

**MEMORANDUM**

**TO:** Advocates, Attorneys, Benefit Providers, Justice System Personnel, and other interested persons

**FROM:** Leslye Orloff and Edna Yang,  
Immigrant Women Program, Legal Momentum

**DATE:** November 17, 2000

**RE:** **Obtaining Non-Work Social Security Numbers**

Steps to Obtain a Social Security Number for an Undocumented Immigrant and/or Child

In order to better serve undocumented battered immigrant women and their children who are applying for public benefits that they are entitled to receive, advocates need to understand the process by which an undocumented immigrant can obtain a non-work social security number ("SSN"). Advocates are strongly encouraged to accompany their clients to the Social Security Administration to ensure that their clients are not denied non-work SSNs by caseworkers who do not fully understand the process and eligibility requirements involved in issuing non-working SSNs.

A Social Security number may be assigned for a non-work purpose to an immigrant who cannot provide evidence of immigrant status that allows them to work under 20 C.F.R. § 422.107(e), if the evidence described in that paragraph does not exist and if the immigrant resides either in or outside the US, or a territory of the US, *and a social security number is*

*required by law as a condition of the alien's receiving a federally funded benefit to which the alien has established entitlement.<sup>1</sup>*

## **I. Who Is Eligible for A Non Work Social Security Number (SSN)**

A Non-Work SSN Will Be Processed For Undocumented Immigrants Who Are Entitled to the Following Public Benefits<sup>2</sup>:

- Temporary Assistance to Needy Families (“TANF”);
- Medicaid;
- Food Stamps;
- Title XVI (SSI) Payments;
- Disability insurance (SSDI) and old age survivors insurance (OASDI) under Title II Benefits;
- Benefits for end stage renal disease patients under Title XVIII;

SSN Will *Not* Be Processed For Undocumented Immigrants Who<sup>3</sup>:

- Are ineligible for benefits/payments under Title II (SSDI and OASDI), Title XVI (SSI), Title XVIII, TANF, Medicaid, and Food Stamps;
- Is an SSI ineligible spouse, parent, or child;
- Is appointed representative payee for SSDI, OASDI, or SSI beneficiary;
- Is eligible only for emergency services under Medicaid, since emergency Medicaid is open to all immigrants and having a SSN is not a condition of eligibility for emergency Medicaid;
- Alleges a need for a SSN for tax or similar purposes.

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<sup>1</sup> Non-work social security numbers are also issued to immigrants if the state government requires a social security number to administer statutes governing the issuing of a driver's licenses and the registering of motor vehicles. It can also be argued that in jurisdictions where the courts ask for social security numbers of parties applying for divorce, child support, paternity, and marriage licenses non-work social security number should be issued. *See Memorandum regarding §466(a)(13) of the Social Security Act. See also POMS RM 00203.510*

<sup>2</sup> POMS RM 00203.560(A)(2)

<sup>3</sup> POMS RM 00203.560

## **II. Evidence Required for a Working and Non-Working Social Security Number**

Often times, clients feel overwhelmed and unable to gather the required evidence to obtain their non-work SSN by themselves. It is essential for advocates to stress to their clients the importance of the evidence as well as to work with their clients in locating the necessary information and evidence required to obtain a non-work SSN.

### **Working Social Security Number**

In order to obtain a work authorized social security number, the Applicant must be 1) A US citizen (US born or foreign-born), or 2) An immigrant (either US born or foreign-born) authorized to work in the United States. The applicant must also be able to prove the following:<sup>4</sup>

- Age, through documents including, but not limited to, a birth certificate, a religious record showing age or date of birth, a hospital records or birth, or a passport;<sup>5</sup>
- Identity, through documents including, but not limited to, driver's license, identity card, school record, medical record, marriage records, passport, or Immigration and Naturalization Service document;<sup>6</sup>
- US Citizenship *or* Work Authorized Lawful Immigrant Status.<sup>7</sup>

In order to be authorized to work in the United States, an immigrant must be one of the following classes of immigrants:<sup>8</sup>

- An immigrant who is a lawful permanent resident;<sup>9</sup>
- An immigrant admitted to the United States as a lawful temporary resident;<sup>10</sup>

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<sup>4</sup> POMS RM 00203.001(C)(1), (D)(1), (D)(3)

<sup>5</sup> 20 C.F.R. § 422.107(b)

<sup>6</sup> 20 C.F.R. § 422.107(c)

<sup>7</sup> 20 C.F.R. § 422.107(d)

<sup>8</sup> 8 C.F.R. § 274a.12. This list also includes temporary workers or trainees; information media representatives; exchange visitors; intra-company transferees; persons having extraordinary ability in the sciences, arts, education, business, or athletics; athletes, artists, and entertainers; person engaged in business activities under North Atlantic Free trade Agreement ("NAFTA").

<sup>9</sup> 8 C.F.R. § 274a.12(a)(1)

<sup>10</sup> 8 C.F.R. § 274a.12(a)(2)

- An immigrant admitted to the United States as a refugee;<sup>11</sup>
- An immigrant paroled into the United States as a refugee for the period of time in that status;<sup>12</sup>
- An immigrant granted asylum under section 208 of the Immigration and Nationality Act (“the Act”);<sup>13</sup>
- An immigrant admitted to the United States as a nonimmigrant fiancé or fiancée, or an immigrant admitted as the child of such immigrant;<sup>14</sup>
- An immigrant admitted as a parent (N-8) or dependent child (N-9) of an immigrant granted permanent residence under section 101(a)(27)(I) of the Act;<sup>15</sup>
- An immigrant admitted to the United States as a citizen of the Federated States of Micronesia (CFA/FSM) or of the Marshall Islands (CFA/MIS);<sup>16</sup>
- An immigrant granted withholding of deportation;<sup>17</sup>
- An immigrant who has been granted extended voluntary departure by the Attorney General as a member of a nationality group pursuant to a request by the Secretary of State;<sup>18</sup>
- An immigrant granted Temporary Protected Status;<sup>19</sup>
- An immigrant granted voluntary departure by the Attorney General under the Family Unity Program established by section 301 of the Immigration Act of 1990;<sup>20</sup>

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<sup>11</sup> 8 C.F.R. § 274a.12(a)(3)

<sup>12</sup> 8 C.F.R. § 274a.12(a)(4)

<sup>13</sup> 8 C.F.R. § 274a.12(a)(5)

<sup>14</sup> 8 C.F.R. § 274a.12(a)(6)

<sup>15</sup> 8 C.F.R. § 274a.12(a)(7)

<sup>16</sup> 8 C.F.R. § 274a.12(a)(8)

<sup>17</sup> 8 C.F.R. § 274a.12(a)(10)

<sup>18</sup> 8 C.F.R. § 274a.12(a)(11)

<sup>19</sup> 8 C.F.R. § 274a.12(a)(12)

- Foreign government officials and their employees;<sup>21</sup>
- A non immigrant student seeking on campus employment, part time off campus employment or curricular practical training;<sup>22</sup>
- A representative of an international organization and their personal employees;<sup>23</sup>
- An international cultural exchange visitor or an immigrant having a religious occupation;<sup>24</sup>
- NATO armed services officers and personnel and their attendants, servants, and personal employees;<sup>25</sup>

**It is important for advocates to determine whether their clients fit into any of the above categories of work authorized immigrant status. If the client does not fit one of these categories, then she may be eligible to apply for a non-work SSN.**

### **Non-Working Social Security Number<sup>26</sup>**

In order to obtain a non-work social security number the applicant must prove the following<sup>27</sup>:

- Age, through documents including, but not limited to, a birth certificate, a religious record showing age or date of birth, a hospital records or birth, or a passport;<sup>28</sup>

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<sup>20</sup> 8 C.F.R. § 274a.12(a)(13)

<sup>21</sup> 8 C.F.R. § 274a.12(b)(1)-(5)

<sup>22</sup> 8 C.F.R. § 274a.12(b)(6)(i)-(iii)

<sup>23</sup> 8 C.F.R. § 274a.12(b)(7)-(8)

<sup>24</sup> 8 C.F.R. § 274a.12(b)(15)-(16)

<sup>25</sup> 8 C.F.R. § 274a.12(b)(17)-(18)

<sup>26</sup> All non-work social security numbers state: “not authorized for work purposes” in bold letters on the face of the card.

<sup>27</sup> POMS RM 00203.001(C)(2), D(2), (D)(4)

<sup>28</sup> 20 C.F.R. § 422.107 (b)

- Identity, through documents including, but not limited to, driver's license, identity card, school record, medical record, marriage records, passport, or Immigration and Naturalization Service document;<sup>29</sup>
- A legal requirement for a social security number as a condition of the applicant receiving a federally funded benefit or service or if the state government requires a social security number to administer statutes governing the issuing of driver's licenses, the registration of motor vehicles, and the issuance of divorce decrees, child support orders, paternity actions.<sup>30</sup>

### III. Obtaining a SSN for a Child

The Social Security Administration automatically assigns social security numbers to children at birth under its Enumeration at Birth (EAB) Project, *regardless* of whether or not the parents have a valid social security number.<sup>31</sup> Some Social Security Administration Staff have been erroneously advising parents who do not have social security numbers themselves that they cannot apply for a social security number for their US citizen children. If your immigrant client is going to have a child, they should be informed that their child will be assigned a social security number regardless of whether the your client has one.

The Social Security Administration has instructed its employees that an identity document and a birth record *must* be shown when an application for a SSN is being filed for a child. A birth record alone is *not* sufficient evidence to establish identity. However, where the applicant is a child under 7 years of age applying for an original social security number card and there is no documentary evidence of identity available, the requirement for evidence of identity will be waived if there is no reason to doubt the validity of the birth record, the social security number application, and the

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<sup>29</sup> 20 C.F.R. § 422.107(c)

<sup>30</sup> 20 C.F.R. § 422.107(e). The traditional legal requirements for non-work SSNs have not included state statutes requiring social security numbers for the issuance of divorce decrees, child support orders, and paternity actions. These requirements, however, are a logical extension of the use of non-work SSNs, because they are located in the same state statutes, and fulfill the same purpose, as the legal requirement of a SSN as a prerequisite for driver's licenses and motor vehicle registration.

<sup>31</sup> EM-00058; POMS RM 00202.142

existence of the individual.<sup>32</sup> Acceptable identity documents for children over seven years old are:<sup>33</sup>

- Driver's license;
- Identity card;
- School record;
- Medical record;
- Marriage record;
- Passport;
- Immigration and Naturalization Service document, or;
- Other similar document serving to identify the individual. The document should contain the applicant's signature for comparison with his or her signature on the application for a social security number.

#### **IV. Replacement Cards for Undocumented Immigrants**

Once your client obtains a non-work SSN, you must, as an advocate, stress that she should keep the card in a safe place and not lose it. For battered immigrants, the original non-work SSN card must be kept at the home of a trusted relative or friend or kept for her by her advocate or attorney. This will ensure that the card will be in a place where the abuser cannot take it away from her or destroy it. The Social Security Administration will not issue replacement non-work social security cards for undocumented immigrants. If your client's non-work SSN number has been lost, stolen, or destroyed and she needs evidence of her social security number for an allowed purpose including payment of a federally funded benefit, obtaining a driver's license, or filing for divorce you should contact the Social Security Administration and provide them with the name and phone number of the benefits case worker, the court clerk, or the third party agency who needs to know your client's social security number.

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<sup>32</sup> 20 C.F.R. § 422.107 (c)

<sup>33</sup> 20 C.F.R. § 422.107 (c)

The Social Security Administrations will then contact the third party agency and notify them of your client's social security number.

