility determination. Note: If the sponsor fails or refuses to cooperate with the noncitizen or the EW, refer to section 24.2.3.
2.	Provide, upon request, information and documentation concerning the sponsor (and the sponsor's spouse if living with the sponsor) which may be necessary to determine eligibility. This includes information and documentation which the noncitizen and the sponsor provided to INS to support the noncitizen's immigration application. The EW will obtain this information by: <ul style="list-style-type: none"> • Obtaining a copy of the "Affidavit of Support" (I-864) and • Using the "Alien Sponsor Statement of Facts" (SAR 22). The SAR 22 coversheet must be given to the applicant.
3.	Comply with reporting responsibilities. [Refer to "Reporting Responsibilities of the Noncitizen and the Individual Sponsor [EAS 40-181]," page 24-8.]

Reminder:

Until the conditions of eligibility are met, the sponsored noncitizen is not considered apparently eligible and cannot receive Diversion, Homeless Assistance or an Immediate Need.

24.2.5 Death of Noncitizen's Sponsor

If the noncitizen's sponsor dies, verification of death will be required only when the information is questionable. In the absence of evidence to the contrary, the sponsored noncitizen's statement, under penalty of perjury, is to be accepted and the sponsored noncitizen provisions shall no longer apply. A "General Affidavit" (CSF 2) may be used for the statement under penalty of perjury. The death of the sponsor stops the deeming process. [Refer to 24.2.2]

Sponsored Noncitizen**24.2.6 Income of Excluded Sponsored Noncitizen**

If a sponsored noncitizen is excluded from an AU because the sponsor has failed or refused to comply with the sponsor's requirements, that sponsored noncitizen is considered excluded from the AU by law. Any income of the excluded sponsored noncitizen must then be allocated to the AU using the excluded person computation, if appropriate.



24.3 Reporting Responsibilities of the Noncitizen and the Individual Sponsor [EAS 40-181]

24.3.1 “Sponsors Semi-Annual Income and Resources Report” (SAR 72)

The sponsored noncitizen who is a recipient is responsible for submitting a “Semi-Annual Eligibility/Status Report” (SAR 7) and a “Sponsors Semi-Annual Income and Resources Report” (SAR 72) by the fifth calendar day of the submit month. The chart below must be followed:

STAGE	WHO	REQUIRED ACTION
1.	EW	Provides adequate supply of the SAR 72 at Intake and Redetermination (RD) and explains requirement to return the SAR 72 with the SAR 7.
2.	Sponsored Noncitizen (Client)	Completes the SAR 72 and obtains from the Noncitizen sponsor: <ul style="list-style-type: none"> • Necessary cooperation, and • All necessary information.

STAGE	WHO	REQUIRED ACTION	
3.	EW	Takes appropriate action.	
		IF ...	THEN ...
		The SAR 72 is returned timely and correctly completed,	Determine ongoing eligibility and the future payment period's grant amounts. Send any required NOAs.
		Either the SAR 72 is incomplete or is not received,	Discontinue those members of the AU who are sponsored noncitizens for failure to provide a completed SAR 72 on or before the first calendar day of the payment month. (The deeming exemption should be explored if the client cannot provide the sponsor's information.) [Refer to 24.2.3]

24.3.2 Requirements for a Complete SAR 72

The SAR 72 is considered complete if ALL of the following requirements are met:

- It is dated no earlier than the first day of the submit month.
- The boxes for the address and county where signed are completed.
- It is signed by the sponsor and the recipient.
- All questions and items pertaining to the income and resources of the sponsor are fully answered.
- The information together with the submitted evidence must provide the necessary information to correctly determine the amount of income and resources to be deemed to the recipient.
- Evidence is submitted with the SAR 72 to establish the gross amount of income received by the sponsor or sponsor's spouse (if living together) and the date of receipt.

Note:

The SAR 72 is not required when the sponsored noncitizen(s) qualifies for one of the two deeming exceptions listed in section 24.2.3.



24.4 Sponsor's Property Deemed to the Noncitizen [42-205.5]

The property of the individual sponsor and the sponsor's spouse (who lives with the sponsor) neither of whom receives CalWORKs, SSI, or other cash public assistance (such as GA or RCA), is deemed to the sponsored noncitizen's resources. To determine the amount of the sponsor's property to be deemed:

STEP	ACTION
1.	Determine the total net market value of real and personal property of sponsor and sponsor's spouse as if they were applying for aid.
2.	Divide the total amount of property deemed to the noncitizen by the number of noncitizens applying for or receiving CalWORKs, if the person is the sponsor of more than one noncitizen.
3.	Multiply the amount of property deemed to each noncitizen by the number of sponsored noncitizens in the AU, to arrive at the amount of property available to the sponsored noncitizens.
4.	Apply the deemed amount determined in step 3 above, to the noncitizen's property limits. If the deemed resources alone or in combination with other property of the AU exceed the applicable property limit, ineligibility results, but only for the sponsored noncitizens.

Reminder:

Do not consider these resources available to other individuals in the AU, who are not sponsored noncitizens, unless they are actually available to these other persons. For example, the sponsor establishes a trust fund that is available to meet the current needs of the entire family.

Example:

The sponsor and the sponsor's spouse have \$4,500 in real and personal property. They have sponsored 3 persons into the United States; 2 are applying for CalWORKs.

$$\$4,500 \div 2 = \$2,250$$

The noncitizens are not eligible; the total deemed property from the sponsor to the sponsored noncitizens ($\$2,250 \times 2 = \$4,500$) exceeds the property limit.

Example:

Family applying for CalWORKs - father is a sponsored noncitizen, 3 children are refugees, mother is deceased. Sponsor and spouse have \$3,000 in real and personal property. The father is the only noncitizen they have sponsored and he is not eligible.

\$3,000 is available to the noncitizen

Father would not be eligible due to the \$3,000 deemed to him from sponsor's resources. However, the 3 children could be eligible. There would be no deeming of the sponsor's income or resources to the children unless it was actually made available to them.



24.5 Sponsor's Income Deemed to the Noncitizen [EAS 44-133.7]

The income of the noncitizen's individual sponsor and the sponsor's spouse (who lives with the sponsor) neither of whom receive CalWORKs, SSI, or other cash public assistance payments (such as GA or RCA), is deemed to the sponsored noncitizen's income. The deemed amount is calculated each payment period from the information on the SAR 72. The deeming computation is as follows:

STEP	ACTION
1.	Determine the total unearned income anticipated in the upcoming payment period for the sponsor and the sponsor's spouse.
2.	Determine the total earned income from employment and net earnings from self-employment anticipated by the sponsor and the sponsor's spouse for the upcoming payment period.
3.	If the sponsor is the sponsor of more than one noncitizen, divide the total gross income of the sponsor by the total number of sponsored noncitizens who are applying for or receiving CalWORKs. This amount is deemed to the income of each applicant or recipient who is a sponsored noncitizen.

Sponsored Noncitizen**24.5.1 How to Treat Income from a Sponsor**

The EW will use the chart below to determine how to treat the income that a sponsored noncitizen received from the sponsor:

IF...	THEN...
The sponsor is the sponsor of more than one noncitizen,	Divide the total gross income by the total number of sponsored noncitizens who are applying for or receiving cash aid. This amount is deemed to be the income of each sponsored noncitizen.
The sponsor is either an EXCLUDED PARENT or STEPPARENT,	Their income is treated in accordance with the excluded parent or stepparent deeming computation.
The sponsored noncitizen is NOT included in the AU,	The portion of the sponsored noncitizen's income, which has been deemed from the sponsor, is NOT used in determining their contribution to the AU, unless the income is actually available.
The sponsored noncitizen is a member of the AU,	The deemed income is treated as unearned income for the AU.
The sponsored noncitizen meets the 12-month deeming exemption criteria,	Only the actual income provided to the sponsored noncitizen by the sponsor will be counted.