

MEDICAL SERVICES POLICY MANUAL, SECTION E

E-300 Sponsor Affidavits of Support and Deeming

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MS Manual ~~01/01/18??/??/??~~11/01/2021

PRWORA of 1996

Alien sponsor deeming established by the PRWORA ([Personal Responsibility and Work Opportunity Reconciliation Act of 1996](#)), as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), P. L. 104-208, and the Balanced Budget Act of 1997 (BBA), P. L. 105-33, will apply to all Medicaid categories.

Alien sponsor deeming will be applied to those aliens who are Lawfully Admitted Permanent Residents (LAPRs) that have been in the United States for five years. Refer to [MS E-445](#) for exceptions to deeming for an alien's sponsor.

Aliens who seek admission to the U.S. as LAPRs must establish that they will not become a public charge (Re. [MS D-222](#)). Many aliens enter the country by having a sponsor who pledges to support them to establish that they will not become a public charge.

A sponsor is a person who signs an Affidavit of Support agreeing to support an alien as a condition of the alien's admission for permanent residence in the U.S. An alien may have more than one sponsor. There are two versions of the Affidavit of Support:

- *Affidavit of Support*, form I-134 (Now unenforceable); ~~or~~
- *Affidavit of Support*, form I-864 (Effective December 19, 1997); ~~or~~

The process of counting the sponsor's income and resources for the sponsored alien is called deeming. Deeming will not apply when the sponsor is:

- An organization such as a church or service club; ~~or~~
- An employer who does not sign an Affidavit of Support; ~~or~~
- The alien's eligible or ineligible spouse or parent whose income is otherwise considered in determining the alien's Medicaid eligibility.

A sponsored alien and the alien's spouse, if there is one, are responsible for providing information and documentation about the alien's sponsor and the sponsor's spouse. If the alien appears to be eligible for benefits but does not have the Affidavit of Support or does not know if there is a sponsor, instruct the alien to contact the United States Department of Homeland Security (USDHS) to obtain a copy of the Affidavit of Support. If the applicant requires

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assistance, the caseworker may request information from the USDHS by submitting Forms G-845 and G-845 Supplement.

The USDHS will certify whether an alien has a sponsor and if so, what kind of affidavit the sponsor signed. Do not deem income or resources from a sponsor that has signed the old version, I-134, Affidavit of Support, or I-361, Affidavit of Financial Support and Intent to Petition for Legal Custody, as these affidavits are not considered enforceable.

Deeming instructions are shown below for individuals applying for Medicaid having an I-864, Affidavit of Support:

- Count all income of the sponsor and sponsor's spouse living in the same household as if they were income and resources of the alien.
- When determining the sponsored immigrant's deemed income and resources from the sponsor consider the same disregards to the sponsor's income and/or resources that the sponsor would receive if they were applying. Do not allow deductions from the sponsor's income or resources.
- Count the sponsor's income as the alien's unearned income and use it to determine the alien's eligibility.
- Do not count the sponsor's income when determining eligibility for the alien's eligible children.
- Count the household size of the alien according to MAGI or SSI rules. not include the sponsor in the alien's household size.

Deeming continues until one of the following conditions is met:

- The sponsored immigrant becomes a U.S. naturalized citizen.
- The sponsored immigrant leaves the U.S. permanently achieves 40 qualifying work quarters, as defined by the Social Security Act (the Act).
- The sponsored immigrant or the sponsor dies.