



MAR 19 1998

United States
Department of
Agriculture

Food and
Consumer
Service

3101 Park
Center Drive

Alexandria, VA
22302-1500

SUBJECT: WIC Final Policy Memorandum #98-7
Impact of Participation in the WIC Program on Alien Status

TO: Regional Directors
Supplemental Food Programs
All Regions

Attached is a letter we received from the Immigration and Naturalization Service (INS) expressing their position with regard to the impact of participation in WIC on an individual's alien status. As stated in the letter, INS confirms that use of WIC benefits does not render an alien a public charge, that benefits should not be denied to aliens who have used WIC, and that INS should not request that aliens repay any WIC benefits received. In addition, based on meetings and discussions, it is INS and the State Department's position that receipt of WIC benefits will not have any effect on an individual's application for immigration or citizenship benefits or result in a determination that an alien is a public charge. However, the receipt of WIC benefits does not shield an individual from compliance with other requirements under the immigration law. For example, an applicant would be ineligible for a visa or adjustment of status if some other ineligibility applied such as a conviction for a crime, violation of immigration status, or if the applicant could not meet overall public charge requirements.

As noted in INS' letter, they are nearing completion of a memorandum to INS field officers which will formally clarify this issue for the WIC Program and a number of other Federal programs. It is our understanding that the issuance of INS' policy will trigger the State Department to release guidance to its U.S. consulates consistent with INS since both agencies' guiding rules are the Immigration and Nationality Act.

In the interim as we await the issuance of INS policy guidance, please share a copy of the attached letter with your State and local agencies. They may wish to use the INS letter in clarifying this issue with WIC applicants and participants and in cases where other entities indicate policy which is inconsistent with the attached INS letter. As soon as INS and the State Department formally issue policy, we will share that information with you. At that time we, in concert with INS, will ensure wide dissemination of the policy information to program applicants, participants, entities that handle/deal with immigration cases, and entities such as universities that advise aliens about their status so that a consistent message reaches the community.


INS and the State Department continue to work with us on a case-by-case basis, as necessary, to resolve specific problems related to the WIC Program as they arise. If you become aware of specific problems involving WIC participation, please provide us with

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sufficient details concerning the problem. To thoroughly investigate a problem, INS needs the INS office/officer's name, the applicant/participant's name, date of birth, current alien status, status being sought, and alien number that begins with the letter "A" followed by eight numbers, e.g., #A76543210. In order for our office to share such information with the INS, a WIC applicant/participant must provide written consent authorizing the WIC Program/FNS to share her name (or that of her participant children, where appropriate), date of birth, and alien identification number with the INS for the purpose of INS investigating the appropriateness of the action taken by its officers. When requesting investigation of a problem, please provide us with a copy of the written consent, so that we are assured authorization has been granted to us by the individual.

If you have any questions concerning this issue, please contact Clara French at (703) 305-2743.


RONALD J. VOGEL
Acting Director
Supplemental Food Programs Division

Attachment

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U.S. Department of Justice
Immigration and Naturalization Service

425 I Street NW.
Washington, DC 20536

Ms. Yvette S. Jackson
Acting Administrator
US Department of Agriculture
Food and Consumer Service
3101 Park Center Drive
Alexandria, VA 22302-1500

FEB 12 1998

Dear Ms. Jackson:

Thank you for your December 31, 1997, letter expressing concerns about some Immigration and Naturalization Service (INS) employees denying benefits to immigrants who are receiving or in the past have received the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) benefits.

As you mention in your letter, INS is very concerned about these allegations, and the Office of Policy and Planning has been instrumental in communicating information to INS field offices that use of WIC benefits does not render an alien a public charge, that benefits should not be denied to aliens who have used WIC, and that INS should not request that aliens repay any WIC benefits received. We have worked closely with WIC program staff, and based on information in late December that problems were continuing in some areas of the country, we again sent out messages concerning treatment of aliens who have used WIC benefits. We are continuing to work with your office on a case-by-case basis, as necessary, to resolve specific problems as they arise.

INS is close to completing broad guidance to all of its field offices addressing the issue of public charge grounds of inadmissibility under section 212(a)(4) and deportation under section 237(a)(5) of the Immigration and Nationality Act. We solicited and received comments from several Federal agencies, including the WIC Program, and expect to complete this memorandum in the near future. We appreciate your interest and continuing assistance in this area.

Sincerely,

Robert L. Bach
Executive Associate Commissioner
Office of Policy and Planning

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