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TO: Subscribers

SUGGESTED DISTRIBUTION: Commissioners, SNAP Directors, TA Directors, Employment Coordinators, Staff Development Coordinators, WMS Coordinators, Fair Hearing Officers

FROM: Jeffrey Gaskell, Deputy Commissioner
Employment and Income Support Programs

SUBJECT: SNAP and TA Date of Status (DOS) Determination for Qualified Battered Non-Citizens

EFFECTIVE DATE: Immediately

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Purpose

The purpose of this GIS is to provide both a reminder and clarification on the United States Department of Agriculture (USDA) current policy regarding the determination of a qualified battered non-citizen's¹ date of status (DOS) for Supplemental Nutrition Assistance Program (SNAP) benefits.

Background

For SNAP and Temporary Assistance (TA) eligibility, there are four requirements that must be met for a non-citizen to be considered a qualified battered non-citizen, as outlined below. For details, see [03-INF-14](#) and [06-INF-14](#).

The non-citizen must:

1. Be a credible victim of battery or extreme cruelty; and,
2. Have appropriate immigration documentation; see the [LDSS-4579](#) for a list of appropriate documentation; and,
3. Be able to show a substantial connection between the need for benefits and the battery or extreme cruelty; and,
4. No longer reside in the same household as the abuser.

In general, the DOS for SNAP and TA is when all four of the above criteria are met.

¹ As used in this document, the term "non-citizen" means a person who is not a citizen or national of the United States. A qualified battered non-citizen is someone who meets the requirements in [06-INF-14](#).

The DOS field in the Welfare Management System (WMS) identifies the date a non-citizen obtained qualified status as indicated by the appropriate Alien Citizenship Indicator (ACI) code, and is used to calculate when a qualified non-citizen reaches five years in a qualified status and then becomes eligible for federally funded assistance, if otherwise eligible.²

Program Implications

In general, the DOS for SNAP is when all four of the above criteria are met. However, per current USDA guidance, for non-citizens with an approved I-360 “Petition for Amerasian, Widow(er), or Special Immigrant,” or a prima facie determination on a pending I-360, the DOS for SNAP is the date the I-360 petition was approved, or the date the prima facie determination was made by the United States Citizenship and Immigration Services (USCIS), whichever is earlier. If all four of the above criteria are met prior to the date of the prima facie determination or the I-360 approval, then the date that all four of the above criteria are met would be the DOS.

For TA, the DOS is when all four of the criteria listed above are met. This is typically the date of application for TA.

WMS can only record one DOS. If the DOS for SNAP and TA are different, enter the earlier of the two dates in WMS so that the non-citizen can receive the federal benefits they are eligible for; the later date must be noted, and tracked manually in the case record so that the federal benefits for that benefit program are also issued appropriately.

Example: A non-citizen applies for SNAP and TA on February 19, 2019. At the time of application, the applicant presents a USCIS form I-797 “Notice of Action,” indicating a prima facie determination, dated December 22, 2018, on a pending I-360 “Petition for Amerasian, Widow(er), or Special Immigrant” under the Violence Against Women Act (VAWA). The applicant also indicates that she is no longer residing with her abuser.

The prima facie determination indicates that the non-citizen is a credible victim of battery or extreme cruelty; and establishes that she has the appropriate immigration documentation. The district worker has determined there is a substantial connection between the need for benefits and the battery or extreme cruelty; and the applicant no longer resides in the same household as the abuser. Therefore, the non-citizen is considered a qualified battered non-citizen, ACI code “B,” and eligible for SNA, if otherwise eligible.

For TA, the DOS will be February 19, 2019, which is the date that all four of the above criteria were met, and therefore the date that the non-citizen was determined to be a qualified battered non-citizen for TA purposes.

For SNAP, all four of the above criteria still need to be met to be considered a qualified battered non-citizen and eligible for SNAP benefits; however, the DOS will be the date of the prima facie determination. If the date of the prima facie determination is prior to the date of application, then that is the date that is entered in WMS as the DOS, which will start the five-year clock for

² Note: not all qualified non-citizens are subject to the “five-year bar” on federal benefits. Refer to the [LDSS-4579](#) for additional information.

SNAP eligibility.³ From the example, the date on the prima facie determination, December 22, 2018, will be the DOS for SNAP. This date, December 22, 2018, will also be the date that is entered as the DOS in WMS, as it is earlier than the DOS for TA, February 19, 2019.

The DOS for TA will have to be tracked manually in the case record and an anticipated future action (AFA) code must be entered in WMS to alert the worker when the non-citizen reaches five-years in a qualified status and becomes eligible to receive federally funded Family Assistance (FA) benefits, if otherwise eligible. The implementation of a new Upstate AFA code for these non-citizens is expected to be available for district use on October 20, 2019. In the interim, districts should continue to track this information manually.

Note: Non-citizens who file for VAWA related immigration relief often later adjust their immigration status to become Lawful Permanent Residents (LPR). The “residence since” date on the I-551 Permanent Resident Card indicates the date LPR status was obtained, **not** the date the non-citizen was determined to be a qualified battered non-citizen. For both SNAP and TA, use the earliest appropriate date as the DOS for benefit eligibility. If a non-citizen presents an I-551 with any of the following codes: **B11, B12, B16, B17, B20, B21, B22, B23, B24, B25, B26, B27, B28, B29, B31, B32, B33, B36, B37, B38, BX1, BX2, BX3, BX6, BX7, BX8, IB0, IB1, IB2, IB3, IB5, IB6, IB7, IB8 or Z14**, it indicates that the non-citizen previously obtained VAWA related immigration relief, and may have an earlier DOS than what is indicated on the I-551. Therefore, if a non-citizen presents an I-551 with any of these codes, the worker must review the case record, and/or ask the non-citizen if they have additional documentation, to determine if an earlier DOS would be appropriate.

If you have any questions on determining the DOS for SNAP, please contact the SNAP Bureau at: (518) 473-1469 or otda.sm.cees.snap@otda.ny.gov. If you have any questions on determining the DOS for TA, please contact the TA Bureau at: (518) 474-9344 or otda.sm.cees.tabureau@otda.ny.gov.

³ If qualified battered non-citizens meet certain criteria, they may be eligible to receive SNAP even if they do not yet have five years in a qualified status. Refer to [03-INF-14](#) for additional information regarding SNAP eligibility for non-citizens.