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An update on state and federal action from

The Center for Public Policy Priorities

900 Lydia Street • Austin, Texas 78702 • 512-320-0222 voice • 512-320-0227 fax

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Agriculture Bill Restores Food Stamp Benefits to Some Legal Immigrants: *Implications of the Federal Restorations for Texas*

In June, President Clinton signed the Agriculture Research Bill, legislation that restores federal Food Stamp eligibility for legal immigrants with disabilities and most children and elderly legal immigrants who lost their benefits under the 1996 federal welfare reform law. These restorations will cover roughly 250,000 immigrants, less than one-third of the legal immigrants originally cut off from Food Stamps. The restorations will go into effect on November 1.

With the exception of approximately 360 elderly legal immigrants aged 65-67, the federal restorations will cover all of the immigrants currently receiving state-funded benefits under Texas' State Immigrant Food Assistance Program (SIFAP). SIFAP currently provides food assistance to around 15,000 legal immigrants who are elderly and disabled.

This new law presents Texas with several important decisions:

- Legal immigrants eligible for the Food Stamp restorations can begin receiving benefits on November 1. The state must move quickly to implement the new law to ensure that there is no delay in restoring Food Stamp benefits to all newly eligible legal immigrants by the November 1 effective date.
- Texas must decide whether to reallocate the \$18 million in funds originally designated for SIFAP to pay for food assistance for immigrants who remain ineligible for federal Food Stamps.
- The state must decide how to count the income of ineligible legal immigrants when determining the amount of Food Stamp benefits to provide to legal immigrant and citizen children in mixed households.

Background

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)

Prior to passage of PRWORA, legal immigrants were eligible for most federal benefits, while undocumented immigrants were barred from all federal safety net entitlement programs. The federal welfare reform law (PRWORA) drastically changed the eligibility of legally present, fully documented immigrants for public assistance. First, PRWORA defined several new categories of legal immigrants as "unqualified," meaning that they are now treated exactly the same as undocumented immigrants for purposes of determining federal benefit eligibility. In addition, PRWORA banned "qualified" immigrants from receiving Food Stamps, unless they met one of the qualifications in the following exemption categories:

1. Immigrants who have 10 years (40 quarters) or more of Social Security qualified work history.¹

2. Refugees, asylees, and those granted withholding of deportation only during their first 5 years in the U.S.
3. Legal immigrants who are veterans or active duty U.S. military, their spouses, and their dependent children.

PRWORA also treats immigrants legally present in the U.S. on or before August 22, 1996 (the "before" group) differently from those who arrive after August 22, 1996 (the "after" group). Immigrants in the "before" group are immediately eligible for Food Stamps if they meet one of the above exemptions. Immigrants in the "after" group can receive Food Stamps if they meet exemption #2 or #3, but do not have access to the forty-quarter exemption from the Food Stamp ban for five years from their date of U.S. entry.

FY 1997 Supplemental Appropriations Act

Signed into law on July 1997, this act granted states the authority to purchase Food Stamps from the federal government for those legal immigrants who lost their

1. For purposes of counting work quarters after enactment, quarters will only be counted if the immigrant used no federal need-based benefits during that time. Also, immigrants may

count, as their own, the work quarters of their spouse while they were married and the work quarters of their parents when the immigrant was a minor, or under 18 years of age.

benefits under the federal welfare reform law. Texas chose not to take advantage of this option.

SIFAP: Texas' Response

As of July 1996, 168,000 legal immigrants were collecting Food Stamp benefits in Texas. Under PRWORA, roughly 122,000, or over 73% of these immigrants were denied benefits. The annual statewide value of the lost benefits was officially estimated at \$122 million.

Understanding the enormous impact cuts to the Food Stamp program for legal immigrants could have on their communities, many states exercised the power given to them under the Balanced Budget Act of 1997 and allocated state dollars to provide some level of assistance to certain groups of legal immigrants. Thirteen states, including Texas, have provided funding to purchase federal Food Stamps or offer other assistance to some of the legal immigrants cut off from Food Stamps.

Texas elected to use state dollars to provide some food assistance to legal immigrants who are elderly or have disabilities. The State Immigrant Food Assistance Program (SIFAP) was established in March by the Department of Human Services (DHS) under the direction of the governor and the legislative leadership. On announcing the state's stop-gap program, Governor George W. Bush stated, "Food Stamps are a federal program and a federal responsibility, but the federal government is shirking its responsibility. The rules have changed unfairly and retroactively for those least able to help themselves."

SIFAP provides food assistance to legal immigrants who

- were receiving Food Stamps prior to the cutoff under PRWORA, and
- are 65 years of age or were receiving Supplemental Security Income (SSI) during the last month of their participation in the Food Stamp program.

Any legal permanent resident who becomes disabled or who is considered elderly in the future will not qualify for SIFAP even if he/she were receiving Food Stamps before August 22, 1996 (enactment of PRWORA). The amount of benefits DHS provides to a legal immigrant

eligible for SIFAP is a fixed amount based on the benefit the immigrant received during the last month he or she participated in the federally funded Food Stamp program.

The Governor designated \$18 million from DHS' general revenue funds to implement SIFAP. When DHS implemented the program, it estimated cost and client participation as follows:

Original Estimated Costs for SIFAP*	
Year	Cost
FY98	9,631,435
FY99	14,998,041
FY00	11,943,319
FY01	9,510,766
FY02	7,573,663

*DHS, March 1988

It was originally estimated that SIFAP would serve over 23,000 clients. After making adjustments for legal

immigrants who were allowed back on the federal Food Stamp program because they became citizens or qualified for one of the exemptions, around 18,000 legal immigrants qualified for SIFAP. Of these, SIFAP currently issues benefits to around 15,000 legal immigrants.

Since the program began in March of this year it will run for only 6 months of the fiscal year (FY). Originally, costs for FY 1998 were estimated to be \$9,631,435, based on the

initial estimate that the program would serve 23,000 legal immigrants. In reality, the total amount of SIFAP benefits issued each month since March has remained steady at around \$800,000. If the state continues to serve the same number of clients on SIFAP through October 1998, when the federal restorations go into effect, Texas will have spent around \$6,400,000 of the \$18 million originally allocated for SIFAP.

Texas must now decide whether to reallocate the funds originally designated for SIFAP to pay for food assistance for immigrants who remain ineligible for federal Food Stamps. To continue any state-funded food assistance program into the next biennium (FY 2000-2001), the 76th Legislature would have to approve funding through the normal appropriations process.

Important Points About SIFAP

SIFAP is unusual in that funding for the program was not provided by legislation or budgeted through the normal legislative appropriations process. Funding for SIFAP is possible due to excess federal TANF funds that freed up \$18 million in DHS' general revenue funds. In establishing SIFAP, the state made no commitment to long-term food assistance to these legal immigrants. In fact, the SIFAP rules contain a provision authorizing the state to discontinue funding at any time "based on lack of funding or other necessary reason." In order to continue a state-funded food assistance program into the next biennium, the 76th Legislature will have to approve funding through the normal appropriations process.

**The Federal Response:
The Agriculture Research Bill**

Understanding the effect that poor nutrition and hunger can have on children and adults, many organizations and

individuals teamed up to ensure the passage of the Agricultural Research Bill, which earmarks \$818 million

over five years for Food Stamp restorations. On May 12, the Senate voted 92-8 to approve the Agriculture Research conference report. On June 4, the House voiced its support for the Food Stamp restorations, voting 364-50 on the bill. On June 23, President Clinton signed the legislation — Public Law 105-185 — restoring Food Stamp benefits to about 250,000 legal immigrants, one-third of those immigrants who lost their eligibility under the 1996 federal welfare law. The implementation date for these restorations is November 1, 1998.

The Agriculture Bill restores benefits to:

- refugees and asylees (extends the refugee exemption from 5 to 7 years);
- Hmong and Lao veterans and Jay Treaty Indians (Native Americans born in Canada or Mexico who crossed the border into the U.S.);
- persons who are or who become disabled and were lawfully present in the U.S. on 8/22/96 ;
- persons who were 65 and legally present in the U.S. on 8/22/96; and
- children under 18 who were lawfully present in the U.S. on 8/22/96.

Not included in the restorations are:

- elderly individuals (non-disabled) who were not already 65 or older on 8/22/96;
- all other adults (non-elderly and non-disabled); and
- most immigrants who arrive in the U.S. after 8/22/96.

Although anti-hunger advocates regard these restorations as a down-payment in ensuring that legally present individuals in this country do not go hungry, the Agriculture Bill does not go as far as the Administration’s budget proposal to restore Food Stamp benefits to legal immigrants. The President’s budget, released February 2, 1998, included \$2.43 billion dollars over the next five years in Food Stamp restorations for legal immigrants. The restorations proposed in the President’s budget were similar to those in the Agriculture Bill in that they target the most vulnerable legal immigrants. However, the President’s proposal also included those legal immigrants in families with children. The majority of legal immigrants who continue to be ineligible for Food Stamps are parents with children in their homes.

Even with the restoration, more than two-thirds of the legal immigrants who would have qualified for federal Food Stamps under the rules in place before PRWORA remain ineligible for federal Food Stamps.

Implementing the Federal Restorations in Texas

In Texas, 29,700 legal immigrants will be restored eligibility for Food Stamp benefits under the new law. Of the 13,370 legal immigrant children who were originally denied Food Stamps under PRWORA, 9000

are expected to qualify under the new law.² In implementing the federal restorations, the state will be confronted with several important issues:

- Continued coverage for the approximately 360 elderly immigrants ages 65-67 who are currently covered by SIFAP but are not eligible for the federal restorations.³
- Outreach to ensure that all newly eligible immigrants are restored to the Food Stamp program by November 1.

Coverage for the 65- to 67-Year-Olds. DHS has received approval from the Governor’s office and the Texas Board of Human Services to continue to administer SIFAP for those elderly legal immigrants who are not eligible for the federal restorations. Since SIFAP cannot continue past FY 1999 without funding from the Texas Legislature, DHS must consider whether to update its Legislative Appropriations Request (LAR) for the 2000-01 biennium to include funds to provide food assistance for this group of elderly legal immigrants beyond FY 1999. The Legislative Budget Board (LBB) and the Governor’s Office of Budget and Planning (GOBP) will hold a hearing for DHS’ LAR on September 8.

Restoring Benefits to Legal Immigrants with a Food Stamp Association. Legal immigrants who become eligible for Food Stamps under the new law and who live in a household where one or more members are currently receiving Food Stamps will not have to reapply for Food Stamps. DHS will automatically add these legal immigrants back to their household’s Food Stamp case without requiring them to submit new applications. Caseworkers will then have to manually adjust the household’s Food Stamp benefit to reflect the newly eligible recipient. This process will be time consuming and may not be completed by the November 1 effective date. For this group of legal immigrants, DHS will make benefits retroactive back to the November 1 effective date, regardless of when caseworkers get around to adjusting the household’s Food Stamp benefits to reflect the new member.

Some Legal Immigrants Will Have to Fill Out a New Food Stamp Application. Legal immigrants who become eligible for Food Stamps under the new law and

² Many of the original children cutoff from Food Stamps in Texas when PRWORA was enacted have since turned 18 and are therefore not eligible for the federal restorations.

³ SIFAP picked up legal immigrants who were aged 65 and older at the time of implementation (March 1, 1998) and who were receiving Food Stamps prior to the 1996 cutoff. The federal restorations only pick up elderly immigrants who were already 65 on 8/22/96. Therefore, those legal immigrants who turned 65 after 8/22/96 but before 3/1/98 are eligible for SIFAP but won’t be eligible for the federal restorations.

do not live in a household with an open Food Stamp case will need to come to a local DHS office and fill out a new application. DHS has indicated that it will begin accepting applications from this group of newly eligible immigrants as early as October 1. Individuals who apply after the November 1 effective date will have their benefits prorated according to the date of application. For example, a legal immigrant who applies for Food Stamp on November 15 will only receive half a month's benefits for the month of November. Again, processing all of these new applications will be time consuming, especially in counties with large numbers of legal immigrants. It is possible that a legal immigrant who applies by the November 1 effective date will not have his application processed until December. In this scenario the legal immigrant will not receive any Food Stamp benefits until DHS has approved his application. Once the application is approved, DHS will issue retroactive benefits back to the date of application.

Outreach Efforts are Critical. Outreach steps taken by DHS and advocates over the next two months will play an important role in ensuring that as many newly eligible legal immigrants as possible start receiving Food Stamps by November 1. Of the 29,700 immigrants eligible under the new law, roughly 15,000 are receiving SIFAP benefits and will be easy for the state to contact. All SIFAP recipients, with the exception of the small group of 65- to 67-year-olds, will lose their SIFAP benefits when the program is terminated at the end of October. Some SIFAP recipients are associated with an open Food Stamp case and will added back to their household's case without having to reapply for Food Stamps. DHS will inform SIFAP recipients with no Food Stamp association that they need to pick up an application and reapply for Food Stamps. Legal immigrants in this group will not receive any food assistance after their SIFAP benefits are terminated at the end of October until they reapply for Food Stamps.

A large number of the legal immigrants who were terminated from the Food Stamp program under PRWORA and are now eligible under the new law are not currently receiving SIFAP and do not live in a household with an open Food Stamp case. This will be the hardest group to reach, and many of them may be unaware of the new law. DHS is in the process of identifying these legal immigrants.

- Of the original 122,000 legal immigrants disqualified from the Food Stamp program in Texas, 97,268 do not have a Food Stamp association through another member of their household.
- A majority of the 9,000 children who were disqualified from Food Stamps under PRWORA and are now eligible under the new law will probably fall into this category.

What You Can Do. Anti-hunger advocates should work together with immigrant groups and other sectors of the community (churches, grocery stores, schools, etc.) to

- enlist the aid of the media in publicizing the federal Food Stamp restorations;
- get the word out about the restorations to legal immigrants and inform them of their potential eligibility for federal Food Stamps; and
- encourage newly eligible legal immigrants without a Food Stamp association to reapply for Food Stamps before the November 1 effective date.

DHS is working on developing instructions for its caseworkers and will share this guidance with advocates and coalition partners as soon as it is available.

- If you believe you have clients who will be eligible for the federal Food Stamp restorations:
1. Ask them if anyone else in their household is currently receiving Food Stamps.
 2. If they are not members of a household with an open Food Stamp case, advise them to apply at their local DHS office early in October.

State Options to Maximize Benefit of Federal Restorations

Many Legal Immigrants Remain Ineligible. In Texas, 92,600, or over 75% of the legal immigrants cut off from Food Stamps under the 1996 welfare reform law remain without this necessary food assistance. Given the limited impact the federal Food Stamp restorations will have on reducing the hunger and hardship caused by the original Food Stamp cuts in immigrant communities, Texas should explore its options for maximizing the benefit of the restorations, including

- using SIFAP funds to cover immigrants who remain ineligible for Food Stamps, and
- increasing the Food Stamp benefit for children in "mixed" households where one or more parent has lost their Food Stamp benefits.

Use SIFAP Funds to Cover Immigrants Who Remain Ineligible for Federal Food Stamps

Of the \$18 million originally allocated for SIFAP for this biennium, over \$11 million remain in SIFAP funds. The average monthly Food Stamp benefit per person per month in Texas is \$71. If Texas used this funding to provide food assistance to legal immigrants who remain ineligible for federal Food Stamps, the state could cover an additional 12,000 immigrants for a year.

At a minimum, Texas should continue coverage beyond FY 1999 for those elderly immigrants who were receiving SIFAP benefits but who are not eligible for the recent federal Food Stamp restorations. The state should also consider allocating leftover SIFAP funds to provide food assistance for able-bodied adult legal immigrants, in particular those with children, elderly legal immigrants currently aged 60-64 or who turned 65 after SIFAP was established,⁴ and legal immigrant children who arrived in the U.S. after 8/22/96. These are especially vulnerable groups of legal immigrants who remain ineligible for Food Stamps under federal law. Data provided by DHS in March show that 81,478, or over 70% percent of LPR adults cut off from the Food Stamp program in 1996 live in families with children.

Other states are beginning to consider how to use funds previously dedicated to replacing Food Stamps for LPRs who are now covered under the new law. For example, The California Legislature recently passed a budget agreement that funds Food Stamp benefits for those immigrants aged 18 to 64. As mentioned earlier, funding to provide state-funded food assistance for legal immigrants beyond FY 1999 would have to be approved by the Texas Legislature in the upcoming 1999 session.

Increase the Food Stamp Allotment for Children in “Mixed” Households

One option states have to mitigate the harsh effects of Food Stamp cuts on legal immigrants is to implement an income-counting methodology for “mixed” households that increases Food Stamp benefits for children by not including the income of the ineligible LPR parent. The term “mixed” household generally refers to households that contain some individuals who are eligible for Food Stamps and some who are not. Four states with high immigrant populations—California, Michigan, South Dakota, and Washington—have adopted policy to disregard the income of ineligible LPR parents when calculating the Food Stamp benefit for the rest of the household. Maine has also published regulations proposing a similar income counting methodology for ineligible LPRs in mixed households.

Studies Document Growing Hunger Among Children in Immigrant Communities. A recent study by Physicians for Human Rights in three states (California, Illinois, and Texas) with state-funded food assistance programs for legal immigrants found a prevalence of hunger among legal immigrant households 7 to 10 times greater than the general population, despite those state programs. A study by California Food Policy Advocates of immigrant households in San Francisco and Los Angeles Counties produced similar findings, even though California implemented a state-funded Food Stamp program for children and elderly legal immigrants immediately after they lost their Food Stamp benefits under PRWORA.

These studies indicate that the level of hunger among immigrants is higher for children in “mixed” households where one or more parents have lost their Food Stamp benefits. Because the size of a family’s benefit is tied to the number of eligible members in the household, the whole family has less to eat when an LPR parent is “disqualified” for Food Stamps. Thus, even though the LPR children will have their Food Stamps restored under the new law (and citizen children of LPR parents have always received benefits), the children continue to suffer because the entire family’s food budget has been reduced.

The Administration’s budget proposal attempted to address the impact that Food Stamp cuts have on children by proposing to restore benefits to all legal immigrants with children.

Mixed Households in Texas. Recent data from DHS show that there are 65,396 mixed households in Texas. Approximately 9,000 legal immigrant children and 144,975 citizen children live in these households. Overall, 153,975 children in Texas would benefit from a policy that disregards the income of ineligible LPR parents when determining the Food Stamp benefits for other household members.

Texas’ Current Policy. Texas currently pro-rates a share of the ineligible LPR’s income when determining the Food Stamp benefit for the household. To illustrate, assume a typical Food Stamp household of three, with one ineligible LPR parent and two eligible children. Although the ineligible LPR parent who is the sole support for his two eligible children is not himself eligible for Food Stamps, 2/3 of his income is considered available to the children. When the Food Stamp benefit is calculated for the two eligible members of the household, 2/3 of the ineligible father’s income is counted, thereby decreasing the amount of benefits for the children. This income-counting policy is similar to the one the state uses when determining the Food Stamp benefit for households that contain members who “have done something wrong,” i.e. undocumented immigrants or persons found guilty of fraud or program violations.

⁴ The federal Food Stamp Act defines “elderly” people as those aged 60 or older. For the purposes of determining Food Stamp eligibility for legal immigrants, however, the new law defines “elderly” as people aged 65 or older. This arbitrary cut-off age for legal immigrants was adopted due to funding limitations and was not the result of a policy judgment that legal immigrants aged 60-64 are somehow “less old” or less in need of food assistance than citizens of the same age. This means that all elderly legal immigrants aged 60-64, or who turn 65 after March 1 of this year, will remain without food assistance of any kind.

Alternate Approach Could Increase Children's Benefits. Although the United States Department of Agriculture (USDA) has not yet issued final regulations on how ineligible legal immigrants' income should be counted, it has indicated that states can exercise the option to increase benefits for children in mixed households by not counting any of the income of ineligible LPRs. By not counting the income of the ineligible parent, the state increases the family's overall Food Stamp benefit. **Example:** A household of three with one ineligible LPR mother and two eligible children. The parent's income is \$750 and the household pays in \$400 in rent.

Benefit under prior law (before PRWORA):	\$231
Benefit under current policy:	\$185
Benefit under proposed policy:	\$224*

*Increases monthly benefit by \$39, or \$468 annually.

Impact of Proposed Income Counting Policy on Texas	
Number of Mixed Households:	65,396
Average Monthly Increase for a Mixed Household:	\$54*
Total Monthly Increase in Benefits Issued by State:	\$4,028,000*
Total Annual Increase in Benefits Issued by State:	\$48,338,000*
Number of Citizen Children Who will Benefit:	144,975
Number of LPR Children Who will Benefit:	9,000
Total Number of Children in Texas Who will Benefit:	153,975

*These estimates from the Center on Budget and Policy Priorities are based on 1996 quality control data from USDA.

For more information contact:: Celia Hagert, Center for Public Policy Priorities

512-320-0222

512-320-0227 (fax)

hagert@cphp.org

The most recent addition to the Center's staff, Celia works on hunger and nutrition issues and coordinates the continuing efforts of the Texas Anti-Hunger Network.

For Your Information:

The following are Legislative Budget Board and Governor's Office of Budget and Planning public hearings on requests for legislative appropriation (LARs) for the 2000-01 biennium. Agencies will present information on their 2000-01 LARs, respond to LBB and GOBP questions and serve as a forum for public comments on agency LARs.

The listed hearing are in Austin, Texas. E-mail cphp@cphp.org if you need an address and/or directions to the hearing location. Some rescheduling may occur. If you wish to confirm hearing dates and times you can check the LBB web site at <http://www.lbb.state.tx.us> or call the LBB at 512-463-1200 or the GOBP at 512-463-1778.

Agency	Date	Time	Location
Texas Department of Human Services	Tuesday, September 8, 1998	10:00 am	Winters Building , Room 125 E
Texas Department of Protective and Regulatory Services	Monday, August 31, 1998	9:00 am	Capitol Extension , Room E1.010
Health and Human Services Commission	Friday, September 21, 1998	9:00 am	Capitol Extension , Room E1.010
Texas Department of Mental Health and Mental Retardation	Tuesday, September 10, 1998	1:00 pm	Capitol Extension , Room E1.010
Texas Department of Housing and Community Affairs	Thursday, September 17, 1998	9:30 am	John H. Reagan , Room 109
Texas Rehabilitation Commission	Friday, September 4, 1998	1:30 pm	TRC Building
Texas Workforce Commission	Wednesday, September 16, 1998	9:00 am	John H. Reagan , Room 109
Texas Commission on Alcohol and Drug Abuse	Wednesday, September 2, 1998	2:00 pm	Capitol Extension , Room E1.026

This proposed policy would be consistent with the state's current approach to the income of household members who are ineligible for reasons other than misconduct, such as boarders and college students. Clearly, for the purposes of determining benefit levels it would be more appropriate to include immigrants who are legally present in this country with this latter group of ineligible household members, rather than in the category of those who have been disqualified for misconduct.

This Policy Would Bring More Federal Food Stamp Dollars into Texas. National experts predict that Texas would see an increase of over \$4 million per month in federal Food Stamp dollars as a result of the proposed policy, or over \$48 million per year. This money goes directly into the economy.

Now is the Time to Act. States can exercise this option through administrative means, without legislation. Since Texas must implement some procedure by November 1 to restore benefits for LPR children, the state could at the same time reprogram their computers to alter the method for counting the income of the ineligible LPR members of the household.