



IMMIGRANTS & PUBLIC BENEFITS

Verification and Reporting

Federal agencies issue guidance clarifying proper use of immigration status and Social Security number inquiries on benefit application forms

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The U.S. Dept. of Health and Human Services (HHS) and the U.S. Dept. of Agriculture (USDA) have issued guidance to state officials clarifying the proper treatment of questions concerning immigration status and Social Security numbers (SSNs) on benefit application forms. According to the guidance, issued Sept. 21, 2000, only the immigration status of the "applicant" for benefits is relevant. **And, although applicants for food stamps, Medicaid, and Temporary Assistance for Needy Families (TANF) must apply for SSNs if they do not have them, states must assist them in applying for SSNs and cannot delay or deny benefits while assignment of an SSN to an applicant is pending. SSNs are not required of applicants for State Children's Health Insurance Program (SCHIP) benefits.**

The agencies issued the guidance after reviewing the states' joint benefit application forms (for food stamps, Medicaid, SCHIP, and TANF). Virtually all the forms, the agencies concluded, contain inappropriate and unnecessary questions regarding immigration status and SSNs. In addition to discouraging eligible immigrants and their citizen family members from applying for benefits, such improper questions may violate privacy and civil rights laws. The guidance responds to these issues by advising states to review their forms and make adjustments where needed to ensure that eligible immigrants are not deterred from applying.

As noted above, the guidance clarifies that, with regard to immigration status questions, only the status of the "applicant" for benefits is relevant. Application forms should not inquire about the immigration status of household or family members who are not seeking to receive benefits. In Medicaid and SCHIP, this distinction is clear: The applicant is the person who will actually receive the benefit. In the TANF and Food Stamp Programs, however, where households or families may apply for benefits as a unit, the definition of "applicant" may be less clear. The guidance encourages states to allow household members who are not seeking benefits to be designated as "non-applicants" early in the process. **Although these persons may be required to supply information about their income and resources, they should not be asked about their immigration status or SSN.** A person's choice not to disclose immigration status or SSN may affect the amount of benefits received by the household, but should not affect the eligibility of other household members.

As for SSN questions, the guidance notes that under the Medicaid, TANF, and Food Stamp programs, applicants who do not have an SSN must apply for one. **However, state and local agencies must assist individuals in applying for an SSN and may not**

delay, deny, or discontinue assistance pending the issuance of an SSN. There is no SSN requirement for separate SCHIP programs. Where disclosure of an SSN is not required, states may ask individuals to voluntarily provide them but must inform the applicant whether disclosure is voluntary or mandatory, by what authority it is requested, and what uses will be made of it.

The guidance also encourages states to educate and train their eligibility workers and to develop and implement a plan for informing applicants of the state's commitment to these principles. Notices should be written at the appropriate literacy level and translated into appropriate languages, consistent with the HHS's "Policy Guidance on the Title VI Prohibition against National Origin Discrimination as it Affects Persons with Limited English Proficiency."

The guidance also provides specific suggestions regarding how states may revise their forms to minimize unnecessary questions, including messages regarding the confidentiality of personal information. Federal regional offices are available to help states revise their forms to be consistent with the guidance. In the meantime, the guidance provides sample notices for states to use while they are revising their joint applications.

The guidance was issued in the form of a letter accompanied by a series of questions and answers (which contain important details on the requirements for each program). The guidance is posted on the HHS's web site at www.dhhs.gov/ocr/immigration/ and will soon be available in Spanish and Chinese.

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