

§ 233.51 Eligibility of sponsored aliens.

Definition: *Sponsor* is any person who, or any public or private agency or organization that, executed an affidavit(s) of support or similar agreement on behalf of an alien (who is not the child of the sponsor or the sponsor's spouse) as a condition of the alien's entry into the United States. Paragraphs (a) through (d) of this section apply only to aliens who are sponsored by individuals and who filed applications for the first time after September 30, 1981. Paragraphs (e) and (f) apply only to aliens sponsored by public or private agencies or organizations with respect to periods after October 1, 1984. A State plan under title IV-A of the Act shall provide that:

(a) For a period of three years following entry for permanent residence into the United States, a sponsored alien who is not exempt under paragraph (g) of this section, shall provide the State agency with any information and documentation necessary to determine the income and resources of the sponsor and the sponsor's spouse (if applicable and if living with the sponsor) that can be deemed available to the alien, and obtain any cooperation necessary from the sponsor.

(b) The income and resources of a sponsor and the sponsor's spouse shall be deemed to be the unearned income and resources of an alien for three years following the alien's entry into the United States:

(1) Monthly income deemed available to the alien from the sponsor and the sponsor's spouse not receiving AFDC or SSI shall be:

(i) The total monthly unearned and earned income of the sponsor and sponsor's spouse reduced by 20 percent (not to exceed \$175) of the total of any amounts received by them in the month as wages or salary or as net earnings from self-employment.

(ii) The amount described in paragraph (b)(1)(i) of this section reduced by:

(A) The cash needs standard under the plan in the alien's State of residence for a family of the same size and composition as the sponsor and those other people living in the same household as the sponsor who are or could be claimed by the sponsor as dependents to determine his or her Federal personal income tax liability but whose needs are not taken into account in making a determination under § 233.20 of this chapter;

(B) Any amounts actually paid by the sponsor or sponsor's spouse to people not living in the household who are or could be claimed by them as dependents to determine their Federal personal income tax liability; and

(C) Actual payments of alimony or child support, with respect to individuals not living in the household.

(2) Monthly resources deemed available to the alien from the sponsor and sponsor's spouse shall be the total amount of their resources determined as if they were applying for AFDC in the alien's State of residence, less \$1500.

(c) In any case where a person is the sponsor of two or more aliens, the income and resources of the sponsor and sponsor's spouse, to the extent they would be deemed the income and resources of any one of the aliens under the provisions of this section, shall be divided equally among the sponsored aliens.

(d) Income and resources which are deemed to a sponsored alien shall not be considered in determining the need of other unsponsored members of the alien's family except to the extent the income or resources are actually available.

(e) For a period of three years following entry for permanent residence into the United States, any alien who is not exempt under paragraph (g) of this section and has been sponsored by a public or private agency or organization, shall be ineligible for assistance unless the State agency determines (in accordance with paragraph (f)) that the sponsor no longer exists or has become unable to meet the alien's needs.

(f) The State plan shall set forth the criteria the State agency will use in determining whether an agency or organization no longer exists or is unable to meet the alien's needs and the documentation the agency will require of the alien in making such determination. The sponsored alien shall provide the State agency with any information and documentation necessary for such determination and obtain any cooperation necessary from the sponsor.

(g) The provisions of this section shall not apply to any alien who is:

(1) Admitted as a conditional entrant refugee to the United States as a result of the application, of the provisions of section 203(a)(7) (in effect prior to April 1, 1980) of the Immigration and Nationality Act;

(2) Admitted as a refugee to the United States as a result of the application of the provisions of section 207(c) (in effect after March 31, 1980) of the Immigration and Nationality Act;

(3) Paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act;

(4) Granted political asylum by the Attorney General under section 208 of the Immigration and Nationality Act;

(5) A Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Pub. L. 96-422); or

(6) The dependent child of the sponsor or sponsor's spouse.

(h) The Secretary shall make information necessary to make a determination under this section and supplied under agreement with the Secretary of State and the Attorney General, available upon request to a concerned State Agency.

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