

# CRS Report for Congress

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## Food Stamp Benefits for Legal Immigrants in P.L. 105-185

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### Summary

Food stamp eligibility will be provided for approximately 250,000 legal immigrants under P.L. 105-185, the “Agricultural Research, Extension, and Education Reform Act of 1998,” at a cost of \$818 million for FY1999-FY2003. The food stamp eligibility provisions take effect on November 1, 1998.

### Background

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA; P.L. 104-193) established significant new restrictions on the eligibility of legal immigrants, or “qualified aliens,” for needs-based public assistance.<sup>1</sup> Previously, legal immigrants were eligible for public assistance on much the same basis as citizens. The 1996 welfare law barred most legal aliens from Supplemental Security Income (SSI) and the Food Stamp Program. Also, states may limit alien access to Medicaid and Temporary Assistance for Needy Families (TANF, which replaced AFDC). “Qualified aliens” arriving after August 22, 1996, are barred from these and most other means-tested programs for 5 years after arrival (after which time the state option on TANF and Medicaid applies). Eligibility for TANF and Medicaid is further limited for immigrants who applied for immigrant status on the basis of a family relationship after December 19, 1997. They are required to have the new affidavit of support, a legally binding contract in which their sponsor guarantees their support.<sup>2</sup>

The term “qualified aliens” is defined by PRWORA to include legal permanent residents, refugees, aliens paroled into the United States for at least 1 year, aliens granted

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<sup>1</sup> For more information on current eligibility rules, see CRS Report 96-617, *Alien Eligibility for Public Assistance*, by Joyce Vialet and Larry M. Eig;

<sup>2</sup> See CRS Report 97-1054, *Immigration: The New Affidavit of Support—Questions, Answers, and Issues*, by Joyce Vialet.

asylum or related relief, certain abused spouses and children, and Cuban/Haitian entrants.<sup>3</sup>

Noncitizens who are eligible for benefits on the same basis as U.S. citizens include: (1) “qualified aliens” who meet a 10-year requirement for work covered under the social security system and (2) veterans and active duty military personnel, together with their family.

The 1996 changes in the alien eligibility rules proved controversial, particularly the termination of SSI and related Medicaid benefits for aliens who were already receiving those benefits when the 1996 welfare act became law. The Balanced Budget Act of 1997 (P.L. 105-33) continued SSI and related Medicaid for both aged and disabled noncitizens receiving benefits on August 22, 1996, the enactment date of P.L. 104-193, and for noncitizens here before that date who later become disabled. It also extended the refugee and asylee exemption from SSI and Medicaid restrictions for from 5 to 7 years.<sup>4</sup>

### **Noncitizen Food Stamp Eligibility under P.L. 105-185**

Following restoration of some SSI and Medicaid benefits to noncitizens, the focus shifted to food stamps. Proposals were included in the President’s FY1999 budget and, on a smaller scale, in the conference agreement on S. 1150, the “Agricultural Research, Extension, and Education Reform Act of 1998,” approved by conferees on March 24, 1998.<sup>5</sup> This legislation, signed into law on June 23, 1998, provides \$818 million for FY1999-FY2003 to restore benefits to approximately 250,000 people. The following groups become eligible for food stamps on November 1, 1998 under P.L. 105-185:

- Noncitizen children under age 18 who entered by August 22, 1996, the enactment date of the PRWORA.
- Legal immigrants here by August 22, 1996 who were age 65 and over or disabled, and those who subsequently become disabled after that date;
- Refugees and asylees for 7 years after entry as refugees or obtaining asylum status in the United States, as opposed to 5 years under current law;
- Hmong refugees from Laos who came here after the Vietnam War; and
- Certain Native Americans living along the Canadian and Mexican borders.

These provisions are compared with prior law in **Table 1**.

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<sup>3</sup> Special rules applying to refugees and asylees (including Cuban/Haitian entrants and Amerasians) make them eligible for TANF for 5 years after entering as refugees or being granted asylum, and for 7 years for SSI, Medicaid, and now food stamps.

<sup>4</sup> See CRS Report 97-400, *Immigration-related Welfare Provisions in 105<sup>th</sup> Congress Legislation*, by Joyce Violet.

<sup>5</sup> See CRS Issue Brief 98019, *Food Stamps: 1998 Issues*, by Joe Richardson; and CRS Report 98-153, *Immigration-related Food Stamp and Child Health Proposals in the President’s FY1999 Budget*, by Joyce Violet and Joe Richardson.

**Table 1. Noncitizen Food Stamp Eligibility under P.L. 105-185 and Prior Law**

<b>Provision</b>	<b>P.L. 104-193 prior to amendment</b>	<b>P.L. 105-185</b>
Food stamp eligibility of “qualified aliens”* regardless of entry date	“Qualified aliens” barred from food stamps unless work requirement met or otherwise exempt	No change in current law for entries after 8/22/96
Food stamp eligibility of “qualified aliens” here by 8/22/96	None unless work requirement met or otherwise exempt	Eligible if 65 or over or disabled, and while under age 18
Subsequent food stamp eligibility of “qualified aliens” here by 8/22/96	None unless work requirement met or otherwise exempt	Extended to those who subsequently become disabled
Refugee and asylee exemption (including Cuban/Haitian entrants and Amerasians)	Refugees and asylees exempted for 5 years from bar against food stamps	Extends exemption from 5 to 7 years for food stamps
Hmong eligibility for food stamps	Covered by 5-year refugee exemption if applicable	Exempts members of Hmong tribes that assisted U.S. during Vietnam war, and immediate family members
Native American exemption	Members of Indian Tribes and certain Native Americans born in Canada subject to food stamp bar on “qualified aliens”	Exempts from food stamp bar

\* “Qualified aliens” include legal permanent residents, refugees, aliens granted asylum or similar relief, aliens paroled into the U.S. for at least 1 year, certain battered family members, and Cuban/Haitian entrants.

### **Legislative History**

The conference report on S. 1150 was agreed to on March 24, 1998 and filed in the House on April 22 (H. Rept. 105-492). It passed the Senate on May 12, 1998 following the defeat of a motion to recommit it to the Agriculture Committee. The motion to recommit was defeated by a vote of 23 to 77, and the final Senate vote on the conference report was 92-8.

Senator Phil Gramm introduced the motion to recommit S. 1150 with instructions to limit the extension of refugee eligibility for food stamps from 5 to 7 years to those refugees who had entered before August 22, 1996, the enactment date of the welfare law. His objections to the bill focused solely on the food stamp provisions. He argued that they constituted a breach of the agreement to restrict benefits for noncitizens reached in that law and, as such, represented an incentive to come to the United States. Senator Richard Lugar discussed the requirements for admission to the United States as a refugee, and strongly questioned whether the availability of food stamps for two additional years would act as a magnet. Senator Tom Harkin pointed out that Senator Gramm had raised no such objections to the identical provisions in P.L. 105-33, the Balanced Budget Act of 1997, extending refugee eligibility for SSI and Medicaid from 5 to 7 years.

Senator Gramm also argued against the noncitizen food stamp provisions on the grounds that they were added by the conferees. In fact, the only food stamp provisions in the House and Senate bills were those in the Senate-passed bill restoring benefits to certain Native Americans living along the Canadian and Mexican borders. This was a key issue in the May 22, 1998 House debate which led to the defeat of the rule to bring the conference report on S. 1150 to the floor.

Like the Senate debate, the House debate on May 22 focused on the provisions restoring food stamps to legal immigrants. The proposed rule allowed for an amendment to strike these provisions on the ground that they were in neither the House nor Senate-passed versions of the bill, and thus beyond the scope of the conference. The House rule was defeated by a vote of 120-289. Those opposing it argued that the rule's intent was to eliminate the noncitizen food stamp provisions, and that there had been an agreement that this issue would be dealt with by the conferees. S. 1150 was brought to the House floor again on June 4, 1998 under a different rule, and passed by a vote of 364 to 50.

President Clinton signed S. 1150 into law as P.L. 105-185 on June 23, 1998. Under an effective date included in the Act, the food stamp benefits provided by it do not become available until November 1, 1998.