



Questions and Answers

Intergovernmental Affairs Stakeholder Engagement

April 21, 2011

Background

On April 21, 2011, the Office of Public Engagement (OPE) hosted a two part national stakeholder teleconference specific to issues affecting refugees, asylees and other non-citizens. The first portion of the stakeholder call focused on the expiration of Supplemental Security Income (SSI) benefits for certain refugees and other non-citizens. This discussion was led by representatives from the Social Security Administration (SSA), the Department of Health and Human Services (HHS), and various program offices within U.S. Citizenship and Immigration Services (USCIS). During the second portion of this engagement, representatives from U.S. Customs and Border Protection (CBP), the Department of State (DOS) and multiple USCIS program offices walked stakeholders through the derivative refugee and asylee immigration process.

Below you will find questions and answers received during both portions of this engagement.

Part I. Questions and Answers

Q. What percentage of SSI beneficiaries who are eligible for citizenship fail to apply?

A. SSA and USCIS do not have access to the data required to answer this question.

Q. Is there a way for the Social Security Administration to provide State Refugee Coordinators or the federal HHS/Office of Refugee Resettlement with SSI case closure information on refugees that are SSI recipients?

Federal law and regulations allow state Refugee Programs to provide citizenship assistance to these populations beyond the normal five year limit on refugee service delivery. The problem is identifying the individuals in need of this service. Refugee resettlement agencies' intensive case management occurs immediately after arrival and contact may be lost after 5 – 7 years. Therefore, it would be beneficial for State Refugee Coordinators to be provided with information on refugees that are SSI recipients.

Could a case be made under the laws dealing with equal access to limited English speakers or disabled persons that would allow the sharing of this information under defined and restricted rules? The nature of a person's SSI disability may be such that communication is difficult. Additionally, the information about citizenship and SSI was provided shortly after U.S. arrival and may not have been understood because of the myriad of rules being explained to the person

at that time. Therefore, the person may not have understood the implications of not applying for citizenship.

A. SSA appreciates your efforts to specifically identify time-limited SSI recipients, as this information would potentially allow you to assist these individuals in filing for citizenship. However, SSA has no legal authority to disclose the requested information without consent. In this situation, “consent” would involve a written release from each of several thousand recipients. In consultation with its General Counsel, SSA has determined that such disclosure would not be allowed under the Privacy Act. Under some limited provisions of the law, sharing of information could be considered a “routine use” for specific purposes. In this situation, SSA’s General Counsel determined that sharing information about these recipients would not meet a “routine use” standard, as the information would not be used for the processing of programs administered by SSA.

Q. When does/did the Kaplan extension end? Was it two years from October 2008 or March 2008?

A. The extension for class members under the Kaplan settlement agreement has ended. The settlement agreement took effect on March 5, 2008 and remained into effect until February 5, 2011. For further information about the Kaplan settlement, see the Questions and Answers on the USCIS website at:

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=8e0f54dbed15a110VgnVCM1000004718190aRCRD&vgnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD>

Q. Some elderly refugees are illiterate in their own languages and are unlikely to be able to learn English. These refugees usually qualify for SSI on the basis of their age. How can these individuals avoid having their SSI benefits terminated after seven years? Can they be naturalized without being able to read, write and speak English?

A. An applicant for naturalization must meet the English language requirements under Section 312 of the Immigration and Nationality Act. The English language requirement is waived for an applicant, who on the date of filing the Application for Naturalization, Form N-400, was over 50 years old and has been a permanent resident for at least 20 years, or was over 55 years old and has been a permanent resident for at least 15 years. If either exemption applies, the applicant is not tested in English and may take the civics examination in his or her language of choice.

If the applicant does not meet the English language exemption requirements at the time of filing Form N-400, he or she must comply with the English requirements for naturalization.

An applicant for naturalization may be eligible for a medical waiver of the naturalization testing requirements if the applicant is unable to meet the English language and civics requirement because of a physical or medial impairment. Both the English language and civics requirements for naturalization are waived for applicants that meet these requirements. To seek this waiver, applicants must submit a Form N-648, Medical Certification for Disability Exception, completed by a medical doctor.

Q. What is the Department of Homeland Security and the Social Security Administration's strategy to ensure that Congress passes the extension of refugee eligibility for SSI benefits included in the President's FY12 Budget? Who else from the Administration should stakeholders be working with to ensure that this critical provision comes to be?

A. By including it in the President's FY 2012 Budget, the Administration has indicated its support for extending the current SSI noncitizen policy for an additional two years. In order for the additional extension to become law, Congressional action would be required.

Q. If a refugee that arrived in the U.S. in 2005 has not yet filed for lawful permanent residency (green card) would there be a two year extension of SSI benefits?

Also, is the seven year limit calculated based on the date of admission to the U.S. or the date the individual begins receiving benefits?

A. The two year extension for SSI benefits under P.L. 110-328 ends for all SSI recipients on September 30, 2011.

The seven year eligibility for SSI benefits for non-citizens refers to the total number of years one may receive payment. Thus, the seven years of eligibility begins on the date the individual became eligible for benefits.

Q. To complete various government forms, refugees and asylees who don't speak or read English or who have cognitive limitations almost always have to hire legal assistance, yet most cannot afford to do so. What strategies do DHS, SSA and other government agencies have to help people who cannot afford legal assistance and cannot even understand the most basic USCIS forms had instructions?

A. If an applicant needs legal advice regarding an immigration matter but cannot afford to hire an attorney; he or she may wish to review the list of Board of Immigration Appeals (BIA) recognized organization and accredited representatives and lawyers who offer low cost or free services. For a list of pro bono lawyers by state, please refer to the following website: <http://www.justice.gov/eoir/probono/states.htm>. For a list of BIA recognized organizations and accredited representatives, please visit <http://www.justice.gov/eoir/ra.html>.

Q. Is a Cuban/Haitian entrant eligible to receive SSI benefits? Does the seven year clock begin running at the time he or she enters the U.S. or at the time he or she begins receiving benefits?

A. Yes, Cuban/Haitian entrants are among the qualified aliens who are eligible for time-limited SSI benefits. The seven years of eligibility begins on the date the individual became eligible for benefits.

Q. Is an N-400 receipt notice sufficient to continue receiving or reinstate SSI benefits or is a naturalization certificate required?

A. Currently, a USCIS receipt notice is sufficient.

Q. Has funding for the USCIS Citizenship and Integration Grant Program been cut in the new budget?

A. The grant program is still being funded and grants will be announced in September 2011.

Q. If an applicant for naturalization files Form N-400 in July, it is possible that he or she could be naturalized by September?

A. The average processing time for an N-400 is 4.9 months. USCIS instructs any applicant who has a Form N-400 pending for 4 months or over who is in danger of losing their SSI benefits within a year or less to notify USCIS so we can expedite their case to completion.

Although USCIS strives to expedite the process for those persons who are in jeopardy of losing their SSI benefits, USCIS can not guarantee that an application will be processed and approved within a certain period of time.

Q. Are USCIS and SSA willing to have their public education materials translated by non-governmental organizations?

A. SSA has resources available in 17 languages, and USCIS has materials available in up to 14 languages. Because the materials are publicly available, community based organizations or other entities may translate them, but these translated versions will not be official government documents.

Q. As of January 1, 2012, what will be the maximum amount of time noncitizens will be eligible to receive SSI benefits?

A. As of October 1, 2011, non-citizens may be eligible to receive SSI benefits for a maximum of seven years, if the non-citizen filed for SSI benefits within seven years of the date the qualified alien status was acquired.

Q. If an SSI recipient fails the naturalization test, will he or she be required to reimburse SSA for the benefits he or she received?

A. Any SSI recipient may submit a waiver request to be exempted from overpayment proceedings. The agency considers the circumstances for each waiver request on a case-by-case basis.

Q. If an SSI applicant does not have a receipt notice from USCIS, will an SSI 795 statement of intent to pursue citizenship suffice for purposes of continuing to receive SSI benefits?

A. If an individual has been receiving benefits for less than nine years, the statement will be sufficient. If it has been more than nine years, SSA will need to review the individual case to make a determination.

Q. Can SSA provide participants with the number of individuals who will be affected by the expiration of SSI benefits?

A. We estimate that between March and October 2011, there are 1,800 SSI recipients receiving benefits under P.L. 110-328 who will be suspended.

Part II. Questions and Answers

Q. Why is information about derivative refugees and asylees not making it into SAVE? Is there a backlog at the Nebraska Service Center (NSC)?

A. There is no backlog at the NSC. Currently, it takes approximately one business week for the initial information received from the port of entry to be entered into the USCIS database. As SAVE is not a database, SAVE is dependent on the information in the source databases.

Q. What can individuals do to correct duplicate or incorrect A numbers on their employment authorization documents (EADs)?

A. Anyone with incorrect information on his or her EAD can return the document to NSC with information on what needs to be fixed and NSC can issue a new card.

Q. SSA assigns social security numbers at the time of entry to other legal residents (called Enumeration at Entry). Can this be done for derivative refugees and asylees, too?

A. SSA is exploring the expansion of Enumeration at Entry to other classes of aliens, but it is unlikely this will be implemented in the near future.

Q. When using SAVE, can a state agency verify prior immigration status? If the class of admission (COA) code is CO9 (pending application for lawful permanent residence), can the agency find out the status in which the individual entered the U.S.?

A. SAVE provides information on the current immigration status of an individual. For agencies, such as SSA, that may have a legal need for additional information to determine an applicant's benefit eligibility, SAVE can work with a particular state agency directly. State agencies also have the option to review the applicant's travel document, which may show his or her prior status.

Q. What is the purpose of the boarding foil?

A. The boarding foil allows an individual to board a plane with no visa, thereby eliminating airline liability. It also allows an individual to request permission from CBP to enter the U.S. It does not guarantee entry into the U.S.; only a U.S. Customs and Border Protection (CBP) official has the authority to admit an individual to the U.S.

Q. Can a boarding foil be presented to state benefit granting agencies as proof of status?

A. No, because the individual presenting the boarding foil doesn't have status in the U.S. until admitted by CBP.

Q. Many refugees receive Requests for Evidence from the NSC requiring them to re-take passport photos. Where are the photos being taken originally? If it is at a government facility, is there a way to improve the quality of the pictures to eliminate the need to re-take them?

A. The pictures accompanying an I-765, Application for Employment Authorization, are provided to USCIS or the Department of State (DOS) by the beneficiary during overseas processing. These pictures are not taken at embassies overseas. Thus, depending on where individuals have photos taken, the quality of the photo can vary. The only exception to this process is in refugee camps (please see the question below).

Q. How are people in refugee camps obtaining passport photos?

A. Where beneficiaries are located in refugee camps, the Resettlement Support Center (RSC) will take photos of the refugees during case pre-processing.

Q. The DOS Bureau of Population, Refugees and Migration (PRM) guidelines require refugees to apply for a social security card within seven days, but SSA and SAVE recommend waiting 10 days to apply. Which guidance should refugees follow?

A. SSA will accept an application from a refugee within the first 10 days of entry. If the SAVE initial verification request does not verify status (as is often the case), SSA invokes an immediate interim verification process through the DOS Worldwide Refugee Admission Processing System (WRAPS) that allows SSA offices to verify status within one to two days. If the WRAPS verification is unsuccessful, SSA then requests the SAVE additional verification. SAVE can also verify status in the first 10 days, but it may require additional verification. Thus, individuals should follow the recommended guidance from SSA.

Q. What is TECS?

A. The Treasury Enforcement Communications System (TECS) is a system used by CBP to document administrative and law enforcement actions related to foreign nationals.

Q. Can SAVE include the individual's date of entry when it provides information on immigration status?

A. SAVE currently provides an individual's status, COA code and admission date electronically at this time. However, it does not generally provide the entry date. For agencies, such as SSA, that may have a legal need for the date of entry to determine an applicant's benefit eligibility, SAVE can work with a particular agency directly.

Q. How should individuals correct documents on which their first and last names are transposed?

A. Individuals should review documents, such as the I-94, for accuracy prior to leaving the port of entry. If an individual discovers that the information is transcribed incorrectly after leaving the port of entry, this individual should visit the nearest [CBP Deferred Inspection Site](#) to have the document corrected. For SSN issuance purposes, it is important for the immigration document to reflect the person's correct first and last name. SSA must issue the SSN in the first and last name shown on the immigration document unless a name change event occurs after the immigration document is issued, such as marriage or court order name change as supported by the appropriate evidence.

Q. Can the boarding foil for a derivative refugee or asylee be reissued if a person has to leave the U.S. before he or she gets a Refugee Travel Document (RTD)?

A. No, the foil is issued one time in association with an approved I-730 and relates only to that I-730 approval. A derivative refugee or asylee should apply for an RTD before departing the United States and be in possession of that valid RTD in order to return to the United States after temporary travel abroad. In exceptional circumstances, USCIS district directors overseas have the discretion to accept RTD applications from derivative refugees or asylees who have traveled abroad without one. Individuals overseas who are not in possession of a valid RTD also have the option to apply for humanitarian parole (HP) to return to the U.S., however as a discretionary benefit, there is no guarantee that HP will be granted.

Q. Why can't SAVE be searched by A number? If no information other than the A number is available, does the benefit granting agency have any way to verify status other than requesting secondary verification?

A. SAVE does accept A numbers on initial verification. The information required to submit the

query is based upon the immigration document provided by the applicant. For example, SSA uses the A number for initial verification when the document, such as an I-766, Employment Authorization Document, is presented by the applicant.