

Administration of Donald J. Trump, 2019

Memorandum on Enforcing the Legal Responsibilities of Sponsors of Aliens
May 23, 2019

Memorandum for the Secretary of State, the Secretary of the Treasury, the Attorney General, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Secretary of Education, the Secretary of Homeland Security, the Commissioner of Social Security, the Director of the Office of Management and Budget, and the Assistant to the President for Domestic Policy

Subject: Enforcing the Legal Responsibilities of Sponsors of Aliens

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Purpose. A key priority of my Administration is restoring the rule of law by ensuring that existing immigration laws are enforced. The immigration laws currently require that, when an alien receives certain forms of means-tested public benefits, the government or non-government entity providing the public benefit must request reimbursement from the alien's financial sponsor. These laws also require that, when an alien applies for certain means-tested public benefits, the financial resources of the alien's sponsor must be counted as part of the alien's financial resources in determining both eligibility for the benefits and the amount of benefits that may be awarded. Financial sponsors who pledge to financially support the sponsored alien in the event the alien applies for or receives public benefits will be expected to fulfill their commitment under law.

Several major means-tested public benefits programs—including the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and Temporary Assistance for Needy Families (TANF)—require updated procedures and guidance to ensure that the requirements of existing law are enforced. The purpose of this memorandum is to direct relevant agencies to update or issue procedures, guidance, and regulations, as needed, to ensure that ineligible non-citizens do not receive means-tested public benefits, in better compliance with the law.

Sec. 2. Background. Since December 19, 1997, the Congress has required an alien's sponsor to sign an affidavit of support under section 213A of the Immigration and Nationality Act (INA) pledging financial support for the sponsored alien in the event the sponsored alien applies for or receives means-tested public benefits.

Section 213A of the INA (8 U.S.C. 1183a) also requires that upon notification that a sponsored alien has received any means tested public benefit, the appropriate government or non government entity that provided such benefit shall request reimbursement from the sponsor in an amount equal to the unreimbursed cost of such benefit.

Section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631) states that when an alien with an affidavit of support under section 213A of the INA applies for any benefit under a Federal means-tested public benefits program, the income and resources of the sponsor and the sponsor's spouse are deemed to be income and resources of the alien for purposes of determining both the alien's eligibility for the benefits and the amount of public benefits that may be awarded to the alien.

These deeming and reimbursement requirements are subject to several important statutory exceptions for aliens who have been battered or subjected to extreme cruelty (8 U.S.C. 1631(f)) or who would be unable to obtain food and shelter without the public benefits (8 U.S.C. 1631(e)), for children and pregnant women who are lawfully residing in the United States and receiving medical assistance from a State under the Children's Health Insurance Program or Medicaid (42 U.S.C. 1396b(v)(4)), and for aliens receiving SNAP benefits who are members of the sponsor's household or are under 18 years old (7 U.S.C. 2014(i)(2)(E)).

Currently, agencies are not adequately enforcing these requirements. Some agencies have insufficient procedures and guidance for implementing these reimbursement and deeming requirements of the immigration laws. For example, the Department of Health and Human Services has not adequately issued guidance on either sponsor reimbursement or sponsor deeming for the Medicaid program. Even in cases in which some guidance exists—such as for the Supplemental Security Income, TANF, and SNAP programs—increased oversight and updates to current data collection efforts will ensure more effective compliance.

Ensuring compliance with the rule of law requires renewed efforts to enforce these requirements and the issuance of appropriate guidance so agency practices and enforcement can be aligned with Federal law.

Sec. 3. Issuance of Guidance and Procedures; Implementation. (a) No later than 90 days after the date of this memorandum, the Secretaries of Agriculture and Health and Human Services shall take all appropriate steps to enforce section 213A of the INA. Such enforcement efforts shall include:

- (i) establishing or updating, as appropriate, procedures and guidance on the reimbursement obligations of sponsors; and
- (ii) providing such procedures and guidance to all entities involved in enforcement effort actions, including the Federal and State officials responsible for administering any means-tested public benefit programs under the respective purview of each Secretary.

(b) The guidance issued pursuant to subsection (a) of this section should include, as appropriate and consistent with law:

- (i) procedures for recovering reimbursement from an alien's financial sponsor for means-tested public benefit payments made to an alien;
- (ii) procedures for notification to the sponsor of amounts owed in reimbursement and any procedures related to appeal, payment plans, non-response, and non-reimbursement;
- (iii) procedures for notifying the Attorney General and Secretary of Homeland Security of sponsor's non payment and procedures for requesting that the Attorney General bring a civil action against the sponsor;
- (iv) procedures for data sharing with Federal agencies, as appropriate and consistent with law;
- (v) procedures for how the income and resources of the sponsor and the sponsor's spouse will be deemed attributable to the alien in determining eligibility for the means-tested public benefit and the amount of benefits that may be awarded; and

(vi) procedures for determining whether any exceptions to the deeming or reimbursement requirements apply to the alien.

(c) No later than 180 days after the date of this memorandum, the Secretaries of Agriculture and Health and Human Services shall each submit a report to the President, through the Director of the Office of Management and Budget and the Assistant to the President for Domestic Policy, detailing:

- (i) all actions taken to establish or update the procedures and guidance described in section 3(a) of this memorandum;
- (ii) the methods used to track deeming and reimbursement actions and the results; and
- (iii) all actions taken to share information with other Federal agencies pursuant to section 5 of this memorandum.

Sec. 4. Notification of Sponsor Reimbursement Responsibilities. (a) By the end of fiscal year 2019, the Secretaries of Agriculture and Health and Human Services shall provide the appropriate and respective Federal and State officials described in section 3(a)(ii) of this memorandum with the procedures and guidance described in section 3 of this memorandum for notifying sponsors of reimbursement obligations for means-tested public benefits, as required by law.

(b) The Secretaries of State and Homeland Security, in consultation with the Secretaries of Agriculture and Health and Human Services, shall advise the following parties about how the reimbursement and deeming requirements will be enforced:

- (i) all current sponsors and those seeking to become sponsors who have signed or plan to sign an affidavit of support;
- (ii) others who, under applicable provisions of law, may become liable for reimbursing the cost of public benefits paid to a sponsored alien; and
- (iii) all current sponsored aliens and those seeking to become sponsored aliens.

Sec. 5. Collection, Record-Keeping, and Non-Reimbursement. (a) No later than 180 days after the date of this memorandum, the Secretaries of Agriculture and Health and Human Services and the Commissioner of Social Security shall coordinate with the Secretaries of State and Homeland Security to:

- (i) establish and maintain records regarding each financial sponsor's reimbursement obligations and status, as appropriate and consistent with law; and
- (ii) establish information-sharing procedures to ensure that records regarding each sponsor's reimbursement obligations and reimbursement status are made available to the Secretaries of State and Homeland Security for consideration for the administration and enforcement of all applicable immigration laws and regulations, as appropriate and consistent with applicable law.

(b) No later than 180 days after the date of this memorandum, the Secretaries of State and Homeland Security shall issue guidance on the eligibility of a sponsor who is delinquent on the sponsor's reimbursement obligation to continue to serve as a sponsor or to sponsor additional aliens.

(c) To the extent appropriate and consistent with law, the Secretaries of Agriculture and Health and Human Services and the Commissioner of Social Security shall coordinate with the Secretary of the Treasury to establish information-sharing procedures with the Treasury Offset Program (31 CFR 285.5) to ensure collection is ordered by letters of reimbursement.

(d) The Secretary of the Treasury and the Secretary of Homeland Security shall refer all cases in which financial sponsors fail to satisfy their statutory reimbursement obligations to the Attorney General for enforcement of such statutory reimbursement obligation (8 U.S.C. 1183a(b)(2), (e)).

Sec. 6. Protecting the American Taxpayer and Preventing Abuse of the Immigration System. (a) The Secretaries of the Treasury, Agriculture, Commerce, Labor, Health and Human Services, Housing and Urban Development, Transportation, and Education shall each submit a report to the President, through the Assistant to the President for Domestic Policy and the Director of the Office of Management and Budget, within 30 days of the date of this memorandum, that includes:

(i) their review of their respective guidance and regulations governing the issuance of Federal public benefits to non-citizens;

(ii) steps they have taken to comply with the eligibility requirements set forth in 8 U.S.C. 1611(a);

(iii) an explanation of whether the Federal public benefits that they administer are means-tested public benefits within the meaning of 8 U.S.C. 1183a and whether additional Federal public benefits they administer, if any, should be regarded as means-tested public benefits; and

(iv) their review of any additional regulations or guidance that should be updated to align with applicable statutes.

(b) The report described in subsection (a) of this section should include, where applicable, coordination with the Secretary of Homeland Security.

Sec. 7. Definitions. For purposes of this memorandum, the following definitions shall apply:

(a) The term "sponsor" shall have the meaning set forth in section 213A(f) of the INA (8 U.S.C. 1183a(f)), including any joint sponsor authorized by section 213A(f)(5)(A) (8 U.S.C. 1183a(f)(5)(A)) or member of household under section 213A(f)(5)(B) (8 U.S.C. 1183a(f)(5)(B)).

(b) The term "sponsored alien" means an individual who was required under section 212(a)(4)(C) or 212(a)(4)(D) of the INA to have a sponsor execute an enforceable affidavit of support and whose sponsor's obligations under section 213A of the INA have entered into effect.

(c) The term "means-tested public benefit" shall have the meaning set forth in 8 CFR 213a.1.

(d) The term "Federal public benefit" shall have the meaning set forth in 8 U.S.C. 1611(c).

Sec. 8. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof;

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals; or

(iii) existing rights or obligations under international agreements.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

NOTE: An original was not available for verification of the content of this memorandum.

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