the poverty level is not excludable under paragraph (c)(2)(vi) of this section. The alien's employment history need not be continuous in that it is uninterrupted. In applying the Special Rule, the Service will take into account an alien's employment history in the United States to include, but not be limited to, employment prior to and immediately following the enactment of IRCA on November 6, 1986. However, the Service will take into account that an alien may not have consistent employment history due to the fact that an eligible alien was in an unlawful status and was not authorized to work. Past acceptance of public cash assistance within a history of consistent employment will enter into this decision. The weight given in considering applicability of the public charge provisions will depend on many factors, but the length of time an applicant has received public cash assistance will constitute a significant factor. It is not necessary to file a waiver in order to apply the Special Rule for determination of public charge.

(3) In order to establish that an alien is not inadmissible under paragraph (c)(2)(vi) of this section, an alien may file as much evidence available to him or her establishing that the alien is not likely to become a public charge. An alien may have filed on his or her behalf a Form I–134, Affidavit of Support. The failure to submit Form I–134 shall not constitute an adverse factor.

(e) Public cash assistance and criminal history verification. Declarations by an alien that he or she has not been the recipient of public cash assistance and/or has not had a criminal record are subject to a verification by the Service. The alien must agree to fully cooperate in the verification process. Failure to assist the Service in verifying information necessary for proper adjudication may result in denial of the application.

[66 FR 29673, June 1, 2001, as amended at 67 FR 38351, June 4, 2002]

§ 245a.20 Decisions, appeals, motions, and certifications.

(a) Decisions—(1) Approval of applications. If the Service approves the application for adjustment of status under LIFE Legalization, the district director shall record the alien's lawful admission for permanent residence as of the date of such approval and notify the alien accordingly. The district director shall also advise the alien regarding the delivery of his or her Form I–551, Permanent Resident Card, and of the process for obtaining temporary