

The policy on how to deem income of sponsors of LPRs depends on the type of affidavit of support that a sponsor signed. There are 2 different affidavits of support (forms I-134 and I-864). Each form has its own deeming requirements. The I-864 is a legally binding document and deeming is required if it is issued on or after December 19, 1997. The I-134 is not a legally binding document and deeming is not required. Follow the provisions in [0016.21 \(Income of Sponsors of Immigrants With I-134\)](#) for sponsors who signed an I-134.

**Deeming of income provisions do not apply to:**

- Refugees.
- People granted asylum.
- LPRs who were refugees or asylees.
- People paroled for a period of 1 year.
- Cuban/Haitian Entrants.

The I-864 Affidavit of Support remains valid UNTIL the sponsored LPR:

- Becomes a naturalized citizen.  
OR
- Earns or can be credited with 40 qualifying work quarters under the Social Security Act.  
OR
- Loses or abandons his/her permanent status and leaves the United States permanently.  
OR
- Dies.

Count the income of both the sponsor and the sponsor's spouse regardless of whether 1 or both of them signed the affidavit.

**Spons or Deeming Exemption Determination**

Before requesting verification of a sponsor's and sponsor's spouse's income, review if the LPR who would otherwise be subject to sponsor deeming meets 1 of the 2 EXEMPTIONS listed below:

Do not deem the sponsor's income if the sponsored LPR:

- Is a victim of extreme cruelty/battery. The LPR must provide a statement or documentation that the LPR or his/her child(ren) have been battered or subjected to extreme cruelty by the LPR's spouse or parent. The LPR must also meet the following 2 conditions:
  - NOT living with the batterer.  
AND
  - The need resulting from the battery or cruelty has a substantial connection to the need for public assistance.

This EXEMPTION is limited to 12 months from the date a determination of EXEMPTION is made. The 12-month deferment may be extended ONLY in the case of the sponsor being the batterer, and if there continues to be a need for public assistance resulting from the battery and cruelty and the battery and cruelty is recognized by a court order (an order for protection) or by an U.S. Citizenship and Immigration Services (USCIS) determination.

- Is indigent and unable to obtain food and shelter without public assistance as a result of the sponsor's failure to provide support. "Unable to obtain food and shelter" means that the sum of all contributions including, income, and any cash or in-kind

assistance provided by the sponsor and others does not exceed 130% of the federal poverty income guidelines for the unit's size. It also means that the sponsored LPR is not currently living with his/her sponsors or getting free shelter from others.

Consider this EXEMPTION when the sponsored LPR reports that his/her own income and any assistance provided by the sponsor or any other individuals is not adequate for the LPR to obtain food and shelter because the sponsor is failing or is unable to provide support or when the LPR is unable to locate the sponsor. Under these circumstances, do not request verification of a sponsor's income directly from the sponsor, instead ask the sponsored LPR to provide verification of the actual amount of income provided by the sponsor to his/her household. Deem the actual amount of income provided by the sponsor as available income to the sponsored LPR.

A determination of indigence and what the exemption means must be explained to the sponsored LPR. An individual has the right to refuse a determination of indigence but must be informed about the consequence of such a refusal on program eligibility in a manner he/she can comprehend. If the LPR or their authorized representative affirmatively refuses the indigence determination, the sponsor's income must be deemed toward the sponsored LPR's household. Such refusal must be case noted with details about the reasons for such refusal.

Once a determination of indigence exemption is made, it remains in effect for 12 months beginning on the date such a determination is made, regardless of any additional information that may be obtained from the SAVE query on the sponsor within the unit's certification period. The 12-month indigence determination must be reviewed before an additional 12-month determination may be approved.

### Notification of Indigent Exemption Determination

If the sponsored immigrant meets the exception of the sponsor deeming requirement due to the sponsor's failure to provide support and is approved for Federal Cash or Federal SNAP benefits under the indigent exemption, the name of the sponsor, sponsored LPR(s) involved and case number must immediately be reported to:

DHS  
Economic Assistance and Employment Supports Division  
P.O. Box 64951  
St. Paul, Minnesota 55164-0951.

DHS annually notifies the Office of Policy and Strategy, U. S. Citizenship and Immigration Services of all indigent determinations.

County agencies may, under section 213A (b)(2) of the [Immigration and Nationality Act](#), sue sponsors in federal or state court to recover the unreimbursed costs of means tested benefits, including the costs of collection and legal fees.

### Request verification of a sponsor's total income when:

- A sponsored LPR does not qualify for an exemption from sponsor deeming as explained above.
- OR
- A sponsored LPR meets the criteria for the indigent exemption but has opted out of the indigence determination.

In both of these situations, the LPR must explain why the sponsor is not providing assistance to him/her as attested by the sponsor's signature on I-864 Affidavit of Support. Help the client to obtain collateral statement or documentation to support the indigence exemption determination. The sponsored LPR is responsible for obtaining the cooperation of the sponsor and for providing the information and documentation necessary to calculate deemed income. The county agency must assist the unit in obtaining necessary verification. If necessary, SAVE can be used to provide the sponsor's name, address and Social Security Number. See [0010.18.18 \(Verifying Sponsor Information\)](#).

- If verification is provided, determine the amount of the sponsor's and sponsor's spouse's income according to the program

provisions below.

- If verification is not provided, deny or terminate program eligibility for the entire unit. The failure to provide the verification affects the entire unit because the sponsored LPR is an otherwise eligible mandatory member of the assistance unit.

**MFIP, DWP, MSA, GA, GRH:**

Deem ALL of the income of the sponsor and his/her spouse as available to the sponsored LPR if the LPR's entrance into the United States was based on an Affidavit of Support (form I-864) executed by the sponsor.

**SNAP:**

All income and resources of an LPR's sponsor and sponsor's spouse who have signed a legally binding affidavit of support are counted as belonging to the LPR, even if not available.

Do not deem a sponsor's income if any 1 of the following exemptions are met:

- The sponsored LPR in a SNAP unit does not meet immigration status. See [0011.03.09 \(Non-Citizens - SNAP/MSA/GA/GRH\)](#).  
OR
- The sponsored LPR is a child under the age of 18. See [0011.03.15 \(Non-Citizens - LPR With Sponsors\)](#).  
OR
- The LPR was in a category that did not require sponsorship as an entry condition, such as, but not limited to, a public interest parolee (PIP), refugee, asylee, or Cuban or Haitian entrant.  
OR
- The LPR receives SNAP as a member of the sponsor's SNAP unit.  
OR
- The sponsor is an organization or group as opposed to an individual.  
OR
- When an LPR meets the criteria for the indigent exemption and has not refused the determination of being declared an indigent immigrant. See INDIGENT IMMIGRANT in [0002.33 \(Glossary: Independent...\)](#).

To determine the amount of the deemed sponsor's income:

1. Determine the total gross income of the sponsor and sponsor's spouse. See [0017 \(Determining Gross Income\)](#).
2. Deduct the following:
  - 20% of the gross earned income.
  - The gross monthly income limit for the sponsor's household size. Include the sponsor, sponsor's spouse, and people who could be claimed as legal dependents on the sponsor's tax return. See [0019.06 \(Gross Income Limits\)](#).

3. Divide the remaining income by the number of LPRs sponsored. Count this amount available to each sponsored person for income eligibility tests and benefit calculations.