

Notices

Federal Register

Vol. 63, No. 129

Tuesday, July 7, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

RIN 0584-AC62

Federal Means-Tested Public Benefits

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The term "Federal means-tested public benefit" is used in several sections of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) which restricts welfare and public benefits for aliens. The purpose of this notice is to set forth the U. S. Department of Agriculture's interpretation of the term as it applies to the food assistance programs administered by the Food and Nutrition Service (FNS). This notice announces that the Food Stamp Program and the food assistance block grant programs in Puerto Rico, the Commonwealth of the Northern Mariana Islands and American Samoa are Federal means-tested programs. It announces that the other food assistance programs administered by FNS, e.g., those under the Child Nutrition Act and the School Lunch Act are not Federal means-tested programs, or are excepted from the application of this term, for purposes of PRWORA. (Section 402 of PRWORA limits participation in the Food Stamp Program to certain specific categories of aliens. These restrictions as well as other related issues will be addressed in a separate rule.)

EFFECTIVE DATE: This notice is effective on July 7, 1998.

FOR FURTHER INFORMATION CONTACT: Judith M. Seymour, Chief, Certification Policy Branch, Program Development Division, Food Stamp Program, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302; Telephone: (703) 305-2520. The

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SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601-612) and thus is exempt from the provisions of this Act.

Paperwork Reduction Act of 1995

This notice contains no reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995.

Executive Order 12866

This notice has been reviewed by the Office of Management and Budget under Executive Order 12866 and been determined to be significant.

Executive Order 12372

The food assistance programs administered by the Food and Nutrition Service are listed in the Catalog of Federal Domestic Assistance as follows:

- 10.550 Food Distribution
- 10.551 Food Stamps
- 10.553 School Breakfast Program
- 10.555 National School Lunch Program
- 10.556 Special Milk Program for Children
- 10.557 Special Supplemental Nutrition Program for Women, Infants and Children
- 10.558 Child and Adult Care Food Program
- 10.559 Summer Food Service Program for Children
- 10.564 Nutrition Education and Training Program
- 10.565 Commodity Supplemental Food Program
- 10.566 Nutrition Assistance for Puerto Rico
- 10.567 Food Distribution Program on Indian Reservations
- 10.569 Emergency Food Assistance Program (Food Commodities)
- 10.570 Nutrition Program for the Elderly
- 10.572 WIC Farmers' Market Nutrition Program
- 10.573 Homeless Children Nutrition Program.

The Food Stamp Program and the food assistance programs in Puerto Rico, American Samoa and the Commonwealth of the Northern Mariana Islands are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials. The other food programs listed above are not excluded.

Background

The term "Federal means-tested public benefit" is used in the following sections of PRWORA:

Section 402—This section contains the criteria for determining if qualified aliens can be eligible for food stamps, including the specific timeframes governing the eligibility of aliens for purposes of the Food Stamp Program. Subsection (a)(2)(B)(ii)(I) provides that any qualifying quarter of work creditable after December 31, 1996, in which an alien received a Federal means-tested public benefit cannot be included when determining whether the alien has the 40 quarters needed for eligibility for food stamp benefits.

Section 403—With specified exceptions, a qualified alien who enters the U.S. on or after August 22, 1996, is ineligible for any Federal means-tested public benefit for 5 years from the date of entry. As noted above the specific timeframes governing the Food Stamp Program are included in section 402.

Sections 421(a) and (b)—In determining the eligibility and benefits of an alien for any Federal means-tested public benefit, the income and resources of the alien are deemed to include the income and resources of any person who signs an affidavit of support. The deeming period continues until the alien becomes a citizen or has worked 40 qualifying quarters, not counting quarters in which the alien received any Federal means-tested public benefit.

Section 423—This section amended Title II of the Immigration and Nationality Act to add requirements for the sponsor's affidavit of support. It provides that no affidavit may be used to establish that an alien is not excludable as a public charge unless the affidavit is executed as a contract which is legally enforceable against the sponsor by any agency which provides any means-tested public benefits. Section 423(e) provides that upon notification that a sponsored alien has received any benefit under any means-tested public benefits program, the appropriate agency shall request reimbursement by the sponsor in the amount of such assistance. The Food Stamp Program is not listed among the benefits excepted from this provision. Assistance or benefits under the National School Lunch Act and Child Nutrition Act of 1966 are specifically

listed as benefits not subject to reimbursement.

Section 435—This section contains a description of qualifying quarters of work and disallows any quarter worked by a spouse or parent in which the spouse or parent received a Federal means-tested public benefit.

The law, however, does not include a definition of "Federal means-tested public benefit." Therefore, each Executive Branch agency whose programs may be subject to the PRWORA provisions is responsible for identifying the benefits to which the term applies.

Definition of Federal Means-Tested Public Benefit

The Department has determined that the Food Stamp Program and the block grant food assistance programs in Puerto Rico, American Samoa, and the Commonwealth of the Northern Mariana Islands are "Federal means-tested public benefit(s)" for purposes of Title IV of PRWORA. Based on the legislative history of PRWORA, the Department interprets the term to refer only to mandatory spending programs. The Department of Health and Human Services (62 FR 45256, August 26, 1997) and the Social Security Administration (62 FR 45284, August 26, 1997) have interpreted the term in a similar fashion. The food assistance programs listed above are mandatory spending programs.

The Department has determined that the following Special Nutrition Programs are either not a Federal means-tested public benefit, or are exempted from the application of the term, for purposes of Title IV of PRWORA.

The Nutrition Program for the Elderly
Food services provided through Summer
Camps pursuant to § 4(c) of the
Agricultural and Nutrition Protection Act
of 1973 (7 U.S.C. 612c note)
Disaster Commodity Distribution
The National School Lunch Program
The School Breakfast Program
The Special Milk Program
The Child and Adult Care Food Program
The Homeless Children Nutrition Program
The Summer Food Service Program for
Children
The Special Supplemental Nutrition Program
for Women, Infants, and Children
The WIC Farmers' Market Nutrition Program
The Commodity Supplemental Food Program
The Emergency Food Assistance Program
The Food Distribution Program on Indian
Reservations

Regulatory Impact Analysis

Designation: This action has been designated as significant.

Decrease in Number of Eligible Aliens: Effective August 22, 1996 for applicants

and no later than August 22, 1997 for participating households, PROWRA made most aliens ineligible for food stamps. Exceptions were made for certain asylees, refugees, Cubans, Haitian, Amerasians, deportees, and persons with a military connection. An exception was also made to allow aliens admitted as lawful permanent residents to be eligible if they have earned or can be credited with at least 40 quarters (about 10 years) of qualified work. This notice only affects the eligibility of lawful permanent residents who can be credited with at least 40 quarters of work. After 12/31/96, a quarter cannot count if the person was receiving a Federal means-tested public benefit during that quarter.

Savings: By counting food stamp benefits as a Federal means-tested public benefit, the Federal government may realize an estimated savings of as much as \$10 million a year for 10 years. This occurs because most aliens admitted as a lawful permanent resident became ineligible 8/22/97, thus any period of food stamp participation between 1/1/97 and 8/22/97 would delay their fulfillment of the 40 quarter work requirement; which, in turn, delays their eligibility. This reduces program costs over the 10-year time period. The maximum length of time when participating permanent resident aliens could have been working and their work would not be counted toward the quarters of coverage is 8 months, the time between January 1, 1997, and August 22, 1997. In any one year, the estimated savings come from only those participants who would have achieved their 40 quarters in that year and do not when they are not allowed to include the quarters earned between January 1997 and August 1997 when they also received food stamps. Assuming that among those working, 1/40th are in their 39th quarter, 1/40th are in their 38th quarter, etc., then no more than 4/40th or 10 percent can have their benefits delayed in any year.

Consistency: A Department of Health and Human Service (HHS) notice published on 8/26/97 (62 FR 45256) and a Social Security Administration notice published on 8/26/97 (62 FR 45284) have determined that Federal means-tested public assistance benefits applies to means-tested mandatory spending programs. Therefore, this interpretation is consistent with that of other agencies. The DHHS determined that its notice was economically significant based on \$5.1 billion in savings from all of the alien restrictions contained in PRWORA for purposes of the Medicaid Program rather than just the definition of a Federal means-tested public benefit.

The Social Security Administration did not designate its notice. USDA is designating this notice as significant because it affects the eligibility of aliens, but it is limiting the cost estimate to the costs associated with the provisions concerning the definition of a Federal means-tested public benefit.

Effect on small entities: State and local welfare agencies are affected to the extent that they administer the Program. The notice will affect a number of aliens who could otherwise qualify for food stamp participation. The changes and the resulting decrease in benefits will have a negative secondary effect on revenues of the approximately 190,000 food stamp retailers nationwide.

Dated: June 25, 1998.

Shirley R. Watkins,

Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. 98-17932 Filed 7-6-98; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 98-031N]

Technologies for the Detection and Reduction of Pathogens To Improve Food Safety

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice; Request for Technical Papers and Presenters

SUMMARY: The Food Safety and Inspection Service will hold a conference on "Technology to Improve Food Safety" on July 28, 1998, in Washington, DC. The purpose of the conference is to focus on emerging technologies that aid in the detection of pathogens and on pathogen interventions that help to ensure food safety within the farm-to-table continuum. The emphasis will be on both existing and emerging technologies to detect pathogens, including those which are close to practical application within the farm-to-table continuum.

DATES: The conference will be held from 8:30 a.m. to 5:00 p.m. on July 28, 1998. Abstracts of scientific papers must be received no later than COB July 8, 1998; the final papers no later than COB July 20, 1998. The Conference will be held in two sessions: Technologies for Reducing Pathogens and Technologies for Detecting Pathogens. Please specify for which session the paper is intended. Two copies of the abstracts and final papers should be sent to Ms. Mary Harris at the address below.