

## 19. Citizenship and Non-citizen Status [EAS 42-430]

Citizens of the U.S. and certain categories of non-citizens are eligible for CalWORKs. Citizens must prove their citizenship and non-citizens must prove their eligible non-citizen status. Aid shall not be authorized until citizen/non-citizen status is verified.

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### 19.1 Eligibility Requirements [EAS 42-431 - 42-433]

To be eligible for aid an applicant or recipient must be a California resident who is either a:

- U.S. citizen, or
- U.S. Nationals born in U.S. territories such as American Samoa or the American Virgin Islands, or
- A non-citizen who is a “qualified alien/qualified non-citizen”:
  - Lawfully admitted for permanent residence, or
  - Permanently residing in the U.S. under color of law (PRUCOL), including persons granted status as a:
    - a. Refugee,
    - b. Asylee, and
    - c. Parolees,
    - d. Conditional Entrants,
    - e. Persons granted an indefinite stay of deportation, and
    - f. Persons granted indefinite voluntary departure in lieu of deportation.
- A victim of trafficking, domestic violence or other serious crime victim.

#### 19.1.1 Citizenship Verification [EAS 42-431.1, 42-433]

For CalWORKs, acceptable verification of citizenship status must be provided and imaged to the case record. Acceptable verification includes the following:

- U.S. birth certificate
- Baptismal certificate
- Military discharge papers
- U.S. Passport
- “Certificate of Citizenship” (N-560 or N-561) from USCIS
- “Certificate of Naturalization” (N-550 or N-570)
- “United States Citizen Identification Card” (I-179 or I-197)
- USCIS Identification form, or similar proof which shows the date and place of birth.

If this evidence is NOT available, the EW must document the **Maintain Case Comments** window of CalWIN, the client's explanation for lack of such evidence. The client must provide other evidence which proves the date and place of birth in the U.S. or U.S. territory or citizenship within ninety days. Failure to do so will result in ineligibility. The EW must create a **Case Maintenance Alert** in CalWIN for the case with a due date of 60 days from the beginning month of aid.

**Note:**

The EW must document citizenship verification for all citizen applicants or recipients on the SAWS 2 Plus or other appropriate Statement of Facts.

[Refer to “[Citizenship](#),” [page 9-1](#) for detailed information regarding the eligibility and verification criteria for U.S. Citizenship, Derivative Citizenship, and Naturalization.]

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## 19.2 Non-Citizens [EAS 42-430 - 42-433]

Non-citizens are any persons who are not U.S. citizens. This includes the following persons:

- Persons who have immigrated to the U.S. with USCIS documentation
- Tourist
- Students
- Foreign government officials, Persons here on business, and
- Undocumented persons.

### 19.2.1 Ineligible Non-Citizens

The following persons are NOT eligible to the CalWORKs program:

- Visitors
- Persons in the U.S. on business, or for religious purposes

- Tourists
- Students, and
- Undocumented persons.



**Note:**

Non-citizens who have applied for political asylum are **not** eligible until political asylum has been granted by the State Department.

### 19.2.2 Qualified Non-Citizens

Only certain categories of non-citizens are eligible for CalWORKs. For the purposes of the CalWORKs program, “qualified non-citizens” are one of the following:

Non-Citizen Status	Definition
Lawfully Admitted for Permanent Residence (LPR)	A non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA), known as the “Act.”
Asylee	Asylum has been granted under Section 208 of the INA.  [Refer to “ <a href="#">Asylee</a> ,” page 19-9 for additional information.]
Refugee	Admitted as a refugee under Section 207 of the Act.
Parolee	Individuals who are paroled as refugees under Section 212(d)(9)(B) of the INA.
Deportee	Deportation is being withheld under section: <ul style="list-style-type: none"> <li>• 243(h) of the Act (as in effect immediately before the effective date of Section 307 of division C of P.L. 104-208) OR</li> <li>• 241(b)(3) of the Act (as amended by Section 305(a) of division C of P.L. 104-208).</li> </ul>
Conditional Entrant	Granted conditional entry pursuant to Section 203(a)(7) of the Act as in effect prior to April 1, 1980.
Cuban-Haitian Entrant	A non-citizen who is a Cuban/Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980.
Battered Non-Citizen	Certain battered non-citizens as defined in “Personal Responsibility and Work Opportunity Reconciliation Act” (PRWORA), Title IV, Section.
Victims of Trafficking, Domestic Violence, and other Serious Crimes	Non-citizens who meet the criteria in U.S. Code Title 22 and Title 8.

## 19.3 Federally Funded

To be eligible to federal CalWORKs, a non-citizen must be:

- A California resident, and
- A “qualified non-citizen” who arrived:
  - Prior to 8/22/96, or
  - On or after 8/22/96 and
    - meets the “exception criteria,” or
    - has resided in the U.S. for a period of 5 years beginning on the non-citizens date of entry.

### 19.3.1 “Exception Criteria”

Qualified non-citizens who entered the U.S. on or after 8/22/96 are not eligible for Federal CalWORKs for five years from the date of entry unless they:

- Become a U.S. citizen or
- Meet the “Exception Criteria.”

Qualified non-citizens who enter the U.S. at anytime can be eligible for Federal CalWORKs immediately if they meet the following “exception criteria” and are otherwise eligible:

Non-Citizen Status	Definition
Refugee	Admitted as a refugee under Section 207 of the Act. Also included under Refugee status are Trafficking Victims.
Asylee	Asylum has been granted under Section 208 of the Act.
Deportee	Deportation is being withheld under Section: <ul style="list-style-type: none"> <li>• 243(h) of the Act (as in effect immediately before the effective date of Section 307 of Division C of P.L. 104-208) OR</li> <li>• 241(b)(3) of the Act (as amended by Section 305(a) of Division C of P.L. 104-208).</li> </ul>

Non-Citizen Status	Definition
Non-citizen with Veteran Status	Veteran status is defined as: <ul style="list-style-type: none"> <li>• A veteran (as defined in Section 101 of the Title 38, U.S.C) with a discharge characterized as an honorable discharge and not an account of Alienage, and who fulfills the minimum active-duty service requirements of Section 5303A(d) of Title 38 U.S.C., or</li> <li>• A veteran on active-duty (other than active duty for training) in the Armed Forces of the United States, or</li> <li>• The spouse or unmarried dependent child of an individual described in 1 or 2, or</li> <li>• The surviving spouse of an individual (who has not remarried) described in 1 or 2 who is deceased if the marriage fulfills the requirements of 38 U.S.C., Section 1304</li> </ul>
LPR with Work Quarters	An LPR admitted to the U.S. under the Act and having 40 qualifying quarters of coverage as defined under Title II of the Social Security Act or can be credited with such qualifying quarters as provided under Section 435, and (ii) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefits (as provided under PRWORA section 403) during any such period.
Cuban-Haitian Entrant	A non-citizen who is a Cuban/Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980.
Amerasian	A non-citizen admitted to the U.S. as an Amerasian as described in PROWORA, Section 402(a)(2)(A)(i)(V).
Victims of Trafficking, Domestic Violence, and Other Serious Crime	Aliens who meet the criteria in U.S. Code Title 22 and Title 8.

## 19.4 State-Only CalWORKs Program

A qualified non-citizen who has entered the U.S. on or after 8/22/96, and is within their first five years of their Date Of Entry (DOE), may be eligible to State-Only CalWORKs. To meet the requirements for the State-Only program, a non-citizen must be:

- A California resident, and is
  - A “qualified non-citizen” who arrived on or after 8/22/96 and does not meet the “exception criteria.” These persons receive State-Only CalWORKs during their first five years from their DOE in the U.S.; or
  - Persons who do not meet the “qualified non-citizen” status but are eligible under the previous AFDC program. Those include:
    - Persons permanently residing in the U.S. under color of law, including:
      - (1) Non-citizens granted temporary parole status by the Attorney General under Section 212(d)(5)\*

- (2) Non-citizens granted indefinite voluntary departure in lieu of deportation, and
- (3) Non-citizens granted an indefinite stay of deportation.
- Persons who do not meet the “qualified non-citizen” status but are eligible under the CalWORKs Trafficking and Crime Victims Assistance Program (TCVAP).

[Refer to “Trafficking Victims/ Non-Immigrant Family Members of Trafficking Victims,” page 60-4]]

## 19.5 Verification

The following chart provides a list of acceptable documentation to determine if a non-citizen meets the “qualified” status. Eligibility Workers shall use the chart as a guide to aid in determining if the “qualified non-citizen” is presenting acceptable verification of immigration status.

Non-Citizen Status	Acceptable Verification
Lawfully admitted for permanent residence	USCIS Form I-551, or earlier Forms I-151, AR 3, AR-3A, if noted to show legal right to reside permanently.
Granted Asylee status	<ul style="list-style-type: none"> <li>• I-94 noting that the individual has been admitted under Section 208 of the INA; or</li> <li>• I-94 with admission codes AS-1, AS-2 or AS-3, or</li> <li>• I-94 with Visa 92 (V-92), or</li> <li>• Asylum Approval Letter from a USCIS Asylum office, or</li> <li>• Order of an Immigration Judge Granting Asylum under Section 208 of the INA</li> </ul> <p>[Refer to “Asylee,” page 19-9] that for instructions on how to determine the admission date for court orders.]</p>
Granted Refugee status	INS Form I-94 endorsed paroled as a refugee under Section 207.
Granted parole status (for indefinite period)	I-94 endorsed to show paroled to U.S. for at least one year under Section 212(d)5.
Deportation is being withheld	Correspondence from USCIS stating that deportation is withheld under Section 243(h) of the Act (is in effect immediately before the effective date of Section 307 of division C of P.L. 104-208) or Section 241(b)(3) of the Act (as amended by Section 305(a) of division C of P.L. 104-208).
Granted Conditional Entry	Correspondence from USCIS showing conditional entry pursuant to Section 203(a)(7) of the Act as in effect prior to April 1, 1980.
Cuban/Haitian Entrants	Documentation showing Cuban/Haitian Entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980.
Battered	Documentation from USCIS showing approval under PRWORA Title IV, Section 431.
Granted indefinite voluntary departure	Correspondence from USCIS confirming indefinite voluntary departure.

Non-Citizen Status	Acceptable Verification
Granted indefinite stay of deportation	Correspondence from USCIS confirming indefinite stay of deportation.
Trafficking Victim	Clients sworn statement under penalty of perjury (SCD 101) [Refer to <a href="#">“Human Trafficking Victims,”</a> page 60-5.]
Victims of Domestic Violence and Other Serious Crimes	Receipt or letter from USCIS, I-797 based on an application for a U Visa, I-918, or an Employment Authorization Card (EAC) issued under category “A19” or “A20.”



**Note:**

Possession of the I-94 itself is not proof of permanent residence. The I-94 is also used for temporary residence. For a listing of the various documents and codes used by USCIS and the specific eligibility criteria. [Refer to Common-Place Handbook, [“United States Citizenship and Immigrant Status Codes,”](#) page 12-1, and [“Immigration Documents,”](#) page 13-1.]

## 19.6 40 Qualifying Quarters

Lawfully admitted permanent residents who enter the country on or after August 22, 1996 must have 40 qualifying work quarters to be eligible to Federally funded benefits. In addition to the applicant/recipients own work quarters, the quarters can be credited from:

- Natural parents, stepparents, or adoptive parents while the individual was under the age of 18 and the relationship existed;
- Current spouse, and
- A former spouse if the marriage ended by death.

Effective January 1, 1997, any quarter in which the non-citizen received any Federal means-tested public benefit (such as CalWORKs, RCA, etc) is not counted as a qualifying quarter.

### 19.6.1 IEVS Applicant Report

The Social Security Administration (SSA) has an automated process for accessing earnings’ records for qualified non-citizens, their spouses, and their parents. Data is included on the IEVS Applicant Report and this process is incorporated into the Income Eligibility Verification System (IEVS) applicant match. The data match will reflect the total number of qualifying quarters for an individual as well as the specific years for which those quarters were credited.

**Note:**

IEVS reports do not reflect if the individual received any Federal means tested public benefits. EWs must review the application, CalWIN and MEDs to determine if the individual received any public benefits.

## 19.6.2 Lag Period

Data for the current year and in some cases the prior year are not available on the match. The earnings for this period must be verified if these quarters are needed to establish eligibility.

### Lag Period Verification

The following types of verification are acceptable for lag period quarters:

- W-2 or W2C forms
- Pay stubs
- Employer statements of wages indicating that taxes were withheld.

## 19.6.3 40 quarters Confirmed

Approve the qualified non-citizen for Federally funded CalWORKs assistance if otherwise eligible.

## 19.6.4 40 Quarters Not Confirmed

If the 40 work quarters are not able to be confirmed then:

- Determine if any additional work history claimed during the lag period has not been included on the IEVS report,
- Review verification received for income claimed during the lag period, and
- If sufficient quarters are documented, then approve Federally funded CalWORKs if all other eligibility is met, or
- If less than 40 quarters are documented, then approve State funded CalWORKs if all other eligibility criteria is met, then:
  - Approve State-Funded CalWORKs if the individual has resided in the U.S. less than 5 years from the DOE, or
  - Approve Federal-Funded CalWORKs if the individual has resided in the U.S. for 5 years or more provided the individual meets the criteria for federal eligibility. [Refer to “[Federally Funded,](#)” page 19-4 for more information on the requirements for federal eligibility.]



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## 19.7 Non-Citizen Categories

The following categories identify the types of qualified non-citizens who may be eligible for CalWORKs.

**Note:**

Please note that the following list may not be inclusive of all non-citizen categories.

### 19.7.1 Non-citizens Permanently Residing In The U.S. Under Color Of Law (PRUCOL)

Permanently Residing Under Color of Law (PRUCOL) refers to non-citizens living in the U.S. with the knowledge and permission of the Department of Homeland Security (DHS) and who DHS does not plan to deport. In some cases the PRUCOL non-citizen may have filed an application for permanent residency. In other cases, the non-citizen may have been granted permission to remain in the U.S. under another immigration classification.

PRUCOL is not a separate USCIS immigration classification (such as refugee, lawful permanent resident, parolees, etc.) but rather is a term defined by regulations and court decisions to describe categories of non-citizens who are potentially eligible for certain public benefits. The public benefits covered by PRUCOL are CalWORKs, Foster Care, and Medi-Cal. PRUCOL non-citizens may be eligible to Federal or State funded benefits depending on:

- The qualified non-citizen status
- The five-year ban exemption and
- The date of entry.

Non-immigrant non-citizens, lawfully admitted for a temporary purpose or temporary residence, and undocumented non-citizens are not eligible for State or Federally funded CalWORKs benefits

### 19.7.2 Asylee

Persons with Asylee status are eligible for refugee assistance and services beginning on the date that they are granted asylum. The “entry” date, which is the date that an individual is granted asylum, is used to determine the period of eligibility for benefits.

**Documentation**

The following documents are acceptable to confirm Asylee status:

- INS Form I-94 Arrival/Departure Card with the admission codes AS-1, AS-2, or AS-3, or
- INS Form I-94 Arrival/Departure Card with the notation Visa 92 (V-92), or
- INS Form I-571 “United States Refugee Travel Document”, or
- I-766 Employment Authorization Document with the code A05, or
- Asylum Approval Letter from an USCIS Asylum Office, or
- Written decisions from the Board of Immigration Appeals (BIA),
- Order of an Immigration Judge Granting Asylum under Section 208 of the INA, or
- I-94 Arrival/Departure Card noting that the individual has been admitted under Section 208 of the INA.

**I-571**

The I-571, which is a United States Refugee Travel Document, does not distinguish between refugees and individuals with Asylee status. An individual with this document may be a refugee or Asylee. EWs must ensure that the appropriate status is validated at application.

**Board of Immigration Appeals (BIA)**

A written decision from the BIA is acceptable as proof of Asylee status. The “entry” date (i.e., date of asylum is granted) on the decision is used for determining the period of eligibility.

**Immigration Judge Order**

An “**Order of an Immigration Judge Granting Asylum under Section 208 of the INA**” is proof of Asylee status **only if** INS has waived the right to appeal. The order contains a section that notates whether INS has waived or reserved the right to appeal the case. If INS has reserved its right to appeal, an Immigration Judge Order **will not** serve, on its own, as proof of status. If an Asylee brings an Immigration Judge Order that shows that INS has reserved its right to appeal, the EW must wait 30 days from the date on the Immigration Judge Order. On or after the 31st day, the EW will need to call the **Executive Office of Immigration Review (EOIR)** case status line at **(800) 898-7180** to find the case status.

Use the following chart to determine the “entry” date for an Asylee who presents a Order of an Immigration Judge Granting Asylum under Section 208 of the INA:

Documentation and Situation	Action	Benefit Eligibility	“Entry” Date (i.e. date asylum granted)
Immigration Judge Order with notation that appeal was waived by INS	No EOIR verification is needed.	Applicant is a qualified alien and eligible to receive	The date on the Immigration Judge Order will serve as the “entry” date (i.e. the date the individual was granted asylum).

Documentation and Situation	Action	Benefit Eligibility	“Entry” Date (i.e. date asylum granted)
Immigration Judge Order with notation that appeal was reserved INS; INS did not appeal	No action can be taken until 30 days after the date on the Immigration Judge Order; on or after the 31st day call EOIR case status line at (800)898-7180 to see whether INS has appealed.	If INS did not appeal, the individual is an Asylee and is eligible for assistance and services.	30 days after the date on the Immigration Judge Order.  Example: Immigration Judge Order dated 9/1/2017. If INS did not appeal, the “Entry” day is 10/1/2017.
Immigration Judge Order with notation that appeal was reserved by INS; INS appealed	No action can be taken until 30 days after the date on the Immigration Judge Order. On or after the 31st day, call EOIR case status line at (800)898-7180 to see whether INS has appealed.	If INS has appealed the case, the individual is not an Asylee and is not yet eligible for assistance and services.	No “entry” date as the individual is not yet an Asylee.



**Note:**

Although the EOIR case status line is updated every 24 hours, appeal information may not be available on the 31st day. EWs shall adhere to established business processes with regards to case processing time-frames when completing applications for individuals who identify as having Asylee status.

**Recommended Asylum Approvals**

Recommended Asylum Approvals are **not** proof of Asylee status. A recommended approval letter lets the individual know that his/her application has been recommended for approval and that an investigation of his/her identity and background will be conducted before a final approval is issued. These recommended approval letters allow applicants to apply for employment authorization documents however they are not proof of Asylee status.

**Derivative Members**

Family members will have the same “entry” date as the principal Asylee if included on the asylum application. In some cases, Asylee family members may not be in the United States and will have a different date of entry on documents. Use the following chart to assist with determining the date of entry for the derived family members:

Situation	“Entry” Date
Family members included in principal Asylee application	Same “entry” date (i.e., date of asylum grant) as principal Asylee

Situation	“Entry” Date
Family members outside of the United States;  I-760 process or Visa 92	Date that the family members enter the United States; date of “entry” will be noted on the I-94
Family members in the United States; not included on principal asylum application; I-730 process	Date that the I-730 application is approved; INS will issue Form I-94 with this date; I-730 approval letter also will be acceptable documentation.

### 19.7.3 Battered Non-citizen Status

Battered non-citizens may be considered “qualified” immigrants for purposes of receiving public assistance (i.e. CalWORKs, Medi-Cal, CalFresh, etc.) before they obtain lawful permanent resident (LPR) status, if they have filed a petition under Violence Against Women Act (VAWA) showing they are apparently eligible for LPR status. Battered non-citizen status applies only to VAWA applicants. Other immigrants who are not yet citizens are not covered by the battered non-citizen status. Verification of the petition being filed must be provided prior to approval of public assistance.

#### Documentation

The non-citizen applying for VAWA may receive benefits if USCIS grants them “Battered Non-citizen” status. **Only USCIS can make the determination of “Battered Non-citizen” status.** These individuals typically have not received their permanent immigration status *and* have been issued a prima facie document from USCIS.



**Note:**

Battered non-citizen status is different from victims of domestic abuse with sponsored non-citizen or lawful permanent resident (LPR) immigration status. These individuals are exempt from sponsor deeming rules. Documentation of domestic abuse does not meet the requirement for Battered Non-citizen status. [Refer to “[Sponsored Non-Citizen \[EAS 43-119.1\]](#),” [page 19-19](#) for information on the treatment of battered sponsored non-citizens.]

### 19.7.4 Central American Minor Program

The Central American Minor (CAM) Program is an in-country family reunification program that permits qualifying parents, who are lawfully present in the U.S., to request access to the U.S. Refugee Admissions Program for their children who are still in El Salvador, Guatemala, or Honduras.

To bring a child to the U.S., a qualifying parent must be at least 18 years of age and lawfully present in the U.S. in one of the following seven categories at the time of filing an application with a Resettlement Agency (RA):

- Permanent Resident Status;
- Temporary Protected Status;

- Parolee;
- Deferred Action for Childhood Arrivals (DACA);
- Deferred Action (non-DACA);
- Deferred Enforced Departure; or
- Withholding of Removal.

Other categories of non-citizens, who are lawfully present in the U.S., outside of the CAM Program, such as asylees, victims of trafficking or other serious crime with a T or U Visa, and special immigrant visa holders, may have other programs to bring eligible derivatives to the U.S. Minors who enter the U.S. through the CAM Program are eligible for benefits and services to the same extent as any other child with refugee/parolee status.

### 19.7.5 Cuban and Haitian Entrants

A Cuban and Haitian entrant is defined as meeting one of the following categories and, with respect to whom, a final, nonappealable, and legally enforceable order of removal, deportation or exclusion has not been entered:

- Any individual granted parole status as a Cuban/Haitian entrant (status pending) or granted any other special status subsequently established under immigration law for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided, or
- A national of Cuba or Haiti who was paroled into the United States and has not acquired any other status under the INA, or
- A national of Cuba or Haiti who is the subject of removal, deportation or exclusion proceedings under the INA, or
- A national of Cuba or Haiti who has an application for asylum pending with USCIS.

#### Documentation Requirements

The following charts list the documents that provide proof of the statuses listed above. These documents may or may not provide proof of identity, nationality or “entry” date:

**A.)** The following list identifies the documents that provide proof of status for a Cuban/Haitian Entrant (Status Pending) or an Cuban/Haitian granted any other special status’ subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided:

DOCUMENTS/CODES	COMMENTS
An I-94 Arrival/departure card with a stamp showing parole at any time as a “Cuban/Haitian Entrant (Status Pending)”	I-94 may refer to §212(d)(5).

DOCUMENTS/CODES	COMMENTS
CH6 adjustment code on the I-551	Even after a Cuban/Haitian Entrant (Status Pending) becomes a permanent resident, he/she technically retains the status Cuban/Haitian Entrant (Status Pending).
An I-94 Arrival/departure card with a stamp showing parole into the U.S. on or after 4/21/1980	I-94 may refer to §212(d)(5).
A Cuban or Haitian passport with a §212(d)(5) stamp dated after 10/10/1980	None

**B.)** The following list identifies the documents that provide proof of status for a national of Cuba or Haiti who was paroled into the United States and has not acquired any other status under the INA and with respect to whom a final, nonappealable, and legally enforceable order of removal, deportation or exclusion\* has not been entered.

DOCUMENTS/CODES	COMMENTS
I-94 Arrival/departure card showing parole into the United States	I-94 may refer to §212(d)(5), humanitarian or public interest, parole.
I-766 Employment Authorization Document with the code A04	None
I-766 Employment Authorization Document with the code C11	None
I-688B Employment Authorization Document with the provision of law 274.a.12(a)(4)**	This is an older version of the employment authorization document but it is still in use.
I-688B Employment Authorization Document with the provision of law 274a.12(c)(11)**	This is an older version of the employment authorization document but it is still in use.

\*Note 1: The question of whether there is a final, nonappealable, legally enforceable order of removal, deportation or exclusion is essentially a legal determination that cannot be made by reviewing the listed documents. Additionally, it is not a decision that an EWs can make in the regular course of the eligibility determination. EWs shall require a written declaration, under penalty or perjury, that the individual has a status that makes him/her eligible in addition to verifying through other methods, such as calling the EOIR case status line at (800)898-7180 or accessing the SAVE system.

\*\*Note 2: If an individual provides an I-688B Employment Authorization Document, which does not provide information about nationality, EWs must request other documentation to confirm that the individual is a Cuban/Haitian nations.

**C.)** The following list identifies the documents that provide proof of status for a national of Cuba or Haiti who is the subject of removal, deportation or exclusion proceedings\* under the INA and with respect to

whom a final, nonappealable, and legally enforceable order of removal, deportation or exclusion\*\* has not been entered.

DOCUMENTS/CODES	COMMENTS
USCIS Form I-221	Order to Show Cause and Notice of Hearing
USCIS Form I-862	Notice to Appear
USCIS Form I-220A	Order of Release on Recognizance
USCIS Form I-122	Notice to Applicant Detained for a Hearing Before an Immigration Judge
USCIS Form I-221S	Order to Show Cause, Notice of Hearing and Warrant for Arrest
Copy of USCIS Form I-589 date stamped by the Executive Office for Immigration Review (EOIR)	Application for Asylum and Withholding of Removal; Individual is subject of removal, deportation or exclusion proceedings.
Copy of USCIS Form I-485 date stamped by EOIR	Application to Register Permanent Residence or to Adjust Status; Individual is subject of removal, exclusion or deportation proceedings.
EOIR-21	Notice of Appeal, date stamped by the Office of the Immigration Judge
I-766 Employment Authorization Document with the code C10	Application for suspension of deportation/cancellation of removal submitted
I-688B Employment Authorization Document with the provision of law 274a.12(c)(10)***	Application for suspension of deportation/cancellation of removal submitted
Other applications for relief that have been date stamped by EOIR	None
Other documentation pertaining to an applicant's removal, exclusion or deportation proceedings	Example: A notice of a hearing date before an Immigration Judge

\*Note 1: Although the above documents show that proceedings have been initiated in a case, they do not confirm that proceedings are continuing. In order to confirm that proceedings are continuing, EWs must use other methods, such as calling the EOIR case status line at (800)898-7180 or accessing the SAVE system.

\*\*Note 2: The question of whether there is a final, nonappealable, legally enforceable order of removal, deportation or exclusion is essentially a legal determination that cannot be made by reviewing the listed documents. Additionally, it is not a decision that an EWs can make in the regular course of the eligibility determination. EWs shall require a written declaration, under penalty or perjury, that the individual has a status that makes him/her eligible in addition to verifying through other methods, such as calling the EOIR case status line at (800)898-7180 or accessing the SAVE system.

\*\*\*Note 3: If an individual provides an I-688B Employment Authorization Document, which does not provide information about nationality, EWs must request other documentation to confirm that the individual is a Cuban/Haitian national.



D.) The following list identifies the documents that provide proof of status for a national of Cuba or Haiti who is the subject of removal, deportation or exclusion proceedings\* under the INA and with respect to whom a final, nonappealable, and legally enforceable order of removal, deportation or exclusion\*\* has not been entered.

DOCUMENTS/CODES	COMMENTS
USCIS receipt for filing Form I-589	Application for Asylum and Withholding of Removal
I-766 Employment Authorization document with the code C08	None
I-688B Employment Authorization Document with the provision of law 274a.12(c)(8)**	This is an older version of the employment authorization document but it is still in use.

\*Note 1: The question of whether there is a final, nonappealable, legally enforceable order of removal, deportation or exclusion is essentially a legal determination that cannot be made by reviewing the listed documents. Additionally, it is not a decisions that EWs can make in the regular course of the eligibility determinations. EWs shall require a written declaration, under penalty or perjury, that the individual has a status that make him/her eligible and attempt other methods to verify, such as calling the EOIR case status line at (800)898-7180 or accessing the SAVE system.

\*\*Note 2: If an individual provides an I-688B Employment Authorization Document, which does not provide information about nationality, EWs must request other documentation to confirm that the individual is a Cuban/Haitian national.

### 19.7.6 Individuals Paroled as Refugees

Individuals who are paroled as refugees under §212(d)(5) of the INA, may receive benefits and services to the same extent as persons who are admitted to the U.S. as refugees (i.e. RCA, CalWORKs, etc.). These individuals are exempt from sponsor deeming rules and CalWORKs eligibility begins one year after the non-citizen has been paroled in the U.S.

The following list are the acceptable documents for individuals paroled as refugees under §212(d)(5) of the INA:

DOCUMENTS/CODES	COMMENTS
I-94 Arrival/departure card noting that the individual has been paroled as a refugee or Asylee under §212(d)(5).	To be eligible under this provision, the I-94 must note that the individual is a refugee or Asylee.
I-766 Employment Authorization Document with the code A04	None
I-688B Employment Authorization Document with the provision of law 274a.12(a)(4)	This is an older version of the employment authorization document but it is still in use.



**Note:**

EWs may encounter other individuals, not refugees or Asylee, who have been paroled under §212(d)(5). The documentation of other parolees under §212(d)(5) may include language, such as “humanitarian” or “public interest parole.” These types of parolees under §212(d)(5) are NOT eligible for refugee benefits. Only individuals who are listed as refugees or Asylee are eligible under this provision.

### 19.7.7 Special Immigrant Visa (SIV) for Iraqi and Afghan Individuals

Iraqi and Afghan individuals who were employed by or assisted the U.S. Armed Forces with translations and interpreter services are admitted to the U.S. with Special Immigration Visas (SIVs). These Iraqis/Afghans and their family members are eligible for to receives CalWORKs benefits effective upon their DOE to the U.S. with proper documentation from USCIS and are treated as qualified non-citizens.

These families are required to meet all eligibility criteria including welfare to work and reporting requirements.

#### Federally Funded Benefits

#### Verification

There are two types of proper documentation to verify that the Iraqi or Afghan principal SIV applicants and their families (spouses and their unmarried children) are in receipt of a SIV are:

1. An Iraqi or Afghan passport with an Immigrant Visa (IV) stamp noting that the individual has been admitted under any one of the following categories:
  - SI1 or SQ1 (Principal Applicant);
  - SI2 or SQ2 (Spouse of SI1 or SQ1);
  - SI3 or SQ3 (Unmarried child, under the age of 21, of SI1 or SQ1);
  - SI6 or SQ6 (Principal Adjusting Status in the U.S.);
  - SI7 or SQ7 (Spouse of SI6 or SQ6);
  - SI9 or SQ9 (Unmarried child, under the age of 21, of SI6 or SQ6); **and**
  - A Department of Homeland Security (DHS) stamp or notation on passport or I-94 showing date of entry.
2. DHS Form I-551 with an code of SI6 or SQ6, SI7 or SQ7, or SI9 or SQ9 which confirms both the status and the date of entry into the U.S. for the principal SIV applicant.

For Iraqi or Afghan Special Immigrants who acquire SIV status while in the U.S., the date of eligibility begins on the date the SIV status is granted.

### 19.7.8 Senate Bill 1569 - State-Only CalWORKs Trafficking and Crime Victims Assistance Program (TCVAP)

Senate Bill 1569 was enacted January 1, 2007, to provide state-funded assistance for non-citizen victims of human trafficking, domestic violence or other serious crimes prior to Office of Refugee Resettlement (ORR) certification. In most cases, non-citizen trafficking and serious crime victims must apply to the United States Citizenship and Immigration Services (USCIS) for a “T” Visa or “U” Visa, respectively, which allows them to remain in the country and to assist law enforcement with the investigation and prosecution of the crimes against them.

[Refer to CalWORKs Handbook, “[Human Trafficking Victims](#),” page 60-5]

CalWORKs TCVAP victims are eligible for state-funded cash assistance if they meet the income, resource, and other CalWORKs program requirements.

Eligibility for state-funded benefits and services under TCVAP will be terminated if the recipient no longer meets CalWORKs eligibility criteria; for example, the income and/or resource limit has been exceeded or there is no longer a qualifying child in the AU.

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## 19.8 Sponsored Non-Citizen Definition

A sponsored non-citizen is a non-citizen whose entry into the United States (U.S.) was sponsored by a person or group which, as part of the sponsorship, executed an affidavit of support or similar agreement on behalf of the non-citizen as a condition of the non-citizen's entry into the country. The affidavit of support (I-864 or I-864A) attests that the sponsor (and/or the sponsor's spouse) has sufficient income and resources to meet the non-citizen's needs. A portion of the sponsor's income and resources are considered available to the sponsored non-citizen. The process used to determine the portion of income and resources available to the sponsored non-citizen is called deeming.

The following policy provides instructions in accordance to regulations that are applicable to all sponsored non-citizens regardless of age (i.e. adults and sponsored children under the age of 18).

### 19.8.1 Guidelines

Sponsorship status **must be** explored in the same way all other aspects of eligibility are explored for all Legal Permanent Residents (LPR) with a date of entry on or after December 1, 1997. The circumstances under which a non-citizen entered into the U.S. must carefully be explored to determine whether the client is sponsored. When the reported information and verifications are consistent, then the client's statement regarding sponsorship on the Statement of Facts is sufficient. Applications can not be approved until sponsorship status has been determined.

## 19.8.2 Sponsored Non-Citizen [EAS 43-119.1]

Sponsored provisions do not apply if the non-citizen:

- Is paroled into the U.S. as a refugee, or
- Is granted political asylum, or
- Is of Cuban or Haitian nationality, or
- Entered the country with an I-134 Affidavit of Support (used for entries prior to 12/19/97), or
- Is sponsored by a public organization or private agency.

Sponsored rules apply until the non-citizen:

- Achieves United States citizenship through naturalization, or
- Leaves the country permanently, or
- Dies or the sponsor dies, or
- Has worked or can be credited with 40 qualifying work quarters under Title II of the Social Security Act, and has not received federal means-tested public benefits during that period.

## 19.8.3 Exceptions [EAS 43-119.221]

Sponsorship provisions will not be applied when the non-citizen has been determined to be indigent or battered.

### Indigent

The sponsorship provisions will not apply for a period of 12 months beginning on the date of the indigence determination when it has been determined that a sponsored non-citizen will go hungry and homeless without aid and the sponsored non-citizen is:

- Unable to provide the necessary information regarding their sponsor, or
- The county has not been able to contact the sponsor.

This exception is **not** renewable and it is granted only once in a lifetime. A **Case Maintenance Alert** must be created to review the indigent determination at the end of the 12 month period.



### Example:

Mr. X and family are sponsored non-citizens with a date of entry of 2/17/15. They apply for CWs on 8/1/15. They are determined to be indigent and are approved for CWs effective 8/1/15. Mr. X and family received CalWORKs from 8/15 through 5/16 when they are discontinued for income over IRT. In 9/16 Mr. X is back to apply for CalWORKs because he lost his job. All sponsored non-citizens in the assistance unit (AU) are no longer eligible to the “indigent” exception

because the 12 month exception period has ended effective 7/16. After the indigent period has expired they are no longer eligible to this exception. They now must comply with the sponsorship requirements.

### **Battered Non-citizen**

Battered non-citizens are exempt from the sponsorship rules for a period of 12 months if:

- The non-citizen has been battered or subjected to extreme cruelty in the United States by a spouse or a parent; or by a member of the spouse or parent's family who is residing in the same home as the non-citizen; or
- The non-citizen child has been battered or subjected to extreme cruelty in the U.S. by the spouse, or parent(s), or family members of the non-citizen.

After a 12-month period, the exception to the rules regarding the batterers income and resources continue only if the non-citizen demonstrates that such battery or cruelty has been recognized by a:

- Order of a judge, or
- Administrative law judge, or
- A prior determination from USCIS.

A **Case Maintenance Alert** must be created to review the indigent determination at the end of the 12 month period.

### **19.8.4 Affidavit of Support**

Sponsors submit an "Affidavit of Support" (I-864) promising to financially assist the non-citizen as a condition of the non-citizen's entry into the United States. When a non-citizen is sponsored they will have an I-864.

#### **Obtaining the I-864**

When the client does not have their copy of the "Affidavit of Support" (I-864), a secondary SAVE verification request must be completed. Eligibility to benefits can not be determined until the "Document Verification Request" (G-845) and the "INS Document Verification Request Supplement" (G-845 Supplement) has been returned affirming non-citizen status.

[Refer to "SAVE," page 14-1 for additional information.]

### 19.8.5 Conditions of Eligibility

A sponsored non-citizen must provide information and documentation of the sponsor’s income and resources. As a condition of eligibility for CalWORKs, a sponsored non-citizen who is sponsored by an individual must complete all of the following steps.

1. Client	Obtain the necessary cooperation from the sponsor by providing the “Affidavit of Support” (I-864) and completing the “Sponsor’s Statement Of Facts Income And Resources” (SAR 22) with the income and resource verifications to make eligibility determination.
2. EW	Determine eligibility by using information and verification provided on I-864 and SAR 22.
3. Client	Comply with reporting responsibilities (i.e. SAR 72, IRT reporting, etc.).

Until the conditions of eligibility are met, the sponsored non-citizen is not apparently eligible and cannot receive Diversion, Homeless Assistance or an Immediate Need. Aid shall be denied **only to the sponsored non-citizen(s)**, in the assistance unit, if the non-citizen is unwilling or fails to provide the information.

### 19.8.6 Sponsored Non-citizen Applying For Or Receiving CalWORKs and/or CalFresh (SAR 22)

The SAR 22 is a mandatory supplement to the SAWS 2 PLUS and is used to gather the sponsor’s income and resource information. As a part of the application for aid (SAWS 2 PLUS), the sponsored non-citizen and sponsor must provide a completed and signed SAR 22. The sponsored non-citizen is responsible for ensuring that the SAR 22 is complete and all required income and resource verifications are provided.

Failure to provide a completed SAR 22 with the appropriate verifications shall result in the denial of aid to the sponsored non-citizen(s).

### 19.8.7 Application Processing

CalWORKs regulations require that an application be approved or denied no later than 45 days following the date of application. This time period applies to the SAVE process and does not change the CalWORKs payment requirements.

If an applicant/recipient identifies him/her-self as a “lawful non-citizen”, the EW must determine the non-citizen status by questioning the applicant/recipient and reviewing the immigration documents.

If the non-citizen...	Then the EW will...
<p>Gives inconsistent, conflicting, or does not know,</p>	<p>Review the immigration documents and</p> <ul style="list-style-type: none"> <li>• Request the I-861 and</li> <li>• Initiate secondary SAVE.</li> </ul>
<p>States they are sponsored and the sponsor refuses to cooperate by:</p> <ul style="list-style-type: none"> <li>• Failing to complete the SAR 22 and/or</li> <li>• Refusing to provide income and/or resource verification</li> </ul>	<p>Obtain a “General Affidavit” (SCD 101 or CSF 2) and review the case to determine whether the non-citizen meets one of the sponsorship exceptions.</p> <ul style="list-style-type: none"> <li>• If no exception met, deny the sponsored non-citizens only.</li> <li>• If exception met, process the application as appropriate.</li> </ul> <p>[Refer to 19.7.2 Exceptions]</p>
<p>States that they are sponsored and the sponsor is willing to cooperate,</p>	<p>Provide the client with the “Verification Request List” (CW 2200) requesting:</p> <ul style="list-style-type: none"> <li>• I-864,</li> <li>• SAR 22, and</li> <li>• Verification of sponsors income and resources.</li> </ul>

If the requested non-citizen documentation is not provided by the 45th day following the date of application, deny the non-citizen member(s) of the AU. Do not delay granting aid to the remaining member(s) of the AU, pending documentation of non-citizen status if the AU is otherwise eligible.

### 19.8.8 Deeming

All income and resources of the non-citizen’s sponsor, and the sponsor’s spouse, who is not receiving CalWORKs, SSI, or other public cash assistance (such as General Assistance) shall be considered, or deemed, to be available to the sponsored non-citizen.

Deeming occurs indefinitely until the sponsored non-citizen:

- Achieves U.S. citizenship, or
- Leaves the country permanently, or
- The sponsor dies (verification required if information is questionable), or
- Sponsor or sponsor’s spouse starts receiving public assistance benefits, or
- Has worked 40 qualifying work quarters of coverage under Title II of the Social Security Act or can be credited with such qualifying quarters.

### 19.8.9 Determination of Resources [42-205.5]

The resources of the non-citizen’s sponsor and the sponsor’s spouse living with the sponsor are deemed to be the sponsored non-citizen’s resources.

- The total value of non-exempt real and personal property of the sponsor and the sponsor's spouse is determined as if they were applying for aid.
- If the person is the sponsor for more than one non-citizen, the resources shall be divided by the total number of sponsored non-citizens receiving CalWORKs including those non-citizens in separate assistance units. This amount is deemed to be the resources of each sponsored non-citizen.
- If the deemed resources alone, or in combination with other property of the assistance unit, exceed the property limits, only the sponsored non-citizen(s) are ineligible.

These resources are not considered available to other applicants or recipients in the family who are not sponsored non-citizens, unless the resources are actually available to the assistance unit.



### 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.

$$\$4,500 \div 2 = \$2,250 \text{ (amount to be deemed per person applying for CW.)}$$

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



### Example:

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

$$\$3,000/1 = \$3,000 \text{ is available to the non-citizen Father.}$$

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.

## 19.8.10 Determination of Income [EAS 44-133.7]

The income of the sponsor and the sponsor's spouse who lives with the sponsor, and who is not receiving cash aid, SSI, or other public cash assistance is deemed to be the sponsored non-citizen's income. The income is determined as follows:

Step	Action
1.	Determine the total amount of unearned income of the sponsor and sponsor's spouse.
2.	Determine the total amount of earned income of the sponsor and spouse (i.e. wages, salary, or net earnings from self-employment).
3.	<p><b>Note:</b></p> <p>If the sponsor is the sponsor of more than one non-citizen, divide the total gross income (from Step 1 and 2) by the total number of sponsored non-citizens who are applying for or receiving cash aid including those in separate assistance units.</p> <p>This amount is deemed to be the income of each sponsored non-citizen applicant or recipient. Income deductions are not applicable.</p>
4.	<p>When the sponsored non-citizen is not included in the assistance unit (AU), the portion of the sponsored non-citizens income, which has been deemed from the sponsor, is not to be used in determining the contribution to the AU unless the income is actually available.</p> <p><b>Note:</b></p> <p>Sponsored non-citizens whose needs are being met by the sponsor must be excluded from the AU. A sponsored non-citizens needs are met when the total deemed income from the sponsor meets or exceeds the MAP for the sponsored non-citizen(s).</p> <p>[Refer to <a href="#">"Persons Excluded By Law [EAS 82-832.1]," page 25-19</a>]</p>
5.	When the sponsored non-citizen is a member of the AU, the deemed income from the sponsor and the sponsor's spouse is treated as unearned income for the entire AU. If the deemed income exceeds the maximum aid payment (MAP) deny or discontinue the case.
6.	If the sponsored non-citizen is either an excluded parent or stepparent, the income shall be treated in accordance with the excluded parent or stepparent deeming computation.

### 19.8.11 Sponsors Semi-Annual Income and Resources Report” (SAR 72) [EAS 40-181]

The sponsored non-citizen 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 Non-citizen (Client)	Completes the SAR 72 and obtains from the sponsor: <ul style="list-style-type: none"> <li>• Necessary cooperation, and</li> <li>• All necessary information.</li> </ul>



STAGE	WHO	REQUIRED ACTION						
3.	EW	Takes appropriate action.						
		<table border="0"> <tr> <td style="text-align: left;"><b>IF ...</b></td> <td style="text-align: left;"><b>THEN ...</b></td> </tr> <tr> <td>The SAR 72 is returned timely and correctly completed,</td> <td>Determine ongoing eligibility and the future payment period's grant amounts. Send any required NOAs.</td> </tr> <tr> <td>Either the SAR 72 is incomplete or is not received,</td> <td>                     Discontinue those members of the AU who are sponsored non-citizen's 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.)   <a href="#">[Refer to Chapter 19, Section 19.8 "Exceptions [EAS 43-119.221]," page-19]</a> </td> </tr> </table>	<b>IF ...</b>	<b>THEN ...</b>	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 non-citizen's 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.)  <a href="#">[Refer to Chapter 19, Section 19.8 "Exceptions [EAS 43-119.221]," page-19]</a>
		<b>IF ...</b>	<b>THEN ...</b>					
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 non-citizen's 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.)  <a href="#">[Refer to Chapter 19, Section 19.8 "Exceptions [EAS 43-119.221]," page-19]</a>							

Failure to provide a completed SAR 72 on or before the 1st calendar day of the next SAR payment period shall result in a discontinuance only for those members of the AU who are sponsored non-citizens.

### 19.8.12 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 non-citizen(s) qualifies for one of the two deeming exceptions. [\[Refer to Chapter 19, Section 19.8 "Exceptions \[EAS 43-119.221\]," page-19\]](#)

Failure to provide a completed SAR 72 on or before the 1st calendar day of the next SAR payment period shall result in a discontinuance for the sponsored non-citizen members of the AU.

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## 19.9 SAVE

The Immigration Reform and Control Act of 1986 (IRCA-86) mandates that the immigration status of each non-citizen applicant/recipient must be verified with USCIS as a condition of eligibility for CalWORKs, CalFresh, or Medi-Cal. USCIS has designated Systematic Alien Verification for Entitlements (SAVE) as the system used to verify each non-citizen's immigration status.

[Refer to Common-Place Handbook, "SAVE," page 14-1, for SAVE Procedures.]