

To: Interested Parties
From: Protecting Immigrant Families Coalition
Re: Food and Nutrition Service OBBB Guidance on SNAP and humanitarian immigrant exemption from 5 year bar after conversion to LPR
Date: November 6, 2025

On October 31, the U.S. Department of Agriculture (USDA)'s Food and Nutrition Service (FNS) released [guidance in the form of a policy memo](#) implementing section 10108 of OBBB/HR1, which contains new restrictions to SNAP eligibility based on immigration status. This memo gives contradictory messages regarding the eligibility of humanitarian immigrants for SNAP after they obtain lawful permanent resident (LPR) status, and may cause states to adopt policies that are not consistent with statutory requirements. **We continue to believe that the policy as specified in the 1996 law (the Personal Responsibility and Work Opportunity Reconciliation Act, or PRWORA) is clear: once humanitarian immigrants become LPRs, they may be eligible for SNAP and Medicaid without a waiting period. FNS has historically recognized this in its regulations and guidance, and OBBB did not change these provisions.**

The guidance correctly says that immigrants "continue to be subject to a 5-year waiting period, unless exempted by PRWORA." The guidance (in footnote 3) cites [8 USC 1612](#), the PRWORA provision that includes the exemptions from the 5-year waiting period for refugees and other humanitarian immigrants. The guidance also has a chart on eligibility and the 5 year bar, which says that LPRs "may still be eligible for SNAP without a waiting period if they meet one or more of the following conditions" -- but it fails to include humanitarian immigrants on that list. Moreover, the detailed table comparing pre- and post-OBBB eligibility does not accurately describe the policy that was in effect under PRWORA prior to the enactment of OBBB.

Below, we explain the provisions that exempted refugees and other humanitarian immigrants from the 5 year bar under PRWORA. We then explain the changes made by HR 1, and why they do not affect these provisions.

1996 PRWORA SNAP Restrictions and Exemptions

The longstanding humanitarian immigrants exemption from the 5-year bar has been clearly stated in federal law, regulations and guidance.

Federal Law

The new FNS guidance correctly cites the statutory language under PRWORA as providing exemptions from the 5 year bar. These are contained in [8 U.S. Code §1612\(a\)\(2\)](#).

Subparagraph (A) provides that the PRWORA restriction on access to SNAP/SSI (which are the “specified Federal programs”) does not apply during the **7 year period after** a person is granted one of the humanitarian statuses. (Note that LPRs would continue to be eligible after the 7- year period, b/c they have been in “qualified” status for at least 5 years, under 8 USC 1612(a)(2)(L).)

The statute lists five groups of humanitarian immigrants as qualifying for the exemption:

- (A) An alien who is admitted to the United States as a refugee under section 207 of the [Immigration and Nationality Act \[8 U.S.C. 1157\]](#).
- (B) An alien who is granted asylum under section 208 of such Act [\[8 U.S.C. 1158\]](#).
- (C) An alien whose deportation is being withheld under section 243(h) of such Act [\[8 U.S.C. 1253\]](#) (as in effect immediately before the effective date of section 307 of division C of [Public Law 104–208](#)) or section 241(b)(3) of such Act [\[8 U.S.C. 1231\(b\)\(3\)\]](#) (as amended by section 305(a) of division C of [Public Law 104–208](#)).
- (D) An alien who is a Cuban and Haitian entrant as defined in section 501(e) of the [Refugee Education Assistance Act of 1980](#).
- (E) An alien admitted to the United States as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in [section 101\(e\) of Public Law 100–202](#) and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, [Public Law 100–461](#), as amended).

Other legislation makes additional groups eligible for benefits on the same basis as refugees. These include certain victims of human trafficking, Iraqis and Afghans with special immigrant visas (SIVs), and certain Afghan and Ukrainian parolees. (See section 8120 of the NDAA for FY 2020, [P.L. 111-118](#)).

FNS/USDA Regulations

Humanitarian immigrants who obtain LPR status continue to be exempt from the waiting period. This is reflected in regulations at [7 CFR 273.4 -- Citizenship and alien status](#).

(a)(6)(iv) Each category of eligible alien status stands alone for purposes of determining eligibility. **Subsequent adjustment to a more limited status does not override eligibility based on an earlier less rigorous status.** Likewise, if eligibility expires under one eligible status, the State agency must determine if eligibility exists under another status.

FNS/USDA Guidance

In addition, FNS’s [SNAP Non-Citizen Guidance](#), first published in 2011, confirms (page 12) that refugees and other humanitarian immigrants who adjust to LPR status continue to be eligible without a waiting period. This guidance has been removed from the FNS website, but has been archived by NILC.

If a qualified alien is in an exempt category (e.g., asylee or refugee) and later adjusts to LPR status, does the qualified alien have to meet the five-year requirement?

No. Those non-citizens are exempt from the five-year residency requirement and are eligible indefinitely, both before and after adjustment of status to LPR. Their exemption from the five-year waiting period is not affected by their adjustment to LPR status. An example of this is an individual who was initially granted asylum in January 2009 and then adjusted to LPR status in January 2011. Even though this non-citizen has not been in a qualified alien status for five years, the qualified alien is eligible indefinitely without a waiting period as an asylee.

OBBB/HR 1 Restrictions Enacted in July 2025

HR 1 (sometimes referred to as the One Big Beautiful Bill, or OBBB) restricts eligibility for SNAP to citizens and a narrow group of immigrants, including lawful permanent residents (LPRs), Cuban-Haitian entrants (CHEs), and citizens of the Republic of the Marshall Islands, the Republic of Palau, and the Federated States of Micronesia who are in the US under the Compacts of Free Association (people residing under COFA).

The HR 1 restrictions do not amend the definition of “qualified immigrants” or any other provisions of PRWORA (as codified at 8 USC 1611 et seq.). Rather, they amend the statutory language at 7 USC 2015(f) – Section 6(f) of the Food and Nutrition Act of 2008.

Under HR 1, LPRs are eligible for SNAP. However, for many LPRs, the five year bar will still apply (with the clock starting when they first received a “qualified immigrant” status, not when they got their green card). But members of groups that are exempt from the 5 year bar, including refugees and other humanitarian immigrants, and children, continue to become eligible immediately upon becoming LPRs.

When Congress created the Afghan SIV program, the legislation made Afghan SIVs eligible for the same resettlement services and benefits as refugees, ensuring they were exempt from SNAP's waiting period. Much like refugees who adjusted their status and are lawful permanent residents, Afghan (and Iraqi) SIVs, who arrive in the U.S. as LPRs, continue to be immediately eligible for SNAP without being subject to any waiting period.

Note: People residing under COFA remain eligible under HR 1, and are also exempt from the 5 year bar under legislation passed in 2024. See: [Federal Agency Guidance Regarding COFA Eligibility for Public Programs - NILC](#)

FNS Guidance issued October 31, 2025

While correctly citing 8 USC 1612, the FNS guidance contains two charts that create some confusion regarding whether humanitarian immigrants maintain their exemption from the five year bar once they convert to LPR status.

The first chart, contained within the body of the memo, lists the four groups of non-citizens that remain eligible post OBBB, and notes that non-citizen U.S. nationals, Cuban and Haitian entrants, and COFA citizens are eligible immediately as long as they meet all other SNAP eligibility requirements, while LPRs are eligible only after the five year waiting period, unless they meet an exception. However, the list that they provide in this chart does not include people who entered as humanitarian immigrants or SIVs.

LPRs may still be eligible for SNAP without a waiting period if they meet one or more of the following conditions:

- Are under 18 years old
- Have 40 qualifying work quarters
- Are blind or disabled
- Were lawfully residing in the U.S. and 65 or older on August 22, 1996
- Have a U.S. military connection
- Are admitted to the United States as an Amerasian immigrant
- Are an American Indian born abroad
- Certain Hmong or Highland Laotian tribal members

The second chart, contained in Appendix A, attempts to compare eligibility pre- and post-OBBB for different groups of immigrants. For LPRs, the post-OBBB column includes the same list of exceptions as above. But the pre-OBBB column also only includes the first five groups (under 18 years old; have 40 qualifying work quarters; are blind or disabled; were lawfully residing in the U.S. and 65 or older on August 22, 1996; or have a U.S. military connection). This omission directly contradicts FNS' long-standing understanding of the law.

Because FNS does not accurately describe the policy under PRWORA, it makes no attempt to explain why additional restrictions for this group are created under OBBB. *There are no such additional restrictions.*

The memo creates additional confusion with different entries under post OBBB for various groups that are statutorily treated the same. For example, it states that victims of severe trafficking are "Not eligible unless an LPR. See 'Post OBBB Eligibility' for LPR" but that refugees are "not eligible." For SIVs, it states simply "See 'Post-OBBB Eligibility' for LPR" but SIVs are not mentioned in the LPR box.